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A Beautiful China

Four

For the Sake of the Citizens: Working to Abolish the Custody and Repatriation System in the Wake of Sun Zhigang's Death

The Death of Sun Zhigang

On April 25, 2003, *Southern Metropolis Daily* published an article by reporter Chen Feng entitled "The Death of Sun Zhigang in Custody."

A new university graduate, Sun Zhigang (孙志刚) was hired as a designer in a Guangzhou clothing factory. Around 10 pm on March 17, he went out to an internet bar to surf the internet. On his way he was questioned by public security personnel. Failing to show his temporary residence permit, he was brought to Huangcun Street police station.

In those days, "migrant population" without local household registration must have temporary residence permit, or they could be apprehended at any given moment and repatriated to their hometown. As a matter of fact, one could be treated so even with a permit. For example, leading up to the 50th anniversary of the National Day in 1999, over 100,000 people in Beijing were rounded up and repatriated. An artist friend said that even when he showed his permit, the police officers tore it up, shouting, "Get on the bus!"

Sun Zhigang's roommate received his call and went to the police station with his ID and money. Many people were released after paying a fine. However, when it came to Sun, the police said, "not this person," without explaining why he was not to be released. It was probably because Sun Zhigang had argued with the police. The boss of the company where Sun Zhigang worked also personally went to the detention center to vouch for him, but by then Sun had already been sent to a facility for treating detainees.

In a country where the rights of citizens are arbitrarily trampled upon, defending personal dignity may entail a significant cost. On the morning of March 20th at 10 o'clock, Sun Zhigang was pronounced dead. Later autopsy results showed extensive internal injuries on his back, indicating that he had suffered multiple rounds of beating.

For nearly a month, his father shuttled back and forth among various "relevant departments," encountering cold looks and disdain everywhere. No one cared about

whether Sun Zhigang lived or died, and those who guarded the gates of the government agencies couldn't be bothered with the plea of a lowly peasant.

The *Southern Metropolis Daily* in Guangzhou took a stand. Its report quickly spread across major internet portals. In that dark corner, countless victims had met their tragic fate, occasionally a ray of sunlight shining in, but in the end all succumbed to silence. However, this was the year 2003, and Sun Zhigang was a university graduate.

The day I saw the report on Peking University's student BBS online forum, I sat in front of the computer for a long time, tears blurring my eyes.

That terrifying darkness was about to come to an end.

The Evils of the Custody and Repatriation System

At that time, there had already been numerous reports demonstrating the evils of the Custody and Repatriation system.

On the evening of June 19, 2001, Piao Yonggen (朴永根), a small restaurateur in Shenyang (沈阳), was sent to Shenyang Custody and Repatriation Center by police officers failing to apply for a temporary residence permit. On an evening a week later, villagers saw three or four men in plainclothes carry the unconscious Piao out of a police car and place him by the side of the road before the vehicle drove away. Piao died at the age of 42 from acute kidney and heart failure brought on by multiple trauma injuries. (China Youth Daily, September 24, 2001)

On December 11, 1998, Huang Zhongsheng (黄钟声), a third-year middle-school student from Fangchenggang City, Guangxi, wandered off and got lost while on a trip to Nanning with classmates. Huang sought help from a traffic policeman, who then called the 110 emergency line. The police sent Huang to the Custody and Repatriation Center. On December 15, when he was released from the Center, Huang was diagnosed with trauma-induced mental illness, wounds to the chest, and three broken ribs. (<http://www.china.org.cn/chinese/11706.htm>)

On September 27, 1999, a 27-year-old woman from Hunan was found, by patrolling police officers on a train, not having a ticket nor carrying an ID card. She was tied up with ropes along with two young men. Five hours later, she jumped off the speeding train and died. It turned out that the police on the train had an agreement with the Custody and Repatriation Center that, for every passenger caught on the train and transferred to the Custody and Repatriation Center for not carrying an ID card, the patrolling police would be paid 200 yuan of "work earnings." (<http://202.99.23.201/2001/50baoqing/gb/content/2000-12/26/content-134723.htm>)

In December 2000, Beijing police discovered more than 10 women who had been forced into prostitution at the Jinbao Hotel in Shijingshan District. Most of them were minors, the youngest of whom was 13 years old. These "prostitutes" had been "purchased" from a Custody-and-Repatriation Center in Xuzhou, Jiangsu, by the hotel manager. (Yangcheng Evening News, September 13, 2001)

There are too many stories like these.

Thousands upon thousands of the “urban underclass” were detained, beaten, forced to engage in labor, and repatriated. Most of them simply suffered in silence.

They were powerless to fight back, and because those who flagrantly violated their dignity and right to life were not isolated did so in the name of law and in the name of the state.

What was behind it all was a system called “custody and repatriation.”

In 1958, the Ministry of Public Security issued “Regulations on Household Registration” that separated people arbitrarily into either urban or rural households, thus began the partition of Chinese society into two castes: the urban and rural populations. Rural residents had to remain in their villages, fixed in place to work the land without any social insurance protections. If they wanted to live and work in cities, the paths available to them were extremely limited, including education, military service, or cadre promotion.

During the Great Famine, in order to survive, many farmers broke through blockades and came to the cities. On November 11, 1961, the Central Committee of the Chinese Communist Party approved the Ministry of Public Security’s “Report on Prevention of Free Population Migration,” which ordered the establishment of “custody and repatriation centers” in large- and medium-sized cities. Those in the countryside who migrated to cities to seek jobs and livelihood without a permit faced harsh treatment — they would be rounded up by police and repatriated to their home villages.

On May 12, 1982, the State Council issued “Measures for Custody and Repatriation of Urban Migrants and Beggars,” which made custody and repatriation into a legal institution. In 1991, the State Council issued its “Opinion on Reform of Custody and Repatriation Work,” which expanded the scope of the system’s targets to include any member of the migrant population failing to hold one of the “three permits”—the identification card, temporary residence permit, and employment permit. Rural migrant workers in cities could face arrest and repatriation at any given moment.

In 2002 alone, 220,000 in Beijing were placed under custody and repatriation; in Guangdong Province, the number was 580,000.

The Repatriated

I had been following the issue of custody and repatriation for a long time. In March 2003, on a sunny afternoon, I lingered for a long time outside the Beijing Custody and Repatriation Center.

On the way from Beijing proper to Changping (昌平) on the northwestern outskirts of the city, about 500 meters east of Dingfu Huangzhuang was the Dongcheng District Detention Center. On the west side of the detention center, across a road, there was a fairly large, enclosed compound without any signs.

Locals knew that it was Beijing's custody and repatriation center. The front half of the compound was used for detaining migrants awaiting repatriation, and the back half for stray dogs. The security guards said that there weren't many dogs, but the section for

humans was often full.

I had seen many people being detained and repatriated, and one of them was Yang Shenyuan (杨深远), who was 39 years old then. He pedals a freight tricycle at the Xizhimen long-distance bus station. He was detained twice in 2002.

The first time was on the morning of April 20. He was waiting for business at the Tianle Market near the zoo. Suddenly, there was a panicking turmoil among the vendors. Unable to escape in time, he quickly produced his temporary residence permit to the police. The police didn't bother to check, and the security guards shoved him into a police car.

This crackdown was in preparation for May Day. The Party attaches great importance to major holidays, not only for extreme security but also for authoritarian aesthetics, which meant a need to eliminate all "messiness" so as to achieve uniformity. One of the methods used was the violent expulsion of the so-called "low-end" population.

He and more than a dozen others were taken to the basement of a police station. They were searched and disinfected. In the afternoon, they were taken to the Changping Custody and Repatriation Center. There, they were stripped of their clothes. Everything they had on them, including money and pagers, was confiscated. Those who resisted were brutally beaten with batons. It wasn't until the evening that they had their first meal: two corn meal buns and a bowl of thin vegetable soup.

The next day, they were taken to a construction site to sift sand. From morning till night, they had two meals a day. After a week of forced labor, someone came to return the money and pagers that had been confiscated, but they were not given back their temporary residence permits. "Liberated," they returned to their shabby rental home outside Xizhimen. "Digging sand in Changping" used to be a colloquial term for Custody and Repatriation.

Only after returning did they learn that a fellow migrant worker in their shared rental had also been apprehended and sent to work at a chicken farm for a week.

Various industrial chains formed around the custody and repatriation, creating a business of human trafficking and forced labor. The authorities not only trampled on the dignity of these migrant workers, but also took advantage of the situation to exploit them for profit.

Yang Shenyuan was rounded up for the second time on the eve of the 2003 National Day — it was in the morning around September 20 after delivering goods near the south gate of the zoo. This time, he had no documentation with which to defend himself because following the episode in April when his temporary residence permit was confiscated, he hadn't obtained a new one.

In a democratic country, National Day is a popular holiday celebrated spontaneously. But in China, an authoritarian state, National Day is a grand, high-security parade for the emperor — and entails additional suffering for the people.

The procedure was similar to the last time. Yang was first taken to the basement of

the Xijiao Police Station and then sent to the Changping Custody and Repatriation Center in the afternoon. However, there was no forced labor involved this time; instead, he stayed inside the compound for the next few days.

Over 200 people crowded into one room, sleeping on their sides at night. Around the sixth morning, police and custody management personnel from Henan Province arrived. In three buses, more than 100 people were taken to the West Long Distance Bus Station, where they got off, and were made to squat on the floor with both hands held behind their heads. It turned out the authorities were waiting to gather enough people for a train cart heading in the same direction that would take them back to Henan.

Upon arrival in Zhengzhou, the provincial capital, vehicles took them to the Zhengzhou Custody and Repatriation Center. To be released, one had to pay 300 yuan. Yang Shenyuan called his wife to bring money to pick him up, and he managed to bargain the fee down to 250 yuan.

This time, he stayed at home for a few days, and then returned to Beijing after the National Day. During this episode, he lost another flat-bed tricycle, plus fees and travel expenses, totaling nearly 700 yuan. Speaking about this, Yang Shenyuan sighed deeply, "It's all because I'm from the countryside." For people like Yang Shenyuan, human rights were too luxurious.

I had been thinking hard about how to dismantle this wicked system. I once thought about helping the victims file administrative lawsuits to attract public attention. I found a scavenger from Anhui Province who had lost one eye after being beaten at the Xizhimen subway station police station. He initially agreed to be the plaintiff but later got scared. He still had to survive in this city, and there were indeed many obstacles to suing the public security bureau.

I once asked a friend, who sold fruits at the Beixiaoguan neighborhood, how one gets apprehended and sent to the Custody and Repatriation Center. He smiled and said, "Just ride my tricycle around for a few days, and you'll get your wish." I hadn't had the chance to experiment before the tragedy of Sun Zhigang occurred.

Citizens' Proposal

Where to begin if we want to change China? One pivotal opportunity lies in individual cases that involve citizen participation, and through such participation, citizens can drive specific institutional changes and accumulate citizen power. This has been our mode of operation for years in the wake of the Sun Zhigang incident.

Authoritarianism has been in retreat as far as the historical trend is concerned. China's reform and opening-up represents the ebbing tide of totalitarianism. Within this retreat, however, there are bad laws that are outdated and which exist in relative isolation, and the custody and repatriation system is one such example. Suddenly exposed, it appears so repugnant that everyone condemns it. In this localized battle against an unjust law, we guided public opinion, using our advantages to eradicate it. Our power lies in credibility which grew and accumulated by winning small victories one at a time in this campaign against unjust laws.

In the early stage of a high-profile event, citizen action is inevitably decentralized. Many individuals exposed the evils of custody and repatriation, wrote articles criticizing the system, and law professors including He Weifang (贺卫方) and four others proposed that the National People's Congress establish a special investigation committee regarding the Sun Zhigang case. However, to transform a political civilization is a long-term battle requiring a significant cost. Those who persist at great cost gradually become the core force.

Netizens created a memorial website for Sun Zhigang — "No Temporary Residence Permit Needed in Heaven." The moment I logged onto the website, my eyes welled up: delicate candles flickering against the backdrop of the night, illuminating the youthful face of Sun Zhigang. Ending authoritarianism is a war without shooting, and the internet is one of our main battlefields.

May 1st was approaching at the time. I discussed arrangements for offline memorial activities with some netizens whom I had never met in person. It was also a form of protest. Authoritarianism fears the memory of sorrow, and it fears the expression of natural human emotions.

To avoid pitfalls of the laws governing demonstrations and protests, I suggested that the memorial activities be held indoors (as, according to the law, indoor activities are not considered demonstrations or protests) and that Sun Zhigang's family be present. We tried our best to avoid giving the authorities grounds for labeling it an "illegal assembly." Due to the ongoing SARS outbreak at the time, it was not possible to hold such activities in Beijing. In the end, memorials were only held in Guangzhou and Shenzhen.

On Peking University's student BBS, or Bulletin Board, Teng Biao, Yu Jiang, and I, along with many other netizens, continued discussions, brainstorming what else could be done beyond mere vocal appeals. We needed to find methods, identify suitable entry points, and take effective actions.

In early May, one morning, Yu Jiang called from Wuhan to remind me and Teng Biao about Article 90 of the Legislation Law of the People's Republic of China. It grants citizens the right to submit proposals for constitutional review to the Standing Committee of the National People's Congress.

Here, a "citizen proposal" is not a typical suggestion for improvement but rather resembles a legal action. Citizens, acting as plaintiffs, can file a lawsuit against unconstitutional and unjust laws with the Standing Committee of the National People's Congress. After preliminary review, if deemed "necessary," it can enter the formal legal review process, akin to accepting a lawsuit.

If through this process, unjust laws were abolished, it would mean that the Article 90 of the Legislation Law has been activated. Setting such a precedent means citizens can propose similar suggestions against other unjust laws, not only to abolish custody and repatriation but also to initiate constitutional review procedures.

In the constitutional history of the United States, there was a crucial precedent known

as *Marbury v. Madison*. Originally, the U.S. Constitution did not explicitly grant the Supreme Court the power of constitutional interpretation and judicial review. Through this case, Chief Justice Marshall argued in the opinion that the Supreme Court should have the power to interpret and apply the Constitution, thereby establishing this authority for the Court. In China, the Legislation Law explicitly grants the Standing Committee of the National People's Congress the power of constitutional review, providing a more advantageous foundation — at least on paper.

If, through individual cases, the "supreme power" of the National People's Congress and its Standing Committee gradually becomes substantiated, with the power to check and balance power, it would represent a fundamental change in China's political system. Constitutional review implies taking the constitution seriously, and a democratically constitutional China is the persistent dream of many legal scholars and professionals.

I wrote an initial draft of about four thousand words, arguing that the Custody and Repatriation Measures not only formally violate constitutional laws but also create numerous social problems in practice. I suggested that the Standing Committee of the National People's Congress propose to the State Council to amend or directly abolish these measures.

Yu Jiang suggested that it's best not to discuss practical issues or, if necessary, only include them as appendices. Based on the discussion between the three of us, I revised the proposal and reduced it to a thousand words, focusing solely on procedural matters: that the "Measures for Custody and Repatriation of Urban Migrants and Beggars" violate constitutional laws by restricting personal freedom, and that, as citizens, we lawfully propose to the Standing Committee of the National People's Congress for a constitutional review.

The document was signed by citizens Yu Jiang, Xu Zhiyong, and Teng Biao, along with our ID numbers. We saw ourselves as citizens who were taking our citizenship seriously and standing up in our capacity as such.

Doers

Doers need to consider the feasibility of their actions. We must anticipate possible outcomes for the proposal. Without public attention, it might only serve as a reference for a government department, or worse, go straight into the trash can.

The other two (Yu and Teng) were inclined towards a quiet academic life and were uncomfortable with media exposure. However, we quickly reached a consensus. After all, without media attention, there would be no hope. Based on our past experience, we identified six media outlets most likely to cover the issue.

On May 13, major websites reprinted a Xinhua News Agency report: there was a breakthrough in the Sun Zhigang case, with all 13 involved in the death of Sun Zhigang being apprehended, and three individuals being investigated for dereliction of duty.

On the same day, media outlets across the country received a directive from the

Central Propaganda Department, prohibiting any further "sensationalizing" of the Sun Zhigang case. The authoritarian system controls all media, preventing the public from investigating the truth and reflecting its root in the system. If public attention dissipated in a few weeks, the case would likely end there, and the custody and repatriation system would remain intact.

We couldn't wait any longer; immediate action was needed. The case itself had been thoroughly discussed, and we brought it to the next level for media exposure: three scholars requesting that the Standing Committee of the National People's Congress conduct a constitutional review of the Custody and Repatriation regulations.

Chinese journalists are adept at navigating the gray area bordering on the government's red line. The government had issued an order against reporting on the Sun Zhigang case, but our proposal only discussed procedural issues without mentioning Sun Zhigang.

It was pouring rain in Beijing on May 14. I sent the final draft to Teng Biao, who then faxed it to the Legislative Affairs Commission of the Standing Committee of the National People's Congress. After confirming the receipt through a phone call, he also sent a copy by mail.

I contacted Legal Daily and China Youth Daily, the first two of the six media outlets we identified. Legal Daily was the official media on all legal matters, and we didn't hold much hope. China Youth Daily, though the official newspaper of the Communist Youth League, had more of a semblance of a free media. Subsequently, we reached out to Southern Weekend in Guangzhou and other less orthodox media outlets .

Approaching Legal Daily was an attempt to increase the likelihood of pushing for a constitutional review. We needed to garner support from healthy forces within the system. Choosing specific media outlets for exposing specific events was a characteristic wisdom in an authoritarian regime.

There was no response from Legal Daily. A few hours later, I sent the proposal to China Youth Daily.

Submitting the proposal was just the beginning of our work. We dared not expect that this unjust law would be immediately abolished. Instead, our plan was to achieve this goal within six months to two years. The next stage of our work involved a combination of criticism and constructive advisory. We were set to launch a website to collect and publicize the atrocities of Custody and Repatriation, informing the public that this unjust law had to be abolished.

At the same time, we had to be constructive. Even the worst system served specific social functions. We needed to consider the new problems that could arise after abolishing the unjust law and suggest solutions to them. This was also essential to convince the relevant authorities and the public that abolishing it wouldn't cause the sky to fall.

We conducted research in Beixiaguan. About one-third of construction workers and small vendors we had talked to had experience with the Custody and Repatriation

system. They were essential laborers in the city, and detaining and repatriating them didn't make them go away; it only served to humiliate them over and over again.

We proposed a new assistance system. However, before we could further refine this plan, the custody and repatriation system was suddenly abolished.

On May 16th, China Youth Daily reported "Three Doctoral Scholars Submit Proposal, Believing 'Custody and Repatriation Measures' Violate the Constitution," which garnered widespread attention. Many media outlets called the Legislative Affairs Commission of the Standing Committee of the National People's Congress, seeking their response to our proposal.

It wasn't "a memorial to the throne"; it was a civic proposal. We made it clear many times to the media that we were modern citizens promoting the rule of law by way of the rule of law, pushing China towards a modern civilization.

Repentance

We received many letters. Some expressed gratitude, some gave suggestions, but most are pleas for help. We have been giving people legal assistance for ten years without interruption.

One particular letter comes from Mr. Xu, a retiree from Hefei city, who recalls a story from the early 1960s about a custody and repatriation station located north of Mount Dashu.

At that time, it was during the Great Famine. Thousands of starving people were fleeing the cities. What awaited them were "labor reform teams" — the predecessors of the Custody and Repatriation system.

"Many farmers were arrested after being mistaken for vagrants and handed over to the Mount Dashu labor reform teams. These unfortunates didn't even get enough food to eat, let alone bear the heavy labor. It was impossible to escape as there were armed guards at the gates. Countless innocent farmers were abused to death. They died of hunger and exhaustion every day, with most days seeing multiple deaths. Later, a man surnamed Zhang, who was in charge of the labor reform team, said they planted pumpkins on the graves of the dead. The pumpkins grew big and plentiful..."

"At that time, I had just been discharged from the army. Seeing these scenes and hearing these eerie and chilling remarks, I couldn't understand it, but there was nothing I could do."

"Forty years have passed in the blink of an eye, and with time, I've grown old and forgotten about this. Today, reading about your petition in the news suddenly reminded me of the brutal scene at the Mount Dashu labor reform team. I want to speak out about it, as it's a burden on my heart that I want to let go of."

In the twentieth century, communist totalitarianism brought so much suffering. But repentance for this suffering is sorely lacking in our nation. How many people committed evil deeds during the Cultural Revolution, even brutalizing their own

relatives? How many people have truly repented?

How many are the nameless dead, victims buried without tombstones in the tumults of the revolutionary era? Thirty years after the revolution, hundreds of millions of farmers still suffer from hunger and cold, and even urban residents with special guarantees live in poverty. We have to ask, is the planned economy and public ownership really necessary? Was the path of the first thirty years correct? If there are those who want to return to those days despite the enormous tragedies of the twentieth century, they have no justification at all.

Bringing criminals to justice is not to eradicate the evildoers out of fear or hatred, but to settle the struggle with fear and hatred that lurks deep in the soul. There must be truth, justice, and sincere repentance.

The countless number of people who have committed lesser evils [during those campaigns] should come clean about their wrongdoing. Our nation needs a culture of repentance.

The Climactic Moment

2003 was a year of change. That March, a terrifying variant of pneumonia began to spread; hundreds died in Beijing alone. The usual crowds on Chang'an Avenue vanished, leaving just a few lonesome plainclothes officers. When I went to the zoo on May 1, I didn't see more than a couple people.

On April 20, in the courtyard of the People's Hospital outpatient department, I saw a nurse sitting on a stool receiving an IV drip, with nervous-looking bystanders hurrying about. A middle-aged man stared with frightened eyes, asking, "What are you doing here?" I said, "I want to see the real situation." He shouted frantically, "Get out now!"

As usual, the media suppressed the news. But the virus could not be suppressed. The new premier was furious, and the mayor of Beijing was dismissed. The outbreak cracked open a fissure in the system.

There were also those at the forefront of reform in the custody and repatriation centers. On the morning of June 18, I and *Southern Weekend* journalist Shi Xin (师欣) visited the Tianjin Custody and Repatriation center together. Six months prior, there was an attempt by the center to transition from compulsory deportation to voluntary relief service.

That afternoon, we had many detailed discussions with Yang Jianxun (杨建勋), the head of the custody and repatriation center. For example, after becoming a relief station, would there be too many people seeking assistance? Would there be enough financing to handle that number of people? If there are very few or almost no people, would there be a need for the relief station to even exist? He answered, "There won't be too many people seeking help for the time being. Homeless beggars don't need [financial] assistance; they only need food and shelter, as they are trying to earn money as a form of social security."

In the United States, begging is a way of life. In China, begging is a hard profession.

The United States has a sound welfare system, and even the poorest people have housing and food. However, some people are unwilling to live in public housing or receive food stamps and prefer to wander. China once had beggar villages. They beg to earn money, not just to satisfy their immediate hunger, but even to save for retirement.

Every country has homeless people. Only authoritarian states pretend not to see them. The relief system is the bottom-line guarantee under the social security system, it is something a modern civilized country cannot do without. In extremely cold winters or when someone falls ill, the state cannot simply watch homeless people die on the streets. It's a national responsibility to prevent this.

At around six in the evening, we went to the relief room to visit a young man. He voluntarily came to the center seeking assistance. It was a big room with wooden floors and a row of a dozen or so beds laid out. A TV hung on the wall. We chatted with this young man, who was from Rizhao, Shandong. He came out to work, got robbed, and had no money. He came to the center, where he said he felt okay.

Suddenly, the sound of the evening news broadcast blared out from behind:

“The Executive Meeting of the State Council has reviewed and tentatively approved the ‘Interim Measures for the Relief and Management of Homeless Begging People in Urban Life (Draft Version).’ After further modifications, the new draft will be announced and implemented by the State Council, and the ‘Interim Measures for the Relief and Management of Homeless Begging People in Urban Life,’ which has been in effect for 21 years, will be abolished.”

In that moment, I was stunned. My heart was filled with mixed emotions, filled with the infinite comfort in this hopeful era: from here on, China would completely bid farewell to the oppression of custody and repatriation. There was also a deep sense of loss, as the review into unconstitutionality that we had hoped for might be shelved. On the way back to Beijing that evening, I got on a phone call with Yu Jiang and Teng Biao, but spent a long time in silence.

It was an era of progress. I wrote a few big words in my diary: “I love you, China!”

The Rights Defense Movement

Some call 2003 the first year of the citizen rights defense movement.

In fact, the movement for rights defense has always been there, dating back to 1998, 1976, 1949, or even further in history. However, the abolition of custody and repatriation in 2003, which occurred with widespread citizen participation, was a landmark event that became an inspiration for many.

It was the starting point of our cause. The citizen rights defense movement has distinct symbols, the identity of three legal professionals are citizens. From then on, a group of legal professionals stepped into the public eye. Compared with the many unknown and silent protesters, we are fortunate. From the beginning, we received widespread public attention, which boosted our influence and made us safer.

The death of Sun Zhigang became a historic event. It touched upon the scars deep in the hearts of our nation — an echo of the millennium-old autocracy, the absurd era of urban and rural *hukou* segregation.

We continued our efforts, as the road to ending *hukou* segregation is a long haul. In 2006, we investigated 19 types of occupational discrimination based on household registration in Beijing. Since the end of 2009, the Gongmeng "Anti-Household Registration Segregation Education Equality" (反户籍隔离教育平权) project fought for over three years, forcing the Ministry of Education to introduce new policies that allowed migrant children to take the college entrance exam locally, enabling tens of millions of left-behind children to study in areas close to where their parents worked.

Over the course of ten years, we have used constitutional law as our weapon to defend fairness and justice, and to promote social progress. Starting from individual cases and specific events, we have worked to change specific systems, to change the authoritarian system, and improve ourselves.

Some say that the rights defense movement helps the Party and the state maintain stability and consolidate authoritarianism. Protecting civil rights and defending fairness and justice indeed promote social harmony. However, as long as it moves towards democracy and the rule of law, it is undermining authoritarianism, not consolidating it.

We are concerned about the price people have to pay for political and civilizational transformation. By defending rights, undermining authoritarianism, and nurturing civil society, we hope that when authoritarianism collapses, China will be ready for change, and the end of authoritarianism will be nothing more than a farewell ceremony, ushering in a bright future for the nation.

Setting down roots in society is essential for effective political opposition. For many years, democratic activists were isolated from the broader society, and for the most part they received their prison sentences without it causing public reaction. After 2003, political opposition forces strengthened with the growth of the rights defense movement, achieving sustained influence in society.

Opposition within the context of construction is a more powerful form of opposition. We are moderate and rational, yet firm and persistent, aiming to weaken authoritarianism and strengthen the power of citizens. Our objective — a beautiful China of freedom, justice, and love — inherently includes the aim of ending authoritarianism and also ending the authoritarian culture of fear, hostility, and unscrupulousness. We aim to go further than just ending authoritarianism. In this sense, we are more thorough revolutionaries.

The rights defense movement will continue. Perhaps at some stage of political and civilizational transformation, we will no longer play a leading role, but we will not become obsolete until the day authoritarianism ends. After the era of authoritarianism, there will be space for the growth of civil society. We will seize the opportunity and blaze a path for China.

Appendice:

**Recommendation for Review of the
Measures for Custody and Repatriation of Urban Migrants and Beggars**

To the Standing Committee of the National People's Congress:

Article 88(2) of the Legislation Law of the People's Republic of China (hereafter, "Legislation Law") gives the Standing Committee of the National People's Congress (hereafter, "NPC") the power to annul administrative regulations that conflict with the constitution or national law, while Article 90(2) of that law states that citizens who believe that an administrative regulation is in conflict with the constitution or national law may submit written recommendations to the NPC Standing Committee requesting that it carry out a review.

We, the undersigned citizens of the People's Republic of China, believe that the Measures for Custody and Repatriation of Urban Migrants and Beggars (hereafter "Custody and Repatriation Measures"), which have been in force since promulgation by the State Council on May 12, 1982, are in conflict with China's constitution and relevant national laws. We therefore hereby submit this recommendation to the NPC Standing Committee requesting review of the Custody and Repatriation Measures.

The matter for review is whether the Custody and Repatriation Measures fall under either of the categories of "exceeding the scope of [the issuing agency's] authority" or "lower level law [that] contravenes a higher level law" under the terms of subparagraphs 1 and 2, respectively, of Article 87 of the Legislation Law.

The facts and reasoning are as follows:

Article 6 of the Custody and Repatriation Measures states that an individual taken into custody "must" submit to custody and repatriation and obey the rules and regulations of the custody and repatriation center. This grants civil affairs or public security authorities the power to carry out coercive measures against targets of custody and repatriation, which is in actuality the power of administrative authorities to deprive or restrict the personal liberty of citizens. According to Article 13 of the implementation rules for the Custody and Repatriation Measures: "The custody and repatriation center must arrange for repatriation in a timely manner. Generally speaking, persons taken into custody awaiting repatriation should remain in the center for no longer than 15 days for intra-provincial repatriation or one month for repatriation to another province." This makes clear that the relevant administrative authorities may keep individuals who have violated no law in custody and repatriation centers and restrict their personal freedom for up to half a month, one month, or even longer.

However, Article 37 of the Constitution of the PRC states:

The personal liberty of PRC citizens is inviolable.
No citizen may be arrested except with the approval or by decision of a people's procuratorate or by decision of a people's court, and that arrests must

be made by a public security organ.

Unlawful detention or deprivation or restriction of citizens' personal liberty by other means is prohibited, and unlawful search of the person of citizens is prohibited.

Article 9 of the Administrative Penalty Law of the PRC states: "Administrative penalties involving restriction of personal liberty shall only be created by national law." And according to Articles 8–9 of the Legislation Law, the deprivation or restriction of a citizen's political rights through coercive measures or punishments may only be carried out subject to national law.

We believe that, based on the legal provisions above, the State Council lacks the power to enact administrative regulations that restrict citizens' personal liberty. Since the promulgation of China's constitution and the Legislation Law, the provisions concerning restriction of personal liberty in the Custody and Repatriation Measures, an administrative regulation enacted by the State Council, have been in conflict with the constitution and relevant law. As such, they fall under both the categories of "exceeding the scope of [the issuing agency's] authority" or "lower level law [that] contravenes a higher level law" under the terms of sub-paragraphs 1 and 2, respectively, of Article 87 of the Legislation Law and ought to be amended or annulled.

Therefore, as citizens of the PRC and in accordance with the provisions of Article 90(2) of the Legislation Law, we hereby submit this recommendation proposing review of the Custody and Repatriation Measures to the NPC Standing Committee and request that you review this recommendation accordingly.

May 14, 2003

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