STRUCTURAL CHANGES IN THE ORGANIZATION AND OPERATION OF CHINA'S CRIMINAL JUSTICE SYSTEM

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Occasional Papers/Reprint Series in Contemporary Asian Studies

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500 West Baltimore Street, Baltimore, Maryland 21201 USA.

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Subscription is US $10.00 for 8 issues (regardless of the price of individual issues) in the United States and Canada and $12.00 for overseas. Check should be addressed to OPRSCAS and sent to Professor Hungdah Chiu

Price for single copy of this issue: US $1.50
Structural Changes in the Organization and Operation of China's Criminal Justice System*

By Hungdah Chiu

CONTENTS

1. Introduction ................................................................................. 1 [53]
2. The Structure and Operation of the Criminal Justice System Before 1977 .................................................. 2 [54]
3. Recent Changes in the Structure and Operation of the Chinese Criminal Justice System ................................. 5 [57]
4. Selected Case Studies ................................................................... 10 [62]
5. Concluding Observations ............................................................. 16 [68]

APPENDICES

Document 1
Excerpts From a Peking Trial Transcript ......................... 21 [73]

Document 2
Complete text of Wei Jingsheng's defense and Prosecutor's response to Wei's defense (in Chinese)** ........... 25

** Documents added for publication in this series.
Structural Changes in the Organization and Operation of China's Criminal Justice System

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1. Introduction

Since the emergence of the Hua Kuo-feng—Teng Hsiao-p'ing leadership in the People's Republic of China (PRC) in 1977, reform of the legal system has become an important part of the PRC's ambitious modernization program. Law and the legal system have come to be frequently discussed in Chinese politics, news media, and publications. Only a few years ago, specialists in Chinese law outside China were confronted with a frustrating problem: the lack or sufficient information or research materials. Now, they are again frustrated, but for an entirely different reason: the emergence of voluminous materials on Chinese law waiting to be digested. Now, barely a single day passes without the appearance of new legal materials in the PRC newspapers or other publications. Moreover, because the PRC is now opening more places for overseas Chinese visitors, is sending more students abroad, and is allowing increased emigration, more information concerning law is now available to researchers. Furthermore, the emergence of underground publications relating to human rights in China has also revealed much inside information concerning the operation of the Chinese judicial system. Under these circumstances, for the first time since the founding of the PRC in 1949, it has become possible to have a reasonably complete understanding of how the Chinese judicial system operates, what its problems are, and why the PRC is now moving toward reform of the legal system.

This paper is a modest attempt to analyse an important part of the PRC legal system—its criminal justice system. It will emphasize the structural and operational changes of the criminal justice system in the PRC since the purge of the "Gang of Four" in the fall of 1976.

To understand the present changes in the criminal justice system, one has to appreciate how the system operated before 1977. Accordingly, this analysis begins with an overview of the Chinese criminal justice system in the pre-1977 period.
2. The Structure and Operation of the Criminal Justice System Before 1977

In 1951, the PRC set up a three-level, two-trial (one appeal) system of the people's courts: County Court, Provincial Court, and the Supreme People's Court. All people's courts were organic parts of the people's government of the corresponding level. A people's procuracy was also established on a level corresponding with each people's court; the procuracy was at the same time a component part of the people's government at the same level. As a result, both the courts and the procuracy were, in law and in fact, under the control of administrative organs and there was no separation of powers among them. This structure continued until 1954, when a formal constitution and a new organic law of the courts were adopted.

Before the formal inauguration of the PRC on 1 October 1949, the Chinese People's Political Consultative Conference adopted the Common Program which served as a provisional constitution until the adoption of a formal constitution on 20 September 1954. The Common Program abolished all former Republic of China (Nationalist) laws, but the PRC did not itself enact comprehensive civil and criminal codes to replace those it had abolished. The only important criminal legislation enacted before the effective date of the present Criminal Law (1 January 1980) was the Act for the Punishment of Counter-revolutionaries of the PRC, promulgated on 21 February 1951. Two articles of this Act deserve special attention. First, Article 18 made the Act retroactive to cover "preliberation" activities, i.e. acts committed before the establishment of the PRC in 1949. Second, Article 16 set forth the principle of crime by analogy:

Persons who have committed other crimes with counterrevolutionary intent that are not specified in the law shall be punished according to analogous specified crimes in the Act.

But the lack of a comprehensive criminal code and detailed statutes did not hamper the work of the people's courts, since they were frequently instructed to follow orders or policies of the government or the party in cases not covered by existing law.

In judicial practice, the people's courts usually did not indicate under which law and under what particular provisions a given judgment was rendered. After the facts of the case were stated, the accused was sentenced to imprisonment or death without telling him which law he was alleged to have violated.

A Chinese law specialist has described the operation of the criminal justice system during the period as follows:

During this period the criminal process served as a blunt instrument of terror, as the Chinese Communist Party proceeded relentlessly to crush all sources of political opposition and to rid society of apolitical but antisocial elements who plagued public order... Although the Communist government created a judicial structure, much criminal punishment during these years was administered outside the regular courts... During the regime-sponsored "mass movement" or campaigns that swept the country, such as those instigated to carry out the land reform, to suppress counterrevolu-
tion, and to eradicate official corruption and related illegal activities in the business community...ad hoc “people’s tribunals”, which were thinly veiled kangaroo courts, dispensed their own brand of justice.\footnote{11}

On 20 September 1954, the PRC promulgated a formal constitution,\footnote{12} guaranteeing \textit{inter alia}, equality before the law and protection against arbitrary arrest.\footnote{13} The 1954 Constitution and the organic law governing the people’s court promulgated shortly thereafter provide for a four-level two-trial (one appeal) court system.\footnote{14} Below the Supreme People’s Court, local courts were divided into higher people’s courts, intermediate people’s courts, and basic people’s courts.

This constitution and the laws subsequently enacted purported to introduce a number of democratic features to the new judicial system including the right of legal defense, the principle of public trial, and the concept of judicial independence.\footnote{15} The PRC was also reported to be in process of enacting criminal and civil codes.\footnote{16}

During the period of 1956-1957, the PRC announced its policy of “letting one hundred flowers blossom and one hundred schools contend”\footnote{17} and invited the people to criticize the government, including the judicial system. Many jurists and scholars took this opportunity to criticize the defective administration of justice and suggested the restoration of certain legal concepts such as the presumption of innocence and the benefit of the doubt for the accused.\footnote{18}

Alarmed at the strong criticisms evoked by the “Blooming and Contending” Movement, the PRC launched an Anti-Rightist Campaign in the summer of 1957 to eliminate its critics. So far as the judicial system was concerned, the independence of the judiciary was interpreted as subject to party control, and the presumption of innocence was pointedly attacked as incompatible with the socialist judicial system.\footnote{19} As a result of the Anti-Rightist Campaign, the public security organs and other administrative organs were again given significant power in the administration of justice. On 3 August 1957, a decision of the State Council formally authorized certain administrative organs to send rightists, persons not engaged in proper employment, persons who did not obey work assignments or job transfer orders, and others to “rehabilitation through labor”\footnote{20}, \textit{i.e.} to a \textit{de facto} criminal penalty for an indefinite period.\footnote{21}

Between 1958 and 1966, when the Cultural Revolution broke out, the PRC’s judiciary appeared to regress to its earlier arbitrary practices, while the public security organs played a growing role at the expense of the procuracy and the courts. An interesting case vividly describing the Chinese criminal justice after the 1957 Anti-Rightist Movement can be found in Boa Rue-Wang’s \textit{Prisoner of Mao} (1973).\footnote{22}
Although legal institutions were not one of the major revolutionary targets at the beginning of the Cultural Revolution in 1966, they were not exempt from the ensuing destruction of the "establishments". Many high officials, including the President of the Supreme People's Court, Yang Hsiu-feng (Yang Xiufeng in pinyin), were purged or abused without resort to judicial process. During the period from 1967 to the early 1970s, the function of the courts was seriously disrupted or usurped by some vaguely described organs. Later, the People's Liberation Army (PLA) intervened in various places in China to restore order to the chaos created by the Cultural Revolution; many criminal cases were handled by the PLA without the participation of the courts. The courts, as an institution, survived the turmoil of the Cultural Revolution, and there does not appear to have been any serious attempt to abolish the courts. The procuracy, however, was not so fortunate. It was reported to have abolished in the late 1960s.

With the gradual subsidence of the Cultural Revolution and the PLA's military control in the early 1970s, the court also gradually resumed their activities, at least in form. Nevertheless, the operation of the courts remained under the control of the administrative organ—the "Revolutionary Committee", which replaced the "people's governments", at provincial and lower levels. The majority of the judges, however, now came from worker, peasant, or military backgrounds, while only a few were university graduates from faculties of law. The profession of defense lawyer, which had been in steady decline since the Anti-Rightist Movement in 1957, was completely wiped out.

On 17 January 1975, the Fourth National People's Congress adopted a new Constitution for the PRC, which confirmed the subordination of the judiciary to the administrative organs, officially abolished the procuracy (whose function was transferred to the public security organs at corresponding levels), and introduced "mass trials" with respect to the "major counterrevolutionary criminal cases".

While the activities of the courts were resumed, the functions of the higher people's court and the Supreme People's Court were not apparent, as there were very few, if any, appellate cases for these courts to decide. In a number of court documents available to Chinese law specialists, there is a repeated emphasis on the Party policy of "leniency towards those who confess and severe punishment for those who resist". Such a policy obviously discouraged persons convicted at the trial level from resorting to an appeal because of the fear of receiving a heavier punishment in the second trial. As a matter of fact, the right of appeal was rarely invoked by persons convicted at trial in the PRC even before the Cultural Revolution. Many former residents of mainland China have indicated that appeals are generally considered unwise and generally resulted in heavier punishment.

A recent PRC official publication has described the operation of the criminal justice system during this period as follows:
Changes in China's Criminal Justice System

(The Gang of Four) let loose hoodlums and thugs to smash, grab and loot, to break into and ransack homes, illegally detain people, set up kangaroo courts and torture innocent people to extort confessions… In many cases even a semblance of judicial proceedings was dispensed with. Personal property and personal freedom were wilfully encroached upon and the safety of people’s lives was not guaranteed.34

Since early 1978 barely a day has passed without a report in Jen-min jih-pao (Renmin Ribao in pinyin, People’s Daily) or other official newspapers of a reversal of verdicts against innocent people convicted or simply executed or imprisoned before 1976. Information concerning miscarriages of criminal justice revealed by some publications was quite shocking. For instance, former residents of mainland China had long reported that before executing a political prisoner, the PRC authorities sometimes pierced the throat of the victim with a long needle in order to prevent him or her from shouting “reactionary” slogans at the public mass sentencing and execution meeting. In some extreme cases, the authorities reportedly cut the throat of the victim and inserted a steel tube to keep the victim silent at the mass meeting. This report was confirmed by a recent PRC publication.35 A underground publication, Spring of Peking, vividly describes the execution of Communist Party Member Ms. Chang Chih-hsin: her throat was cut and she was kept alive by a steel tube before her execution on 3 April 1975—the same day the Shengyang (Mukden) Intermediate People’s Court sentenced her to immediate death.36 Recently, the PRC issued a posthumous reversal of the verdict against Chang and publicly praised her as a heroine and a model Communist Party member for resisting the “Gang of Four”.

3. Recent Changes in the Structure and Operation of the Chinese Criminal Justice System

On 5 March 1978, the Fifth National People’s Congress of the People’s Republic of China adopted a new constitution37 to replace that enacted in 1955. The 1978 Constitution revives the procuracy “to ensure observance of the Constitution and the law by all the departments under the State Council, the local organs of state at various levels, the personnel of organs of state and the citizens” (Article 43). It also provides that “all cases in the people’s courts are heard in public except those involving special circumstances, as prescribed by law” and that “the accused has the right to defense” (Article 41). However, the new Constitution still retains the clause on mass-participation in trials contained in the 1975 Constitution by providing: “With regard to major counter-revolutionary or criminal cases, the masses should be drawn in for discussion and suggestions” Article 41, paragraph 2). The legal profession of defense lawyer is now revived, and there are reports of serious shortages of qualified persons.38

Perhaps the most serious defect of the PRC’s criminal justice system before 1979 was the absence of a substantive and procedural criminal law. With sur-
prising speed, the Second Session of the Fifth National People's Congress, held between 18 June and 1 July 1979, enacted, among other laws, a Criminal Law and a Criminal Procedure Law. Earlier, in February 1979, a new law was promulgated to prevent illegal arrests and detentions, replacing a similar law enacted in 1954 that was never fully implemented and had been totally ignored in the last decade.

The structure of the court system—four-levels and two-trials (one appeal)—remains unchanged, but because of the recent structural changes (revival of the procuracy and of the defense lawyer) and new legislation (enactment of the criminal law and criminal procedural law), it may be anticipated the courts will begin to play a more active role in the administration of criminal justice. Of course, how active and how independent the courts will be remains to be seen, although some recent indications are discussed below.

In the state council, the Ministry of Justice, which was abolished in 1959 after the Anti-Rightist Campaign, was reestablished in the fall of 1979. According to newly appointed Minister Wei Wenbo (Wei Wen-po in Wade-Giles), the ministry will be mainly concerned with the following tasks:

(1) Judicial administrative work, including organization, personnel, training of cadres and funds, of the people's courts at all levels;
(2) Supervision and training of judicial cadres;
(3) Supervision of the administration of political-legal institutes and training of judicial personnel in various specialities;
(4) Supervision of the work of the organizations of lawyers and notaries;
(5) Compilation of codes of laws and decrees; and
(6) Research on jurisprudence in cooperation with scientific institutes and publication of books and periodicals on law.

At present, the people and some high officials certainly hope the procuracy and the courts will play a dominant role in the administration of criminal justice to avoid the chaos of the past and to provide increased personal security. At the 1978 December plenary session of the Central Committee of the Communist Party of China, General Yeh Chien-ying (Ye Jienying in Pinyin), a Politbureau member and Chairman of the Standing Committee of the National People's Congress, expressed the view that the procuratorial organizations and the courts must faithfully serve the people's interests, abide by the laws, rules and regulations, keep to facts, and maintain their independence as required. He also said that there must be fearless procurators and judges who are ready to sacrifice their lives to uphold the dignity of the legal system.

Will the PRC's criminal justice system move in the direction suggested by General Yeh? Or, under a system of Party supremacy and class justice, is it even possible for the PRC's criminal justice to move in that direction? While it is not possible to give a definite answer to these questions, recently revealed informa-
tion concerning the operation of the Chinese criminal justice system appear to suggest that it would be quite difficult for the PRC procuracy and courts to achieve the high expectations of General Yeh. This point needs expansion.

It is well known that the Communist Party of China (CPC) controls the public security, the procuracy, and the courts. However, until very recently the degree of actual control by the CPC was not clear. In the Soviet Union, for example, while the party also controls public security, the procuracy, and the courts, with the exception of certain criminal cases relating to the security of the state, it does not appear that the party will actually intervene in the handling of individual criminal cases. Each division exercises its function according to law, and lawyers, even in sensitive criminal cases, are allowed to defend the accused. There is no guarantee that all cases referred by the public security be prosecuted by the procuracy; and, similarly, the criminal cases prosecuted by the procuracy do not necessarily result in sentencing by the courts. Even in sensitive criminal cases relating to the security of the state, the Soviet Union maintains at least the semblance of regular judicial proceedings.

The situation in the PRC is almost entirely different from that of the Soviet Union, despite the fact that both are communist countries. Nominaly, the PRC has three divisions in the administration of criminal justice—the public security, the procuracy, and the courts—but in practice all are under the direction of the party committee at the same level and it is the committee that makes decisions as to arrest, prosecution, and sentencing. Since the Party committee has many other lines of endeavor and does not have time to review criminal cases, decisions making in criminal cases is in practice delegated to the secretary in charge of political-legal affairs. This system, in PRC writers' terminology, is called the system of “deciding a case by the secretary” (Shu-chi p‘i-an; Shuji pian in pinyin). A writer describes this system as follows:

Whether the facts of a case are clear, the evidence is convincing; the defendant should be subject to criminal sanction and what criminal punishment should be imposed on the defendant, should be sent to the secretary in charge of political-legal affairs of the local party committee at the same level for review and approval. This is called the system of deciding a case by the secretary.

The same writer also points out that this system in fact denies the “trial system and legal process” prescribed by law and makes trial by the people’s court a matter of formality only. The political-legal secretary is in charge of the public security, the procuracy, and the court of the area under the jurisdiction of the Party Committee, and before a case is referred to the people’s court for trial, the secretary must have previously approved the investigation and prosecution of the accused; similarly, the secretary must have previously decided the punishment to be imposed. Since the relationship between the secretary and the people’s court at the same level is that between a superior and a subordinate, the court has no other choice but to accept the instruction of the secretary.

The secretary’s handling of cases is simple, efficient—and frequently careless.
The position of political-legal secretary at the party committee is not a full-time job, and the secretary is concurrently in charge of many other administrative duties. He neither reviews the files of the accused nor personally investigates each case. He usually reviews and decides criminal cases only once in a one- or two-month period. According to a study on judicial work by a group of teachers and cadres of a Political-Legal Institute who assisted in handling accumulated criminal cases in a province between September 1974 and October 1978, the system of deciding a case by the secretary has the following problems:

1. The secretary has voluminous tasks to do and sometimes it is not possible for him to decide cases for several months, thus causing delay in the timely handling of cases.

2. The secretary's decision on cases usually takes the form of "surprise attack"; i.e. he decides several or even several dozen cases at one time. It is not possible for him carefully to study the facts, evidence, and the nature of each individual case.

3. If a court disagrees with the handling of a case by the Party Committee (i.e. by the political-legal secretary), there is no rule prescribing that the court can request the party committee to reconsider the case. The rule is "whatever is approved (by the Party Committee) should be executed".

4. Since arrest and sentencing are all decided by the secretary on behalf of the Party Committee, in the course of trial by the people's court, the court has no choice but to sentence the accused in accordance with the decision of the Party Committee, even if the result is contrary to law. For example, in one case, a truck driver accepted a bribe of more than 800 yen (about US $500) and in 1976 the Party Committee decided that he should be subject to criticism, probation of his party membership status, and restitution of the money. However, the driver argued several times with the Party secretary on the correctness of the figure of the bribed money received, so in 1977 the Party secretary instructed the judicial organ to arrest him and sentence him to nine years imprisonment.

5. When the secretary decides a case incorrectly, his attitude is "an official will never regret his decision"; the secretary consistently refuses to correct his mistakes. For example, in a city a homicide suspect had been detained for eighteen years despite the fact that the higher-level judicial organ had already decided that there was no evidence proving his guilt. He was held because the leadership insisted that in order "to maintain the decision of the city party committee" he should not be released.

Despite the recent call for strengthening the "socialist legal system" and the enactment of new legislation, there has been no indication that the PRC intends to abolish the system of "deciding a case by the secretary" (see case studies in the next section), though some judicial cadres have suggested that the system be abolished. At the First Academic Seminar organized by the Chungking (Zhong-
Changes in China's Criminal Justice System

qin) City Law Association on 22 and 23 October 1979, the majority expressed the following view, as expressed by a participant:

The procuracy and the court should independently exercise their function; i.e. in handling cases, they should insist to rely on facts and laws and should not allow any organs, groups and individuals outside the judicial organs, through open or secret methods, to interfere. The leadership exercised by the various level party committees toward the cadres of the procuracy and the court should primarily focus on strict supervision over their executing guidelines and policy and their strict compliance with and impartial execution of the law.59

At the seminar, the participants also engaged in a sharp debate over the merits of the system of party committee review and approval of the cases. One view was that the system was correct because it served the needs of class struggle at different times and facilitated the execution of security work. Another view considered this system to be one of the causes for unjust, false, and wrongly decided cases. It was maintained that retaining the system of party committee review had resulted in more injustice than justice within the framework of the socialist legal system. It was said that during the special period of military control in the early years of liberation, it had been necessary for the party committee to approve cases, but that this was an expediency best confined to those early years. After the promulgation of the Constitution and the organic laws for the procuracy and the court, the continuance of the system of party committee approval of cases frequently resulted in replacing law with party policy, which was disadvantageous to perfecting and strengthening the socialist legal system. The supporters of this view further pointed out that the approval of cases by the party committee in practice is performed by the secretary in charge of political-legal work alone and that this delegation of authority inevitably resulted in subordinating the law to one individual's view. The conclusion of the participants of the seminar as reported by one participant, is as follows:

Based on the experience of thirty years' judicial practice and in accordance with the situation and special features of current class struggle, it is entirely correct to have the procuracy and the court to exercise their functions independently and to change the system of party committee's approval of cases.59

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In addition to the problem of the system of "deciding a case by the secretary", there are also several other problems which would frustrate the establishment of a more stable and fair criminal justice system. First, while the recently enacted criminal procedural law provides that everyone is equal before the law, it has been disclosed recently by a Vice-President of the Supreme People's Court that the jurisdiction of a people's court over an individual depends on the individual's status in the Chinese society: The basic people's courts shall exercise jurisdiction over common people; the intermediate people's courts over party cadres and
"Democratic elements" (i.e. those persons who served as united front instruments of the PRC); and the higher people's court over senior party cadres in the minister ranks.51

Despite this blatant inequality of treatment, the new system appears to be an improvement over the past practice. Until the promulgation of the new Criminal Procedure Law in mid-1979, judicial process in the PRC apparently did not apply to purges of government or party officials. Also, in the past, a government or party official convicted of a criminal offense usually received more lenient treatment or was simply not punished.

Second, the Criminal Law promulgated in mid-1979, following the precedent of the 1951 Counterrevolutionary Act, retains the principle of analogy as to criminal acts. Article 79 provides:

Those who commit acts not explicitly defined in the specific parts of the criminal law may be convicted and sentenced, after obtaining the approval of the Supreme People's Court, according to the most similar article in this law.52

Third, on 29 November 1979, the Standing Committee of the National People's Congress decided that most of the laws and decrees promulgated since 1949 should remain in force, apparently including the 1951 Counterrevolutionary Act (see also case studies in the next section).53 The Standing Committee also confirmed the continued applicability of the 1957 State Council's decision on rehabilitation through labor,54 i.e. the imposition of de facto criminal sanctions by administrative organs for actions ranging from criticizing the government to refusing to accept a work assignment. This decision, needless to say, will not improve the quality of the PRC's criminal justice system.55

4. Selected Case Studies

A study of the structural and operational changes of the PRC's criminal justice system could not be complete without analyzing examples of the system at work. Because of the difficulty in obtaining case materials from the PRC and the limitation of space here, only two well-publicized cases are presented below.

(1) Wei Jingsheng (Wei Ching-sheng in Wade-Giles) Case.

Wei Jingsheng was a native of Anhui Province, in Central China, where he was born in 1950. Both of his parents were party officials, and he was intensively indoctrinated with Communist theories from his childhood. During the Cultural Revolution, he joined the Red Guards in 1966, but was jailed for four months early in 1967. With the gradual subsidence of the Cultural Revolution in 1969, Wei enlisted in the People's Liberation Army, which enabled him to travel widely through China. Demobilized in 1973, he turned down an offer to become an official and took a job as electrician in the Peking Zoo.56
Changes in China's Criminal Justice System

In December 1978 Wei began an underground sheet called *Tanshuo* (T’an-shuo in Wade-Giles) (Exploration) and posted it on Xidan (Hsitan in Wade-Giles) Wall, the now-abolished “Democracy Wall”, in Peking. It included an essay bearing his signature and calling on the Communist leaders to add a fifth item to their official list of modernizations the country should achieve in agriculture, industry, science, and defense. The fifth and most necessary, he wrote, is democracy.57

Later *Exploration* became a mimeographed magazine and published many articles exposing the human rights situation in China. For instance, in the March 1979 issue of *Exploration*, an article entitled “The Bastille of the Twentieth Century—Qincheng (Ch’in Ch’eng in Wade-Giles) No. 1 Prison”58 vividly described the inhumane treatment and torture of political prisoners in China. On 29 March 1979, Wei was arrested.

On 16 October 1979, more than six month after his arrest, Wei was brought to trial by the Peking Municipal Intermediate People’s Court and sentenced to 15 years’ imprisonment, with deprivation of political rights for a further three years. Wei was convicted of providing a foreigner with Chinese military intelligence and carrying out counterrevolutionary agitation.59

The prosecution, debates and sentencing altogether lasted for 6 hours and 35 minutes (8:40 a.m. to noon and 2:00 p.m. to 5:15 p.m.; it is a custom of the PRC’s officials to take a nap after lunch). The basis of the charge was the 1951 Counterrevolutionary Act, of which the following articles were cited by the court:

*Article 2.* “All counterrevolutionary criminals whose goal is to overthrow the people’s democratic regime or to undermine the undertaking of the people’s democracy shall be punished in accordance with this Act.”

*Article 6, paragraph 1.* “Those who engage in any one of the following acts of espionage or of aiding the enemy shall be punished by death or life imprisonment; where the circumstances of their cases are relatively minor they shall be punished by not less than five years of imprisonment:

“(1) Stealing or searching for state secrets or supplying intelligence to a domestic or foreign enemy.”

*Article 10, paragraphs 2 and 3.* “Those who, with a counterrevolutionary purpose, commit any one of the following acts of provocation or incitement shall be punished by not less than three years of imprisonment; where the circumstances of their cases are major they shall be punished by death of life imprisonment:

(2) Provoking dissension among the various nationalities, democratic parties and groups, people’s organizations or between the people and the government;

(3) Conducting counterrevolutionary propaganda and agitation and making and spreading rumors.”

*Article 16.* [See text quoted at p. 54 above.]

*Article 17.* “Those who commit crimes enumerated in this Act may be deprived of their political rights…”60
Wei Jingsheng lodged an appeal against the court’s judgment to the Peking Municipal Higher People’s Court. On 6 November 1979, in one day’s time, this court concluded the debate between the prosecutor and Wei and rejected the appeal. Under the PRC’s legal process, the case was thus affirmed; no further appeal to the Supreme People’s Court is permitted.

A thorough analysis of the merits of the prosecution and Wei’s defense is beyond the scope of this paper; a summary of the charges and defense will appear in the appendix of this paper. Here, the focus will remain primarily in the procedural aspects of the case. First, although a notice on the wall of the court on 16 October had said that the trial of Wei would be open to the public, none of Wei’s family members or friends were allowed to enter the court room. Foreign correspondents were turned away. Several hundred spectators were taken in, but a woman who attended said afterward that she had received her ticket the day before the trial at her workplace and had been instructed to attend.

Second, the Court apparently was not confident of the legal basis, under the 1951 Counterrevolutionary Act, upon which the charge and sentence against Wei was based. The court therefore invoked the catch-all Article 16 provision allowing for punishment for crime by analogy (quoted above). Thus as recently as October 1979, the PRC courts continued to employ the principle of crime by analogy, in spite of the gross vagueness and overbreadth of the principle.

Third, one of the charges against Wei was that he supplied military secrets regarding the Sino-Vietnamese War to a foreigner. In regard to the question of proof required for a conviction, it is instructive to note that the foreigner to whom the secrets were allegedly supplied was neither called to testify nor identified. However, one spectator said that the prosecutor, during the reading of a two-hour indictment, had mentioned several countries, including Great Britain and France. If the recipient was indeed a national of one of these countries, then Article 6, paragraph 1 of the 1951 Counterrevolutionary Act was certainly not applicable, because Great Britain and France definitely are not “enemies” of the PRC today. Ironically, the day before Wei’s trial, Hua Guofeng (Hua Kuo-feng in Wade-Giles), PRC’s Communist Party Chairman and Prime Minister, began his three-week visit to four European countries, including France and Great Britain.

Fourth, whether Wei’s case was handled in accordance with the system of “deciding a case by the Secretary”, i.e. by the Party Committee of the area, is a question that cannot be ignored. According to an article in the Ta-ti (Dadi in pinyin, Great Earth, published on 4 November 1979, the Peking City Revolutionary Committee, i.e. the municipal government, and the Peking Party Committee both played a dominant role in the arrest and sentencing of Wei. It is reported that Wei was arrested by the Public Security Bureau on telephone instruction from the Deputy Director of the Peking City Revolutionary Com-
mittee, Wang Hsiao-i (Wang Xiaoyi in pinyin). When Wei demanded the public security personnel to show their arrest warrant, they replied: “We want to arrest you, why need an arrest warrant!” A week later, the arrest warrant was issued by the court. However, before the issuance of the warrant the court, apparently referring to the Peking City Intermediate People’s Court, expressed the view that it should wait for instructions from the Peking Higher People’s Court. The City Party Committee, however, instructed the court to issue an arrest warrant to the public security bureau. Later, according to the same report, the representatives of Peking City at the National People’s Congress requested the procuracy and the court to explain the process of handling Wei’s case, but the City Party Committee instructed the procuracy and the court not to do so. Only after a deputy chairman of the Standing Committee of the National People’s Congress, T’an Chen-ling (Tan Zhenling in pinyin), criticized the City Party Committee and the City Revolutionary Committee, was a cadre from the Organization Department of the City Party Committee—not from the procuracy or the court—sent to explain the process of handling the Wei case to the representatives from Peking at the National People’s Congress.

(2) The Case of Fu Yeuhua (Fu Yúeh-hua in Wade-Giles)

Fu Yeuhua, a female, 34 years old, was originally assigned to a job with a construction company in the Xuanwu (Hsüan-wu in Wade-Giles) District of Peking in 1971. She was married to a graduate of Peking University who had been sent to work in Hebei (Hopei in Wade-Giles) Province and lived away from home. This type of enforced separation is common in China.

Her criminal case, pieced together from sources close to her family, from wall posters, and from Chinese with access to the trial transcript, by the New York Times, and other sources available to the author of this paper is summarized as follows.64

When she was working at the construction company, the head of her unit, Mr. Geng (Keng in Wade-Giles), made sexual approaches to her, but she refused his advances. A few months later, during a political campaign, Mr. Geng accused her of being a counterrevolutionary and shortly thereafter raped her several times over a period of weeks. However, when Ms. Fu later decided to bring a charge against Mr. Geng, she limited her accusation to an incident that allegedly occurred on 14 February 1972.

Ms. Fu suffered a mental breakdown as a result of the rapes; she went to a hospital and was diagnosed as suffering from schizophrenia. A copy of her medical report was posted on the now abolished Democracy Wall in October 1979. Because of her mental condition, she had to stop working and was unable to get the construction company to pay her medical bills, which came to the equivalent of US $535, almost two years’ salary to her. Later she was also unable to get her job back or to be transferred to other work.
In the meantime, her husband went to the construction company to find out what had happened and was told that it was Ms. Fu who had seduced Mr. Geng. Without telling Ms. Fu his reasons, he applied for and was granted a divorce, following the requisite approval by her work unit.

On 8 January 1979, Ms. Fu led a peasant demonstration against hunger, and on 14 January she reportedly met an American diplomat at her home. On 18 January 1979, she was arrested without a warrant. It was reported in a poster that after her arrest the Peking party committee promulgated a document explaining the action against her, saying that she had slept with foreign diplomats and had entered the United States Embassy. Her family was not told that she had been seized until 3 April 1979, when the Peking Party Committee again promulgated a document stating that Ms. Fu had disrupted public order during the demonstration and had tied up traffic.

On 31 August 1979, Ms. Fu was reportedly tried for the first time by the Peking Intermediate People's Court, and sentenced to one year imprisonment for disrupting public order. She appealed, and on 11 October 1979, the Peking Higher People's Court found "the facts are not clear and the evidence is incomplete". Then on 17 October, she was put on trial again, with the added charge of libelling Mr. Geng in 1972. The trial session was recessed after her revelations about Mr. Geng's sexual molestations. On 24 December 1979, the trial was resumed, this time with still another charge added, namely that Mr. Fu had three times been detained by the public security bureau for theft while she worked at the construction company. The court found her guilty only of disrupting public order and sentenced her to two years' imprisonment. Her charge against Mr. Geng was dismissed on the ground that "a thorough investigation had failed to reveal any truth in the allegation" that Ms. Fu had been raped.

Fu's case seems to indicate that the party committee continues to play a dominant role in the administration of criminal justice. However, compared with past practice, the courts appear now to have begun to play a somewhat more active, though still very limited, role in deciding criminal cases.

(3) Mass Sentencing Meetings

Soon after the establishment of the PRC on 1 October 1949, thousands of people were executed after mass public trials (the estimates ranged from 800,000 asserted to Mao Tse-tung in 1958, to several million, estimated by scholars). In these mass trials, the assembled crowds, whipped up to a frenzy by planted agitators, called invariably for the death penalty and for no mercy for the accused. Later, Article 76 of the 1954 Constitution specifically provided for a guarantee of public trial for an accused and for the latter's right of legal defense. There was no mention of mass trials; by inference, that practice would appear to have been abolished by the Constitution because under a mass trial the accused is not permitted to undertake a legal defense.

Somewhat later, however, a practice similar to that of the mass trial de-
Changes in China's Criminal Justice System

devolved: for important political cases, a mass meeting would be held to announce the court's sentence and the accused was sometimes executed immediately after the announcement of the sentence. During the Cultural Revolution, this practice became more frequent and mass meetings were held even to announce sentences for common criminal cases such as murder, rape, or robbery. The 1975 PRC Constitution legalized this practice of mass meeting by providing in Article 25, paragraph 3: "In major counterrevolutionary criminal cases the masses should be mobilized for discussion and criticism."

Despite its avowed purpose, announced by the present leadership, of strengthening the "socialist legal system", the 1978 Constitution not only maintains this practice, but also expands its application to common criminal cases. Article 41, paragraph 2 provides: "With regard to major counterrevolutionary or criminal cases, the masses should be drawn in for discussion and suggestions" (emphasis added).

Between September 1979 and the present time, the official news media in the PRC has reported the holding of many mass sentencing meetings. Those who were sentenced to death were usually executed immediately.

The purpose of these meetings has apparently been to warn the public against the commission of counterrevolutionary or criminal offenses. However, at the same time this process seriously disrupts the PRC's efforts to strengthen the socialist legal system. First, once a sentence is publicly announced at a mass meeting, it is unlikely that it would be altered by appeal or retrial; any alteration of a publicly announced sentence would result in a serious loss of face or prestige for the government.

Second, the immediate execution of death sentences at mass sentencing meetings is in flagrant violation of the procedure announced by the PRC. On 15 July 1957 the National People's Congress adopted a resolution requiring that all death sentences of the lower court be submitted to the Supreme People's Court for approval. (The present-day Criminal Procedure Law adopted on 1 July 1979 by the National People's Congress also provides in Article 144 that death sentences must be reviewed by the Supreme People's Court.) This review procedure was ignored in at least several of the reported mass sentencing meetings. For instance, on 14 November 1979, the Hanchou (Hanzhou in pinyin) City Intermediate People's Court convened a mass sentencing meeting, reportedly attended by more than six thousand people, announcing inter alia, the sentencing of Hsiung Tzu-ping (Xiong Ziping in pinyin) to death on the charge of being the leader of a "gang of rapists". He was immediately executed. The report by the New China News Agency pointed out that the Court rendered a judgment against Hsiung on 30 October 1979 and that he appealed to the Chekiang (Che-chiang in Wade-Giles, Zhejiang in pinyin) Higher People's Court, which rejected his appeal. There was no mention of any appeal to or approval by the Supreme People's Court of his death sentence.
Concluding Observations

Since the present PRC leadership came into power, it is undeniable that tremendous efforts have been made in improving the quality of the PRC's criminal justice system. New legislation, such as the Arrest and Detention Act, the Criminal Procedural Law, and the Criminal Law were enacted; the importance of establishing a more perfect socialist legal system has been emphasized and publicized; and legal education has not only been revived but strengthened. All these developments have brought some significant changes in the structure of the PRC criminal system. However, the PRC has continued to avoid certain crucial structural changes. The principle of analogy remains under the new criminal law; the practice of rehabilitation through labor, i.e. the placing of a person in a labor camp for up to four years, in not only maintained but strengthened; and the continued validity of formerly enacted vague criminal legislation, such as the 1951 Counterrevolutionary Act, has been explicitly ratified.

How far the enacted structural changes will actually affect the operation of the PRC's criminal justice system, thus improving the system's quality, remains to be seen. In spite of their limitations, these structural changes, if seriously implemented, may well offer a substantial improvement to the PRC's criminal justice system. The crucial question is whether the party organizations, at all levels, will in fact allow the PRC's criminal justice system to operate in accordance with the recently enacted structural changes without undue party interference. If the party organizations choose to obstruct these structural changes, it is unlikely that any significant improvement of the system can be made.

At present, there has been slight hint from the PRC leadership that the party is prepared to relax its control over the public security, the procuracy, and the courts.

The PRC is a party state, and it is understandable that the party would definitely intervene in judicial policy, guidelines or major political cases. However, current practice in the PRC indicates that the party organizations on various levels continue to intervene in all criminal cases. Recently, it was reported that the President of the Supreme People's Court, Chiang Hua (Jianghua in pinyin), has maintained that Party leadership over judicial work should be limited primarily to the guidelines and policies of the judiciary and should thoroughly guarantee that the courts may conduct trial independently. Similarly, the Chief Procurator of the Supreme People's Procuratorate, Huang Ho-ch'ing (Huang Heging in pinyin), also said that "procuracies at various levels must be placed under the leadership of the party committee, and they must report to and seek instruction from the party committee with respect to major guidelines and policy problems", thus implying that the party committee should not intervene in the handling of individual cases by the procuracies. However, at present, it is not clear whether the PRC's criminal justice system will actually move in the direction of independence. Until the PRC more precisely defines the relationship
between the party and the public security, the procuracy and the courts, and until it is willing to prohibit party interference with individual criminal cases, any changes in the structural aspects of the criminal justice system will fall short of having any significant effect on the operation and quality of the system.

NOTES

1. The term "structure" here refers to the organization of the courts, administrative agencies in charge of certain types of criminal sanctions, and the applicable rules, decrees, and laws by the courts or agencies.


3. Article 6 of the General Rules Governing the Office of the Local People's Procurators at Various Level, promulgated on 4 September 1951, in id., 86-87.


5. Article 17 of the Common Program.


7. Ibid., 302.

8. Ibid.

9. E.g. Article 4 of the 1951 Provisional Organic Regulations of the People's Courts in the PRC provides: The adjudication of cases by the people's court shall be based on the provisions of the Common Program of the Chinese People's Political Consultative Conference and the laws, decrees, decisions, and orders promulgated by the People's Government. Where no specific provisions are applicable, the policy of the Central People's Government shall be followed. Translated in Shao-chuan Leng, Justice in Communist China, Dobbs Ferry, NY 1967, 32.


13. Articles 85 and 89 of the Constitution.


15. Articles 76 and 78 of the Constitution.

16. See Leng, op. cit., note 9, 54.


18. For a summary of these criticisms, see Leng, op. cit., note 9, 57-62.


20. "Decision of the State Council of the PRC Relating to Problems of Rehabilitation Through
23. The campaign began in 1966 and subsided in 1969; its purpose was to rekindle revolutionary fervor by inculcating Mao Tse-tung thought and to eliminate revisionism, associated by Maoists with the PRC Chairman Liu Shao-ch'i (Chairman in 1958-1967) and his supporters.
25. In a report published in the New York Times on 25 November 1973, C. L. Sulzberger stated that PRC officials told him that the procuring was abolished in the late 1960s.
27. Ibid., 120-121.
28. For an English translation of the text of the new constitution, see 18 Peking Review 24 January 1975 No. 4, 12-17.
32. Teaching and Research Office of Peking (Beijing in Pinyin) Political-Legal Institute, Chung-hua jen-min kung-ho-kuo hsin-shih su-sung fa chuang-i (Zhonghua renmin gongheguo xinshi susong fa jiangyi in Pinyin) (Lectures in the Criminal Procedure Law of the PRC), Peking 1979, 123.
33. Shih Ming (Shi Ming in pinyin), "A Good Daughter of the People—Before and After the Heroic Death of Martyr Chang Chih-hsin [Zhang Zhuxin in pinyin]", Pei-ching chih -ch'un (Beijing zhichun, The Spring of Peking) 28 September 1979 No. 8, 12-19.
35. E.g. see Wan Ch'ing-hua (Wang Ginhua in Pinyin), "Why one is Unable to Get a Lawyer?" Min-chu yu fa-chih (Minzhu yu fazi in pinyin) Sept. 1979 No. 2, 36.
36. Text of the Criminal Law is published in Jen-min jih-pao (Renmin Ribao in pinyin, People's Daily), 7 July 1979, 1, 3, 4; the text of the Criminal Procedural Law is published in Kuang-min jih-pao (Guangmin Ribao in pinyin, Enlightenment Daily), 8 July 1979, 1, 2, 3. Both laws entered into force on 1 January 1980.
38. See Resolution of the First Meeting of the Second Session of the National People's Congress of the PRC Relating to Abolition of the Ministry of Justice and the Ministry of Supervision (passed on 4 April 1959), in Chung-hua jen-min kung-ho kuo fa-kuei hui-pien (Zhuanhuo renmin gonghe guo faguai huibian in pinyin, Collection of Laws and Regulations of the PRC), Vol. 9, Peking 1959, 108.
41. The Communist Party of the Soviet Union may issue directives to tell judges, for instance, to "intensify the struggle against thefts in the factories or to make examples of managers who have tampered with the books, or to bear down on some other activity which the party is seeking to 'liquidate'". Harold J. Berman, Justice in the USSR, Rev. ed. Cambridge, Mass. 1963, 271-272. However, there appears to have been no report on Party review or approval of individual criminal cases handled by the courts.
Changes in China's Criminal Justice System

44. Ibid.
45. Ibid., 8.
46. Ibid., 9.
49. Ibid.
50. Ibid.
52. Jen-min jih-pao, 7 July 1979, 3. Translated by the author.
55. See op. cit., note 20, and accompanying text.
58. At 14-20. English excerpts from the article are published in The New York Times, 7 May 1979, A1, A10. See also Fox Butterfield, “Peking Dissident, in Rare Account, Tells of Political Prisoners’ Torture”, ibid.
60. Translation of these articles is from Cohen, op. cit., note 6, 301, 302.
63. Excerpts of the trial proceedings can be found in New York Times, 15 November 1979, A22.
65. See ibid.
66. Information supplied by a visitor to China.
67. Wei was arrested after the promulgation of the new Arrest and Detention Act. Both the new law and the 1954 Act require a warrant for arresting a person.
69. For a study of the number of Chinese people killed under Communism, see generally, The Human Cost of Communism in China, Washington, DC 1971.
70. See ibid., 11-13 and Cohen, op. cit., note 6, 10.
71. See Cohen, op. cit., note 6, 541.
72. Kuangmin jih pao. 8 July 1979. The law was to enter into force on 1 January 1980, so presumably it was not applicable before that date. However, the PRC has never abrogated its 1957 NPC decision on review of a death sentence. In an interview with Chinese legal officials in May 1974,
it was reported: "When local courts come to the death sentence, they must report to a court on a higher level which again reports to the court on the next level until the Supreme Court approves: The death sentence can be implemented only after the approval of the Supreme Court". Gerd Ruge, op. cit., note 26, 119. However, in a recent article on judicial procedure in the PRC, which appeared in the authoritative Beijing Review, it is said: "If a court at the basic or immediate level hands down a death sentence, it should submit the sentence to a higher court or the Supreme People's Court for re-examination and approval before execution, whether the defendant appeals or not" (Emphasis added). Xing Zhong, op. cit., note 62, 32. The author gave no source to support his view.


74. On 29 November 1979, the Standing Committee of the National People's Congress passed "Supplementary Regulations Concerning Rehabilitation through Labor", which provide, inter alia, for the establishment of a Governing Commission on Rehabilitation through Labor in Provinces, Autonomous Zones, Large and Middle Size Cities. The duration of rehabilitation through labor is from one to three years and may be extended for another year. See Jen-min jih-pao, 30 November 1979, 1.

75. E.g. a PRC radio broadcast recently revealed that after the arrest of homicide suspect Yu Chin-lung (Yu Jinlong in pinyin), the leaders of the Chekiang Provincial Party Committee and the Hanchou City Party Committee "personally took charge [of the case] and immediately deployed the public security and judicial organs to swiftly try the case". Radio broadcast of Chekiang, 8 November 1979. Cited in Wang Hsiao-tang, op. cit., note 73, 24.

76. Jen-min jih-pao, 11 January 1980, 1. It is reported that President Chiang Hua (Jiang Hua in pinyin) recently told a judicial conference held in Peking that: "We should abolish the practice by party committees of examining and approving criminal cases". "Chinese Court Official Seeks Less Political Interference", The New York Times, 25 August 1980, A5.
APPENDIX

EXCERPTS FROM A PEKING TRIAL TRANSCRIPT

Special to The New York Times*
15 November 1979, A22.

PEKING, Nov. 14—Following are translated excerpts from a transcript of the indictment against Wei Jingsheng, editor of the Chinese dissident journal Explorations, as read by the prosecutor, Gao Wenyu, in the Peking Intermediate People’s Court on Oct. 16, and of Mr. Wei’s defense. The transcript was published by the underground journal Fifth of April Forum and sold at Democracy Wall.

By the Prosecutor

Chief Judge, People’s Assessors: There is no denying that Wei Jingsheng carried out an enormous amount of counterrevolutionary activities, given the amount of evidence.

First, the defendant betrayed his motherland by supplying military intelligence to a foreigner. Shortly after our country launched the counterattack in self-defense against the Vietnamese aggressors to defend our border area, the defendant Wei Jingsheng arranged secret meetings with foreign agents in Peking and supplied foreigner [blank] with important military intelligence including the names of the commanders of the Chinese troops, the number of such troops, battle developments and the number of casualties. The defendant willingly became the running dog of Vietnam. Thus he is merely a scum of the nation.

Charge Regarding Publication

Second, the defendant wrote many reactionary articles to carry out his counterrevolutionary propaganda and agitation for the overthrow of the dictatorship of the proletariat and the socialist system. Between December 1978 and March 1979, the defendant wrote over 10 reactionary articles such as the “Fifth Modernization”, and put them up in such places as Xidan Street [the location of Democracy Wall] or printed them in the reactionary journal Explorations.

In these articles he tried his best to vilify Marxism-Leninism Mao Zedong thought as a prescription only slightly better than the medicine peddled by charlatans. He also slandered our socialist system as an autocratic system that oppresses democracy. He said it is nothing but a feudal monarchy disguised as socialism.

The above-mentioned counterrevolutionary crimes of Wei Jingsheng are directly in violation of Article 56 of our Constitution, which stipulates that “citizens must support the leadership of the Communist Party of China, support the socialist system and safeguard the unity of the motherland”.

Our Constitution clearly stipulates extensive democratic rights. However, our democracy should be a democracy protected by law. It does not mean absolute freedom for one to do as one likes. Freedom of speech of the individual citizen

must be based on the four basic principles of insisting in the socialist road, the dictatorship of the proletariat, the leadership of the party and Marxist-Leninism Mao Zedong thought. The citizen has only the freedom to support these principles and not the freedom to oppose them.

The defendant hid his criminal aim of overthrowing the dictatorship of the proletariat and changing the socialist system under the guise of democracy. If such individualistic freedom of the minority is allowed to run rampant, the freedom of the majority will be lost. The people will sink into misery and the nation will be doomed.

By Wei Jingsheng

I believe the charges enumerated in the prosecutor’s indictment are untenable. I published articles and wrote big-character posters on the basis of Article 45 of the Constitution, which says that that citizens have the freedom of speech, correspondence, assembly, publication, association, parade, demonstration and strike as well as freedom to write big-character posters and hold big debates.

We published our journal for the purpose of exploring China and making it rich and powerful. We believe that only by free, unrestrained and practical exploration is it possible to achieve this purpose.

On the first charge, the indictment states that a counterrevolutionary crime is committed when our country’s military intelligence is given to a foreigner. The word military intelligence is a very broad concept. Citizens have the duty to keep secrets, but the premise is that citizens must know what secrets are to be kept.

Question of What Is a Secret

I was never told of the secrets I must keep. After the outbreak of the Chinese-Vietnamese war, I had no access to anything classified as secret.

I am an ordinary man in the street and my source of informations was hearsay and not any official government documents. The news I talked about could not cause any harm to the situation on the front line. I took this into account beforehand. For instance, I mentioned the name of the commander in chief at the front. Who has ever heard that one side ever lost a battle because the other side knows the name of the commander?

Of course, the prosecutor might say that according to law this is a military secret. But during the time of the Gang of Four, anything was taken as a secret and any random talk with foreigners could be construed as illicit relations with foreign countries.

Does the prosecutor want people to follow the practice of the time of the Gang of Four?

If the prosecutor thinks I have committed errors because the content of my talks included things that the Government did not wish me to tell, I will totally accept it, since this is the duty of every citizen. But I still hope the Government can specify more clearly the scope of the secrets that should be kept by the people.

The Meaning of Revolution

Second, the indictment states that I carried out counterrevolutionary propaganda and agitation. If this is so, we should first clarify what is revolution and what is counterrevolution. Because of the policy of hoodwinking the people
adopted by the Gang of Four, some people have the following view: It is revolutionary to act in accordance with the will of the leaders in power and counterrevolutionary to oppose the will of the people in power.

I cannot agree with this debasing of the concept of revolution. Revolution is the struggle between the old and the new.

Since the revolutionary tides are different in different historical periods, the targets of the phrase "counterrevolutionary" are also different. The current historical tide is a democratic one, which opposes feudal, fascist dictatorship. The central theme in my articles such as the "Fifth Modernization" is that without democracy there will be no four modernizations. [The four modernizations—agriculture, industry, science and defense—are China's official goals.]

How can such a theme be counterrevolutionary? People that oppose it should justly be labeled counterrevolutionary.

Marxism Is Said to Change

Third, the indictment says I "slandered Marxism-Leninism Mao Zedong thought as a prescription only slightly better than the medicine peddled by charlatans". I did not. No things exist in the world that never change from beginning to end. Marxism is no exception. After 100 years of development, Marxism has been successively changed into many different branches, for example, Kautskyism, Leninism, Trotskyism, Stalinism, Mao Zedong thought and Eurocommunism.

We find that some governments organized under the dictatorship of the proletariat in which power is concentrated in a few hands, such as the Soviet Union and Vietnam, and China before the Gang of Four was smashed, have degenerated into fascist governments, with a minority of the leading class exercising dictatorship over the broad masses of the working people.

The fate of Marxism is like that of many schools of thought in history. Its revolutionary essence was emasculated after its second and third generations. Some of the ideals of its teachings have been used by rulers as the pretext for enslaving people. Is this not a prescription that is only slightly better than medicine peddled by charlatans?

Constitutional Provision Cited

Fourth, the indictment states that I "put forth the banner of so-called freedom of speech and the demand for democracy and human rights to agitate for the overthrow of the dictatorship of the proletariat". I must point out that freedom of speech is not a wild allegation, but is guaranteed in black and white in the Constitution. The tone in which the prosecutor talks about that right shows not only that he is prejudiced in his thinking, but that he has forgotten his responsibility to protect the democratic rights of citizens.

The prosecutor accuses me of trying to overthrow the socialist system. In the course of my editing, our publication Explorations has never engaged in conspiracy of violence. Explorations is a journal of theoretical investigation on public sale. It has never taken the overthrow of the government as its aim.

The prosecutors perhaps do not agree with my theories. In my several conversations with them we have talked about this. I would just like to add a point. The Constitution gives the people the right to criticize leaders because they are human beings and not deities. Only through criticism and supervision by the people can they reduce their errors.

Criticism cannot possibly be nice and appealing to the ear or all correct. To
require criticism to be entirely correct and to inflict punishment if it is not is the same as prohibiting criticism and reforms and elevating the leaders to the position of deities. Is it really true that we must again take the path of superstition of the Gang of Four?
The above is my defense.
魏京生的辯護詞

魏京生的辯護詞

我認爲政府沒有遵守保密法，未經通知或未經同意而將保密信息提供給了法國公眾，這是違反了保密法的規定。我認為政府違反了保密法的規定，因此我要求政府解釋違反保密法的原因。
第二：起訴書中所述反革命罪名的背景和理由。

首先，被告在起訴書中所述反革命罪名的背景和理由。反革命罪名的背景和理由。

3.1 反革命的概念和背景。

反革命是指在一定历史阶段，反对现有政治制度或社会秩序的暴力行动。

3.2 反革命的法律背景。

反革命罪名的法律背景。

3.3 反革命的案例。

以历史上的某次反革命事件为例，说明反革命的性质和结果。

4. 反革命的后果和影响。

反革命的后果和影响。

4.1 反革命对社会的影响。

反革命对社会的影响。

4.2 反革命对政治制度的影响。

反革命对政治制度的影响。

4.3 反革命对社会秩序的影响。

反革命对社会秩序的影响。

5. 结论。

结论：反革命的概念和背景。

5.1 反革命的定义。

反革命的定义。

5.2 反革命的类型。

反革命的类型。

5.3 反革命的后果和影响。

反革命的后果和影响。

5.4 结论：反革命的概念和背景。

结论：反革命的概念和背景。
毛线主义、毛泽东主义和毛泽东主义国家等。这些理论都源自毛泽东理论，其核心思想是通过群众路线、统一战线和武装斗争的三结合，实现无产阶级专政和社会主义革命。

毛泽东主义在实践中得到了广泛的运用，尤其是在中国革命和建设过程中。毛泽东主义强调阶级斗争、人民民主专政和社会主义制度的建立。

毛泽东主义在国际上的影响也很大，很多国家和地区都受到了毛泽东主义的影响，并在实践中形成了自己的毛泽东主义变种。

总的来看，毛泽东主义是20世纪中国革命和建设的重要理论基础，它对中国乃至全球产生了深远的影响。
公訴員的反駁詞

公訴員：審判長、陪審員，我剛才要對自己的論點進行一個澄清。現在我在發表公訴意見，被告自陳及其辯護人提出的事實和觀點，我都已經在公訴意見中詳細分析過了。被告自陳及其辯護人的陳述中，有些是正確的，有些是錯誤的，我都已經在公訴意見中指出。被告的辯護人提出的一些試圖混淆事實，攻擊公訴的試圖，我都已經在公訴意見中加以批駁。被告的辯護人試圖在法庭上的陳述中，將一些與此案無關的事實和意見混同在一起，我都已經在公訴意見中指出，並不成立。

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在這個時候，我們在講一個數字，這個數字就是我們所研究的數字。我們在這個數字的基礎上，根據這個數字的原理，我們可以得出一些結論。這些結論可以幫助我們更好地理解數字的內涵。
怒火集中在制造人民恐怖和社会不和的非法制度上。这些情况，他说是为了解决国家面临的繁荣。因
为制度上还存在一些不完善之处。我们从制度、政治、经济、文化等各方面都需要进行改革。
改革的目的是为了人民的幸福。制度应该以人民的利益为本，而不是以少数人的利益为本。这就
要涉及到人民的民主权利。人民的民主权利应该得到充分的保障。但是，我们不能因此就忽视
其他国家的民主权利。国家之间的关系应该基于平等和合作的基础。这样，我们才能真正实现
人民的幸福和国家的繁荣。
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