

**PETITION TO:  
UNITED NATIONS  
WORKING GROUP ON ARBITRARY DETENTION**

Chairman/Rapporteur: Mr. Louis Joinet (France)  
Mr. Tamás Ban (Hungary)  
Ms. Soledad Villagra de Biedermann (Paraguay)  
Mr. Seyed Mohammad Hachemi (Islamic Republic of Iran)  
Ms. Leïla Zerrougui (Algeria)

**COMMISSION ON HUMAN RIGHTS  
ECONOMIC AND SOCIAL COUNCIL**

In the Matter of

**Yang Jianli,**

Citizen of the People's Republic of China, Legal Resident of the United States of America

v.

Government of the People's Republic of China

-----  
**URGENT ACTION  
REQUESTED**

And Petition for Relief Pursuant to Resolution 1997/50 and 2000/36

*Submitted By:*

Jared Genser

Freedom Now

P.O. Box 30126

Bethesda, Maryland 20824-0126

United States of America

Telephone: (001) 301-279-9536

Fax: (001) 301-718-3631

[jgenser@freedom-now.org](mailto:jgenser@freedom-now.org)

9 December 2002

## **Request for Treatment Under “Urgent Action” Procedures**

On 26 April 2002, Yang Jianli, then 38 years old, was detained in Kunming, China for reportedly entering China with false or incomplete identity documents. Yang has been detained *incommunicado* by Chinese authorities since that date more than seven months ago. The Chinese government has refused to allow members of Yang’s family to visit Yang or to arrange to provide him with legal counsel. Nor has the Chinese government presented formal charges against Yang. Chinese authorities informally acknowledged Yang’s detention after approximately two months, when on 21 June 2002 the Linyi City Public Security Bureau in Shandong province informed Yang’s brother by telephone of Yang’s detention.<sup>1[1]</sup> As of the filing of this petition, Yang has not been heard from since his detention.

Yang was born and remains a Chinese citizen. Currently Yang is a permanent legal resident of the United States, having received a resident alien card (“green card”) from the United States government in 1992. Yang has resided in the United States since 1986. He received a Ph.D. in mathematics from the University of California at Berkeley (1991) and a Ph.D. in political economy and government from Harvard University’s Kennedy School of Government (2001). Yang is the founder and president of the Foundation for China in the 21<sup>st</sup> Century through which he promotes the cause of democracy in China. Yang has been active in the movement to promote democratization in China since the 1980s, most notably with respect to the events known commonly as the “Tiananmen Square uprising of 1989.” As a consequence of the displeasure of Chinese authorities with his involvement in these events, Yang was forced to flee China in June 1989. It is commonly known that Yang is one of a number of prominent “dissidents” who have been “blacklisted” by the Chinese government.

As set forth in the attached Petition, Yang Jianli is being arbitrarily deprived of his liberty. Given Yang’s notoriety in China, there is reason to believe that his health and safety are in serious jeopardy while he remains in Chinese prison and barred from communication with the outside world. Accordingly, it is hereby requested that the Working Group consider this petition pursuant to the “Urgent Action” procedure.<sup>2[2]</sup> In addition, it is also requested that the attached Petition be considered a formal request for an opinion of the Working Group pursuant to Resolution 1997/50 of the Commission on Human Rights as reconfirmed by Resolution 2000/36.

---

# **PETITION TO THE UNITED NATIONS WORKING GROUP ON ARBITRARY DETENTION**

## **I. IDENTITY**

1. Family name: Yang
2. First name: Jianli
3. Sex: Male
4. Age: 39
5. Nationality: Chinese
6. (a) Identity document (if any): United States resident alien card (“green card”)  
(b) Issued by: U.S. Department of Justice, Immigration and Naturalization Service  
(c) On (date): 17 June 1992  
(d) No.: A070149568
7. Profession and/or activity (if believed to be relevant to the arrest/detention):  
Co-Founder and President, Foundation for China in the 21<sup>st</sup> Century
8. Address of usual residence:  
658 Washington Street  
Brookline, Massachusetts 02446  
United States of America

## **II. ARREST**

1. Date of arrest: 26 April 2002
2. Place of arrest: Kunming, China
3. Forces who carried out the arrest or are believed to have carried it out:  
Beijing Public Security Bureau
4. Did they show a warrant or other decision by a public authority? No
5. Authority who issued the warrant or decision: None issued
6. Relevant legislation applied: None.

## **III. DETENTION**

1. Date of detention: 26 April 2002
2. Duration of detention: 26 April 2002 – present (approximately 225 days)
3. Forces holding the detainee under custody:  
Government of the People’s Republic of China
4. Places of detention:  
Beijing City Public Security Bureau Detention House.
5. Authorities that ordered the detention:  
Kunming City Public Security Bureau, Beijing Public Security Bureau
6. Reasons for the detention imputed by the authorities:  
Illegal entry into China
7. Relevant legislation applied (if known): Not known

## **IV. DESCRIBE THE CIRCUMSTANCES OF THE ARREST AND/OR THE DETENTION AND INDICATE THE PRECISE REASONS WHY YOU CONSIDER THE ARREST OR DETENTION TO BE ARBITRARY**

The statement of facts set forth in Part A of this subsection provides factual details regarding the detention of Yang Jianli. The analysis set forth in Part B of this subsection sets

forth the specific basis upon which it is asserted that Yang's detention is an arbitrary deprivation of liberty.

#### **A. Statement of Facts**

##### **1. Background**

Yang Jianli, a 39 year-old scholar and democracy activist, is internationally renowned for his efforts to promote democracy in China. Born a Chinese citizen, Yang has resided in the United States since 1986. He holds doctoral degrees in mathematics from the University of California at Berkeley (1991) and in political economy and government from Harvard University's Kennedy School of Government (2001). Yang is the founder and president of the Foundation for China in the 21<sup>st</sup> Century, through which he promotes the cause of democracy in China. Yang has been active in the movement to promote democratization in China since the 1980s.

In 1989, while a graduate student resident in the United States, Yang traveled to China to provide support to Chinese students in Beijing then actively involved in pro-democracy activism. The Chinese government responded with force to the student demonstrations, as a result of which many Chinese were injured and killed. In the aftermath of the "Tiananmen Square massacre," hundreds of protesters were arrested. Many, such as Yang, were forced to flee the country.

Since 1989, Yang has continued to reside in the United States. It is commonly known that Yang is one of approximately 50 expatriate Chinese dissidents who have been "blacklisted" by the Chinese government, as a consequence of which their return to China is forbidden. The Chinese government has never formally acknowledged this blacklist.

Notwithstanding this informal prohibition, Yang entered China on 19 April 2002 and was detained by Chinese authorities shortly thereafter.

##### **2. Initial Detention and Arrest**

On 26 April 2002, authorities of the Kunming City Public Security Bureau detained Yang Jianli at the airport in Kunming, China and brought him to a hotel near the local airport. Yang spoke by telephone with his wife (who was at their home in Brookline, Massachusetts in the United States at that time) on the evening of 26 April. Yang informed his wife, Fu Xiang<sup>3</sup>[3], that he had been detained and was being held in a hotel room guarded by Chinese police officers. Yang spoke to his wife again the next day on the morning of 27 April.

Yang has not communicated with family or friends since the communication described above. Fu Xiang, Yang's wife, traveled to China from the United States in an attempt to learn where her husband was being held and the reasons for his detention and to arrange for legal representation. Fu Xiang arrived in China on 23 May 2002 and was forcibly expelled from China by Chinese authorities on the same day.<sup>4</sup>[4]

Yang's brother, Yang Jianjun, traveled to Beijing from his home in Shandong Province, China in May 2002 in an attempt to learn where Yang was being held and the reasons for his detention and to arrange for legal representation. Chinese authorities at the Police Ministry, the State Security Ministry and the Foreign Ministry would not provide any confirmation of Yang's detention.

---

On 21 June 2002, police authorities in the city of Linyi in Shandong Province communicated with Yang's brother, Yang Jianjun, by telephone. The authorities informed Jianjun that Yang had been formally arrested on 2 June 2002. The police did not provide Jianjun with a copy of the official order for Yang's arrest nor a description of the charges for which he was arrested.

By letter dated 12 July 2002, the Chinese Foreign Ministry informed the U.S. Embassy in Beijing, China that Yang had been arrested on 21 June 2002. The letter stated that Yang was being detained by the Beijing Public Security Bureau and indicated a copy of the formal detention notice would soon be issued. A formal detention notice has not been issued as of the date of the filing of this petition, approximately 225 days since Yang's initial detention in Kunming, China and approximately 175 days since the Chinese government indicated in the above letter that a detention notice would be forthcoming. As will be discussed in greater detail below, the failure of Chinese authorities to provide a notice of detention to Yang's family deprives them under Chinese law of the authority to retain legal counsel on Yang's behalf.

As a final point of context, given Yang's prominence in the Chinese democracy movement, Yang has had significant support from many United States Senators, Members of Congress, and other dignitaries who have expressed deep concern to the Chinese about his ongoing *incommunicado* detention.<sup>5[5]</sup>

#### **B. Analysis**

As discussed further below, the Petitioner's detention constitutes an arbitrary deprivation of liberty that falls within Category III as established by the U.N. Working Group on Arbitrary Detention ("Working Group"). Specifically, the case meets the Category III criteria because the Petitioner has been arbitrarily detained and deprived of his liberty in violation of procedures established by law and in violation of international norms as set forth in the International Covenant on Civil and Political Rights ("ICCPR"), the Universal Declaration of Human Rights ("UDHR"), and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment ("Body of Principles").<sup>6[6]</sup>

##### **1. The Petitioner's detention is arbitrary because the Petitioner has not been detained in accordance with procedures established by Chinese law, in violation of the international norm set forth in the ICCPR, the UDHR, and the Body of Principles**

Under the ICCPR, "[e]veryone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law."<sup>7[7]</sup> The Universal Declaration echoes these fundamental freedoms, providing that "[n]o one shall be subjected to arbitrary arrest, detention, or exile."<sup>8[8]</sup> Furthermore, the UDHR states "[e]veryone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him."<sup>9[9]</sup>

---

Finally, the Body of Principles states: “Arrest, detention or imprisonment shall only be carried out strictly in accordance with the provisions of the law.”<sup>10</sup>[10]

With respect to the continued detention of Yang Jianli, the Chinese government has violated the requirement, enshrined in the ICCPR, UDHR, and Body of Principles as noted above, that the detention be carried out in accordance with lawful Chinese procedures.

**a. Chinese law requires notification of detention within 24 hours**

The Criminal Procedure Law of the People’s Republic of China (“CPL”) states that within 24 hours of detaining someone, the detaining authority must notify the family or employer of the detainee of the detention, the reason therefore, the identity of the detaining authority, and the place of detention unless to do so would interfere with the investigation.<sup>11</sup>[11] Yang was detained on 26 April 2002. As noted above, Chinese authorities did not notify Yang’s family of Yang’s detention until 21 June 2002. This notification was informal and did not constitute formal notice; it was communicated over the telephone by regional police authorities. Also as noted above, on 12 July 2002, the Chinese Ministry of Foreign Affairs informed the U.S. Embassy in Beijing that Yang had been detained by the Beijing Public Security Bureau and predicted that a detention notice would soon be issued. As of the date of the filing of the petition, over seven months after Yang was taken into custody, Yang’s family still has not yet received a copy of the notice of Yang’s detention.

**b. Chinese law imposes a 37-day limit on detentions without a warrant**

Although Chinese law permits detention without a warrant in certain emergency circumstances<sup>12</sup>[12], there is ordinarily a time limit of 37 days for such detention.<sup>13</sup>[13] Yang was initially detained custody on 26 April 2001. The Beijing Public Security Bureau stated Yang was arrested on 21 June 2002. Accordingly, Chinese authorities implicitly acknowledge that Yang well beyond the 37-day limit prior to his formal arrest. It is more disturbing, however, that Yang continues to be held *incommunicado* flouting the object and purpose of the CPL: to ensure the transparency of the legal process.

**c. Chinese law requires that the detainee be permitted rapid access to legal counsel**

Yang, as a detained suspect, has the right after the first interrogation by investigators or from the first day of detention to select and meet a lawyer.<sup>14</sup>[14] In 1998 the revised CPL was authoritatively interpreted to confer on the family the right to select a lawyer on behalf of the suspect, so that a lawyer chosen by the suspect or his family is recognized as having a right to enter the case and meet with the suspect.<sup>15</sup>[15] These rights are not contingent upon the approval of the detaining authority, unless the case is determined to involve “state secrets.”<sup>16</sup>[16]

---

There has been no allegation that Yang's detention involves state secrets. Thus, the Beijing Public Security Bureau is required by law to provide Yang with access to a lawyer.

In practice, however, the Beijing Public Security Bureau has made this impossible. First, the Beijing Public Security Bureau informed Yang Jianjun, Yang's brother, that he must present Yang's detention notice at the Beijing Public Security Bureau in order to see Yang and then arrange for his counsel. There is no basis in Chinese law for the statement made by the Beijing Public Security Bureau. Furthermore, the Beijing Public Security Bureau refuses to provide Yang's family with a copy of Yang's detention notice. Several defense lawyers have informed Yang's family that they cannot accept Yang's case until they receive a copy of the detention notice. The lawyers have made this statement because they know the Beijing Public Security Bureau will demand to see it prior to their being admitted to meet with Yang. Although there is no legal requirement to this effect, it is not practical for a lawyer to take up the case without the detention notice.

Therefore, the Chinese government in its continued detention of Yang is violating its own laws by: (1) failing to notify Yang's family within 24 hours of his detention, the reason therefore, the identity of the detaining authority, and the place of detention; (2) failing to release Yang from warrantless detention within the 37-day time limit; and (3) failing to provide Yang's family with a copy of the detention notice, so that Yang's family might arrange legal representation for him, effectively denying him access to a lawyer.

**2. The Petitioner's detention is arbitrary because the Petitioner has not been detained in accordance with international norms set forth in the ICCPR, UDHR, and the Body of Principles**

In addition to the violations of Chinese law noted above, the Chinese government's ongoing detention of the Petitioner is in violation of international law. Although China has not ratified the International Covenant on Civil and Political Rights, as a signatory<sup>17</sup>[17] it is obliged to refrain from acts that would defeat the treaty's object and purpose.<sup>18</sup>[18] Several actions of the Chinese government with respect to Yang's extended detention directly violate China's obligations as defined in the ICCPR and therefore flout the object and purpose of the treaty.

**a. The Chinese Government is violating provisions prohibiting torture, inhuman, cruel, and degrading treatment of the Petitioner**

The U.N. Commission on Human Rights has indicated that detaining an individual for an extended period of time without allowing him to communicate with family or legal counsel could violate Articles 7 and/or 10(1) of the ICCPR, which prohibit torture, inhuman, cruel, and degrading treatment.<sup>19</sup>[19] Consequently, the Standard Minimum Rules on the Treatment of Prisoners provide that "an untried prisoner shall be allowed to inform immediately his family of his detention and shall be given all reasonable facilities for communicating with his family and friends."<sup>20</sup>[20] Furthermore, under the Body of Principles, a detainee cannot be denied the right to communicate with his family "for more than a matter of days."<sup>21</sup>[21]

As noted above, Yang has been detained for approximately 225 days, and he continues to languish in detention now. Yang has been prevented from communicating with his family or with legal counsel during the entirety of this extended period of detention. Such an extended period of isolation from the outside world surely

---

constitutes inhuman, cruel and degrading treatment. Given the routine nature of the alleged offense, the Chinese government is likely holding Yang *incommunicado* because of his pro-democracy activities.

**b. The Chinese government is violating the Petitioner's right to be brought promptly before a judge**

Article 9(3) of the ICCPR states that anyone who is detained on a criminal charge "shall be brought promptly before a judge . . . and shall be entitled to trial within a reasonable time or to release." Under the Body of Principles, "A person shall not be kept in detention without being given an effective opportunity to be heard promptly by a judicial or other authority."<sup>22</sup>[22] According to the Human Rights Committee, a delay of "over two months violates the requirement . . . that anyone arrested [or detained] shall be brought 'promptly' before a judge."<sup>23</sup>[23] As of the time of the filing of this petition, Yang has been in detention for more than seven months. Accordingly, the Chinese government is violating Article 9(3) of the ICCPR and Principle 11 of the Body of Principles.

**c. The Chinese government is violating the Petitioner's right to a trial within a reasonable time or to release**

Article 9(4) of the ICCPR entitles any person who has been arrested or detained for whatever reason to challenge the lawfulness of his detention in a court without delay. This right stems from the Anglo-American legal principle of *habeas corpus* and exists regardless of whether deprivation of liberty is unlawful.<sup>24</sup>[24] On its face, the Human Rights Committee has stated that *incommunicado* detention renders a *habeas corpus* action impossible thereby violating Article 9(4).<sup>25</sup>[25] Therefore, the Chinese government's detention of the Petitioner violates Article 9(4) of the ICCPR.

**d. The Chinese Government is violating the Petitioner's right to be informed of charges against him and accompanying rights**

It is a universal right of every individual to be informed of the charges against him and to be advised of all rights of which the accused may avail himself. The ICCPR requires that "[a]nyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him."<sup>26</sup>[26] Furthermore, under the Body of Principles, "[a]ny person shall, at the moment of his arrest and at the commencement of detention or imprisonment, or promptly thereafter, be provided . . . with information on and an explanation of his rights and how to avail himself of such rights."<sup>27</sup>[27] Also under the Body of Principles, "(1) There shall be duly recorded: (a) the reasons for the arrest; (b) the time of the arrest . . . (c) the identity of the law enforcement officials concerned . . . (2) Such records shall be communicated to the detained person . . . in the form prescribed by law."<sup>28</sup>[28]

As far as can be determined, Yang has not been informed of the charges against him, nor of his rights. Yang was detained without presentation by Chinese authorities of a warrant for his detention or arrest. Neither a warrant nor other written documentation pertaining to the charges against Yang has been provided to Yang's family.

---



**e. The Chinese government is violating the Petitioner's right to consult with legal counsel**

Article 14(1) of the ICCPR guarantees anyone accused of a criminal charge "adequate time and facilities for the preparation of his defense and to communicate with counsel of his own choosing." While Yang has not yet been brought to trial on criminal charges (indeed, as noted above, Yang has not yet been informed of any charges brought against him), it may be anticipated that the Chinese government eventually will do so. At that point, Yang will be entitled to defend himself with the assistance of counsel. The Chinese government's current refusal to permit Yang to contact counsel or to permit Yang's family to arrange for legal representation on Yang's behalf necessarily redounds to Yang's detriment insofar as Yang will have less time for communication with counsel and for the preparation of his defense once charges have been brought against him (assuming Yang is *ever* permitted access to legal representation).

**V. INDICATE INTERNAL STEPS, INCLUDING DOMESTIC REMEDIES, TAKEN ESPECIALLY WITH THE LEGAL AND ADMINISTRATIVE AUTHORITIES, PARTICULARLY FOR THE PURPOSE OF ESTABLISHING THE DETENTION AND, AS APPROPRIATE, THEIR RESULTS OR THE REASONS WHY SUCH STEPS OR REMEDIES WERE INEFFECTIVE OR WHY THEY WERE NOT TAKEN**

As described above, Yang's family has attempted to determine where Yang is being held and the reasons for his detention. They have queried various arms of the Chinese government and have been rebuffed repeatedly. As Yang is being held *incommunicado*, and as the Chinese authorities remain uncommunicative, it is not possible to know the conditions of or reasons for his detention. Accordingly, outside of repeated requests for information concerning Yang, no domestic remedies have yet been pursued.

As noted herein, however, the Chinese government's violations of fundamental rights and freedoms guaranteed to the Petitioner under the ICCPR, the UDHR, and the Body of Principles prevent Yang and those who would help him from pursuing any domestic remedies.

**VI. Full Name And Address Of The Person(s) Submitting The Information (Telephone And Fax Number, If Possible).**

Jared Genser  
Freedom Now  
P.O. Box 30126  
Bethesda, Maryland 20824-0126  
United States of America  
Telephone: (001) 301-279-9536  
Fax: (001) 509-694-0525  
jgenser@freedom-now.org

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

## **Appendix A – Authorization of Representation**

(Document available upon request)

## **Appendix B – Support for Yang Jianli**

Over the past six months, the following prominent public figures have written President Jiang Zemin and/or written/called Chinese Ambassador to the United States Yang Jiechi to express deep concern about Yang Jianli's ongoing *incommunicado* detention. Copies of these letters may be found on the web site of the Foundation for China in the 21<sup>st</sup> Century: [www.chinaeweekly.com](http://www.chinaeweekly.com). Those involved in the case include 7 U.S. Senators, 30 U.S. Members

of Congress, Archbishop Desmond Tutu, President Lawrence Summers of Harvard University, 34 Faculty of Harvard University, and many others.

**United States Senators**

Senator Max Baucus (D - MT)

Senator Bob Graham (D - FL)

Senator Judd Gregg (R - NH)

Senator Chuck Hagel (R - NE)

Senator Jesse Helms (R - NC)

Senator Edward M. Kennedy (D - MA)

Senator John F. Kerry (D - MA), *Ranking Member, Senate Foreign Relations Committee, Subcommittee on East Asian and Pacific Affairs*

**U.S. Members of Congress**

Rep. Neil Abercrombie (D - HI)

Rep. Dan Burton (R - IL)

Rep. Michael E. Capuano (D - MA)

Rep. Christopher Cox (R - CA)

Rep. William D. Delahunt (D - MA)

Rep. Lincoln Diaz-Balart (R - FL)

Rep. Barney Frank (D - MA)

Rep. Benjamin A. Gilman (R - NY)

Rep. Henry J. Hyde (R - IL), *Chair, Committee on International Relations*

Rep. Tom Lantos (D - CA), *Ranking Member, Committee on International Relations, Co-Chair, Congressional Human Rights Caucus*

Rep. Sander M. Levin (D - MI)

Rep. Stephen F. Lynch (D - MA)

Rep. Edward J. Markey (D - MA)

Rep. James P. McGovern (D - MA)

Rep. Martin T. Meehan (D - MA)

Rep. Constance A. Morella (R-MD)

Rep. Richard E. Neal (D - MA)

Rep. John Olver (D - MA)

Rep. Nancy Pelosi (D - CA), *Minority Leader*

Rep. Joseph R. Pitts (R - PA)

Rep. Dana Rohrabacher (R - CA)

Rep. Ileana Ros-Lehtinen (R - FL), *Chair, Committee on International Relations, Subcommittee on International Operations and Human Rights*

Rep. Edward R. Royce (R - CA)

Rep. Christopher H. Smith (R - NJ)

Rep. Pete Stark (D - CA)

Rep. John F. Tierney (D - MA)

Rep. J. C. Watts Jr. (R - OK)

Rep. Frank R. Wolf (R - VA), *Co-Chair, Congressional Human Rights Caucus*

[1] By letter dated 12 July 2002, the Chinese Government informed the U.S. State Department that Yang had been arrested on 21 June 2002.

[2] Report of the Working Group on Arbitrary Detention, E/CN.4/1998/44, 19 December 1997, Annex 1 at ¶ 22-24.

[3] Fu Xiang was born in China but has become a citizen of the United States, where she uses the name “Christina Xiang Fu.”

[4] Fu Xiang was detained at the airport in Beijing for two hours and then placed on a flight from China to Canada.

[5] As of the filing date of this Petition, 7 U.S. Senators, 30 U.S. Members of Congress, Archbishop Desmond Tutu, President Lawrence Summers of Harvard University, 34 Faculty of Harvard University, and many others have written to the Chinese expressing deep concern about this case. Copies of all these letters can be found on the web site of the Foundation for China in the 21st Century – [www.chinaeweekly.org](http://www.chinaeweekly.org). See Appendix B for a list of the U.S. Senators and U.S. Members of Congress.

[6] International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16), at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976 (China signed the ICCPR on 5 October 1998); Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810, at 71 (1948); Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, G.A. Res. 43/173, annex, 43 U.N. GAOR Supp. (No. 49) at 298, U.N. Doc. A/43/49 (1988).

[7] ICCPR, Article 9(1).

[8] UDHR, Article 9.

[9] *Id.*, Article 10.

[10] Body of Principles, Principle 2.

[11] See CPL, Article 64 (“Within 24 hours after a person has been detained, his family . . . shall be notified of the reasons for the detention and the place of custody except in such circumstances where such notification would hinder the investigation or there is no way of notifying them.”)

[12] See *id.*, Article 61. The Chinese government

[13] See *id.*, Article 69 (“If the public security organ deems it necessary to arrest a detainee, it shall, within three days . . . submit a request to the People’s Procuratorate for examination and approval. Under special circumstances, the time limit may be extended . . . by one to four days . . . [and another] 30 days [for certain categories of crimes].”)

[14] See *id.*, Article 96 (“After the criminal suspect is interrogated by an investigation organ for the first time . . . he may appoint a lawyer to provide him with legal advice and to file petitions and complaints on his behalf.”)

[15] See Supreme People’s Court, Supreme People’s Procuratorate, Ministry of Public Security, Ministry of State Security, Ministry of Justice and the National People’s Congress Standing Committee Legal Affairs Working Committee: Provisions Concerning Several Issues in the Implementation of the Criminal Procedure Law, issued on January 19, 1998, Article 10.

[16] See CPL, Article 96.

[17] China signed the ICCPR on October 5, 1998.

[18] See Vienna Convention on the Law of Treaties, Article 18 (“A State is obliged to refrain from acts which would defeat the object and purpose of a treaty when . . . it has signed the treaty . . . subject to ratification . . . until it shall have made its intention clear not to become a party to the treaty.”).

[19] Human Rights Commission Resolution 1997/38 at ¶ 20 stated “prolonged incommunicado detention may . . . itself constitute a form of cruel, inhuman or degrading treatment” as cited in the Lawyers Committee Handbook, p. 10, fn. 48. The shortest period of incommunicado detention which constituted a breach of Article 10(1) was 15 days. See *Arzuaga Gilboa v. Uruguay*, 147/83 (Human Rights Committee), at ¶ 14.

[20] Rule 92, Standard Minimum Rules, adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Geneva, 1955), and approved by the Economic and Social Council Resolutions 663C (XXIV) (July 31 1957) and 2076 (May 13, 1997).

[21] Body of Principles, Principle 15.

[22] See *id.*, Principle 11(1).

[23] *Berry v. Jamaica*, 330/88, at ¶ 11.1.

[24] See M. Nowak, *CCPR Commentary* (N.P. Engel, Kehl, 1993), at 159.

[25] See *Hammel v. Madagascar*, 155/83.

[26] ICCPR, Article 9(2).

[27] Body of Principles, Principle 13.

[28] *Id.*, Principle 12.