



Human Rights and Governance in China Today

Hon. David Kilgour, J.D.

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This past summer, party-state President Xi Jinping launched an all-out attack on China's fragile human rights legal community. Since taking the Communist Party leadership in 2013, Xi has increasingly cracked down on what he views as western-style freedoms in China. The hopes of the Chinese people and their friends around the world for gradual reform, leading to the rule of law, a sustainable natural environment, and democracy-no doubt one with very Chinese characteristics-have been set back.

Clive Ansley



The most recent abuses have been well documented by the respected sinologist/lawyer, Clive Ansley, who practised law in Shanghai for 14 years until 2003, when he could no longer stomach the charade of its 'legal system' and returned to Canada. One of the final straws for him was an edict which went out to all 'judges' across China that foreigners should no longer win cases in its 'courts'.

Observers outside China have difficulty understanding that 'trials' there are scripted theatres. Ansley adds: "There is a current saying amongst Chinese lawyers and judges who truly believe in the Rule of Law...: 'Those who hear the case do not make the judgment; those who make the judgment have not heard the case'.... Nothing which has transpired in the 'courtroom' has any impact on the 'judgment'." The Party operates outside and above the law as in the pre-1991 Soviet Union.

In a recent article, "Mass arrest, detention and disappearance of lawyers and other rights advocates in China", for Lawyers' Rights Watch (www.lrwc.org – lrwc@portal.ca), Ansley and Gail Davidson make many important points, but let me refer only to three. (The entire article can be accessed at: www.lrwc.org/china-mass-arrest-detention-and-disappearance-of-lawyers-and-other-rights-advocates-in-china-report/).

1. Since July, the Government "has conducted country-wide reprisals against criminal defence and human rights lawyers... the number... arbitrarily arrested since 9 July 2015 exceeds 275 (as of 10 September 2015). As the total membership of the Chinese human rights bar is estimated at approximately 300, the effect of the current round-up is devastating to rights protection..."

2. “As a member of the United Nations and state party to the International Covenant on Civil and Political Rights (ICCPR), China is obligated to ensure the enjoyment by all of the rights and freedoms recognized by the Universal Declaration of Human Rights (UDHR) and guaranteed by the ICCPR, including rights to: ...presumption of innocence, determination of rights by a competent, independent and impartial tribunal, legal representation, freedom from arbitrary detention... The arrests and detentions referred to in this report...constitute a violation by China of its international human rights obligations.”
3. “The courts and the judiciary are controlled by the Communist Party of China and are therefore not independent. President Xi Jinping has publicly declared that China cannot and will not accept ‘Western style’ judicial independence. He has explained that this means the Communist Party of China must, and will, continue to retain control over the ‘courts’, the police, and the procuratorate...”

The Party’s hostility toward rule of law was reflected in a 2013 leaked internal memo, exhorting Party members to combat seven “false” ideological trends, including.. “promoting Western Constitutional Democracy” and “promoting ‘universal values’”. The idea of universal values is especially attacked as a threat to the Party. Here is a line from the Document: “The people who espouse universal values believe Western freedom, democracy, and human rights are universal and eternal [...] This is evident in their distortion of the Party’s own promotion of democracy, freedom, equality, justice, rule of law, and other such values.” Promoting universal values is an “attempt to weaken the theoretical foundations of the Party’s leadership.”

Gao Zhisheng

Human rights lawyer Gao Zhisheng, known by many as ‘the conscience of China’ and twice nominated for the Nobel Peace Prize, was moved in August 2014 from prison to house arrest, but could at the time barely walk or speak. On September 23, 2015, in his first interview in five years Gao told Associated Press that he was tortured with an electric baton to his face and spent three years in solitary confinement since 2010.



“Every time we emerge from the prison alive, it is a defeat for our opponents,” Gao told AP. He survived only from his faith in God and his unwavering hope for China. Even while President Xi was visiting America, it was revealed that Gao had been re-arrested in Beijing, thereby illustrating again that his oppressors are both heartless and mindless (<http://www.theepochtimes.com/n3/1766521-tortured-china-rights-lawyer-gao-zhisheng-speaks-out/>).

Wei Jingsheng



Wei Jingsheng, chair of the Overseas Chinese Democracy Coalition, explains Xi:

“..Now Xi Jinping needs to solve the problem of the Communist Party's ruling crisis...even the legitimacy of the rule by the Communist Party has come into question. ...Xi Jinping is trying to revert to the era of Mao Zedong by means of forceful repression and large-scale false propaganda to solve the existential crisis of the Communist Party...”

For Xi's recent visit to the United States, Wei proposed that Congress and President Obama make "restoring the rule of law, abiding by the law, abolishing all forms of illegal detention and torture" the main theme of their negotiations. Wei added about a week ago that the “Chinese people think a younger Mao Zedong called Xi Zedong is restoring Mao's era. Xi Zedong is Xi Jinping's nickname by the Chinese netizens, and is accepted by all.

Obama has been under pressure from Congress and an array of rights advocates to speak out. Ten senators voiced concern over Xi's “extraordinary assault” on civil society ahead of last week's pomp-filled summit. A dozen Nobel peace laureates, led by Archbishop Desmond Tutu, wrote to Obama urging him to call publicly for the release of Nobel laureate Liu Xiaobo, serving 11 years in prison for calling for democratic reforms, and his wife Liu Xia, who is under house arrest and seriously ill.

Wang Yu



The experience of Wang Yu illustrates the off-camera face of the Xi regime. Ms. Wang began taking on human rights cases in 2011 after spending several years in prison and has become a fearless champion of the abused. She defended feminists, practitioners of Falun Gong, and Ilhan Tohti, the respected Uighur academic, who was last year jailed for life for ‘inciting separatism’.

In 2013, Wang noted, “Many people think: ‘China is rich, developing quickly ...has tall buildings, wide highways, fancy cars...They don't know that Chinese people are like animals that don't have any basic rights”. Wang, considered one of the most prominent lawyers arrested in the July crackdown, is featured in the U.S. Government's [FreeThe20#](http://www.humanrights.gov) campaign (www.humanrights.gov), which draws attention to the plight of women political prisoners and others of particular concern.

Mao

Many historians today include Mao Zedong with Stalin and Hitler as the three worst mass murderers of the 20th century. His biographers Chang and Holliday note that “over 70 million Chinese perished under Mao’s rule in peacetime”. Many governance problems in China today stem from the conflation of Mao’s totalitarianism and his successor Deng Xiaoping’s transforming economic reforms after 1978.

‘Violence and Corruption are the System’

The Chinese people, with all their accomplishments during more than 5000 years, continue to be humiliated by self-appointed bosses who exploit them egregiously. Consider five of the horrific campaigns the Party has launched since 1950:

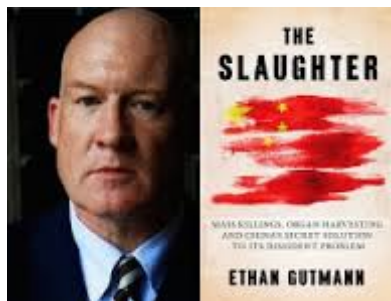
- The terror campaigns of the 1950s, during which as many as three million citizens were executed,
- The ‘Anti-Rightist campaign’ of 1957 in which about 300,000 intellectuals were arrested, imprisoned and subjected to “re-education”,
- Mao’s ‘Great Leap Forward’ collectivization of farming and industry (1959-61) in which an estimated 45 million persons were worked, starved or beaten to death,
- The Cultural Revolution of 1966-76, which reduced the country to chaos, denied an entire generation formal education, and saw perhaps another two million killed for no reason justifiable in human or rational terms,
- The Tiananmen Square massacre of 1989, in which soldiers opened fire on unarmed student protesters and citizens in Beijing, killing thousands,
- The Party monopoly on political power continues. According to the U.S. State Department, there are tens of thousands of political prisoners.

Citizens and governments in all rule of law nations must denounce continuing state-sponsored crimes against Chinese citizens and shine lights on such oppression continuously until they stop.

Persecution of Falun Gong, Tibetans, Uyghurs and Christians

Xi has tightened controls on religious minorities, with a government campaign to remove crosses and demolish Christian churches in an eastern province. The antipathy towards religion by the Party from 1949 until Mao’s death in 1976 is one reason for the special persecution Falun Gong practitioners have faced across China from 1999 to the present day. The second was Falun Gong’s appeal across China after being introduced in 1992, partly because of its deep roots in Daoism, Confucianism, Buddhism and other prominent features of Chinese culture, physical exercise and spirituality. By 1999, there

were by the party-state's own estimates more than 70 million Falun Gong practitioners across China—more than the then membership of the Party.



The 2014 book *The Slaughter* by Ethan Gutmann places the persecution of the Falun Gong, Tibetan, Uyghur, and Christian communities in context. He explains his “best estimate” that vital organs from 65,000 Falun Gong and “two to four thousand” Uyghurs, Tibetans, or Christians were pillaged in the 2000–2008 period. No one survived because all vital organs are removed to be trafficked for high prices to wealthy Chinese and “organ tourists”.

The Party

One of the best analyses of contemporary China is *The Party* (2010), by Richard McGregor, formerly Financial Times Beijing bureau chief. “Terror”, he notes, “was the system for extended periods of Mao’s rule... (it) remains essential to the system’s survival and is deployed without embarrassment when required.” He adds: “China is deeply corrupt... Since 1982, about 80 per cent of the 130,000 to 190,000 officials disciplined annually for malfeasance by the Party received only a warning. Only 6 per cent were criminally prosecuted, and of them, only 3 per cent went to jail.”



‘Crony capitalism’



Jonathan Manthorpe noted in the Vancouver Sun: “A local government, without a functioning system for raising tax revenue—and...riddled with corruption...sells development land to garner cash... (first getting rid of (farmers) living on the land)...the municipality has the power to instruct banks to lend the development company the money for the sale. So the local government gets its cash, the municipally-owned company gets to build a speculative residential or industrial complex, and all seems well”.

Joe Nocera wrote recently in the *International New York Times* that China’s “debt load today is an unfathomable \$28 trillion”. *The Financial Times* reports that a “national team” of state-owned investment funds and institutions spent about \$200 billion attempting to prop up the Shanghai stock market, which is down about 37 per cent since mid-June. Large sums continue to be removed from China by both nationals and foreigners; the regime has been spending billions daily to manipulate its currency,

The highest echelons of the Party have amassed unimaginable wealth. Bloomberg reported in 2012 that President Xi Jinping’s family is worth several hundred million dollars. The extent of the problem is highlighted by the extravagant wealth held by some

arrested “Tigers” (Zhou Yongkang was found to have amassed \$16 billion worth of stolen assets).

In short, the ‘crony capitalism/Maoist governance/beggar thy neighbour’ model is currently experiencing severe strains. The Tianjin tragedy and its opaque handling before, during and after the explosions also reflect a profound and growing discord between the Party and the people of China.

David Shambaugh



There are hopeful signs among the news coming from China. David Shambaugh, named one of America’s top 20 China watchers by the China Foreign Affairs University (affiliated with its ministry of foreign affairs), is now convinced that we are witnessing the “endgame of Chinese communist rule.” He wrote:

In 2014, Shanghai’s Hurun Research Institute... found that 64% of the ‘high net worth individuals’ whom it polled—393 millionaires and billionaires—were either emigrating or planning to do so. Rich Chinese are sending their children to study abroad in record numbers...

... since taking office in 2012, Xi has greatly intensified the political repression that has blanketed China since 2009. The targets include the press, social media, film, arts and literature, religious groups, the Internet, intellectuals, Tibetans and Uyghurs, dissidents, lawyers, NGOs, university students and textbooks...

(Corruption) is stubbornly rooted in the single-party system, patron-client networks, an economy utterly lacking in transparency, a state-controlled media and the absence of the rule of law...Xi, a child of China’s first-generation revolutionary elites, is one of the party’s ‘princelings’, and his political ties largely extend to other princelings. This silver-spoon generation is widely reviled in Chinese society at large”.

Better Governance

Among China’s neighbours, five key nations are stable, consolidated democracies: India, the Philippines, South Korea, Taiwan and Japan. It is self-serving sophistry to claim, as apologists for Xi do, that democracy and universal values do not work well for Asians. Since the end of the First World War, multiparty democratic governance has been adopted throughout much of the world, albeit with periodic setbacks, as the best means of creating improved citizen lives.



The world-renowned Beijing artist/democrat Ai Weiwei's comments in late 2013 seem especially timely today:

"...Because the Chinese government refuses to face elections, the public has never had a chance to express its opinion about the leadership... The Communist Party is ethically and philosophically too weak to meet any challenge in public discussion. Over the coming years, the Communist government will finally... realize that it can only continue to govern if supported by the constitution and true rule of law... (If it continues to reject any public role in its decision making and hopes to distract Chinese with spectacles ... the regime will only hasten its own end..."

Conclusion

I believe the Chinese people want respect for all, education, safety and security, good jobs, the rule of law, democratic and accountable governance and a sustainable natural environment. We democrats around the world stand with the people, just as we did in east and central Europe during the cold war, and with South Africans, particularly during the late '80s and lead-up to the election of Nelson Mandela. If the party-state ends its systematic and gross violations of human rights, this century can bring harmony and coherence for China and the world.

Thank you.

www.david-kilgour.com