

Preserving Stability and Rights Protection: Conflict or Coherence?

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Abstract: The creation of a new administrative institution known as the “Stability Preservation Office” at the central level, which is overseen by the Chinese Communist Party (CCP) Central Committee and has branches at every local level, from streets and townships to enterprises, and has extraordinary powers to override other regular institutions and branches of government, is a clear indication that the Chinese government’s efforts to preserve stability are not limited to the conventional business of crime control or public security. This paper traces the origin of the discourse and practice of preserving stability and the rights defence movement in China, investigating the interplay or interaction between the two. It examines the end and the means of stability preservation, explores whether the measures taken by the government to preserve stability or the rights protection actions taken by citizens are the root cause of social unrest, and whether the suppression of discontent or the improvement of human rights and social justice is the better way to achieve social stability in contemporary China. It contributes to our understanding of emerging state-society relations and the latest social and political trends in China.

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Introduction

Post-1989 politics in China have been dominated by the concepts of *weiwén* (维稳, preserving stability) on the part of the government and *weiquán* (维权, rights protection) on the part of the people. Since the 1990s, preserving stability has been the overriding concern of the Chinese government, forming an interesting contrast to the emergence of the Weiquan or “rights defence” movement (维权运动, *weiquan yundong*) in Chinese society. Possible instability was already a worry among some China scholars at the end of the last century (Shambaugh 2000). It has been argued that stability discourse has played a key role in legitimating the rule of the Chinese Communist Party after the Tiananmen crackdown in 1989 (Sandby-Thomas 2011; Shue 2004: 24–49). The creation of a new administrative institution known as the “Stability Preservation Office” at the central level, which is overseen by the CCP Central Committee and has branches at every local level right down to streets, townships and enterprises with extraordinary powers to override other regular institutions and branches of government, is a clear indication that the Chinese government’s efforts to preserve stability are not limited to the conventional business of crime control or public security. This paper traces the origin of the discourse and practice of preserving stability and the rights defence movement in China, investigating the interplay or interaction between the two. It examines the end and the means of stability preservation, explores whether the stability preservation measures taken by the government or the rights protection actions taken by citizens are the root cause of social unrest, and whether the suppression of discontent or the improvement of human rights and social justice is the better way to achieve social stability in contemporary China. It is hoped that this paper will shed light on emerging state-society relations and the latest social and political trends in China.

Weiwén as the Post-1989 Political Order in China

The system of stability preservation (维稳体制, *weiwén tǐzhì*) in China took shape in the post-communist world after 1989, in response to a new international order in which the remaining communist party-states had lost their ideology-based legitimacy. There was a decisive shift in the focus of stability preservation in China before and after 1989, although stability had been a major political objective in this vast country since the

end of Mao's Great Proletarian Cultural Revolution, commonly known as the Cultural Revolution, in 1976. Needless to say, social and political stability is particularly desirable in China, a country that has suffered successive wars, foreign invasions, domestic rebellions, revolutions and other political campaigns, and social upheavals during the last two centuries. Regime stability in contemporary China, however, is quite another matter, as it can be argued that the preservation of the communist autocracy at all costs has in fact become the root cause of Chinese social and political instability. In the period following the death of Chairman Mao in 1976 up until the Tiananmen Incident in 1989, regime stability through communist rule was the means to achieve social and political stability, and was pursued eagerly by both society and the party-state. During this period, the Chinese communist regime left behind self-induced instability characterised by endless class struggle and political campaigns, laid emphasis on social and political stability as a necessary condition for economic modernisation and attempted to carry out political reform in the direction of creating a liberal and democratic order. Participation in globalisation and rapid integration into the world system also facilitated "China's overall interest in economic growth and social stability at home and security abroad" (Lagervist 2010: 222). Nevertheless, after 1989, due mainly to the legitimacy crisis caused by both the suppression of the pro-democracy movement at home and the worldwide collapse of communist regimes abroad, the regime stability of the communist rule became an end in itself. When the Chinese communist party-state was in danger of being rendered obsolete by the changing historical tide and had lost its mandate to a monopoly of political power, the CCP leadership was driven by the political imperative to pursue regime survival at the expense of other concerns, such as democratic reforms and social progress.

"Stability" had already become a part of the Party line before the Cultural Revolution had come to a turbulent close. Even the restless revolutionary leader Chairman Mao himself, perhaps tired of the successive political upheavals and power struggles towards the end of his life, set the political line as early as in November 1974 for the Party to achieve the tasks of "stability and unity" (安定团结, *andìng tuánjié*) and the "development of the national economy" (把国民经济搞上去, *ba guomin jingji gao shangqu*) (Mao 1998: 402, 410). His major rationale, as he mentioned on another occasion in August 1975, was that "the Great Proletarian Cultural Revolution has lasted for eight years. There should be

stability now” (Mao 1998: 402). The Great Leader’s highest directives for “stability and unity” notwithstanding, it took two more years after Mao’s death for the new CCP leadership to actually work out the new political line in which the slogans of revolution were supplanted by the quest for the “Four Modernisations” and political turmoil and class struggle gave way to economic reform and development.

Regarding the Cultural Revolution as “ten years of chaos”, Mao’s successors shifted their focus to creating social and political stability for economic reconstruction in the last few years of the 1970s and the early 1980s, when *anding tuanjie*, a normal social and political order free of destructive political campaigns, was the common aspiration for both the government and the population. During this period, the Chinese communist regime went through a transformation from a totalitarian autocracy that maintained one-party rule through the personality cult of the leader and lawless mass campaigns to eliminate “class enemies” to a post-totalitarian autocracy that maintained one-party rule through the rule by law and by giving up its complete monopoly on the economy and society. Chinese society also went through a transformation from totalitarian socialism without pluralism in any area to post-totalitarian socialism with the emergence of a plural space for the limited development of individual autonomy, market economy, civil society, intellectual freedom and international intercourse (Feng 2008).

During most of the 1980s, stability was pursued hand-in-hand with reform and opening up, which became the main focus of the CCP. Reformist officials such as Hu Yaobang, Zhao Ziyang, Wan Li, Xi Zhongxun, Li Rui, Zhu Houze, Du Runsheng, Ren Zhongyi, and Xiang Nan were promoted to key positions to carry out both economic and political reforms. Justice was regarded as a precondition of stability when Hu Yaobang and his colleagues took the lead in redressing millions of miscarriages of justice and rehabilitating the millions of victims of the many political campaigns from the 1950s to the 1970s. Reform and liberalisation were regarded as major contributions to stability when Zhao Ziyang and his colleagues took the lead in dismantling the people’s commune system to liberate the peasantry; promoting private enterprises and separating state-owned enterprises from the government to give full play to entrepreneurship within the population; establishing special economic zones to attract foreign capital and technologies; and limiting the power of the Party to increase freedom for civil servants, professionals, academics and artists. In the spirit of reform and opening, Hu Yaobang

and Zhao Ziyang joined hands to block the Anti-Cultural Pollution Campaign in 1983; Zhao Ziyang worked hard to limit the impact of Anti-Bourgeois Liberalism in 1987; and Zhao Ziyang risked his career when he insisted on dealing with the peaceful pro-democracy demonstrations of students and other citizens in 1989 in accordance with the law and the principles of democracy.

It was the paramount leader Deng Xiaoping who first put forward the thesis "stability overrides everything", even before the bloody suppression of the Tiananmen movement on 4 June. On 26 February 1989, Deng Xiaoping told visiting U.S. President George H. W. Bush that, "In China the overriding need is for stability. Without a stable environment, we can accomplish nothing and may even lose what we have gained" (Deng 1993). Deng's comment revealed a hard-line response to the social tension that was resulting from serious inflation and widespread government corruption in early 1989, the growing demands for democratic reform from the population as manifested by student activism and intellectuals' urgent calls for the release of political prisoners, and the increasing momentum within the CCP leadership to push for further political reforms like those being promoted in the communist world of the former USSR and Eastern Europe. Deng was partly right to argue that stability was the necessary condition for development, including political reform, in China but meaningful political reform was also a necessary condition for social stability, as it was precisely the lack of democratic reforms that led to the popular protests by students and other citizens in Beijing and other major cities throughout China.

Stability became the most powerful excuse for the hard-liners to justify the use of brutal force in the suppression of the popular protests during and after the crackdown on the Chinese pro-democracy movement in the spring of 1989, the event which ironically heralded the collapse of communist regimes in other parts of the world. Up until this point, communism throughout the world had been relatively stable. Since the first communist party-state was established in Russia by the Bolsheviks in 1917, the communist front had expanded until the late 1960s. However, during the period 1989-1991, most communist regimes in the world were swept away by the waves of a democracy movement that was supported by democrats within the communist parties of those nations. With the Revolutions of Eastern Europe, communist autocracy as an alternative to liberal democracy had been abandoned by humankind following seven decades of brutal experiments that had cost mil-

lions of lives. By contrast, however, the “lesson” learned by the CCP leaders during this historical transformation of the world was that the Chinese communist regime had survived because it used its army to put down popular protests rather than yielding to popular demands for freedom and democracy.

Following its own logic, the CCP leadership justified the loss of life and bloodshed in suppressing peaceful demonstrators and preserving communist autocracy as a necessary price for safeguarding stability as the common good. In the *People's Daily* editorial (*People's Daily* 1990) published on the first anniversary of the military suppression, the CCP leadership, with Jiang Zemin at the “core”, asserted that “the Party and the government had no choice but to resolutely quell the rebellion” in 1989, denying the possibility of a peaceful ending to the non-violent demonstrations and a negotiated outcome as promoted by the moderates from both camps: the Party and demonstrators. The editorial exploited the people's profound fear of chaos, in particular, the fear of the tumultuous years of the recent Cultural Revolution, and tainted public opinion by imposing on Chinese society the party-state's definition of stability as no challenge to the Party's monopoly of political power; and, as always, the CCP leadership also conflated the selfish interests of the party-state with the “fundamental interests of the people” by claiming that:

The people demand stability. Stability overrides everything. This is the consensus after experiencing last year's political disturbance. We must preserve the country's stability as we would safeguard our own life. We simply cannot do anything detrimental to stability (*People's Daily* 1990).

In April 1991, the CCP Central Committee issued a “Circular on Strengthening Law Enforcement Work for Preserving Social Stability”, making it clear that preserving stability had become a political task of utmost importance to the entire Party and to all the people of the nation.

After the death of Deng Xiaoping, Jiang Zemin upgraded stability preservation to an even higher level by laying down the strategy of “nipping every element of instability in the bud” (把一切不稳定因素消灭在萌芽状态, *ba yiqie bu wending yinsu xiaomie zai mengya zhuangtai*). The brutal military suppression of popular demonstrations in 1989 and the ensuing ruthless purges of democratic elements in society and within the party-state effectively crushed the Chinese democracy movement, which regained momentum only after the death of Deng Xiaoping in 1997. Another major stimulus to the re-emergence of the democracy movement

came in 1997 when the Chinese government, in its efforts to join the World Trade Organization (WTO) and benefit from economic globalization, signed two UN human rights treaties: The International Covenant on Civil and Political Rights and The International Covenant on Economic and Social Rights (which was ratified by the National People's Congress of China the following year). In mid-1998, former student leaders of the 1989 demonstrations were joined by veteran dissidents of the Democracy Wall Movement of the late 1970s to organise the China Democracy Party (CDP, 中国民主党, *Zhongguo Minzhu dang*). At the end of 1998, when Democracy Wall veteran Xu Wenli changed the course from "preparation" to formal establishment of the CDP by calling for a national congress, the party was brutally crushed by the Jiang Zemin leadership and all of its leaders jailed for up to 14 years (Wright 2004: 158–180). In his comments on the report by the Ministry of Public Security about the re-emergence of the underground Autonomous Union of University Students (高校学生自治联合会, *Gao xiaoxuesheng zizhi lianhehui*) at Beijing University and Qinghua University in April 1999, Jiang Zemin issued the call to "nip every element of instability in the bud" (*Xiaocankao* 1999). Beginning in June 1999, this new strategy was put into practice on a spectacular scale in the campaign to crackdown on followers of the spiritual discipline Falungong (Chan 2004).

As shown in the table below, the special administrative structure for dealing with stability preservation was established while Jiang held the core position of General Secretary of the Communist Party of China. There are two key features of these stability preservation "committees" or "offices". First, they are placed above other regular party and government institutions, expanding their power far beyond the security apparatus and enabling them to give orders to other institutions. Second, they are the special task forces of the political police tasked with suppressing political dissent, rather than dealing with criminal offences. These special forces include the Domestic Security Department (国内安全保卫支队/大队, *guonei anquan baowei zhidui/dadui*), usually shortened to 国保 (*guobao*) branch of the police force within the Ministry of Public Security, the police of the State Security Ministry (国安, *guo'an*), the Internet police (网警, *wangjing*), and the censors of the propaganda apparatus. In a signed *People's Daily* commentary, the Jiang Zemin leadership declared that,

All levels of Party organisation and government must give prominence to preserving social stability. [...] every element that causes

turmoil and destroys the very good situation of stability and unity must be nipped in the bud (*People's Daily* 1999).

According to the insightful observation and summary by the deposed Party leader Zhao Ziyang in 2000, there were five key measures taken by the Jiang Zemin leadership to preserve stability:

- the suppression of the people by the military and police forces;
- the control and manipulation of media;
- the elimination of social unrest in the embryonic state;
- the strict ban on oppositional organisations; and
- the delivery of economic benefits for dispute settlement in some cases (Du 2010: 230).

The “system of stability preservation” created in the 1990s has been further consolidated under the Hu Jintao leadership. The strategy of “nipping every element of instability in the bud” has been carried on and the repression of social activism has been intensified by the Hu Jintao leadership in spite of its high-profile slogans like “harmonious society”, “people first” and the “scientific concept of development”. This might be explained by the fact that two of Jiang Zemin’s protégés, Zhou Yongkang and Li Shangchun, were appointed as Politburo Standing Committee members charged with law enforcement and propaganda, respectively, under the Hu Jintao leadership to ensure the continuity of stability preservation practice. Furthermore, this was the first time that the two portfolios of law enforcement and propaganda were added to the Politburo Standing Committee, thus increasing their importance in the power hierarchy. The perception of the Hu Jintao leadership with regard to the connection between stability and the ideal of the “harmonious society” that the Hu government promoted was best summarised in a *People's Daily* commentary which stated that:

Stability is the prerequisite and foundation of harmony. To advance the construction of a harmonious society, we must maintain social peace, stability and order. Without stability, there is no way to build a socialist harmonious society. Only if we have stability are we then able to develop the economy and achieve social harmony. Safeguarding social order and stability is the most important task in building the harmonious society (He 2005).

In dealing with the tension between “development” and “stability”, Hu Jintao’s strategy, as in dealing with many other tensions, was to juxtapose both of them as equal targets of supremacy in amusing slogans like “de-

velopment is the unyielding principle, stability is the non-negotiable task” (发展是硬道理, 稳定是硬任务, *fazhan shiying daoli, wending shi yingrenwu*) (Hu 2011).

The Hu Jintao leadership has expanded the number of personnel and the budget for stability preservation and has rolled back the rule of law. Due to the strict control of the size of government personnel, usually the Office of the Public Security Comprehensive Management Committee and the Office for Stability Preservation Work at the local levels do not have their own separate staff and, therefore, are filled with non-staff personnel borrowed from the relevant organs and departments of the Party and government (Liao 2009). The staffing level depends on the available funding, as well as the amount of work to be done. However, in recent years the Hu Jintao leadership has resumed the Mao-style “mass line” in carrying out stability preservation work. Since 2009, there has been a nationwide drive to establish “Grassroots Centres for Petition, Comprehensive Control and Stability Preservation” (基层信访综治维稳中心, *ji ceng xinfang zongzhi weiben zhongxin*) right down to the level of street and township or even village. Each centre has five to 10 staff members, plus dozens of informants (维稳信息员, *weiben xinxinyuan*) and volunteers (治安志愿者, *zhi'an zhi yuanzhe*) recruited from the ranks of retirees and various people on a low-income to patrol urban resident compounds, villages, work places and local streets and roads (Hu 2010). These centres at the grassroots level have the responsibility of keeping a close eye on several categories of “instability suspects” (涉稳人员, *shewen ren yuan*) such as Falungong adherents, members of the floating population and petitioners, and are tasked with finding out any hints of unrest and nipping them in the bud (从源头上杜绝, *cong yuantou shang du jue*). In 2009, the formal budget for internal public security actually surpassed China’s huge defence budget when it reached the level of 487 billion CNY, compared to the 480 billion CNY defence budget (Ministry of Finance 2010; Xu et al. 2011). The formal public security budget covers the running costs of the three major units responsible for law and order, namely the Ministry of Public Security, the Ministry of State Security and the People’s Armed Police, and also the expenditure of other government institutions such as the judicial administration, the courts, and the re-education-through-labour system. The actual expenditure is larger, as financial contributions to security affairs and stability preservation from other government institutions and “special accounts” (专项经费, *zhuanxiang jingfei*) may not be included in this budget.

Table 1: Special Institutions for Preserving Stability

Institution	Tasks	Notes
The Central Politics and Law Commission of the CCP (政法委).	Oversight of the work of law enforcement, including public security, the procuratorates, the courts, judicial administration organs, and state security.	Re-established in March 1990, with branches at the provincial, the county and district levels. The CCPLA had been abolished in 1988 as part of political reform to "separate the Party from the government" and promote judiciary autonomy.
The Central Public Security Comprehensive Management Commission (中央社会治安综合治理委员会).	Research on public security issues, formulation of policies and countermeasures, and promotion of successful experience.	Established in February 1991, with branches at the county level and personnel drawn mainly from the security and propaganda apparatuses. It was renamed The Central Comprehensive Social Management Commission of the Communist Party of China (中央社会管理综合治理委员会) on 16 September 2011.
Office of the Central Public Security Comprehensive Management Committee (综治办).	Daily operations of the Central Public Security Comprehensive Management Commission.	Established in 1991, shares office with the Central Politics and Law Commission.
The Central Leading Group for Stability Preservation Work (中央维护稳定工作领导小组).	Formulating pre-emptive measures for stability preservation and coordinating emergency measures.	Established in 1998, with top leaders largely overlapping with those of the Central Public Security Comprehensive Management Commission.
Office of the Central Leading Group for Stability Preservation Work (中央维护稳定工作办公室).	Daily operations of the Leading Group for Stability Preservation Work, including information collection and target identification.	Established in 1998, eventually with branches at the grass-root level of township, street, and major enterprises.
The Leading Group for Handling the Falungong Problem.	Oversight and coordination of handling Falungong affairs.	Established in June 1999, but changed later to "The Leading Group for Preventing and Handling Evil Cult Organisations".
Office of the Leading Group for Handling the Falungong Problem.	Daily operation of handling Falungong affairs.	Also known as the 610 Office as it was first established on 10 June 1999.

Source: Author's own compilation.

The retrogression of Chinese official legal reform and China's march away from the rule of law began in 2007 when Hu Jintao promoted the "three supremacies", which put "the cause of the Party" and the "people's interests" above the constitution and the law. Simultaneously, the state security apparatus started to systematically target human rights lawyers for comprehensive attack (Cohen 2009; Jiang 2009). By the early 2000s, a consensus had been reached in China that there was a clear distinction between the rule by law (法制, *fazhi*: law as a tool for state rulers) and the rule of law (法治, *fazhi*: state rulers, like everyone else, are subject to the law). According to this consensus, the rule of law is a legal-political system where there are meaningful legal restraints on state power and the effective legal protection of civil liberties and human rights. Chinese human rights lawyers, as well as judicial independence, are an essential part of the project to achieve the rule of law in China. It is unfortunate that the "cause of the party" under the Hu Jintao leadership to "nip every element of instability in the bud" offered little place for the legal protection of civil liberties and human rights. Since 2007, almost all prominent human rights lawyers, who engage in "sensitive cases" and provide legal assistance to a variety of victims of abuse by the state, have been targeted by the security apparatus and other authorities with a range of legal or ex-legal punishments, including the suspension of their licence to practice, year-round surveillance, frequent detention, physical attacks and imprisonment (Human Rights Watch 2008). In the meantime, in the name of serving the "people's interests", the pre-reform practice of substituting "grand mediation" (大调解机制, *da tiaojie jizhi*) for legal process has been reinstated as a means for settling disputes. The mediation is organised and managed by the administration of the Party and government, leaving little room for the courts to play a role in stability preservation. More alarming still was that, during the spring of 2011, many human rights lawyers and other rights activists simply "disappeared" at the hands of the security apparatus, an apparent indication that the communist government is deliberately ignoring the modest requirements of its own laws. At a press conference on 13 March 2011, in response to a question about which law had been violated by the foreign journalists who were roughed up by the police on 27 February 2011, Ministry of Foreign Affairs spokesperson Jiang Yu said:

Don't use the law as a shield. The real problem is that there are people who want to see the world in chaos, and they want to make trouble in

China. For people with these kinds of motives, I think no law can protect them (Jiang 2011).

Paradoxically, these increased efforts at stability preservation have not resulted in a more stable society but have sown more seeds for social instability, known in China as the vicious cycle of “stability preservation leading to more instability” (越维稳越不稳, *yue weiwen yue bu wen*) (Social Development Research Group 2010). “Mass incidents”, the term coined by the Chinese communist party-state to describe unapproved collective actions like strikes, assemblies, demonstrations, petitions, blockages, collective sit-ins or physical conflicts, numbered 60,000 in 2003, 74,000 in 2004, and 87,000 in 2005, or an average of more than 200 protests a day, according to the official figures (Yu 2007). The number of “mass incidents” in recent years has been estimated at beyond 100,000 a year, but official figures have not been available since 2006, as those figures would show the policy failure of “stability preservation”. Some of these “mass incidents” involved thousands of people and resulted in police and paramilitary intervention leading to loss of lives.

The use of violence in mass demonstrations has intensified since 2008, alongside the intensification of stability preservation. For instance, the militant protests of Tibetans in Lhasa on 14 and 15 March 2008 led to the destruction of many vehicles and buildings, the death of 18 civilians and one police officer, as well as the injury of 141 civilians and 241 police officers, according to a Chinese official source. These militant protests later spread to Qinghai, Gansu and Sichuan provinces. According to the Tibetan Government in Exile, more than 140 people were killed in the crackdown by Chinese government. Then, in June 2008, based on the rumour that a schoolgirl had been raped and killed by the son of a local official, thousands of people in Weng'an County, Guizhou province joined together to burn down 160 offices and 42 vehicles belonging to the local government and police. This was followed by a serious incident, in July 2008, due to a dispute about the ownership of rubber trees, when hundreds of peasants at Menglian Village, Yunnan province clashed with police, resulting in the death of two villagers and the injury of 19 villagers and 41 policemen. Again in November 2008, due to resentment against forced eviction, about 30 evicted households and thousands of other people surrounded the city government of Longnan, Gansu province, burning 110 offices and 22 vehicles.

The wave of violent militant protests continued to hit China during May and June 2011. During the last week of May 2011, a Mongol

herdsman was crushed to death by a Chinese coal mine truck, igniting an eruption of ethnic Mongol protest against the state and Han Chinese in Inner Mongolia; then, on 26 May 2011, after nearly a decade of petitioning the government in vain over the forced demolition of his home, Qian Mingqi set off a number of bombs to blow up several government buildings, killing several people in Fuzhou, Jiangxi province. The violence continued, on 9 June 2011, when about 2,000 demonstrators attacked Lichuan city government building in Hubei province, where a local official investigating a questionable real-estate transaction had died while in police detention and, on 10–12 June 2011, a scuffle between migrant street vendors and security personnel at Xintang, an industrial town near China's southern metropolis of Guangzhou, sparked a series of militant protests involving more than 10,000 migrant workers, who set fire to police vehicles and offices (Beech 2011).

Since then, the new leadership headed by General Party Secretary, State President and Commander-in-Chief Xi Jinping and Premier Li Ke-qiang has sought to bring political reform, as well as economic reform, back on the agenda. In December 2012, Xi Jinping chose Guangdong Province as the destination of his first inspection tour as general secretary of the Communist Party of China Central Committee, a highly symbolic imitation of Deng Xiaoping's 1992 Southern Tour to demonstrate his determination to forge ahead with reform. Addressing the 30th anniversary of China's revised Constitution on 4 December 2012, Xi pledged to pursue the rule of law and stressed that "the Constitution is a legal weapon that guarantees rights" and "any violations of the constitution and law will be held responsible" (Xi 2012). Following his speech, an announcement was made to phase out the unconstitutional re-education-through-labour system. At his inaugural press conference on 17 March 2013, Premier Li also vowed to make a painful "self-imposed revolution" in reducing government power for the further development of the market economy and the fairer distribution of wealth and benefits (Li 2013). However, there has been no sign yet that the new leadership is dismantling the "system of stability preservation".

Obviously, the Chinese communist regime is seeking a special kind of stability in which the priority is the regime stability of the one-party autocracy, rather than the normal social stability that is preserved on the foundation of justice, the rule of law, the protection of civil liberties and human rights, and prevails in the contemporary world. In contrast, the Chinese population has a different definition of stability, which also

demands a different approach to achieving genuine social stability, as demonstrated by the increasingly powerful rights defence movement in China.

Weiquan as a Social and Political Movement

The current rights defence movement is a comprehensive movement involving all social strata throughout the country and covering every aspect of human rights. Due to a strict ban on organised opposition, rather than taking the form of a coordinated nationwide movement, the rights defence movement has instead developed as a diverse and increasingly forceful wave of isolated cases of rights protection reported daily in the media, for instance public interests litigation cases at courts in particular. The movement is not merely the “rightful resistance” of the rural poor (O’Brien and Li 2006), but has also become an urban phenomenon facilitated by the growing strength of the middle class and the latest technologies such as the Internet and the mobile phone.

It is generally agreed among Chinese political activists and scholars that the rights defence movement proper in China was kick-started in 2003 by two major events: the Sun Zhigang case, which resulted in the abolition of state regulations on the detention of migrants and the entire custody and repatriation system targeting migrant workers, and the case of the SARS epidemic, which led to a new wave of openness in the media (Wang 2003; Fan 2005; Teng 2006). The year 2003 has been named “the first year of rights” (权利元年, *quanli yuannian*) in China (Qiu 2003: 52–53; Xian 2003; Hu 2004). Most of the cases in this rights defence movement aim to defend economic and social rights, and include protests by peasants against excessive taxes, levies and forced seizures of farmland; workers’ strikes against low pay, arrears of pay and poor working conditions; protests by laid-off urban workers against unfair dismissal by their employers; protests by home owners against forced eviction by the government and developers; residents’ protests against forced relocations; campaigns by citizens against unpaid social entitlements; campaigns for the rights of women and children; and protests by affected residents against environmental pollution. However, the number of cases to defend civil and political rights is also on the rise, and includes campaigns by lawyers, journalists and writers for the freedom of speech and the press; campaigns by Christian house church attendees and Falungong practitioners for the freedom of religions, beliefs, assembly and associa-

tion; campaigns against arbitrary detention, "re-education through labour", torture and excessive use of the death penalty; campaigns by the victims of party-state agents against injustice and abuses of public power, particularly by the thousands of petitioners who have flown to the national or provincial capitals from all over the country to seek redress from perceived injustice; protests by migrant workers against the household registration system and other discrimination; and protests by peasants against irregularities and manipulation in village elections.

The claim to name 2003 as the first year of the rights defence movement sounds odd, however, as the assertion of a variety of rights has been a theme of the democracy movement and other civil movements in China since the late 1970s. For example, the Educated Youth Returning to Cities Movement during 1976–1979 was a large-scale movement for the rights of residence and employment by millions of former urban students who were "sent down to the countryside" by the party-state during the Cultural Revolution. The Democracy Wall Movement from 1978 to 1979 coincided with the Unofficial Magazines Movement, which lasted until 1981, and was a pro-democracy and human rights movement spearheaded by Chinese democracy activists who demanded and practised the political rights of free speech, free press and free association. The 1989 Pro-democracy Movement led by students and joined by millions of other citizens aimed not only to clean the government from corruption, but also to establish a variety of political rights, especially the right of association.

The relationship between the current rights defence movement and the Chinese democracy movement deserves further investigation. After the Tiananmen Massacre in 1989, the Chinese democracy movement sank to low ebb. "Farewell to revolution" became the mainstream thinking among students and intellectuals, who shifted their focus from politics to elsewhere due to fear or despair. At the outset, the rights defence movement sought compromise with the government, either in the form of individual litigations or in the form of collective demonstrations, confining its main scope to social and economic demands. The rights defence movement seeks the protection of legal rights within the existing legal-political framework, in contrast to the immediate political change attempted by the democracy movement. This does not mean that the human rights lawyers, liberal intellectuals and other rights activists taking part in the movement do not cherish political aspirations for democracy, however. Instead, their approach was more pragmatic. Even those who

clearly aimed at constitutional democracy chose to obscure their ultimate goal by trying to make a breakthrough point by point, step by step because, at the early stage of the rights defence movement, it was clear that fundamental political change was far from the horizon and it would have been well nigh impossible to accomplish the whole task in their quest for democracy at one stroke.

Furthermore, where the battle of the democracy movement was a political process, the battle of the rights defence movement is a legal process. Whereas legal demands were framed as political issues in the democracy movement, political demands are framed as legal issues in the rights defence movement. In a normal democratic society, legal litigation does not constitute a social or political movement. The rights defence movement only becomes a democracy movement when it moves into the political domain. Under the current communist rule in China, laws are closely linked to political institutions and political arrangements. The party-state has never clearly differentiated politics from law, hence the Party committee in charge of law enforcement is named the "Central Politics and Law Commission of the CCP" (政法委, *zhengfawei*). The legal processes involving human rights and rights lawyers are political in contemporary China because the ultimate consequence of these litigations, if successful, may lead to the change of the political system from one party autocracy to constitutional democracy.

The current rights defence movement is new in two senses. First, the current rights defence movement rights are grounded in an existing legal framework and legal process. It is based on the assumption that a society's "pressure valve" is a judicial system that is just, highly effective, publicly trusted, and able to check public power; and that with an autonomous judicial system that enables courts to truly carry out their role independently in accordance with the law, social conflict can come within the orbit of the law. The new features of the Sun Zhigang case lay in the fact that it was not only a human rights case fought by ordinary citizens against abuses by the state, but also a case that led to the positive response of institutional reform by the state to redress human rights abuses. Second, the movement's leadership is provided by the legal profession, rights defence lawyers in particular, and other citizen activists rather than known Chinese democracy movement leaders. The identity of Liu Xiaobo is interesting. From his involvement in the 1989 democracy movement and his time serving as president of the semi-legal Independent Chinese PEN Centre, he can be seen as an activist in the Chinese

democracy movement in a broad sense. However, he is not regarded as a leader of the Chinese democracy movement in the strict sense either by other leaders of this movement or by the Chinese communist government, as he has not played any role in the formal organisations of the democracy movement. Most leaders of the rights defence movement have not been regarded by themselves or by the party-state as dissidents. However, the story of how a petition sent to the National People's Congress by three young doctoral graduates in law from Beijing University (Jiang Yu, Teng Biao and Xu Zhiyong who later became rights lawyers) played a key role in bringing about a rare review on constitutional violation and the subsequent abolition of the notorious Regulations on Detention and Repatriation of Beggars and Floating Population has become known to all. With their professional knowledge and extraordinary courage, rights defence lawyers have fought on the frontline and have provided leadership to the emerging rights defence movement (Carnes 2006). These human rights lawyers have been hailed as "heroes of our times" or the "men of the hour", and have enjoyed an increasingly high profile in the Chinese and international media (Ji and Wang 2005; Hu 2006; Mosher and Poon 2009).

Actually, the strategy of the rights defence movement is hotly debated and different approaches are put forward among rights lawyers (Teng 2006; Kahn 2007; Guo 2008). The mainstream take a soft line, holding the belief or hope that the communist bureaucracy is not monolithic and that the current top communist leaders, committed as they are to attracting foreign investment and making the country a respected world power, are running the country "according to law". They are of the opinion that the basic duty of rights lawyers is to help citizens exercise the rights granted to them within the current legal framework; through individual litigations against rights violation, rights lawyers are effecting positive policy and institutional changes and raising the awareness of the concept of human rights.

Some notable victories have been won by this approach. The "stubborn as a nail household" (钉子户, *dingzihu*), a family who refused to vacate their home to make way for real estate development in Chongqing, Sichuan province attracted international attention in March 2007, and led to a negotiated settlement with the developers the following month. This was seen as a test case on the government's enforcement of the new Property Law. Likewise, the protests by residents of the coastal city of Xiamen in the second half of 2007 forced a giant petrochemical

plant (investment of 1.41 billion USD) with strong political connections and government support to relocate elsewhere, marking probably the first direct concession made by the Chinese government to public demands through demonstrations. Again in January 2008, similar protests by Shanghai residents forced the Shanghai government to reconsider its maglev train project to connect Hongqiao International Airport with Pudong International Airport. In November 2008, starting in Chongqing, one of China's four provincial-level municipalities, and extending later to Jingzhou, Lanzhou, Sanya, Dali, Shantou and other cities, thousands of taxi drivers went on strike over high operating costs, high traffic fines, shortages of natural gas and the government's lack of effort in reining in unlicensed taxi operators who were stealing fares away. Local governments in these cities negotiated with the strikers and took emergency measures to address their demands. These examples are significant because the Chinese government, with its tradition of top-down decision making, secretive deliberations and little tolerance for dissent, previously had almost no practice of engaging in real popular consultation. The positive responses from the government were precisely what had been expected by the activists and other participants in the rights defence movement. The soft approach has also been named the "middle way model of rights defence" (Fan 2005, 2010a, 2010b). Apart from striking a balance between violent revolution and obedience to autocracy, the success of the "middle way model of rights defence" is also predicated on the positive interaction between the government and society.

By contrast, for those who take a harder line, it is futile and even harmful to seek compromise with the ruling Chinese Communist Party, as even the "enlightened leader" Hu Jintao, in spite of his talks of expanding constitutional rights and strengthening the legal system, tightened the Party's control over the courts and continued to persecute rights lawyers; it is impossible to win political cases for defendants as courts are strictly controlled by the Party; and the main purpose of lawsuits is to expose the evils of the Chinese legal system and the crimes of the communist government. This group of rights lawyers also support Internet campaigns and mass demonstrations, including demonstrations involving violence. Gao Zhisheng, Guo Feixiong and Guo Guoting, three major advocates of this line, have been ruthlessly punished by the party-state. Gao Zhisheng has been deprived of his licence to practise law, having been convicted of "inciting subversion", and has been repeatedly tortured in prison and has repeatedly "disappeared" at the

hands of the security apparatus. Guo Guoting has also been deprived of his licence to practise law, having also been convicted of "inciting subversion", and forced into exile. The third proponent of the hard line, Guo Feixiong has been repeatedly beaten by police and sentenced to five years in prison on the charge of "illegal business activities".

This situation has posed a dilemma for the rights defence movement. Litigation at courts within the existing Chinese legal framework can only produce very limited results, as the Chinese authorities choose to ignore their own laws in violating the rights of citizens and refusing to redress the grievances of citizens; while direct calls for the overthrow of the communist regime or protests by force in the streets will be met with brutal suppression. It was against this backdrop that Liu Xiaobo and his colleagues drafted and published Charter 08, which to a certain extent could be claimed as the programmatic document of the rights defence movement.

Charter 08 is a result of the rights defence movement, as well as a guide for the future development of the movement, combining demands for concrete rights and benefits with a political blueprint. It pools together the major demands raised in the movement, ranging from the demand by the peasants for land ownership to the demand by the migrant peasant-workers for equal national treatment as urban residents; from the demand by the rich for the freedom of establishing enterprises to the demand by both the urban poor and the rural poor for basic social security; and from the specific demand for abolishing the re-education-through-labour system to the general demand for the protection of human rights and the environment. It also provides the movement with a political goal and direction through generalising the ideas advocated by Chinese liberal intellectuals in recent years. The relative isolation of students and intellectuals has been identified as a major failing of the 1989 Chinese Democracy Movement (Cherrington 1991; Goldman 1994). In contrast, the main force of the rights defence movement is the mainstream of society, including workers, peasants, businesspeople and professionals of all trades rather than just students. By providing political and intellectual guidance and articulating social, economic and political demands across all social strata, and by carrying the spirit of justice, peace, rationality and the rule of law, Charter 08 heralds a coalition between intellectuals and the "broad masses of the people" and the convergence of social movement and political democratisation. The coalition is also reflected in the fact that the 303 original signatories and thousands

of later signatories of Charter 08 come from very diverse professional backgrounds and social strata, such as scholars of all disciplines, grass-roots NGO leaders, lawyers, writers, journalists, editors, teachers, artists, officials, public servants, engineers, businessmen, workers, peasants, democracy activists and rights activists.

This kind of coalition and convergence is exactly what is needed for China's further development and what is expected by Chinese reformers when the reform is losing its momentum. Echoing Charter 08 and using milder language more acceptable to Party leaders, 16 senior party members, including Du Daozheng (director of *Yanhuang Chunqiu*, former director of the State Press Bureau and former chief editor of *Guangming Daily*), Du Guang (former director of the Research Office and the Librarian at the Central School of the CCP), Gao Shangquan (President of the China Economic System Reform Association and former deputy chair of the State Economic System Reform Committee), Li Rui (former deputy chief of the Organization Department of the CCP Central Committee), Li Pu (former deputy director of the *Xinhua News Agency*), Zhong Peizhang (former director of the News Bureau, the Propaganda Department of the CCP Central Committee) and Zhu Houze (former Party Secretary of Guizhou province and chief of the Propaganda Department of the CCP Central Committee) presented a petition to the CCP Standing Committee of the Politburo on 20 January 2009. Instead of directly laying down those liberal principles, the petition urged the Party leadership to "guarantee and put into effect the citizen rights stipulated in the Constitution" and to "make a breakthrough in reform and opening by overcoming the obstruction of vested interests". The petition also made several policy recommendations, such as establishing democratic procedure to guarantee the proper use of the 4 trillion CNY economic rescue package, resuming the program of political reform formulated by the 13th Party Congress, strengthening the independence of supervisory bodies, liberalising the media, and widening the space for the development of NGOs (Feng et al. 2009).

Again, echoing the announcement of the award of the Nobel Peace Prize to Liu Xiaobo, and in the run-up to the 5th Plenum of the 17th Party Congress, 23 former ranking Communist Party members, including Li Rui, Li Pu, Hu Jiwei (former director and chief editor of the *People's Daily*) and Jiang Ping (former president of the Chinese University of Law and Political Science), sent an open letter to the Standing Committee of the National People's Congress on 11 October 2010, calling for an end

to censorship in China. The letter cited article 35 of Chinese Constitution and demanded that the state honour its commitment to the freedom of speech and the press. It lamented that censorship in China has reached such an absurd level as to suppress and muzzle the speech of the head of the Chinese government, Premier Wen Jiabao (Li et al. 2010). Premier Wen seemed to have caused a deep concern among his colleagues in the Politburo by repeatedly calling for democratic reform and declaring in his interview on CNN that:

I believe I and all the Chinese people have such a conviction that China will make continuous progress, and the people's wishes for and needs for democracy and freedom are irresistible, [...] I will not fall in spite of the strong wind and harsh rain, and I will not yield until the last day of my life (Wen 2010).

The mainstream of the Party leadership have not been moved by Charter 08, the calls of those retired liberal officials, or the calls of Premier Wen Jiabao, however. They are still locked in the mentality and desire to maintain the communist autocracy forever in the name of stability preservation. They do not see the rights defence movement, the growth of rights consciousness and civil society in particular, as political progress in the right direction, but continue to see it as a serious challenge to their authority and a serious threat to their survival. As a consequence, the party-state and Chinese society are moving in opposite directions. Instead of engaging in positive interactions with the liberal forces and Chinese society to move forward, the party-state has moved backward and upgraded its systematic suppression of social and political activism to a higher level since 2009, coupling minimum concessions with stern crackdowns by the massive and exceptionally rich repression apparatus.

The concessions included an increase of personnel and budget for mediation in disputes and payments to victims, but the priority was given to comprehensive crackdowns, attacking NGOs, controlling the media and jailing or monitoring a large number of targets on the black lists of the state, such as separatists, Falungong adherents, democracy movement leaders, "house church" priests, human rights lawyers, "disobedient" journalists, public intellectuals and petitioners (Wu 2009: 25–39). Rights lawyers and NGOs were particularly hard hit in this new round of State repression. The choice of the Open Constitution Initiative, a legal NGO run by rights lawyers and legal scholars, as a target of coordinated attack in July 2009 revealed the attempt by the party-state to roll back the activities of NGOs and rights lawyers. The group of rights lawyers and

legal scholars gathering at the Open Constitution Initiative were typical moderates within the rights defence movement. They fought for social justice, but also rejected radicalism. They actively cooperated with the pursuit for “good governance” by the Hu-Wen leadership and showed their best intentions and constructive attitude to the government by refraining from taking on sensitive cases involved separatists, Falungong and the Chinese democracy movement. However, they became a target of government attack in the end, as they were increasingly influential nationally and internationally in providing essential legal aid to high profile public interest cases such as environment protection, food security, freedom of the press, forced home eviction, forced land requisition and “black jails” unlawfully detaining and repatriating petitioners (Wong 2009).

More dramatically, an anonymous online appeal for a political gathering on 20 February 2011 and following Sundays prompted a spate of coordinated assaults by the security apparatus, sending thousands of uniformed and plain-clothed police to each location within those nominated cities and organising debilitating attacks by thousands of hackers on the *Boxun* website which issued the message calling for the “Jasmine Revolution”. The security apparatus also rounded up, detained, placed under house arrest or caused to “disappear” dozens of rights lawyers, opinion leaders and other activists nationwide.

The retrogression from China’s march towards the rule of law has serious consequences for the party-state as well as society. Why does the party-state see the legal assertion of citizen rights in the rights defence movement as a threat rather than a remedy? One possible explanation is that the party-state’s flirtation with the rule of law is nothing more than professing love for what it actually fears. This fits perfectly with the allegory of Lord Ye’s love of dragons (叶公好龙, *Ye gong hao long*). Ye Gong was so fond of dragons that he decorated everything in his home with dragon designs. A real dragon went to visit to see Ye’s love for dragons for itself, but when it stuck its head through the window, Ye Gong was so frightened that he ran away. This idiom satirises those who profess to like or support something, but are averse to it in actual practice. The party-state was:

not fully aware of the power of the new ideas of rights and law it was promoting. When this power was finally recognised, the leadership (or an important part of it) saw it as a threat (Pils 2009: 141).

In the past, reform measures have been taken by the CCP leadership as long as these measures have been perceived as preserving or enhancing the CCP monopoly of political power. The CCP leadership has repeatedly marched backward and rolled back these reforms when they have been seen to pose a threat to CCP rule. Another possibility is that the current Chinese communist regime is dominated by a corrupt power elite and has thus lost its capacity to implement meaningful legal and political reform, even if it were willing to do so. Either way, when the slogans “stability overriding everything” and “nipping destabilising elements in the bud” are put into effect, artificial “stability” is imposed by the party-state at the expense of justice, human rights, the rule of law, reform and progress, leading to more dangerous instability and what is called by Chinese sociologists as “social decay” (社会溃败, *shehui kuibai*) with serious repercussions such as structural corruption and “un-governability” (不可治理状态, *bu ke zhili zhuangtai*) (Sun 2009).

Conclusion: The Party-state as an Institutional Obstacle to Social Stability

It is the predicament of *weiquan* (维权, rights defence) to reveal the pitfalls of *weiwen* (维稳, stability preservation), a concept that has been the political order since 1989 and has become a focus of public debate since 2009. The normal responsibilities and functions of a government include provision of public goods and public order. The stability discourse and the additional administrative institutions of stability preservation imply extraordinary measures taken by the Chinese communist regime to arrest the trend of democratic change and perpetuate communist rule after the global collapse of communism. The thesis of Chinese government is that China can succeed in economic development only under conditions of stability and only the one-party rule by the CCP can ensure stability.

The vast majority of Chinese share the perception of the CCP leadership in recognising that stability is a precondition for continued economic growth, but they do not accept that continued communist rule is the only guarantee for stability. The reality is that the social order in China has continued to deteriorate under the heavy-handed policy of communist rule and the country is facing enormous problems that threaten its fundamental stability. From the very beginning, the Chinese government and the population differed greatly in their focus and approach. Whereas the major concern of the government is regime survival, the

population is yearning for a new order where society is free of unrest, the government is legitimate and supported by the population, social order is preserved through positive interactions between the government and the population, as well as among the population with the best intentions, human rights are guaranteed, and citizens enjoy a peaceful life and opportunities to improve their living standards. Given that the guarantee for stability is the function of institutions and mechanisms to expel evils, redress grievances, deliver justice and balance legitimate interests, the success of the rights defence movement, or the effective protection of human rights, is an essential prerequisite for social stability in China.

There are signs that both "rights defence" by the Chinese population and "stability preservation" by the government in their current forms are approaching a dead end. On the part of the Chinese government, when the budget for internal security has surpassed the huge budget of national defence; when stability preservation has become an excuse for corrupt officials to abuse power for personal gains and to eliminate any elements of the social and political progress of easing social instability; and when the efforts of stability preservation at all costs have managed to make both politics and society more unstable, the policy of stability preservation at the expense of justice and human rights proves to be increasingly untenable. On the part of Chinese population, when the request for the rehabilitation of the abuses of public power has been met with more abuses by the government and legal institutions; when scholars offering constructive proposals for political development and the protection of basic human rights are jailed for the "crime of subverting state power" or the "crime of inciting the subversion of state power", and the efforts of human rights activists to prevent political confrontation for safety consideration have only led to political persecution; and when rights lawyers who help to enforce relevant laws and provide legal remedy for rights violation have become a primary target of the security apparatus, the "rights defence movement" is blocked by the politics it tries to avoid.

In a nutshell, the source of social instability in China is the unequal distribution of power, wealth, opportunities, and benefits due to a power structure based on one-party rule. The preservation of one-party rule through violence contributes to social instability rather than reducing it. The perpetuation of one-party rule in China is an attempt to arrest the progress of history and the CCP leadership is defending the indefensible in the long run. In fact, a variety of rights defenders have formed a quasi-

opposition, exercising pressure on the government to negotiate a new social and political order. Their individual or collective rights defence actions such as lawsuits, petitions, strikes and demonstrations for achievable rights and benefits as righteous claims are just normal means of interest articulation and expression, aimed at negotiated outcome with the state. Whereas the use of violence by the state to suppress protests and dissenting voices has further alienated the population and generated increasing resentment, tension and confrontations, concession from the state may open up the possibility for the transformation from the post-totalitarian to a liberal democratic order. There is a growing voice not only among the population, but also within the party-state calling for effective *weiquan* to be taken as the core of *weiren*, although it remains to be seen whether or not the CCP leadership will change its course to accommodate the rights defence movement and eventually strike out on a new path towards constitutional democracy.

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