



## Chinese Human Rights Defenders (CHRD)

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Promoting human rights and empowering grassroots activism in China

### One World, One Dream: Universal Human Rights

#### Olympics & Human Rights Special Series

A report of *Chinese Human Rights Defenders*

January 8, 2008

**“Inciting Subversion of State Power”:**

**A Legal Tool for Prosecuting Free Speech in China**

***“To keep its Olympics promises, China must reform its Criminal Law.”***

**- CHRD**

On December 27, 2007, Hu Jia, a Beijing-based human rights activist, was detained on suspicion of “inciting subversion of state power.” Having lived mostly under house arrest or residential surveillance in the two years leading up to the detention, Hu has emerged as an outspoken critic who has openly challenged the Chinese government for its failure to honor its promise to promote human rights when it bid to host the Olympic Games.



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Yang Chunlin, an unemployed worker turned rights activist, languishes in a detention cell in Heilongjiang Province. Yang is also facing prosecution for “inciting subversion of state power.” Yang was arrested for collecting signatures for an open letter, “We Want Human Rights, not the Olympics.”

Chinese Human Rights Defenders (CHRD) today releases its report focusing on the use of Article 105(2) of the Chinese Criminal Code by Chinese authorities to persecute individuals for exercising basic human rights, in particular the right to freedom of expression. Article 105(2) stipulates the crime of “inciting subversion of state power.” CHRD has documented 41 cases in which Article 105(2) has been used to detain, imprison or send individuals to Re-education through Labor (RTL) camp solely for exercising their rights.

This report is one of the CHRD “*Olympics & Human Rights Special Series*” reports. In this series, CHRD will issue in-depth studies as part of its campaign to push for human rights improvement, raising international attention to rights abuses related to official preparations for the 2008 Summer Olympics. Some of these rights violations were enumerated in the seven proposals to uphold Olympic principles in the open letter, “‘One World, One Dream’ and Universal Human Rights,” issued by prominent Chinese citizens in August 2007.<sup>1</sup> The current report is linked to one of those proposed changes – lifting restrictions on press freedom and allowing both foreign and Chinese journalists to conduct interviews and report without prior approval from authorities.

CHRD calls on the National People’s Congress Standing Committee (NPCSC) to interpret Article 105(2) in such a way that the law clearly and strictly defines key terms and articulates the necessary restrictions on its use, so as to prevent its use to persecute individuals for exercising their right to freedom of expression.



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### Background

In November 2006, three Chinese citizens, Du Daobin, Huang Qi, and Cai Lujun, who had been convicted of “inciting subversion of state power” under Article 105 (2) of the Chinese Criminal Code, submitted a petition to the NPCSC requesting that it undertake a review of the Article on the grounds that it violates the guarantee of freedom of expression in Article 35 of the Chinese Constitution. The petition was drafted by Du Daobin, an internet writer and activist based in Hubei Province, in consultation with Chinese human rights lawyers and signed by others including internet writers and activists, Huang Qi, based in Sichuan Province, and Cai Lujun, of Hebei Province. The petition asked the NPCSC to issue an interpretation of Article 105(2) that would ensure that the use of the provision accords with constitutional rights. Along with the petition, details were provided of 29 cases of individuals who had been indicted or convicted under Article 105(2).<sup>2</sup>

In March 2007, having received no response from authorities despite repeated requests, Du Daobin, Huang Qi and Cai Lujun authorized CHRD to publicize their petition in an open letter to the National People’s Congress, then in session, calling on it to act on the November 2006 request.<sup>3</sup>

To date, there has been no response to either of these requests.

### State security crimes

When the Criminal Code was amended in 1997, the category of “counterrevolutionary” crimes was abolished and replaced with the category of crimes against “state security.”<sup>4</sup> At the time, the change was viewed positively by many commentators as a move away from using the criminal justice system for political purposes. However, that view has not been confirmed by subsequent experience, as the “state security” crimes are being used to penalize the exercise of various human rights, including the right of freedom of expression guaranteed by the Constitution and enshrined in international human rights law.



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The 1997 report of the UN Working Group on Arbitrary Detention on its visit to China expressed concern about the potential for the then newly-codified laws on crimes against state security to be used to punish the exercise of internationally-protected rights and freedoms:<sup>5</sup>

*Under Article 105, even communication of thoughts and ideas or, for that matter, opinions, without intent to commit any violent or criminal act, may be regarded as subversion. Ordinarily, an act of subversion requires more than mere communication of thoughts and ideas....*<sup>6</sup>

*The revised Criminal Law, in the context of the offences endangering national security, makes no attempt to establish standards to determine the quality of acts that might or could harm national security. That the Law establish such a standard is crucial, as that alone would make the Law reasonable, fair and just. Clearly, the national security law may be misused and, as long as it is part of the statute, it provides a rationale for restricting fundamental human rights and basic freedoms.*<sup>7</sup>

### **Cases under Article 105(2)**

These concerns are substantiated by our documentation of 41 cases from 2000 to 2007. In addition to the 34 cases of individuals convicted of “inciting subversion of state power,” CHRD has included four cases of individuals who were recently charged using Article 105(2) but who have not yet been tried (Appendix III) and two cases in which individuals were first charged using Article 105(2) but were later convicted of other crimes (Appendix IV). These cases certainly do not represent all the individuals convicted or charged under Article 105(2) between 2000 and 2007, and are intended as an illustration of the problem, rather than a comprehensive overview of the use of the provision.<sup>8</sup>



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CHRD and the authors of the petition believe that these cases are only the tip of the iceberg, and that Article 105(2) is being more widely used to criminalize freedom of expression in China.<sup>9</sup> This not only directly affects those prosecuted under the article but also creates an atmosphere of intimidation and fear that has the effect of more generally constraining the exercise of rights and freedoms in China.

All the cases documented in this report involve individuals charged with a crime purely for exercising their right to freedom of expression. Many of these cases involve people using the internet to publish material and opinions critical of current government policies or the existing state structure. While the Chinese authorities are particularly sensitive to the publication of such material in any form, it appears that its publication on the internet has been of even graver concern to them.

Two main problems with Article 105(2) are apparent from these cases:

First, the text of the law is vague and does not require that any potential or actual effect of an act be demonstrated in order for a crime to have been committed. Thus, the “evidence” often consists of no more than the writings of an individual or simply shows that he/she circulated certain articles containing dissenting views, without any effort to show that the expression had any potential or real subversive effect. That is to say, speech in and of itself is interpreted as constituting incitement of subversion.

Second, the text of the law fails to clearly define the key concepts, “subversion” and “state power,” and to precisely specify what constitutes “subversion” and “state power.” Thus, anything from calling for an end to one-party rule to criticizing corruption has been construed as “inciting subversion of state power.”



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### Recommendations

It is therefore urgent that the NPCSC act to interpret Article 105(2) to clarify and precisely define the meaning of the terms “incitement,” “subversion” and “state power,” as well as the specific conditions under which a peaceful act of expression may constitute “incitement to subvert state power.” Such conditions must explicitly exclude any non-violent activity in the exercise of the right to freedom of expression, including expression critical of political parties and government authorities. The interpretation should specify that prosecution may only be brought in cases in which the government can demonstrate, in the terms of Article 6 of the internationally recognized *Johannesburg Principles on National Security, Freedom of Expression and Access to Information*, that “(a) the expression is intended to incite imminent violence; (b) it is likely to incite such violence; and (c) there is a direct and immediate connection between the expression and the likelihood or occurrence of such violence.”<sup>10</sup>

The easiest way to remedy the law’s defects and bring it into line with protections of freedom of expression in the Chinese Constitution and international law is by means of an interpretation of the Criminal Law that articulates the necessary restrictions on the use of Article 105(2). Under the Chinese Constitution, the NPCSC has the power to interpret the Constitution and supervise its enforcement (Article 67(1)) as well as the power to interpret laws (Article 67(4)). While the NPCSC has not exercised its power to interpret the Constitution and no procedure exists for it to do so, it has issued a limited number of interpretations of laws. Between 2005 and 2006, the NPCSC issued a total of 14 legislative interpretations, nine of the Criminal Law and five of laws relating to Hong Kong and Macau. While such interpretations had been issued since the 1950s, prior to the enactment of the Legislation Law in 2002, the NPCSC had no set procedure for legislative interpretation. Chapter 2, Section 4 of the Legislation Law allows for such interpretation in two situations: when the specific meaning of a provision of a law requires clarification (Article 42(1)) and when new circumstances have arisen since the passage of a law and clarification is needed in regard to how the law is to be applied in light of the new circumstances (Article 42(2)).

While the right to request interpretations is limited to certain government agencies, the NPCSC itself can take the initiative to interpret, so there is no legal barrier to it addressing the concerns



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raised by Du Daobin's petition and in this report. In addition, the fact that Criminal Law provisions have been the most frequent subject of legislative interpretations indicates that interpreting Article 105(2) on "inciting subversion of state power" would be squarely within the power of the NPCSC.

While interpretation is the most expeditious means of addressing the violations of human rights being committed through applications under this provision of the law, CHRD believes that the Criminal Law must be amended to address the ways state security crimes are being used to penalize the exercise of rights. A thorough revision of the articles of the Criminal Law on crimes endangering state security, as recommended by the UN Working Group on Arbitrary Detention ten years ago, is long overdue and should be put on the NPCSC's agenda at the earliest possible date, ideally prior to the Beijing Summer Olympics. Linking human rights to the Olympics has become one of the most sensitive political acts. Anyone criticizing human rights abuses or urging that the Chinese government live up to its pledge to the International Olympics Committee to improve human rights risks persecution under Chinese law, as the case of Yang Chunlin demonstrates.

### **Documentations:**

#### **Documentation I: Relevant constitutional and legal provisions**

#### **Documentation II: Individuals convicted under Article 105(2)**

#### **Documentation III: Individuals charged under Article 105(2) but not yet tried**

#### **Documentation IV: Individuals charged under Article 105(2) but later convicted of other crimes**



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## Documentation I: Relevant constitutional and legal provisions

*Constitution of the People's Republic of China, 1982*

### *Article 35*

Citizens of the People's Republic of China have freedom of speech, of the press, of assembly, of association, of procession and of demonstration.

*Criminal Code, 1979, amended 1997*

### *Article 105*

1. Among those who organize, plot or carry out efforts to subvert state power or overthrow the socialist system, ringleaders and others who commit major crimes shall be sentenced to life imprisonment or fixed-term imprisonment of not less than 10 years; those who take an active part shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years; and other participants shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights.

2. Whoever incites others to subvert state power or overthrow the socialist system by spreading rumors, slander, or any other means shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention, public surveillance, or deprivation of political rights; ringleaders and





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others who commit major crimes shall be sentenced to fixed-term imprisonment of not less than five years.

### Documentation II: Individuals convicted under Article 105(2)

#### 1. Cai Lujun (蔡陆军)

*male; 39; Shijiazhuang City, Hebei Province; freelance writer and former owner of a foreign trade company*

On September 10, 2003, Cai was convicted of “inciting subversion of state power” and sentenced to three years in prison and one year’s deprivation of political rights by the Intermediate People’s Court of Shijiazhuang City after a trial held in camera. Cai was prosecuted for publishing articles expressing dissident opinions on the internet and for establishing an online network, “League for Freedom and Democracy,” of which he was the chairman.

The Court said Cai’s articles “aimed to attack the socialist system and endanger state security”<sup>11</sup> and “fabricate malicious lies against Chinese Communist Party (CCP) leaders.” Since this behavior “was obviously of an inciting nature” and different from offering “reasonable suggestions or reform measures to state agencies through normal channels,” Cai’s acts could not be defended as simple exercise of the right to freedom of expression, the Court ruled.

Cai was released in March 2006 and is now in Taiwan seeking political asylum.



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### 2. Chen Shaowen(陈少文)

*male; 45; Lianyuan City, Hunan Province; freelance writer, former police officer, laid-off worker from the Metallurgical Company*

On December 25, 2002, Chen was sentenced by the Loudi City Intermediate People's Court, Hunan Province, to three years in prison and one year's deprivation of political rights on charges of "inciting subversion of state power." The charges related to his publishing more than 40 articles on the internet on topics including unemployment, social injustice and corruption of the legal process. He appealed his conviction, but the original verdict was upheld. He was released in 2005.

### 3. Chen Shuqing (陈树庆)

*male; 42; Hangzhou City, Zhejiang Province; dissident writer and leading member of the Chinese Democratic Party*



On August 16, 2007, Chen was convicted of "inciting subversion of state power" by the Hangzhou City Intermediate People's Court and sentenced to four years' imprisonment and one year of political rights deprivation. The Court charged that Chen, in nine articles published on the internet promoting freedom, democracy and the rule of law and criticizing dictatorship, "used methods such as slander and libel to incite the subversion of the state's political power and the overthrow of the socialist system."

He is currently at Hangzhou City Detention Center, Zhejiang Province.



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### 4. Du Daobin(杜导斌)

*male; 43; Yingcheng City, Hubei Province; poet, writer and civil servant*



On June 11, 2004, Du was convicted of “inciting subversion of state power” by the Xiaogan Intermediate People’s Court in Hubei Province and sentenced to three years’ imprisonment commuted to four years’ probation and two years’ deprivation of political rights. Du’s computer was confiscated and his appeal rejected.

According to the verdict, between July 2002 and October 2003, the defendant posted twenty-six articles on internet websites such as *Dajiyuan* and *New Century* in China and abroad. Du wrote that the current government is illegitimate and its power “dictatorial, violent, cruel, unfair and corrupt.” As the Chinese government had “lost the qualification to represent the side of justice,” “the issue of subversion of government being illegal does not exist.” Du wrote that he hoped for the fall of the government and that those outside the country needed to assist “compatriots in the mainland to overthrow authoritarian and dictatorial rule.” These comments were considered slanderous and inciting subversion of state power.

### 5. Fan Ziliang (范子良)

*male; 70; Zhejiang Province; former soldier, railway worker and member of the CCP*



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In February 2001, Fan was sent without trial to two years of Re-education through Labor in Shiliping Camp, Zhejiang Province, for “inciting subversion of state power.” The precise details of his sentence are unclear, but Fan was reportedly convicted for distributing news articles he had transcribed from Voice of America and Radio Free Asia concerning democracy and for exchanging opinions with activists both at home and abroad based on these articles.

After serving his term, Fan was released. He has continued his work to promote human rights and democracy by publishing articles and commentaries on these topics on the internet.

### 6. Gao Zhisheng (高智晟)

*male; 43, former lawyer and director of the Beijing Shengzhi Law Firm*



On December 22, 2006, Gao was convicted of “inciting subversion of state power” at Beijing Municipal No. 1 Intermediate People’s Court. He was sentenced to three years’ imprisonment, immediately commuted to five years’ parole, and was stripped of political rights for a year.

According to Xinhua News, he was sentenced because he published nine articles such as “Gao Zhisheng’s open letter to Hu Jintao and Wen Jiabao,” on Falun Gong-operated websites and in publications such as *Dajiyuan* and *Kan Zhongguo*, documenting cases of persecution of Falun Gong members and demanding high-level investigation. The evidence against him also included interviews he gave to foreign media organizations such as Radio Free Asia and the Voice of Hope which contained statements allegedly “inciting subversion of state power.”



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Since his release, his house has been under surveillance, and since September 22, 2007, all attempts to contact him have failed and it is feared that Gao has been detained by the Beijing police. On October 28, 2007, Gao called Beijing-based activist Hu Jia from Xian, Shaanxi Province. It was the first time anyone had heard from Gao since his disappearance. Gao said he was going to be in Shaanxi and Shanxi Provinces but said nothing about his situation. Since then, there have been no other indications of Gao's whereabouts.

### 7. Guo Qinghai (郭庆海)

*male; 42; Paitou City, Hebei Province; freelance writer and former staff member at Agricultural Bank in Paitou City*

On April 6, 2001, Guo was convicted by the Cangzhou City Intermediate People's Court in Hebei Province of "inciting subversion of state power" for more than forty articles he wrote on the internet criticizing the government. He was sentenced to four years in prison and three years' deprivation of political rights. He was released in September 2004 and continues to work as a freelance writer.

### 8. Guo Qizhen (郭起真)

*male; 50; Cangzhou City, Hebei Province; writer*





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On October 17, 2006, Guo was convicted of “inciting subversion of state power” by the Cangzhou Intermediate People’s Court and sentenced to four years in prison and three years’ deprivation of political rights.

Prosecutors said that between November 2002 and April 2006, Guo published over thirty articles on the Democracy Forum website, including “Who are the forces hostile to the CCP government?,” “Declaration on participating in the hunger strike protest initiated by Lawyer Gao Zhisheng” and “Hunger strike diary.” In its verdict, the court claimed that Guo’s writings “attacked and vilified the Chinese government,” “harmed state power and the socialist system,” and “incited subversion of state power and the overthrow of the socialist system.”

Guo is imprisoned in No. 4 Prison in Hebei Province. While in prison, Guo has been beaten several times. Guo is in poor health and has a crippled leg, the result of an accident in 2005 during Guo’s petition to the Cangzhou City government. The Public Security Bureau has not responded to his application for release for medical treatment.

### 9. He Depu (何德普)

*male; 50; Beijing; freelance writer*





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On November 6, 2003, He was convicted of “inciting subversion of state power” by the Beijing No. 1 Intermediate People’s Court and sentenced to eight years in prison and two years’ political rights deprivation. His appeal was rejected.

He was prosecuted for writing and distributing an open letter on the internet calling on the 16<sup>th</sup> CCP Congress to enact political reforms and the large number of articles published to “vilify, slander and incite subversion of state power and the socialist system.” The court said his participation in the China Democracy Party’s Supervision Commission and its Beijing-Tianjin Branch added to the seriousness to his crime.

He is now held at Beijing No. 2 Prison. He suffers serious health problems. During He’s detention before his conviction, he was made to lie in bed for eighty consecutive days and was beaten, leaving his left ear seriously injured.

### 10. Huang Qi (黄琦)

*male; 44; Chengdu City, Sichuan Province; businessman and owner of a Chinese human rights website, June Fourth Tianwang ([www.64tianwang.com](http://www.64tianwang.com))*





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On February 22, 2003, Huang was convicted of “inciting subversion of state power” by the Chengdu Intermediate People’s Court. In 1998, Huang established the first website in China that disseminated news about people who had been trafficked and disappeared. The website evolved to report on issues of injustice and complaints against the government. Dissidents outside the country published articles discussing issues such as Tiananmen, Uighur independence and Falun Gong. Huang was sentenced to five years in prison and one year of political rights deprivation. Huang appealed unsuccessfully. He was mistreated and beaten in prison. Since his early release on June 4, 2005, he has continued his human rights work on June Fourth Tianwang.

### 11. Jiang Lijun (姜力均)

*male; 42; Tieling City, Liaoning Province; owner of a private business; freelance writer*

On November 28, 2003, Jiang was convicted of “inciting subversion of state power” by the Beijing No. 2 Intermediate People’s Court for publishing dissident articles on the internet and being involved in the establishment of the China Freedom and Democracy Party which, according to the Court, “uses violence to realize democracy.”<sup>12</sup> Jiang was sentenced to four years in prison and one years’ deprivation of political rights.

Reporters Without Borders alleges that Yahoo! gave information about Jiang to the Chinese government, leading to his imprisonment.<sup>13</sup> Jiang was released in November 2006 after serving his sentence. In an interview, he claimed that he was never involved in the establishment of the Party but was asked to review the Party’s guiding principles.<sup>14</sup>





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### 12. Jiang Weiping (姜维平)

*male; 52; Dalian City, Liaoning Province; journalist*

On January 25, 2002, Jiang was convicted by the Dalian Intermediate People's Court of "illegally providing state secrets outside the borders, inciting subversion of state power and illegally obtaining state secrets." Jiang was the bureau chief of the Hong Kong newspaper, *Wenhuibao*, in northeast China. The charges against him related to an article he wrote for the Hong Kong magazine, *Qianshao*, criticizing corruption among high-level officials in the CCP. He was sentenced to nine years in prison and three years' deprivation of political rights. He appealed his conviction, and while the Liaoning Higher People's Court upheld the verdict, it reduced his sentence to six years in prison. Jiang was released early on January 3, 2006.



### 13. Li Huanming (李焕明)

*male; 34; Shenzhen City, Guangdong Province; migrant worker*

On March 28, 2002, Li was convicted of "inciting subversion of state power" and sentenced to nine years in prison by the Shenzhen Intermediate People's Court. According to Dui Hua Foundation, Li's imprisonment is related to his drafting and distributing thousands of copies of a political



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manifesto in Guangzhou. Li is reportedly imprisoned in Shaoguan Prison in northern Guangdong Province.

### 14. Li Jianping (李建平)

*male; 41; Zibo City, Shandong Province; freelance writer and former chairman of the board of directors of the Zibo Medical Equipment Company*



On October 25, 2006, Li was convicted of “inciting subversion of state power” by the Zibo City Court and sentenced to two years in prison. According to the court’s verdict, Li published eighteen articles on the internet on overseas websites with titles such as “Who should these corrupt officials thank?” and “What is special about Hong Kong Special Administrative Region?—exposing Tung Chee-hwa’s dictatorship.” The court asserted that the articles “incite animosity and oppositional feelings against the state’s power.” Li is reportedly incarcerated at Zibo City Detention Center, Shandong Province.

### 15. Li Wangyang (李旺阳)

*male; 57; Shaoyang, Hunan Province; former worker at Shaoyang Cement Plant and labor activist*

On September 20, 2001, Li was convicted of “inciting subversion of state power” and sentenced to ten years in prison by the Shaoyang Intermediate People’s Court. Li was first sentenced in 1989 to thirteen years of imprisonment for founding the Shaoyang Workers’ Autonomous Federation and



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leading strikes during the 1989 pro-democracy movement. His crime was “counter-revolutionary propaganda and incitement.” He was released in June 2000. After his release, Li demanded that the Shaoyang government take responsibility for his health problems which he developed as a result of the maltreatment he received while in prison. Frustrated by the Shaoyang government’s unsatisfactory response, in February 2001, he staged a 22-day hunger strike to protest. He was promptly arrested, tried and sentenced to “inciting subversion.” Wang is believed to be imprisoned in Hunan Province but the precise location is unknown.

### 16. Li Yuanlong (李元龙)

*male; 47; Bijie City, Guizhou Province; journalist and editor of the Bijie News weekend supplement department*



On July 13, 2006, Li was convicted of “inciting subversion of state power” by the Bijie Intermediate People’s Court for publishing four articles on the internet criticizing problems in China’s society and calling for more freedom and democracy. Li was sentenced to two years in prison and two years of political rights deprivation.

According to the court verdict, Li’s articles contained “exaggerations, distortions, and fabrications” and “attacked the leaders of the CCP.” They had furthermore endangered the “people’s democratic dictatorship” because many people had read his work and responded to it.

He was released on September 14, 2007.



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### 17. Lian Tong (廉彤)

*male; Shanghai; member of the China Democracy Party*

In July 2003, Lian was convicted of “inciting subversion of state power” and sentenced to four years in prison and one year’s deprivation of political rights by the Shanghai No. 1 Intermediate People’s Court. Lian is believed to be imprisoned for his membership in the China Democracy Party, for associating with dissidents abroad, and for posting a number of articles critical of the government on the *People’s Daily* website. According to his sentence, Lian should have been released on January 16, 2007, but no information about his current status is available.

### 18. Liu Weifang (刘卫方)

*male; 46; Xinjiang Uighur Autonomous Region; small business owner*

On June 13, 2001, Liu was convicted of “inciting subversion of state power” and sentenced to three years in prison and one year’s deprivation of political rights by the Construction Corps Ninth Agricultural Brigade’s Intermediate People’s Court in Xinjiang Uighur Autonomous Region. Liu is believed to be punished for the articles he posted online between June 1999 and August 2000 expressing dissident views. The articles, signed with the initials “LGWF”, commented on issues of corruption and environmental and western-region policies. He is supposed to have been released in 2003, but no information about him has been available since his imprisonment.

### 19. Luo Changfu (罗长福)



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*male; 44; Chongqing City, Sichuan Province; freelance writer*

On November 16, 2003, Luo was convicted of “inciting subversion of state power” by the Chongqing No. 1 Intermediate People’s Court and sentenced to three years in prison and one year’s deprivation of political rights. Luo was convicted for a number of articles reportedly calling for the release of another internet dissident writer, Liu Di, and protesting the government’s crackdown on freedom of expression on the internet. Luo was released in March 2006.

### **20. Luo Yongzhong (罗永忠)**

*male; 39; Changchun City, Jilin Province; writer and owner of a grocery store*

On October 14, 2003, Luo was convicted by the Changchun Intermediate People’s Court of “inciting subversion of state power” for posting on the internet more than 150 articles critical of the government. He was sentenced to three years in prison and two years’ deprivation of political rights. His appeal was unsuccessful. Luo was released in December 2005.

### **21. Mou Chuanheng (牟传珩)**

*male; 52; Qingdao City, Shandong Province; freelance writer and former lawyer*



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On September 10, 2002, Mou was convicted of “inciting subversion of state power” for publishing dissident articles on the internet by the Dashan Intermediate People’s Court in Qingdao and sentenced to three years in prison and five years’ deprivation of political rights. He was released in August 2004.

### 22. Ouyang Yi (欧阳懿)

*male; Baoshi Township, Suining City, Sichuan Province*

On March 16, 2004, Ouyang was convicted by the Chengdu City Intermediate People’s Court of “inciting subversion of state power” for drafting and publishing an open letter to the 16<sup>th</sup> CCP Congress calling for democratic constitutionalism. He was sentenced to two years in prison. Ouyang was released in December 2004.

### 23. Sang Jiancheng (桑坚成)

*male; 64; Shanghai; retired worker*

On January 6, 2004, Sang was convicted by the Shanghai No. 2 Intermediate People’s Court of “inciting subversion of state power” for drafting and distributing the “Open Letter to the 16<sup>th</sup> CCP Congress” while the Congress was in session. He was sentenced to three years in prison. It is unclear whether or not Sang has been released.



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### 24. Tao Haidong (陶海东)

*male; 49; Urumqi, Xinjiang Autonomous Region; freelance writer and former staff member of the Kashi City People's Congress Standing Committee in Xinjiang*

In January 2003, Tao was sentenced to seven years in prison and three years' deprivation of political rights by the Urumqi Intermediate People's Court for "inciting subversion of state power." According to the Court, he had circulated articles and book drafts on the internet predicting that the Chinese economy was in danger of collapse and criticizing Chinese leaders. He is now held in Changji Prison in Xinjiang Autonomous Region.

### 25. Tao Jun (陶君)

*male; 39; Guangzhou, Guangdong Province; student leader in Tiananmen and former business director*



In 2001, Tao was imprisoned for three years for "inciting subversion of state power". He had published poems and articles that criticized the government. He was released in 2004. Since his release, he has been living under surveillance. In early October 2007, Tao was repeatedly harassed by the Guangzhou police. His computer, which



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has a collection of his articles, was stolen, reportedly by the police. In the face of threats and harassment from the police, Tao's employer fired him and his landlord asked him to move.

### 26. Wang Dalin (汪达林)

*male; Wuhan; former factory worker*

On September 29, 2005, Wang was arrested and in October, he was secretly sent, without a lawyer or trial, to two years of Re-education through Labor for "inciting subversion of state power."

Wang was sentenced for organizing a nation-wide event called "Patriotic Cultural Clothes." He encouraged people to write on their clothes an expression of their vision for the country. His idea grew out of a reaction to government corruption after Wang, a former factory worker, had exhausted all legal avenues in defending workers' rights in the factory where he worked. He was released in September 2007 but is still closely monitored by the authorities.

### 27. Wang Jinbo (王金波)

*male; 35; Dongliangdian Village, Shizilu Township, Junan County, Shandong Province*





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On December 13, 2001, Wang was sentenced to four years in prison and two years deprivation of political rights on charges of “inciting subversion of state power” by the Linyi City Intermediate People’s Court in Shandong Province, for publishing articles on the internet containing dissenting views. The subjects of Wang’s articles included a call for a revision of the official verdict that the June Fourth Tiananmen Incident was a “counterrevolutionary rebellion” and expression of support for the China Democracy Party. He was released in May 2005.

### 28. Wang Xiaoning (王小宁)

*male; 57; born in Shenyang, Liaoning Province and resident of Beijing; engineer and internet writer*

On September 12, 2003, Wang was convicted of “inciting subversion of state power” by the Beijing No. 1 Intermediate People’s Court and sentenced to ten years in prison.

Wang has a long history of dissidence. In 1989, he participated in the student protests in Tiananmen and was injured and labelled a reactionary by the government. After 1989, Wang published many articles which advocated political reforms, promoted democracy and were critical of the government. Wang’s case became well-known internationally because Yahoo! was later sued for providing the Chinese government with information that helped to identify Wang as the author of essays critical of the government. Wang is now incarcerated at Beijing Municipal No. 2 Prison.

### 29. Yan Jun (颜军)



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*male; 34; Xian, Shaanxi Province; freelance writer and formerly a biology teacher at Xian City No. 68 Middle School*

On December 8, 2003, Yan was sentenced by the Xian Intermediate People's Court to two years in prison and one year's deprivation of political rights for "inciting subversion of state power" for publishing on the internet more than 20 articles critical of the CCP. During his imprisonment, he was beaten so severely by fellow prisoners that he had to be hospitalized. He was released in April 2005 and in January 2006 went to Taiwan to seek political asylum.



### 30. Yan Zhengxue (严正学)

*male; 63; artist, independent writer and activist; Jiaojiang District, Taizhou City, Zhejiang Province*



On April 13, 2007, the Taizhou City Intermediate People's Court found Yan guilty of "inciting subversion against the state." He was sentenced to three years in jail, with deprivation of political rights for one year. According to the verdict, Yan "used the internet, discussion forums and speeches to publish distorted facts, attack and vilify the state power, and incite subversion of state



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power and overthrow of the socialist system.” His behavior, the court ruled, thus constitutes “inciting subversion of state power.”

In 1993, while a representative of the Jiaojiang District People’s Congress, Yan was beaten by police. His ensuing lawsuit against the Public Security Bureau attracted the attention of both domestic and international media. Later, Yan was falsely accused of stealing a bicycle and sentenced to two years of Re-education through Labor. Upon his release, Yan began his work in defense of citizens’ rights, litigating against officials on behalf of fellow citizens.

He is now held at Shiliping Re-Education through Labor Camp in Quzhou City, Zhejiang Province.

### 31. Zhang Jianhong (张建红)

*male; also known as Li Hong; Ningbo, Zhejiang Province; freelance writer, playwright, poet, former chief editor and founder of the poetry website, Ai Qin Hai (“Aegean Sea,” [www.77sea.com](http://www.77sea.com)), regular contributor to the overseas websites, Boxun and Dajiyuan*



On March 19, 2007, the Ningbo City Intermediate People’s Court convicted Zhang of “inciting subversion of state power” and sentenced him to six years in prison. His conviction was based on



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his having published more than 100 “articles defaming the Chinese government and calling for agitation to overthrow the government.”

Zhang had just started serving his 6-year term in Changhu Prison, Zhejiang Province when he was diagnosed with a form of muscular dystrophy. Zhang’s application for release for medical treatment was denied in September 2007. Reportedly, Zhang’s medical condition has deteriorated rapidly.

### 32. Zhang Lin (张林)

*male; 44; from Huaiyuan County, Anhui Province; resident in Bengbu City, Anhui Province; internet writer*



On July 28, 2005, Zhang was convicted of “inciting subversion of state power” by the Bengbu Intermediate People’s Court and sentenced to five years in prison and four years’ deprivation of political rights. The verdict cites six articles Zhang published on websites outside the country, such as *Boxun* and *Dajiyuan*, and interviews with foreign radio stations. The verdict says Zhang “directly disseminates [in these articles] false facts and makes up rumors, incites subversion of state power and overthrow of our country’s socialist system.” Zhang is detained in Bengbu No. 1 Prison. Reportedly, Zhang has developed a severe illness of the vertebrae that requires urgent medical attention, but he has so far been denied proper medical treatment.

### 33. Zhao Changqing (赵常青)



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*male; 38; Hanzhong City, Shaanxi Province; formerly a teacher in Shanyang County Middle School*

On August 4, 2003, Zhao was sentenced to five years in prison and three years of political rights deprivation for “inciting subversion of state power” by the Xian Intermediate People’s Court for writing and publishing an open letter on the internet calling on the 16<sup>th</sup> CCP Congress to enact political reforms.

Zhao was released on November 27, 2007.

### 34. Zheng Yichun (郑贻春)

*male; 48; Yingkou City, Liaoning Province; freelance writer and poet, formerly head of the educational affairs department of the Chaoqun Foreign Languages College*



On September 20, 2005, Zheng was convicted of “inciting subversion of state power” by the Yingkou Intermediate People’s Court for publishing dissident articles on the internet. He was sentenced to seven years in prison and three years’ deprivation of political rights. Prosecutors cited



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63 articles Zheng had written and published on websites outside the country. His appeal was rejected. He is detained in Xinsheng Farm Prison in Yingkou City, Liaoning Province.

### Documentation III: Individuals charged under Art. 105(2) but not yet tried

#### 1. Lu Gengsong (吕耿松)

*male; 51; Hangzhou City, Zhejiang Province; writer, freelance writer and former teacher*

On September 29, 2007, Lu was formally arrested on suspicion of “inciting subversion of state power.” He is incarcerated at the Xihu (West Lake) Detention Center in Hangzhou City.



In denying Lu access to a lawyer, the Hangzhou City Public Security Bureau cited Article 96 of the Code of Criminal Procedures, arguing that since the case involves "state secrets," lawyers are barred from contact with the defendant during the investigation period.

In 1993, Lu was expelled from the Zhejiang Higher Professional School of Public Security, where he had taught, because of his participation in pro-democracy activities. He authored the book, *A History of Corrupt CCP Officials*, and frequently posted news articles reporting official abuses and rights violations on the internet. A few days before his detention, he reported on the confinement to a psychiatric hospital of fellow activist, He Weihua. Lu had also attended the criminal trial of housing rights activist, Yang Yunbiao, the day before he was detained.



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### 2. Yang Chunlin (杨春林)

*male; Heilongjiang; farmer and activist*



On July 6, 2007, Yang was detained and on August 13 formally arrested on suspicion of “inciting subversion of state power” because he collected signatures to endorse the open letter, “We Want Human Rights, not the Olympics.” He is said to have been tortured and mistreated in Heitong Detention Center, Heilongjiang Province. Between July and October 2007, he was denied access to legal counsel because his case involves “state secrets.” He was allowed to see his lawyers on October 25, 2007.

### 3. Ye Guoqiang (叶国强)

*male; Beijing; brother and son of Ye Guozhu, the “Olympics prisoner”*

On September 30, 2007, Ye Guoqiang, brother of Ye Guozhu, was criminally detained on suspicion of “inciting subversion of state power.” Ye Guoqiang was taken away by police from the National Security Unit (under Xuanwu District Public Security Bureau) and the Baizhifang Police Station after he staged a protest in front of the Xuanwu District government building on September 29, 2007. He is incarcerated at the Beijing Xuanwu District Detention Center.



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Between 2001 and 2003, the government forcibly demolished the homes and restaurant of Ye Guozhu and Ye Guoqiang to clear land for a facility to be used in the 2008 Beijing Olympics. The two have repeatedly petitioned authorities for compensation without success. In desperation, Ye Guoqiang attempted suicide in October 2003. For that, he was sentenced to two years in jail for “provoking and making trouble.” After his release, he was placed under surveillance and harassed by the government. Ye Guozhu became a vocal human rights activist. He was sentenced to four years in prison for “provoking and making trouble” in December 2004 for organizing a march to protest against forced evictions.

#### 4. Jing Chu (荆楚)

*male; also known as Wang Dejia; Quanzhou County, Guilin City, Guangxi Province; internet writer*

On December 14, 2007, Jing was formally detained on suspicion of “inciting subversion of state power.” On December 13, police searched Jing's residence and confiscated his articles and books. Jing was then taken from his residence to the Quanzhou Chengbei Police Station, initially on suspicion of "defamation or slander" but later of "inciting subversion of state power".

Jing's family suspects his detention is directly related to his writing of many articles critical of social ills, including "Illegal Possession of State Secrets—an Important Chinese Communist Party Invention that Persecutes Prisoners of Conscience," "Handcuffed Olympics Will Bring Only Disasters to the People" and "Li Yuanlong Jailed for Two Years for Four Articles; How Many Will I be Jailed for?"





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### 5. Hu Jia (胡佳)

*male; 34; Beijing; HIV/AIDS activist and human rights defender*



On December 27, 2007, Hu was formally detained on suspicion of “inciting subversion of state power” by police from the National Security Unit (Guo Bao) of the Beijing Public Security Bureau (PSB). Hu’s whereabouts are currently unknown.

Hu is co-founder of the Beijing Aizhixing Institute, a grassroots organization dedicated to helping children from AIDS families. Due to his criticism of the government's failures in AIDS prevention and care, he has been repeatedly harassed and beaten by police. Hu has also reported on human rights violations, given interviews to the overseas press and written about other activists. Prior to his detention, Hu and his wife had been under "residential surveillance" (Jianshi Juzhu) without legal authorization since May 18, 2007.

### **Documentation IV: Individuals charged under Art. 105(2) but later convicted of other crimes**

#### 1. Li Changqing (李长青)

*male; 42; Fuzhou City, Fujian Province; journalist, formerly deputy head of the reporting department at Fuzhou Daily*



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On January 25, 2006, Li was convicted of “intentionally circulating false and terrorizing information” by the Gulou District People’s Court in Fuzhou City and sentenced to three years in prison. Li had originally been put under residential surveillance and then arrested on “suspicion of inciting subversion of state power.” It is unclear why the Court dropped the charge of “inciting subversion” and replaced it with another charge against Li.

Li is thought to have been prosecuted due to articles he wrote and circulated on the internet supporting Huang Jingao, a county Party secretary in Fujian Province who issued an open letter in 2004 accusing officials in his locality of endemic corruption. Li told his lawyer, Mo Shaoping, that during more than a year of repeated interrogations, his support of Huang Jingao was the only subject of questioning. He claimed to have been tortured during the interrogations.

Li was convicted, however, not for circulating statements of support for Huang Jingao but for an article published on the online news website *Boxun* entitled, “Dengue fever breaks out in Fuzhou, 100 people infected, government covering up the news, residents panicking.” Li denies he wrote the story and admits only to giving a tip to *Boxun*. The information about dengue fever in Fuzhou was later verified by the authorities. Li is currently serving his sentence in Yong’an Prison in Fujian Province.

### 2. Zhang Ruquan (张汝泉)

*male; 72; Zhengzhou City, Henan Province; freelance writer, retired staff member of Baiwen Yili Stock Limited Company*



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On December 24, 2006, Zhang was convicted of “slander” by the Jinshui District People’s Court in Zhengzhou and sentenced to three years in prison. Zhang had originally been charged with “subverting state power” and was on bail while awaiting trial between February 20, 2003 and November 10, 2003. Zhang was then charged with “inciting subversion of state power” on October 15, 2004 and put under house surveillance. It is unclear why the Court dropped the original charge and replaced it with “slander.” The verdict cites two articles criticizing the political line of Deng Xiaoping and Jiang Zemin as being reactionary and corrupt, one by Zhou Xiubao entitled, “Urgent statement regarding several important issues on the opening of the 16<sup>th</sup> CCP Congress” and one by himself, “Mao Zedong—our leader forever.” Zhang Ruquan gave these articles to his associate, Zhang Zhengyao, tried in the same case, for distribution.