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CASE NOTE

THE CASE OF WANG JUNTAO*

This report presents records from one of the most important political trials in the aftermath of the Tiananmen crackdown of June 4, 1989. On February 12, 1991, the Beijing Intermediate Court tried Wang Juntao and Chen Ziming separately as the alleged masterminds and "black hands" of the democracy movement. Almost immediately following the closed hearings, the court sentenced each to a total of 13 years imprisonment and four years deprivation of political rights for the crimes of "conspiring to subvert the government" and "carrying out counterrevolutionary propaganda and incitement."

Despite the Chinese government's policy of closing political trials to outside observers, records of Wang Juntao's defense and verdict have come to light. In contrast to the usual practice of conceding guilt and arguing only for leniency in sentencing, Wang Juntao argued his innocence of the charges brought against him. His lawyers, Sun Yachen and Zhang Sizhi, prepared an unusually vigorous defense in the four days allotted them before the proceeding. As set forth in the statement that follows, the two lawyers attacked the indictment and the prosecution's arguments by asserting that the prosecution's position was both grossly misleading and unsupported by the proffered evidence.

Wang himself denied any culpability, and responded with a general defense of the democracy movement. In a letter to his lawyers, he explained, "I got angry when the public prosecutor accused me of being counterrevolutionary by opposing leaders. A defense should not be limited to saying 'I do not oppose leaders' but should allow for the legitimate right to oppose leaders."¹ According to reports, he appeared thin and

* The following documents were obtained and translated by Asia Watch and first appeared in NEWS FROM ASIA WATCH, Mar. 11, 1991. Due to the sensitive nature of the material, in particular the court documents, source attribution has been withheld.

1. *Wang laments a lack of conviction by fellow dissidents*, South China Morning Post, Mar. 2, 1991. See *infra* Appendix IV for an edited version of Wang's letter.

ill,² and later wrote his lawyers that he felt dizzy, his ears rang, and that he had difficulty following the proceedings.

The prosecution's evidence, which took two and a half hours to present,³ alleged that Wang Juntao and Chen Ziming conspired at an April 1989 symposium, as evidenced by their critical statements of the socialist system and leadership. It further alleged that at a subsequent meeting Wang suggested that a political party should be formed to control the democracy movement from behind the scenes. Moreover, the evidence also alleged that Wang, through the "Protect the Constitution Committee," further implicated himself in a statement declaring martial law a "fascist terrorist" tactic. The prosecution also charged Wang with efforts to block troops who were trying to enter Beijing and with anti-government leafletting in Tiananmen Square. Although the defense statement that follows challenged the basis of each accusation, the court closely adhered to the prosecution's line of argument in its verdict, which was announced a mere hour after the close of argument.⁴

In a letter to his lawyers immediately following the trial, Wang explained that he felt obliged to defend in court the democracy movement's views, including those not his own, out of respect for those who died. He lamented the fact that many leaders and sponsors of the movement failed to shoulder their responsibility in order to lighten their sentences. Another reason he spoke on behalf of the democracy movement, risking a heavy sentence as a consequence, was his desire to defend the basic rights of citizens to legitimately voice opposition towards their leaders. He expressed respect for the devotion and determination of the elder generation of leaders and submitted it ironic that they now were sentencing him.

Both Wang Juntao and Chen Ziming appealed their verdicts, with Wang requesting his lawyers to represent him on appeal. However, Wang's lawyers reportedly came under strong government pressure to cease their representation.⁵ Sun Yachen, a lawyer from Luoyang, Henan province, took Wang Juntao's case in defiance of instructions from the Ministry of Justice. When Sun returned to Luoyang after the trial was over, the Ministry forbade him from handling the appeal. He cited "private reasons" to Wang's wife, Hou Xiao-

2. *Topical Talks* (BBC World Service broadcast, Feb. 18, 1991).

3. *Id.*

4. *Id.*

5. *Lawyers refuse to defend Wang*, Hong Kong Standard, Mar. 4, 1991.

tian, for withdrawing from the case. Zhang Sizhi, Wang's Beijing lawyer, did assist Hou in presenting the appeal, which was heard—and rejected—by the Beijing High People's Court in early March 1991.

The focus on Wang and Chen as the masterminds of the 1989 demonstrations was underscored by the announcement on March 4, 1991, of verdicts and sentences for three Hong Kong citizens accused of aiding Wang Juntao and Chen Ziming in their unsuccessful effort to escape following the June 4 crackdown. The Guangzhou Municipal Intermediate People's Court sentenced Luo Haixing (Lo Hai-sing), a Hong Kong businessman accused of being "the main culprit," and Li Peicheng (Lai Pui-sing) to five years imprisonment, and Li Longqing (Li Lung-hing) to four for "harboring counterrevolutionary elements." The court found Li Peicheng and Li Longqing to have been part of an "underground railway" out of China through which at least 14 dissidents escaped. It is not known whether the two will appeal their convictions.

Luo Haixing's family decided to appeal his conviction on the grounds that the evidence showed only that he had carried messages between persons in Hong Kong and Guangdong as to Chen Ziming's whereabouts, not that Luo tried to "conceal" counterrevolutionaries.⁶ Luo's appeal was later rejected by the higher court. Luo's family voiced concern that the unexpected heavy sentence was due to Luo's connection with members of the Hong Kong Alliance in Support of the Patriotic Democratic Movement in China, a group Beijing considers subversive.⁷ All three, arrested separately, had been held seventeen to eighteen months before trial.

The documents included in this report include: the "wanted" circular for Wang Juntao and other democracy movement figures; the Beijing Intermediate People's Court verdict; the defense statement presented by Wang Juntao's lawyers; a statement by Wang Juntao's wife, Hou Xiaotian, announcing Wang's intent to appeal the verdict; an edited version of a letter from Wang Juntao to his lawyers following his trial; the Bill of Prosecution for Luo Haixing, Li Peicheng and Li Longqing; and the Guangzhou Municipal Intermediate People's Court verdict in their case.

6. Law, *Lo to Appeal Against Guangdong Sentence*, Hong Kong Standard, Mar. 5, 1991.

7. Kwan and Yeung, *Hong Kong Trio Jailed in China for Helping Dissidents to Escape*, South China Morning Post, Mar. 5, 1991.

APPENDIX I: WANTED NOTICE FOR WANG JUNTAO, CHEN
ZIMING AND OTHERS

WANTED CIRCULAR

Ministry of Public Security, People's Republic of China

Edited and printed by the Fifth Bureau of the Ministry of Public Security

October 1989

Note

Wang Juntao, Chen Ziming, Wu Xuecan, Liang Qingtun, Chai Ling and Feng Congde are important criminals who incited, organized and directed the counterrevolutionary riot in Beijing. They committed serious crimes, and absconded to avoid punishment. The Ministry of Public Security has issued a wanted circular throughout the country for their arrest.

These important counterrevolutionary criminals may have concealed their identity and disguised themselves. The broad masses are urged to sharpen their vigilance, actively provide clues and assist the public security departments, so that these criminals can be apprehended as early as possible.

Wang Juntao (alias Wang Xiaojun), male, 31, native of Henan Province, head of the privately operated Beijing Social and Economic Sciences Research Institute, deputy editor of *Economics Weekly*. Height 1.75 meters, rather plump, dark complexion, round face, large eyes, rather thick lips, speaks with a Beijing accent.

Chen Ziming (alias Li Bin), male, 37, native of Haiyan County, Zhejiang Province, head of the privately operated Beijing Social and Economic Sciences Research Institute. Height, 1.68 meters, rather plump, with parted hair, round face, rather thick lips, slightly humped, walks with toes turned outward, speaks with a Beijing accent. On the run with his wife Wang Zhihong.

Wang Zhihong, (alias Liu Hong), female, 32, native of Shanghai. Height 1.62 meters, short curled hair, rectangular face, double-fold eyelids, wears dark brown sun glasses.

APPENDIX II: VERDICT IN THE CASE OF WANG JUNTAO
CRIMINAL VERDICT OF THE BEIJING INTERMEDIATE
PEOPLE'S COURT

(1991) *Intermediate/ Criminal/ No. 293*

Public Prosecutors:

Zhao Shiru, Procurator acting on behalf of the Sub-Procuratorate of the Beijing Municipal People's Procuratorate.

Jiang Yu, Procurator acting on behalf of the Sub-Procuratorate of the Beijing Municipal People's Procuratorate.

Defendant:

Wang Juntao, male, 32, born in Gong County, Henan province; former deputy editor-in-chief of *Economics Weekly* newspaper. Residence: Building 1, Gate 2, Door 2, 83 Fuxing Road, Haidian District, Beijing. Arrested on November 24, 1990 on charges of conspiring to subvert the government and carrying out counterrevolutionary propaganda and incitement. [The defendant is] currently in custody.

Defenders:

Zhang Sizhi, Attorney, Beijing Municipality No. 5 Legal Affairs Office.

Sun Yachen, Attorney, Luoyang Municipality No. 3 Legal Affairs Office, Henan Province.

On February 2, 1991, the Sub-Procuratorate brought an indictment in this court against the defendant, Wang Juntao, who was charged with conspiring to overthrow the socialist state and conducting counterrevolutionary propaganda and incitement. This court formed a collegial panel in accordance with law and on February 12, 1991 opened the court session and conducted a public hearing of the case.

The collegial panel heard the public prosecutor's speech in support of the prosecution; questioned the defendant and listened to the defendant's statement, defense and final statement; listened to the defense counsel's statement of defense; and verified testimony and evidence having a direct bearing on the case. The following facts were ascertained:

During the late spring and early summer of 1989, there occurred in Beijing serious turmoil and counterrevolutionary rebellion, the purpose of which was to overthrow China's government and socialist system. During this period, the defendant, Wang Juntao, and his colleague, Chen Ziming (prosecuted separately) together and in concert with Liu Gang and Chen Xiaoping (both prosecuted separately) and others carried out a series of organized, planned, and premeditated activities aimed at subverting China's

government and conducting counterrevolutionary propaganda and incitement.

On April 23, 1989, at the Beijing Social and Economic Sciences Research Institute, Wang Juntao participated in a meeting convened by Chen Ziming on the topic: "Evaluation of the Past Ten Years and Assessment of the Current Situation." At the meeting, Chen Ziming argued that intellectuals must shoulder an "historical duty" and "rapidly complete the process of organizing the intelligentsia," in order to "form a new source of leadership for the common people."

Wang Juntao declared: "The government no longer has any social foundation which would enable it to control this crisis; it has no remaining basis of support"; "China's leadership is once again caught in the midst of a transition period. Over the next several years, the old politicians who were previously forces for stability will successively depart from the scene"; "This is a period of great opportunity." Wang Juntao unequivocally stated: "After several decades of peaceful competition, socialist civilization has proved itself the loser." China, he said, "verges on the juncture of a brand new civilization," and "present circumstances attest to the fact that the old methods are outdated." Therefore, "all the old methods employed by Chinese civilization must be transformed, and the basic tendency of this transformation will be toward mainstream civilization."

On May 13, some university students in Beijing began a hunger strike in Tiananmen Square. On May 15, at a symposium on the topic of "Political Structural Reform and the Labor Unions," held in the editorial office of the publication *China's Worker's Movement*, Wang Juntao, in an attempt to stir up support for his conspiracy to subvert the government, said "There is a view which maintains that simply by taking to the streets one is being highly radical. This is absolutely not so. As long as guns are not fired and artillery is not used. . . I feel that none of this can be construed as being radical, and if it's really a case of setting up a political party, then behind-the-scenes manipulation is permissible."⁸

On May 17, Wang Juntao and Chen Ziming convened a meeting at the Jimen Hotel for the purpose of conspiring and scheming to unite "all the various circles" to form an illegal organization. On May 18, Wang Juntao colluded with Chen Ziming and mustered

8. As Wang's defense lawyer points out (*see infra* Appendix III), the prosecution's deletion of the remainder of Wang's sentence here completely changes its original meaning. The full sentence (as found in the lawyer's statement) reads: ". . . and if it's really a case of setting up a political party, then behind-the-scenes manipulation can ('*ye keyi*'), indeed should, still be conducted within the scope of the law ('*zai ni zhege hefa fanwei zhi nei*')." The deliberate omission of this latter portion makes the words "*ye keyide*" falsely acquire the meaning: "permissible."

more than 20 so-called "elite individuals" for a meeting at the Jimen Hotel, where they continued scheming to establish this illegal organization. At the meeting, Chen Ziming outlined his tactics for conspiring to subvert the government: "The words of the elite will influence the students, and the words of the students will influence people throughout the country." In this way "a behind-the-scenes influence can be transferred to center stage." Wang Juntao added: "Presently the confrontation between the students on Tiananmen Square and the government is becoming less clear cut, and there is a danger that everyone's hopes will be disappointed"; "The best approach would be to form a consultative committee, and place ourselves clearly on the side of the students"; "In this way we can influence developments."

At this meeting, with Wang Juntao's approval, Bao Zunxin (prosecuted separately) read aloud the "May 17 Declaration," a counterrevolutionary circular concocted by Yan Jiaqi, and solicited the signatures of those present. This "declaration" vilified the government by maintaining that it had "lost its capacity for human feeling" and was "a government under the power of an autocrat." It characterized the turmoil as being "a great patriotic and democratic movement which will finally bury autocracy and end the system of rule by emperor," [thereby succeeding in] slandering the leaders of the Chinese government and Communist Party and conspiring for their overthrow.

On May 19, Wang Juntao, in collusion with Chen Ziming, summoned Liu Gang, Chen Xiaoping and others for a meeting, chaired by Chen Ziming, at which they further concocted the plan for establishing an illegal organization. At this meeting, he helped to concoct the counterrevolutionary leaflet "A Letter to the People." According to this rumor-mongering document, "military rule is about to be enforced at any moment, and the dark period which ensued from the repression of April 5, 1976 is about to be repeated." The document incited the masses to "begin a nationwide work strike, class boycott, and market boycott" and clamored for an "immediate convening of the Standing Committee of the National People's Congress" for the purpose of dismissing the prime minister. On the morning of May 21, Wang Juntao and Liu Gang distributed almost 1000 copies of the counterrevolutionary circular "A Letter to the People" at Tiananmen Square.

On May 20, the State Council promulgated the order that certain areas of Beijing were to be placed under martial law. During the night of May 20 and the early morning of May 21, Wang Juntao summoned Liu Gang and others and together they drove along Beijing's No. 2 Ring Road and No. 3 Ring Road, surreptitiously ob-

serving⁹ scenes of martial law troops being blocked and obstructed.

Subsequently, on the evening of May 22, Wang Juntao and Chen Ziming went together to go to the Monument to the People's Heroes on Tiananmen Square, where they summoned the leaders of all the various illegal organizations and convened a preparatory meeting for the founding of the "All Circles" illegal organization.

On May 23, Wang Juntao and Chen Ziming, acting in league together, summoned the leaders of the "Command Headquarters of Tiananmen Square," the "Beijing Students Autonomous Federation," the "Beijing Workers Autonomous Federation," the "Beijing Citizens Autonomous Union," the "Citizens Dare-to-Die Squad," and other illegal organizations and more than 30 so-called elite individuals to gather at the Marxism-Leninism Institute of the Chinese Academy of Social Sciences. There they founded the "Patriotic Joint Liaison Group of All Circles in the Capital for Protecting the Constitution" (hereinafter referred to as the "Protect the Constitution Group").

The group schemingly resolved to rename the "Command Headquarters of Tiananmen Square" as the "Command Headquarters for the Protection of Tiananmen Square," and appointed a "General Commander of the Command Headquarters," and also heads of a "General Staff Office," a "Liaison Department," a "Propaganda Department" and a "General Picket Headquarters." Zhang Lun (currently on the run), after assuming leadership of the "General Picket Headquarters," immediately convened a meeting of the leaders of the "Students Picket Squad," the "Workers Picket Squad," the "Citizen's Picket Squad," and the "Citizens Dare-to-Die Squad" in order to establish a division of labor, create contact code names, and pinpoint the location of troops on a map of the Beijing Municipality. After the meeting a "United Picket Headquarters" was established on Tiananmen Square and members were issued walkie-talkies and binoculars in order to help them in their conspiracy to block the movements of martial law troops.

On May 24, following a decision by the "Protect the Constitution Group," Wang Dan (prosecuted separately) convened and presided over, in accordance with procedures formulated by Wang Juntao, an oath-taking rally for the inauguration of the "Command Headquarters for the Protection of Tiananmen Square," [thus] continuing the illegal occupation of Tiananmen Square in direct contravention of martial law decrees.

On May 25, Wang Juntao attended a meeting of the "Protect the Constitution Group" at the Marxism-Leninism Institute of the Chinese Academy of Social Sciences and participated in a plot,

9. *kui cha* — see *infra* Appendix III.

hatched at the meeting, to instigate the masses to erect barricades, obstruct army vehicles and take to the streets in public demonstrations. The following day the "Protect the Constitution Group" and more than 10 other illegal organizations issued an "Urgent Appeal" calling upon the masses to prevent the martial law troops from entering the city and to conduct "large-scale demonstrations in protest against the imposition of martial law."

On May 27, at the Politics Institute of the Chinese Academy of Social Sciences, Wang Juntao convened a meeting of the "Protect the Constitution Group" and schemed to concoct a "10 Point Declaration of the Joint Liaison Group of All Circles in the Capital." This "declaration" slanderously referred to the State Council's promulgation of the martial law decrees as being "a fascist-terrorist means of sabotaging democracy and the rule of law," and it instigated the masses to request "an emergency meeting of the National People's Congress" in order to discuss dismissing the prime minister. At a press conference that evening, Wang Dan publicly read out this "declaration."

At the end of May and the beginning of June, Wang Juntao continued to use the mantle of the "Protect the Constitution Group" to establish the so-called "People's Spokespersons," to set up the "All-China Autonomous Students Federation" which would initiate the so-called "Campus Democracy Movement," and to plot and organize the "rescue" of Yi Jingyao, a criminal. He also supported Liu Xiaobo (prosecuted separately) and three others in their hunger strike in Tiananmen Square and in their other subversive activities.

At the end of May and beginning of June, Wang Juntao, Chen Ziming and others secretly conspired to set up places where they could go into hiding, discussed and decided upon the names of those who were to be transferred and withdrawn, forged workplace identity cards, and covertly organized the escapes of diehard elements of the "Protect the Constitution Group." On June 6, Wang Juntao fled the capital. On October 20, he was captured and taken into custody.

The above-mentioned facts are attested to by the witnesses' testimony, by the written evidence, and by tape-recordings placed on file. The facts are clear, the evidence solid, complete, and sufficient to prove the case.

This court is of the opinion that during the serious turmoil which took place in Beijing in 1989, Wang Juntao, in collusion with Chen Ziming, stirred up counterrevolutionary sentiment by establishing the illegal "Protect the Constitution Group" by instigating, organizing, devising, and directing all the various illegal organizations in the occupation of Tiananmen Square, and by resisting the

implementation of the martial law decrees, all with the aim of overthrowing the people's government. These acts constitute the crime of plotting to subvert the government and the crime of counterrevolutionary propaganda and incitement, and must be punished according to the law.

In order to uphold the political authority of the people's democratic dictatorship and the socialist system and to crush the destructive activities of counterrevolutionary elements, this court renders, on the basis of the facts presented which demonstrated defendant Wang Juntao's criminal acts, the nature and circumstances of his crimes, and the degree of harm thereby caused to society, and in accordance with Article 92, Article 102, Article 52 and Article 64 of the Criminal Law of the People's Republic of China, the following judgement:

For the crime of conspiring to subvert the government, defendant Wang Juntao is sentenced to a fixed-term period of 13 years imprisonment, with three years subsequent deprivation of political rights. For the crime of carrying out counterrevolutionary propaganda and incitement, he is sentenced to a fixed-term period of two years imprisonment, with one subsequent year of deprivation of political rights. It is hereby decided that he will serve a total fixed-term period of 13 years imprisonment (the period of imprisonment to be calculated starting from the date of this judgement's execution, and with a one-day reduction of the sentence for each day spent in custody prior to execution of the judgement, that is from October 20, 1989 until October 19, 2002), with four subsequent years of deprivation of political rights.

If he does not submit to this judgement, [the defendant] may, within a ten-day period starting from the day following the receipt of the judgement, lodge with this court a petition, plus one duplicate copy, as an appeal to the Beijing High People's Court.

Chief Judge Li Guoqiang

Judge Zhen Kai

Acting Judge Zhang Xianxu

(Seal of the Beijing Intermediate People's Court)

February 12, 1991

This copy has been checked
against the original and
contains no error.

Clerk Wang Yisheng

February 12, 1991

APPENDIX III: DEFENSE STATEMENT BY WANG JUNTAO'S
LAWYERS

THE CASE OF WANG JUNTAO
CHARGED WITH "SUBVERSION AND INCITEMENT"
THE DEFENSE

Your Honor,

I would like first of all to speak about several basic facts alleged in the indictment.

In listing the charges against the defendant Wang Juntao, the indictment begins by describing the extremely important background, i.e., the disturbances which took place in Beijing in April 1989. Having mentioned that background, the indictment immediately goes on to charge Wang Juntao with having participated in a meeting held on April 23 and having spoken in concert with Chen Ziming. This amounts to claiming that the April 23 meeting was convened in Beijing to coincide with the "April disturbances" as its background. But that does not accord with the actual facts.

The theme of the April 23 meeting was to "make an evaluation of the past decade and an appraisal of the present situation." That was a subject for discussion scheduled as early as 1988 by the Beijing Social and Economic Sciences Research Institute with which the defendant Wang Juntao was affiliated. According to the minutes of the April 23 meeting transcribed from tape recordings made by the public security department, which now appear as volume 18 in the files of the present case, Min Qi, who chaired that meeting, declared at the outset that "preparations for this meeting have been going on for some 20 days and more. It can be said that it has nothing to do with the student demonstrations." Accordingly, the actual preparations for the discussion of that subject, which was scheduled as early as the previous year, could not have started later than at the end of March. The indictment now arbitrarily links the April 23 meeting, which was prepared in March, with the "Beijing disturbances" which began in mid-April. That seems rather farfetched.

According to the charges set forth in the indictment, the defendant Wang Juntao, together with Chen Ziming, made a series of remarks and spoke in concert about "speeding up the process of getting the intellectuals organized" and "constituting a new kind of guiding force for the common people." There are two problems with this.

First, to claim that Wang and Chen spoke in concert is to assert that Chen made a statement which Wang subsequently affirmed. Such an allegation relies on a statement and its subsequent affirmation. That sequence cannot be reversed. But a careful read-

ing of all the speeches made at the April 23 meeting as recorded in volume 18 of the files, shows that Chen Ziming's "statement" as alleged in the indictment, took place after Wang Juntao's "affirmation," as alleged in the indictment. Therefore, there is no corroboration between the two statements as the indictment intends to establish. The charge that the two men had spoken in concert is untenable. They can only be held responsible respectively for their own remarks.

Second, and this is especially important, the passages quoted in the indictment from the above-mentioned speech made by Chen Ziming are quite incomplete. As Wang Juntao's defense attorney, it is really not necessary for me to comment or even touch on Chen Ziming's words and deeds. It is only in view of the fact that the indictment takes them as the precondition of Wang Juntao's remarks that I have no choice but to straighten things out.

That part of Chen Ziming's speech quoted in the indictment should read as follows, according to the transcript made by the public security department from the tapes:

"... I feel that this assigns a task to the intelligentsia. In the course of development, [answering the questions of] whether you can speed up the reconstruction of the cultural superstructure, whether you can speed up the process of getting the intellectuals organized, whether it is possible to speed up your interaction with the government, whether you can extricate yourself from the grumblings and dissatisfaction of the common people as quickly as possible, constitutes a new kind of guiding force for the common people. . . [and is not a matter] of simply following their feelings. I feel this is an epochal task facing the advanced elements of the intelligentsia."

Your honor, the passage I have just read obviously means something different from that quoted in the indictment. As for the significance of this difference, I trust that it is clear to the court. So I shall not elaborate.

I will now turn to the truthfulness, or the lack thereof, of the allegations about Wang Juntao's remarks. Seven sentences have been taken from those remarks, by the prosecution, and have been combined to make two points. First, it is alleged that Wang Juntao was saying that the socialist civilization and its model were outmoded, inferior to other models, that it should be changed so as to return to the so-called "dominant civilization". Second, he is alleged to have said that the present government and its leaders would be succeeded by another generation because of its lack of basic support, and that the "political old man" (meaning [Deng] XiaoPing), who had been able to stabilize the situation, would soon depart from the scene; therefore, this could be called a moment fil-

led with opportunities. This is the way I would sum up those seven sentences cited in the indictment. [Furthermore,] I would like to speak about two problems. First, Wang Juntao's remarks about "civilization" and its models basically represent an elaboration of his personal academic view and fall outside the scope of the "facts to be ascertained." I shall not argue about this for the time being. As for the second shade of meaning, i.e., the second problem, I think it is appropriate to check them against Wang's own words. What Wang actually said was:

"The political old man. . . has set up a structure at the top, a structure in which all the forces are quite mature and stable. . . . With (Xiaoping) on the scene, that structure can be maintained. Once old Deng leaves the scene, a new round of power struggle will ensue."

Wang went on to say:

"This would be a time when there would be a surge in social thinking. Viewed from that angle, China now stands at the threshold; there is also an opportunity, a moment filled with opportunities. . . ."

What Wang Juntao was saying was that "China" faced opportunities, i.e., a threshold. How can you omit the subject (China), and substitute for it Wang himself and his colleagues? Immediately following that, Wang said: "Putting it in a larger historical context, I feel there are three clues to understanding the present epoch in China," and the last of these clues is the collision, clash and merging of different human civilizations "to form a new pattern of development of civilization in China."

That passage is recorded on page 16, volume 18 of the files. I request that the court examine it. From the remarks cited above, one could comprehend that to charge Wang Juntao with the crime of "shaping public opinion. . . and conspiring to subvert the government" does not accord with the facts. Therefore, that charge is hardly tenable.

As an attorney, however, I must truthfully point out that however great the gap between the quotations cited in the indictment and what I have just read may be, I take note of the fact that, except in linking that meeting with the "April disturbances" and labeling Wang's remarks, the indictment has not made any charge of substance. [It has] even refrained from using such prevalent derogatory words as "raising a hue and cry," "disseminating," etc. That, I must say, shows that the indictment is being fair.

The prosecutor, in his indictment, declares that the April 23 meeting conducted a special discussion of the "present situation," and that it clearly was a discussion and evaluation of the student unrest at that time.

That statement is untenable. The "present situation" and student unrest are two related but different concepts. Student unrest made up but a small part of the "present situation." It can be seen from the main purpose of and the major speeches made at the April 23 meeting that the "present situation" that people were talking about consisted of four aspects, namely, economic, political, social and cultural. Isn't that a fact? To equate a discussion of the present situation with participation in student unrest is a cognitive mistake to say the least.

In short, the first "fact" charged in the indictment is contrary to reality and the charge is untenable.

Now about the second fact.

The indictment charges that Wang Juntao made a speech at a forum known as "The Political System and the Trade Union" on May 15, at a time when the students were beginning their hunger strike and "the disturbances were spreading throughout society." I also have two problems with the passages quoted in the indictment.

First, the passages are quoted in such a way as to depart from the original meaning. In some places the meaning becomes quite different simply through the deletion of a pronoun or the replacement of a conjunction. The important thing is that, having quoted the passage "even if a political party is in fact organized or manipulated from behind the scenes," the indictment omitted what immediately follows, i.e., "it should be within the scope of the law. As long as it does not call on the masses to open fire or to overthrow something, it would be all right." That most important point was omitted. This is undoubtedly quoting the defendant out of context with the intention of trumping up a charge.

Second, even if we take the passages quoted in the indictment at their face value, it seems unwarranted to conclude that the defendant was "shaping public opinion and conspiring to subvert the government."

Three conclusions can be drawn from the above: 1) the charges brought in that section are untrue in some places; 2) the allegation that the defendant tried to subvert the government is very far from reality; and 3) since the speech was made in public, I do not think it can constitute a "conspiracy."

We now come to the third fact.

This fact, as alleged in the indictment, may be summed up as the following three main points: 1) that Wang Juntao et al. plotted in secret to establish an illegal organization; 2) that Wang Juntao proposed to side with the students and influence the course of the student unrest; and 3) that with the consent of Wang Juntao, Bao Zunxin read out the counterrevolutionary "Declaration of May 17"

which “clamors to bury the dictatorship and monarchy” and “secretly conspires to overthrow Deng.”

Having studied this part of the allegation, what seems inexplicable is that, unlike the two foregoing allegations, the indictment totally avoids mentioning the historical background “of the moment” when bringing those three-point charges. Yet that background is of the utmost importance. At that time, the United Front Department of the Central Committee of the Chinese Communist Party and its leader Yan Mingfu sent Zheng Yefu and others to invite Wang Juntao et al. to get involved immediately in the disturbance and serve as a bridge between the students and the government in order to persuade the students to leave the square so that the visiting Gorbachev could be properly welcomed, and then to go one step further to calm the disturbance. The tremendous significance of that background lies in that it was precisely at the suggestion of high-level officials of the Party that Wang Juntao et al. changed their posture from non-involvement in the past to involvement—they were “pushed to the center stage,” in the words of Chen Zeming. From that point on, they began to consider ways to “influence the students through. . . speeches.” For that purpose, they considered it necessary to go among the students, to “side with the students,” so as to “influence the course [of the student unrest].” To achieve that aim, they came upon the idea of setting up a “Social Consultation Committee.” From all this, we have reason to believe that it was a line of thinking, a practical plan designed to fulfill the task assigned to them by the party. Now all this is construed as “secret conspiracy” and so on and so forth. This flies in the face of historical reality.

What then was the reality at the time? There are witnesses and testimonies in the files of this case that show that Wang Juntao, in the three days of meetings from May 17 to May 19, had declared on more than one occasion that their meetings and discussions were “brief meetings” and “not an organization.” “All participants are here as individuals. . . and we do not engage in liaison between units.” He also made it unequivocally clear that the purpose of the meetings was to exchange information and views, to solve problems. “Solving problems” meant primarily reaching a compromise between the students and the government, and the key to that was for the students speedily to leave the square. For that reason, it was decided that the means of solving the problem was through “social consultation.” Those testimonies, together with Wang Juntao’s remarks at those meetings and statements made at today’s court hearing, coincide and are credible.

It is true, the core issue here is the fact that Bao Zunxin did read out the “Declaration of May 17.” The nature of Bao Zunxin and the “Declaration of May 17” cooked up by him has already

been determined in another case. I shall not go into it. What is relevant to the present case is the following: 1) Bao attended the May 18 meeting by accident — he came in the middle of discussions, signed his name and left and this may be proven;¹⁰ 2) Bao's "Declaration of May 17" was drawn up earlier together with Yan Mingfu so Wang Juntao knew nothing about it beforehand; 3) Bao's so-called "reading" was essentially a form of contribution to the discussions, and as moderator of the meeting, Wang Juntao had no reason to bar Bao from making his remarks, since Wang could not have known what Bao was going to say; 4) total responsibility for the contents of the reading should not be borne by the moderator of the meeting, who allowed Bao to speak, not knowing the contents of that speech beforehand; 5) Wang Juntao disagreed with some of the views on some key issues, especially the attitude toward Comrade Xiaoping, expressed in that declaration. Please allow me to point out emphatically the following fact: Wang's stand of supporting Deng has been consistent throughout the past decade. This is fully born out by the fact that even though Bao collected signatures at the meeting, there is no evidence in the files to show that Wang Juntao signed it. On the contrary, the written testimonies that we have submitted to the court today precisely prove that Wang Juntao did not sign the declaration because he had thought the matter over. As for the allegation in the indictment that the meeting conspired to "raise the banner of overthrowing Deng," that was limited to some individuals who put forward that reactionary slogan. But no one in his remarks responded to it, much less conspired. In accordance with the principle in the criminal code which stipulates that criminal responsibility must be born by the perpetrator himself, I believe the facts show that Wang Juntao, the defendant in this case, should not be held responsible for a crime committed by someone else, no matter how serious the matter may be. What is more, the "fact" alleged in the indictment is too far from objective reality and should not be allowed to stand!

I have offered my defense arguments above with regard to the third fact. I now turn to the fourth fact.

The fourth fact alleged in the indictment goes like this: Wang Juntao mustered Liu Gang and others, in the early hours of May 21, and drove to the crossing of Erhuan and Sanhuan Roads (No. 2 and No. 3 Ring Roads) to "spy on" the blocking of martial law troops.

The problem I would like to point out is that, in describing the act of blocking, the subject is missing. Who was there doing the blocking? True, since the defendant is accused of "spying," the question of who did the blocking seems unimportant. Obviously, if

10. The Chinese (*ke zheng*) is ambiguous.

it were Wang's own people who did the blocking, Wang Juntao would be there to "inspect" the situation, and there would be absolutely no need for him to "spy." If it were the students and some city residents doing the blocking, there were such huge crowds that one look at them would be sufficient, and there would also be no need to "spy." According to the usual meaning in the Chinese language and our own linguistic customs, the term "spy" implies secretly peeping at the activities of the other side. We then have to ask, who was the other side? And again, if those who did the blocking were Wang's opponents, wouldn't that show Wang Juntao to be on the same side with the blocked troops? If that were the case, how can it be considered an offense?

The above analysis is after all not as directly convincing as the fact itself. And the fact at that time, according to the testimonies in the files, was that out of their concern over the situation, Wang et al. did not go to sleep in the deep of night but instead, drove through the streets. It may be all right to attack them as "brazen." But their aim was simply to observe the hearts and minds of the troops as well as those of the people. Their concern was obviously shared by many people. To determine its nature as "resisting the implementation of martial law" would constitute the error of implicating too many people in violation of the party and government policy on that matter. And to reach a verdict on that basis would have no legal justification.

Let me now turn to the fifth fact alleged in the indictment, i.e., Wang Juntao, in league with Chen Ziming, founded an illegal organization "The Patriotic Joint Conference of All Circles in the Capital to Uphold the Constitution." With regard to this allegation, we would like to make five points:

(1) At the May 23 meeting in which was founded the "Conference to Uphold the Constitution," Wang Juntao repeatedly made clear that it was a "joint conference, not an organization." Not only did Wang confess to that effect in the past, he also made similar statements during court inquiries. In addition, Bao Zunxin also testified to this. These matters can be found in volume 5 of the files. I request that the court examine them.

(2) According to Liu Suli's testimony made on two occasions, the primary function of the "Conference to Uphold the Constitution" was to put forward topics for discussion, to organize discussions, make proposals and coordinate the various groups. According to Liu, its function was to coordinate the activities of "Tiananmen Square Headquarters," the "College Students Autonomous Federation," and the "Autonomous Federation of College Students from Outside (of Beijing)." That testimony was recorded respectively on pages 57 of volume 6 and page 68 of volume 21 of

the files. It tallies with Wang Juntao's confessions and is therefore credible.

(3) For "Tiananmen Square Headquarters," coordination means "only the right to make suggestions and not decision-making powers." Wang Juntao so "confessed" and Bao Zunxin so testified (for testimony see page 56 of volume 21 of the files). That should qualify as legal evidence. Therefore the establishment of offices in charge of staff, liaison, propaganda, etc. was, in the final analysis, the work of the Tiananmen Square Headquarters. From this it follows that the "Conference to Uphold the Constitution" cannot be held responsible and still less can the defendant Wang Juntao be held responsible as a member of that conference—even though an important member—for the activities of "Tiananmen Square Headquarters" and its "Picket Command."

(4) A study of the indictment shows that it charges Wang Juntao with founding the "Conference to Uphold the Constitution" and that it considers that a very important crime. If so, we cannot help but ask: Who proposed the founding of that illegal organization? Who did what in the planning before it was formally founded? What were its working principles and operational rules? Who named its principal officer and who was actually named?

It is true that the prosecutor has said that Wang Dan was convener of that illegal organization, and that he was named by Wang Juntao, the defendant in this case.

But my questions as stated above have not been answered. The reason is simple: How can one mix up a "convener" with a "principal officer"? If the "Conference to Uphold the Constitution" only had a convener and no principal officer, that fact exactly, though obliquely, bears out Wang Juntao's argument that it was a "conference" and not an "organization."

I must add that it would be very difficult to live up to the principle of holding only the perpetrator responsible for his or her own crime if no investigation is made in answer to my question, if concrete analysis is lacking so that it is impossible to ascertain people's positions, thereby ascertaining their actions and responsibilities.

(5) Finally, it should be pointed out that the allegation made in the indictment that Wang wanted the students to "continue to occupy Tiananmen Square illegally" has absolutely nothing to do with Wang Juntao in any of his activities. From the very beginning, Wang Juntao energetically advocated getting the students to leave the square. The files contain a huge number of testimonies to that effect. He regretted then that he failed to persuade the students. But that end result could only be described as "ineffective mediation," failure to fulfill the task assigned him by the responsible officials of the United Front Department, and can in no way be

construed as "resisting the implementation of martial law" as alleged in the indictment.

All these arguments, in a nutshell, show that the indictment tries to charge Wang Juntao with being the instigator of the "April disturbances in Beijing" and the "black hand." But it has failed to provide credible, reliable evidence.

The indictment alleges the following fact: Wang Juntao planned and concocted the "Ten-Point Statement of the Joint Conference of All Circles in the Capital Concerning the Current Situation" at the May 27 meeting of the "Conference to Uphold the Constitution."

I would like to draw the attention of the court to two points:

(1) The "Ten-Point Statement" was planned and drawn up by Gan Yang and Lao Mu before May 27. Wang Juntao had no part in it. Therefore, Wang had nothing to do with the planning and concocting of the statement. The allegation is untenable.

(2) The finalization, printing and distribution of the "Ten-Point Statement" should be considered a collective act on the part of the "Conference to Uphold the Constitution," and Wang Juntao, who knew nothing about it beforehand, should not be held fully responsible for that act.

It is necessary to point out emphatically here that the reason why Wang Juntao did not oppose the "Ten-Point Statement" was primarily because the eighth point originally contained a demand that the students leave the square within a time limit. It was due to factors beyond Wang Juntao's personal control that this demand was not included and the statement finally became a mere scrap of paper. There is evidence to prove all this. Since this obviously has an important bearing on the litigation of the present case, your wise consideration is requested.

The indictment also charges Wang Juntao with concocting and distributing the handbill "An Appeal to the People," thus engaging in "counterrevolutionary propaganda and incitement." With regard to that charge, we offer our three-point defense:

First, Wang Juntao was not among those who concocted "An Appeal to the People." According to the testimony of Zhou Duo, he wrote "An Appeal to the People" in consultation with Chen Ziming. He drew up the first draft and handed it over to Chen Ziming. Wang was not present. Chen Ziming's testimony bears this out.

Second, Wang Juntao did not take part in the distribution of "An Appeal to the People." The fact was that Wang got the use of a car to go to Tiananmen. Liu Gang went with him. Liu got off with a package of handbills. He gave them to the students when he got to the Museum of History. Wang Juntao did not leave the car

when Liu Gang either received or handed out the handbills, and he was unaware of the content of those handbills. Zhang Kejian, who printed the handbills, and Zheng Di, who rode in the same car with Wang Juntao and Liu Gang testified to this respectively. That is to say, our judgement is well-founded and tallies with the facts.

Third, according to the testimonies of Chen Ziming and Zhou Duo (see page 15 of volume 21 and page 88 of volume 8 respectively), the meeting of May 19, which had something to do with "An Appeal to the People," was chaired by Chen Ziming. Wang was not there at all during the morning session. He attended the afternoon session. This detail undoubtedly serves to show Wang's role and responsibility in the matter. The indictment resorts to such vague expressions as "taking part in. . . concocting" and "distributing. . . together with" in order to incriminate the defendant. It errs on the side of arbitrariness.

We have analyzed the basic facts alleged in the indictment and offered our defense arguments as the above. The prosecutor argues that "in view of the past words and deeds of the defendant" one can tell that the charges are valid. This is unconvincing. Is there a time limit to the so-called "past?" In accordance with the prosecutor's line of thinking, we divide the "past" into two periods. One of these was the period closely linked with the student unrest. I would like to cite two of Wang Juntao's articles. The first one, "Rebuild the Civilization Model" was published on May 14, 1989 in *Economics Weekly* and the second was "Written on the Fifth Day of the Hunger Strike." In those "past words and deeds," Wang Juntao formulated his political stand, thinking, and viewpoint most clearly. They had nothing in common with the so-called "subversion" or "incitement." The second period was around 1988, when Wang wrote many articles, most of which were also published in *Economics Weekly*. The consistency of his principal viewpoint can be clearly seen. Now that the prosecutor has elevated his "past" as the source of criminality, I, as the defense attorney, also hope that the court would examine his past. Our point of departure is that one conclusion can be drawn from the "past", i.e., the defendant's past words and deeds, fundamentally speaking, did not pose any danger to society. This is undoubtedly rather important to reaching a verdict.

As for the other issues touched on in the indictment, such as "establishing a spokesperson for the people"; "supporting Liu Xiaobo's hunger strike," etc., these are either irrelevant to the charge of "subverting the government" or obviously unrelated to Wang Juntao. We shall not offer a defense for the time being.

To sum up the points made above, it can be said that we have offered a comprehensive defense with regard to several facts. These arguments show that the indictment has not risen to the level as claimed in its conclusion, of facts that are clearcut, and evidence

that is solid and sufficient. It is necessary to declare that this does not yet constitute our comprehensive evaluation of the indictment and the prosecutor's statement. My colleague and myself will raise other issues after having carefully listened to the prosecutor's rebuttal.

APPENDIX IV: A LETTER FROM WANG JUNTAO TO HIS
LAWYERS AS PUBLISHED IN *The South China Morning
Post*, March 2, 1991¹¹

Dear Sirs:

Originally, I felt it inappropriate to defend views in court that I was not responsible for in "the movement." As you know, I did not approve of many of the movement's methods, and could hardly agree with all of its convoluted messages.

But I feel sad when I see that so many leaders and sponsors of the movement, when facing the consequences, dare not shoulder their responsibility. They will certainly suffer less themselves as a result, but what about the dead?

The dead are unable to defend themselves. Many of them intended to fight for China and her people, for truth and justice. I decided to take my chances to defend some of their points, even if I did not agree with all of them at the time.

I know that my penalty was more serious because of this action. But only by doing so can the dead rest in peace, since on the soil where they shed blood there are still some compatriots who take risks and speak out from a sense of justice in the most difficult circumstances.

The spirit that unifies the Chinese nation, a phrase often invoked in the empty talk of heavy-jowled and pot-bellied politicians, really means much more respect, understanding, trust, and love among the compatriots with flesh-and-blood relations, as well as the sincere memory of the living toward the dead. Please bear with me on this, the two of you, since this is certainly unfavorable to my defense.

I do not wish to see China loaded with the weight of 1989. I often tell Xiaotian (Wang Juntao's wife) to look beyond her personal feelings. In this country, a little unrest can cause ruin, starvation and disease for hundreds of thousands of people at the bottom of society, where the upper levels of society cannot feel it.

The soil under our feet has been unsteady for a long time. When we pursue justice, we need to think of the interests of common people. Though I am only 32, I have been trying to observe the world objectively. The trial has brought me a sort of relief and consolation. I once again have a clear conscience. Yet thinking of the dead, I am still ashamed.

I had another motive speaking as I did, that is, defending the basic principles of our nation. The legitimate rights of citizens must

11. The text of this letter was heavily edited by the South China Morning Post for space considerations. For other translated versions (also edited) of Wang Juntao's letter, see *Asian Wall St. J.*, Mar. 14, 1991; see also *Wall St. J.*, Mar. 26, 1991, at A22, col. 4.

be protected, and reviving the vague charge of attacking the republic (a charge commonly used during the Cultural Revolution) cannot be allowed. So I got angry when the public prosecutor accused me of being a counterrevolutionary for "opposing leaders." A defense should not be limited to saying "I do not oppose leaders," but should allow for the legitimate right to "oppose leaders."

Yet what I am most concerned about is the loss of spirit and morality of our nation. I was surprised by much of the testimony that was given. I do not want to get into the superiority or inferiority of particular people. What I value is whether or not a human spirit has nobility—a noble and pure soul.

In China, even intellectuals lack it. As soon as political pressure arrives, the entire professional stratum of people freezes, their professionalism paralyzed. This is intolerable, especially when dealing with the law, a most sacred and solemn profession. See, after such an enormous disturbance in 1989, how few people are facing trial and how even fewer are speaking their conscience?

At this point, I am afraid that our generation is not as good as the one that came before it. Political viewpoints are not the most important thing; they can easily change. What I value most is a sincere and persevering spirit. The rise and decline, the honor or disgrace of a nation are tied to it.

So I hope the Chinese people, especially the intellectuals dominating the realms of culture and knowledge, will improve. I respect our elder generation very much—it is ironic that today I faced a sentencing from them. They had more devotion and determination in their time than we have in ours. They also have less tolerance and kindness.

I will not yet come to any conclusions about old Deng or Li Peng. What I want to safeguard are principles and conscience. If there is something to be sad or upset about today, it is the troubled spirit of our generation.

I am very grateful for your outstanding defense of me. My impulses may have adversely affected the outcome. I am sorry. Xiaotian said she hopes that you two will be entrusted with the appeal of my case. I would prefer it. I trust you. Please decide on my behalf whether or not to appeal and how.

I don't feel too well today; I was dizzy and unable to keep up with the (court) proceedings. I have tried to appear strong, since I was facing the camera—not just for personal reasons but for historical ones as well.

I have one more demand. Please help me console Xiaotian. Help her calm down and not make unnecessary trouble, to say nothing of violating the law. She should remain in control of herself. I have been trying to act conscientiously and calmly, sup-

pressing personal feelings. She should do the same. Dear sirs, I have no one else to write to and trust. Please excuse me for making such demands of you. I am very sorry.

Thank you once again! Wishing you a happy spring festival.
Wang Juntao February 12, 1991.

February 20, 1991

APPENDIX V: OPEN LETTER BY HOU XIAOTIAN ON HER
HUSBAND'S CONVICTION
TO FRIENDS CONCERNED WITH CHINA'S
DEMOCRATIC PROCESS

Our government has made many mistakes, such as the trials of Wang Juntao and other innocent intellectuals. Wang Juntao has decided to appeal his case; he refuses to accept the verdict of the first trial. I hope that our government will correct its mistakes, avoid further mistakes and judge Wang Juntao and other innocent intellectuals correctly and fairly.

I hope that all the judicial personnel who work for the government will handle "June Fourth" and the democracy advocates responsibly, and with fair judgement and conscience.

No matter how many years Wang Juntao gets, I am convinced the verdict is wrong. History will prove my point.

I received the court verdict yesterday. Wang Juntao received his the day before (the 13th). We only have the last three days to appeal. It is all very urgent.

China needs talent. But it is also very good at persecuting talented people. Talent is the foremost factor in China's progress. I cannot understand why the authorities act this way.

There are many things that I want to do, not just for my husband, but for all innocent intellectuals. I shall work within the limits permitted by law. Therefore, I need not fear for my own safety. I hope that all friends and progressive governments concerned about China's democratic process will give me assistance and support.

— Hou Xiaotian

APPENDIX VI: BILL OF PROSECUTION IN THE CASE OF LUO
HAIXING, LI PEICHENG AND LI LONGQING
GUANGZHOU MUNICIPAL PEOPLE'S PROCURATORATE
BILL OF PROSECUTION

Doc. Zongjian xingqizi (1991) No. 68

The defendant Luo Haixing is male, 42 years of age, Han nationality, a native of Guilin city in Guangxi Zhuang Autonomous Region, currently residing at 42D Broadway Street, 7th Floor, Mei Fu Sun Chuen, Kowloon, Hong Kong. On December 18, 1989, this Procuratorate authorized his arrest and on December 18 of the same year he was arrested.

The defendant Li Peicheng is male, 35 years of age, Han nationality, a native of Dongwan City in Guangdong Province, a high school graduate, a worker, currently residing at 427 Shanghai Street, 4th Floor, Kowloon, Hong Kong. On December 16, 1989, this Procuratorate authorized his arrest and on December 18 of the same year he was arrested.

The defendant Li Longqing is male, 33 years of age, Han nationality, a native of Xinhui County in Guangdong Province, a junior high school graduate, a worker, currently residing at Building 19, Room No. 1023, Lantian Chuen, Kowloon, Hong Kong. On January 25, 1990, this Procuratorate authorized his arrest, and on February 12 of the same year he was arrested.

The Public Security Bureau of Guangzhou has completed its investigation of the case in which the defendants Luo Haixing, Li Peicheng and Li Longqing all harbored criminal elements, and that Li Peicheng and Li Longqing organized and transported other persons across national borders secretly, and on January 9, 1991 according to law, it moved this Procuratorate to review and prosecute. Investigations have already shown the following:

On the afternoon of September 9, 1989, the defendants Luo Haixing and Fei Yuan, formerly in charge of the *Beijing Economic Weekly*, met in the Baiyun Hotel in Guangzhou, where the two parties conspired to assist Wang Juntao, Chen Ziming and other counterrevolutionary rebels wanted by the Ministry of Public Security in escaping abroad and seeking foreign contacts. The evening of the same day, the defendant Luo Haixing returned to Hong Kong, where he gave to [Shan] Jianxun¹², the standing committee chairman of the "Hong Kong Support Union,"¹³ the list provided by Fei Yuan of the names of those wishing to escape abroad and their hid-

12. John Sham Kin-fun.

13. The Hong Kong Alliance in Support of the Patriotic Democratic Movement in China, is a group formed to support the 1989 democracy movement that has been labeled "subversive" by Beijing.

ing places. On October 6 of that same year, after the defendant Luo Haixing received the notice that [Shan] Jianxun would soon send someone to Zhanjiang to assist wanted criminals to escape abroad, he immediately contacted Fei Yuan. On the afternoon of October 8, after the defendant Luo Haixing learned of the specific hiding place, false names and secret password of Mr. and Mrs. Chen Ziming, from Fei Yuan, he returned to Hong Kong to transfer the information to [Shan] Jianxun. On October 13, the defendant Li Peicheng received a commission from the "Hong Kong Support Union" to go to Zhanjiang City to prepare to take Mr. and Mrs. Chen Ziming to the Taiping Township of Dongwan City for their escape abroad, and was seized by our public security organ.

At the end of January 1989, when the defendants Li Peicheng and Li Longqing were retained by Chen Daqian and Chen Dazheng of the Hong Kong Yide Foreign Wine Company, they joined in returning secretly to the interior to assist Zeng Shen and the rebels in escaping abroad. From July 1989 to the end of October, the defendants Li Peicheng and Li Longqing altogether made five separate secret trips back to Guangzhou City, Huaxian County, Changsha City, Lanzhou City and elsewhere, meeting separately with 17 persons who were conspiring to be smuggled out of the country, hiding the majority of them in groups at a time inside a house rented by the defendant Li Peicheng at No. 2, Alley No. 7, Chaoyang, Shipai Village, Tianhe District of this city, and then again separately transferring them to elements specializing in the transport of persons to be smuggled abroad. Among the escaped persons who were transported were Wang Runsheng, Yuan Zhiming and other elements of the Beijing counterrevolutionary rebellion wanted by our Ministry of Public Security. The defendant Li Peicheng profited from breaking the law in the amount of HK \$20,000, and the defendant Li Longqing profited from breaking the law in the amount of HK \$23,000.

The documents, pieces of evidence, witnesses, testimony and other evidence collected confirm the foregoing facts. The three defendants have already separately confessed in their cases.

The defendants Luo Haixing, Li Peicheng, and Li Longqing disregarded the national laws, harbored criminals, and made contacts and assisted people so that criminal elements could escape abroad and evade legal sanctions, their conduct violating the provisions of Article 162 of the Criminal Law of the People's Republic of China¹⁴, and constituting the crime of harboring criminals. The defendants Li Peicheng and Li Longqing, for the purpose of reaping

14. Article 162 provides for a sentence of between three and ten years fixed-term imprisonment for the crime of harboring counterrevolutionary elements or giving false proof to protect them "when the circumstances are serious."

profits, participated several times in organizing and transporting other persons to cross the border secretly, their conduct together violating the provisions of Article 177 of the Criminal Law of the People's Republic of China¹⁵, and constituting the crime of organizing and transporting other persons secretly to cross the border. In order to demonstrate the seriousness of the nation's laws, to safeguard social administration and order, ensure the smooth progress of the cause of socialist construction, in accordance with the provisions of Article 100 of the Criminal Procedure Law of the People's Republic of China,¹⁶ we specifically bring this bill of prosecution, and request judgment according to law.

Presented to:

The Guangzhou City Intermediate People's Court of Guangdong Province, Deputy Procurator Cai Xin

January 12, 1991

Annex 1:

The defendants Luo Haixing, Li Peicheng and Li Longqing are currently being held at Guangzhou Public Security Bureau No. 1 Place of Detention;

Annex 2:

The complete materials of the case file form six volumes.

15. Article 177 provides a maximum five year term of imprisonment for the crime of organizing or transporting other persons to cross the national border secretly.

16. Article 100 provides that "where a people's procuratorate considers that the facts of the defendant's crime have already been clarified, that the evidence is reliable and complete and that according to law criminal responsibility should be investigated, it shall make a decision to prosecute and initiate a public prosecution in a people's court".

APPENDIX VII: VERDICT IN THE CASE OF LUO HAIXING, LI
PEICHENG AND LI LONGQING

CRIMINAL JUDGEMENT

BY THE GUANGZHOU MUNICIPAL INTERMEDIATE
PEOPLE'S COURT, GUANGDONG PROVINCE

Doc. Suifaxingyizi no. 58 (1991)

Public prosecutor: Cai Xin, deputy procurator of the Guangzhou People's Procuratorate.

Defendant: Luo Haixing, male, 42 years of age, Han nationality, a native of Guilin City of Guanxi Zhuang Autonomous Region, a university graduate and businessman, currently residing at 42 D Broadway Street, 7th floor, Mei Fu Sun Chuen, Kowloon, Hong Kong. He was arrested on December 18, 1989 and is now being held in custody.

Defenders: Kang Shu, Lian Hongjie, lawyers of the Guangzhou No. 2 Foreign Economic Law Office.

Defendant: Li Peicheng, male, 34 years of age, Han nationality, a native of Dongwan City of Guangdong Province, a high school graduate and worker, currently residing at 427 Shanghai Street, 4th Floor, Kowloon, Hong Kong. He was arrested on December 18, 1989 and is now being held in custody.

Defender: Zhuang Weiyan, lawyer of the Guangdong Guangming Law Office.

Defendant: Li Longqing, male, 32 years of age, Han nationality, a native of Xinhui County of Guangdong Province, a junior high school graduate, currently residing at Building 19, Room 1023, Lantian Chuen, Kowloon, Hong Kong. He was arrested on February 12, 1990 and is now being held in custody.

Defender: Zhang Zhengxiu, lawyer of the Guangzhou No. 2 Foreign Economic Law Office.

On February 12, 1991, the Guangzhou Municipal People's Procuratorate initiated a public prosecution in this Court with respect to the case of the defendant Luo Haixing, who committed the crime of harboring criminal elements, and the defendants Li Peicheng and Li Longqing, who committed the crime of harboring criminal elements and the crime of organizing and transporting other persons secretly to cross the national boundary. On February 26 of the same year, a public trial was conducted by a collegial panel which was composed by this Court according to law. Cai Xin, deputy procurator of the Guangzhou People's Procuratorate appeared in Court to support the public prosecution. The above defendants and defenders all attended the trial.

After investigation the following was ascertained. On September 8, 1989, the defendant Luo Haixing came to Guangzhou from Hong Kong at the invitation of Fei Yuan (formerly in charge of the *Beijing Economic Weekly*; his case shall be handled separately) and met Fei Yuan in the Baiyun Hotel, where the two men conspired to assist in escaping abroad Chen Ziming and Wang Juntao, who have committed the crimes of plotting to subvert the government and propagating and inciting counterrevolution (both have already been sentenced), and others wanted by the Ministry of Public Security. The evening of the same day, the defendant Luo Haixing returned to Hong Kong where he gave to [Shan] Jianxun of the "Hong Kong Support Union" the list provided by Fei Yuan of the names of those wishing to escape abroad and requested Can's assistance. On October 8, the defendant Luo Haixing came to Guangzhou again from Hong Kong at the invitation of Fei Yuan for a meeting. Luo Haixing told Fei Yuan of the notice provided by [Shan] Jianxun that the "Hong Kong Support Union" would soon send someone to Zhanjiang to assist the escapees, obtained from Fei Yuan the specific address of Chen Ziming's hiding place, and they jointly agreed to the false name and password for Chen Ziming. On the same evening, Luo rushed back to Hong Kong to relay them to [Shan] Jianxun. On October 12, after the defendant Li Longqing obtained Chen Ziming's false name, hiding place and password provided by Luo Haixing from Chen Dazheng of the Yide Company, Ltd. of Hong Kong, he stole back to Guangzhou to give them to the defendant Li Peicheng. On the same evening, Li immediately went to Zhanjiang City by car. The next day, while Li was meeting Chen Ziming at the above address to assist Chen in his escape, he was arrested by our public security organ.

In July 1989, the defendants, Li Peicheng and Li Longqing were retained by Chen Dazheng and Chen Daqian of Yide Company, Ltd. of Hong Kong to return to the mainland to assist in escaping abroad those persons who had participated in the turmoil and the counterrevolutionary riots in Beijing. During the same year, from July to October, the defendants Li Peicheng and Li Longqing accompanied each other in sneaking back to Guangzhou City, Changsha City and Lanzhou City in the Mainland from Hong Kong for a total of four times to meet each of 14 persons who had participated in the turmoil, including Wang Rensheng, Yuan Zhiming, Xiang Xiaoji and Liu Weiguo, all participants in the counterrevolutionary riot in Beijing, and all of whom are wanted by our public security organs. Afterwards, they gathered the above persons in the house rented by the defendant Li Peicheng at No. 16, Shipei Chaoyang Alley No. 2 of this city, and transferred them to others to be smuggled abroad. In addition, in September of the same year, the defendant Li Peicheng also was individually retained

by Chen Dazheng and stole back to Huaxian and Guangzhou City from Hong Kong to contact three outlaws and transferred them to others to be smuggled abroad. The defendant Li Peicheng assisted a total of 17 persons to secretly cross the border and obtained illegal profits in the amount of HK\$17,300; the defendant Li Longqing assisted a total of 14 persons to secretly cross the border and obtained illegal profits in the amount of HK\$12,000.

The above facts have been verified by obtained documentary evidence, material evidence and testimony of witnesses. Three defendants have also individually confessed in the case. The evidence is reliable, complete, and sufficient to decide the case.

This Court considers the following. The defendants Luo Haixing, Li Peicheng and Li Longqing assisted the counterrevolutionary criminals wanted by our public security organ to escape abroad in order to evade legal sanctions, and had therefore committed the crime of harboring counterrevolutionary elements. The circumstances of the crime committed by Luo Haixing are serious. The defendants Li Peicheng and Li Longqing assisted other persons to illegally cross the border for the purpose of reaping profits and had therefore committed the crime of organizing and transporting other persons secretly to cross the national boundary. After his arrest, the defendant Luo Haixing had a more cooperative attitude towards admitting his guilt, and may deserve a less severe punishment in light of the circumstances. In view of the facts, nature and circumstances of the crime committed by the defendants, Luo Haixing, Li Peicheng and Li Longqing, the degree of harm to society and profession of repentance, in accordance with the provisions of paragraphs 1 of Articles 162, 177 and 64¹⁷, we rule as follows:

1. The defendant Luo Haixing has committed the crime of harboring counterrevolutionary elements and is sentenced to five years of fixed-term imprisonment (the term of the sentence shall, after offset, run until October 13, 1994).

2. The defendant Li Peicheng has committed the crime of harboring counterrevolutionary elements and is sentenced to two years of fixed-term imprisonment; he has also committed the crime of organizing and transporting other persons secretly to cross the national boundary and is sentenced to four years of fixed-term imprisonment. The total term for all the crimes is six years of fixed-term imprisonment. We decide to execute five years of fixed-term

17. Articles 162 and 177 are described above in notes 8 and 9 respectively. Article 64 provides that persons who are tried for multiple crimes not punishable by death or life imprisonment shall be sentenced for a term "less than the total term for all the crimes but more than the maximum term for any of the crimes," with a maximum time of 20 years fixed imprisonment.

imprisonment (the term of the sentence shall, after offset, run until October 12, 1994).

3. The defendant Li Longqing has committed the crime of harboring counterrevolutionary elements and is sentenced to one year of fixed-term imprisonment; he has also committed the crime of organizing and transporting other persons secretly to cross the national boundary and is sentenced to three years and six months of fixed-term imprisonment. The total term for all the crimes is four years and six months of fixed-term imprisonment. We decide to execute four years of fixed-term imprisonment (the term of the sentence shall, after offset, run until December 4, 1993).

(The term of the above fixed-term imprisonment shall in all cases commence from the date of execution of this judgment. With respect to custody prior to execution of judgment, each day of custody shall be offset as one day's service of the term of the sentence.)

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