



28. Rights defense and new citizen's movement

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28.1 THE RISE OF THE RIGHTS DEFENSE MOVEMENT

The 'Rights Defense Movement' (*weiquan yundong*) emerged in the early 2000s as a new focus of the Chinese democracy movement, succeeding the Xidan Democracy Wall movement of the late 1970s and the Tiananmen Democracy movement of 1989. It is a social movement 'involving all social strata throughout the country and covering every aspect of human rights' (Feng Chongyi 2009, p. 151), one in which Chinese citizens assert their constitutional and legal rights through lawful means and within the legal framework of the country. As Benney (2013, p. 12) notes, the term '*weiquan*' is used by different people to refer to different things in different contexts. Although Chinese rights defense lawyers have played a key role in defining and providing leadership to this emerging *weiquan* movement (Carnes 2006; Pils 2016), numerous non-lawyer activists and organizations are also involved in it.

The discourse and activities of 'rights defense' (*weiquan*) originated in the 1990s, when some citizens began using the law to defend consumer rights. The 1990s also saw the early development of rural anti-tax movements, labor rights campaigns, women's rights campaigns and an environmental movement. However, in a narrow sense as well as from a historical perspective, the term *weiquan* movement only refers to the rights campaigns that emerged after the Sun Zhigang incident in 2003 (Zhu Han 2016, pp. 55, 60).

The Sun Zhigang incident not only marks the beginning of the rights defense movement; it also can be seen as one of its few successes. On 17 March 2003, 27-year-old Sun Zhigang, a recent university graduate who had just arrived in Guangzhou to take up a job as a designer in a garment company, was seized by several police officers who were implementing a campaign to crack down on illegal urban migrants. Because Sun had forgotten to bring his identification card and had not yet procured a temporary residence permit, he was suspected of being an illegal migrant and sent to a local 'custody and repatriation' (*shourong qiansong*) center, part of a national network of over 800 temporary holding facilities used to detain illegal migrants (Beach 2005; Jia 2016). Three days later Sun Zhigang died in custody, the victim of an apparent beating (Hand 2006, p. 121). Unable to obtain information about the circumstances, Sun's family contacted investigative reporters at *Southern Metropolis Daily*, then one of the most courageous newspapers in China, who published an exposé that shocked the nation (Pan 2008, pp. 247–67). On the Internet, millions of people actively discussed Sun's death and the custody and repatriation system, an extra-judicial detention system based on an obviously unconstitutional regulation.

Responding to the public outrage over the case, three legal scholars, Xu Zhiyong, Teng Biao and Yu Jiang, wrote an open letter to the Standing Committee of the

National People's Congress (NPC) seeking to challenge the custody and repatriation regulations on constitutional and legal grounds and hoping to use their advocacy to push forward the constitutional review system in China (Teng Biao 2003; Hand 2006, pp. 124–6; Jia 2016). A week later, five legal scholars in Beijing submitted another petition calling for the NPC to set up a special investigation committee on the Sun Zhigang issue (Hand 2006, p. 124).

Although the NPC declined to respond to these appeals, in June 2003 the State Council abolished the custody and repatriation system, marking meaningful progress in the improvement of personal freedom in China. At the end of that year, scholars began to refer to 2003 as the year when China's new 'civil rights movement' (*minquan yundong*) was launched (Wang Yi 2003; Qiu Feng 2003). Not long afterward, the phrase 'rights defense movement' increasingly replaced 'civil rights movement' and became a focus of analysis by more and more foreign scholars and media.

Other cases that year created the sense of a growing movement: Dr. Jiang Yanyong's exposure of the true face of the SARS crisis (Pan 2008, chapter 8), the arrest of village financier Sun Dawu (Xu Zhiyong 2017, chapter 4), the public uproar following the Li Siyi incident (Yu Haiqing 2006, pp. 109–12),¹ and the participation of independent candidates in local-level people's congress elections (Zou Shubin 2004; Tang Juan and Zou Shubin 2003; Xu Zhiyong 2017, chapter 5). These and other public incidents attracted the participation of lawyers, scholars, journalists, and dissidents and had enormous social impacts (Teng Biao 2012a, p. 29).

The main socio-political factors behind the rise of China's rights defense movement are as follows in the subsections below.

28.1.1 Development of the Legal System and Legal Profession

After the Cultural Revolution ended in 1976, China's legal system embarked on a difficult process of resurrection. The traditional ideological discourse of 'class struggle' was abandoned as the authorities moved toward a new ideological discourse and strategy exemplified by 'reform and opening' and 'ruling the country in accordance with law' (*yifa zhiguo*). There was a focus on legislation and rebuilding institutions. In particular, the introduction of the *Administrative Litigation Law* (1989), the introduction and refinement of the *Criminal Procedure Law* (1979, amended 1996), the restoration of the legal profession through the introduction of the *Law on Judges* (1995), *Law on Procurators* (1995), and *Law on Lawyers* (1996), and the implementation of nationally unified judicial examinations gradually provided legal and litigation channels for defending civil rights, as well as the embryo of a legal professional community. By promoting 'rule of law' and adding 'human rights' language to the Chinese Constitution, the authorities created the space for rights defense activities to take place. The Sun Zhigang case is a classic example of how civil society made use of

¹ Li Siyi, a three-year-old girl, died after being left unattended at home for 17 days after her mother, Li Guifang, had been detained and sent to compulsory drug detention, despite the authorities being told her daughter was unattended at home. The authorities ignored Li Guifang's repeated pleas to contact her sister so that she could come to take care of Li Siyi.

official discourse and the legal system to carry out a civil campaign and turn these official concepts into more than just empty phrases.

28.1.2 Increasing Space in the Traditional Media During the 1990s

Although traditional print and broadcast media are strictly controlled by the Party-state, they are not completely bereft of space for action. Media commercialization during the 1990s meant that many media organizations increasingly faced market pressures and needed to cater more to audience tastes and created opportunities to push boundaries. Some journalists with a sense of social responsibility began regularly employing strategies that allowed some hot-button rights defense issues to appear in print. Some journalists actively participated in the rights defense movement, and played an indispensable role in the Sun Zhigang case and other influential events. The transformation of the media environment helped support the emerging *weiquan* movement by cultivating rights consciousness and 'media citizenship' (Yu Haiqing 2006; Stockmann 2013).

28.1.3 The Rise of Internet and Social Media

It is no coincidence that the rise of the rights defense movement occurred in tandem with the rapid development of the Internet in China. The introduction of the Internet to China in the mid-1990s greatly challenged the official media monopoly, China's discourse ecology and even the concept of the media. According to the China Internet Network Information Center (CNNIC 2012), there were 79.5 million netizens in China and 30.89 million computers connected to the Internet at the end of 2003. Since then, development has been rapid. At the end of 2017, China had 772 million Internet users and 753 million of them had access to the Internet via mobile phones (CNNIC 2018, p. 7). The introduction of interactive 'Web 2.0' products and platforms in China around 2004 made it possible for people to communicate, share media and express themselves in new ways. The gathering and sharing of information, user-to-user interaction, and assembling of social groups around issues of interest helped to turn Internet users from passive browsers into active creators of online content. Supported by the simultaneous development of cellular phones and other mobile technologies, the interactive nature of Web 2.0 and its rapid transmission and transparency of information greatly facilitated the ability of social movements to mobilize and organize and offered rights activists convenient channels to find and connect with other like-minded users across China.

28.1.4 Enlarged Space for Civic Activity because of Development of the Market Economy and China's Entry to the Global Economy

Although China's rapid economic development has brought many problems, such as vast income disparity, government-business collusion, and environmental degradation, there is no denying that the vast majority of ordinary people have seen their living standards enhanced, and this provided an economic foundation for the rights defense movement. Social movements depend on (often marginalized) social actors having discretionary time, money and skills to mobilize effectively in pursuit of their desired

social and political goals (McCarthy and Zald 1977; Tilly 1978). The admission of China to the World Trade Organization (WTO) in late 2001 helped the growth of social movements by facilitating international travel, information exchange and the scope of media coverage. Although Chinese society remains to a great extent controlled by the Chinese Party-state, by contrast to the Mao era and the 1980s and 1990s, Party control over everyday life has been loosened and there is more space for citizens to engage in civic-minded activities (Chen Yan 2006; Zhang Zuhua 2008).

28.1.5 Dissemination of Liberalism and Expanded Consciousness of Civil Rights

Rights-based activism also fed off a resurgence of liberal thought in China. One of the major intellectual trends in the second half of the 1990s was the revival of liberalism by a group of scholars ‘who intended through reflection, research, and advocacy ... to fully realise modernisation and give expression to the resources of the principles and thought of constitutional democracy’ (Xu Youyu 2000, p. 412). Publishers introduced many liberal works and translations, and intellectual circles expressed enormous interest in liberal thought. Liberal theory had a practical impact and co-existed with a growing rights consciousness and awareness of rule of law among the Chinese public, as greater ideological diversity led to efforts by individuals and groups to assert their political rights (Goldman 2007).

28.1.6 The Efforts of Democracy Activists

The rights defense movement is in many ways an heir to the Tiananmen democracy movement that was suppressed with tanks and machine guns in June 1989. Despite the repression and fear that followed in the years immediately after 1989, the students and ordinary citizens who had participated in the democracy movement never abandoned the fight for democracy. A steady accumulation of resources in aid of morality and justice accompanied efforts by the Tiananmen Mothers to commemorate June Fourth (He 2012), the circulation of open letters calling for release of political prisoners and legal reforms (Teng Biao 2005), the organization of independent political parties (Teng Biao 2012b), underground publications and other such activities of civil dissent. Many of the human rights lawyers and activists who have taken a leading role in the rights defense movement—such as Pu Zhiqiang, Hu Shigen, Sui Muqing, Li Hai, Liu Feiyue, Tan Zuoren and Chen Yunfei—were also participants in the 1989 Tiananmen movement or the organization of political parties in the 1990s. Through their continued efforts to expand the space for civil society activities, they are helping to carry on the fight for democracy and justice that has continued unabated since the late 1970s.

In addition to these structural factors, the rights defense movement has been shaped by other political factors. China remains a Party-state system where the ruling Communist Party has resisted carrying out any meaningful political reform. The Chinese authorities regularly engage in widespread violation of people’s human rights and freedoms. The system—characterized by unchecked power, corruption and a flawed judiciary—has combined with a widening gap between rich and poor to produce immense injustice and grievance. Widespread rights abuses, including land seizures, forced evictions and environmental disasters have made ‘mass incidents’ (*quntixing*)

shijian) a conspicuous social and political issue (Li Dun 2009). These key characteristics of the social context and the political institutions have shaped and influenced the rights defense movement, and it is this very context and these same institutions that the rights defense movement has set out to shape and influence.

28.2 REPERTOIRE OF THE RIGHTS DEFENSE MOVEMENT

The rights defense movement succeeded the democratic movements of the late 1970s and the late 1990s. But what makes it different from the Democracy Wall movement and Tiananmen movement is not only that it is grounded in a legal framework and legal processes being led by legal professionals, but also that it is more engaged with common people and more embedded in daily life. More and more scholars use the theory of social movements to analyze the growing rights defense movement (Zhu Han 2016; Li Fan 2011; Feng Chongyi 2009; Teng Biao 2012a). Charles Tilly (2004) believes that social movements have three key elements: (1) campaigns: '[a] sustained, organised public effort making collective claims on target authorities'; (2) repertoire: the various tools and actions in the movement; (3) 'WUNC displays': an acronym for 'participants' concerted public representation of ... worthiness, unity, numbers, and commitments on the part of themselves and/or their constituencies'. Viewed from this angle, China's rights defense movement qualifies as a social movement in progress. For example, Li Fan (2011) believes that modern China's 'freedom and civil rights movement' has the following characteristics: demanding the clear objectives of social liberty and safeguarding rights and interests; sustained posting of these demands in one locality after another throughout China; organization and interaction between different groups (limited but emerging); and diverse and constantly expanding methods for expressing demands. This movement has not reached the stage of 'possessing a unified comprehensive organizational hub, but is scattered and spontaneous, able to arise and die out at a moment's notice, but also able to be revived at a moment's notice. Overall, it embodies a state of continuous development'.

The rights defense movement covers: freedom of expression and religious belief; the right to vote; the rights of women, people living with HIV/AIDS and the disabled; educational rights, labor rights and land rights; individual liberty; property rights; and linguistic and cultural rights. At the same time it also includes the rising feminist movement, LGBTQI movement and the environmental movement. Some rights defense actions are very modest: a microblog exposing an environmental pollution problem, a small-scale petition, a research report or a symposium. Some actions are extremely radical, such as self-immolation or hunger strikes. These differences occur because activists or non-governmental organizations (NGOs) have different resources, different opinions and strategies, different estimations of risk and different understanding of a certain case or field of rights defense.

Those participating in the rights defense movement include lawyers, bloggers, journalists, petitioners (*fangmin*), farmers, dissidents, scholars, and members of underground churches, Falungong and other religious groups. It must be a decentralized movement because a centralized movement runs a very high risk in a one-Party system, where any threat to the Party's monopoly of power would be nipped in the bud.

However, multifarious, sometimes creative, repertoires have been used, contingent upon the activists, cases, time and place. While the capacity of Chinese civil society to mobilize has been severely constrained by limitations on political rights and liberties, particularly limits on the rights of association, demonstration and freedom of speech, pioneers explore all possibilities and push the envelope with great courage and wisdom. Internet technology and new media have greatly enriched the possible repertoire.

28.2.1 Advocacy In and Outside the Courtroom

The typical work of rights defense lawyers (including unlicensed legal workers, or ‘barefoot lawyers’, who are generally allowed to appear in the courtroom as ‘citizen representatives’) is case advocacy. Gaining familiarity with the law, gathering evidence and fighting for the rights of litigants have therefore become fundamental tasks of rights defense work. What ‘diehard lawyers’ (*sike liushi*) focus on is demanding the correct application of laws and procedures in a concrete case. Lawyers try to use all ‘legal weapons’ and exhaust all procedural means to defend justice when the police, prosecutors and judges violate the rules.

Courtroom advocacy alone does not constitute a rights defense movement, however. The greatest problem of China’s judicial system is that the judiciary is not independent and there is no effective supervision of the unlawful activities of public security organs, procuratorates and courts. In almost all human rights cases, ‘judges don’t pass judgment, and those who pass judgment don’t appear at trial’. Trials in these cases are mere window-dressing, and the actual power to adjudicate lies outside of the courtroom. China’s legal system should be understood as a ‘dualistic’ or ‘bifurcated’ one, where the rules depend on the political clout of the players and ‘law matters sometimes, but not always’ (Stern 2016, p. 234; Hendley 2015, p. 547). For rights lawyers, it is both necessary and feasible to extend advocacy outside the courtroom. In other words, Chinese laws are ‘tigers without teeth’—they have the appearance of securing freedom and rights, ‘but a yawning chasm often exists between such legal expressions and actual protection of rights and interests. In order to defend their rights, Chinese citizens must rely not just upon laws but also extralegal pressure from civil society backers, the media and protesters’ (Wilson 2015, p. 1).

The ‘stability maintenance’ (*weiwen*) policy and apparatus can serve not only as a means of managing resistance and maintaining Party-state authority, but also as a part of the ‘market’ for conflict resolution (Benney 2016, pp. 389–405). Since public opinion becomes a consideration in the handling of crises or sensitive incidents, rights defenders try to use the media to influence the judicial outcomes of certain cases. Many diehard lawyers frequently use blogs and Sina weibo, one of China’s most popular social media platforms. Some have millions of followers on Sina weibo (Olesen 2014). Given the lack of judicial and media independence, a very complex relationship has emerged between the judiciary and popular will (Liebman 2005; Teng Biao 2008). Regarding certain hot-button issues, rights defenders have used the traditional and new media to direct the pressure of public opinion in a way that has increased the cost of judicial injustice. Without constant public monitoring and efforts through the Internet, some cases would end up with defendants being framed, or with the judiciary acting in a preemptory or evasive manner. Following the Sun Zhigang case (2003), public

attention expressed on the Internet has resulted in changes to some decisions. In well-known cases, such as the Li Zhuang case (2010–11), Deng Yujiao case (2009) and Li Yan case (2014), it can be said with certainty that without the attention brought to these cases on the Internet, the fates of these persons concerned would have been quite different. Rights defense in these cases led to the emergence of some enthusiastic and appealing human rights lawyers, as well as many outstanding grass roots rights activists and citizen journalists. Through the sustained accumulation of individual cases, the rights defenders 'build up a sense of morality and justice, organizational resources, and tactical experience among the people' (Liu Xiaobo 2011, p. 340).

The death penalty case involving four defendants in Leping, Jiangxi Province, is a good example of the difference human rights lawyers can make through long-term struggle. In this case, four innocent citizens who were wrongfully sentenced to death and imprisoned for 13 years in 2002 were eventually released, with all their convictions for murder, rape and robbery overturned (Mudie 2016). Lawyers representing these clients and activists paying attention to this case resorted to a range of strategies including social media, conferences, international human rights organizations, sit-in strikes in front of the court building, suing the official media channel CCTV, lighting candles, holding banners and making independent documentary films. In this case and many others, through the comprehensive use of a diversified repertoire, lawyers and rights defenders have developed a 'resilient socio-political network opposing the abuse of public power' and challenging the Party-state's authoritarian rule (Jiang Jue 2016, p. 96).

28.2.2 Activating 'Good Laws' and Challenging 'Evil Laws'

Based on an understanding that the Chinese constitution and laws containing human rights protections are generally not implemented, rights defense actors seek to activate them. In the Sun Zhigang case, they based their challenge to an unconstitutional regulation on the Constitution and Legislation Law (Teng Biao 2004; Hand 2006, p. 165). Similarly, there were waves of citizen petitions to challenge the notorious extrajudicial detention power of RETL (Re-education through Labor), until it was eventually abolished in 2013.

Requesting that the government disclose certain information in accordance with the State Council Open Government Information Regulations (2008) is another typical example of attempting to activate existing laws to promote systemic change. In 2009, Beijing lawyer Yang Huiwen filed a request for information with all 73 departments under the Beijing municipal government, requiring disclosure of 'the specifics of official vehicle use, reception of guests with public funds, and the financial administration of public funds leaving China; the circumstances of execution of the annual budget, departmental budget data, and policy-making processes' (Yang Huiwen 2009). This strategy has been used repeatedly. After the arrest of Du Daobin in 2003, more than 100 intellectuals and rights defenders in China issued an 'Appeal Demanding a Legal Explanation of the "Crime of Inciting Subversion"' (Liu Xiaobo et al. 2004). In the defense statement for the 2007 Wang Bo case, defense lawyers openly challenged each of the laws and judicial interpretations that penalized practitioners of Falun Gong (Li Heping et al. 2009). During the trial of Xu Zhiyong, 78 Chinese scholars,

journalists and lawyers issued an Open Recommendation to Conduct Constitutional Review of the ‘Law on Assemblies, Processions and Demonstrations’ (Teng Biao et al. 2014). The laws and regulations frequently used by activists also include the *Administrative Litigation Law* (1989), the *Administrative Punishments Law* (1996), the *Criminal Procedure Law* (1979, 1997), *Administrative Reconsideration Law* (1999) and the *Legislation Law* (2001). Activists and NGOs also resorted to the *Environmental Protection Law* (1989, 2014), *Law on the Protection of Women’s Rights and Interests* (1992), and the *Law on the Protection of Consumer Rights and Interests* (1993, 2013).

28.2.3 Participating in Elections

Chinese law allows people to vote in country level and township level congress elections, though the elections are manipulated by the Party. To promote (local) democracy, or merely to shame the fake elections, activists participated in local elections as independent candidates. In a few cases, some people such as Xu Zhiyong and Yao Lifa even won the election. It became more difficult to be elected after 2007, because the government made more effort to block these ‘trouble makers’; but in 2011 and 2016, there were still some independent candidates entering local elections. A prominent activist, Yao Lifa, devoted most of his effort to this cause (Ying Sun 2013, p. 245).

Lawyers’ associations at all levels are puppets of the justice bureau, and lack democratic elections and transparency in their policy-making. In 2004, Liu Zilong and other lawyers pushed for a recall of the president and secretary general of the Shenzhen Lawyers’ Association (Bei Liu 2008). This action was echoed by Beijing’s legal professionals a few years later. In August 2008, Cheng Hai, Tang Jitian and more than 30 other Beijing lawyers posted a call for direct elections of representatives to the Lawyers’ Association on the Internet entitled ‘An Appeal to All Beijing Lawyers, the Municipal Justice Bureau, and Municipal Lawyers’ Association: Conform with the Tide of History and Achieve Direct Elections to the Lawyers’ Association’. These lawyers used methods such as text messaging, email, regular meetings and personal visits to legal offices to appeal for the support of other lawyers and to canvass for votes in the election (Zhou Hua 2008; Cohen 2009).

28.2.4 Strolling and ‘Surrounding Gaze’ (*weiguan*)

On 20 May 2008, some people in Xiamen, a city with a population of 3.5 million, received cellphone messages calling for a protest against the plan to construct a paraxylene (PX) petrochemical plant. On 1 and 2 of June, tens of thousands of people participated in a peaceful march throughout Xiamen, attracting intense media attention. They pressed the government to move this project to another city. The 2007 Xiamen PX incident took on symbolic significance by endowing the term ‘strolling’ (*sanbu*) with a completely new meaning (Anonymous 2007; Li Datong 2008). A series of subsequent public incidents, the Three Fujianese Netizens, the Yihuang demolition and removal, Chen Guangcheng case, Jiansanjiang incident, similarly brought the phrase *weiguan*—‘surrounding gaze’—to the fore. The term *weiguan* originally had a negative

connotation, but the new use of citizens' *weiguan* redefined the term, making it a synonym for active popular participation.

Whilst the term *sanbu* suggests a more spontaneous action and *weiguan* implies a more active and conscious action, in practice the two are often indistinguishable. The Open Constitution Initiative (Gongmeng) and its founder Dr. Xu Zhiyong have long been concerned with the rights of petitioners, and organized *weiguan* events at so-called black jails (*hei jianyu*), on occasions resulting in the rescue of some petitioners. This kind of *weiguan* uses the Internet to organize citizen volunteers and devise tactical strategies, while coordinating online and offline activities through microblogs and Twitter (Teng Biao 2009). The case of the Three Fujianese Netizens, in which three netizens were jailed for posting a video of an unjust case, added further to the history of *weiguan*. When the trial opened at the Mawei District People's Court on 16 April 2010, hundreds of netizens from all over China sent out messages of support at a pre-arranged time and reported on the situation through Twitter. Many participated in the *weiguan* event and created a moving spectacle of peace, restraint and order, producing a series of essays, videos and analyses that captured the attention of observers. One commentator noted: '[T]he Fujian *weiguan* incident did not arise spontaneously out of thin air, but in fact was the inevitable result of the development of China's civil society over the course of several years' (Wang Debang 2010). Another wrote: 'This mass *weiguan* was the culmination of years of struggle, and it will continue; it is completely different from the Xiamen PX incident and has greater value and significance' (Wang Yi 2010). The focus of this *weiguan* was the freedom of expression guaranteed in the *Constitution*, not personal interests or environmental issues.

28.2.5 The Role of NGOs

Rights defense activities require a great deal of day-to-day work, coordinated action and substantial human and financial resources that only NGOs can provide. For example, the Aizhixing Institute focuses on AIDS and public health; the Shenzhen Equity & Justice Initiative focuses on involuntary psychiatric treatment; the Beijing Yirenping Center seeks to 'promote public health, eliminate discrimination, and defend the right of disadvantaged groups through legal means' (Fu Hualing 2012); the Transition Institute (Chuanzhixing) focuses on professional monopolies, tax reform, and research on social transformation; and the Beijing-based China Against the Death Penalty focuses on the death penalty cases, especially wrongful convictions. Gongmeng's participation in the rights defense movement was quite wide-ranging, focusing on petitioners' rights, public interest litigation, civic participation and grassroots elections, lawyers' rights, freedom of expression, tainted milk powder and other public health incidents, promoting reform to the household registration (*hukou*) system and demanding equal access to education, among other issues. Many other NGOs work on labor rights, environmental protection, LGBTQI, feminism, migrants, education and disabilities rights. While the scope of NGOs is restricted, they have limited spaces depending on the level of sensitivity of their actions and constituencies.

NGOs that work on rights advocacy and adopt a confrontational approach have difficulty registering with the Civil Affairs Bureau, and can only register as companies.

Many are not allowed to register at all, and can only exist as unregistered operational networks. Examples are Civil Rights and Livelihood Watch (Minsheng guan cha) and China Against the Death Penalty. NGOs have played an active role in the rights defense movement and worked closely with non-organizational activists. But we should also bear in mind that only a few Chinese NGOs are involved in the rights defense movement. Many organizations are NGOs in name, but are in fact government funded or controlled GONGOs, with responsibility to suppress independent civil society and rights activism (Teng Biao 2016).

28.2.6 Non-Cooperation and Civil Disobedience

A typical example of ‘non-violent non-cooperation’ was the ‘take back the vote campaign’ launched by Tang Jingling and others in 2006. The campaign called for citizens to use various means of expressing their refusal to participate or vote in elections to boycott manipulated and sham elections. This seems antithetical to independent participation in elections, but it seeks to achieve the same social ends through different means (Teng Biao 2007). Other examples of non-cooperation campaigns include issuing joint statements rejecting CCTV and other official media (Xinyu 2009), publicly refusing to subscribe to official newspapers, uninstalling software that helps the government monitor and control information, refusing to use Yahoo! email following the arrest of dissident writers (BBC 2005, 2006), and refusing to join or announcing withdrawal from Party organizations, writer’s associations and other official organs.

Civil disobedience occurs when citizens use non-violent methods to openly defy laws, willingly bearing the consequences to appeal to the public’s sense of justice. John Rawls (1971, p. 319) argued that civil disobedience is designed ‘only for the special case of a nearly just society’, or a ‘legitimately established democratic authority’. Although it is hard to identify influential classic examples of civil disobedience in post-1989 China (Zhang Hui 2010), cases of a similar nature can be cited. One example is Christian house churches refusing to register with the government. From 2011 some churches—for example, Beijing’s Shouwang Church and Chengdu’s Autumn Rain Blessings Church—have carried on outdoor worship activities after local government blocked their premises or banned their normal worship (Jacobs 2011; Liu Tongsu 2009). Another example is Professor Yang Zhizhu’s open violation of China’s one-child policy with an out-of-plan baby (Moore 2010). Lawyer Li Subin defied a ban on driving cars with less than a 1.0 liter engine displacement along Chang’an Avenue in Beijing. When he was fined 100 yuan for doing so, he filed a lawsuit against Beijing’s Xicheng District police. He dropped the lawsuit after the State Council issued a notice banning these restrictions (Gu 2006).

28.2.7 Digital and Online Activism

As soon as the Internet entered China, ordinary citizens began using it to fight for their rights. Because of its high speed, openness and relative anonymity, the Internet is changing the dynamics of protest in various parts of the world and has special significance for popular protest in China (Yang 2003).

From creating websites, discussion forums, bulletin boards and blogs, to the use of Twitter and microblogs, rights defenders have remained at the forefront of learning and using the latest networking technology, putting China on the road to technological empowerment. Huang Qi, who was imprisoned in 2000 after establishing the Tianwang website in 1999, launched numerous human rights actions through that site. Web 2.0 technology has created new modes and new space for social movements. Online social movements can be multi-hubbed, random, boundary-straddling and virtual. Any given networking module, website, or web page can become the hub of a campaign. The initiator of a campaign can conceal his or her true identity. At the same time, however, online activism can also be planned and a great deal of information can be released through identifiable entities. The abundance and diversity of online rights defense activities have expanded both the breadth and depth of China's rights defense movement (Teng Biao 2012a, p. 37).

Chinese activists utilize the Internet, mobile phones and social media to receive and spread information, educate the public, build their community, connect with similar-minded people, mobilize and organize events. It has reduced the cost of organizing open letters, group petitions and street activities and expanded the range of recipients and new methods of conducting online campaigns. The number of online signature campaigns increased quickly, as did online rescues, online fund raising, online conferencing, online publishing and online ballots (Teng Biao 2012a). According to Li Yonggang (2009):

Speaking only of the individual netizen, his every strike on the keyboard, every reply, comment, or forwarding of a posting seems so small that its effects can be overlooked. When he does this, he may not know where his comrades and companions are. But when these apparently impotent and isolated actions come together, a lone clap becomes an ovation, a small crowd expands to a mass, and strangers are assembled into a resonant action group.

This is also one of the most important reasons why civil action has become increasingly dynamic, even though the government has been unceasing in its suppression of the rights defense movement.

28.2.8 Repertoires in Combination

What should be noted is that these various online and offline rights defense campaigns are seldom used in isolation but are more typically used in combination. Qiu Qingfeng was a Peking University student who was raped and murdered on 19 May 2000. After university authorities prohibited memorial activities, students held a protest. The Qiu Qingfeng incident is believed to be 'China's first protest using a combination of online and offline methods' (Zhao Dingxin 2006, p. 112). The melamine milk powder contamination scandal (Mooney 2008) gave rise to a range of tactics including combined open letters, meetings of the parents of victims, newspaper advertisements, organization of a legal team and legal aid for lawsuits, media and Internet mobilization, filing lawsuits in Hong Kong, negotiations with the factory owners and banners in the streets and academic symposia (Teng Biao 2011).

The campaign to rescue Chen Guangcheng in 2011–12 adopted an even richer array of activities: protests outside court; letter-writing campaigns; sending milk powder and

school supplies to Chen's children, who were also under house arrest; altering Twitter or microblog banners with Chen's photo or related signs; publicly wearing 'Guangcheng shirts'; producing and posting bumper stickers; producing videos and documentaries; people's awards; telephoning local government officials to protest and posting the audio recording on the Internet; street performance art; taking pictures of dark glasses and posting the photos on the Internet; setting up special websites; circulating open letters; disseminating leaflets; and other activities. On one occasion, activists approached the village, set off fireworks and released balloons. People were mobilized to visit this remote village again and again, to bear witness to the atrocities of local officials and government-hired hooligans. Every action became a platform for mobilization of another wave of action, online and offline, domestic and international. Rights defense campaigns constantly intersect and coordinate online and offline. This is sometimes referred to as the 'three-dimensional rights defense model'.

[F]lexibly integrating seven key elements: domestic media reports, on-site guidance, investigation and analysis, court litigation support, consolidation of public opinion through the Internet, proposals for systemic reform, and monitoring by the international community (through international media and international relations) ... It combines systematic reform campaigns with unsystematic social movements' (Li Fan 2011, pp. 195–6).

There are many other types of rights defense, for instance sit-ins, relay hunger strikes, labor strikes, carrying placards on streets, citizen investigation teams, lobbying for legislation and policies, satirical skits, street performance art, creation and performance of songs, internet boycotts, applications for demonstration permits, cartoons, graffiti, popular opinion awards, debates and documentary films (Teng Biao 2012c). Some more extreme methods include hunger strikes, self-immolation, self-mutilation, self-confinement and self-abasement, but because these are controversial and present particular difficulties, they have not been widely used.

28.3 FOUR TRENDS IN THE RIGHTS DEFENSE MOVEMENT

In a 2006 essay, lawyer Gao Zhisheng argued that the rights defense movement should 'become non-violent, politicized and organized, and should take to the streets' (Gao Zhisheng 2006). This call was quite controversial and seemed to be ahead of its time (Pils 2009, pp. 243–60). However, since then, the rights defense movement has developed rapidly and in the decade from 2005 has seen some of these trends develop. That is, organization (*zuzhijhua*), street activism (*jietouhua*), politicization (*zhengzhijhua*) and internationalization (*guojihua*).

28.3.1 Organization (*zuzhijhua*)

Though freedom of association is stipulated in the Chinese constitution, in reality political organizations are strictly prohibited. The dissidents who tried to establish underground parties or tried to register opposition parties, were all harshly punished. For example, more than 20 people were arrested following founding of the underground Chinese Liberal Democracy Party in 1992. Hu Shigen, Kang Yuchun and Liu

Jingsheng were sentenced to 20 years, 17 years and 10 years of imprisonment respectively. The dissidents who founded and participated in the China Democracy Party in 1998 were also punished severely. Wang Youcai, Qing Yongmin and Xu Wenli were sentenced to 13 years, 12 years and 11 years of imprisonment respectively, and many others were given long terms of imprisonment (HRW 2000).

Teams emerge when group of lawyers gathers together to represent clients in one case (Ye Zhusheng 2011). The constant crackdown on rights defenders also made it necessary for them to unite and call for collective action (Liu and Halliday 2016, p. 149). Through collective action, people became more closely connected by shared values and shared sacrifice. The feeling of commitment and the solidarity thus created plays an important role in strengthening the human rights movement (Tilly 2004).

Before and even after the rise of the rights defense movement, people have continued to organize, as illustrated by political parties such as the Chinese Liberal Democratic Party, and the China Democracy Party, by groups such as the Tiananmen Mothers, the Pan-Blue Alliance, the Chinese Independent PEN Centre, the Guizhou human rights seminars, Charter 08, various house-churches and rights NGOs. But in the Internet age, mobilization and organization for collective action and social movements can be achieved without formal organizational structures, charters or fixed membership, without leaders and without advance planning. 'Organizing without organizations' reduces the cost and the risk of setting up underground political organizations or formal organizations. The Internet has become a type of 'liberation technology' due to the gradual subversion of existing associative power structures by Web 2.0 social movements (Diamond 2010). But despite this, the development of and level of organization of social movements in China remains low mainly due to political suppression.

28.3.2 Street Activism (*jietouhua*)

In the context of Chinese politics, *jietouhua* may refer to different things. It refers to offline activism, in contrast with Internet activism. *Jietouhua* stresses the importance of on-ground activities, in contrast with petitioning (*shangfang*) and writing articles or open letters. It supports actions outside the courtroom in contrast with the defense work within the courtroom.

Based on the understanding that especially in human rights cases (sensitive cases), judicial independence does not exist, rights lawyers have resorted to activism outside the courtroom and in the street, with the aim of applying pressures on the court, the government or the decision makers behind the scene. There are many examples of taking to the streets to protect rights² which include; the protest against corrupt local leaders in Taishi village in 2005, and sit-ins, demonstrations and street-based performance art as part of the campaign to support Chen Guangcheng in 2006. The Xiamen PX protest in 2007 was widely discussed, even in the Chinese mainstream media, not only because it was successful, but also because it provided an alternative discourse to that

² Including the Jiansanjiang incident in Heilongjiang, 'Xiao'anni Going to School' incident in Anhui, Nanle Church cases in Henan, Zhengzhou 10 activists' case in Henan, Wanning School incident in Hainan, Southern Weekend Protest in Guangzhou, Wukan village protests in Guangdong.

of assembly and demonstration (which are subject to legal punishment), through the model of *sanbu* and *weiguan*. This enabled people who have no direct interest in participating in a social movement to pour onto the street. The three Fujianese netizens incident, where hundreds of activists gathered in Fuzhou to protest against the detention and trial of three bloggers, was an important case in the effort to bring the rights protection movement onto the street. There was even a movement—the Southern Street Movement—that focused on street campaigns such as flash mobs, holding banners and giving public speeches in street (Ye Du 2013).

28.3.3 Politicization (*zhengzhihua*)

The rights defense movement puts into practice the theory of human rights, liberalism and democracy. When liberal democracy became a political-social imaginary of some influential intellectuals, when more and more people gained civic consciousness and emerged from the shadow of brainwashing propaganda, there was a tremendous momentum to put ideas into practice. Xie Yue categorized social contention in contemporary China into rights contention, economic contention, welfare contention and political contention (Xie Yue 2008), but the term ‘rights defense movement’ has been widely accepted to be a broad movement that covers all of these. Struggles for the right to vote, freedom of speech, assembly, demonstration and association should be an intrinsic part of a human rights movement, and it was so in China. Some activities may be political per se: for example, the Tiananmen mothers’ movement, Charter 08, Pan-blue Alliance and underground oppositional organizations. But many other human rights issues were politicized by the government, such as the persecution of Falungong practitioners, Tibetan protestors and Xinjiang Uyghurs.

The initial idea and activities of the rights defense movement were to use the laws to defend human rights and freedom. The more the lawyers provided legal assistance in individual cases for reasons of conscience, the more they felt the need to go beneath the surface and to change policies, institutions and even the whole system (Fu and Cullen 2011). Not long after its emergence, the rights defense lawyers took political cases, participated in political campaigns and brought the movement into the street. The line between a public interest case and a politically sensitive case, between a human rights campaign and a political activity was blurred. Inevitably promoting democracy became an active part of the rights defense movement which focused on civil rights not political change. Some prominent figures in this movement played the role of ‘constitutional entrepreneurs’ (Jia 2016; Hand 2006). In the Sun Zhigang incident, legal scholars helped persuade the government to annul an unconstitutional detention system and sought to promote the establishment of constitutional review system in China. The former was successful and the latter failed. The challenge to another form of extra-judicial detention, RETL, participation in local elections and the campaign to demand disclosure of official assets, were all intended to effect institutional change, though this purpose was not necessarily explicit. Some notable human rights lawyers, motivated by the values of political liberalism, ‘often display sophisticated techniques and extraordinary bravery, yet their blunt opposition to the authoritarian state sometimes results in relentless repression’ (Liu and Halliday 2011, p. 853).

The Chinese government, not surprisingly, labeled the rights activists as agents of 'western hostile forces' who aim to overthrow the Chinese government through a 'color revolution'. In an article entitled 'Where is the real challenge to China?' in 2007, the director of American Studies Institute at the China Academy of Social Sciences named five categories of people as dangerous elements seeking to overthrow the regime: rights lawyers, underground believers, dissidents, online opinion leaders, and the disadvantaged members of the society (Yuan Peng 2012). They were quickly referred to by netizens as the 'new five black categories' (*xin heiwulei*) in a reference to the 'five black types' denounced during the Cultural Revolution. In fact, these five black categories are the main forces of the rights defense movement. The criminal charges levelled against many human rights defenders include crimes of endangering national security such as; subversion of state power and incitement to subvert state power (*Criminal Law*, Article 105(1–2)). For example, Gao Zhisheng, Hu Jia, Li Heping, Zhou Shifeng, Tang Jingling, Tufu (Wu Gan), Yang Lin, Wang Quanzhang, Xie Yang, Hu Shigen, Xie Yanyi, Wang Yu, Liu Feiyue and many others were convicted of these types of offenses. Under the Party, any sign of real political challenge is nipped in the bud with human rights organizations documenting the sharply increasing use of these two charges since Xi Jinping came to power in late 2012.

The Chinese government has politicized law and society, and exaggerated fear of rights defense and social movements because of the priority it gives to preservation of Party-state power. As a result it tends to see any challenge as a potential or even direct threat to its monopoly of political power. Human rights activity thus becomes political even if those taking the action do not acknowledge it as such. Many human rights lawyers and NGO activists who have publicly or implicitly adopted moderate, non-confrontational and depoliticized approaches have also been arrested and even charged with incitement to subvert state power or subverting state power. Regardless of whether a conscious political stand has been adopted or not, the rights defense movement has seen a trend of politicization and so can't be isolated from its broader political context.

28.3.4 Internationalization (*guojihua*)

The Internet is international by nature. The Great Fire Wall (GFW)³ blocks millions of websites and major social media like Twitter and Facebook, but activists and other citizens have been able to jump the GFW and gain access to foreign website and social media. Through the Internet, the rights defense movement was empowered and also linked to the outside world. International media reported on some rights activists and some cases or incidents, making them internationally famous, such as Chen Guangcheng, Ai Weiwei, Liu Xiaobo, Hu Jia and Gao Zhisheng. Some human rights organizations pay close attention to the movement, including Human Rights Watch, Amnesty International, Freedom House, Chinese Human Rights Defenders, Chinese Human Rights Lawyers Concern Group and Human Rights in China. Some rights NGOs have received funds from international foundations or support from international

³ The Great Firewall of China is the combination of legislative and technological actions that have been taken by the Chinese government to achieve Internet censorship.

NGOs or Western governments. Increasing numbers of activists travel internationally to attend conferences, training workshops or study. More and more rights defenders have received important human rights awards, including the Nobel Peace Prize, Sakharov Prize, Magsaysay Prize and the Martin Ennals Award. Some activists in exile are still active in the human rights field, bridging domestic activists and the international community. Some fields of the rights defense movement such as feminism, LGBTQI advocacy, and the environmental movement have become a part of related international movements.

These trends are illustrated by the Southern Street Movement and the New Citizens Movement, both of which started in 2012. The former was initiated by some activists based in southern provinces, like Liu Yuandong, Guo Feixiong, Sun Desheng, Wang Aizhong, Xie Wenfei, Ou Ronggui, Yang Chong and others who organized street demonstrations, public speeches, political assemblies, flash mobs and banner holding. Some banners read; 'Fairness, Justice, Freedom, Equality, Human Rights, Legality, Democracy, Republicanism', 'Without elections there is no future', 'Hu Jintao take the lead and publicize your finances', 'End One-Party rule' and more. One activist is quoted as saying '[o]ur ultimate goal is to build a China that is democratic, constitutional, and that conforms to modern political civilization' (*China Change* 2013). At least 18 activists were arrested and detained. Wang Mo was charged with incitement to subvert state power. In his defense he said, 'what I want is to overthrow the dictatorial regime of the CCP [Chinese Communist Party]' (Wang Mo 2016). The stance of 'total opposition' and plans for 'thorough political transformation', ensured that the Southern Street Movement was crushed because of the Party's zero-tolerance policy toward dissent (Mo Zhixu 2016a).

With close ties to Gongmeng, the New Citizens Movement started formally in 2012 when Xu Zhiyong published an article calling for a nationwide movement for active citizenship. He outlined the tactics to be employed:

Repost messages, file lawsuits, photograph everyday injustices, wear t-shirts with slogans, witness everyday events, participate or openly refuse to participate in elections, hold gatherings or marches or demonstrations, do performance art, and use other methods to jointly promote citizens' rights movements and citizens' non-cooperation campaigns—such as asset reporting, openness of information, opposition to corruption, opposition to housing registration stratification, freedom of belief, freedom of speech, and election rights. ... Practice the New Citizen's Spirit in action. Citizens' power grows in the citizens' movement (Xu Zhiyong 2017).

Its activities included demanding the disclosure of official wealth, equal rights for education and joint citizen meals (or same city dinner gatherings). The movement had clear political meaning in China's context, resorting to trans-regional organizing and street activism. The development of and clampdown against this movement aroused international attention and support. Though there was always divergence on approaches to politicization, the New Citizens Movement in practice brought the rights defense movement to a new level (Pils 2016).

28.4 THE CRACKDOWN ON THE RIGHTS DEFENSE MOVEMENT

Not long after the emergence of the rights defense movement, the Chinese government came to see it as a real threat to the regime and engaged in a concerted campaign to harass and crackdown on human rights activists and NGOs. The government adopted a flexible and comprehensive strategy, from oral warnings, disbarment, house arrest, travel bans, criminal charges, RETL, public humiliation, to abduction, torture and collective punishment (Xu Youyu and Hua Ze 2013; Pils 2016).

Gao Zhisheng is one of the most courageous rights lawyers who attracted attention domestically and internationally. Because of his defense of dissidents and Falungong practitioners and his radical challenge of the political system, he has been placed under strict surveillance by the secret police, kidnapped and forcibly disappeared over the long term and sent to prison. During his detention, he was brutally tortured (Pils 2009, pp. 243–60). Another wave of persecution came in 2011, when an anonymous call for a 'jasmine revolution' was posted and spread on twitter and other social media. Hundreds of lawyers, activists and bloggers were kidnapped and disappeared at this time, including lawyer Tang Jitian, Jiang Tianyong, Liu Shihui, Tang Jingling, Teng Biao, writer Ran Yunfei and dissident artist Ai Weiwei. Before Xi Jinping came to power in late 2012, many rights activists had been imprisoned, including Hu Jia, Chen Guangcheng, Guo Feixiong, Liu Xiaobo, Huang Qi, Zheng Enchong, Wang Lihong, Wang Yi and Cao Shunli. Petitioners, NGO activists and rights defenders were also subject to harassment and persecution. But for various reasons, activists could not be silenced by harassment and minor punishments such as warnings, disbarment, house arrest, abduction and short-term detention. For many, the more persecution they encountered, the more solidarity they feel with like-minded people and the more value they place on their work.

Generally, the Chinese government punishes political activities more severely than non-political action, but the problem is there is not a clear dividing line between them. A post-totalitarian system needs the vagueness of the 'high-voltage line' (*gaoyaxian*) or arbitrariness of oppression to maximize intimidation (Teng Biao 2014a). As Fu Hualing put it, beside legal means, the Chinese government frequently exercises extra-legal and extra-extra-legal means to suppress the rights defense movement such as black jails, enforced disappearance and torture (Fu Hualing 2011). The China Human Rights Lawyers Concern Group (2015) has detailed the torture of 34 lawyers between 2006 and 2015 and pointed out the worsening situation.

Some activists have even lost their lives. Li Wangyang, Cao Shunli, Zhang Liumao and Xue Jingbo died in custody, because of proved or alleged torture and ill treatment. In an influential forced eviction case in Chengdu, Tang Fuzhen self-immolated on 13 November 2009 and died on 29 November. Between 2009 and 2013, at least 53 people across China have set themselves on fire to protest the destruction of their homes (Langfitt 2013; Amnesty International 2012).

After Xi Jinping assumed power in 2012, the mode for cracking down on the rights defense movement has seemingly moved from 'Stability Maintenance' to 'Wiping Out'. Before, the goal was primarily to punish those who crossed the line, and to retain the advantages of strong stability maintenance. However, the goal of Xi is simultaneously

to eliminate the nodes of civil mobilization, eradicate emerging civic leaders and disperse the capacity for civic resistance. At a minimum, the authorities want to curb the momentum of the rights defense movement which has been steadily growing and flourishing (Teng Biao 2014b).

A new wave of large-scale repression started with the arrest of the 'Beijing Xidan Four' on 31 March 2013. These four activists of the New Citizens Movement, Yuan Dong, Zhang Baocheng, Ma Xinli and Hou Xin, were arrested when giving a speech at Beijing Xidan Square in which they called on government officials to make public their property holdings. They were arrested on the spot. In the following months, hundreds of rights activists were arrested and incarcerated, including Xu Zhiyong, Wang Gongquan, Guo Feixiong, Li Huaping, Chen Baocheng, Zhang Lin, Ding Jiayi, Liu Ping, Yuan Fengchu, Ilham Tohti, Zhao Changqing and Tang Jingling.

During the period before Xi Jinping came to power, the authorities generally treated NGOs, whose work relates to human rights, the rule of law and politics, differently from groups whose work isn't political. NGOs and think tanks that worked on issues such as poverty alleviation, education, environmental protection and other issues considered not to be politically sensitive, were able to operate and grow, within certain limits. Groups whose work addressed AIDS, occupational diseases, women's rights, LGBTQI issues and labor rights, as well as rural libraries, were able to carry out their work despite restrictions and harassment. But after Xi Jinping came to power, repression increased markedly. In addition to Gongmeng, more NGOs were shut down. Even many NGOs focusing on the environment, women's rights, LGBTQI, labor rights or citizen libraries were not allowed to work. For example, the feminist movement which developed during the 1990s and 2000s faced a harsher crackdown, with one infamous case being the detention of the 'feminist five' in March 2015. Wei Tingting, Li Tingting, Wu Rongrong, Wang Man and Zheng Churan were detained on the eve of International Women's Day. They had been active for years in fighting for gender equality and the rights of people living with HIV/AIDS. They initiated numerous online campaigns and took the movement into the street by occupying the Men's Toilets to challenge the lack of female facilities, shaving their heads to highlight higher college admission requirements for female applicants and wearing wedding dresses daubed with red to protest against domestic violence. Their arrest aroused domestic protest and especially drew international attention. A little over a month later, they were released on bail (Zeng Jinyan 2015).

The well-known '709 crackdown' in July 2015 shocked the Chinese and the world. It has been the worst crackdown on lawyers since the rehabilitation of the judicial system in the late 1970s. At around 3 a.m. on 9 July 2015, the human rights lawyer Wang Yu was abducted from her home in Beijing. Her husband, rights defender Bao Longjun also disappeared. Wang is renowned in China. Between 2013 and 2015 she represented: Cao Shunli, who died after being denied medical treatment while in custody for her human rights activism; Ilham Tohti, a Uigher scholar unjustly sentenced to life in prison; and protest organizer Wu Gan. In the days after Wang's arrest, dozens of human rights lawyers were abducted, arrested and disappeared; as of 23 February 2017, in 24 provinces in China, at least 319 lawyers, law firm staff, human right activists and family members have been questioned, summoned, forbidden to leave the country, held under house arrest or in residential surveillance, criminally detained, arrested or are

missing. Among them are prominent lawyers like Li Heping, Jiang Tianyong, Wang Quanzhang, Xie Yang, Xie Yanyi and Zhou Shifeng. Some were sentenced to up to seven and a half years of imprisonment. Many confirmed documents showed that many lawyers and activists have been brutally tortured (Pils 2016; CHRCLG 2016, 2017; HRIC 2017; CSCL 2015).

Suppression has increased markedly not only against human rights lawyers, dissidents and NGOs, but also against the media, underground churches, and religious groups labeled 'evil cults' such as Falungong, petitioners, activist netizens, liberal scholars and artists. In a report published in February 2017, Chinese Human Rights Defenders (CHRD) documented the deteriorating situation of rights defenders and NGOs. Many new and ongoing cases of enforced disappearance, arbitrary detention, and acts of torture were reported, and the number of criminal detentions and convictions, especially the use of the charge of endangering state security were increased. As one human rights activist stated in 2017: '[T]here are no more "grey areas". To advocate for human rights in China today, you must be willing to accept the reality that the government views your work as "illegal"' (CHRD 2017). The 2016 annual report by the US Congressional-Executive Commission on China (CECC) concluded that the Chinese government had tightened control and strengthened its suppression on all religions including Tibetan Buddhism, Falungong, Buddhism, Daoism, Catholicism, Protestantism and Islam. In general, the Party has stressed the importance of ideological conformity and thought control, and so civil society increasingly has been viewed by the Party and government as a security threat and subjected to expanding control. The Party and government have used the law to repress and control China's citizenry, yet they have disregarded the law when it does not serve their priorities (CECC 2016).

Since at least 2013 the Chinese government has demonstrably tightened control of information dissemination, teaching materials, publishing and social media. Some laws and regulations have been put into effect with the clear purpose of controlling and oppressing the rights defense movement and civil society. A range of laws such as the *National Security Law* (2015), *Foreign NGO Management Law* (2017), *Charity Law* (2016), and the *Cybersecurity Law* (2016), have already influenced the development of rights activism and civil society, putting fundamental rights and freedoms in danger.

28.5 CONCLUSION

The rise of China's rights defense movement has taken place in tandem with the rapid development of the Internet in China. New Internet technology has the capacity to assemble information, as well as people with the same convictions, greatly facilitating the mobilization of public opinion and socio-political participation, and leading to the emergence of new types of associations, such as virtual associations and online communities. These groupings can, to a certain extent, break through longstanding prohibitions on banned associations. Virtual associations, online communities, informal organizations, temporary organizations—whatever name these quasi-organizations go by—have already become a social reality. Constant exchanges between individuals with shared concerns and viewpoints in virtual space have also greatly facilitated offline

face-to-face exchanges and gatherings. It is through this practice that citizens' self-organizational capacities can gradually take shape and improve. This is what Clay Shirky (2008) refers to as 'organizing without organizations'. Sidney Tarrow (1998) believes these kinds of informal networks are of significant importance for social movements and have advantages during a time when a regime is suppressing free associations.

The Internet empowers both the state and society. The Internet has played an important role in facilitating political liberalization and social movements, and it produces enormous effects that are highly decentralized and beyond the reach of state power. But at the same time, Internet technology and new media have provided new tools for the government to monitor, control and stabilize the people. The interactions between the state and society around the Internet reshape both the state and society (Zheng Yongnian 2007).

When the Party was facing a deep political and economic crisis in the late 1970s, it decided to introduce a process of legalization and marketization. Legalization was necessary for establishing social order and a market economy, thus was beneficial to the political system when mass mobilization was no longer applicable to the political-social situation. But the Party never intended to accept a democratic transition or a system where rule of law can guarantee fundamental human rights and freedoms. Oppositional politics are prohibited or constrained. But an unintended consequence of these reforms has been to enable lawyers and other rights advocates to seek legal remedies for their political claims, using existing laws and procedures. Starting with a narrow space, moderate demands and a law-based approach, human rights lawyers obtained much initial success. Social media, sometimes for understandable reasons the traditional media, both amplified the influence of these rights promoters. Rapidly, the rights defense movement attracted more and more supporters, such as bloggers, pro-democracy scholars, petitioners, persecuted religious groups, victims of human rights abuse, and political dissidents. Encouraged by the prospects of success, they became more assertive. Some lawyers started on the thorny road of honor to 'climb the *weiquan* ladder', on which the radicalizing process seemed to be inevitable (Fu and Cullen 2011).

It is clear for most activists that without constitutional democracy, there would not be rule of law, and Chinese people would not enjoy fundamental human rights. The politicization of human rights activism also demonstrates the logical and practical relationship between the democracy movement and the rights defense movement. Hu Ping's comparison of the two concludes: '[T]he rights defense movement has increasingly moved from spontaneous to conscious. In today's China, rights defense activities are drawing ever closer to the democracy movement, the two combined constituting a powerful force promoting political reform' (Hu Ping 2009).

The rights defense movement has faced difficulties in China since early 2000 as have the trends of organization, politicization, street activism and internationalization. These trends can be seen as the amazing achievements of this movement, but are also the reason for the government crackdown on this movement. These four aspects are important angles and signposts to observe the development of the rights defense movement and its potential impact on political-legal change in China. With more brutal suppression and tighter social control under Xi Jinping since 2013, some

analysts have asserted 'the end of the rights defense movement' along with expectations of 'rising of political opposition' (Mo Zhixu 2016b; Ye Du 2016), or the 'contentious politics of middle class' (Wu Qiang 2016). But in my opinion, the idea of the rights defense movement is still showing its exuberant vitality, and the spirit of the rights defense movement is still gaining moral and social support. The persistence of the rights defense movement is still shaping China's politics before a drastic change, like the unstoppable lightning in the darkness.

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