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China's Troubled Quest for Order: Leadership, Organization and the Contradictions of the Stability Maintenance Regime

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ABSTRACT

China's pursuit of rapid growth has gone hand-in-hand with the development and elaboration of a stability maintenance regime. If there is a China model, then a key element of that model is the stability maintenance regime. This article traces the origins and evolution of the multiple institutions that make up this regime and reveals a confluence of technocratic leadership and organizational factors that have shaped the character and dynamics of this regime, including its intensification in the 2000s.

As successive leaders of the regime have turned to seemingly rigorous mechanisms of measurement, discipline and control to curb petitions, reduce crime or improve court efficiency, all in the name of preserving stability, they also sowed the seeds of various forms of excesses. There have been efforts to address some of the most glaring abuses in recent years but the regime continues in the era of Xi Jinping, torn between a strong preoccupation with stability and a desire to promote law-based governance.

Societies undergoing rapid industrialization and modernization face major challenges in keeping stability because economic transformations induce much pressure to the existing economic and social order. Some, such as Karl Marx, would welcome the dynamic social and economic transformations as potential steps to a new kind of society. Others, notably the earlier Samuel Huntington, see order as a value and the quest for order as essential to modernizing societies.¹

China's rapid economic growth has inspired much talk about and discussion of the existence of a China model, focused especially on the economic aspect of China's development experience. The China model, also known as the 'Beijing Consensus', first attracted attention when Joshua Ramo contrasted China's development practices with those associated with the 'Washington Consensus'.² As is well known, China has eschewed the big-bang style of economic reforms that were adopted in Russia and other countries and adopted a gradualist approach to the introduction of markets.³ As the role of the market expanded, the role of the Chinese Party-state also evolved.⁴ The Communist Party of China (CPC) appoints the absolute majority of all government officials and also dominates the discourse by making the presence of the propaganda apparatus felt. The Chinese government (both central and local) also owns the major enterprises in key areas including airlines, telecommunications, transportation, banking and finance, and energy. The functions of the Chinese government have shrunk in some areas

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¹Samuel Huntington, *Political Order in Changing Societies* (New Haven, CT: Yale University Press, 1968); Robert Wiebe, *The Search for Order 1877–1920* (New York: Hill and Wang, 1967).

²Joshua Ramo, *The Beijing Consensus* (London: Foreign Policy Centre, 2004).

³Barry Naughton, *Growing Out of the Plan: Chinese Economic Reform, 1978–1993* (Cambridge: Cambridge University Press, 1996).

⁴Dali Yang, *Remaking the Chinese Leviathan* (Palo Alto, CA: Stanford University Press, 2004).

but have become more vigorous in others, particularly in economic and social regulation.⁵ Such state dominance was combined with cheap but abundant and hard-working labor, cheap land, lax regulation, to offer a welcoming environment for capital to make China the world's workshop.

A key dimension of China's development experience is the Chinese leadership's preoccupation with maintaining stability. This preoccupation has been encapsulated in Deng Xiaoping's twin statements: 'Development is the hard truth' (发展是硬道理) and 'Stability overrides everything' (稳定压倒一切). Successive leaders have taken stability seriously and repeatedly launched 'Strike Hard' and other initiatives to promote stability.⁶ During the decade of Hu Jintao as General Secretary (2002–2012), the preoccupation with stability acquired exalted status: while promoting the 'scientific outlook on development', Hu also championed the building of a 'harmonious society'. In 2011–2012, as China enjoyed the greatest economic boom in history, Hu repeatedly called for 'not rocking the boat' (不折腾), a colloquialism that very well captured the spirit of the Hu decade.⁷

Yet institutions and regimes are not neutral constructs. As China has boomed, the Chinese leadership has devoted vast resources to develop what is now known as the stability maintenance or preservation regime or system (维稳体制). The stability maintenance regime is China's hybrid approach to suppress undesirable elements in the social order. It consists of a complex array of institutional arrangements and practices concerning social control, including cultivating grass-root state agencies and mass organizations, controlling media outlets and allowing various extralegal policing practices. Initially developed as a knee-jerk reaction to the Tiananmen Crisis of 1989, it had become an inordinately complex and powerful system by the late 2000s. This system mobilized and unleashed the full power of the regime, including extra-legal measures, all in the name of preserving social stability and harmony. The central structure is replicated throughout the country at the provincial and municipal levels. This regime became a crucial bulwark for China's authoritarian developmentalism, making it easier for authorities to requisition land on the cheap for development projects, keeping labor cheap, offering protection for capital, and enriching the powerful and the well-connected.

This article considers the stability maintenance regime as a crucial element of the Chinese development experience or of the so-called China model. Following the transition of Communist Party leadership from Hu Jintao to Xi Jinping, a plethora of revelations has emerged from China in connection with Xi's campaign against corruption that has brought down a large number of senior officials. Most notably, the campaign has brought down Zhou Yongkang, the internal security czar who was a member of the powerful Politburo Standing Committee between 2007 and 2012, and Bo Xilai, a Politburo member and the Party chief of Chongqing who had aspired to be Zhou's successor. With the benefit of revelations from these cases, it is possible to gain a ringside view of how the stability maintenance regime operated and its consequences and thus gain greater insight into the China model.

To anticipate the main argument of this study, the Chinese stability regime is not the product of a master design. Instead, promoters of the regime, mostly with an engineering background, responded to the political exigencies of the times by offering technocratic management solutions designed to fine-tune existing practices and mitigate the use of 'strike hard' campaigns in a single-party authoritarian regime. Yet in an illiberal political setting these Chinese efforts to strengthen the stability maintenance regime have produced all sorts of abuses and the effects of stability concerns are felt across a broad spectrum of issues ranging from housing demolitions to medical practices.⁸ Some of these most glaring abuses have been mitigated in recent years but the stability maintenance regime as an institution continues to operate, torn between a strong preoccupation with stability and a desire to promote law-based governance.

⁵*Ibid.*

⁶Harold Tanner, *Strike Hard!* (Ithaca, NY: Cornell University East Asia Program, 1999); Susan Trevaskes, *Policing Serious Crime in China* (London: Routledge, 2010).

⁷胡总书记再三强调“不折腾”警示啥? [Why does General Secretary Hu repeatedly stress “don't rock the boat”?], 中国共产党新闻网 [CPC News], (9 November 2012), available at: <http://cpc.people.com.cn/pinglun/n/2012/1109/c241220-19534782.html> (accessed 10 May 2015).

⁸Sarah Biddulph, *The Stability Imperative: Human Rights and Law in China* (Vancouver: UBC Press, 2015).

The Birth of the Stability Maintenance Regime

In the fall of 1987, the Thirteenth Party Congress of the CPC outlined a major political reform initiative, developed under the leadership of General Secretary Zhao Ziyang with Deng Xiaoping's blessing, to separate Party from government. As part of this initiative, the Central Political and Legal Affairs Commission (CPLAC), which was then headed by Qiao Shi and had become a powerful Party institution overseeing law and order, was downgraded to the status of a small leading group in 1988. The Small Leading Group on Political and Legal Affairs would become primarily an entity for research and policy formulation and would no longer issue Party documents in its own name or intervene in specific legal cases. Instead, judicial institutions such as the Supreme People's Court and the Supreme People Procuratorate would perform their functions by following the law, subject to supervision by the national legislature.⁹ Had the Tiananmen Crisis of 1989 not occurred, this reformist path would most likely have led to greater judicial independence and more respect for the law in China. Before this major reform initiative could be implemented in the localities, however, the Tiananmen Crisis occurred.

In the aftermath of the Tiananmen Crisis, the Chinese leadership, now with Jiang Zemin as General Secretary, became preoccupied with stability. In the spring of 1990, the CPLAC was resurrected with a heightened emphasis on maintaining social stability by 'comprehensively managing public security', a practice that had already been widely practiced in the mid-1980s under Qiao Shi's leadership.¹⁰ Qiao Shi again took charge of the CPLAC. The Party Central directive declared: 'Maintaining stability is the overriding political task for the whole Party and the entire people. Strengthening political and legal work plays an important role in safeguarding social stability.'¹¹

In the austere political circumstances of the early 1990s, Qiao Shi repeatedly spoke on the importance of 'not relenting on "striking hard"'. Yet he also saw the limits and problems with the strike hard campaigns and he sought to combine 'striking hard' with 'comprehensive management'.¹² In early 1991, Qiao garnered support to establish a dedicated leadership apparatus for 'comprehensive management' when the Chinese leadership approved a Decision on Strengthening the Comprehensive Management of Public Security. The national legislature approved the decision in March and then the Central Public Security Comprehensive Management Commission (中央社会治安综合治理委员会, hereafter Zongzhiwei) was launched.

The CPLAC Secretary has concurrently served as Chairman (主任) of the Zongzhiwei and the two organizations have also shared the same general office. However, the Zongzhiwei membership is much broader and has encompassed a long list of government ministries, administrations, as well as representation from the Party and the armed forces.

Leadership, Organization, and the Intensification of Stability Maintenance

Since the 1990s, the stability maintenance regime has become elaborated in several stages under different leaders. Depending on the orientations of the leaders and the balance of influences, the intensity of the regime has varied. The excesses of the regime would become more pronounced in the latter half of the 2000s when respect for the law retrogressed with Zhou Yongkang as domestic security czar.

⁹吴伟 [Wu Wei], 中国80年代政治改革的台前幕后 [*The Full Story of China's Political Reforms in the 1980s*] (Hong Kong: Xin shiji, 2013), pp. 282–283, 360–362; 乔石 [Qiao Shi], 乔石谈民主与法制 [*Qiao Shi on Democracy and the Legal System*] (Beijing: Renmin chubanshe; Zhongguo changan chubanshe, 2012), p. 141.

¹⁰社会治安综合治理 ['Public security comprehensive management'], available at: <http://baike.baidu.com/view/9871.htm> (accessed 2 October 2014); Qiao Shi, *Qiao Shi on Democracy and the Legal System*, pp. 64–68.

¹¹中共中央关于维护社会稳定加强政法工作的通知 ['CPC Central Committee Circular on maintaining social stability and strengthening the political and legal affairs work'], 十三大以来重要文献选编, II [*Selected Important Documents since the Thirteenth National Party Congress*] (Beijing: Renmin chubanshe, 1991), pp. 998–1006.

¹²Qiao Shi, *Qiao Shi on Democracy and the Legal System*, p. 224.

Balancing Stability Maintenance and Law: Qiao Shi, Ren Jianxin and the Origins of the Stability Maintenance Regime

Returning first to Qiao Shi, who was on balance a moderate reformer who wanted to expand the system of laws and curb some of the excesses of arbitrary power within an authoritarian system. With the resurrection of the CPLAC in 1990, Qiao continued to push for legal development. Less than a year after the Tiananmen crisis, Qiao lent his support to enacting the Administrative Litigation Law, which would empower the people to sue the government. In Qiao's own words: 'Some laws, when implemented, will create some "trouble" but such "trouble" is quite necessary; it is conducive to the better protection of people's democratic rights.'¹³ He also personally tried to protect the judicial institutions, especially the Supreme People's Court and the Supreme People's Procuratorate, from excessive political interference.

For Qiao, the Zongzhiwei, with 'comprehensive management' as its mandate, would help China move beyond 'strike hard' campaigns and toward a kinder and gentler system for maintaining order. When Qiao first became secretary of the CPLAC in 1985, China was at the high point of an era of contracting for responsibility, which gained traction with the household responsibility system in rural areas and then spread to many other spheres.¹⁴ Qiao showed special interest in adopting a responsibility system for rural public order in his first field trips as CPLAC Secretary in 1985.¹⁵

After Qiao assumed leadership of the Zongzhiwei in 1991, the idea of responsibility quickly became the Zongzhiwei's guiding philosophy. In several documents, the Zongzhiwei elaborated on the principle of *jurisdictional or territorial management*: local authorities are each responsible for maintaining stability in their respective jurisdictions and the leaders of those who fail to maintain stability are subject to the 'single item veto' and cannot receive promotions.¹⁶ The 'veto' elevated the importance of preserving stability to that of a core national policy on a par with birth planning. When Qiao stepped down from the leadership of CPLAC and Zongzhiwei in late 1992, at the Fourteenth National Party Congress, the CPC Charter was revised to include 'strengthening the comprehensive management of public security and maintaining long-term social stability'. Subsequently Qiao served as Chairman of the National People's Congress (1993–1998) and dedicated himself to making laws for a socialist market economy. Ironically some of the mechanisms introduced on Qiao's watch, including the 'single item veto', would become a leading cause of excesses associated with the stability maintenance regime.

In leaving behind his CPLAC and Zongzhiwei positions, Qiao Shi arranged for Ren Jianxin, concurrently the President of the Supreme People's Court, to be his replacement. Ren was not on the Politburo and didn't command the same clout as Qiao did, yet his appointment as CPLAC Secretary symbolized the importance of and respect for the laws as well as ensured that the courts and procuratorates would not be dominated by the police. On Ren's watch, the role of the CPLAC/Zongzhiwei was more restrained, though I should hasten to note that the 'strike hard' campaign of the 1990s was carried out in 1996–1997. The Zongzhiwei slowly built up capacity and began to establish leading groups on issue areas such as the migrant population. Because China was in the 1990s faced with major challenges in rural governance, as evidenced by a multitude of peasant protests against excessive burdens, the Zongzhiwei also boosted its local reach.

A recent study by Wang and Minzner traced the rise of the Chinese security state to the policy responses of 1989–1991.¹⁷ While there is no denying the CPLAC's resurrection and the Zongzhiwei's birth during these years, many of the later excesses of the stability maintenance regime could have been mitigated had there been greater respect for the law. As the senior leader who held his own vis-à-vis Jiang Zemin, Qiao Shi wielded his influence to carve out more space for law between 1991 and

¹³*Ibid.*, p. 192.

¹⁴Dali Yang, *Calamity and Reform in China* (Palo Alto, CA: Stanford University Press, 1996).

¹⁵Qiao Shi, *Qiao Shi on Democracy and the Legal System*, pp. 11, 25.

¹⁶The December 1991 documents are 关于社会治安综合治理工作实行“属地管理”原则的规定 [Decision on implementing the system of single item veto in the comprehensive management of public security], 关于实行社会治安综合治理一票否决权制的规定. Further elaboration occurred on 14 November 1993: 关于实行社会治安综合治理领导责任制的若干规定 [Stipulations on implementing the leader responsibility system for comprehensive management of public security].

¹⁷Yuhua Wang and Carl Minzner, 'The rise of the Chinese security state', *China Quarterly* 222, (2015), pp. 339–359.

1998. In contrast, in the aftermath of the Asian Financial Crisis, the political balance shifted and Qiao's successors soon began to focus their attention on control.

The Asian Financial Crisis and the Elevation of Stability Maintenance

1997/1998 was the height of the Asian Financial Crisis and the Chinese economy also came under much pressure. The economic knock-on effects resulted in a significant increase in the number of mass incidents. Earlier in the 1990s, the number of mass incidents in China began to surpass 10,000 per year, with a growing number of protests against excessive tax and charges in rural areas. In response the Zongzhiwei gave special attention to social order in rural areas. As state sector reforms deepened and layoffs rose, mass incidents also spread to urban areas and company towns. When the effects of the Asian Financial Crisis reached China, the number of mass incidents leapt from an estimated 15,000 in 1997 to 24,500 in 1998 and would keep rising for years to come.¹⁸

Against the backdrop of the Asian Financial Crisis, Qiao Shi retired from his top leadership positions at the 15th Party Congress held in September 1997. Ren Jianxin stepped down from the Secretariat but, interestingly, held on to the leadership of the CPLAC/Zongzhiwei until the spring of 1998 when finally the top leadership let Luo Gan succeed Ren as CPLAC Secretary and Zongzhiwei Chairman. Luo Gan became a Politburo member in the fall of 1997 (whereas Ren never made the Politburo) and was also appointed as a State Councilor in the spring of 1998. An engineer (machinery casting) by training, Luo Gan spent eight years studying and working in East Germany (1954–1962). Allied to outgoing Premier Li Peng, Luo had served as the CPLAC deputy secretary since 1993 and thus knew the CPLAC and the Zongzhiwei inside out when he assumed leadership of these institutions.

As the Asian Financial Crisis buffeted the Chinese economy and caused job losses, the Chinese leadership was alarmed and on 27 March 1998 formally established the Central Small Leading Group for Stability Maintenance (中央维护稳定工作领导小组), or simply the Stability Maintenance Leading Group.¹⁹ Wei Jianxing (尉健行), a Politburo Standing Committee member who had succeeded Qiao Shi as Secretary of the Central Discipline Inspection Commission in 1992, became its leader. In recognition of the foreign and domestic challenges, Wei's two deputies at this leading group were Vice Premier Qian Qichen, who oversaw foreign affairs, and Luo Gan.

After Falungong practitioners surrounded Zhongnanhai (25 April 1999), the headquarters of the Chinese Party and government, General Secretary and President Jiang Zemin decided that the quasi-religious Falungong was an evil cult that had to be eradicated. In June/July 1999, Jiang set up a Leading Group for Dealing with the Falungong and an operations office, known as Office 610, lodged in the CPLAC office. In a reflection of differing views among the senior leadership, Jiang didn't entrust this task to Wei Jianxing or Luo Gan directly (though Luo was a key player) but brought in his long-time friend Li Lanqing, then a Politburo Standing Committee member and executive Vice Premier. A harsh sustained crackdown on the Falungong has ensued.²⁰

One may suggest that the formation of the Small Leading Group for Stability Maintenance marked the formal inauguration of the stability maintenance regime in contemporary China. For the moment, under the overlapping and contending leadership of Wei Jianxing, Li Lanqing and Luo Gan, 'comprehensive management of public security' offered a unified response. In September 2001, the CPC Central Committee and the State Council issued a joint document on further strengthening the comprehensive management of public security and stated that this system had 'achieved positive results, effectively safeguarded social and political stability, and played an important role in promoting economic

¹⁸For discussion of the limits of such statistics, see, 'Statistics of mass incidents', *EastSouthWestNorth*, (15 November 2006), available at: http://www.zonaeuropa.com/20061115_1.htm (accessed 15 May 2015).

¹⁹The general office of this small leading group was not authorized and established in the Ministry of Public Security until 2000.

²⁰James Tong, *Revenge of the Forbidden City* (Oxford: Oxford University Press, 2009).

development and social progress'. It was a basic principle for good social order and the maintenance of social and political stability as well as the fundamental path for solving the problem of social order.²¹

Yet the overlapping leadership also appeared to produce a competitive effect on Luo, the junior member in the troika. Leading up to the transition in power in late 2002, the CPLAC/Zongzhiwei under Luo's leadership launched another 'strike hard' campaign against crime in 2001–2002.²²

Luo Gan was elevated to the Politburo Standing Committee in 2002, joining Hu Jintao, the new CPC General Secretary, and Premier Wen Jiabao. Unlike five years earlier, however, Luo not only led the CPLAC and the Zongzhiwei but also took control of the Stability Maintenance Leading Group and the office for dealing with the Falungong.

Hu Jintao, also an engineer by training, was Deng Xiaoping's choice to succeed Jiang Zemin. He embraced Luo Gan, the oldest of this cohort of Standing Committee members, as the 'older brother'. They agreed on the importance of stability maintenance and made Zhou Yongkang (Public Security Minister and Politburo member) the CPLAC deputy secretary (a position that had been vacant during 1998–2002), outranking the President of the Supreme People's Court (among others). In 2003, the Zongzhiwei reiterated the principles of territorial responsibility and performance veto and introduced standards for evaluating and ranking the performance of provincial-level units across the country. After Hu Jintao articulated the vision for building a socialist harmonious society in early 2005, Luo quickly pitched 'comprehensive management of public security' as essential to the building of such a society.

The first term of the Hu–Wen administration was noted for some liberal reforms, especially following the Sun Zhigang incident in 2003. This included the abolition of the notorious Custody and Repatriation System and Luo went along with it. Another significant trend during this period was an effort to promote rationalization of budgets and administrative processes.²³ In late 2003, the Twentieth National Conference on Public Security laid the groundwork on a Central Committee Decision on Further Strengthening and Improving Public Security Work and, as a result, the practice of having police generate income to cover their expenditure was replaced by delinking income and expenditure such that the government would fully guarantee the budget for public security work. However, the effect of the budget rationalization on local behavior was mixed.²⁴

Legal reforms also gained some room during this five-year period (2002–2007). Xiao Yang, then in his second term as President of the Supreme People's Court (SPC), leveraged on the top leadership's tolerance and China's entry into the WTO to promote legal professionalism in the courts. He also successfully centralized the right of final review for death penalty cases in the SPC in 2007 before he was retired.²⁵ This reform under the principle of 'kill fewer and kill more carefully' was urgently needed to reduce the number of death penalties and curb abuses that linked this system with China's then unruly organ transplantation practices. It won China international praise ahead of the Beijing Olympics.

Stability Maintenance vs. Law: The Era of Zhou Yongkang

In late 2007, Luo Gan handed over his myriad titles and responsibilities to Zhou Yongkang. As a member of the Politburo Standing Committee, Zhou took over a formidable empire for domestic security. A former oilman, Zhou was adept at mobilizing resources and getting things done. Since the Beijing Olympics was to be held in 2008, the Chinese leadership was obsessed with ensuring a safe environment for the Olympic

²¹中共中央、国务院关于进一步加强社会治安综合治理的意见' ['CPC Central Committee and State Council opinion on further strengthening the comprehensive management of public security'], available at: http://www.gov.cn/gongbao/content/2001/content_61190.htm (accessed 1 June 2015).

²²冀文海 [Ji Wenhai], '2001: 中国严打年' ['2001: The strike hard year'], 中国经济时报 [China Economic Times], (1 January 2002), available at: <http://www.people.com.cn/GB/shehui/43/20020101/640149.html> (accessed 1 June 2015).

²³Yang, *Remaking the Chinese Leviathan*.

²⁴Yue Xie, 'Rising central spending on public security and the dilemma facing grassroots officials in China', *Journal of Current Chinese Affairs* 42(2), (2013), pp. 79–109.

²⁵肖扬法治文集 [Collection of Xiao Yang's Writings on Rule of Law] (Beijing: Falü chubanshe, 2012); Shumei Hou and Ronald Keith, 'China's Supreme People's Court with the political-legal system', in Björn Dressel, ed., *The Judicialization of Politics in Asia* (London: Routledge, 2012), pp. 163–183.

Games. During Zhou's tenure (2008–2012), China hosted the 2008 Beijing Summer Olympics and the World Expo (2010, Shanghai) but the security apparatus had to counter protests in Tibet (2008), a violent uprising in Xinjiang (2009), as well as a terror plot to disrupt the Beijing Olympics by a trained group in July 2008.²⁶

The success of the prestige events further reinforced the Chinese Party-state's tendency to spare no resources in maintaining stability. In September 2011, Zhou Yongkang was able to change the name of the Zongzhiwei to the Central Commission for Comprehensive Social Management (中央社会管理综合治理委员会). This change broadened the Zongzhiwei's mandate to social management in the broadest sense and the number of ministries and organizations represented in the Zongzhiwei leadership rose from 40 to 51, making it potentially an all-encompassing organization overseeing all matters related to Chinese society.

A striking indication of the change from Luo Gan to Zhou Yongkang was the average number of people indicted for endangering state security (and the number of people put on trial for the same crime). During Luo Gan's tenure, 600 people were indicted each year (1998–2007), with a range of between 349 in 2005 and 886 in 2001. In contrast, the average during Zhou Yongkang's tenure (2008–2012) reached 1,049, with the high of 1,407 in 2008, the year of the Beijing Olympics, and the second highest of 1,223 in 2010, the year of the World Expo in Shanghai.²⁷

Yet the overall political atmosphere for stability maintenance and legal reforms also changed visibly, with respect for the law clearly on the wane. In December 2007, speaking to a national meeting of grand judges and grand procurators, General Secretary Hu Jintao pronounced the doctrine of the three Supremes, calling on those in law and justice to 'steadfastly insist on holding the Party's cause supreme, the people's interest supreme, and the Constitution and laws supreme'.²⁸ Amid General Secretary Hu Jintao's push for a harmonious society, some leading legal scholars stressed the importance of harmony in Chinese legal culture and Zhou Yongkang gave special emphasis to mediation.²⁹ By the end of his tenure as General Secretary in 2012, Hu had become fond of saying 'don't rock the boat', another way of saying stability was the overriding concern.

The 'three Supremes' became the supreme principle for Zhou Yongkang, who launched a national campaign to promote them. As He Weifang, a liberal law professor at Beijing University, noted, the 'three Supremes' were not logical for anyone with a modern legal training and in practice it meant that, when the three Supremes came into conflict, Chinese judges, under the guidance of the Party's Political and Legal Affairs Committees, would most likely place the Party's cause above people's interests and leave the Constitution and laws last in order of precedence.³⁰ In the words of Tong Zhiwei, a constitution law professor at the East China University of Politics and Law, 'Zhou Yongkang lacked belief in the rule of law, didn't respect the constitution and laws, and never attached much significance to the constitution and laws'.³¹

Indeed, as Zhou Yongkang became the stability czar, he was able to secure the appointment of Wang Shengjun (王胜俊), who had served as the secretary general of the CPLAC and had no legal training, to succeed the reformist Xiao Yang as the SPC president. With Zhou Yongkang in charge and Wang Shengjun at the helm of the SPC, considerations of stability maintenance became paramount. There was retreat from legal reform in favor of political populism.³²

²⁶ 揭秘受习近平表彰武警中队 ['Spotlight on the armed police squadron praised by Xi Jinping'], 中国青年网 [China Youth], (15 February 2016), available at: <http://news.163.com/16/0215/07/BFRMKERL0001124.J.html> (accessed 15 February 2016).

²⁷ China: state security indictments hit record high in 2014; *Dui Hua Human Rights Journal*, (21 December 2015), available at: <http://www.duihuahrjournal.org/2015/12/hrj-china-state-security-indictments.html> (accessed 5 January 2016).

²⁸ 杨海坤, '党的事业至上 人民利益至上 宪法法律至上' ['Holding the Party's cause supreme, the people's interest supreme, and the Constitution and laws supreme'], 法制日报 [Legal Daily], (1 February 2008), available at: http://www.js.xinhuanet.com/peace/2008-02/01/content_12381668.htm (accessed 5 January 2016).

²⁹ Wen-Hsuan Tsai and Nicola Dean, 'The CCP's learning system', *China Journal* 69(1), (2013), p. 103.

³⁰ 贺卫方 [He Weifang], '重提三个至上' ['Reiterating the three Supremes'], (21 August 2008), available at: <http://www.weibo.com/p/1001603740351058846589> (accessed 5 August 2014).

³¹ 童之伟 [Tong Zhiwei], '我们该怎样总结周永康案的教训' ['How should we draw the lessons from the case of Zhou Yongkang'], 共识网 [Gongshiwang], (1 August 2014), available at: <http://www.21ccom.net/articles/sxwh/fzqy/2014/0801/110388.html> (accessed 8 June 2014).

³² Benjamin Liebman, 'Legal reform: China's law-stability paradox', *Daedalus* 143(2), (2014), pp. 96–109; Dongsheng Zang, 'Rise of political populism and the trouble with the legal profession in China', *Harvard China Review* 6(1), (2010), pp. 79–99.

The Stability Maintenance Regime and its Discontents

Central to the development of the stability maintenance regime was the reflection of a desire to move away from the reliance on 'strike hard' campaigns, which tended to administer rough justice to those caught in the 'strike hard' dragnet. Instead, as the term 'comprehensive management' makes clear, Chinese leaders, most of whom had engineering backgrounds, have adopted a managerial approach and sought to use assessment tools to alter bureaucratic behavior in their quest for stability. Because the CPLAC has direct oversight over the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, the Ministry of State Security and the Ministry of Justice, many of the assessments are targeted at these institutions. Moreover, the principle of territorial responsibility under the Zongzhiwei enlisted a much broader range of agencies for coordinated action. It also put the burden of compliance on local authorities, which in turn drew on support from local Party and government interests as well as work units and social organizations. By the late 2000s, even townships had established *zongzhiban* (office for comprehensive management) and *weiwenban* (stability maintenance office).³³ The top-down assessments focused on stability have had powerful effects, often the perverse kind, leading officials to focus on producing the required results rather than following due process.

Leadership of the PLACs and the Practice of Xietiao

The national leadership's preoccupation with harmony and stability and the adoption of the responsibility system put enormous pressure on local authorities to prevent disturbances from emergence. Local officials could miss out on bonuses and promotions for poor performance on stability maintenance.³⁴

A central feature of the stability maintenance was the strengthening of the leadership role of the local political and legal affairs committees (PLACs). As noted earlier, Luo Gan made Zhou Yongkang, the police chief, the CPLAC deputy secretary in late 2002. Beginning in late 2003, as part of an initiative to strengthen Party leadership over police work, the Party Central began to encourage senior Party or government leaders to concurrently serve as police chiefs in provinces, municipalities and counties.³⁵ Subsequently the secretaries of provincial and municipal political and legal affairs committees (PLACs) took on the role of police chiefs (director-general of the Bureau of Public Security) or as Party Secretary in the police bureaus. By early 2010, there were 14 such concurrent appointments at the provincial level.³⁶ Moreover, those provincial police chiefs who were not concurrently secretaries of PLACs were given elevated places on the Party Standing Committees. Wang and Minzner also look at representation on the provincial Party Standing Committees to reveal the declining influence of court and procuratorate heads and the greater influence held by provincial police chiefs.³⁷

By assuming the role as police chiefs, the secretaries of the provincial and municipal PLACs not only acquired direct levers of power but also tilted the balance of justice in favor of police powers. Officially the PLAC is the Party organization overseeing multiple government and judicial organizations, including the police and the procurators and the courts. The concurrent office holding made it more difficult for the procurator's office to demand more evidence from the police in specific cases. The problem became especially pronounced if the PLAC Secretary had decided to use his police powers to pursue certain cases in spite of reservations by the procurators' office and the courts. It is conventional wisdom that this arrangement allowed the PLAC Secretaries to use their power to silence procurators/judges

³³Yue Xie, 'The political logic of weiwen in contemporary China', *Issues & Studies* 48(3), (2012), p. 19.

³⁴*Ibid.*, pp. 21–23.

³⁵中共中央关于进一步加强和改进公安工作的决定['CPC Central Committee decision on further strengthening and improving public security work'], (18 November 2003), available at: <http://cpc.people.com.cn/GB/64184/64186/66691/4494638.html> (accessed 10 October 2015).

³⁶崔小粟 [Cui Xiaoli], '超半数省级公安厅长由副省长兼任' ['More than half of provincial police chiefs are concurrently vice governors'], (12 January 2015), available at: <http://renshi.people.com.cn/n/2015/0112/c372279-26367532.html> (accessed 13 January 2015).

³⁷Wang and Minzner, 'The rise of the Chinese security state', pp. 344–346.

in various cases.³⁸ This could occur for purely political considerations and sometimes the secretaries may have been influenced by the Party Secretary of the locality or had personal reasons to intervene in certain cases. The procurators and judges refer to such practices as 'being coordinated' (被协调). When he was the head of the CPLAC and Zongzhiwei, Zhou Yongkang personally intervened in various cases, including the case of Chen Guangcheng, and with such interventions it became impossible for the procurators and the judges to play their proper roles in these cases.³⁹

The cost of stability maintenance has been high. Chinese scholars led by Sun Liping of Tsinghua University were the first to highlight the extraordinary financial costs of the stability maintenance system.⁴⁰ Recent national expenditure data from the National Bureau of Statistics include categories for public security and for armed police and they show the expenditure on public security alone began to surpass that for national defense in 2010.

Focus on Results vs. Due Process

Continental law systems are known for their inquisitorial styles of justice and especially high conviction rates and low acquittal rates when criminal cases are brought to trial. But the Chinese system went to the extreme. The Duihua Foundation estimates the rate of acquittal in Chinese courts at around 1% for the year 2000 and on the decline. It had a pronounced drop around 2004, when the Chinese leadership began to toughen controls on petitions and adopted quantitative measures for evaluating judicial performance. In spite of near doubling in the number of cases tried, the number of acquittals has fallen sharply from an estimated 6,600 in 2000–2001 to just 727 in 2012.⁴¹

The Supreme People's Court began to promote a set of case quality assessment metrics on courts in 2008 and further unified and strengthened the system in 2011. Under this system, court leaders were responsible for the performance of their courts on a broad range of metrics, such as rates of retrial, reversal on appeal, mediation, case withdrawal, petitions against the court.⁴² Partly as a result of the emphasis on judicial performance evaluation, there was a turn away from the courts.

Frequently the courts are bypassed in the name of preserving stability.⁴³ Following major incidents, such as the 2008 melamine milk scandal, the train incident in Wenzhou or the 2015 explosion in Tianjin, the PLAC would instruct the courts not to accept lawsuits on behalf of potential plaintiffs. Instead, government officials have tended to push for an administrative solution, with the local governments rushing to come up with funds to hush up victims. While one could argue for the 'efficiency' of such an approach, it clearly deprives victims of the opportunity to seek remedies through the courts.

The CPLAC/Zongzhiwei have also promoted Party-led mediation to handle complex disputes that may generate discontent or social unrest since 2004. Studies of the practice suggest that the mediation sessions were essentially political conferences with limited reference to legal norms.⁴⁴ The resurgent use of mediation in settling labor disputes, driven by local authorities' desire to maintain social stability, has chipped away at the role of legal institutions. One study concludes that 'mediation to a large extent has become a soft and indirect form of repression used to defuse social unrest and prevent protests.'⁴⁵

³⁸申欣旺 [Shen Xinwang], '政法委书记兼任公安局长引争议' ['The practice of having PLAC secretaries serve as police chiefs arouses controversy'], 中国新闻周刊 [China Newsweek], (25 March 2010), available at: <http://news.sina.com.cn/c/sd/2010-03-25/135619939867.shtml> (accessed 1 October 2015).

³⁹Tong Zhiwei, 'How should we draw the lessons from the case of Zhou Yongkang'; personal interviews.

⁴⁰清华大学课题组 [Qinghua University Research Group], '以利益表达制度化实现长治久安' ['Institutionalize interest articulation to realize sustainable governance and stability'], April 2010, Tsinghua University, n.p.; see also Yue Xie, 'The political logic of weiwren in contemporary China'.

⁴¹Behind the rarity of China's acquittals', *Dui Hua Research*, (10 February 2015), available at: <http://www.duihuaresearch.org/2015/02/behind-rarity-of-chinas-acquittals.html> (accessed 10 February 2015).

⁴²Jonathan Kinkel and William Hurst, 'The judicial cadre evaluation system in China', *China Quarterly* 224, (2015), pp. 933–954.

⁴³Liebman, 'Legal reform'.

⁴⁴Carl Minzner, 'China's turn against law', *American Journal of Comparative Law* 59, (2011), pp. 935–984; cf. Randall Peerenboom, 'The battle over legal reforms in China: has there been a turn against law?', *Chinese Journal of Comparative Law* 2, (2014), pp. 188–212.

⁴⁵Wenjia Zhuang and Feng Chen, "'Mediate first': the revival of mediation in labor dispute resolution in China', *China Quarterly* 222, (2015), p. 400.

Coercion and Petitions: Petitioners and Black Jails

With the stability maintenance regime in place, soon local authorities found the regime a powerful arsenal for crushing those who stood in the way of new development projects and were otherwise opposed to them. The People's Armed Police, in particular, have been mobilized to help with maintaining social order and to fight against terrorism. Following the Enactment of the PRC Law on the People's Armed Police (PAP) in August 2008, the PAP was mobilized more than 1.6 million man/times between 2011 and 2012 alone.⁴⁶

The use of police powers may well be justified on many occasions but on others such powers have been the crutches for despotic rule. Land disputes have been a major source of mass incidents and local authorities would use their control of the courts to deny those seeking redress—such as residents whose land or property had been requisitioned for less than what the residents considered fair value—the opportunity to file lawsuits seeking damages and compensation.⁴⁷ Many victims would seek redress by making petitions through the official Letters and Visits system. The vicissitudes of the petitioners have put the character of the stability maintenance regime under the spotlight.

In early 2005, the State Council issued a set of Regulations on Petitions and Visits in response to what is now known as the petitioning high tide.⁴⁸ Article 7 of the Regulations stipulated that each level of government should set up a responsibility system for handling petitions and visits and assess officials' performance on petitions and visits. With these Regulations, the State Administration of Letters and Visits (SALV 国家信访局) began to issue a table listing the number of people making 'abnormal petitions' from the provinces each month (this practice was terminated in March 2013).⁴⁹ Likewise, the provincial-ranked units ranked their subordinate units.

Under the jurisdictional responsibility system, the Chinese leadership considered those places with larger numbers of petitioners going to Beijing as indications of poor performance on stability maintenance by the local leaders. This system was further revamped in summer 2008, ahead of the Beijing Olympics. Article 6(3) of the revamped regulations stipulated that leaders could be penalized, including by dismissal, if their actions resulted in collective petitions to superior levels of government (including in Beijing) or mass incidents.⁵⁰ In essence, these rules made performance on the ranking of localities based on the number of petitioners going to Beijing a 'single item veto' measure for local leaders. It was a 'life or death' issue as far as their careers were concerned.

This ranking system became a hallmark of the stability maintenance system and a major cause of abuses as local authorities sought to prevent petitioners from making visits to Beijing. It also helped make the once-staid SALV a major center of attention. Local authorities are well known for having set up offices in Beijing (驻京办). Besides helping with local leaders visiting Beijing, a major function of these offices was to help deal with petitioning cases. Sometimes the local officials offered sums of cash to SALV staff members to erase petitioning cases from the official record.⁵¹

In November 2013, the Central Discipline Inspection Commission (CDIC), the CPC's discipline and anticorruption arm, began investigations of Xu Jie (许杰), a SALV deputy director general from 2005 to November 2013. Xu was found to have taken bribes and to be primarily responsible for numerous

⁴⁶'中国武装力量的多样化运用' ['Multiple uses of China's armed forces'], 新华网 [Xinhua News], (15 April 2013), available at: http://news.xinhuanet.com/politics/2013-04/16/c_115403491.htm (accessed 1 October 2015).

⁴⁷Ernan Cui, Ran Tao, Travis Warner and Dali Yang. 'How do land takings affect political trust in rural China?', *Political Studies* 63(S1), (2015), pp. 91–109.

⁴⁸Lianjing Li, Mingxing Liu and Kevin O'Brien, 'Petitioning Beijing', *China Quarterly* 210, (2012), pp. 313–334.

⁴⁹The term 'abnormal petitions' refers to petitions that do not follow regular procedures, including resort to actions that are illegal.

⁵⁰关于违反信访工作纪律处分暂行规定 ['Interim disciplinary regulations on violations of letters and visits work'], 国家信访局 [State Administration of Letters and Visits], (24 February 2010), available at: http://www.gjxfj.gov.cn/xxgk/2010-02/24/c_13186207.htm (accessed 2 July 2015).

⁵¹李崖：一个截访干部的忏悔录 ['Li Ya: Confessions of a cadre catching petitioners'], 共识网 [Gongshiwang], (7 December 2012), available at: http://www.21ccom.net/articles/zgyj/gqmq/article_2012120772508.html (accessed 2 July 2015).

serious disciplinary and illegal cases in the SALV Department of Visitor Receptions (来访接待司).⁵² The public prosecutor later charged Xu with having accepted bribes worth 5.5 million yuan in exchange for helping 'units' and 'individuals' to alter or erase data on petitions from various localities.

While official reports are short on details, it appears this type of behavior became a common practice on Xu Jie's watch. Officers and staff in the Department of Visitor Receptions, notably Sun Yingke (孙盈科), were known to have altered petitioner registrations for local governments in Hebei, Henan, Heilongjiang, Jiangsu, Jiangxi, Liaoning, Shandong, Sichuan and Zhejiang provinces. Sun received more than five million yuan in bribes.⁵³ Even some staff in hotels close to the SALV building profited from providing information to local authorities about petitioners.⁵⁴

Yet bribing staff at the SALV to erase the record of petitioners was but the last resort for local authorities, who wanted to stop petitioners from appearing at the SALV building and from going to Beijing altogether. Local representatives routinely stationed in Beijing to capture petitioners coming from their hometowns.

Despite the State Council's abolition of the notorious Custody and Repatriation Regulations in 2003, there have been reports about Chinese citizens being held for days or months in secret in unlawful detention facilities known as 'black jails' in Beijing. Located in hotels, nursing homes, psychiatric hospitals and other make-shift locations, these black jails were primarily used by local agents to house captured petitioners who had come to Beijing before they were sent home. The petitioners were thus kept away from the central/provincial governments so that the local officials would not be penalized for having a large flow of petitioners from their localities.⁵⁵ A report by the investigative journal *Caijing* in 2012 mapped out no fewer than 38 illegal detention centers scattered around Beijing.⁵⁶ Li Ya (pseudonym), a civil servant in Henan province, was involved in capturing petitioners in Beijing and bringing them back to Henan between 2004 and 2008. He noted that petitioners who were captured were often roughed up and sometimes detained for lengthy periods and put in camps for education through labor.⁵⁷

Local government cadres plying the trade of intercepting petitioners tended to be short on numbers and also needed to avoid drawing attention because such interceptions were illegal. Thus they tended to contract for the services of private security firms, whose employees often wore 'Special Services' uniforms. The private security firms helped intercept and detain petitioners and arranged for their return to the petitioners' hometowns, using intimidation and physical violence on disobedient petitioners. One such firm, Anyuanding (安元鼎), was licensed by the Beijing Public Security Bureau and employed more than 3,000 people.⁵⁸

Firms such as Anyuanding became a mini-industry and depended on having a stream of petitioners coming to Beijing. Following the crackdown on Anyuanding and other firms in 2010, the interception of petitioners didn't stop. Instead, agents of the local authorities became more directly involved.⁵⁹

⁵² 国家信访局原副局长许杰严重违法被开除党籍 [Ex-SALV deputy director general Xu Jie expelled from the party for serious disciplinary violations], 人民网 [People's Daily Online], (27 June 2014), available at: <http://politics.people.com.cn/n/2014/0627/c1001-25209744.html> (accessed 27 June 2014).

⁵³ 刘成伟 [Liu Chenwei], '308房间内的交易' [Deal in room No. 207], 中国新闻周刊 [China Newsweek], (21 July 2015), available at: <http://news.inewsweek.cn/detail-1957.html> (accessed 21 July 2015).

⁵⁴ Li Ya: Confessions of a cadre catching petitioners'.

⁵⁵ 侯猛 [Hou Meng], '截访中的“黑监狱”现象' [The "black jail" phenomenon in stopping petitions], 人民论坛 [People's Tribune] 8, (2013), pp. 28–29; 'China: secret "black jails" hide severe rights abuses', *Human Rights Watch*, (12 November 2009), available at: <http://www.hrw.org/zh-hans/news/2009/11/02/china-secret-black-jails-hide-severe-rights-abuses> (accessed 21 July 2015).

⁵⁶ 谭翊飞 [Tan Yifei], '黑监狱地图'背后的故事 [The story behind the map of black jails], 新京报 [Beijing News], (22 December 2012), available at: <http://www.bjnews.com.cn/opinion/2012/12/22/240813.html> (accessed 21 July 2015).

⁵⁷ Li Ya: Confessions of a cadre catching petitioners'.

⁵⁸ 林海, 张一龙 [Lin Hai and Zhang Yilong], '保安公司专职截访' [Private security companies focus on catching petitioners], 财经网 [Caijing], (13 September 2010), available at: <http://www.caijing.com.cn/2010-09-13/110519727.html> (accessed 21 July 2015); 李志, 杨艺蓓 [Ling Zhi and Yang Yibei], '安元鼎' [Anyuanding], 南方都市报 [Southern Metropolis Daily], (24 September 2010), available at: <http://www.canyu.org/n20281c12.aspx> (accessed 21 July 2015). For more details, see '北京安元鼎' [Beijing Anyuanding], available at: <https://zh.wikipedia.org/wiki/北京安元鼎> (accessed 21 July 2015).

⁵⁹ 谭翊飞、龚惠兰子 [Tan Yifei and Gong Hui Lan Zi], '截访乱象延续' [Efforts to catch petitioners continue], 财经 [Caijing], (17 December 2012), available at: http://www.21ccom.net/articles/zgyj/gqmq/article_2012121773091.html (accessed 21 July 2015).

While seeking to prevent petitioners from making their cases in Beijing, localities devote much more effort to maintaining stability at home. In places with a high incidence of petitioners, it was estimated that a single township would spend more than one million yuan while a county would spend as much as 100 million yuan per year to maintain stability.⁶⁰

Space limits make it impossible for me to describe and analyze the operations of the stability maintenance system in the localities here. It is well known that local authorities would resort to all sort of tactics, especially by bringing pressure to bear on family members and next-of-kin, to persuade residents to accept the terms for land and property requisition and to dissuade petitioners from leaving home.⁶¹ The case of Chen Guangcheng provides a striking illustration of the toll this system exacted. Once hailed as a model rights advocate for successfully suing the Beijing Municipal Government to offer free subway rides to the handicapped, Chen, who is legally blind, turned his attention to uncovering forced sterilizations and abortions and other abuses in Linyi, Shandong Province and became a thorn in the sides of the local authorities. In 2006, he was sentenced to jail on trumped-up charges of 'damaging property' and 'organizing a mob to disrupt traffic'. After he had served his full jail sentence of more than four years in September 2010, Chen was nonetheless put under 24/7 house arrest at his home in Linyi. The local authorities dedicated scores of people and millions of yuan to keeping him in custody until he escaped and was taken to the US Embassy in Beijing in April 2012.⁶²

The Chongqing Model and the Abuse of Law

Until he fell spectacularly in 2012, Bo Xilai was a Politburo member and the Party Chief of Chongqing and widely considered to be a likely successor to Zhou Yongkang. In Chongqing, Bo became known for his vigorous promotion of a populist 'Chongqing model' of governance. By providing housing for low-income residents and cracking down on crime, Bo, who personally led choruses singing Red revolutionary songs, became highly popular among residents and was well-known nationally and internationally for his neo-leftist populist agenda.⁶³

Central to Bo's anti-crime drive, spearheaded by then Chongqing police chief Wang Lijun, was a campaign to 'smash black (mafia or organized crime)'. Wang totally dominated the police force but was also able to use it to bring crime down dramatically.⁶⁴ But the state apparatus soon became almighty and produced vast abuses of its own. First, Wang issued quantitative targets to police forces in each district and county on how many people to incarcerate with 'reeducation through labor', how many to arrest and convict, and how many mafia-like crime syndicates had to be found and broken up. The initial anti-crime wave helped bring crime down but as local police forces struggled to meet the targets, they would take in innocents and subject them to brutal treatment.⁶⁵ Authorities in Chongqing took pride in having no petitioners but in reality under the Chongqing model a petitioner would have quickly ended up in the clutches of the police. In the view of Professor Tong Zhiwei of the East China University of Politics and Law, the Chongqing authorities had essentially sought to manage society by adopting the tactics for fighting organized crime.⁶⁶

⁶⁰Li Ya: Confessions of a cadre catching petitioners'.

⁶¹Kevin O'Brien and Yanhua Deng, 'The reach of the state: work units, family ties and "harmonious demolition"', *China Journal* 74, (2015), pp. 1–17; Yanhua Deng and Kevin J. O'Brien, 'Relational repression in China: using social ties to demobilize protesters', *China Quarterly* 215, (2013), pp. 533–552.

⁶²Chen Guangcheng, *The Barefoot Lawyer* (New York: Holt, 2015).

⁶³Jeremy Page, 'China leaders laud "Red" campaign', *Wall Street Journal*, (20 June 2011), available at: <http://online.wsj.com/article/SB10001424052702303936704576395621087173648.html> (accessed 15 July 2015); Keith Richburg, 'In Chongqing, Bo Xilai's legacy and popularity endure', *Washington Post*, (22 May 2012), available at: http://www.washingtonpost.com/world/asia_pacific/in-chongqing-bo-xilais-legacy-and-popularity-endure/2012/05/22/gIQA7cVUhU_story.html (accessed 15 July 2015).

⁶⁴见证王立军 [*Bearing Witness to Wang Lijun*] (Hong Kong: Changhe chubanshe, 2012).

⁶⁵董之伟 [Tong Zhiwei], '风雨过后看重庆' ['Looking at Chongqing after the storm'], *经济观察报* [*Economic Observer*], (26 October 2012), available at: <http://www.eeo.com.cn/2012/1026/235178.shtml> (accessed 15 July 2015).

⁶⁶董之伟 [Tong Zhiwei], '重庆打黑型社会管理方式研究报告' ['Report on Chongqing's method of social management by striking black'], *爱思想* [*Aisixiang*], (15 February 2012), available at: <http://www.aisixiang.com/data/50095.html> (accessed 15 July 2015).

Second and connected with the first was the intentional efforts by the high officials to use police investigations to appropriate the assets of private businessmen and those who might be politically disloyal to them in order to help fund the Chongqing model's extensive social programs. Investigations by multiple sources reveal that Bo and Wang used the 'smash black' campaign to target 'tens of thousands of wealthy businessmen accused of involvement in "organized crime", extracting confessions that led to hefty prison terms and death sentences for more than a dozen "masterminds".⁶⁷ Also targeted and eliminated were political figures believed to be loyal to Bo's predecessors.⁶⁸ Meanwhile, those well-connected to Bo were able to further enrich themselves.⁶⁹ As one reviewer observed, 'Comparisons with Nazi confiscations in the late 1930s, or ex-KGB Putin-style privatizations by new-millennium Russian oligarchs, seem obvious'. All have occurred under populist demagogues.

In pursuing their targets and getting at adversaries, the Chongqing authorities threw procedural concerns to the wind and left little room for judicial independence. It was common for the leaders of the police, procuratorates and courts to meet and decide on the verdicts of criminal cases ahead of court trials.⁷⁰ Lawyers who dared to speak up in this system were crushed. Li Zhuang, a high profile lawyer who defended those accused of being in organized crime, was tried in 'a crude use of the courts for political gain' and sentenced to lengthy jail terms because he stood in the way of the Chongqing authorities.⁷¹ The spirit of the law sunk to a new low during the Chongqing 'strike black' campaign period. According to Tong Zhiwei, the Chongqing model of Red populism was 'anti-democratic, against the rule of law, and for special interests'.⁷²

At the time some other provinces such as Shanxi and Hunan were known for the phenomenon of *Guojin Mintui* (The State Advances and the Private Sector Retreats) and especially for local authorities using state power to deprive private investors of their assets at low-ball prices.⁷³ Yet the actions in Chongqing were extreme and remind one of what occurred to private businesses in China in the 1950s following the Communist takeover.

With a populist mix of communist nostalgia, better public services and a crackdown on 'organized crime', the Chongqing model was widely regarded as a political masterstroke that would ensure Bo's political ascent. Bo's Chongqing edifice and ambition for a seat on the Politburo Standing Committee collapsed, however, after Wang Lijun sought asylum at the US Consulate General in Chengdu. Subsequently Bo was sentenced to life in jail for corruption and for abuse of power in the case concerning his wife, who was found guilty of killing Neil Heyward, a British businessman.

The China Model and the Paradox of Stability Maintenance

The hallmark of China's rapid development has, until recently, been its reliance on cheap labor, inexpensive land, financial repression, lax regulation and political coercion.⁷⁴ Tens of millions of residents have been relocated and vast tracts of land requisitioned for the vast number of projects, from commercial

⁶⁷Chinese infighting: secrets of a succession war', *Financial Times*, (4 March 2012), available at: <http://www.ft.com/intl/cms/s/2/36c9ff-da-6456-11e1-b50e-00144feabdc0.html#axzz3a3YFrehc> (accessed 16 July 2015).

⁶⁸陈良飞 [Chen Liangfei], '薄熙来治渝600天' ['Bo Xilai's 600 days governing Chongqing'], *新世纪周刊* [*New Century*], (28 August 2009), available at: <http://news.sina.com.cn/c/sd/2009-08-28/100718530980.shtml> (accessed 8 September 2015).

⁶⁹John Garnaut, 'Show them the money, old China', *Sydney Morning Herald*, (26 March 2011), available at: <http://m.smh.com.au/business/show-them-the-money-old-china-20110325-1ca3.f.html> (accessed 8 September 2015).

⁷⁰贺卫方 [He Weifang], '为了法治，为了我们心中的那一份理想' ['For the rule of law and the dream in our hearts'], (12 April 2011), available at: http://blog.sina.com.cn/s/blog_4886632001017xf.html (accessed 9 September 2015); Tong Zhiwei, 'Report on Chongqing's method of social management by striking black'.

⁷¹Ian Johnson, 'Trial in China tests limits of legal system reform', *New York Times*, (19 April 2011), available at: <http://www.nytimes.com/2011/04/20/world/asia/20china.html> (accessed 9 September 2015). Li Zhuang's own observations can be found at '反思'重庆模式' ['Reflections on the Chongqing model'], 共识网 [Gongshiwang], (22 August 2013), available at: http://www.21ccom.net/articles/zgyj/dfzl/article_2013082290344.html (accessed 10 September 2015).

⁷²Tong Zhiwei, 'Looking at Chongqing after the storm'.

⁷³Dali Yang and Junyan Jiang, 'Guojin Mintui: the global recession and changing state–economy relations in China', in Dali Yang, ed., *The Global Recession and China's Political Economy* (New York: Palgrave Macmillan, 2012), pp. 33–69.

⁷⁴Dali Yang, 'Economic transformation and its political discontents in China', *Annual Review of Political Science* 9, (2006), pp. 143–164.

and residential real estate to factories, mines and infrastructure. Most importantly, regulations by the Chinese central government have allowed local authorities to requisition land inexpensively, allowing local authorities to generate substantial revenue from the sale of land use rights to developers.⁷⁵ In highly regulated sectors such as real estate, often the developers are the well connected in the localities, as the case of Zhao Jin illustrates.⁷⁶

Because authorities have a strong interest in obtaining land on the cheap, it's not surprising those local communities whose land was thus taken and residents who were evicted would resist, as any search for 'nail houses' would immediately reveal. Add in harms to labor (such as wage arrears), environmental degradation and other issues, Chinese citizens have confronted many issues on which they would like their voices heard and they have petitioned and protested. The number of 'mass incidents', i.e. mass protests and riots, rose from around 10,000 in 1993 to 187,000 in 2010 and an estimated 200,000 in 2012 or more than 500 each day. As the number of protests has grown, so have the strengths of the stability maintenance regime. Rapid development and stability maintenance have gone hand-in-hand, to the detriment of trust in government and at the expense of legal reforms.⁷⁷ While most Chinese have seen their incomes rise, the stability maintenance regime has especially provided protection for the powerful and well-connected even while China's income inequality grew rapidly.

The paradox of relying on the stability maintenance regime is that it tends to bottle-up grievances. Keeping petitioners away from Beijing does not resolve the underlying sources of tension and conflict. The petitioners also know the calculations of the authorities. Challenging the regime would invite a harsh crackdown and it makes sense for petitioners to pledge loyalty to the regime. Yet excessive obedience would be met with official stonewalling. Official discretion in responding to petitions that come through the *xinfang* system serves to encourage certain types of activities. Indeed, because local authorities have increasingly been held responsible for maintaining stability, disruptive and trouble-making petitioning would tend to get more attention from them. Xi Chen's statistical analysis finds that disruption, publicity and event size all positively affect the likelihood of a substantial government response. As a result, Chen concludes that the collective petitions and protests help to maintain the system rather than threaten it.⁷⁸ Thus China entered into a state of bargained authoritarianism.⁷⁹

As the central leadership propagated the concept of harmonious society in the mid-2000s which further reinforced the preoccupation with stability, academics and commentators began to lament and criticize the rising costs of the stability maintenance system. Most prominently, the sociologist Sun Liping of Qinghua University, where Xi Jinping took his Ph.D. degree and Sun was one of the examiners, took issue with the excessive preoccupation with social stability throughout China and thus the stability maintenance regime at the end of 2007. On Sun's account, China lagged on political and social reforms and corruption became rampant because of the official philosophy of 'Stability overrides everything'. Sun saw the existence of a crisis mentality, which was invoked to unleash the stability maintenance system to solidify the distribution of vested interests.⁸⁰ He called for a new thinking on the issue of stability and for reconsideration of the relationship between stability maintenance and reform. In particular, he believed some social conflicts could serve as a safety valve and expressed confidence in the resilience and stability of Chinese society.⁸¹ Even more outspoken was Yu Jianrong of the Chinese

⁷⁵Ran Tao, Fubing Su, Mingxing Liu and Guangzhong Cao, 'Land leasing and local public finance in China's regional development: evidence from prefecture-level cities', *Urban Studies* 47(10), (2010), pp. 2217–2236.

⁷⁶“赵衙内”的房产帝国 [‘The real estate empire of “Zhao Yanei”’], 财新周刊 [Caixin Weekly], (25 May 2015), available at: <http://china.caixin.com/2015/zyn/> (accessed 26 May 2015).

⁷⁷Cui *et al.*, 'How do land takings affect political trust in rural China?'

⁷⁸Xi Chen, *Social Protest and Contentious Authoritarianism in China* (Cambridge: Cambridge University Press, 2012). See also Jidong Chen, Jennifer Pan and Yiqing Xu, 'Sources of authoritarian responsiveness', *American Journal of Political Science* 60(2), (2016), pp. 383–400.

⁷⁹Ching Kwan Lee and Yonghong Zhang, 'The power of instability: unraveling the microfoundations of bargained authoritarianism in China', *American Journal of Sociology* 118, (2013), pp. 1475–1508. See also Yongshun Cai and Lin Zhu, 'Disciplining local officials in China: the case of conflict management', *China Journal* 70, (2013), pp. 98–119.

⁸⁰笑蜀 [Xiao Shu], '要形成关于稳定问题的新思维' [‘New thinking needed on the question of stability’], 南方周末 [Southern Weekend], (18 December 2007), available at: <http://www.infzm.com/content/8667> (accessed 19 September 2015).

⁸¹*Ibid.*

Academy of Social Sciences, who saw the growing number of social protests as signs of interest-based conflicts and blamed predatory local governments for having been the major cause of these conflicts. In consequence, Yu called for restraining the behavior of governments and for having mechanisms through which workers and peasants could express their interests.⁸²

By the end of the 2000s, especially after the dramatic protests of 2008, there was intensifying criticism of the stability maintenance regime by opinion leaders.⁸³ In the words of Yu Jianrong, 'the pressure-driven stability maintenance has reached a dead end.'⁸⁴ By linking the stability maintenance regime with growing instability and social decay and potentially political disaster for the regime, it was natural for Sun, Yu and other authors to vigorously advocate for reform. In particular Sun Liping and his colleagues at Qinghua University developed an influential policy memorandum, made public in 2010, that advocated the development of institutional mechanisms for interest articulation so that China could escape from the stability maintenance trap and realize genuine peace and stability.⁸⁵ Space limitations do not allow the author to elaborate but these analyses reflected a widely held view among the public and many members of the elite that the stability maintenance or *weiwen* was often counterproductive and had sunk into a sort of vicious cycle (维稳怪圈).

Even before Xi's rise, some measures were adopted to mitigate a number of excesses connected to the stability maintenance system. Most notably, in response to complaints that leaders of the PLACs were dominated by police chiefs with little legal training, the Party Organization Department, headed by Li Yuanchao, a confidante of Hu Jintao, directed local authorities to separate the roles of PLAC secretaries and the police chiefs in a document issued in 2010.⁸⁶ The subsequent changes were reflected in the percentage of PLAC secretaries with legal education backgrounds. As Figure 1 shows, for the 2000s,

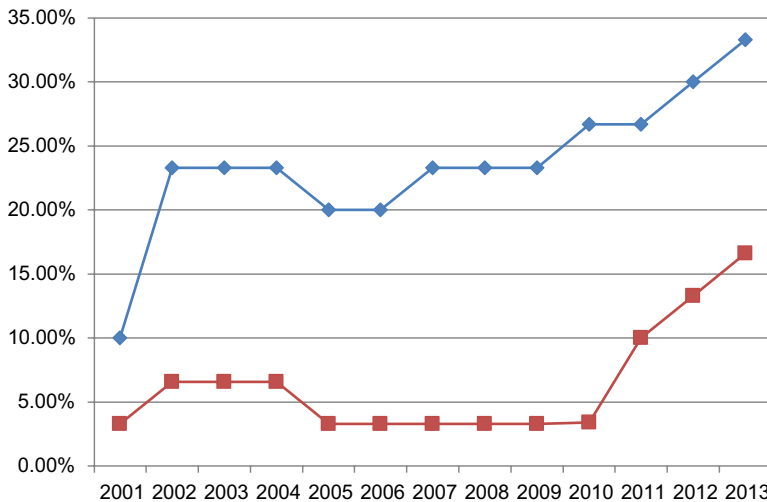


Figure 1. Educational backgrounds of provincial PLAC secretaries, 2001–2013. Notes: 1. Higher line: all forms of law education, including correspondence programs. 2. Lower line: law degree from full-time programs only.

⁸² 于建嵘 [Yu Jianrong], '安定有序是和谐社会基本性的标志' ['Stability and order are essential hallmarks of a harmonious society'], 南方都市报 [Southern Metropolis Daily], (14 November 2007), available at: <http://news.sina.com.cn/c/2007-11-14/155114306268.shtml> (accessed 19 September 2015).

⁸³ Christoph Steinhardt, 'State behavior and the intensification of intellectual criticism in China: the social stability debate', *Modern China* 42, (2016), pp. 300–336.

⁸⁴ 于建嵘 [Yu Jianrong], '压力维稳已走到尽头了' ['Maintaining stability through pressure has reached a dead end'], 南都评论周刊 [Southern Metropolis Weekly Commentary], (4 April 2010), available at: <http://m.blogchina.com/blog/home/username/yujianrong> (accessed 19 September 2015).

⁸⁵ Qinghua University Research Group, 'Institutionalize interest articulation to realize sustainable governance and stability'.

⁸⁶ 林韵诗 [Lin Yunshi], '省级政法委书记不再兼任公安一把手' ['Provincial PLAC secretaries no longer serve as police chiefs'], 财新网 [Caixin], (24 June 2015), available at: <http://china.caixin.com/2015-06-24/100821875.html> (accessed 24 June 2015).

the percentage of PLAC secretaries with bona fide law education stagnated at less than 5%. Beginning in 2011, the percentages have risen steadily.

Stability Maintenance and the Law under Xi Jinping

Soon after Xi Jinping became Party General Secretary and PRC President in 2012/13, Zhou Yongkang was placed under investigation and was eventually given a life sentence in 2015 for corruption, abuse of power, and disclosure of state secrets. In confronting with Zhou Yongkang (and other political figures), Xi Jinping also showed an abiding concern with the CPLAC (and associated organizations including the Zongzhiwei) as a powerful base for political influence and has invoked various abuses associated with the stability maintenance regime to push through reforms, some of which had started by the end of the 2000s. These reforms have occurred in the larger context of promoting law-based governance (rule by law) while maintaining stability. The simultaneous pursuit of these objectives has proven to be exhilarating in some respects and deeply perturbing in others.

Xi started as General Secretary by cutting down the political stature of the CPLAC/Zongzhiwei. Whereas Luo Gan and Zhou Yongkang were Politburo Standing Committee members, Meng Jianzhu, Zhou's replacement, remained a Politburo member and was not elevated to the Politburo Standing Committee. This downgrade does not mean that the Chinese leadership is any less concerned with maintaining stability. Instead, Meng has directly reported to Xi Jinping, whose many roles include the chairmanship of the Central National Security Council (CNSC), established in late 2013.⁸⁷ With the CNSC, Xi has unified leadership of international and domestic security and Meng has played a strong supporting role to Xi.

A parallel change, as part of Xi's ambitious reform agenda and approved by the Fourth Plenum of the CPC Central Committee in 2014, is an effort to promote governing the country in accordance with law or law-based governance. Around the same time, the Chinese name of the Zongzhiwei reverted back to its original (public security), in a retreat from the more expansive 'social management'. Both the CPLAC (Wang Yongqing 汪永清) and the Zongzhiwei (Xu Xianming 徐显明) now have officials with strong legal backgrounds among the top leaders.

These changes at the top are reflected in the changes to the various ranking schemes. The practice of ranking localities on the number of petitioners to the SALV was terminated and some restrictions on what type of petitioners could be accepted were adopted. However, the cession of ranking petitioning activities has produced divergent reactions in the localities. Some local authorities continue to use coercive means to keep petitioners at home especially because the Center has asked local authorities to ensure petitions are handled locally and local authorities continue to be held accountable for maintaining stability.⁸⁸ Others, such as Hangzhou, have sought to bring more petitions to resolution through legal channels.

The twin concerns with stability (security) and the promotion of law-based governance come together in the Key Principles of National Security Strategy (国家安全战略纲要) which the Politburo approved in January 2015: the CPC will exercise 'absolute leadership over the work of national security' but officials should infuse the law throughout the processes of safeguarding national security. On the Chinese leadership's assessment, the maintenance of social stability has entered a 'risky period'. Innovations are needed to build an integrated prevention and control system for public security and reduce the incidence of crime and mass incidents so as to build a 'peaceful China'.⁸⁹

Subsequently the General Offices of the CPC Central Committee and of the State Council issued a joint 'Opinion on Strengthening the Construction of a Public Security Prevention and Control System'.⁹⁰

⁸⁷David Lampton, 'Xi Jinping and the National Security Commission', *Journal of Contemporary China* 24, (2015), pp. 759–777.

⁸⁸See, for example, reports at www.msguancha.com and others.

⁸⁹陈训秋 [Chen Xunqiu], '推进立体化社会治安防控体系创新' ['Promote innovation of an integrated prevention and control system for public security'], 中国长安网 [Zhongguo Changan Wang], (11 December 2013), available at: http://www.chinapeace.gov.cn/2013-12/11/content_9779691.htm (accessed 20 September 2015).

⁹⁰关于加强社会治安防控体系建设的意见 ['Opinions on strengthening the building of a prevention and control system for public security'], www.gov.cn, (13 April 2015), available at: http://www.gov.cn/xinwen/2015-04/13/content_2846013.htm (accessed 16 November 2015).

This document gives special attention to the development of a dynamic and digitalized system focused on monitoring and management in communities (neighborhoods and villages) within the framework of law. The city of Beijing, in particular, claimed to be 100% under video surveillance. Article 16 of the Opinion reiterates the stipulation of leaders' responsibility for comprehensive management of public security. With the emphasis on law-based governance, the Chinese leadership has passed or drafted laws for national security, anti-terrorism and overseas non-profit organizations that define national security broadly and offer the Chinese state great latitude in containing civil society.⁹¹

For the rights-conscious, the results of this complicated push have been contradictory so far. In late 2013, the State Council abolished the reeducation through labor camps that had been a major vehicle for arbitrary detentions, both for petty criminals as well as protesters and dissidents. The abolition gave hope for more substantial progress in rights protection. Yet since then the Party-state has invoked charges such as 'causing a disturbance and provoking trouble', 'illegal business operations', to detain and incarcerate NGO activists such as Guo Yushan and others. In 2015, the Chinese security state went on a rampage against *weiquan* or rights defense lawyers. Party-controlled national TV repeatedly aired coerced confessions that made a mockery of official pronouncements on judicial fairness. The number of indictments for endangering state security, at 1,384 for 2013 and 1,411 for 2014 respectively, has also spiked up to levels last seen in 2008.⁹² Most menacingly, in the words of two *Financial Times* reporters, 'In Xi Jinping's China, people go missing all the time as the ruling Communist party routinely rounds up the powerful and the meek alike on often vague and politically motivated charges.'⁹³

Yet the author would submit ongoing reforms in the sphere of politics and law are also intriguing, especially because intense anti-corruption efforts have produced massive changes in elite and bureaucratic behavior. Because Jacques deLisle's article covers legal reforms, the author would like to especially point to certain structural changes in addition to the ones mentioned earlier.

As noted earlier, the separation of the roles of PLAC secretaries and police chiefs started before Xi's time but it was largely completed by 2015. With this reform, it appears the PLAC system is returning to an earlier model of policy making rather than direct intervention in law cases and direct control of the police. CPLAC Secretary Meng Jianzhu has given special attention to exercising judicial powers in accordance with the law. In reaching out to the legal community, Meng, who was the Public Security Minister before becoming CPLAC Secretary, has spoken out emphatically against PLAC interference in individual court cases.⁹⁴

Partly in response to public outcry, the CPLAC in January 2015 announced that hard targets on criminal detentions as well as on the rates of arrest, prosecution, guilty convictions and so on are not reasonable and should be abolished. It also called on the police and judicial institutions to effectively promote reforms, including letting judges exercise their authority with autonomy.⁹⁵ Of particular significance is the Supreme People's Court's requirement that courts at all levels make their judgments (with some exceptions) available in online databases and thus open to public scrutiny. With greater transparency and sustained anti-corruption, judicial institutions including the courts are expected to improve on measures of due process and fairness. Nonetheless, as long as the PLACs exist, the potential remains for PLAC secretaries to interfere with justice and in fact in view of the nature of the Chinese system it is inconceivable that the top leadership is not involved in politically sensitive cases.

⁹¹Andrew Browne, 'Enemies of the state: Beijing targets NGOs', *Wall Street Journal*, (26 May 2015), available at: <http://www.wsj.com/articles/enemies-of-the-state-beijing-targets-ngos-1432622054> (accessed 26 May 2015); Edward Wong, 'Chinese security laws elevate the Party and stifle dissent', *New York Times*, (29 May 2015), available at: <http://www.nytimes.com/2015/05/30/world/asia/chinese-national-security-law-aims-to-defend-party-grip-on-power.html> (accessed 29 May 2015).

⁹²China: state security indictments hit record high in 2014', *Dui Hua Human Rights Journal*.

⁹³Tom Mitchell and Patti Waldmeir, 'The Party versus the elite', *Financial Times*, (19 December 2015), p. 7.

⁹⁴孟建柱 [Meng Jianzhu], '统一思想提升理念 更好地肩负起社会主义法治国家建设者推动者的责任' [Unify thoughts and elevate thinking, better shoulder the responsibility of building and promoting a country with socialist rule of law], 人民网 [People's Daily Online], (5 May 2015), available at: <http://legal.people.com.cn/n/2015/0505/c42510-26952796.html> (accessed 5 May 2015).

⁹⁵中央政法委: 取消有罪判决率等不合理考核指标 [CPLAC: abolish unreasonable evaluation targets such as the ratio of guilty verdicts], 新华社 [Xinhua News Agency], (21 January 2015), available at: <http://news.sina.com.cn/c/2015-01-21/135031426489.shtml> (accessed 11 July 2015).

There have also been efforts to address long-standing cases of wrongful convictions. In Spring 2015, SPC President Zhou Qiang formally expressed remorse for wrongful convictions and ordered reviews and retrials.⁹⁶ Long-standing cases that got overturned have received much attention and state compensation has been offered to the victims or their families.

Yet the assault on *weiquan* lawyers and rights advocates sent shivers throughout the legal community and provoked strong reactions in the profession and from eminent legal experts, some of whom submitted briefs to the CPLAC leadership. Partly in reaction to domestic and international concerns, the Chinese authorities let the cases of Tie Liu, Gao Yu and Pu Zhiqiang end in suspended sentences. At the end of December 2015, the Supreme People's Court issued a document for the protection of lawyers' right to participate in litigation. In an apparent gesture to sooth the sentiments of lawyers, Meng Jianzhu met with selected lawyers and legal experts in January 2016 and subsequently invited some lawyers to attend the Central Work Conference on Political and Legal Affairs.

Conclusion

In considering China's sustained and rapid growth in recent decades, a fundamental question is how China has maintained social and political stability during this period, which leads directly to an examination of the origins and impact of the stability maintenance regime. If there is a China model, then the stability maintenance regime has been a key element of such a model. It has helped to keep the peace when millions of workers were downsized from the state sector and when tens of millions of urban and rural residents have had to make room for new development projects. The stability maintenance regime has thus been a major sustaining factor for the Chinese developmental experience. Depending on one's perspective, this regime has been the handmaiden of development and/or of exploitation. For many members of the elite, exploitation is the price to pay for rapid development.

As successive leaders of the stability maintenance regime increasingly turned to rigorous mechanisms of measurement, discipline and control to promote stability, curb petitions, reduce crime or improve court efficiency, they nonetheless sowed the seeds of petition interception and crackdown as well as of judicial miscarriage as local officials sought to comply with the requirements of the stability maintenance regime. In various places, the stability maintenance regime was unleashed to pulverize resistance and force the development of projects, often to the benefit of officials and their connected interests. In certain areas, especially Chongqing, police powers were put to brutal uses for official aggrandizement.

Yet these actions in turn generated more grievances, petitions and protests. In various places, the stability maintenance regime and the associated trampling of the law have generated massive discontent with the abuse of power. As perceptive critics of the regime recognized, the stability maintenance regime had become a major source of instability itself.

The coercive potency of the stability maintenance regime has varied across time and reached its height in the 2000s when leadership of the multiple organizations concerned with law and order was concentrated into the hands of a single leader (at the Center as well as in the localities) whose primary focus was on forced harmony rather than rule of law. Thus both organization and leadership matter greatly as we consider the behavior of the stability maintenance regime and of the Chinese state more broadly.

The discontents with the stability maintenance regime have generated cross-currents for reform, some going back to the late 2000s. The rise of Xi Jinping and the downfall of Zhou Yongkang and Bo Xilai, among others, have paved the way for change to the stability maintenance regime. As of this writing, we are into the fourth year of Xi's powerful leadership. Pessimists are quick to note that the

⁹⁶Cao Yin, 'Big strides made to right wrongs', *China Daily*, (7 January 2015), available at: http://usa.chinadaily.com.cn/epaper/2015-01/07/content_19261510.htm (accessed 11 July 2015); Josh Chin, 'China top judge apologizes for wrongful convictions', *Wall Street Journal*, (12 March 2015), available at: <http://www.wsj.com/articles/china-top-judge-apologizes-for-wrongful-convictions-1426184136> (accessed 11 July 2015).

Chinese Party-state is no less obsessed with stability and continues to crack down on *weiquan* lawyers and rights advocates and has wantonly resorted to TV confessions.⁹⁷ At the same time, in the context of the fourth plenum decision to promote governing the country in accordance with the law, there are also wide-ranging reforms being introduced in the courts. China under Xi has not turned against law but is promoting rule by law under CPC leadership. And the stability maintenance regime continues to evolve within this larger framework.

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⁹⁷Amnesty International, *No End in Sight: Torture and Forced Confessions in China*. (London: Amnesty International, 2015).