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## Main Feature

### China's Who's Who 2002

In 1985, China's then leader Deng Xiaoping (邓小平) was named by Time Magazine as the "Man of the Year". Almost two decades later, in a land transformed by reforms Deng set in motion, it has become fashionable for China's news media to name their own persons of the year. Who are the most notable Chinese figures? In December 2002, Sina.com (新浪网), one of China's most popular portals and internet companies, and the Southern Weekend 《南方周末》, an influential paper known for its lively and sophisticated reporting, jointly conducted a poll of their readers to select the "2002 Person of the Year" (2002 年度人物). Their goal was to select "those in the news who, in the preceding year, have or will have made an important and long-lasting impact on China and the lives of the Chinese people". (Southern Weekend, December 26, 2002) Choosing from a list of several dozen nominees, readers gave the following ten Chinese men and women the most votes (in alphabetical order):

Chen Peide (陈培德), a provincial sports official who was the first to blow the whistle on the dark side of Chinese sports: referee bribery.

Liu Shuwei (刘姝威), an economist whose 600-word article questioning the financial statements of a listed Chinese company led to its demise and highlighted the problem of widespread accounting fraud among Chinese public companies.

Lü Jingyi (吕净一), a low-level government official who fought for five years to bring down his corrupt superior. Lü's courage came at a heavy price: in an attack suspected of being a murder-for-hire ordered by the corrupt official, Lü was permanently disabled and his wife killed.

Lü Rizhou (吕日周), a municipal Communist Party chief whose bold and unorthodox political experiment in one of China's poorest cities generated much controversy and turned him into a media sensation.

Mao Yushi (茅于軾), a well-known economist who founded arguably China's most influential independent think-tank, the Unirule Institute of Economics (天则经济研究所). For almost a decade, Mr. Mao has also run a private foundation that has provided micro-credit financing to peasants in one of China's most impoverished regions.

Sir Run Run Shaw (邵逸夫), a Hong Kong movie tycoon and philanthropist who founded the Shaw Prize in November 2002. Dubbed by the Chinese media as the "Nobel Prize of the East", the annual Shaw Prize will give out three awards (at one million dollars each) to outstanding scientists in the areas of astronomy, life sciences and medicine, and mathematics.

Yao Ming (姚明), the 7' tall Chinese basketball sensation whose NBA superstardom has made him the pride of the nation.

Zhang Baichuan (张百川), an AIDS researcher and gay rights activist who has waged a lonely battle to bring the nation's attention to AIDS prevention and education among China's gay population.

Zhang Weixing (张卫星), a stock analyst whose critical analysis of the fundamental problems of China's stock market won him a huge following among individual investors in China.

The winner of the 2002 Person of the Year award was Ms. Wang Xuan (王选), a woman who had been leading a seven-year legal crusade on behalf of victims of Japan's World War II biological warfare in China.

Sina.com initially announced the results of the poll at the end of December 2002 but thereafter quickly removed the poll results from its website. According to reports outside China, Sina.com was pressured to do so because some of the nominees had not been blessed by the government. The poll results cited in this article come from the December 26, 2002 issue of the Southern Weekend.

**2002 Person of the Year.** The selection of Ms. Wang Xuan underscores a rising patriotic sentiment in China. Many of the more than 500 postings on Sina.com's bulletin board system (BBS) devoted to the poll expressed admiration for Ms. Wang as a "national hero". Ms. Wang came from a small town in China's Zhejiang Province (浙江省), once the site of Japan's biological warfare experiments during World War II. Several of her family members, including an uncle, were victims of such experiments. In 1997, Ms. Wang led a group of 180 victims and families from her home town in filing a lawsuit in Tokyo against the Japanese government. Wang's group demanded that the Japanese government not only admit the war crimes, but also apologize and pay compensation to the victims and their families. They argued that although the Chinese government had agreed not to seek compensation for Japan's war crimes during World War II, Chinese victims and their families should not be barred from private actions seeking compensation. Since then, Ms. Wang devoted herself full time to collecting evidence, bringing witnesses to trial and touring China and Japan to rally support. She had also spent thousands of dollars of personal funds on her cause. Her motivation: a sense of obligation to her people and a desire to "give voice to many voiceless and faceless victims". (China Youth Online 中青在线, September 5, 2002) In July 2002, a Tokyo trial court rejected the Chinese plaintiffs' claims on the grounds that there had been insufficient precedents in international law to support war crime victims' claims against the government of the offending country and that the issue of the Japanese government's liability had been resolved through a bilateral treaty between China and Japan. The case is now on appeal. Ms. Wang's grassroots

effort was widely reported in the Chinese press (e.g. see reports by China Youth Daily 《中国青年报》 and Xinhua Net 新华网). The BBC also aired a lengthy interview about her campaign in February 2002.

Ms. Wang's popularity may also be a reflection of the public's dissatisfaction with the general lack of support from the Chinese government on behalf of the victims, and in particular with the fact that China had agreed in 1979 not to seek compensation for Japan's war crimes. As one Chinese commentator wrote, "Why are we forgetting the Japanese atrocities? Why are most people in the world unaware that the crimes committed by the Japanese during their invasion of China were no less heinous than those of the Nazis? ... One reason is that Jiang Jieshi [Chiang Kai-Shek] (蒋介石) gave up our rights to seek compensation from the Japanese government and the Chinese government had to follow suit thereafter. ... Without Wang Xuan leading her grassroots campaign to seek compensation from Japan, to expose Japanese invaders' atrocities and to uphold justice, the world and our future generations would never know the plight and humiliation suffered by us Chinese." (China Economic Times 《中国经济时报》, January 3, 2003)

Interestingly, a Chinese man who was found guilty in Japan for defacing the Yasukuni Shrine was voted Sina.com and the Southern Weekend's 2001 Person of the Year. The internationally controversial Yasukuni Shrine is Japan's memorial for its 2.5 million war heroes. Among those honored are convicted World War II criminals.

**Other Nominees.** Several other nominees are also worth noting, among them:

Liu Shuwei (刘姝威). Ms. Liu, a researcher at the Central University of Finance and Economics (中央财经大学) in Beijing, set off a firestorm with a 600-word report in October 2001 questioning the financial viability of Lantian Co. Ltd. (蓝田股份有限公司), a well-known publicly-listed company. Lantian had been a rising star on the Shanghai Stock Exchange: its annual net profits increased nearly ten times during the first three years following its initial public offering in 1996. (China Economic Times, October 10, 2002) Ms. Liu discovered the company's perilous financial state in 2001 while doing research for her book on the subject of fraudulent accounting practices among China's listed companies. After reviewing Lantian's audited financial statements, she concluded that Lantian had almost no cash flow and was kept afloat entirely on bank loans. Ms. Liu submitted her findings to the Financial Internal Reference News 《金融内参》, a confidential publication for China's top banking regulators and bank officials. Within days after her article was published, most of Lantian's creditors, which included China's largest state-owned banks, stopped extending further loans to the company. They later sued to recover more than RMB2 billion (\$241 million) of debt from Lantian. Lantian denied that it was in any financial trouble, going so far as to sue Ms. Liu for defamation. But it could not hide the obvious. In 2002, Lantian's chairman of the board and several of its top officials were arrested on charges of accounting fraud; trading of company's stock was suspended; and the China Securities and Exchange Commission (中国证监会) launched an investigation into the company's financial reporting practices.

Ms. Liu's story shone the spotlight on one of the worrisome aspects facing China's banking industry: mounting bad debt as a result of the collusive dealings between

corporate borrowers and officials at state-owned banks, many of whom were certainly aware of this problem. Ms. Liu was the only one who dared say that the "emperor had no clothes". In an interview with China's central television station, CCTV, Ms. Liu said, "I was shocked [by the numbers]. I personally have not been to Lantian but I am able to see so many obvious red flags. The simplest and the most basic analysis should have revealed the truth. Why hasn't anyone else said anything? ... It is impossible that the banks were incapable of discovering such an obvious problem. Then why did the banks continue to lend money that they shouldn't have loaned in the first place and why did they not stop extending new loans? I think it is due to factors other than technical competence... factors which shouldn't exist in a healthy market economy". Ms. Liu declined to further elaborate on these "factors". However, according to a report published in the Financial Times 《财经时报》 on August 20, 2002, five loan officers at the Bank of Communications (交通銀行) took RMB4.6 million (US\$554,200) in bribes in connection with its RMB100 million (\$12.05 million) loan to Lantian. The report speculated that such practices were widespread among Lantian's creditors.

Liu's story also made individual investors feel more vulnerable in China's stock market, which has been plagued by speculation, manipulation and lack of transparency since its inception in the early 90s. In an online discussion hosted by the Beijing Youth Daily 《北京青年报》 on April 28, 2002, many investors asked Ms. Liu how they could protect themselves from another Lantian. Her advice? "The ability to understand financial statements is a prerequisite for investors. ... Otherwise investing in the stock market is risky business". Ms. Liu herself did not own any stocks in listed Chinese companies.

Zhang Baichuan (张百川). Dr. Zhang is a leading AIDS researcher and a gay rights activist—a rare species in China. In 2001, Dr. Zhang became the first Chinese to receive the internationally-prestigious Berry & Martin Prize for his "significant contribution to AIDS education and prevention" in China. According to Dr. Zhang, there are an estimated 18 million gay men in China and based on a study in 2001, approximately 4-5% of the gay men in Beijing are HIV-positive. (Sina.com/view 《新浪观察》, September 24, 2002) For more than ten years, Dr. Zhang has openly reached out to China's largely underground gay community to educate them about AIDS. His bi-monthly publication, "Friends Exchange" 《朋友通讯》, carries his message about AIDS to tens of thousands of Chinese gay men. According to the publication's own survey, nearly 60% of its 70,000 readers became more aware of the danger of AIDS and 20% started using condoms. (China Newsweek 《新闻周刊》, November 1, 2001) Despite the significance of his work, Dr. Zhang is largely fighting a lonely and uphill battle. Homosexuality remains taboo in China. Until 2001, the Chinese medical establishment still classified homosexuality as a "sexual deviance". While the government acknowledged in 2002 that one million Chinese were infected with AIDS, there have been no government-sponsored education or intervention programs targeted at the gay population. The Southern Weekend reported on November 30, 2001 that homosexuals were not included in the 150 nationwide AIDS focus groups. Although Dr. Zhang's work is officially sanctioned, his only funding has come from the Ford Foundation, a private U.S. foundation. Since the beginning of his work on AIDS, Dr. Zhang, a trained dermatologist, has lost the privilege of seeing patients in his own hospital. The hospital also refused to let him

work in its main building for fear of associating with “homosexuals and prostitutes”. Reflecting on his predicament, Dr. Zhang lamented, “as soon as researchers of a marginalized population are themselves being marginalized, we have lost our hope of controlling the AIDS epidemic.” (Southern Weekend, April 18, 2002)

Dr. Zhang’s efforts are not lost on China’s gay community. In Sina.com’s poll for the 2002 Person of the Year, gays were unusually vocal in their support for Dr. Zhang. A number of Chinese gay websites called on members of the gay community to vote for Zhang. The Sina.com bulletin board system (BBS) was so crowded with postings from gay men that some even complained that the results could be skewed by the gay votes. Dr. Zhang received over 40,000 votes from Sina.com readers.

Lü Rizhou (吕日周). Mr. Lü was the top Communist Party leader of Changzhi, Shanxi Province (山西省长治市), one of China’s poorest cities. Mr. Lü’s bold and unorthodox measures to clean up his local government attracted both promise and controversy. According to reports by the Southern Weekend and the China Youth Daily, during his three-year tenure in Changzhi, Mr. Lü forced local officials to be more truthful by “squeezing water” out of their statistics; he hosted hundreds of town meetings to air citizen complaints; and he made anyone who spit in public don a yellow vest bearing the sign “I behaved in an uncivilized manner”. Lü also did something that no other reformer in China ever tried: using the media to take on the government establishment and carry out his reform agenda. On his orders, the official Party newspaper Changzhi Daily 《长治日报》 and other city newspapers named top city officials who slept through meetings, published internal working reports by government officials (complete with Lü’s harsh comments), and even carried Lü’s directives to lower level officials. It was reported that during Lü’s tenure, Changzhi officials from top to bottom anxiously scanned the Changzhi Daily each morning to see if they were named in the paper. Hundreds of Changzhi officials, including the Vice Mayor, were singled out for criticism in the city papers and 160 of them were removed for misconduct. Mr. Lü’s daring reform tactics generated much controversy beyond Changzhi and turned him into a national media sensation. Some accused him of being publicity hungry. Others questioned his heavy-handed top-down management style and referred to him as a “benign dictator”. Many wondered how long he would last and what would happen to Changzhi if he left. After interviewing Mr. Lü several times, a Southern Weekend reporter wrote, “This is a tough experiment. It looks as if [he is] trying to move a mountain all by himself. What will the end result be? Will he move the mountain or will he be crushed to pieces? ...The verdict is still out”. (Sources: Southern Weekend, October 18, 2002 and China Youth Daily, October 26, 2002)

The verdict came in January 2003. Mr. Lü was moved from his Changzhi post to become Vice Chairman of the Shanxi Province People’s Political Consultative Conference (山西省政协副主席), a largely symbolic government advisory body consisted of retired officials and personages. Although technically a promotion, this change removed Lü from the center of his reform experiment. Thousands in Changzhi turned out to bid him farewell. Many of Lü’s former subordinates, however, let out a sigh of relief (China Newsweek 《新闻周刊》, January 28, 2003).

## Legal Reform

Recent Developments at China's Legal Forefront

**Bringing More Accountability to the Courts—Shanghai Court Includes Dissenting Opinion in Judgment.** The Legal Daily 《法制日报》 reported on September 12, 2003 that the Shanghai No. 2 Intermediate Court (上海第二中级法院) became the first court in Shanghai to include a dissenting opinion in its judgment, a regular practice in common law legal systems such as the U.S. and England but a striking departure from the brief and largely conclusory decisions that Chinese courts have been accustomed to issuing. The case involved a real estate contract dispute between a securities firm in Henan Province (河南省) and a Shanghai developer. The facts of the case were not in dispute, but one of the judges on the three-judge panel presiding over the case strongly disagreed with the other two on how to rule on the key issue. The Shanghai court published both the majority's opinion and the dissenting opinion, ending with the statement that "based on the principle of majority rules, this panel decided, after discussion, to rule by the following majority opinion" (Legal Daily). In a similar measure, the Shanghai court has also begun publishing judges' comments at the end of their rulings. (People's Daily 《人民日报》, January 15, 2003)

The idea that courts can include opposing views in their official decisions reflects a reform trend to open up the judicial process and make judges more accountable, or in the words of the Shanghai No. 2 Intermediate Court, to "bring sunshine to the court room" and to "make judges feel responsible" for their decisions ([www.shezfy.com](http://www.shezfy.com)). The experiment with dissenting opinions, which a number of Chinese court systems in addition to Shanghai are beginning to explore, is itself one aspect of a broader reform to revamp how Chinese judges write decisions (court judgments). Until recently (and still the prevailing norm), court decisions have been very brief documents—typically several or a half dozen pages—consisting only of a highly compressed and usually over-simplified summary of the facts of a case and a recital of the court's ruling. Noticeably absent has been explanations of how and why a court arrived at its decision, either in terms of legal reasoning or factual analysis. Similarly, decisions have not bothered to address in any depth the specific arguments raised by the litigants; many of these points are not even mentioned.

The deficiencies of this form of court decision—another example of what Chinese critics call the opaque, "black-box" (暗箱) nature of the judicial process—have been obvious for a long time. It was not until the late 1990's, though, that calls for reform began to receive serious consideration. Various courts, including the Supreme People's Court (最高人民法院), have asked their judges to state the rationale for their rulings and discuss the points raised by the parties in their decisions. Change has not been dramatic, but it has been real. Although most decisions are still brief statements that overly simplify the underlying cases, others, particularly—but not exclusively—in complex commercial disputes, have been multi-page opinions that delve to some extent into the legal issues and facts in dispute. Many judges are conscious of the need to justify their conclusions in their rulings. According to a report by the People's Court Daily 《人民法院报》, the Foshan Intermediate Court (佛山市中级法院) in Guangdong Province issued a decision in July 2004 which ran over 100

pages. However, even in longer decisions, Chinese courts generally still do not display sophisticated legal reasoning skills.

The introduction of dissenting opinions is one indication of how far thinking about the judiciary has come in China over the past decade. While hardly revolutionary, this innovation would have been dismissed out of hand only a short time ago as inappropriate for Chinese courts. In theory, Chinese courts are supposed to make collective decisions reflecting the consensus of a panel of judges. In reality, the presiding judge of a panel or the head of the division in which the panel sits largely determines a case's outcome. It would have also been rejected as unseemly for divisions of opinion within a court to be aired publicly. Today, more confident in their judges' abilities and convinced that change is necessary to improve the judiciary, Chinese judicial leaders are considering reforms that seemed beyond the realm of possibility just a few years ago. Moreover, the extent to which U.S. and common law system models and approaches are influencing the reforms is also striking: in addition to dissenting opinions, reforms under discussion include the establishment of a senior level of courts with jurisdiction over a number of administrative (government) districts, similar to the U.S. Court of Appeals, and a system of assistants to senior judges, roughly modeled after the U.S. law clerk system.

Will dissenting opinions eventually become standard practice in Chinese courts? Even in pioneering Shanghai, it is far from clear if they will ever be more than a novelty. The Shanghai court was careful to stress the trial nature of its experiment and made it clear that the disclosure would not include the name of the dissenting judge, details of the decision-making process or information concerning "national secrets" and personal privacy ([www.shezf.com](http://www.shezf.com)). There have been no reports of further dissenting opinions being published by the same court.

Several major Chinese newspapers, including the People's Daily, one of the Chinese Communist Party's main outlets and the Legal Daily, have called on other courts to follow Shanghai's lead. But in a legal system in which most court decisions are not officially published to begin with (only a handful of carefully selected cases deemed by the Supreme People's Court to be of particular instructional value are edited and published in the court's official bulletin 《最高人民法院公报》 each month), it is unlikely that most courts will go to the extra trouble of including dissenting opinions in their judgments, absent an institutional requirement to do so. Despite changing attitudes, Chinese judicial leaders continue to run their courts as administrative units—bureaucracies that attach little importance to individual accountability—and they feel most comfortable with centralized and collective decision-making. In such a system, even if a judge disagrees with his or her colleagues' (or leaders') disposition of a case, he or she will not care enough to push for a reconsideration or to want to issue a dissenting opinion. Absent an institutional change which gives individual judges the power to decide cases and a concomitant sense of responsibility and individual pride in the case's outcome, it is unlikely that dissenting opinions will become a regular practice.

**Beijing Prosecutors to Disclose More Evidence to Defense Counsel.** The Beijing Youth Daily 《北京青年报》 reported that in June 2002, the Beijing Haidian District People's Procuratorate (北京市海淀区人民检察院) entered into a pretrial

discovery agreement with the Beijing Bar Association (北京律师协会) to allow its prosecutors to disclose evidence to criminal defense counsels prior to trial. Lawyers from 25 Beijing firms may now request that Haidian prosecutors disclose all documents relating to their clients' cases within 15 days after charges are filed. At least two reported cases appeared to have benefited from the new procedure. In one of the cases, a woman facing fraud charges was freed after her lawyer obtained exculpatory evidence from the prosecutor.

If the Haidian prosecutors adhere to the spirit of the agreement, it may help to rectify the great imbalance of power between the prosecutors and defense lawyers. Though the Marxist notion of accused parties being "public enemies" has less currency now, China's criminal justice system remains heavily stacked against the criminal defendant. In the majority of cases, court-appointed lawyers are notified of a case they are to take only days before the trial date. Most make just a perfunctory effort to defend their clients. Typically they will only seek a reduction in the sentence rather than trying to exculpate the accused. Even those who try to mount a vigorous defense are handicapped by procedural obstacles. Defense lawyers are only permitted to obtain copies of the indictment and other procedural documentation filed by the prosecutor prior to trial. They usually have no access to critical evidence such as confessions or statements made by the defendants. In addition, pursuant to Article 306 of China's Criminal Law (刑法), defense lawyers themselves are subject to criminal liability if they introduce false evidence at trial or assist in the fabrication of evidence. This is a controversial provision which has had a chilling effect on lawyers' willingness to take on criminal cases. One of China's better known criminal defense lawyers, Zhang Jianzhong (张健中), was tried in February 2003 on charges of assisting a client to fabricate evidence. Zhang had been a member of the Beijing Bar Association's Criminal Law Committee and was the defense counsel in several high-profile corruption cases involving senior political figures. While his guilt or innocence is uncertain, what is clear is that Article 306 is not a paper tiger. Chinese prosecutors, on the other hand, are the strong arm of the state law enforcement apparatus. They have full access to police records and can, effectively, question defendants at will. They are frequently in close contact with courts before the trial and are able to block defense lawyers' effort to collect pre-trial evidence.

Recent reforms, most notably the major overhaul of China's Criminal Law in 1997, are intended to strengthen the rights of criminal defendants. But they have not greatly improved the lot of suspects due to ingrained police and prosecutorial attitudes, which have undermined such reforms in practice. For example, suspects may be allowed to meet with a lawyer as required by law, but police are present in the room or the time provided is too short to make the meeting meaningful. The new procedures and rights have also been hampered by practical problems, particularly the lack of lawyers willing to do criminal defense work. Recent statistics reveal that the percentage of criminal cases in which defendants are represented by counsel has been declining, despite a continuing increase in the number of lawyers in China. According to the Beijing Bar Association, only 9% of the criminal defendants in Beijing are represented by counsel, leaving the majority of them fending for themselves in court. (Sources: Beijing Youth Daily, July 2, 2003 and October 23, 2002)

The Haidian District prosecutors' agreement to allow pretrial discovery by defense lawyers bears watching even though the scope of the reform is still limited. According to the Beijing Youth Daily, the Haidian District People's Procuratorate (located in Beijing's university and high-tech district) handled only one-fifth of the city's criminal cases during the first six months of 2002 and only 25 out of the more than 100 law firms which applied were selected to participate in the pre-trial discovery program. It also remains to be seen whether politically sensitive cases would be covered by the new program.

**Heads of Provincial High Courts Found Guilty of Corruption.** Corruption in China's judiciary remains a deepening problem and has recently brought down two top judges in Guangdong Province (广东省) and Liaoning Province (辽宁省). The Business Times 《时代商报》 reported that Tian Fengqi (田凤歧), head of the Liaoning Provincial People's High Court (辽宁省高级人民法院) was removed from his post and was expelled from the Communist Party on corruption charges in September 2002. Tian allegedly received bribes of more than RMB3.5 million (US\$421,700) from local officials and businesses. Tian's case was part of an investigation which netted a number of corrupt judges in the Liaoning judiciary as well as the Mayor of Shenyang (沈阳), the capital city of Liaoning Province (Xinhua Net 新华网, May 15, 2002). On May 15, 2003, Xinhua Net reported that the Dandong City Intermediate People's Court in Liaoning Province (辽宁省丹东市中级人民法院) sentenced Tian to life imprisonment. In a separate investigation in October 2002, the ex-chief of the Guangdong Provincial People's High Court (广东省高级人民法院), Mai Chongkai (麦崇楷) and his family were found to have accepted RMB11.9 million (US\$1.43 million) in bribes during Mai's tenure at the high court (Xinhua News Agency 新华社). Mai was removed of his title as a delegate to the Ninth People's Political Consultative Conference of China (九届全国政协) and was expelled from the Communist Party. Mai's case is now pending trial. According to official sources, between 1997 and 2002, more than 70,000 Chinese officials (including 21 provincial and ministry level officials) were found either to have accepted at least RMB50,000 (\$6,000) in bribes or to have misused more than RMB100,000 (US\$12,000) of public funds. (China Education Daily 《中国教育日报》, February 28, 2003) To get a sense of the public's reaction to Tian's corruption charges, see comments in the "Heard on the Web" column of this issue.

## Governance

Government Reform and Public Administration

**The Beginning of Budget Scrutiny? Guangdong Legislators Get Glimpse of Government Budget.** Under China's Budget Law 《预算法》, the central government and local governments at all levels must submit proposed budgets to equivalent-level People's Congresses (China's nominally-elected legislative bodies) for review and approval. In practice, however, the exercise of such budgetary oversight has been a formality. According to Yang Zhenhuan (杨振环), a delegate to the 9<sup>th</sup> National People's Congress (九届全国人大) and the former head of China's Water Resources Ministry (水利部), the Sanmenxia Hydraulic Power Plant (三门峡水电站) and the Three Gorges project (三峡工程) had been the only two large-scale projects ever submitted to the National People's Congress for approval. (Chongqing Evening News 《重庆晚报》, March 14, 2002) Yang complained that even China's planned mammoth South-North water transfer project, with an estimated cost of RMB350 billion (US\$42.17 billion), was not submitted to the national legislature for approval. The situation is similar at the local level. According to the National People's Congress News 《人大新闻》, the official publication of the national legislative body, delegates to local People's Congresses typically review only government reports *about* the budget, without ever seeing the actual budget documents (August 20, 2002). However, there are now signs that changes are underway. Reflecting the deepening belief that more transparency in government is necessary, delegates and staff members of the National People's Congress are beginning to get glimpses of detailed government budgets. In January 2003, delegates to the Guangdong Province People's Congress got a surprise during the once-a-year convening of the People's Congress when it came time to discuss the upcoming budget. Sitting in front of them was the 600-page Guangdong Province 2003 budget, covering the entire spending plans of 102 provincial-level government agencies and totaling RMB20 billion (US\$2.41 billion). One delegate marveled, "this is the first time we got to know how the government spends its money". Another delegate said, "the budget used to be a few pages long and only listed large lump sums, such as RMB10 billion for capital constructions. We never knew the details of how such funds were spent". During their meeting, some Guangdong delegates even had a chance to question portions of the budget plan and received prompt explanations from the government agencies involved. On the other hand, the delegates discovered that having the budget in front of them was just the beginning of the review process. Many delegates had trouble understanding the proposed budget. Others complained that it was impossible to review the entire budget within the few days of their meeting time, let alone conduct any investigation; apparently, the budget was submitted only shortly before their meeting. The delegates also called for the establishment of a budget oversight committee within the legislature to review the budget in advance and in greater detail, before it is submitted to all delegates. Until then, the local legislative review process will remain, in the words of one delegate, "largely symbolic". (Source: Southern Weekend 《南方周末》, January 23, 2003)

China's National People's Congress established in 2002 the Budget Work Committee (预算工作委员会) as a working organ of its Standing Committee (人大常委会). The Budget Work Committee's mandate is to assist the National People's Congress and

its Standing Committee to review proposed budgets and budget adjustments as well as monitor the implementation of the budgets. Even with the establishment of such a body within the National People's Congress, the road to real budget oversight—not just glimpse of plans that have been decided—will be a long one. While the People's Congresses are described by the Chinese Constitution as highest organs of state power, in reality, they are politically very weak bodies. With more access to detailed budget information, delegates to People's Congresses and members of the Budget Work Committee may be able to ask more questions, perhaps even to challenge the appropriateness of some choices. However, they are likely to remain informed observers, not decision makers, in the budget process.

**Delegates to the Shanghai People's Congress Call for Oversight of State Asset Management Commission.** In March 2003, China's 10<sup>th</sup> National People's Congress (十届全国人大) approved the establishment of the State Asset Management Commission (SAMC, 国有资产管理委员会), an agency which will have the sole responsibility for the management and operation of the state-owned non-financial enterprises controlled by the central government. In the past, such management authority was shared by more than eight government ministries, which resulted in turf wars and an overall lack of accountability for the performance of state-owned enterprises ("SOEs"). Amid the growing number of failing SOEs being sold, there are also increasing concerns over the lack of governmental supervision of such sales and the stripping of state-owned assets. The creation of the SMAC represents a major attempt to rationalize the regulatory structure governing SOEs by concentrating regulatory authority and eliminating vested bureaucratic interests. It is expected that provincial governments will follow Beijing's lead in setting up similar agencies at the local level.

Will the creation of a centralized management body like the SAMC do much to alter how SOEs are run, or at least to stop the stripping of assets by insider managers and well-connected businessmen, often in collusion with local officials? One must have doubts. While the consolidation of bureaucratic responsibility over SOEs may lead to more focus in their operations since they will only need to respond to one master, the questions remain as to who watches the master and whether the SMAC will impose financial discipline on SOEs.

In fact, SMACs themselves have been faulted for not being transparent or accountable enough. In Shanghai, which has been allowed to experiment with its own version of the SMAC since 1993, some city legislators have proposed to bring the Shanghai SAMC under the oversight of the city's legislature. Qiu Yizhong (邱益中), a delegate to the Shanghai Municipal People's Congress (上海市人民代表大会), had this to say about the current setup of the Shanghai SMAC: "As the representative of all holders of state-owned assets, the Shanghai SAMC should be accountable, at least in theory, to the true owners of such assets, the 13 million Shanghai people. But...the Shanghai SAMC answers to no one". According to Mr. Qiu, there is no oversight body monitoring the performance of the Shanghai SAMC. Shanghai neither has effective standards to evaluate the financial performance of its state-owned assets, nor does it have a system in place to hold the SAMC and its staff accountable for failure to preserve or increase the value of such assets. As a result, "even if an enterprise stops operating for a year, its books can still look fabulous....The current evaluation

standards do not truly reflect the state of operations of an enterprise," said Mr. Qiu. In January 2003, Mr. Qiu, along with ten other Shanghai legislators, became the first in the country to introduce a bill calling for direct legislative oversight of the Shanghai SAMC. Their bill proposed the following changes: (1) establish by law the oversight authority of the Shanghai Municipal People's Congress over the Shanghai SAMC so that the People's Congress may exercise the right to review major decisions regarding the management and operations of Shanghai's state-owned assets and to review asset dispositions, earnings and budgetary issues; (2) further clarify the scope of responsibilities of the Shanghai SAMC and grant the agency comprehensive management authority to manage personnel, assets and operations of SOEs in Shanghai; (3) establish a budgetary management system under which the People's Congress would review budgetary targets set by the Shanghai SAMC either annually or on a case by case basis; and (4) adopt benchmarks, such as increases in cash flow, rates of return on assets and specified budgetary targets to evaluate the financial performance of state-owned assets. The legislators' move reflects what appears to have been decided by Shanghai Communist Party and government leaders. An expert who participated in the Shanghai SAMC reform project revealed that the Shanghai government had decided some time ago to bring its SAMC within the oversight framework of the Shanghai Municipal People's Congress.

(Source: 21<sup>st</sup> Century Economic Report 《21 世纪经济报道》, February 24, 2003)

**Experiments in Public Hearings—State Holds Hearing on Airfares.** On March 31, 2003, the recently established State Development and Reform Commission (SDRC, 国家发展和改革委员会) announced that it planned to hold an airline pricing hearing in April with the Civil Aviation Commission of China (CAAC, 中国民用航空总局). On April 16, the SDRC released on its website a document entitled "Civil Aviation Air Transportation Pricing Reform Proposal" (《民航航空运输价格改革方案》), which was to serve as the guideline for discussions at the proposed hearing. The SDRC also announced that 15 participants would be invited to the hearing, including 2 representatives from well-established consumer groups, 7 individual consumer representatives selected from open sign-ups, 4 industry representatives and 2 representatives of experts and scholars. Currently, airline prices in China are in theory set by the CAAC. During the late 80's and early 90's, China's mostly state-owned civil aviation industry enjoyed a decade of growth and high profit margins. By 1998, however, the "golden age" ended and price wars erupted among airlines. Concerned that lower prices would lead to "a loss of state-owned assets", the CAAC issued a ban in 1999 on discounting airfares. Nevertheless, faced with empty seats and mounting losses, most airlines ignored the CAAC ban. They first sold discount tickets marked with the official prices (暗折暗扣) and then about a year ago, some openly marked discount tickets for sale (明折明扣), thus creating a thriving market independent of the prices set by the CAAC. Many viewed the hearing as a delayed recognition by the government of market practices already in place. Two other issues also generated much discussion in the China press: (1) the proposed pricing model which would allow airlines to fluctuate prices within a certain range, i.e. 25% above and 40% below a base price set by the SDRC and the CAAC; and (2) the continuing role of the government in regulating airfares. The following are excerpts from a number of news reports and commentaries about the hearing:

"With respect to the civil aviation industry, a competitive market is already in place. Why does the government still need a hearing to set a competitive market price? Furthermore, price wars have been rampant in the past few years. The government has in fact acquiesced to the airlines' practice of openly discounting tickets. What then is left for the hearing to discuss? Is it about setting a reasonable range for prices to fluctuate within, as stated by some officials? The question is, with so many airlines, each having its own cost structure, the ability to control costs and management capabilities, how could the representatives attending the hearing decide what a reasonable price range should be? Even if they manage to come up with such a price range, it is unlikely to benefit consumers, let alone encouraging healthy competition among airline companies." (Excerpt from "Airline Price Hearing is Like a Five-Flavored Bean" 《机票价格听证像个怪味豆》 by Wen Jing (文钊), China Business & Trade Times 《中华工商时报》, April 15, 2003)

"The debt ratios for domestic airlines are all between 70%-80%, which means that most of the airlines' assets are state-owned. [Editor: China's airline creditors are mostly state-owned banks.] If a foreign airline is unprofitable, its banks may not lend it more money and it may go under. But Chinese airlines do not have to worry about banks not extending them credit. Even if they lose money, they can continue to buy airplanes. That's why we see the strange situation where some airlines continue to operate when they are 120% in debt. This is because everyone knows that the government will not let airlines go under. Chinese airlines only have to worry about having enough cash flow to maintain their daily operations. That is why they are able to wage price wars at levels below cost. ... Therefore, whatever change is made to airline pricing, until the asset structures of Chinese airlines undergo fundamental changes, the CAAC is not going to completely relinquish its control of airline pricing. Thus, 'openness within limits' will be the essence of the current pricing reform." (Excerpts from "Two Key Issues Likely to Emerge from Airline Price Hearing" 《机票价格听证会浮现两大焦点》 by Xiong Manrong (熊满蓉), GD-HK Information Daily 《粤港信息日报》, April 17, 2003)

"The reason behind the SDRC hearing is most likely the desire to prevent further loss of state-owned assets. The airline companies kept discounting prices in order to win over customers, without regard to cost, which inevitably led to the loss of state-owned assets. The flip side is that the airlines already have capacity which has been underutilized for quite some time. The airlines still have to deal with interest payments or leasing fees and their airplanes still need to be serviced. Don't these all lead to loss of state-owned assets? ... Diversification of ownership is the fundamental reform measure necessary to resolve the efficiency problem facing China's airline industry. Given that it is hard to predict when such a measure would be adopted, the government should at a minimum not use pricing to restrict the airlines' ability to compete. (Excerpts from "Price Hearing: A Procedure the CAAC Can't Avoid" 《票价听证：民航躲不过的程序》 by Gu Jun (顾钧), China Youth Daily 《中国青年报》, April 24, 2003)

"Only when the airline price hearing is convened by an independent, neutral and authoritative body can we positively assure that the hearing would not be a mere formality and that there is hope for any substantive reform... In our country, the power to approve capital investment and to set pricing is highly desirable and is

usually reserved for government planning and management agencies. In areas like telecommunications and civil aviation, such power is shared with the agency in charge of the specific industry. In recent years, pursuant to the Price Law 《价格法》, planning and management agencies at all levels are holding hearings before setting prices, which is a sign of progress. However, we must realize that such hearings have their objective limitations. In terms of such fundamental decision as to whether the CAAC should maintain its control on pricing or to adopt market pricing, it is inappropriate to have the pricing authority itself preside over the hearing. Otherwise, the government will be suspected of being one's own judge and judging before hearing. And hearings as such are unlikely to have any substantive impact on policy-making. Worse yet, the public will reject such hearings as a mere formality." (Excerpt from "Thoughts on Our Country's Hearing Process" 《关于我国听证会制度的思考》 by Zhou Hanhua (周汉华), Southern Weekend, May 8, 2003)

The airline price hearing was originally scheduled to be held in April but was delayed till July 15, 2003 due to the SARS epidemic. The hearing was broadcasted live on national TV but members of the public were not invited to speak or to observe the hearing.

The airline price hearing was the most recent step in the emergence of public hearings in China in recent years. The first type of hearings mandated by Chinese law was the administrative hearings in cases involving the imposition of administrative sanctions or penalties on citizens. The second was the legislative hearings convened by the People's Congresses (China's legislative organs) to discuss proposed laws. Price hearings are a third and new form of hearing mandated by China's Price Law (1997) which requires that government agencies hold hearings when setting prices or rates for public services. Since 2000, government agencies at both the national and local levels have held price hearings ranging from setting rates for public transportation, taxi fares, water, gas, heat and power supplies, hospital fees, park admissions and even tuitions for public schools. In January 2002, the State Development and Planning Commission (国家发展计划委员会) held a price hearing on railroad passenger fares, the first such event organized by the central government. The hearing invited academic experts, officials at the relevant government agencies and representatives from government-recognized organizations such as the All China Consumers Federation (中国消费者协会). Members of the public selected from open sign-ups were also allowed to observe, but not speak at the hearing. The hearing was aired live on China's central television station.

The introduction of public hearings in China is yet another indication of the growing belief that there should be more citizen input into the government's decision-making process. However, by the standards of most Western democracies, the procedures for public hearings in China still fall considerably short in terms of full transparency and freedom of participation. In the case of the airline price hearing, in addition to the questions concerning the role of the government in regulating airline pricing and the reasonableness and feasibility of the proposed price range, issues such as the appropriate party to convene the hearing, the extent citizens are allowed to participate and the uniformity of hearing procedures are just beginning to be explored.

## Case Files

### Notable Legal Cases

**Libel Online: National People's Congress Plans to Impose Liabilities on Online Portal Companies.** According to the China Internet Network Information Center (中国互联网络信息中心), China now has 59.1 million internet users, ranking it second in the world only after the U.S. ([www.cnnic.net.cn](http://www.cnnic.net.cn)). The internet has become a major outlet for ordinary citizens to voice their opinions, relatively free of the usual constraints of the print media in China. Along with the burgeoning internet use, courts in China's largest cities also began to see a rash of internet libel suits. In November 2002, the Beijing Xuanwu District Court (北京市宣武区法院) ruled in favor of a college student who sued a classmate for posting numerous disparaging comments on Sohu.com (搜狐网), an extremely popular Chinese portal. The court awarded the plaintiff RMB5,000 (US\$602) for her emotional suffering and ordered the defendant to apologize online (Yantai Law Net 烟台法網, December 4, 2002). Another Beijing court, the Fengtai District Court (丰台区法院), also ruled in favor of a woman who sued a disgruntled ex-boyfriend for online libel. He allegedly e-mailed her friends about her "immoral side" and revealed her past relationships with other men. The case is now on appeal (Beijing Morning News 《北京晨报》, September 10, 2002). In February 2003, the Beijing Shijingshan District Court (北京市石景山区法院) began its hearing on a libel case involving two ex-business partners, one of whom alleged that the other posted false information online in an attempt to sabotage his business (Beijing Evening News 《北京晚报》, February 24, 2003). The same Beijing Evening News report also told the story about a pair of similar cases in Beijing and Yunnan Province (云南省), both involving online postings which stated that the plaintiffs were soliciting sex partners or services. The Yunnan plaintiff was able to track down two colleagues with the help of the police and won a libel suit against them in the Kunming Wuhua District Beimen Court (昆明市五华区北门法庭). The court awarded the plaintiff RMB5,000 for emotional distress and ordered the defendants to publicly apologize. The Beijing plaintiff sued a well-known Chinese online portal company for failing to screen the content of the posting. The court ruled that the defendant could not be held responsible for verifying the veracity of online postings. The court further stated that the responsibility of the online portal company was limited to assisting the police in tracking down the IP address of the offender and deleting the offensive posting after receiving the complaint from the victim. Current Chinese laws impose liability only on those who post libelous information on the internet. Online portal companies are required to stop transmitting "harmful information and to report it to the relevant authorities" ("The Resolution to Maintain Internet Safety issued by the Standing Committee of the National People's Congress" 《全国人民代表大会常务委员会关于维护互联网安全的决定》). However, the recent onslaught of online libel suits has prompted the National People's Congress to amend its draft Civil Code 《民法典》 to impose liability on online portal companies that fail to remove libelous postings or to track down registration information of the offenders when such companies either know or have been informed by victims of the libelous content (Beijing Evening News, *id.*).

**Beijing Apartment Buyers Took Developer to Arbitration Tribunal.** Great Mall (中国第一商城) was billed by its developer as a luxury shopping, office and apartment

complex located next to some of the most expensive real estate in Beijing's central business district. As of April 2002 the asking price for Great Mall apartments were between RMB10,000 and RMB12,000 per square meter (approximately US\$134 to \$161 per square foot) and 80% of the units were sold within eight months. (Beijing Youth Daily 《北京青年报》, April 4, 2002) So what did the buyers get for paying a fortune on these luxury apartments? According to a report by the Beijing Real Estate Weekly 《北京楼市周刊》 on June 28, 2003, Great Mall's developer first delayed the delivery date by as much as 11 months. When the units were finally completed, buyers discovered to their dismay that much of the marble and granite promised by the developer had been replaced with paint. After failing to reach a settlement with the developer, 35 Great Mall buyers filed complaints with the Beijing Arbitration Commission (北京仲裁委员会). In June 2002, the arbitration tribunal ruled in favor of the buyers and ordered the developer to comply with the building standards stipulated in the contract and to pay liquidated damage until full compliance. The Great Mall dispute is part of a trend of rising consumer complaints against real estate developers amidst the recent building boom in China. Since 2000, consumers filed complaints against more than 100 real estate developments in Beijing. (Beijing Business Today 《北京现代商报》, March 13, 2002) According to the All China Consumer Association (中国消费者协会), during the first three quarters of 2001, consumers filed 18,592 complaints against real estate developers, compared to 18,900 for the entire year of 1998. (Economic Daily 《经济日报》, January 16, 2002) Most of these disputes were never resolved. Consumers' complaints to various government agencies are usually unanswered and courts often refuse to take their cases. Consumers were reported to have resorted to demonstrating in front of developers' sales offices, disrupting showrooms, organizing online or engaging in fist fights with the developers' staff. (Beijing Business Today, *id.*) The Great Mall case was the first arbitration court decision in Beijing in favor of real estate consumers who have collectively maneuvered the legal system.

**The Sentence for a Tiger.** The incident could have happened anywhere: a zoo-keeper at the Siberian Tiger Park (东北虎林园) in Harbin, Heilongjiang Province (黑龙江省哈尔滨市) was attacked by a tiger and died. What happened next was uniquely Chinese and set off a lively debate about the rights of man vs. beast. Following the incident, the zoo took the unusual step of asking the citizens of Harbin to vote on the tiger's fate: (1) death by execution; (2) euthanasia by lethal injection; (3) life-time confinement; or (4) banishment to the wild. (Harbin Daily 《哈尔滨日报》, October 21, 2002) Harbin residents flooded the zoo with calls for mercy, some even threatened to report the zoo to international animal rights organizations and to hire a lawyer for the tiger. (Beijing Youth Daily, October 22, 2002) The rest of the nation also joined in the frenzy. Some in the media hailed the news as a "significant exercise of democratic decision-making". Others argued that human life should have a higher value than that of the tiger. One commentator accused Harbin's proposed public opinion poll as "practicing 'democracy' on an animal by eager Chinese who never had any democratic inkling in the first place". ([www.view.news.sohu.com](http://www.view.news.sohu.com) 搜狐视线, October 29, 2002) Lawyers and legal scholars pondered the legal basis for punishing the tiger, noting also the Siberian tigers' protected status under China's endangered animal protection law. In the end, the zoo admitted that the incident was a result of its own poor management and agreed to pay the victim's family RMB150,000

(US\$18,000) as compensation. (China News Service 中国新闻社, October 23, 2002)  
As for the tiger, the zoo decided to keep it in temporary confinement until he was ready to be transferred to the zoo's breeding program. (Harbin Daily, October 28, 2002)

## Heard on the Web

Excerpts of Online Postings in China

**SARS Memorial.** In the minds of most Chinese, the SARS epidemic which hit China in 2003 is now largely a thing of the past. Despite the recent occurrence of several isolated cases in Guangdong, few Chinese are worried. Beijing residents' initial anger at the government's cover-up of the spread of SARS to the capital in March and April 2003 quickly faded once the virus was contained in June 2003; in fact, the government's handling of the health crisis has enhanced the Party's image. A series of government edicts that in many other countries would have been challenged as illegal or overly broad were widely supported by Beijing residents. These included the shutting down of entertainment venues and gyms, confining students to their universities, mandatory segregation of people with any SARS-like symptoms and a ban on travel by government officials. On May 27, 2003, a Beijing newspaper and a Beijing pharmaceutical company jointly announced that they were planning to collect design proposals and donations for building a SARS memorial. How did the Chinese react to the idea? The following are excerpts of some of the discussions posted on xinhua.net and people.com.cn:

- ▶ "Beijing government, please do not approve building a self-deceiving memorial! One main reason for the spread of SARS is that for a long time many Chinese medical professionals failed to follow rules and protocols. SARS is brought on by those who violated the laws of disease prevention. If we want to memorialize SARS, we should have a memorial that truthfully reflects what happened and tells the whole story about this disaster. In other words, we should memorialize the bad habits of our times, especially the habit of never obeying rules and regulations, so that later generations could see that what we suffer today is the result of our bad habits and could learn from our mistakes. Another main reason for the spread of SARS is that our bureaucracy and our media were hiding the truth. A memorial should truthfully reflect this fact, so that later generations could see the great losses it has brought upon our nation. ... How can we memorialize something that is still ongoing? So much exaggeration and form over substance. One lesson we learned from SARS is that exaggeration and cover-ups can hide the truth."
- ▶ "We have not won the war on SARS. It is too early to talk about building a memorial."
- ▶ "We should build a memorial, but not to sing praises, either for the people or their fighting spirits. The purpose should be to give warnings so that people will forever remember this disaster, the dead and their families (including medical professionals) and the lessons we learned."
- ▶ "We must build a memorial, engraved not only with the names of the heroes and the dead, but also the names of the liars."
- ▶ "The memorial should be both a pillar for heroes and a pillar of shame. It looks like now that the SARS epidemic is not only a natural disaster, but a man-made disaster."

(Sources: SARS Forum of Powerful Nation Community 人民网强国社区非典专区, <http://bbs.people.com.cn>, May 27, 2003 and Xinhua Forum 新华论坛, <http://forum.xinhuanet.com>, May 27, 2003)

**SARS and Humor.** A SARS joke widely circulated on the web in China lists ten ways that SARS can kill: (1) overdosing on preventative medicine; (2) burned to death from the fire caused by boiling vinegar at home [the Chinese believe vinegar vapor kills germs]; (3) scared to death of sickened fellow workers; (4) suffocated from wearing facial masks for long periods of time; (5) whacked to death by friends and family upon return from traveling to or visiting relatives in affected areas; (6) cursed to death from spreading rumors; (7) beaten to death because of coughing or sneezing in public; (8) die from exhaustion due to fear of taking public transportation and walking to and from work everyday; (9) die of depression caused by suspecting oneself coming down with SARS and had to be checked into a mental hospital; and (10) really die from SARS.

(Source: SARS Forum of Powerful Nation Community 人民网强国社区非典专区, <http://bbs.people.com.cn>, May 12, 2003)

**Corrupt Judges.** The following are excerpts of a discussion posted on CYOL.Net (中青论坛) on the subject of the removal of Tian Fengqi (田凤歧), the head of the Supreme People's Court of Liaoning Province (辽宁省) on corruption charges (see story in this issue's "Legal Reform" column):

- ▶ "How come you got caught? Old Bro, you are too careless. Aren't you in the business of administering justice? Or maybe you were too cocky and spilled the beans yourself. Or did a thief visit your home and stole the `beans'?"
- ▶ "What about the real issue? How many people were wronged during his tenure? Too many bastards like him. Who end up paying for their sins???"
- ▶ "Oversight will be the key! The central government is correct in its directives regarding reigning in corruption: education will address the root of the problem, rule of law will provide guarantee and oversight will be the key! Being the head of a People's Supreme Court is a big deal. Was the annual evaluation by the People's Congress simply a formality? Which department should carry out the oversight responsibility of the People's Congress? How was such power exercised? Isn't this time we start thinking about such issues?"
- ▶ "I am not surprised. So many provincial-level supreme court chiefs had problems. But how many really got in trouble?"
- ▶ "How corrupt is our judiciary? I remember some reports about corruption within the judiciary of Hainan Province (海南省). Now comes Liaoning Province and at the Supreme People's Court level. So disheartening. The judiciary is our law enforcement's last barrier against corruption. If the enforcer of justice is down, what happens to the lawbreaker? This society is really getting scary!"

- ▶ "The dark side of the Hainan court has been exposed, but not completely! Haikou Xinhua District Court (海口新华区法院) is our country's model court. Its head Wang Yuzhong (王玉忠) has fallen!"
- ▶ "Get rid of evil for the people! Why didn't the department in charge do anything earlier? The sharp eyes of the people are not sharp anymore?"
- ▶ "Tian, you are just unlucky. So many out there are more rotten than you."
- ▶ "What is the root of the problem? The higher their ranking and the more corrupt they are. The more wealth and the more corrupt they are. The greater their power and the more shameless they become. The more involved they are in the administration of justice and the more corrupt they are. Such incidents have made us ordinary people feel numb. What is the root of the problem? Do we have enough courage to face the current system? It is only then that we have hope!!!!!"
- ▶ "When the enforcer of the law commits a crime, the punishment should double. Is justice so far out of reach?"

(Source: China Youth Online Forum 中青论坛, <http://bbs.cyol.com>, September 17, 2002)

## ***From the Editors***

Welcome to the inaugural issue of the *China Law and Governance Review*.

As keen observers of China's law and governance developments, we are well aware of the amount of information available today from a variety of English-language sources. However, every time we pick up a Chinese newspaper or magazine, or surf major Chinese Websites and portals, we are struck by the number of interesting—sometimes surprising—news reports and commentaries in the press. These accounts reflect the complex, dynamic and seemingly contradictory realities of a country that is neither the authoritarian state nor the new frontier of capitalism that many abroad perceive it to be. We would like to share some of these stories and issues with a larger audience through the *Review*.

The *Review* is not meant to be a news-clipping service or a bulletin of recent developments. Rather, it highlights what we think are some of the most interesting stories and commentaries that we are reading in the Chinese press, particularly in the areas of legal system development and governance. Our stories are selected from an extensive research and review of a variety of published materials from the Chinese media. We not only provide summaries, translated excerpts and background information to these news accounts and commentaries, but also add analysis which we hope will stimulate discussion among our readership.

In addition, so that readers can get a flavor of the lively discussions and debates which are no longer uncommon in China today, we present in an unadulterated format a variety of viewpoints of ordinary Chinese on a given subject, including excerpts of discussions in the country's burgeoning internet chat rooms.

We hope that the *Review* will be a window into the fascinating changes that are taking place in China. We welcome your feedback. Please send comments and inquiries to: [editor@chinareview.com](mailto:editor@chinareview.com). To contact us by mail, please write to: China Law and Development Consultants, 1318 Two Pacific Place, 88 Queensway, Hong Kong.

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### **Editor and Co-founder**

Ms. Su Lin Han, the Editor and co-founder of the *China Law and Governance Review*, is a native of Beijing who practiced law before turning to writing. Ms. Han, who is now based in the U.S., received her J.D. from the Boalt Hall School of Law of the University of California at Berkeley in 1991. She worked as a corporate attorney at Wilmer, Cutler & Pickering in Washington, DC and the Hong Kong office of Cravath, Swaine & Moore in New York. Her recent projects include a book on comparative judicial systems and processes done in cooperation with the Supreme People's Court of China.

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Ms. Phyllis L. Chang, originally of New York and California, is the founder of China Law and Development Consultants. Ms. Chang studied Chinese language and law in Beijing in the early 1980's before practicing corporate law in Silicon Valley. In 1994, she discovered the non-profit world and joined the Ford Foundation in China as Program Officer for law and governance programming. Ms. Chang has been resident in Beijing for many years. She speaks Chinese with a New York accent.