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## China's Petitioning System: A Maze with No Exit

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Following on Prof. Minzner and Prof. Li's eloquent explanations of the petitioning system, I'd like to share some case studies in order to give a sense of the human face behind the system – as well as some of the challenges that impede reform.

My organization, Asia Catalyst, works with civil society in China and Southeast Asia, especially with AIDS activists. We assist grassroots, independent NGOs with capacity-building (strategic planning, budgeting and management skills) as well as conducting our own research and advocacy for the rights of NGOs to do their work.<sup>1</sup> Before founding Asia Catalyst, though, I spent three years as the China researcher at Human Rights Watch, where I conducted field research and wrote (among others) a book-length report on petitioners, "We Could Disappear At Any Time": Retaliation and Abuses Against Chinese Petitioners" (HRW, 2005).

I no longer speak on behalf of Human Rights Watch, which recently published a second report on petitioners and the "black jails" in which they are often detained. Nonetheless, for reasons I will get into, I expect that many of the people I interviewed in 2005 are still in Beijing petitioning, if they're not dead or in jail, and so the research I did in 2005 may still be current. On a personal level, I remain haunted by the voices I heard back then, and by the vision they shared of a vicious cycle with no easy way out; I am grateful to CECC for the opportunity to reflect on what they said again.

We have heard about the petitioning laws and the system they manage; so who are the petitioners? One of the things that make them compelling and empathetic is that as a rule, petitioners are not activists in a political sense. They're just ordinary people, many of them staunch believers in socialist ideals and in the achievements of the Chinese Communist Party, who have suffered terrible injustices. The U.S. view of human rights advocacy in China in some ways remains colored by June 4, 1989, and the students and scholars who fled to the U.S. in the wake of that tragedy. But the cutting edge of the human rights movement in China today is not in the universities; it's in the streets in front of the petitioning offices, in the hands of these farmers and urban poor, people unlikely to ever become known internationally, or to get flown out to Harvard or Princeton for fellowships, or to receive prestigious human rights awards. Many of them have little idea of what the term "human rights" even means except that it might

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<sup>1</sup> For more information, please see [www.asiacatalyst.org](http://www.asiacatalyst.org).

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mean, in the words of one Beijing man I spoke to, “that an official’s son should be given the same treatment as my son.”

In 2005, I went to Beijing for a month to gather testimony from 34 petitioners about police abuse, in order to write a report for Human Rights Watch. As I knew that my visibility as a representative of HRW made me a risky person to talk to in China, I took a number of precautions in the field, including frequent changes of housing and cell phone numbers. I and a couple of interns who were assisting with the project met with petitioners who had agreed to be interviewed, usually in the back room of one or another restaurant, where we would buy them lunch, explain who we were and the potential risks of talking to us, and hear whatever they had to say.

Most of the petitioners we met with were living on the streets of Beijing, or in very rudimentary boarding houses where they would rent a cot in a crowded dorm. They were selling newspapers or gathering up cans for recycling to survive, and quite a few were living off of scraps they dug out of the garbage. We would order a few dishes of food as compensation for their time. When they walked into the restaurant room, and saw the food spread out on the table, their eyes would open wide, and they would usually be shy and hesitant to eat anything. We’d have to press them to take food away with them after the meal. Then, needing very little encouragement and waving off our warnings about the risk of retaliation, they would pull out their sheaves of paper, the documentation of one lawsuit after another, statement upon letter, piles of forms and judgments and stamped receipts.

The range of individuals was great – from a middle-class shop-owner with a stiff perm and an embroidered sweater who represented a large group of investors bilked by a fraudulent investment scheme, to an unwashed farmer woman who arrived at the restaurant toting a cloth backpack with all her worldly belongings.

The petitioners who spoke to us had often begun their epic journeys with a harrowing incident in their home towns. Several people had lost sons or brothers to police abuse. A few described challenging local officials on corruption allegations, and being nearly murdered in retaliation, or witnessing retaliatory attacks on a loved one. One mild-mannered man I met with his young son described an attack by thugs whom he believed were hired by a local official:

At 7:00 p.m. on January 31, 2002, five or six people went to my house. They brought an iron hammer. They came in and said nothing. They weren’t from our village, I’d never seen them before, they were thugs. First they hit my wife and my younger brother’s wife in the head with an iron hammer. They were coming for me, but they didn’t know who they were dealing with. My brother hit [one attacker] over the head with a chair, and then when the chair broke he beat him to death with the chair leg....The kids were crying, they were terrified.<sup>2</sup>

There were several of these allegations about attempted assassinations by local officials. Ma, a Henan man, was actually a second-generation petitioner. His father began petitioning in

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<sup>2</sup> *“We Could Disappear At Any Time”*: Retaliation and Abuses Against Chinese Petitioners. Human Rights Watch Report, 2005; p. 32.

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the Mao era over a land claim, and persisted with his case for nineteen years. Ma said that officials had assassinated his father in retaliation:

They killed him with a hoe, they hit him in the back of the head. They also hit my mother and my sister. My sister fought back, and killed the attacker. So she was sentenced to five years in prison. This was all arranged by the village deputy Party secretary. I thought this was not fair treatment for my sister, so I've been petitioning for many years.<sup>3</sup>

Some cases were less violent, but were notable in that a single individual was pursuing a case on behalf of a large group. We spoke with one woman who said she represented 1,500 investors, many of them senior citizens, all of whom had signed letters (she showed them to us) saying that they had bought plots in a Beijing cemetery that was never constructed. The company collapsed in 1998. Investors alleged that the government official who had backed the scheme had absconded with the funds.<sup>4</sup>

Others we spoke with were petitioning over forced evictions from their homes in a city, or over forced land expropriation by local officials in the countryside. At Asia Catalyst, we have also monitored and written to the UN on cases in which petitioners from Henan province are demanding compensation for infection with HIV through unsafe blood transmissions, a problem that was widespread in the early 1990s and that persists today.

In many cases, people who began petitioning about one local abuse then became victim to retaliation for their petitioning, and as they moved up the system, petitioning from the township to the county to the provincial level and then on to Beijing, abuse began to pile on abuse. A petite and shy woman of 39 told about the epic journey she went on after her arranged marriage to an abusive man. She said,

I was married by force [to a man I had known for one week] in 2000. I tried to leave my husband and he wouldn't let me. The day after, two people came home with him. They ripped my clothes off and raped me. It was my husband and two of our neighbors. I complained, and the police detained him for a few days. Then they let him go....I think he paid a bribe.<sup>5</sup>

The gang rape was the original abuse; then she petitioned higher up the system, and the retaliation began. "For making 'false accusations' against my husband, I was sentenced to one year in prison," she said.<sup>6</sup> The court concluded that rape in the context of marriage was not legally rape. In the local prison, conditions were brutal. Ten women shared a cell. The authorities shackled her hands and feet for days at a time for such minor infractions as putting on socks when she went outside to work in the winter, or for joining in with a group of Falungong detainees who began singing a protest song.<sup>7</sup> At one point she was shackled

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<sup>3</sup> *"We Could Disappear At Any Time,"* p. 33.

<sup>4</sup> *"We Could Disappear At Any Time,"* p. 34.

<sup>5</sup> *"We Could Disappear,"* p. 64.

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*, p. 65.

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day and night for seven days. But as soon as she was released, she came back to Beijing to petition. She said defiantly, "I'm going to tell the national leaders what happened to me."<sup>8</sup> Like many petitioners, she clung to her faith in senior leaders.

One of the persistent fears of petitioners like this woman was of being detained by "retrievers", 解放人, some of whom were out-of-uniform police, others just thugs hired by provincial authorities. The job of retrievers is to find any petitioners from their province, kidnap the petitioners, and bring them back to the petitioner's hometown. In some cases, the petitioner is then imprisoned in a local detention facility (usually a reeducation-through-labor camp or something similar). Sometimes they are beaten and threatened with retaliation against both the petitioner and her or his family. A petitioner gave us a photograph he had taken of the retrievers lined up across the street from one of the petitions offices in Beijing, perched on small folding stools or leaning on trees like hawks ready to pounce.

Abuses by retrievers are common. One elderly couple I interviewed described being ambushed by retrievers who heard her and her husband's accent on the street near the petitions office, guessed which province they were from, and beat them in the street in an attempt to drag the couple off, while Beijing police ignored them. She said,

Thirty to forty people surrounded us and asked us where we were from. Before we even opened our mouths, they started to hit us. Over twenty people began hitting my husband. They stomped his body here [indicating left ribs]....They knocked me down, too. Every time I'd try to get up, they'd kick me back down. This happened three or four times. It was raining, and my poncho was soaked with water.<sup>9</sup>

When we did the interviews in 2005, petitioners spoke with fear about the building known as the Majialou, where they were interrogated and threatened, sometimes brutally beaten by retrievers. I noted in preparing for this roundtable that HRW's recent report on black jails also refers to the Majialou. However the 2009 HRW report describes the Majialou as a kind of sorting facility where petitioners are organized into groups and then sent to black jails. The black jails are rooms or structures appended to the provincial hotels where retrievers stay in Beijing; they function as something like embassies for the provinces in the capital. Detention in the black jails is done without any kind of legal procedure, and some people have been detained for extended periods.<sup>10</sup> The shift in the function of the Majialou from detention facility to sorting facility could suggest a growth in the number of petitioners coming to Beijing.

While Chinese Rights Defenders and Human Rights Watch report that some petitioners are kept in black jails for extended periods, for the most part the facilities seem to be used as way stations to collect and threaten petitioners before sending them back to the home province. This was the case with, for instance, an AIDS activist who recently told Asia Catalyst he had participated in a protest in front of the Ministry of Health the week before December 1 (World AIDS Day) with two other Henan petitioners, and had then been sent back to his home town in Henan.

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<sup>8</sup> Ibid.

<sup>9</sup> Ibid., p. 48.

<sup>10</sup> "An Alleyway in Hell": China's Abusive Black Jails. Human Rights Watch report, 2009.

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For most petitioners, these detentions in the hometown are a matter of course. The man whose father had been killed for petitioning over the Mao-era land seizure said that authorities had sent him back home multiple times. On one occasion, lacking room in the local jail, they had kept him in solitary confinement in an old abandoned and unheated school building in winter. After a major snowstorm, his jailers abandoned him, and he escaped by walking through snow drifts for miles. He told us he was now living in hiding with his siblings in Beijing, and that he was afraid to go outside because he believed this time local officials would kill him. "I don't dare to meet with the local government anymore," he said.

Ironically, this man was one of the few petitioners I met who had successfully obtained a letter from the Supreme Court in response to his petition – the holy grail sought by all petitioners. But when we expressed amazement at his accomplishment he shouted at us in frustration, "I have over twenty of those letters! They all say the same thing....I asked the head of the Court petitions office, 'What use are your letters?... He said to me directly, 'They're no use.' So now they have stopped giving me letters."<sup>11</sup>

Under the circumstances, it's remarkable that most of the petitioners I interviewed in 2005 continued to petition, and most likely are still petitioning today, even as we speak. All the petitioners we interviewed had come to Beijing numerous times, at risk of beating and torture and detention, to continue to press their cases. "I can't not petition," said one woman who had suffered weeks of torture in a detention center, leaving her permanently walking with crutches. "I don't fear anything," said others. "What else can they do to me that they haven't done already?"

It's this reckless disregard for personal safety, this obsessive desperation in pushing their long, hand-written missives on anyone who seems remotely able to help, and the fact that they live in filth and poverty on the streets, that leads many mainstream Chinese people (including many in the government who have to deal with petitioners) to conclude that the majority of petitioners are mentally unbalanced. And, having spent some time with them, I can't disagree – many are unbalanced. Whether they began that way is another question.

If we examine the lives of petitioners from their perspective, for many petitioners, the choice to seek redress is a turning point that gradually shuts out other life paths. Over time, the petitioners are driven deeper and deeper into a maze from which there is no exit. If an official steals your land – or worse, actually attempts to kill you, and you decide to fight back – how do you go home after that? Retaliation would be a constant threat.

In another country, having tried and failed to find redress through petitioning, a victim could perhaps give up, choose to move to a new town, and start a new life. China's restrictive household registration or *hukou* system makes that close to impossible, too. Without a local household registration card, the new resident would be unable to go to a hospital, or send children to school.

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<sup>11</sup> "We Could Disappear," p. 22.

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Once having started petitioning, petitioners can quickly become locked in a tragic cycle of petitioning, suffering new abuses, and petitioning about those as well, that ultimately destroys both the individuals and their families, and almost never results in justice.

But the petitioners may not be the only ones locked in a maze with no exit. As Carl's work on the incentive system shows, the Communist Party is now in a parallel and potentially equally dangerous cycle that pivots around the absence of accountability at every level of the system. A system that governs through absolute allegiance must be able to protect its own, or risk disloyalty and disintegration among the members. This logic leads to an incentive system that requires local officials not to investigate abuses against colleagues, but to cover them up. The end result is an ever-widening pool of dislocated victims with nothing to lose, who in turn require ever more brutal measures to suppress.

China needs senior officials with the courage to institute sweeping reform of the legal and petitioning systems, reforms that result in equal access to justice for all Chinese citizens. Without it, the current system and its supplicants will continue on their parallel cycles, and China's economic miracle will face increasingly destabilizing pressures.