

ACCESS TO JUSTICE

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ACCESS TO JUSTICE

Introduction

Chinese citizens continued to turn to the legal system for help when they were harmed by environmental hazards,¹ unsafe food,² discrimination,³ and other causes.⁴ Chinese law allows citizens to use the legal system to dispute unlawful government acts.⁵ International human rights instruments, such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, likewise call for the ability of citizens to obtain effective legal remedies when their rights are violated.⁶ During the 2015 reporting year, however, the Commission observed a persistent gap between the Chinese government's rhetoric regarding the importance of laws and the actual ability of citizens to use the legal system to protect their rights.⁷ Recent judicial reforms indicate recognition by the Chinese government that the current system is dysfunctional,⁸ and official media has touted that the revised PRC Administrative Litigation Law "will make it easier for citizens to take the government to court."⁹ It is too soon, however, to determine fully the impact of these developments. Teng Biao, a Chinese lawyer, explained that "[t]he major problem with rule of law in mainland China is not establishing legal provisions but rather implementing laws."¹⁰

The Fourth Plenum and Judicial Reforms

In October 2014, the Chinese Communist Party's leaders gathered for the Fourth Plenum of the 18th Party Congress Central Committee and issued the Decision on Several Major Issues in Comprehensively Advancing Governance of the Country According to Law (Fourth Plenum Decision).¹¹ The purposes of the Fourth Plenum Decision, according to the government's June 2015 report on "Progress in China's Human Rights in 2014," were "to protect civic rights, to defend human dignity and to put basic human rights into practice."¹² The Fourth Plenum Decision reportedly underscored President and Party General Secretary Xi Jinping's effort to boost public confidence in the legal system¹³ by outlining a number of structural reforms to judicial institutions, including:¹⁴

- Emphasizing that judges should not be removed except for legal reasons and unless legal procedures are followed;¹⁵
- Creating a "lifetime" (*zhongshen*) responsibility system whereby judges are responsible throughout their careers for cases that they adjudicated;¹⁶
- Ensuring that courtroom hearings play a decisive role in ascertaining facts and impartial adjudication,¹⁷ which could entail reconsidering the role of court "adjudication committees" (*shenpan weiyuanhui*) that currently can instruct judges on how to decide certain cases;¹⁸

- Introducing a model whereby judges are promoted from lower courts;¹⁹
- Changing from a “case filing review system” (*li'an shencha zhi*) to a “case filing registration system” (*li'an dengji zhi*);²⁰ and
- Establishing “circuit tribunals” (*xunhui fating*) to try major administrative or civil commercial cases involving more than one province.²¹ Two of these tribunals reportedly heard their first cases by May 2015.²²

The Fourth Plenum Decision also endorsed improving the legal aid system and expanding the scope of aid, with the stated objective of ensuring that citizens may obtain timely and effective legal assistance when their rights were infringed upon.²³ This past year, the Commission observed efforts with respect to the provision of legal aid in at least one domestic violence case,²⁴ a development that coincided with the public release of the draft PRC Anti-Domestic Violence Law.²⁵ At present, however, the scope of government-funded legal aid remains limited. For example, free legal assistance is available to criminal defendants only when the defendant is facing life imprisonment or death²⁶ or when certain vulnerable populations like minors or people who are blind, deaf, or mute are involved.²⁷ Amendments to the laws governing civil and administrative cases that restrict the ability of non-lawyers to represent parties also reportedly may cause citizens to try to resolve their grievances outside the legal system.²⁸ Such “barefoot” non-lawyers offer an alternative source of assistance when litigants cannot afford or find lawyers to take their cases.²⁹

In February 2015, the Supreme People’s Court (SPC) publicly released its fourth five-year reform plan (SPC Reform Plan),³⁰ which echoed themes in the Fourth Plenum Decision.³¹ The SPC Reform Plan called for establishing mechanisms to prevent official interference in judicial activities,³² but articles in state- and Party-run Chinese media emphasized that the Chinese government was not adopting a model of judicial independence based on the United States or other Western nations.³³ SPC President Zhou Qiang said that courts must “resolutely resist the influence of mistaken Western viewpoints and ways of thinking”³⁴ The Fourth Plenum Decision indicated the Party’s continuing interaction with the courts by calling on the Party to “support the courts and procuratorates in exercising their functions and authorities independently and fairly according to the law.”³⁵ Furthermore, the Fourth Plenum Decision called on the Party’s political-legal committees to continue to “ensure that China’s Constitution and laws are implemented correctly and uniformly.”³⁶ Reports indicate that the committees’ interference might be decreasing,³⁷ but a spate of recent resignations by judges³⁸ is attributed in part to complaints about outside interference in their work.³⁹

During the reporting year, the government and Party similarly took a hardline stance against “Western” constitutionalism,⁴⁰ despite the Fourth Plenum Decision’s use of language on the importance of China’s Constitution⁴¹ and the Chinese government’s declaration that “Constitution Day” would be commemorated on December 4.⁴² The ability of citizens to invoke the Constitution as a basis for challenging government actions remains limited.⁴³ The

National People's Congress Standing Committee has exclusive power to interpret and supervise enforcement of China's Constitution.⁴⁴

The extent to which the Fourth Plenum Decision and SPC Reform Plan will ultimately translate into concrete improvements in the judicial system remains unclear. Scholars have debated the significance of the Fourth Plenum Decision—including what is meant by “advancing governance of the country according to law”⁴⁵—when, as noted by scholars in a July 2015 Asia Policy roundtable, the Decision “also underscores the [Party’s] sustained leadership over the Chinese legal system.”⁴⁶ One U.S. expert on Chinese law raised questions concerning how to reconcile the Fourth Plenum Decision’s support for the importance of the legal system with the crackdown on freedoms of expression, assembly, and association observed this past year.⁴⁷

Judicial Transparency

The theme of government transparency runs throughout the Fourth Plenum Decision.⁴⁸ The Chinese government began implementing the Open Government Information Regulations in 2008,⁴⁹ but citizens have continued to face substantial obstacles when seeking information from the government.⁵⁰ The SPC had likewise previously been slow to increase transparency and did not create a national online database until 2013.⁵¹ [For more information on government transparency, see Section III—Institutions of Democratic Governance.]

This past year, the judiciary emphasized mechanisms for enhancing transparency. In March 2015, the SPC issued a white paper on judicial transparency that called for greater access to trials, increased use of electronic filing systems, and expanded access to case decisions.⁵² When releasing the white paper, He Xiaorong, office director of the SPC Judicial Reform Leading Group, told reporters that, by the end of 2014, Chinese courts had uploaded nearly six million court judgments to the public database.⁵³ Access to such a vast pool of cases could help to “develop a body of precedents to guide the legal community and create judicial transparency and accountability to address public concerns about the fairness of the litigation system,” according to a December 2014 post on the American Chamber of Commerce in Shanghai website.⁵⁴

The SPC released its 10th batch of “guiding cases” in April 2015.⁵⁵ In June 2015, the SPC issued rules specifying how judges should refer to guiding cases in subsequent cases.⁵⁶ The rules explained that judges should respond when parties raise guiding cases when arguing their positions to the court,⁵⁷ and SPC officials reportedly “stressed the use of referential precedent to ensure fairer judgements.”⁵⁸

Citizen Petitioning and Revisions to the Administrative Litigation Law

The PRC Administrative Litigation Law (ALL),⁵⁹ which provides a framework for citizens to challenge government actions in court,⁶⁰ underwent significant revisions during the past reporting

year.⁶¹ Application of the law, which initially took effect 25 years ago,⁶² was hindered by common barriers referred to as the “three difficulties” (*san nan*): difficulties in filing cases, trying cases, and enforcing judgments.⁶³ Following passage by the National People’s Congress Standing Committee in November 2014, revisions to the ALL took effect on May 1, 2015.⁶⁴ Revised provisions included, among others:

- Expanding the scope of permitted cases by eliminating the “specific administrative act” requirement in the previous version of the ALL;⁶⁵
- Listing 12 areas for which legal proceedings may be launched against the government, such as alleged violations of agreements on land and housing compensation, disputes over administrative detention, and abuse of administrative power;⁶⁶ and
- Requiring that a representative of the relevant administrative agency appear in court.⁶⁷

Announcement of the amendments was followed by an April 2015 SPC interpretation that provided additional guidance on issues such as procedures for filing cases and examples of litigation demands that meet the legal standard.⁶⁸ The Commission has not observed statistics establishing whether these recent reforms have begun to address long-standing obstacles to administrative cases.

Chinese official media expressed hope that a byproduct of the ALL revisions would be to increasingly funnel citizen complaints away from the petitioning (*xinfang*) system—through which individuals with grievances seek redress from government officials⁶⁹—and toward the courts.⁷⁰ According to a November 2014 media report, more than 4 million petitions involving administrative disputes have been filed annually.⁷¹ Wang Cailiang, a lawyer and deputy director of the All China Lawyers Association Administrative Law Committee, told the media, “With the [ALL] amendment, many more people would see the courts as an avenue to seek justice, instead of going to Beijing hoping to talk to officials.”⁷²

The basic legal framework for the petitioning system—the 2005 Regulations on Letters and Visits (2005 Regulations)—remained unchanged during the 2015 reporting year.⁷³ The Party and government continued to discuss proposals that were addressed during the 2014 reporting year,⁷⁴ including with respect to channeling law and litigation-related petitions through legal channels⁷⁵ and increasing the use of online petitioning.⁷⁶ In May 2015, the Ministry of Justice issued the Opinion Regarding Further Strengthening Law- and Litigation-Related Petition Work and the Measures on Judicial and Administrative Agencies To Conclude Petitioning Matters.⁷⁷ Also in May 2015, the State Bureau for Letters and Visits announced plans to consider drafting a petitioning law to improve the 2005 Regulations.⁷⁸

Harassment and Abuse of Human Rights and Public Interest Lawyers

During the 2015 reporting year, the Chinese government used criminal investigations and charges against citizens who engaged in activities that allegedly threatened the existing political sys-

tem.⁷⁹ Lawyers who represented people seeking to safeguard their rights⁸⁰ also faced reprisals.⁸¹ In December 2014, for example, hundreds of lawyers signed a letter protesting the detention of lawyer Zhang Keke after he openly invoked in court the rights to freedom of speech and religion provided for in China's Constitution.⁸² In May 2015, the government charged public interest lawyer Pu Zhiqiang with "inciting ethnic hatred"⁸³ and "picking quarrels and provoking trouble"⁸⁴ related to comments from his microblog accounts.⁸⁵ Pu was among the 14 Chinese civil rights advocates profiled in a 2005 issue of the Hong Kong-based *Asia Weekly*.⁸⁶ According to the *Economist*, "All of the activists pictured on the magazine's cover have since been imprisoned, detained, beaten or threatened, except for one lawyer who had already fled the country into exile in Canada."⁸⁷

Other cases of concern during the 2015 reporting year included:

- **Xia Lin.** Public security officers in Beijing municipality took lawyer Xia Lin into custody in November 2014 and subsequently criminally detained him on suspicion of "fraud."⁸⁸ Chinese Human Rights Defenders raised concerns that Xia's ongoing detention may be retaliation for representing Pu Zhiqiang and Guo Yushan, founder of the NGO Transition Institute.⁸⁹
- **Tang Jingling.** In May 2014, public security officials in Baiyun district, Guangzhou city, Guangdong province, took human rights lawyer Tang Jingling from his home and later criminally detained him on suspicion of "picking quarrels and provoking trouble."⁹⁰ Authorities arrested Tang on the charge of "inciting subversion of state power."⁹¹ The trial of Tang and two other rights advocates concluded in July 2015,⁹² but authorities had not announced a verdict as of September 2015. Tang gained prominence as a rights lawyer working on cases related to land seizures and corruption.⁹³ His 2014 detention reportedly was linked to a larger crackdown around the 25th anniversary of the violent suppression of the 1989 Tiananmen protests.⁹⁴
- **Yu Wensheng.** In October 2014, authorities criminally detained Yu Wensheng, a well-known human rights lawyer, on suspicion of "picking quarrels and provoking trouble."⁹⁵ Reports suggested that Yu's detention was linked to his efforts to meet with a client whom authorities detained for his support of the 2014 pro-democracy protests in Hong Kong.⁹⁶ Authorities released Yu in January 2015,⁹⁷ but his wife issued a statement in June 2015 reporting that domestic security officials had been harassing Yu and his family at their home.⁹⁸
- **Qu Zhenhong.** In May 2014, public security officials in Beijing took into custody lawyer Qu Zhenhong, the niece and defense counsel for Pu Zhiqiang, on suspicion of "illegally gathering citizens' information."⁹⁹ Following her formal arrest, authorities released Qu on bail in May 2015.¹⁰⁰

Despite the personal risks underscored by the cases described above, lawyers continued to provide advice to citizens who sought to access the legal system during this reporting year in cases that involve issues such as religious freedom,¹⁰¹ opposition to forced eviction,¹⁰² and freedom of speech and association.¹⁰³ The mainland China-based China Human Rights Lawyers Group, members

of which provide legal services to citizens who have been detained for exercising their civil rights,¹⁰⁴ marked its one-year anniversary in September 2014 with 225 participating lawyers.¹⁰⁵

JULY 2015 CRACKDOWN ON RIGHTS LAWYERS AND ADVOCATES

Beginning on July 9, 2015, Chinese authorities took into custody more than 200 lawyers and rights advocates within a 48-hour time period in what appeared to be a nationwide, coordinated crackdown.¹⁰⁶ As of September 1, 2015, authorities from 24 provinces and provincial-level municipalities had summoned for questioning, harassed, prevented from leaving China, or had taken into custody at least 300 lawyers, law firm staff, rights advocates, and some of their family members; 23 remained in detention or were being held under “‘residential surveillance’ in unknown locations,” according to Chinese Human Rights Defenders.¹⁰⁷ The crackdown received widespread condemnation from foreign governments,¹⁰⁸ international non-governmental organizations and bar associations,¹⁰⁹ and scholars.¹¹⁰ In a letter to Chinese President and Communist Party General Secretary Xi Jinping that urged the immediate release of all of the detained individuals in the crackdown, the New York City Bar Association noted, “Chinese law and international standards protect the rights of lawyers in China both to practice their profession and to carry out their professional duties to clients free of government interference. These detentions violate those standards and undermine the rule of law.”¹¹¹ [For information on some of the detained lawyers’ cases, see Section I—Findings—Access to Justice.]

Notes to Section III—Access to Justice

¹“Landmark Case on Lead Poisoning in Children Begins in China,” Reuters, reprinted in *Guardian*, 12 June 15; Alexandra Harney, “Lead Poisoning Lawsuit Tests China’s Resolve Over Pollution,” Reuters, reprinted in *The Age*, 6 May 15; “Wuhan Residents’ Pollution Case Filed Against Guodingshan Garbage Incinerator Plant Seeking 7 Yuan Compensation” [Wuhan jumin gao guodingshan laji fenshao chang wuran huo li’an, suopei 7 yuan], *The Paper*, 18 April 15; “5 Lanzhou Residents Suing ‘Lanzhou Veolia’ Are Finally Able To File Case” [Lanzhou 5 shimin su “yang shuiwu” zhong huo li’an], *Legal Daily*, 26 February 15. For other examples of citizens attempting to use the legal system to address environmental concerns, see Dominique Patton, “Chinese Citizens Sue Government Over Transparency on Monsanto Herbicide,” Reuters, 8 April 15; “Court Hearing China’s Landmark NGO Environmental Lawsuit,” *China Daily*, 15 May 15.

²Zheng Caixiong, “Half of Poisoned Food Cases Involved Pork,” *China Daily*, 10 July 15. Under the revised Food Safety Law, violators are liable for compensation when they cause harm to consumers. National People’s Congress, PRC Food Safety Law [Zhonghua renmin gongheguo shipin anquan fa], passed 28 February 09, amended 24 April 15, effective 1 October 15, arts. 126, 147, 148.

³China Labour Bulletin, “Plaintiff Awarded 2,000 Yuan by Court in Hangzhou Gender Discrimination Case,” 13 November 14; China Labour Bulletin, “Plaintiff Obtains 30,000 Yuan in China’s First Gender Discrimination Lawsuit,” 9 January 14.

⁴Supreme People’s Court, Supreme People’s Court Work Report [Zuigao renmin fayuan gongzuo baogao], 12 March 15, 39. See also Susan Finder, “Supreme People’s Court President Says Court Reforms in ‘Deep Water Area,’” Supreme People’s Court Monitor (blog), 15 March 15.

⁵PRC Administrative Litigation Law [Zhonghua renmin gongheguo xingzheng susong fa], passed 4 April 89, amended 1 November 14, effective 1 May 15, art. 11; Supreme People’s Court Interpretation Regarding Several Questions on the Application of the PRC Administrative Litigation Law [Zuigao renmin fayuan guanyu shiyong “zhonghua renmin gongheguo xingzheng susong fa” ruogan wenti de jieshi], issued 20 April 15, effective 1 May 15, art. 1. See also Kevin J. O’Brien and Li Lianjiang, “Suing the State: Administrative Litigation in Rural China,” *China Journal*, No. 51 (January 2004).

⁶Universal Declaration of Human Rights, adopted and proclaimed by UN General Assembly resolution 217A (III) of 10 December 48, art. 8; International Covenant on Civil and Political Rights (ICCPR), adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, art. 2. China signed the ICCPR in 1998 but has not yet ratified it. “Over One Hundred Lawyers and Citizens Urge National People’s Congress To Ratify International Conventions on Human Rights and Enact Press Laws” [Yu bai lushi ji gongmin yu renda pizhun guoji gongyue baozhang renquan ji banbu xinwen fa], *Radio Free Asia*, 10 March 15.

⁷Rachel Lu, “China’s President Raises Eyebrows With Sharp Rhetoric on Rule of Law,” *Foreign Policy*, TeaLeafNation (blog), 3 February 15; Stanley Lubman, “Chinese Rule of Law: The Rhetoric and the Reality,” *Wall Street Journal*, *China Real Time Report* (blog), 4 April 11.

⁸Susan Finder, “China’s Master Plan for Remaking Its Courts,” *The Diplomat*, 26 March 15.

⁹Zhou Yu, “Newly Amended Law Empowers Private Citizens To Sue Government,” *Global Times*, 6 April 15. See also “China Adopts Amendment to Administrative Procedure Law,” *Xinhua*, 1 November 14; “Amendment to Administrative Procedure Law Hailed in China,” *Xinhua*, 24 December 13.

¹⁰“Experts Pessimistic on CCP Fourth Plenum Proposals on Ruling the Country According to Law” [Zhuanjia bu kanhao zhonggong si zhong quanwei tichu de yifa zhiguo], *Radio Free Asia*, 28 October 14.

¹¹Chinese Communist Party Central Committee, Decision on Several Major Issues in Comprehensively Advancing Governance of the Country According to Law [Zhonggong zhongyang guanyu quanmian tuijin yifa zhiguo ruogan zhongda wenti de jue ding], issued 23 October 14. Various government agencies have issued follow-on documents. See, e.g., Supreme People’s Procuratorate, Opinion Concerning Implementation of the “Chinese Communist Party Central Committee, Decision on Several Major Issues in Comprehensively Advancing Governance of the Country According to Law” [Zuigao renmin jianchayuan guanyu guanche luoshi “zhonggong zhongyang guanyu quanmian tuijin yifa zhiguo ruogan zhongda wenti de jue ding” de yijian], reprinted in *Procuratorial Daily*, 5 February 15; Supreme People’s Court, Opinion Concerning Comprehensively Deepening People’s Courts’ Reform [Zuigao renmin fayuan guanyu quanmian shenhua renmin fayuan gaige de yijian], issued 26 February 15.

¹²State Council Information Office, “Progress in China’s Human Rights in 2014,” reprinted in *Xinhua*, 8 June 15.

¹³“Xi Stresses Boosting Public Confidence in Judicial System,” *Xinhua*, 25 March 15; Luo Shuzhen, “Have Strength To Reform and Innovate; Continue To Improve Judicial Credibility, Allow the People in Each Judicial Case To Have the Feeling of Fair Justice” [Yongyu gaige chuangxin buduan tigao sifa gongxinlin rang renmin qunzhong zai mei yi ge sifa tiaojian zhong dou ganshou dao gongping zhengyi], *China Court Net*, 8 May 15.

¹⁴For additional judicial reforms raised in the Fourth Plenum Decision, see Chinese Communist Party Central Committee, Decision on Several Major Issues in Comprehensively Advancing Governance of the Country According to Law [Zhonggong zhongyang guanyu quanmian tuijin yifa zhiguo ruogan zhongda wenti de jue ding], issued 23 October 14, sec. 4 (“Guarantee Judicial Fairness, Raise Judicial Credibility”). The Fourth Plenum Decision did not propose increased centralization of court finances; instead, only limited local experimentation is underway. Wang Guibin, “Shanghai Legal System Reform: Legal Inspection of Budget by Municipal Finance Bureau Administration” [Shanghai sifa tizhi gaige: fajian yusuan you shi caizheng ju zhi guan], *Beijing News*, 19 January 15; Supreme People’s Court, “Shanghai Deploys Pilot Program To Comprehensively Advance Legal System Reforms” [Shanghai bushu quanmian tuijin sifa

tizhi gaige shidian gongzuo], 24 April 15; Carl Minzner, “Legal Reform in the Xi Jinping Era,” *Asia Policy*, No. 20 (July 2015), 6–7. Professor Donald Clarke noted that the centralization up to the provincial level of court finances and personnel appointments “is popular among [Chinese] legal academics but controversial among judges.” Donald Clarke, “The Fourth Plenum’s ‘Decision’: My Take,” *Chinese Law Prof Blog*, 29 October 14. The centralization of court finances was reportedly considered following the Third Plenum of the 18th Party Congress. See John Wagner Givens, Jamestown Foundation, “Fleshing Out the Third Plenum: The Direction of China’s Legal Reform,” *China Brief*, Vol. 14, No. 6, 21 March 14, 10.

¹⁵ Chinese Communist Party Central Committee, Decision on Several Major Issues in Comprehensively Advancing Governance of the Country According to Law [Zhonggong zhongyang guanyu quanmian tuijin yifa zhiguo ruogan zhongda wenti de jue ding], issued 23 October 14, sec. 4(1.3).

¹⁶ *Ibid.*, sec. 4(3.3).

¹⁷ *Ibid.*, sec. 4(3.2).

¹⁸ Susan Finder, “Where Is the Supreme People’s Court Headed With Judicial Committee Reform?” *Supreme People’s Court Monitor* (blog), 21 December 14. For more information regarding the adjudication committee system and calls for its reform, see Zhu Lei, “Committee Member Shi Jie’s Proposal: Further Reform the System of Adjudication Committees” [Shi jie weiyuan jianyi: jinyibu gaige shenpan weiyuanhui zhidu], *Legal Daily*, 6 March 15; Procedural Law Research Institute, China University of Political Science and Law, “Consensus and Disagreement: Concerning Reform of the Court Adjudication Committee System” [Gongshi yu fenqi: guanyu shenpan weiyuanhui zhidu gaige], 5 May 15; “Chen Ruihua: Mistakes in Justice—Comments on Court Adjudication Committee System” [Chen ruihua: zhengyi de wuqu—ping fayuan shenpan weiyuanhui zhidu], *Ai Sixiang*, 11 October 11; Xin Frank He, “China and Its Adjudication Committees,” *East Asia Forum*, 3 December 11.

¹⁹ Chinese Communist Party Central Committee, Decision on Several Major Issues in Comprehensively Advancing Governance of the Country According to Law [Zhonggong zhongyang guanyu quanmian tuijin yifa zhiguo ruogan zhongda wenti de jue ding], issued 23 October 14, sec. 6(1.3).

²⁰ *Ibid.*, sec. 4(2.4). The Supreme People’s Court subsequently issued provisions in April 2015. Zhang Ziyang, “Supreme People’s Court Issues ‘Provisions on Several Issues Regarding Case Registration and Filing’” [Zuigao renmin fayuan gongbu “guanyu renmin fayuan dengli li’an ruogan wenti de guiding”], *Xinhua*, reprinted in *China News Net*, 16 April 15; Susan Finder, “New Docketing Procedures Come to the Chinese Courts,” *Supreme People’s Court Monitor* (blog), 18 June 15.

²¹ Chinese Communist Party Central Committee, Decision on Several Major Issues in Comprehensively Advancing Governance of the Country According to Law [Zhonggong zhongyang guanyu quanmian tuijin yifa zhiguo ruogan zhongda wenti de jue ding], issued 23 October 14, sec. 4(2.3); Shannon Tiezzi, “4 Things We Learned From China’s 4th Plenum,” *The Diplomat*, 23 October 14.

²² “Gavel Falls on Supreme People’s Court First Circuit Court’s First Case” [Zuigao renmin fayuan diyi xunhui fating shou an luochui], *People’s Court Daily*, reprinted in *Xinhua*, 5 May 15; “Supreme People’s Court Second Circuit Court Hears First Case in Shenyang” [Zuigaofa di’er xunhui fating zai shenyang jin shen diyi an], *China News Net*, reprinted in *People’s Daily*, 10 March 15.

²³ Chinese Communist Party Central Committee, Decision on Several Major Issues in Comprehensively Advancing Governance of the Country According to Law [Zhonggong zhongyang guanyu quanmian tuijin yifa zhiguo ruogan zhongda wenti de jue ding], issued 23 October 14, sec. 5(3).

²⁴ See, e.g., “Bozhou Establishes First Domestic Violence Shelter, Women Injured by Domestic Violence Can Receive Legal Aid” [Bozhou chengli shoujia fan jiabao bihusuo; jiabao shouhai funu ke huo de falu yuanzhu], *Bozhou Daily*, reprinted in *Hefei Hotline*, 5 May 15.

²⁵ State Council Legislative Affairs Office, PRC Anti-Domestic Violence Law (Draft) (Draft for Comment) [Zhonghua renmin gongheguo fan jiating baoli fa (cao’an) (zhengqiu yijian gao)], 25 November 14; Simon Denyer, “Battered Women in China Could Finally Get a Measure of Legal Protection,” *Washington Post*, 6 March 15; “China’s Draft Domestic Violence Law ‘Largely Cosmetic’: Feminists,” *Radio Free Asia*, 30 July 15; Liu Rong, “Standing Committee of the National People’s Congress Today Convened Its 16th Meeting, Anti-Domestic Violence Law Is Publicly Revealed” [Quanguo renda changweihui jin zhaokai 16 ci hui fan jiabao fa chu liangxiang], *People’s Daily*, reprinted in *National People’s Congress News Net*, 24 August 15. For a report on how ordinary Chinese view domestic violence, see “Heard in the Hutong: How Chinese View Domestic Violence,” *Wall Street Journal*, *China Real Time Report* (blog), 8 May 15.

²⁶ PRC Criminal Procedure Law [Zhonghua renmin gongheguo xingshi susong fa], passed 1 July 79, amended 17 March 96, 14 March 12, effective 1 January 13, art. 34. See also Dui Hua Foundation, “China’s New Criminal Procedure Law: Death Penalty Procedures,” *Dui Hua Human Rights Journal*, 3 April 12.

²⁷ PRC Criminal Procedure Law [Zhonghua renmin gongheguo xingshi susong fa], passed 1 July 79, amended 17 March 96, 14 March 12, effective 1 January 13, arts. 34, 266. See also “New Issues and Countermeasures for Criminal Law Legal Aid System Following Revisions” [Xingshi falu yuanzhu zhidu xiuding hou de xin wenti ji duice], *China Court Net*, reprinted in *China Legal Aid Net*, 13 May 14. For an example of a pro bono legal aid program see “‘Assistance Plan for the Wronged’ Starting on Friday” [“Mengyuanzhe yuanzhu jihua” ben zhouwu qidong], *Beijing Shangquan Law Firm* (blog), 20 May 14.

²⁸ Aaron Halegua, “China’s Restrictions on Barefoot Lawyers Could Backfire,” *South China Morning Post*, 29 March 15.

²⁹ *Ibid.*

³⁰ Supreme People’s Court, Opinion on Comprehensively Deepening Reform of the People’s Courts—Fourth Five-Year Outline for Reform of the People’s Courts (2014–2018) [Zuigao renmin

fayuan guanyu quanmian shenhua renmin fayuan gaige de yijian—renmin fayuan disi ge wu nian gaige gangyao (2014–2018)], 4 February 15; Xu Juan, “Supreme People’s Court Releases Post-Revision ‘Fourth Five-Year Reform Plan’” [Zuigaofa fabu xiuding hou de “si wu gaige gangyao”], People’s Daily, 27 February 15. The Ministry of Public Security, Supreme People’s Procuratorate, and the Ministry of Justice also issued reform plans. “Comprehensively Deepening Public Security Reform Includes Cancellation of Temporary Residency Permit System Among 15 Prominent Highlights” [Quanmian shenhua gong’an gaige han’gai quxiao zanzhuzheng zhidu deng 15 ge tuchu liangdian], People’s Daily, reprinted in Legal Daily, 16 February 15; “Opinion Concerning Deepening Procuratorial Reforms (2013–2017 Work Plan) (2015 Revised Edition)” [Guanyu shenhua jiancha gaige de yijian (2013–2017 nian gongzuo guihua) (2015 nian xiudingban)], Procuratorial Daily, 26 February 15; “Outline of the Procuratorate Reform Plan,” translated in China Law Translate (blog), 27 February 15; Ministry of Justice, “Ministry of Justice: Fully Exert Judicial and Administrative Offices’ Functional Roles, Earnestly Complete Comprehensive Advancements Towards Rule of Law in All Work” [Sifabu: chongfen fahui sifa xingzheng jiguan zhineng zuoyong, renzhen zuo hao quanmian tuijin yifa zhiguo gexiang gongzuo], 17 March 15.

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⁴⁰ “People’s Daily: Blindly Following Western So-Called ‘Constitutional Government’ Is Nothing More Than Cutting Feet To Fit the Shoes” [Renmin ribao: mangmu gen xifang suowei “xianzheng” pao wuyi xuezushilu], People’s Daily, reprinted in China News, 5 February 15; Minxin Pei, “China’s War on Western Values,” Project Syndicate, 10 February 15. See also Jacques Delisle, “The Rule of Law with Xi-Era Characteristics: Law for Economic Reform, Anticorruption, and Illiberal Politics,” Asia Policy, No. 20 (July 2015), 28. For a contrasting view on recent discussions of constitutionalism, see Cheng Li, “Fourth Plenum Has Opened Up Discourse on Constitutionalism, Governance,” China’s Transition, Bloomberg Brief, October 2014, 8.

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⁴²Guo Junkui, “‘National Constitution Day’ Strengthens the Constitution’s Supreme Idea” [“Guojia xianfa ri” qianghua xianfa zhishang de linian], People’s Daily, 4 December 14; State Council Information Office, “Progress in China’s Human Rights in 2014,” reprinted in Xinhua, 8 June 15, sec. 3(1). See also “On China’s First Constitution Day, Distance From Constitutional Rule Remains Great” [Zhongguo shou ge xianfa ri juli xingzheng reng yaoyuan], Radio Free Asia, 4 December 14.

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⁴⁴“NPC’s Power of Supervision,” Xinhua, reprinted in China Daily, 3 March 15; Keith J. Hand, “An Assessment of Socialist Constitutional Supervision Models and Prospects for a Constitutional Supervision Committee in China: The Constitution as Commander?” Social Science Research Network, 29 June 15, revised 25 July 15, last visited 3 August 15, 1. See also Gui Tiantian, “Former Supreme People’s Court President Proposes Adding Constitutional Committee to the National People’s Congress” [Zuigao fayuan yuan yuanshang jianyi zai quanguo renda zengshe xianfa weiyuanhui], Beijing Youth Daily, reprinted in People’s Daily, 8 November 14. China does not have a constitutional court or specialized committee within the National People’s Congress for examining constitutional issues.

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⁵⁸ "China's Top Court Stresses Referential Precedent for Justice," Xinhua, reprinted in China Daily, 2 June 15. See also "China's Supreme Court Launches Case-Tracking Website," Xinhua, 14 November 14. According to this Xinhua report, the courts also increased transparency of the adjudication process by introducing a website that allows parties to track the progress of their cases.

⁵⁹ PRC Administrative Litigation Law [Zhonghua renmin gongheguo xingzheng susong fa], passed 4 April 89, amended 1 November 14, effective 1 May 15. The Chinese government also passed revisions to the PRC Legislation Law during the 2015 reporting year. PRC Legislation Law [Zhonghua renmin gongheguo lifa fa], passed 15 March 00, amended 15 March 15, effective 15 March 15. See also "Authorized Release of the Two Sessions: Decision of the National People's Congress Concerning Revision of the 'PRC Legislation Law'" [Lianghui shouquan fabu: quanguo renmin daibiao dahui guanyu xiugai "zhonghua renmin gongheguo lifa fa" de jue ding], Xinhua, 15 March 15; "China Adopts Revision to Legislation Law," Xinhua, 15 March 15; Jiang Ling et al., "Legislative Law Revised, Where Are the Highlights" [Xiugai lifa fa liangdian dou zai na], People's Daily, 9 March 15. The revised law includes provisions on releasing draft laws for public comment. PRC Administrative Litigation Law [Zhonghua renmin gongheguo xingzheng susong fa], passed 4 April 89, amended 1 November 14, effective 1 May 15, art. 37; Qiu Shi and Laney Zhang, Law Library of Congress, "China: Law on Legislation Amended," Library of Congress Global Legal Monitor, 8 July 15. The Chinese government has not yet passed the long-discussed Administrative Procedure Law. Xing Shiwei, "Professor of Law: China Should Quickly Enact the 'Administrative Procedure Law'" [Fa da jiaoshou: woguo ying zhuajin zhiding "xingzheng chengxu fa"], Beijing News, 31 October 14.

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⁶⁵ Ibid., item 60.

⁶⁶ Ibid., item 4.

⁶⁷Ibid., item 3. See also “China Amends Law To Support Citizens Suing Gov’t,” Xinhua, reprinted in China Daily, 1 November 14.

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⁷⁰“Amending the Administrative Litigation Law: Getting Through the ‘Three Difficulties’ Will Allow People To Trust the Law Instead of Petitions” [Xingzheng susong xiu fa: datong “san nan” rang laobaixing xinfang bu xinfang], Procuratorate Daily, reprinted in People’s Daily, National People’s Congress News, 3 November 14. See also He Haibo, “Expectations Following the ‘Administrative Litigation Law’ Revision” [“Xingzheng susong fa” xiugai zhihou de xuannian], Caixin, 5 December 14.

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⁷⁵Chinese Communist Party Central Committee, Decision on Several Major Issues in Comprehensively Advancing Governance of the Country According to Law [Zhonggong zhongyang guanyu quanmian tuijin yifa zhiguo ruogan zhongda wenti de jue ding], issued 23 October 14, sec. 5(4.2); Ministry of Justice, “Ministry of Justice Issues a Set of Documents on Law- and Litigation-Related Petitions Reforms” [Sifabu yinfa shefa shesu xinfang gaige peitao wenjian], 6 May 15; State Bureau for Letters and Visits, “Publicity Announcement for the 10th Anniversary of the Revision of the ‘Petition Regulations’” [“Xinfang tiaoli” xiuding shishi 10 zhounian xuanchuan zuopin zhengji qishi], 24 March 15. See also State Bureau for Letters and Visits, “Announcement Evaluating the Results of the Collecting of Works for ‘These Ten Years of the Regulations’” [“Tiaoli zhe shi nian” zhengji zuopin pingshen jieguo gongbao], 24 April 15. For examples of articles in state- and Party-run media on protracted efforts to reform the petitioning system, see Bai Yang, “China’s Petitioning Reforms Strive To Break Through Petitioning’s ‘Last Kilometer’” [Woguo xinfang gaige litu datong xinfang “zuihou yi gongli zhi du”], Xinhua, 31 May 15; Li Bin, “Petitioning Reforms Are Aimed at a Rule of Law Target” [Xinfang gaige dang miao zhun fazhi de baxin], People’s Daily, 4 June 15.

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⁷⁷Ministry of Justice, “Ministry of Justice Issues a Set of Documents on Law- and Litigation-Related Petitions Reforms” [Sifabu yinfa shefa shesu xinfang gaige peitao wenjian], 6 May 15. See also “Chinese Judicial Departments To Better Handle Petitions,” Xinhua, 8 May 15; “Ministry of Justice Clarifies Standards for Finalizing Petitioner Matters: Guarding Against Unlimited Appeals Without a Final Resolution” [Sifabu mingque xinfang shixiang zhongjie biaozhun; fang zhong er bu jie wuxian shensu], Xinhua, 6 May 15.

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⁸⁴*Ibid.*, art. 293; Interpretation of the Supreme People’s Court and the Supreme People’s Procuratorate on Several Issues Concerning the Application of Law in the Handling of Criminal Cases of Picking Quarrels and Provoking Trouble [Zuigao renmin fayuan, zuigao renmin jianchayuan guanyu banli xunxin zishi xingshi anjian shiyong falu ruogan wenti de jieshi], 15 July 13; Jeremy Daum, “Quick Note on ‘Picking Quarrels,’” *China Law Translate* (blog), 6 May 14.

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⁹⁰Rights Defense Network, “Guangzhou Tang Jingling, Yuan Xinting Arrests Approved by Authorities on Suspicion of ‘Inciting Subversion of State Power’” [Guangzhou tang jingling, yuan xinting bei danggu yi shexian “shandong dianfu guojia zhengquan zui” pi bul], 21 June 14. For more information on Tang Jingling, see the Commission’s Political Prisoner Database record 2011-00255.

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⁹²Tang Jingling, “Excerpt from Tang Jingling’s Self Defense and Final Statement at Trial” [Tang jingling zai fating shang suo zuode “ziwo bianhu he zuihou chenshu”], reprinted in *Human Rights in China*, 24 July 15; “Former Teacher Tells Court of Torture as Guangzhou Three Subversion Trial Ends,” *Radio Free Asia*, 24 July 15; Mimi Lau, “Tight Security as Trial Resumes of Chinese Rights Lawyer and Activists Charged With Subversion,” *South China Morning Post*, 23 July 15; Dan Levin, “Trial of Chinese Rights Campaigners on Subversion Charges Continues,” *New York Times*, 24 July 15.

⁹³“Rights Lawyer Tang Jingling Detained Ahead of Tiananmen Anniversary,” *Associated Press* and *Agence France-Presse*, reprinted in *South China Morning Post*, 16 May 14.

⁹⁴*Ibid.*

⁹⁵“Human Rights Lawyer Yu Wensheng Criminally Detained for Dispute at Fengtai Detention Center for Attempting To Exercise Right of Lawyer To Meet With Client” [Renquan lushi yu wensheng beijing fengtai kanshousuo zheng lushi huijian quan bei xingju], *Boxun*, 24 October 14; Civil Rights & Livelihood Watch, “Lawyer Wang Cheng and Citizen Song Ze Seized in Beijing With Lawyer Yu” [Wang cheng lushi gongmin song ze zai beijing yu yu lushi yitong bei zhua], 14 October 14. For more information on Yu Wensheng, see the Commission’s Political Prisoner Database record 2014-00387.

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⁹⁸“Lawyer’s Wife Xu Yan Issues Statement Protesting State Security Captain’s Harassment and Threats” [Lushi qizi xu yan fabiao shengming kangyi guobao duizhang saorao weixie], *Radio Free Asia*, 16 June 15.

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¹⁰⁴ Rights Defense Network, “Mainland Lawyers Issue Public Announcement Regarding Formation of the Chinese Lawyers Group for the ‘Protection of Human Rights’” [Dalu lushi fabu zhongguo “baozhang renquan” lushi fuwutuan chengli gonggao], 14 September 13.

¹⁰⁵ “China Human Rights Lawyers Group Celebrates First Anniversary With 225 Members” [Zhongguo renquan lushi tuan chengli yi zhou nian chengyuan zeng zhi 225 ren], *Radio Free Asia*, 13 September 14.

¹⁰⁶ Josh Chin and Te-Ping Chen, “China Targets Human-Rights Lawyers in Crackdown,” *Wall Street Journal*, 12 July 15; Human Rights Watch, “China: Secretly Detained Lawyers at Risk of Torture,” 20 July 15. See also “China’s Missing Rights Lawyers,” *New York Times*, 8 August 15; China Human Rights Lawyers Concern Group, “As of 20:00 25 July 2015, At Least 255 Lawyers/Law Firm Staff/Human Rights Activists Have Been Detained/Arrested/Incommunicado/Summoned/Restricted Freedom Temporarily,” 25 July 15.

¹⁰⁷ For the total number of individuals detained as of September 1, 2015, see Chinese Human Rights Defenders, “Individuals Affected by July 10 Crackdown on Rights Lawyers,” 13 July 15, last visited 1 September 15. See also Chinese Human Rights Lawyers Concern Group, “As of 18:00 28th August 2015, At Least 277 Lawyers/Law Firm Staff/Human Right[s] Activists/Family Members Have Been Detained/Arrested/Incommunicado/House Arrested/Forbidden To Leave the Country/Questioned/Summoned/Restricted Freedom Temporarily,” 28 August 15.

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¹⁰⁹ See, e.g., China Labour Bulletin et al., “China: Open Letter to States for Joint Action To Address Worsening Crackdown on Human Rights Defenders and Lawyers,” 10 August 15, reprinted in Chinese Human Rights Defenders, 12 August 15 (joint letter from China Labour Bulletin, Chinese Human Rights Defenders, Fédération Internationale des Droits de l’Homme, Human Rights in China, Human Rights Watch, International Campaign for Tibet, International Service for Human Rights); Freedom House, “China Detentions and Repatriations Violate Basic Rights,” 14 July 15; Amnesty International, “China: Lawyers Face 15 Years in Jail on ‘Chilling’ State Security Charges,” 16 July 15; The Law Society of England and Wales, “Law Society Urges China To Release Lawyers Arrested in ‘Crackdown,’” 15 July 15; Japan Federation of Bar Associations, “Bar Federation Condemns China’s Detention of Lawyers,” 26 July 15; Law Council of Australia, “Law Council Deeply Concerned with ‘Crackdown’ Against Lawyers in China,” 17 July 15; New York City Bar Association, “City Bar Voices Grave Concern Over Treatment of Rights Lawyers in China,” 44th Street Blog, 10 August 15; American Bar Association, “ABA President William C. Hubbard Statement on Lawyers in China,” 3 August 15. Organizations based in Hong Kong and Taiwan also expressed concerns about the arrests. See Foreign Correspondents’ Club, Hong Kong, “FCCHK Statement on the Detention of Human Rights Lawyers in China,” 17 July 15; Hong Kong Bar Association, “Statement of Hong Kong Bar Association on Reports of Multiple Arrests Made of Mainland Legal Professionals,” 18 July 15; Taiwan Bar Association, “Statement of the Entire Association on Mainland China’s Arrests and Other [Measures Against] Rights Defense Lawyers” [Jiu zhongguo dalu dui weiquan lushi jin daibu de zhi quan lianhui shengmin shu], 21 July 15.

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¹¹¹ New York City Bar Association, “City Bar Voices Grave Concern Over Treatment of Rights Lawyers in China,” 44th Street Blog, 10 August 15.