

Xinjiang Uighur Autonomous Region
Urumchi Intermediate People's Court

Criminal Verdict

(2015) Wu Int. 1st No. 192

The prosecuting organ is the Xinjiang Uighur Autonomous Region (XUAR) Urumchi People's Procuratorate.

Defendant Zhang Haitao (张海涛), male, born March 10, 1971, in Fangcheng County, Henan, Han ethnicity, self-employed, resides at 6-3-604 Qingshuiwan Gardens Residential Area, 647 Taiyuan Road, Economic and Technology Development District, Urumchi. Placed under criminal detention on June 27, 2015, by the Urumchi Public Security Bureau and arrested on July 31 of the same year. He is currently being held in the Xinjiang Uighur Autonomous Region (XUAR) Detention Center.

Defense counsel is Li Dunyong (李敦勇), lawyer with the Beijing Gongxin Law Firm.

On December 25, 2015, the XUAR Urumchi People's Procuratorate filed indictment Wu Proc. Crim. 1st Indict. (2015) No. 203 with this court, charging defendant Zhang Haitao in a case of inciting subversion of state power and secretly gathering and illegally providing intelligence to overseas entities. This court formed a collegial bench in accordance with the law and held an open hearing to try this case on January 11, 2016. The XUAR Urumchi People's Procuratorate appointed assistant procurators Ding Junsheng (丁军胜), Shi Shuai (史帅), and Xu Lei (徐垒) to appear in court on behalf of the prosecution. Defendant Zhang Haitao and his defense counsel Li Dunyong both appeared in court to take part in the proceedings. The trial has now concluded.

The prosecution alleged:

I. Regarding the crime of inciting subversion of state power:

Between July 2010 and June 2015, defendant Zhang Haitao used the Twitter microblog service and WeChat to repeatedly post and repost a large quantity of articles and images containing rumor and slander about the state political regime and the socialist system to an indeterminate online audience.

Between March 2010 and March 2015, defendant Zhang Haitao was hired as a reporter for an overseas website, subscribed to and received news emails sent by an overseas website, actively gave interviews to overseas media, colluded and coordinated with parties inside and outside China, concocted rumors and distorted the stability situation, and denigrated the state political power and socialist system.

II. Regarding the crime of secretly gathering and illegally providing intelligence to overseas entities:

Between February 2011 and March 2015, defendant Zhang Haitao actively collected intelligence about street-level stability policing and used the Internet to pitch articles, send email, and give interviews and to provide intelligence about sensitive policing-related subjects connected to topics like “street patrols” and “striking hard to handle emergencies.”

To support its charges at trial, the prosecution presented or read into the record evidentiary materials including material evidence, documentary evidence, witness testimony, the statements and explanations provided by the defendant, inspection reports for electronic evidence, search records, audiovisual materials, and electronic evidence.

The prosecution contends that, ignoring state laws, defendant Zhang Haitao: colluded with overseas organizations and, using the Internet to post and repost images and text, incited subversion of state power and overthrow of the socialist system; and gathered and illegally provided intelligence related to policing and stability to overseas entities. These actions violated Articles 105(2) and 111 of the Criminal Law of the PRC. The facts of these crimes are clear, the evidence is reliable and sufficient, and he ought to be held criminally responsible for the crimes of inciting subversion of state power and

secretly gathering and illegally providing intelligence to overseas entities. Under Article 106 of the *Criminal Law* of the PRC, defendant Zhang Haitao's collusion with overseas organizations to incite subversion of state power ought to be punished more severely.

Defendant Zhang Haitao acknowledged the prosecution's accusations regarding the acts committed by him in connection with this case, but he argued in defense that his actions were the exercise of his constitutional right as a citizen to freedom of expression and that, in providing overseas media with introductions and photographs of sensitive subjects, he was reflecting his personal experience and did so in the interest of informing the public. He said there were no state secrets involved and there was no act of "secretly gathering"; therefore, his acts had not been criminal and did not constitute the crimes alleged by the prosecution. He admitted the objective facts that he used **Twitter** and WeChat to make the remarks implicated in this case and had acknowledged as much in his statements to police. But he argued in defense that his statements to investigators regarding his subjective intentions and goals with respect to the aforementioned acts had been false statements made because of unlawful acts on the part of the investigating organ. Moreover, during the hearing he denied that he had committed the aforementioned acts in order to overthrow the current political system and socialist system and said that he saw his actions only as a critique of relevant policies. He also said that his so-called position as a reporter for Boxun News Network was an ordinary registration on that site and that he had not published anything in that position of "reporter".

Defense counsel position regarding the prosecution's allegations about acts carried out by defendant Zhang Haitao proceeds from the basis of the defendant's own acknowledgements. However, he also put forward the following opinions in defense:

(1). Defendant Zhang Haitao's actions did not constitute the crime of inciting subversion of state power and the prosecution's allegations on that count reflect a faulty understanding of that criminal offense that arises from a mistaken understanding of the law and confusion about legal concepts. When defendant Zhang Haitao gave interviews or made remarks, his focus was opposition to dictatorship and making demands for democracy. Regardless of whether his understandings were correct, he was not motivated by the goal of changing the socialist system. Even if the defendant made a large number of strident remarks that were abusive or slanderous, these acts do not

amount to inciting overthrow of the government. Some of his remarks were critiques of local government policies, some were criticisms of social evils, some were ridicule of certain local government overreactions to particular issues, some were commentaries on history, and others were comments in the form of predictions. Even though these commentaries did contain language that insulted and defamed the ruling party, they did not incite others to overthrow state power. Looking at the defendant's words and actions and what other witnesses said in their testimony, defendant Zhang Haitao was resolutely opposed to the use of violence to achieve his goals. He did not have any intent to subvert state power and did not act to do so.

(2). Defendant Zhang Haitao's actions did not constitute the crime of secretly gathering and illegally providing intelligence to overseas entities. According to the relevant judicial interpretations, "intelligence" refers to matters concerning state security or national interests that have not been made public or that according to relevant regulations ought not be made public. According to the relevant provisions of the PRC Regulations on Open Government Information, the government should disclose emergency plans for, early warning information concerning, and counter measures taken against sudden public events. The government should also take the initiative to disclose information of vital interest to citizens, legal persons, or other organizations. All of the information defendant Zhang Haitao provided to overseas entities was either already public or else information that the government either had a duty to disclose or should have disclosed. The information was available without having to "secretly gather" it. The interviews given by defendant Zhang Haitao to overseas media were an expression of China's reform and opening. All the information he provided during these interviews was public and did not cause any damage to state security or national interests.

(3). Though there may be synchronous audio-visual recordings to confirm the statements made by defendant Zhang Haitao in the detention center, they do not rule out the defendant's account of the use of torture against him at night in an interview room with no cameras during the first 10 days after his detention in the XUAR Detention Center. Furthermore, defense counsel contends that the affidavits on this matter provided by the organs and units involved are all perjury.

In the course of the trial, it was ascertained that:

During the period from 2010 to 2015, defendant Zhang Haitao repeatedly employed Internet firewall circumvention software in order to use the Internet to visit overseas hostile websites and media. He subscribed to and downloaded a large amount of emails, articles, and audiovisual materials that incited subversion of state power and denigrated party and state policies and the socialist system.

Under the influence of these, from July 2010 until just before the case was uncovered, defendant Zhang Haitao did, with the goal of subverting state power and overthrowing the socialist system, take advantage of sensitive and controversial social issues and used **Twitter** and WeChat to post and repost to an indeterminate online audience 69 WeChat posts and 205 **Twitter** posts, all containing large amounts of inciting content that denigrated, attacked, insulted, and slandered party and state policies and the socialist system.

In the process of visiting the overseas hostile websites and media in this case, defendant Zhang Haitao was clearly aware that these overseas websites and media were anti-China and anti-Communist in nature and yet colluded with them and actively contributed to their anti-China, anti-Communist needs. As a so-called “democracy activist,” he posted items and pitched articles for publication and gave interviews; in these he intentionally distorted facts, willfully attacked and denigrated party and state policies, and rejected the socialist system.

In the process, defendant Zhang Haitao actively collected intelligence about street-level stability policing in Xinjiang and, using illegal means such as pitching articles through Internet, sending email and giving interviews, provided this intelligence to overseas hostile organizations and media, thereby endangering China’s state security and national interests.

It was further found that, while being held in the detention facility, defendant Zhang Haitao did not report any illegality by the investigating organ to the relevant authorities. There is no evidence to prove that defendant Zhang Haitao has any legal grounds to raise the issue of excluding illegally obtained evidence.

The aforementioned facts are confirmed by the following evidence:

1. Electronic evidence inspection report Wu PSB (Internet security police) Insp. (2015) No. 168, together with optical disc and screenshot images, confirming that relevant evidence was found after conducting a strict search, filtering, and classification of data stored on the one desktop computer, one Lenovo laptop computer, two hard drives, two mobile phones, and two USB drives that the public security organ retrieved according to law from defendant Zhang Haitao. A large number of images, electronic books, text documents, and audiovisual materials were retrieved through electronic inspection of the computers, hard drives, and USB drives used by the defendant. These include a large number of articles introducing strategies for inciting subversion, such as “Organizational Structure, Action Principles and Basic Steps for the Initial Stage Street Revolution,” “Several Things That Could Spark a Chinese Revolution,” “Small Groups: Organizational Strategy for Chinese Non-Governmental Power,” and “Mass Mobilization in the Internet Age,” as well as a large number of articles and audiovisual items that denigrate the party and state political power, such as “Mao Zedong’s Path to Becoming a Monster,” “Nine Commentaries on the Chinese Communist Party,” “Ridding Our China of Marxism-Leninism,” “The Crime of not Actively Opposing Communism,” and “We Need War.”

From defendant Zhang Haitao’s Xiaomi mobile phone (IMEI: 860671023067553) and Samsung mobile phone (MEID: A0000045F44A12), investigators detected his registered WeChat account (number t3332093, screen name “A’nan” [“Kid”], and linked mobile number 13579911311), which showed a total of 1762 contacts in its address book. A total of 69 statements were secured by the investigating organ as evidence through screenshot images of his WeChat registration information and statements.

These screenshots confirm that defendant Zhang Haitao used this WeChat account to post remarks denigrating the party and state political power, such as:

- *Inhuman Chinese Communist running dogs;*
- *Sane people are being sent to prison and psychiatric hospitals, while a group of lunatics govern the country; and*
- *It’s a simple truth that in any country where the constitution isn’t worth a dog’s fart, state legal provisions won’t be worth a dog’s fart either.*

He also posted statements attacking party and state policies, such as:

- *Murderer, this time you’ve made a huge mess! All those running dogs who sold their souls to the Chinese Communist Party are now searching their consciences*

and asking whether they're fated to serve as cannon fodder in the Communist Party's stability war against the people . . . ;

- *The government has taken control of nearly every industry they can use to amass wealth for itself: oil, electric power, communications, medical treatment, education, elderly care, housing, family planning, and so on; and*
- *Give the Chinese people back their freedom of the press and freedom of expression and see who is the true face of anti-humanity.*

He also posted statements attacking the socialist system, such as:

- *99% of Chinese people don't know what fascism is. Fascism emphasizes national supremacy and uses patriotism and collectivism to suppress individual freedoms; and*
- *Under Chinese Communist one-party rule, the power of government at all levels doesn't come from citizens' ballots but from top-down authorizations from level to level. Xi-tler is ultimately responsible for each and every blood debt in society, and this guy who's guilty of so many crimes and deserves to be punished is trying to deceive you*

And he posted other statements, such as:

- *When street peddlers are beaten to death by urban management officers (chengguan), when citizens are shot by police officers . . . when young girls are raped by officials, why aren't you the broad masses of the people angry? Why aren't you furious? Why are you so indifferent? As the saying goes: "When the nest is upset, no egg is left unharmed!" Who is safe under a dictatorship? Can you really be absolutely sure that you won't be the next to be persecuted or shot?*
- *A teacher said something classic: 'In China today, opposing them is basic criteria for being a human being and burying them is the starting point for being a human being. To disdain them is to have dignity, and to despise them is to be true to yourself'; and*
- *People who were brainwashed by them for so long that they believed everything those guys did was great and brilliant and correct, a nation grown so accustomed to all of the anti-human acts those guys have committed, are now suffering under the rule of their red terror The investigation captured his WeChat registration and total 69 expressions that are relevant to this case.*

2. Electronic evidence inspection report Wu PSB (Int. Sec.) Insp. (2015) No. 124, together with optical disc and screenshot images, confirming the statements posted by

defendant Zhang Haitao on his registered **Twitter** "<http://twitter.com>" microblog page and including a video file, "201500124002.avi," establishing that the 950 posts (tweets) made by defendant Zhang Haitao between March 14, 2013, and June 5, 2014, contained 205 items with extremist reactionary content that spread rumor, slander, smears, and attacks against the party and the government.

Defendant Zhang Haitao registered the handle "@xjvisa" on the overseas **Twitter** microblog site and used it to post and repost statements that insulted and slandered the party and state political regime and the socialist system, such as:

- *There is voluminous evidence of the blood debt owed by the fascist Chinese Communists. Those nine clowns have become American marionettes and I believe that the White House will seize the opportune moment and destroy the anti-human Chinese Communist dictators and bring freedom and liberation to the Chinese people . . .;*
- *The Communist bandits are more brutal than you can possibly imagine, but there is nothing that they are not capable of doing . . .;*
- *Isn't this the Communist Party? This is the NPC's four-part definition of "organized crime": 1. A stable organization with a large membership, clear leadership, and fixed core of active members; 2. Profiting through systematic use of illegal activity; 3. Use of violence and threats to do evil and oppress and do harm to the public; 4. Monopolization of particular geographic regions or industries;*
- *I call the Communist authorities "human-rights-exceptionalists": They resist universal values that have human rights at the core and act independent of ordinary human society, which they consider to be one of their special characteristics. The Americans spent ten times their combat budget to rebuild after toppling Saddam Hussein and Bin Laden so that they could wipe out these "human-rights-exceptionalists." "Human-rights-exceptionalists" provide fertile ground for all sorts of independence movements, terrorists, and violence;*
- *Joining the party is going against evolution. The monkeys split into two groups: one group remained monkeys and the other group evolved into humans. Humans also split into two groups: one group remained human and the other group evolved into members of the Communist Party;*
- *Which nation is strong? Does a small handful of dictators represent an entire nation?;*

- *Doesn't the Communist Party rely on unequal ethnic policies and creating ethnic conflict to maintain its own rule?;*
- *The party's stability policies have been successful at creating conflict and resentment in society. Those stability personnel at the lowest levels of the system are mostly a bunch of willing slaves who want only to follow the orders they've been given from above . . . without ever thinking about whether their work is illegal or inhumane, let alone inhuman;*
- *After so many years of brainwashing, the public has developed a double standard when looking at issues. When Shi Yanfei killed three Communist officials by using gasoline and setting that meeting room on fire, the public considered her a hero. When the same thing was done to 15 stability personnel in Bachu, Xinjiang, many people branded the perpetrator as a terrorist. Who, in the end, is the terrorist?;*
- *An atheistic regime doesn't recognize how important religion is to a people of believers. Banning religious belief can only push that people towards a dead end. They'll fight back to the very end, with no fear of death. Xinjiang is a snapshot of China's future. The revolution in China has already begun;*
- *There are two ways of maintaining stability in China. The first is to find a way to solve problems and get disgruntled parties to drop their complaints. The second way is to treat disgruntled parties as the problem and 'solve' them, mainly through lies, terror, and violence. Detention, re-education through labor, psychiatric hospitals, and prison, for example. The vast majority of party-state officials use the second method to preserve stability . . . ;*
- *Communism is the biggest lie in the world. But, strangely enough, there's a organized crime gang with 80 million members worldwide. They speak their own devil tongue and these guys blink their eyes and speak such nonsense. Can people on the outside judge them by ordinary standards?! So this is no ordinary gang—it's a super gang, the most evil one of all, absolutely brutal and inhumane;*
- *The most solemn assembly of pretentious pricks, a bunch of groomed dogs, all dressed up and sitting in that great hall of the so-called 'people,' pretending to 'cast ballots' and elect a 'state' leader who was picked long ago. Then they solemnly announce that so-and-so has been 'elected.' This is the most ridiculous scene on the planet . . . ;*

- *There's a kind of dog food called "special supply"; there's a kind of chicken coop called "song-and-dance ensemble"; there's a kind of jackal called "urban management officer"; there's a kind of shrieking and howling called "singing red songs"; there's a kind of ass-kissing called "ceremonial gift-giving"; there's a kind of river crab called "stability"; there's a kind of vermin called "public servant"; there's a kind of virus called "overseas travel expenses"; there's a kind of pigpen called "magistrate's office"; there's a kind of prostitute called an "escort"; there's a kind of tragedy called "harmony"; there's a kind of arrogance called "succession" . . .;*
- *So-called "ethnic problems" or "religious problems" are fundamentally human rights problems. Whether it's the Xinjiang problem or the problems facing the rest of China, the first thing that needs to be resolved is the problem of the Communist Party;*
- *It's shameless for the Chinese Communists to act as saviors and talk about enabling Uighurs to "escape poverty" . . . The Communist Party benefits the most from Uighurs and Han killing each other, because they can then "use barbarians to control barbarians" and solidify their rule.*

And he posted other statements relevant to this case, such as:

- *Ethnic minorities have three choices: willingly be slaves to the Communist bandits, destroy the Communist bandits, or declare independence. Actually, these three choices apply to all Chinese people. People in the coastal areas are selling their property rights and houses and emigrating abroad with their assets. How's that any different from ethnic minorities declaring independence? When one person resists being a Communist slave and struggles for freedom, many people offer their support. Why are so many people opposed when an ethnic people does the same thing?;*
- *CASS professor: Chinese people shouldn't have any illusions about free healthcare. If China were to institute free healthcare, then the most vulnerable would never be able to see a doctor, no matter how much they were willing to pay. You wait for death whether you have money to see a doctor or not, and poor people are left to die no matter what. As Chen Sheng and Wu Guang said: "We'll be killed if we try to escape, and we'll be killed if we rise up in revolt. We'll die either way, so wouldn't it be better to die for our country?";*
- *Officials don't let people live happily, and when people petition it's not only useless but the result is even more misery. The chance of protecting your social rights is practically nil. Many people are starting to harden their hearts and have no more illusions. They're learning from Yang Jia: It's good enough to kill one, but if you can kill two it's even better. Anyone who's struggling just to survive wants to kill as many as possible. This actually paves the way for constitutional government;*
- *July 1 is almost here. I hope all citizens will take action and use all available means*

to expose the Communist Party's disastrous history and their present evil deeds in order to awaken the broad masses and those party members whose consciences haven't yet been destroyed to combat and deter this handful of increasingly isolated and stubborn elements and welcome the high tide of the democratic revolution; and

- *Who knows what the final straw will be for the Communists. Urumchi, Turpan, Hotan—there's resistance everywhere all throughout Xinjiang. Wherever there's oppression, there's resistance.* These are samples of total 205 posts that are relevant to this case.

3. Electronic evidence inspection report Wu PSB (Internet Security Police) Insp. (2015) No. 306, together with an optical disc, confirming that defendant Zhang Haitao registered to become a reporter for Boxun News Network, made email contact with reporters from overseas media, and gave interviews to overseas organizations. On March 20, 2010, defendant Zhang Haitao received an email from Boxun News Network and became a reporter for that site under the pseudonym "NIUXING JIANGHU," with username NXJH and password gsmphone0. On April 16, 2010, Boxun News Network sent another email to defendant Zhang Haitao, changing his username to XINGXINGZHIHUO and password to 74yj62. In total, defendant Zhang Haitao received more than 1,500 emails sent by overseas websites like **Boxun News Network** and **Voice of America**.

At the same time, he gathered and illegally provided police-related intelligence to Boxun News Network. For example, on February 27, 2011, defendant Zhang Haitao sent captioned photographs he had taken of street-level police patrols in Urumchi to Boxun News Network. There were eight images, along with the following text: "....There were few people moving about the square. The situation is relaxed outside but tense on the inside. Outside the regional party committee headquarters there are several police vehicles. In and around the square there are patrols by riot police and defense unit personnel. More than 10 police vehicles are parked north of the square, at the police station behind the Wangfujing Department Store."

On July 7, 2011, defendant Zhang Haitao sent photographs he had taken of street-level patrol drills to Boxun News Network, along with the following text: "The Xinjiang July 7

Incident was a major street protest by Han Chinese, who make up more than 80 percent of the population in Urumchi. Though there weren't as many casualties as the brutality of July 5, it made the authorities realize just how serious the situation was. Wang Lequan (王乐泉) disregarded his lofty words of just a day earlier, when he said that Xinjiang had the ability to prevent the situation from developing further. He frantically halted all civil air transport at the international airport and had special-unit police flown in en masse from the rest of the country. On July 8, large planes filled with special-unit police were arriving about every five minutes at Urumchi International Airport. At the same time, the Lanzhou Military District sent a special train to transport emergency troops to Urumchi. About a week earlier, the situation in the city became appreciably more tense, especially in Uighur neighborhoods. Today, Han neighborhoods have many sentries outside too. This morning I went out and took a few photos." He thus provided five photographs.

He also illegally provided an overseas organization with intelligence about security measures taken during the China-Eurasia Expo, with the following text: "Today, because of the China-Eurasia Expo, there are helicopters in the air and armored vehicles all over Urumchi, along with hundreds of thousands of stability-maintenance personnel of all types."

4. Electronic evidence inspection report Wu PSB (Internet Security Police) Insp. (2015) No. 197 and optical disc, confirming that defendant Zhang Haitao used technology to breach the Internet firewall and repeatedly visited overseas anti-China media and hostile websites, where he gathered and downloaded news and regularly received reactionary propaganda emails from members of the democracy movement organization "China Democracy Party" and other anti-China (democracy movement) forces inside and outside China. For example, on March 26, 2010, **Radio Free Asia** sent email to defendant Zhang Haitao's gsmphone@gmail.com account acknowledging that his subscription request had been received and informing him of ways to subscribe to and read news emails. At the same time, defendant Zhang Haitao sent emails and gave interviews in order to help overseas hostile media make secret inquiries and upload intelligence regarding stability operations.

5. Electronic evidence inspection report Wu PSB (Internet Security Police) Insp. (2015) No. 103, together with optical disc and screenshot images, containing content extracted

and secured by the public security organ from **Radio Free Asia**, **Twitter**, **minzhuzhongguo.org**, **Boxun News Network**, **epochtimes.com**, and four other websites implicated in this case, confirming that defendant Zhang Haitao registered to become a reporter for the overseas hostile website **Boxun News Network** and, in the name of a “rights” and “democracy” activist, repeatedly made contacts with overseas anti-China news media and hostile websites over a long period of time, actively giving interviews. He frequently provided reactionary text-images that denigrated Xinjiang stability policies, spread rumors about and distorted the stability situation in Xinjiang, and willfully smeared, slandered, incited, and attacked the party and government, which were used and spread (broadcast) by these overseas anti-China media and hostile websites.

For example, on July 6, 2014, he gave an interview to **Radio Free Asia**, with the following content: “Saturday was the fifth anniversary of the Xinjiang July 5 Incident, and the authorities imposed a full clamp-down on the regional capital, Urumchi. In an interview with **Radio Free Asia** on Saturday, Urumchi resident Zhang Haitao said that there was a clear increase in the number of military police armed with guns deployed to city streets, and the authorities had increased patrols by special police units. Security checkpoints were set up on the city square, with personnel to carry out checks. Zhang Haitao said: ‘Today is July 5, a rather sensitive day, and you can sense that the authorities are tense. There are counter-terrorism drills taking place in Changji, 30 km outside of Urumchi, where military personnel of all types could be seen drilling in the streets. Today there were heavily armed military police in the streets, some on patrol and others carrying out fixed-point duty. There were also patrols by police and special police units wearing black uniforms, as well as members of the civil militia and civilians wearing red armbands out on the streets and in residential neighborhoods. Following earlier measures, once-crowded market areas have sparse foot traffic. Places like hospitals and state enterprises are under tight control. Outsiders basically can’t enter and those with any business there have to have the trunk of their car inspected and register with ID. There’s a public square near my home where they’ve recently added some protective measures. At the entrance they’ve set up large cement pylons and erected a new iron gate, behind which there’s a security checkpoint. Behind the security

scheckpoint is a tent, where they have people carrying out security checks. Even after you go through the checks there are still stability personnel who will open up your bags and check them. These are all newly added measures.”

Also: “Xinjiang resident Mr. Zhang told **RFA** on Thursday: ‘Today there was a noticeable increase in stability maintenance work, patrol units, and vehicles. The police have limited capacity, so they’ve found all sorts of stability personnel: civil militia, patrols, civilians in red armbands, and other types. Now you often see them patrolling and drilling in the streets. I’ve seen notices next to a lot of gas stations saying that it’s strictly forbidden to sell gasoline in bulk. If anyone is found buying gasoline in bulk, it will be reported to the police, no matter what ethnicity they are.’”

6. Direct evidence items 1–9 collected by the public security organ confirm that the reactionary text-images and statements published online by defendant Zhang Haitao mutually corroborate his statements to police and the inspection records of electronic evidence.

7. Search warrants, search records, video and screenshots of the search process, a schematic diagram of the search, photographs and an inventory of seized items, and other physical evidence, all of which confirm that on June 26, 2015, the public security organ conducted a search of defendant Zhang Haitao’s residence at 6-3-604 Qingshuiwan Gardens Residential Area, 647 Taiyuan Road, Economic and Technology Development District, Urumchi. They tracked the entire search process with real-time video and photography to document the numbers, brands and models, and external characteristics of electronic items seized as evidence, as well as their original locations and placement. The prosecution delivered to the court one desktop computer, one Lenovo laptop computer, two hard drives, two mobile phones, and two USB drives that were taken as evidence in this case.

8. Defendant Zhang Haitao’s statements and explanations, confirming that in his statements to the investigating organ and prosecution he admitted to having repeatedly used Internet firewall circumvention software to visit overseas anti-China, hostile websites like **Boxun News Network** and **Radio Free Asia** and to having given

interviews to the aforementioned websites and making the statements: “The Chinese Communist Party leads an authoritarian dictatorship without human rights, where there are extremely serious violations of human rights, where there are excessive amounts being spent on the military and stability preservation, and where there is social unrest. Ultimately, it will be discarded by history” and “There are disasters everywhere under a one-party dictatorship.”

Also: beginning in 2010, he used the email address gsmphone@gmail.com to register an account at **Boxun News Network** and later became a reporter for that site. He frequently pitched articles to Boxun News Network, sometimes through the submissions page and sometimes through email. These submissions contained both images and text and mainly consisted of day-to-day political commentary and images of street-level stability maintenance in Urumchi that he had taken with his mobile phone.

Also: He registered the account “@xjvisa” on the **Twitter** overseas microblog service and posted and reposted a large number of statements that insulted and slandered the party, the political regime, and the socialist system, including: “Voluminous evidence of the blood debt owed by the fascist Chinese Communists” and “The most solemn assembly of pretentious pricks . . .”

He registered a **WeChat** account and, using the nickname “A’nan” (“Kid”) broadcast to his **WeChat** circles items on controversial news and commentaries as well as some photos he had taken of street-level stability-maintenance, including personnel, police vehicles, and armored vehicles. He used **WeChat** to post statements distorting stability policies in Xinjiang, attacks on Marxism-Leninism as an “extremist ideology”, support for statements by World Uyghur Congress spokesman Dilshat [Reshit] about Xinjiang’s stability policies being human rights violations, and support for Rebiya Kadeer’s statements about Xinjiang independence. Some reporters from overseas hostile websites and media joined his WeChat friend circles and the WeChat on his mobile phone became a channel for him to deliver information overseas.

9. The testimony of witness Yu Xinyong confirms that, during day-to-day meetings, defendant Zhang Haitao would make slanderous statements against party policies.

10. The testimony of witness Zhong Xinyuan confirms that, during his day-to-day meetings with defendant Zhang Haitao, he found that Zhang Haitao was teaching other people how to use Internet firewall circumvention software to visit overseas websites;

that he had seen some of Zhang Haitao's articles, which were all on sensitive topics such as opposition to authoritarian dictatorship; and that he believed that Zhang Haitao wanted to overthrow the current political regime.

11. The testimony of witness Qu Taicheng, confirming that, in the course of his interactions with Zhang Haitao, he found Zhang's statements to be extreme; that Zhang would often post articles containing extreme statements on his **WeChat**; and that Zhang opposed China's current state system and policies.

12. The testimony of witness Lü Juan, confirming that after he came to know defendant Zhang Haitao through other people, he attended many meetings together with Zhang. At those meetings, Zhang Haitao introduced him to some overseas websites and said that he was good at publishing anti-Communist articles on overseas websites and attracting the attention of people overseas. The goal of some of these meetings with Zhang Haitao was to attract some rights defenders to their group so that everyone could work together and to keep growing stronger and arouse greater resistance among the broad group of petitioners and wait for an opportune moment to overthrow Chinese Communist dictatorship and establish a democratic state.

13. The testimony of witness Zhao Haitong, confirming that he often organized gatherings with defendant Zhang Haitao, the goal of which was to establish an organization dedicated to democracy, freedom, constitutional government, and the promotion of human rights. They would wait for the opportunity to ripen and then overthrow the Chinese Communist dictatorship and establish a democratic state.

14. The testimony of witness Li Aijie, confirming that she met defendant Zhang Haitao in November 2014 and in December 2014 obtained a marriage license from the Nanyang Civil Affairs Bureau in Henan, and that afterwards they began living together in Urumchi. The laptop computer, desktop computer, several mobile phones, and large number of hard drives seized by the public security organ from Zhang Haitao's residence were there before she moved in. The numerous ID cards had been given to Zhang Haitao by other people to help them get mobile phone numbers. Zhang Haitao frequently went online. Zhang Haitao had purchased the apartment at 6-3-604 Qingshuiwan Gardens Residential Area, 647 Taiyuan Road, Economic and Technology Development District, Urumchi, where the two of them resided.

15. An identification record confirms that witness Lü Juan was able, under the direction of investigators from the public security organ, to identify defendant Zhang Haitao as the person with whom he had attended multiple gatherings.

16. The defendant's identification documents confirm that defendant Zhang Haitao is a male, born on March 10, 1971, in Fangcheng County, Henan, Han ethnicity, high school education, self-employed, resides at 6-3-604 Qingshuiwan Gardens Residential Area, 647 Taiyuan Road, Economic and Technology Development District, Urumchi. His place of household registration is 3 Qiliyuan Village, Qiliyuan Township, Wolong District, Nanyang, Henan. At the time of the crime, the defendant had reached the age of full criminal responsibility.

17. A record of the detention confirms that at approximately 8:30 p.m. on June 26, 2015, police officers from the Domestic Security Protection Unit of the Urumchi Public Security Bureau, acting on the basis of their leads at the time, took criminal suspect Zhang Haitao into custody in the Heping Gardens neighborhood in the Economic and Technology Development (Toutunhe) District of Urumchi and brought him back to their unit for investigation.

18. Document Xin PSD Wang An (2015) No. 266 confirms that **Voice of America**, **Boxun News**, **Radio Free Asia**, **Sound of Hope Radio**, and **Dajiyuan** are all overseas hostile or democracy movement websites.

19. Affidavits from the XUAR People's Procuratorate Division of Detention, XUAR Detention Center, and the Urumchi Public Security Bureau Domestic Security Protection Unit, confirming that the investigating organ did not violate the law in the course of its questioning of defendant Zhang Haitao and that defendant Zhang Haitao never made any verbal or written complaints about illegal acts by law enforcement personnel to any procurator resident in the detention center.

20. Search results of Urumchi housing records confirms that defendant Zhang Haitao is the owner of 6-3-604 Qingshuiwan Gardens Residential Area, 647 Taiyuan Road, Economic and Technology Development District, Urumchi.

21. A group of documentary evidence directly taken from the articles “Several Things That Could Spark a Chinese Revolution,” “Small Groups: Organizational Strategy for Chinese Non-Governmental Power,” and “Mass Mobilization in the Internet Age” saved by defendant Zhang Haitao, confirming that the acts of inciting subversion carried out by defendant Zhang Haitao were influenced by these articles and that these articles guided his actions.

The aforementioned evidence was cross-examined during the trial and found to have been obtained in a lawful manner, to be true and effective, and to be mutually reinforcing. This court confirms that this evidence can be used as the basis for conviction.

This court finds that defendant Zhang Haitao, with the goal of inciting subversion of state power and overthrow of the socialist system, intentionally distorted facts and concocted rumors; used the Internet to disseminate a large quantity of articles and images that defamed and slandered party and state policies and the socialist system to an indeterminate online audience; and colluded with overseas hostile organizations to publish and pitch pieces and give interviews that attacked party and state policies in an attempt to subvert state political power and the socialist system. At the same time, defendant Zhang Haitao actively gathered intelligence on stability preservation in Xinjiang and illegally provided it to **overseas hostile websites and media**. His actions respectively constitute the crimes of inciting subversion of state power and secretly gathering and illegally providing intelligence to overseas entities. The facts and charges as alleged by the prosecution are valid and this court upholds the allegation.

With respect to the defense arguments and motions presented by defendant Zhang Haitao and his defense counsel, this court has examined them and found the following:

I. Based on affidavits provided by the investigating organ, the detention center, and the procurator’s office resident in the detention center and the synchronous audiovisual recording of defendant Zhang Haitao’s questioning in the detention facility, it is confirmed that the investigating organ obtained evidence in accordance with the law and did not violate the law in the course of questioning defendant Zhang Haitao in the detention facility. The great majority of the statements made by defendant Zhang Haitao in the detention facility involved confirmation and acknowledgement of the content of

statements he made on **Twitter** and **WeChat** or during interviews by overseas websites. He fully confessed in court to the related criminal acts as alleged by the prosecution. Therefore, there is no evidence to confirm the defense claims of defendant Zhang Haitao and his defense counsel regarding illegal evidence-gathering by the investigating organ or defendant Zhang Haitao's claim that the statements made during the first 10 days in the detention center were extracted through torture and should be considered illegal evidence; as these claims also do not accord with the facts that have been found during the trial, this court does not admit them.

II. Defendant Zhang Haitao acknowledged the criminal acts in this case as alleged by the prosecution, and there is also confirmation from inspection reports for electronic evidence and other evidence. Defendant Zhang Haitao used **Twitter** microblogs and WeChat to send three types of statements: first were statements that attacked and insulted the ruling party and state political power; second were statements that slandered and distorted party and state policies; and third were statements that slandered, distorted, and incited subversion of the socialist system. Based on the evidence in this case, there is enough to prove that a large amount of defendant Zhang Haitao's aforementioned statements in form and content both exceeded the scope of what he calls his so-called opposition to dictatorship and demands for democracy. In reality, under the pretence of criticizing relevant government policies and exposing social evils, he brazenly attacked and denied China's current socialist system and the people's democratic dictatorship; willfully distorted and slandered party and state governance policies; intended to overthrow the leadership of the Communist Party, destroy ethnic harmony and undermine national unity; and attempted to subvert state political power. Besides publishing such statements online, in the course of meeting with others defendant Zhang Haitao at the same time introduced others to hostile overseas websites and methods for accessing them and propagated his positions, further proving defendant Zhang Haitao's goal of subverting and overthrowing the current state political power.

The People's Republic of China is a socialist state under the people's democratic dictatorship, and the socialist system is a fundamental institution of the state. Citizens of the PRC enjoy the right to free expression in accordance with the law and have the right to criticize and make recommendations to state organs and personnel in state organs. While enjoying their rights in accordance with the law, however, citizens also bear a duty to safeguard national unity and ethnic harmony and a duty not to endanger state security or national interests. In this case, the statements of defendant Zhang Haitao went beyond the scope of a citizen's exercise of his right to free expression in accordance with the law; his brazen slander and vilification of the fundamental policies and the socialist system that are established by China's constitution is, in fact, an attack and negation of the socialist system under the leadership of the Chinese Communist Party. Therefore, defendant Zhang Haitao's defense argument that his statements were an exercise of a citizen's right to free expression and his defense counsel's defense motions regarding the prosecution's mistaken understanding of law in its charges and defendant Zhang Haitao's statements did not subjectively intend to subvert state political power and therefore did not constitute the crime of inciting subversion also do not accord with the facts that have been found during the trial; therefore, this court does not admit them.

Defendant Zhang Haitao colluded with **overseas hostile organizations**, gave interviews to **overseas media** and pitched articles to **overseas websites and media**, actively cooperated with overseas hostile organizations' anti-China, anti-Communist needs. His many interviews were used by "World Uyghur Congress" and other overseas hostile organizations and used to attack and distort China's ethnic policies and related policies for governing our country's internal affairs. This seriously endangered state security and national interests, and these acts should be punished severely in accordance with the law.

III. China's criminal law and related judicial interpretations have made clear that "intelligence" refers to matters concerning state security or national interests that have not been made public or that according to relevant regulations ought not be made public. When an actor knows or ought to know that a matter that has not been given a secrecy

classification concerns state security or national interests and illegally provides that information to overseas entities, it should be punished as a violation of Article 111 of the *Criminal Law* of the PRC. Xinjiang has taken a series of stability-protection measures in order to prevent the occurrence of violent terrorist incidents; of these, the organization of security police forces, arrangement of police resources, and distribution of weapons are all matters that concern state security and national interest. When Zhang Haitao took the information he had gathered on these subjects and intentionally provided them to overseas organizations and persons, it seriously endangered state security and national interests. Therefore, the defense arguments of defendant Zhang Haitao and his defense counsel that his actions did not constitute the crime of secretly gathering and illegally providing intelligence to overseas entities do not accord with the facts that have been found during the trial, this court does not admit them.

Based on factors such as the facts of defendant Zhang Haitao's crimes that have been found in this case and the degree of harm to society, and in accordance with Articles 105(2), 106, 111, 113(2), 55(1), 56(1), 64, and 69 of the *Criminal Law* of the PRC, this court rules as follows:

I. For committing the crime of inciting subversion of state power, defendant Zhang Haitao is sentenced to 15 years in prison, with subsequent deprivation of political rights for five years and confiscation of 100,000 yuan in personal property. For committing the crime of secretly gathering and illegally providing intelligence to overseas entities, he is sentenced to five years in prison, with subsequent deprivation of political rights for one year and confiscation of 20,000 yuan in personal property. Combining the two punishments, it is decided to sentence him to 19 years in prison, with deprivation of political rights for five years and confiscation of 120,000 yuan in personal property.

(The prison term is to be calculated from the day the verdict is implemented, with each day spent in detention prior to the verdict's implementation to count as one day of the prison term; therefore, it will run from June 26, 2015, to June 25, 2034).

II. The following items used by defendant Zhang Haitao in committing his crimes that have been seized in connection with this case are to be confiscated in accordance with the law: one desktop computer, one Lenovo laptop computer, two hard drives, one black Xiaomi mobile phone (IMEI: 860671023067553), one white Samsung mobile phone (MEID: A0000045F44A12), and two USB drives.

If this verdict is not accepted, an appeal may be filed within 10 days of the second day following the receipt of this verdict, either to this court or directly to the Xinjiang Uighur Autonomous Region High People's Court. In the case of a written appeal, the original appellate petition must be submitted together with two copies.

Presiding Judge: Deng Ying

Adjudication Officer: Tong Shuli

Acting Adjudication Officer: Wang Chao

January 15, 2016

Court Clerk: Jian Fanfeng