

# NPC

National People's Congress of China



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**Elections push forward  
democratic politics**

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Chinese emergency rescuers and medical staff take a chartered flight to Haiti, which was hit by a catastrophic earthquake measuring 7.0 on the Richet scale on January 13, 2010. China immediately dispatched a rescue team of 70 on the night when the earthquake occurred. A total of eight Chinese peacekeeping police sent by the Ministry of Public Security sacrificed their lives during the disaster.

*Xinhua/CFP*





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# Crucial year of legislation: Safeguard people's welfare, strengthen civil rights and improve democracy

By Peng Dongyu



Chairman Wu Bangguo presides the 31th presidium meeting of the 11th NPC Standing Committee on October 19, 2009. *Huang Jing*



**The year 2009 is a year out of common. This year the world economy has been suffering from the most severe challenge since the Great Depression last century. Facing the coming waves, our government took positive actions and the fast recovery speed has no parallel in history. Our people have gone out of the psychological shadow caused by the crisis and gained more confidence. This year is also a crucial year for the realization of the “socialist legal system with Chinese Characteristics” to be developed in the year 2010.**

## **Tort Liability Law, citizens’ guideline of safeguarding civil rights**

On December 26, 2009, the Tort Liability Law of the People’s Republic of China (PRC) was adopted at the 12th meeting of the Standing Committee of the 11th National People’s Congress (NPC). The introduction of this law as the action guide of the citizen’s right protection marks a milestone for the development of China Civil Codes.

“Where there is a right there is a remedy” — the Tort Liability Law fills in many “rights vacuum” of Chinese law. It not only covers the products defect, traffic accidents, medical damages, environment pollution, Internet infringement, injuries by animals and etc. It also clarifies the recalling system for defect products, compensation on mental damages and protection of juniors.

The Tort Liability Law has four outstanding points. For the first time, it clarifies the compensation on mental damages and set the principle “same prices for same lives.” For the first time, it has a special section to regulate the medical damage liability. It is an improvement to develop law for the protection of individual privacy rights.

## **Draft of social insurance law: To balance interests and promote fairness and justice**

The draft of social insurance law, a critical law to guarantee people’s livelihood, was deliberated for the third time at the 12th meeting of the Standing Committee of the 11th NPC in December 2009, which was one year after the previous discussion.

The third draft takes shape after assimilating suggestions from all parties. For example, it adds the articles that national social security funds should be set up and that the people who paid the endowment insurance less than 15 years can carry on the payment and enjoy the endowment insurance treatment.

It also defines the obligations of the medical insurance funds

to be paid in advance and the corresponding issues of the workplace injury insurance regarding a third party.

Besides, it deletes the principles that basic medical insurance of urban citizens and the new-type rural cooperative medical system (CMS) should be merged for implementation. Instead the draft adds the people’s congresses at different levels should supervise the social security funds. It defines the supervision rights of the employers and of the insurers, and clarifies the collection of the social insurance fees in a uniform way.

Moreover, it also adds regulations relevant to new-type rural social endowment insurance and the social endowment insurance among urban citizens.

The draft will be discussed for the fourth time in 2010. More deliberations might be carried before its final adoption since there are tremendous conflicts and disputes on interests and ideas.



Farmer in Wuyuan county, Jiangxi Province, showcase their retirement insurance certificates on January 12, 2010. An issuance ceremony was held to mark the launch of the new type of retirement insurance system in rural area. CFP





Xu Jingxiang, a farmer of Henan Province, receives 530,000 yuan as State compensation on December 17, 2009 after four and a half years' consistent appealing. From April 1, 1992 to March 15, 2005, Xu had been mistakenly detained for 4,732 days. *Yan Guangjun*

## **Amendment draft of the State Indemnity Law reflects new recognition to life, freedom and dignity**

In June and October 2009, 11th NPC Standing Committee conducted second and third discussion on the amendment draft of the State Indemnity Law.

A number of clauses in the amendment draft have received favorable comments and attention. For example, the detainees can get compensation after being declared innocent in line with legal proceedings.

If a person in custody lost capability for action, the organizations with compensation liability are needed to provide evidence of doing nothing wrong. Victims whose properties are expropriated or required illegally are entitled to get the State indemnity. Emphasis is given to a "timely compensation" by the organizations with a compensation liability. The word "violence" is deleted and the "maltreatment" details added, so that the scope of the State indemnity is expanded. Moreover, the detention house is also listed to be one of the organizations that have compensation liabilities. The compensation application procedure is further improved.

## **Draft of administration compulsory law: Enhanced protection of legitimate rights of citizens and legal persons**

Dubbed as one of the "trilogy" of China's administrative legislation, the draft of the administration compulsory law was discussed for the third time on August 24, 2009. Since March 1999, 10 years have passed since the law was drafted. The previous two deliberations were held in December 2005 and in October 2007.

The biggest issue faced by the administrative compulsory legislation is how to balance the public rights of the administration and the private rights of the citizens. On the one side, certain rights should be given to the administrative authorities; on the other side, they should also be restrained to some degree.

Based on the reality of China, administrative compulsory power should be less taken or used carefully and rationally. Only in this way can the legislation principle of "securing public interests and stabilizing public orders" be achieved and can the administrative authorities be respected.





The Standing Committee of the 11th NPC approves the Law of Mediation and Arbitration of Rural Land Contract Management Disputes in its 9th meeting on June 27, 2009. *Sheng Jiapeng*

## **Law of Mediation and Arbitration of Rural Land Contract Management Disputes: A key weapon in safeguarding farmers' interests on their contracted farmland**

On January 1, 2010, the Law of Mediation and Arbitration of Rural Land Contract Management Disputes took into effect. The Law was approved at the 9th Meeting of the Standing Committee of the 11th NPC.

The law has set a principle of using both “mediation” and “arbitration” to help nip the land contract conflicts and disputes in the bud and at the grassroots level. It also clarifies the method and procedure of arbitration and arbitration by setting up relevant organizations. Such a law has provided legal basis for the mediation and arbitration work in rural area in tackling disputes of land contract management.

To lighten the burdens of farmers, the law forbids arbitrary authorities to charge fees for the mediation or arbitration. The



On October 27, 2009, the draft of the Electoral Law is under discussion at the 11th meeting of the Standing Committee of the 11th NPC. *Sheng Jiapeng*

corresponding costs should be included into the local government financial budget.

## **Draft of amendment of Electoral Law: A leap-forward of Chinese democratic politics**

In October and December 2009, the eye-catching draft of the amendment of the Electoral Law was discussed twice during the 11th and the 12th meetings of the Standing Committee of the 11th NPC. It is a big political event in China.

With the revision of the Electoral Law, a key word is “equality” which impresses people deeply. It stipulates that “both urban and rural areas to adopt the same ratio of deputies to the represented population in elections of people’s congresses deputies.”

It requires equal representation among people, regions and ethnic groups, which is the core of the democratic and political rights. The amendment embodies the progress of China’s human rights system.

The draft of amendment of the Electoral Law has been adopted during the 3rd Session of the 11th NPC, which was held on March 5-14 in Beijing.



## **Draft of amendment of Organic Law of Villagers Committee: To enable 1 billion farmers to learn and enjoy democracy**

In December 2009, the amended draft of Organic Law of the Villager Committee was discussed at the 12th meeting of the Standing Committee of the 11th NPC. Like the revision of the Electoral Law, the amendment of Organic Law of the Villagers Committee is an important legislation practice to improve the legal system of Chinese democracy.

The focal points of the amendment include the election and removal procedure of the members of villagers committee as well as its democratic proceedings, management and supervision.

The Amendment lowers the threshold to remove the village officials. A removal motion could be realized by collecting either the signatures of one fifth of the liable villagers or those of one third of the villager deputies. A dismissal meeting would be summoned by the village electoral committee instead of the villagers committee.

## **Renewable Energy Law: To push forward healthy development of renewable energy industries**

On December 26, 2009, the Decision of the NPC Standing Committee on Amending the Renewable Energy Law was approved by the 12th meeting of the 11th NPC Standing Committee. The revised Renewable Energy Law will take effect on April 1, 2010.

The Renewable Energy Law stipulates the compilation of the development and utilization of renewable energy, the overall purchase of power generated in a renewable way, responsibilities of the power grid enterprises and the establishment of State-supported funds for renewable energy. These stipulations target at the realistic issues and will play a great role in enhancing the healthy development of the renewable energy.

At present, the renewable energy is an international hot topic and a crucial method to cope with the climate change. In addition, the 10th meeting of the Standing Committee of the 11th NPC passed the Resolution on Actively Dealing with the Climate Change by the NPC Standing Committee. Both the law and the resolution witness that the updating of China's environmental protection strategy.

## **Sea Island Protection Law: To regulate the development and exploration of maritime islands**

On December 2009, the 12th Meeting of the Standing Committee of the 11th NPC approved the Sea Islands Protection Law. The adoption of the law occupies an important berth in the establishment of the sea law system in China. It is of significance in the Chinese legal system.

The law makes sea islands protection and management in a legal way and reverse the situation of "chaotic, excessive and free" exploration of sea islands of the past. It will play a crucial role in protecting surrounding ecology, tapping natural resources and protecting the nation's maritime rights.



The biggest hydro-electric station – the Three Gorges Power Station – is listed into Top 10 renewable energy projects of the world by US magazine Scientific American. CFP





The Law on People's Armed Police is approved at the 10th meeting of the Standing Committee of the 11th NPC on August 27, 2009. CFP

The law defines that the ownership of the sea islands on which no dwellers live belongs to the State. The State Council will represent the State to exercise its ownership rights. A brand new model is to be established within a framework centralized and united management system on sea islands with no residents.

## **Law on the People's Armed Police defines and regulates the rights and responsibilities of armed police**

On August 27, 2009, the Law on the People's Armed Police was discussed and approved at the 10th meeting of the Standing Committee of the 11th NPC. It is the first time for China to

regulate rights and responsibilities of armed police.

The Force of the People's Armed Police is under the leadership of the State Council and the Military Commission of the CPC Central Committee (CMC). It follows both the unified leadership and commanding at different levels. The law endows the people's armed police duties of security and safeguard as well gives the strict rules on how to perform these duties.

The law rules eight tasks of security and safeguard for the Force of the People's Armed Police, including dealing with riots, crimes of violence, terrorist attacks and other social security incidents.

It also emphasizes the strict procedure of approvals and examination before dispatching and commanding armed police to fulfill security tasks. No organization or individual is allowed to break laws and regulations to mobilize and employ the Force of the Armed Police.





Clown Express, established by college students in Lanzhou, Gansu Province, bring convenience and joy to local residents through their service. Yan Shi

### Law on Diplomatic Personnel Stationed Abroad: Duties and honors of home country

In October 2009, the Law on Diplomatic Personnel Stationed Abroad was approved at the 11th meeting of the Standing Committee of the 11th NPC. It is China's first law made for diplomatic personnel stationed abroad.

The law clearly stipulates all aspects of diplomatic personnel stationed abroad, such as their duties, qualification, obligations, rights, positions, ranking, appointments, deposition, assessment, promotion, exchange, training, welfare, spouse and offspring and leadership system. The main characteristics of the law can be summarized by the following four points: The duties and obligations are defined; The ranking system is established; Unified leadership is given prominence; Principle of people-orientation is strengthened.

Establishment of the ranking system is one of the key parts of this law, which designs a complete diplomatic ranking system in line with the practice of cadre and personnel system of China.

The implementation of diplomatic ranking system will im-

prove the management of overseas diplomatic personnel, make clear their career development, reinforce their sense of the mission, responsibility and honor and galvanize their enthusiasm and creativity so as to ensure the long term development of diplomatic undertaking.

### Statistics Law declares war towards faked statistics as well as officials who fabricate data

On June 17, 2009, the amended Statistics Law was approved at the 9th meeting of the Standing Committee of 11th NPC.

In the past, it was regarded popular that "the relationship between statistics and cadres is interdependent and inseparable." On the one hand, it reveals the importance of statistics collection towards cadres' promotion; on the other hand, it reflects the possible interference of the government officials towards statistics.

Based on the nationwide inspection results in recent years, the unlawful practice such as false and faked statistics account 60 percent of the total illegal activities in data collection.

The amendment of the law has four highlights, that is, the self-supervision of the statistics organizations; the statistics personnel arrangement at the township level; the national statistics should be released by the National Statistics Bureau; and the strengthened punishment for unlawful practice of national statistics organizations.

### Postal Law strengthens the protection of legal rights and interests of users

On April 24, 2009, the amended Postal Law was approved with the aim to strengthen supervision on the postal and express mail service (EMS), improve communication safety and safeguard users' rights and interests.

The law regulates any organization or individual is forbidden to open, hide, destroy or discard any letters and mails. Unless otherwise specified by laws, the post enterprises, express mail enterprises and other postal personnel are forbidden to disclose the information that the customers use postal service or EMS.

For the sake of the rights and interests of consumers, the new Postal Law stipulates that the maximum compensation should not surpass three times of the original postal costs. Meanwhile, there are two exceptions. One is targeting at the value-declared mails: The postal enterprises should compensate consumers within the scope of declared value. The other is no limited com-



pensation standard would be set if the postal enterprises deliberately or negligently damaged mails.

The new law also demonstrates flexibility by defining the compensation liability for the post services out of the scope of the common postal services. Civil affairs laws will be resorted to in dealing this kind of disputes.

## **Draft of national defense mobilization law fills in the legislative vacuum of mobilization of national defense**

On April and December 2009, the draft of law on China na-

tional defense mobilization was discussed twice at the 8th and 12th meetings of the Standing Committee of the 11th NPC. After 25 years' preparation, the draft of the law enters into the legislation procedure.

It is a common practice in many countries to strengthen the legislation development of national defense mobilization. As a big country, China should have a national defense mobilization law with Chinese characteristics. The development of the draft of law fills in the vacuum of legislation of national defense mobilization. Meanwhile, it is also an important step for the improvement of China law system with Chinese socialist characteristics.

The promulgation of this law clearly defines the national defense mobilization. It provides the law basis for mobilization preparations both at peace time and during war time. It ensures the country to swift its national defense potential into military power when a war breaks out and the sovereignty, territorial integrity and security are threatened.

## **Draft of law of guarding State secrets helps combat secrets leakage and stealth via Internet**

In June 2009, the draft of law on guarding State secret was initially discussed at the 9th meeting of the Standing Committee of 11th NPC.

With the improvement of comprehensive national strength and the international status, China has become a main target of espionage in diverse fields. Nowadays, the media that the State secretes mainly rely on have changed to sound, light, electricity and magnet and so on. There is an urgent need to upgrade and perfect relevant systems to store, deal with and transmit the State secrets by using modern communication technologies and Internet knowledge. ■



Officials with the New Area office of people's armed forces in Zhenjiang, Jiangsu Province put slogans of keeping secrets on computer desktop. The slogans have become a must-see among officials and soldiers during the work every day. *Chen Hailin*

# **NPC: a constructive force for foreign exchanges between China and the world**

**An overview of the diplomatic efforts of NPC in 2009**

By Liang Guodong



NPC Standing Committee Chairman Wu Bangguo held a meeting with US President Barack Obama on September 10, 2009 in Washington. *Xinhua*



**A**s an important part of China's overall diplomacy, National People's Congress (NPC) plays an irreplaceable role in enhancing the mutual understanding and friendship between different peoples and strengthening the healthy development of relationship between nations. In 2009, the NPC Standing Committee broke new ground in this field under the guideline of the Central Committee of the Chinese Communist Party (CPC).

**“Joint efforts are to be made on bilateral co-operation,” echoed US leaders and entrepreneurs after listening to Wu’s address during his visit in September.**

From September 1 to 12, 2009, Wu paid a goodwill visit to the US, Cuba and the Bahamas. While meeting with US leaders and entrepreneurs, Wu noted that, though it was not yet clear when the world economy will recover, there is a rosy picture for Sino-US cooperation in the future.

In their turn, the US side agreed to strengthen bilateral communications and to enhance co-operation, especially in economic and scientific fields, between enterprises from both nations. During this visit, a total of 41 agreements and contracts were inked for investment and economic cooperation. The total contract value reached \$12.38 billion, covering the fields from new energy, raw materials to telecommunication, electrics, machinery and tourism.

In 2009, the financial crisis swept every corner of the world. Under this situation, Chairman Wu and other NPC senior officials toured a number of countries in the world. Topics on how to shore up confidence, enhance co-operation as well as cope with the influence of the ongoing financial crisis topped the agenda of these visits. The discussions have created a benign international environment for the recovery of China's economy and the smooth implementation of the measures adopted by the CPC Central Committee.

With the multi-polarization of the world and the globalization of economy, parliaments are playing important roles in the political life. So does the NPC in dealing with foreign affairs. NPC Standing Committee Chairman Wu Bangguo noted, “Through strengthening the exchanges between parliaments, we’ll make them a constructive force in the development of relations between countries.”



On the morning of September 3, 2010, NPC Standing Committee Chairman Wu Bangguo paid a visit to the First Secretary of the Central Committee of Communist Party of Cuba, Fidel Castro. Pang Xinglei



On September 5, 2009, NPC Standing Committee Chairman Wu Bangguo went to the Bahamas National Stadium, a China-aid construction site to meet Chinese engineers, technical staff and constructors. Also, together with Vice Prime Minister of the Bahamas, Brent Symonette, Wu unveiled the construction logo.

Pang Xinglei





On May 15, 2009, NPC Standing Committee Chairman Wu Bangguo had a meeting with the Austrian Speaker of the National Assembly Barbara Prammer. *Liu Weibing*

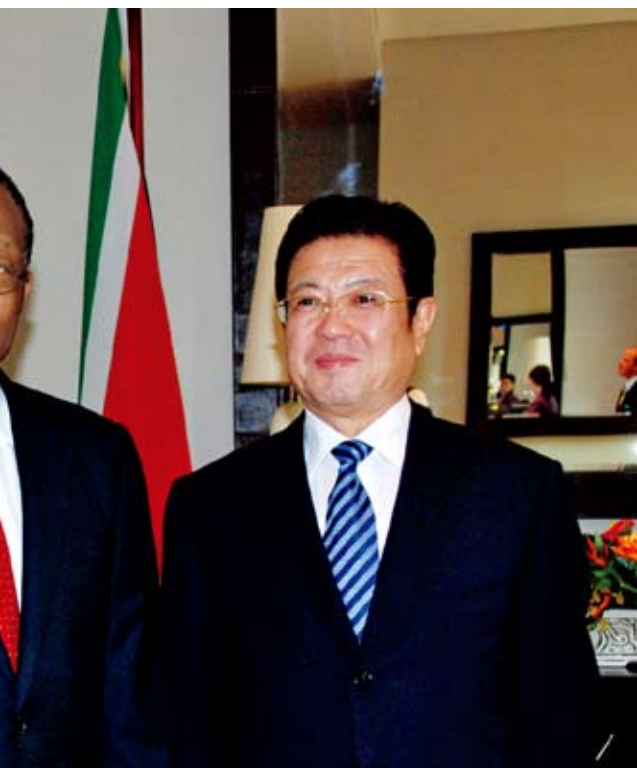


On November 4, 2009, Vice Chairman of NPC Standing Committee Wang Zhaoguo had a meeting with Kgalema Petrus Motlanthe, acting president of South Africa in Capetown.  
*Li Jianmin*



Vice Chairman of NPC Standing Committee Sang Guowei meets the Parliament Speaker D. Demberel on October 14, 2009. *A Sigang*





On April 7, 2009, Vice Chairperson of NPC Standing Committee Wuyun Qimuge had a meeting with the Speaker of the Ethiopian House of Representatives, Teshome Toga, in Addis Abba, capital of Ethiopia.

*Zhang Yanhui*

On January 12, 2009, Vice Chairman of NPC Standing Committee Zhou Tienong, (the third from the left) leads a delegation to participate in the 17th Annual Conference of the Asia-Pacific Parliamentary Forum in Vientiane, the capital of the Laos. *Huang Haimin*



**“Tibet is an integral part of Chinese territory,” reiterated visiting Bernard Accoyer, who is the chairman of National Assembly of France, when meeting his counterpart Wu Bangguo in Beijing.**

On April 20, 2009, Chairman Wu held a meeting with Accoyer during his visit to China. Wu stressed that China pays great attention to bilateral relations and China’s stance of maintaining long-term strategic partnership with France will not be changed.

Accoyer said that France sticks to the one-China policy and Tibet is an integral part of Chinese territory. France will never support “Tibetan Independence” in any form.

Besides the French delegation, the NPC also received a number of parliamentary delegations from the world last year. During the talks, parliamentary leaders tackled mostly-concerned issues. Through these exchanges, China and these nations have increased understanding and improved cooperation and diplomatic relations in all fields.

When recalling her visit in last May, Nancy Pelosi, speaker of the US House of Representatives, noted the visit had helped her better understand the US-China cooperation. She hopes the new US Congress to further enhance exchange and cooperation with its Chinese counterpart – NPC.



On March 27, 2009, NPC Standing Committee Chairman Wu Bangguo holds a meeting with Mezentsev, vice-chairman of Federation Council of the Russian Federal Assembly in the Great Hall of the People in Beijing. Sheng Jiapeng



On August 10, 2009, NPC Standing Committee Chairman Wu Bangguo meets Chairman of the Inter-parliamentary Union, the Speaker of Namibian National Assembly, Theo-Ben Gurirab in the Great Hall of the People in Beijing. Sheng Jiapeng



On November 9, 2009, Vice Chairperson of NPC Standing Committee Chen Zhili hosts a meeting with the delegation of Canadian Senate and the Ministry of Foreign Affairs and International Trade in Beijing. Courtesy of NPC Foreign Affairs Committee



On August 24, 2009, Vice Chairman of NPC Standing Committee Lu Yongxiang meets the delegation of the United States National State Legislature in the Great Hall of the People in Beijing. *Liao Pan*





**“We hope the relationship between Japan and China would be as beautiful as the bloomy sakura,” said Yohei Kono, speaker of the Japanese House of Representatives, when he met a visiting NPC delegation that conducted a regular exchange meeting with Japan’s House of Representatives.**

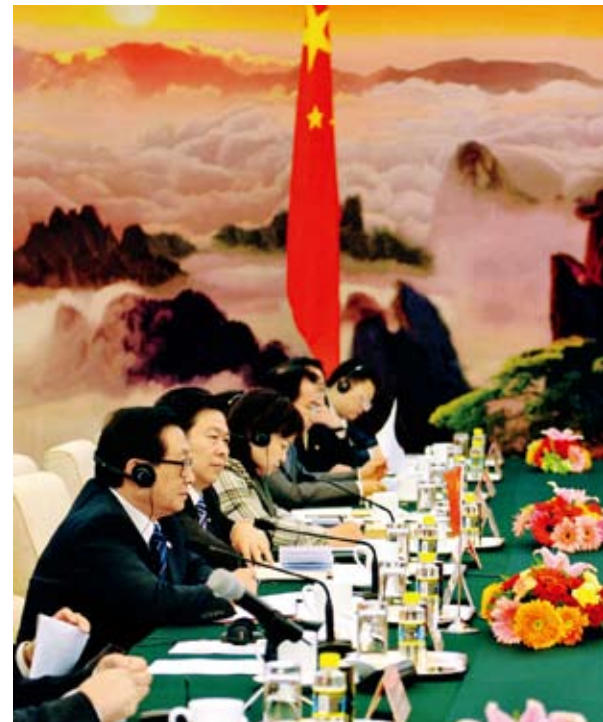
On March 26, 2009, the NPC and Japan’s House of Representatives convened for the 3rd time in Japan under the framework of a regular exchange mechanism. The two parties agreed the positive role of the parliaments in accelerating the bilateral relations, vowing to maintain the regular exchange mechanism for a better understanding and friendship between the two countries.

After the conference, Yohei Kono, speaker of the House of Representatives, said that he hoped that the friendship between Japan and China could be as bloomy as sakura to withstand all political changes of Japan.

In 2009, regular exchanges between parliaments have been held with the US, Japan, Russia, France and Italy. Up to now, a far-ranging regular meeting system takes shape between NPC and countries in five continents, including neighboring countries, developed and developing countries, and multi-lateral organizations. Under such a framework, topics discussed have become diverse and profound. It has already become a very important platform for bilateral communications and cooperation and mutual understanding. ■



On May 14, 2009, NPC Standing Committee Chairman Wu Bangguo and Boris Gryzlov, chairman of the Russian State Duma, attend the 3rd Conference of the Cooperative Committee of NPC and the State Duma of Russia. *Liu Weibing*



On December 15, 2009, Vice Chairman of NPC Standing Committee Hua Jianmin attends the 5th Conference of the Cooperative Committee of NPC and Japan’s House of Representatives. *Ding Lin*





On April 20, 2009, NPC Standing Committee Chairman Wu Bangguo signed a Memorandum of Understanding on the Establishment of Regular Meeting Mechanism between NPC and the National Assembly of the France Republic with the Speaker of the National Assembly Bernard Accoyer in the Great Hall of the People in Beijing. *Sheng Jiapeng*

On March 26, 2009, Vice Chairman of NPC Standing Committee Li Jianguo attends the 3rd conference between NPC and Japan's House of Representatives within a framework of regular meeting mechanism.



On December 8, 2009, Vice Chairman of NPC Standing Committee Ismail Tiliwaldi attends the 3rd Conference of the Regular meeting between the NPC and the Egyptian People's Assembly. *Ma Zengke*

# An important step of Civil Code: Tort Liability Law

By Peng Dongyu

**T**he Tort Liability Law of the People's Republic of China was adopted on the 12th meeting of the Standing Committee of the 11th National People's Congress (NPC) on December 26, 2009. The law will come into force on July 1, 2010. Similar to the Property Law, the whole thrust of the Tort Liability Law is to safeguard individual's private rights and interests, making it another important legislative progress in the area of Civil Code after the Contract Law.

**The Tort Liability Law has gone through four deliberations. After the second deliberation, it went on a fast track.**

As part of the Civil Code, the first draft of the Tort Liability Law was submitted to the 31st meeting of the Standing Committee of the 9th NPC in December 2002 for and deliberation.

At that time, the draft version of Civil Code was comprised of nine chapters, 1,209 articles, totaling more than 100,000 characters. The draft contained the largest number of articles to date. Due to its complex nature and extensive coverage, deliberations and modifications to the entire law are undoubtedly time-consuming and difficult. At last, the top legislative body established a set of principles on modification, deliberation and adoption of the law in a sub-series manner. After



Zhang Bolin, vice director of the Legislative Committee of the 11th NPC Standing Committee, delivers a report on the implementation of the Tort Liability Law on December 22, 2009, when the 12th meeting of the Standing Committee of the 11th NPC was held in Beijing. Sheng Jiapeng

all the sub-series have been adopted, they will be put together for compilation of the Civil Code.

In 2004, as the first of the nine drafts in the Civil Code that was under "substantive" deliberation. The draft of Property Law was submitted for a second deliberation. The law was submitted eight times to the Standing Committee of the 9th NPC, the 10th NPC and its Standing Committee respectively. On March 16, 2007, on the 5th Session of the 10th NPC, the law was finally adopted with an overwhelming majority of agreeing votes, setting a new record for the number of times of deliberation of a single law in the history

of China's legislative history.

After the adoption of the Property Law, the top legislative body kicked off the compilation process of the Tort Liability Law. According to the five-year legislative plan of the 10th and 11th NPC Standing Committee and a 2008 legislative plan and based on the eighth revised draft by the NPC Commission of Legislative Affairs, a second draft took shape.

The second draft was submitted to the 6th meeting of the Standing Committee of the 11th NPC for deliberation. Major adjustments were made to the draft, the number of chapters increased to 12, and that of articles increased to 88. From then on, draft of the Tort Liability Law went into the stage of "substantive" deliberation.

In 2009, the deliberation process of the drafted Tort Liability Law gained new momentum. By the end of October, the draft was deliberated for a third time. At the end of December it was adopted. From the first deliberation to the final adoption, it took exactly seven years for the Tort Liability Law to be approved.

Urgency in reality is an important reason for the acceleration of the legislative process.

As the society develops, new forms of acts of tort kept cropping up. At the same time, regulations under the existing law lack operability. Moreover, relevant regulations are scattered about in specific laws, and thus is running short of a provision on the universal attributes of tortious liability. And the reality is that the number of cases of tortious infringement is increasing year on year.



In 2007, courthouses in China accepted more than 870,000 cases of infringement at first instance. That number increased to 1.03 million in 2008. On the other hand, the enhancement of people's awareness and the improvement of the judicial environment provide preconditions for the establishment of the Tort Liability Law.

At that time, whether a Civil Code should be established was fiercely debated. Without the Property Law, tortious liability has to be put off. After the adoption of the Property Law in March 2007, the speed up of the Tort Liability Law becomes logical.

The adoption of the Tort Liability Law was an important step in the making of the Civil Code. As to when the Civil Code can finally come into being, deputy director of the Commission of Legislative Affairs of the NPC Standing Committee Wang Shengming said there is not a definite timetable.

According to the arrangements, the NPC Standing Committee will speed up the drafting process of the law on foreign civil relations, he said. The application of the law is regulated in one chapter in the general provisions of the civil law. However, with regard to civil entanglement between foreigners and Chinese, controversial views were held as to which law to apply, the Chinese law or a foreign law.

Wang added that there is much to do concerning the compilation of the Civil Code. First, there is the general provision of the civil law. Then, further modifications have to be made to the Marriage Law. Only after these legislative processes completed, can the compilation of the Civil Code begin.

## **Clear responsibility, outstanding highlights**

The year of 2009 witnessed a series of eye-catching accidents of tort, such as "human flesh search", "fragile building

in Shanghai", "AIDS girl in Hebei Province", "melamine-related renal disease" and "Zhang Haichao's thoracotomy for lung examination." All these issues have become hot topics in media.

In these cases, every obligee is struggling in his own way to get his rights protected. However, more than often, their rights are upheld at a very high cost. This is partly due to the defection of the regulations on tortious liability under

**The adopted law states that compensation for psychological damage is strictly limited to acts of torts that infringe on others' personal rights and interests.**

the existing law system. The emergence of tortious liability law marked a turnaround to this situation. It has provided a guideline to those who feel lost on their way of upholding their private rights. It helped many people to find their way to solve cases of infringement.

For the first time in the Chinese judicial system, the Tort Liability Law defines compensation for psychological damage. The law regulates that those who infringed upon others' personal rights and interests, and resulted in emotional damages, the party whose rights are infringed upon can claim for compensation of psychological damage.

Under the existing law, there is not any clear regulation on compensation for mental losses. The draft of the amendment to the State Compensation Law, which is under deliberation, established

the mechanism of compensation for emotional damage. But this is limited to the area of administrative law. There are a number of cases involving compensation for emotional damage in judicial practice, regulated by the Interpretation of the Supreme People's Court on Problems regarding the Ascertainment of Compensation Liability for Psychological Damages in Civil Torts.

On November 26, 2007, in the final verdict on the case of "a conductor choked a Tsinghua professor's daughter", the conductor was sentenced to 300,000 yuan in civil compensation. That was the largest emotional-damage-compensation to date.

Wang Shengming said during the deliberation of the draft, there was a fierce debate concerning the definition of compensation for psychological damage, what comprises of compensation for emotional damage and how the amount of the compensation should be calculated.

The adopted law states that compensation for psychological damage is strictly limited to acts of torts that infringe on others' personal rights and interests. These rights include the right to live, right to health, right of reputation, and right to privacy etc.

But these rights do not include infringement upon property rights. If one's property right is infringed upon, compensation should be made in accordance to the damage of property caused by the acts, said Wang.

The Tort Liability Law employs the phrase "serious damage" to define the degree of the act that constitutes emotional damage. To understand the word "serious", Wang explained, "in principle, it is generally accepted that minor emotional damage should not be compensated. Otherwise the cost of proceedings will be too high. This problem can be dealt with by judicial interpretation, or based on individual cases."

The Tort Liability Law also established the principle of "same value for

life.” According to the regulations of the Tort Liability Law, In the event of tort resulting in death, compensation shall be made in the form of funeral expenses and death compensation. In the event of multiple deaths arising from the same act of tort, death compensations shall be determined accordingly.

In a traffic accident, children who are registered as permanent residence in the city receive 200,000 yuan in compensation, while children who are registered as permanent residence in rural area receive only 90,000 yuan. Cases like this, where “different prices are paid to similar lives”, have put the existing regulation of death compensation in question. Since the adoption of the Tort Liability Law, deaths occurred in traffic accidents, mining accidents or blasts shall be compensated at the same standard.

Legal experts pointed out that the saying “the same value for life” is not accurate. To some extent, it is a misinterpretation of the media. Death compensation is paid for the infringement of property rights and emotional damage caused by the loss of life. It is not the price for life, because life is priceless.

According to the Tort Liability Law, in cases of multiple deaths arising from the same act of tort, it is not a standard practice to pay the same price for every victim. This is only the case for large-scale infringement. In cases of non-large-scale infringement, compensations shall be determined by the victim’s age, origin and level of income. Whether the victim is a permanent urban residence or rural residence shall not be used as criteria to differentiate the amount of compensation. Detailed calculation of death compensation requires practices in reality and shall be regulated by judicial interpretation.

The realization of “The same price for life” rests with reducing and even diminishing the income gap between urban and rural areas.

The Tort Liability Law stipulated liability of medical malpractice for the first

time. The exiting law does not include articles on how to define liability of medical malpractice and solve medical tangles. Judgments on medical tangles are made primarily in accordance with the Regulations on Handling of Medical Accidents promulgated by the State Council.

In recent years, there have been an increasing number of disputes between medical personnel and patients. Conflicts have kept escalating. The medical disturbance that happened in Nanping, Fujian Province in June 2006, shook the country. Many people were injured. Medical

**The Tort Liability Law emphasizes the protection for individual right to privacy. This is a great development in the legislative history.**

personnel gathered for a sit-in in front of the municipal government. Although this is an individual case, the conflict that reflected in it is profound. How to find the balance between the rights and interests of the patients and those of medical personnel is an indispensable part of the Tort Liability Law.

“To protect the lawful rights and interests of the patients and medical personnel, and at the same time be helpful to the development of medical science” has become a guideline on the chapter regarding liability of medical malpractice of the Tort Liability Law. To make accommodation for this, the law has adopted the principle of tort liability. At the same time, under certain circumstances, the principle of fault inference can be applied.

The Tort Liability Law states that medical institutes who failed to carry out corresponding medical obligations and resulted in patients’ injuries shall assume the tort liability for infringement.

Institutes with unlawful attempts to conceal, fabricate, distort, or refuse to provide relevant medical records, shall be presumed guilty.

Experts point out that the law did away with medical malpractice as a constituent and precondition for the assumption of tort liability for infringement. This proves to be a positive factor for solving the conflict between medical personnel and the patients.

Further more, the Tort Liability Law also made specific regulations on past acts of tort. For example, the law states that conflicts caused by deficiency of medicines, disinfectors, and medical apparatus, or by transfusion of unqualified blood, the patients claim compensation from relevant producers or providers, or the patients can also claim compensations from medical institutes. After having made compensation to the patients, the medical institutes can claim compensations from producers or blood providers.

Medical institutes or its medical personnel shall not violate the diagnostic criterion to carry out unnecessary examinations. Otherwise, the act can be deemed as an act of tort.

In cases of emergency where admission from the patients or his or her relatives cannot be obtained, medical institutes can immediately carry out corresponding treatments once the person in charge approves it.

The Tort Liability Law emphasizes the protection for individual right to privacy. This is a great development in the legislative history. Right to privacy is an important party to individual rights. As the society develops, people’s awareness of their right to privacy has enhanced.

On December 23, 2009, the dust for the closely-watched case of “human flesh search” settled. The Second Intermedi-



ate People's Court of Beijing affirmed the original judgment. The judge finds Zhang Leyi guilty of infringing Wang Fei's right of reputation. The courthouse ordered Zhang to delete relevant online articles, post a letter of apology to Wang on the Internet and make compensation for Wang's emotional damage as well as notary fees totaling 5,684 yuan.

Apparently, "human flesh search" is a way of gathering information involving manpower. But in fact, it reflects collective madness in the Internet era. It is an infringement of individual right to privacy.

Regulation on the acts of tort on the Internet reflects the fact that the Tort Liability Law is keeping abreast with the times. According to the law, Internet users and service providers who infringe on other's civil right shall be hold responsible.

In case of Internet users using online service as a means of infringement, the party whose right has been infringed has the right to inquire service provider to take necessary measures such as to delete, block or disconnect from relevant links. Service providers who have received such inquiries, but failed to take necessary measures, shall shoulder joint liability with the Internet user for the expanded damage.

Internet service providers who understand that its users are using its service as a means of infringement, but failed to take necessary measures shall shoulder joint liability with its users.

After the adoption of the Tort Liability Law, if an individual right to reputation and privacy is infringed upon in "human flesh search," the searcher as well as the search engine shall shoulder liability.

Besides acts of tort on the Internet, many more protections on individual privacy are reflected in the Tort Liability Law. For example, medical institutes who give away patients' privacy or publicize a patient's medical record and resulted in damages shall shoulder tortuous liability.

Besides these four highlights, the Tort Liability Law also stipulates many civil rights and interests for citizens, ranging from defection of products, traffic accidents, pollution, to the collapse of buildings, damages caused by pets. It also stipulates rules and regulations on recalling of defect products as well as enhanced protection for teenagers.

Another thing to point out is that in the chapter concerning the product liability, the law established a punitive compensation. To those who have known the existing deficiency of the products, but continue to produce and sell such products and resulted in the death or injury of others, the party whose right is infringed can claim for punitive compensation. But, how to calculate the amount for such compensation is not clearly stated in the law and is up to the Supreme People's Court for judicial interpretation.

## High expectations for the implementation of the law

During 7 years of deliberation and modification, the Tort Liability Law has received widespread public attention. As an expert specializing in the field of tort law and personal rights, Yang Lixin said that "30 years ago, when I started my research in the area, few people know the law of tort, and few would know that we have the rights called personal rights. Thirty years later, there are few who don't know the tort law and even fewer who don't know their personal right."

At the end of the month to solicit opinions from the public on the Tort Liability Law, the NPC Standing Committee received 2,600 letters from all walks of life.

To a law that is closely related to their everyday life, people showed very high expectations.

Although the Tort Liability Law does

not cover all types of tortuous acts during people's social activities, it lists 11 types of tortuous and quasi-tortuous acts. "This will by no means affect the adjusting function of the Tort Liability Law," civil law expert Wang Liming said.

Members of the NPC Standing Committee also had high expectations for the implementation of the law.

Deputy He Keng said, "At present, China's legal system is being strengthened. Cases of tort are commonplace. Some people don't know even after his rights have been infringed upon. With this law as regulation, many people's personal rights will be protected."

NPC deputy He Min, Wang Ningsheng also expressed high expectations for the implementation of the law. They suggested that China should enhance law enforcement and supervision.

To ensure the smooth implementation of the Tort Liability Law, specific issues will be handled with judicial interpretations. After the adoption of the general provisions of the civil law in the 1980's, the Supreme People's Court introduced a series of judicial interpretations concerning civil entanglement. Some of them are related to the Tort Liability Law.

Members the Commission of Legislative Affairs of the NPC Standing Committee said after the adoption of the Tort Liability Law, these judicial interpretations will have to be improved and perfected to become an integral part of the law.

The Tort Liability Law is a significant support to the Civil Code. In reality where rights of disadvantaged groups are hard to defend, the law will undoubtedly provides a base to protect citizen's rights and interests. Right after the law was adopted, there are warnings that the law should not follow the old path of the Property Law, which has been frequently challenged by the violent demolition cases in many places. This reminds law enforcers that no law is good law until it has been carried out strictly.■

# China boosts auditors' power as stimulus package spending prompts corruption concerns

**C**hina plans to audit all fiscal funds and all government-related construction projects, according to a newly-revised regulation, in a bid to ensure sound use of public money and effective prevention of corruption.

The regulation on the implementation of the Audit Law, issued on February 21 by the State Council and to take effect on May 1, will help improve the country's auditing system, experts say. It will also boost supervision of areas with high incidences of corruption, such as construction projects.

Apart from State-owned companies and projects, auditors will be entitled to track and supervise fiscal funds used by other companies and projects that use public money, according to the regulation.

The regulation also makes it clear that construction projects whose government investment exceeds 50 percent, or those with less than 50 percent government investment but with construction and operation government controlled, must accept being audited.

"The track audit will be good for the legitimate and efficient use of public funds and will also provide clues for anti-corruption campaigns," said Mao Shoulong, public policy professor at Beijing's Renmin University of China.

In last year's government work report, Premier Wen Jiabao proposed auditing follow whenever public money is allocated.

Wen said auditors should be allowed to play a full role in detecting potential risks and guaranteeing economic security, as well as to fight against corruption.

"Audit work is of much significance to construction projects, where power-for-money deals often happen," said Wang Yukai, a professor with the Chinese Academy of Governance.

Over the past decade, a large amount of public money has flowed into ma-







The picture shows an audit-themed sculpture presented by the Nanjing Audit University to National Audit Office. CFP

for construction projects nationwide, in the wake of the country's booming economy and rapid development. But frequent cases of bribery and corruption have caused wide public concern.

He Guoqiang, head of the Communist Party of China Central Commission for Discipline Inspection (CCDI), the Party's internal anti-graft body, said in January that one of major tasks for the CCDI this year is to "severely deal with violations of laws and regulations in the construction area."

In the last two years, reconstruction funds for regions hit by the 2008 Sichuan earthquake and the 4 trillion yuan stimulus package to combat the global financial crisis have come under close public scrutiny, as both involve a large number of infrastructure and construction projects.

Premier Wen and other senior leaders have urged auditors to work on any projects in the post-quake reconstruction and the stimulus package.

China's National Audit Office (NAO) said in January that 230 million yuan (\$33.7 million) of reconstruction funds have been misused.

A total of 88 cases involving 198 Party officials mispending stimulus package money have been dealt with one year after its launch, an official with the CCDI said in December.

**The regulation also specifies the extent of auditors' power and strengthens internal supervision among audit organs of various levels, which are well recognized by experts.**

The anti-corruption issue has always ranked among the top three issues for Chinese Internet users since people.com, the website of the People's Daily, launched an online survey in 2006. This year, up to 44 percent of voters believed "malpractice and corruption is a serious problem in the construction area."

Professor Wang said regulations with explicit and detailed provisions are to play a big role in containing and preventing corruption.

"Auditors can take more initiative," Wang said.

The regulation also specifies the extent of auditors' power and strengthens internal supervision among audit organs of various levels, which are well recognized by experts.

"Good procedures are indispensable for a good auditing system," professor Mao said.

The current Audit Law took effect in June 2006, after being passed by the Standing Committee of the 10th National People's Congress.

The range of publicly published audits is also expanding, according to the regulation. But listed companies must be notified of audit results five days before public announcement.

"It's good to see the regulation makes notable progress in normalizing operations, coordinating relations and many other details. I also expect further study and regulation on the self-evaluation of auditing work," Mao said. ■

(Xinhua)

# Draft house expropriation regulation sparks debate

**C**hinese whose homes are to be demolished for redevelopment should be paid with market prices and can sue over disputes before any demolition, according to a draft regulation issued on January 29.

The draft regulation on expropriation of houses on State-owned land and relevant compensation was posted on the website of the Legislative Affairs Office of the State Council, to solicit public opinions till February 12.

The draft regulation became top news on most of China's news websites as soon as it was released and sparked heated public debate. As of 9 pm on January 29, more than 117,680 people had visited the Legislative Affairs Office's website to view the full version of the draft. More than 2,400 people have left comments online to the office.

The draft spelt out conditions, due process and compensation of expropriation intended for public interests, such as national defense, key national projects of energy, transportation and education, and housing projects for people with relatively low incomes.

Compensations should be offered to owners before expropriation of their houses built on state-owned land, and should not be less than the market prices of similar houses, the draft read. Local government should, by holding hearings or adopting other opinion soliciting methods, ensure that the public opinions can be heard.

"This is definitely a big step forward," said Professor Wang Xixin from Peking University Law School, one of the regulation's drafters.

On December 7 last year, five professors from the Peking University, including Wang, claimed, in an open letter to the

National People's Congress, China's parliament, the current demolition regulation was unconstitutional and violated the Property Rights Law.

The existing demolition regulation took effect in 2001, granting the forced demolition. One of the major problems of the existing demolition regulation was that it focused solely on the "demolition" and "administration", Wang said.

He said the new draft regulation, which used "expropriation" instead of "demolition" in its title, showcased a shift of the government's emphasis, and its respect for and protection of the citizens' personal property.

Expropriation of houses has become a hot topic in China, where booming urban development made relocation of households a common phenomenon. Forced demolition frequently led to confrontations, sometimes even mass incidents.

On November 13, 2009, a 47-year-old woman, Tang Fuzhen in southwestern Sichuan Province, set herself on fire to protest the forced demolition of her house. Tang died in hospital 16 days later.

In June 2008, Pan Rong and her husband stood on the roof of their house in Shanghai and threw Molotov cocktail to the approaching bulldozer. Pan's efforts to protect her home failed at last when the bulldozer destroyed the walls, forcing the couple away from the house.

In both cases, the local governments insisted that the forced demolitions were lawful.

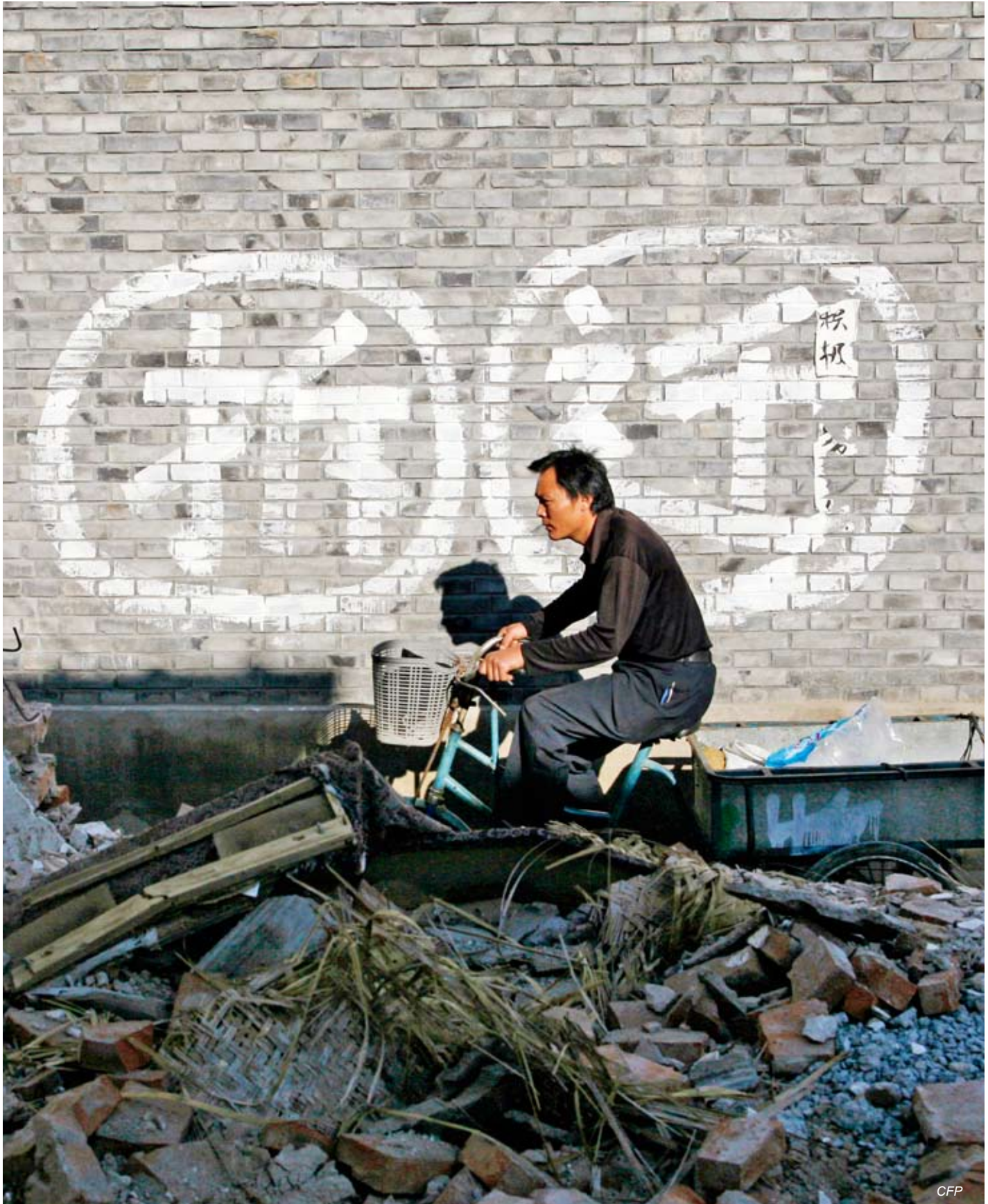
Professor Wang Yukai with the Chinese Academy of Governance said the draft regulation imposed more restrictions on the government's administrative power in relocation procedures.

The changes showed that the Chinese Government was becoming more people-oriented, Wang said.

In contrast to most scholars' positive attitude, many netizens were skeptical. In an online survey conducted by sohu.com, a

**According to the new draft regulation, no violence, coercion, or other illegal means, such as cutting off the water or power supply of the houses, should be employed in the demolition procedures.**





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popular Chinese Internet portal, more than 42 percent of 8,600 people polled said they did not believe the draft regulation could completely solve housing expropriation disputes in China.

More than 24 percent of the polled said they were not sure, whereas only a little more than 33 percent said the draft regulation could ensure justice.

In the BBS of Xinhua News Agency's website, some netizens said the draft regulation was not enough for the protection of people's private properties, as it failed to cover collective land in China's rural areas.

"After all, most of China's housing expropriation disputes

occur in the junction regions of China's urban and rural areas," one netizen wrote.

His opinion was shared by Professor Cai Dingjian from the Chinese Academy of Governance. "In fact, there are even more expropriation-induced disputes in rural areas than in cities, and they sometimes became the fuse of mass incidents," Cai said.

In addition, Cai said that the country should have a law on expropriation of houses and relevant compensation, instead of just an administrative regulation. (Xinhua) ■

# Hackers attack defense ministry website

By Guo Qiang

**H**ackers are trying to penetrate the website of China's Ministry of Defense and have made more than 2 million attacks on it within one month since the site's launch three months ago, the People's Daily reported on November 19, a sign of the increasing vulnerability facing China's official websites.

"Since the first day the defense ministry website went online, it suffered mass, uninterrupted hacker attacks," Ji Guilin, the editor-in-chief of the website, told the paper in an interview.

There were more than 2.3 million cyber attacks in the first month alone, especially in the first week, Ji said, though no damage was done to its operation due to intensified security measures and back-up systems in place.

Ji did not pinpoint the exact origins of the attacks, but said the hackers tried to infiltrate the website ([www.mod.gov.cn](http://www.mod.gov.cn)) or to cripple the website's operations.

The Chinese military, the world's largest, with 2.3 million troops, has come under frequent accusation of hacking into the websites of foreign governments. The Chinese Government has rejected any involvement.

In an interview last month with the International Herald Leader, affiliated to the Xinhua News Agency, Ji said the national defense ministry website places particular stress on security and various security measures were in place to choke hacker attacks.

"The website seems to be strong in its defense capabilities against hackers," Liu Yong, a senior editor of China Security Magazine, said.

The possible motives of hackers trying to break into the website were unclear, as the defense ministry declined to speculate.

Fang Binxing, president of Beijing University of Posts and Telecommunications and an expert in information security technologies, said that some hackers are likely to launch attacks from outside China for provocation purposes.

"Many are jealous of China's growing prosperity and want to embarrass China by attacking some of its popular official websites," he said.

The ministry launched the bilingual website, in Chinese and English, on August 20, just days after the Pentagon unveiled its new website [defense.gov](http://defense.gov), in a bid to better promote China's national defense and downplay the West's fears of China's military modernization drive, the defense ministry said.

The website contains news releases, overviews of defense policies and profiles of leaders. It also features audios and videos.

Ji said that total hits in the first three months of trial operations reached 1.25 billion, with up to 40 percent of them coming from Beijing, Guangdong and Jiangsu provinces.

Web users from the United States, Australia and Britain





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made up the most hits on the English version of the website, he said, while most overseas hits on the Chinese-language site come from the US, Australia, Singapore and Japan.

Traffic on the first day reached 70 million users and the next day climbed to 130 million, he said.

"The website is sound in terms of structure, but it lacks in-depth and detailed content compared with many non-governmental online forums featuring military topics," Hou Lei, a 24-year-old military enthusiast in Beijing, said.

Chinese information-security experts suggested that hackers' attacks on official websites worldwide are not uncommon.

"Important web portals all over the world are likely to fall victim to hacker attacks," Tang Lan, an expert in information security at the China Institute of Contemporary International Relations, told the Global Times.

She said the Pentagon and Capitol Hill websites are not exempt from hacker attackers either.

The computer system of the Department of Defense of the United States receives up to 21,124 attacks per year and the department has to spend more than \$30 billion annually on network security, according to previous reports.

Ministry officials used to categorize hackers in three main groups; military aficionados, people with ulterior motives seeking military secrets, and people simply showing off their hacking skills.

Tang said the ministry's website is likely to be attacked by individual hackers who do so just for fun.

Her words were echoed by a hacker named Evil Octal, the creator of the Evil Octal Security Team, a public security website.

"In my view, hackers try to invade the website just for fun and show off their proficiency," he said.

"Apparently, the website does not include any secret documents concerning China's national security," he added.

Foreign organizations are also likely to attack the website to disrupt its operation for political reasons and many just try to test the website's security system, Tang said.

Li Daguang, a professor at the PLA University of National Defense, said that hackers who choose to attack the website to vent their discontent act unreasonably. ■

(Song Shengxia and Liang Chen contributed to this story)

# Elections push forward democratic politics

## A review of the legislation of China's electoral law system

By Xu Yan



Gu Angran

**T**he National People's Congress (NPC) magazine recently conducted an exclusive interview with Gu Angran (Gu), who is the former director of the Legislative Affairs Commission of NPC Standing Committee, on the legislation of the Electoral Law as well as the role of elections in China's democratic politics.

**NPC:** In China, people exercise their power to manage the State through the elected people's congresses. The NPC and the local people's congresses at different levels are instituted through democratic elections; all administrative, judicial and procuratorial organs of the state are established by the people's congresses. Election, which is regarded as the foundation of people's congress system on the basis of democratic centralism, plays an important role in China's political life. As we know, you have participated in the legislation of many important laws, including the draft, revision and amendment of the Electoral Law. Will you please give us a review on the progress of the electoral law system in China?

**Gu:** Important revisions have been made on the draft of the Electoral Law during the 11th meeting [HYPERLINK "http://dj.iciba.com/Session/"](http://dj.iciba.com/Session/) at "blank" of the 11th NPC Standing Committee. Looking back today, we could have a clear understanding of the electoral law system from draft to adoption.

**NPC:** Did the Chinese electoral law system start from the first Electoral Law? When was it created?

What was its historic background?

**Gu:** Since the founding of New China, it has decided to carry out the people's congress system, which took some time to take shape. Before 1953, the Liberation War had not come to an end around the nation and land reform was still going on in the vast countryside, thus conditions were not yet ripe for a general election.

Before the institution of people's congresses at all levels through election, local "people's conferences" played the role of people's congresses, while the functions of NPC were exercised by the Chinese People's Political Consultative Conference (CPPCC). In 1953, the Central People's Government Commission passed a resolution, deciding to hold meetings of NPC and the people's congresses at all levels. Deputies to people's congresses at township, county and province (municipality) levels are to be elected through general elections. Based on that, NPC deputies will be selected. In order to provide legal basis for these elections, an electoral law draft committee was established.

**NPC:** At that time, Deng Xiaoping was in charge of the drafting of the Electoral Law?

**Gu:** Yes. In February, 1953, the 20th session of the Central People's Government Commission passed the Electoral Law for NPC and people's congresses at local levels. It was the first law of this kind after the founding of New China. You may say it laid the groundwork for the Chinese electoral law system.





On September 27, 1953, villagers attend an election in Xigou Township, Pingshun county, Shanxi Province. Li Shunda and Shen Jilan were elected as the deputies of the Xigou Township People's Congress.

**NPC:** What principles were complied in that Electoral Law?

**Gu:** In the explaining notes of the draft, Deng indicated that, a general principle was embedded throughout this law, which is to plan a real democratic election system based on the concrete situation in our country.

**NPC:** Deng had put forward that the nature of our electoral law focused on the actual democracy. We noticed that, the Electoral Law of 1953 stressed the “universality” and “equality” of the elections, which were the soul to realize the “real democracy.” Would you elaborate more?

**Gu:** For “universality”, the law stated that All citizens of the People's Republic of China who have reached the age of 18 have the right to vote and stand for elections, regardless of nationality, race, gender, occupation, family background, religious belief, education, property status, or length of residence.” For “equality”, it defined “Women have equal rights

with men in voting and being elected, every elector has only one vote.” To ensure voters and candidates to fulfill a free voting without worrying about the material cost, the law stipulated that the election expenses were covered by the State. It was an important measure to guarantee the right of the voters and candidates for free voting.

**NPC:** In those days, “focusing on actual democracy” meant to follow the principle of seeking truth from facts and brought about an election system with Chinese characters, how was it embodied in that law?

**Gu:** In the explaining notes, Deng also mentioned that, Chairman Mao firstly pointed out in his book *On New Democracy* written in 1940, “China may now adopt a system of people’s congresses, from the NPC down to the provincial, county, district and township people’s congresses, with all levels electing their respective governmental bodies...then a system of really universal and equal suffrage, irre-



On November 22, 2007, the 103-year-old Song Kai, who lives in the Baiziting community in Nanjing, Jiangsu Province, casts a vote for the selection of people's congress deputies.

spective of sex, creed, property or education, must be introduced...We based the State election system on such principles.”

How to build a practical and real democratic election system? The Election Law formulated the principle of being “universal and equal”, but the concrete situation at that time needed to be considered. For example, big differences existed in the constitution of the population, such as workers and peasants, country and city the election law stipulated that the portion of representatives among the populations is different in the urban and rural areas; such setting was in accordance with the situation at that time.

On the other hand, the universal election restricted the election right of some people, including the feudal landlord class; those counter-revolutionaries and other individuals who were deprived of political rights based on law, as well as others who had mental diseases, they had no voting rights and could not be elected. Since this group of people only took a very small portion of the total population, the number of voters occupied a high percentage in our country. The people's congresses created by the general election could universally represent the people. Of course, the restriction to certain groups was just a temporary solution. It is unavoidable in that certain historic stage.

Deng also declared, in the near future, “When the situation has changed, the restrictions applied for the moment would not be necessary.”

**NPC:** The Electoral Law of 1953 was the first of its kind in New China, it set a base for the building of the electoral law system. Would you elaborate more on that?

**Gu:** Besides what I have mentioned just now, that Electoral Law had defined the quota of representatives, the election of representatives of minority nationalities, the recommendation of candidates, the election procedures, as well as the sanction on those who destroyed the elections. It was a good and democratic electoral law, marking a new stage for the development of the people's democracy. It produced significant meaning in the political history of the nation.

Later on, based on that Electoral Law, general elections were organized all over the country, people's congresses at all levels were held. In 1954, the first session of the 1st NPC was convened in Beijing;

The first Constitution of New China was adopted during the meeting of the congress. It also formulated the Organic Law of National People's Congress and the Organic Law of Local People's Congresses and Local People's Governments.” Since then, the construction of State power has entered a new era.

**NPC:** During the Cultural Revolution” (1966-76), the national legal system was seriously damaged. The election system enjoyed no exception, didn't it?

**Gu:** Right. The people's congresses at all levels were either closed or just operated in nominal, even the local governments were replaced by “Revolutionary Committees.” It led to the failure to protect the people's democratic rights, the practice of real democratic election was not possible, and the democracy was destroyed.

With the smashing of the Gang of Four, the 11th CPC Central Committee held its 3rd Plenary meeting in 1978. The meeting summarized the experiences in the history, especially the lessons in the Cultural Revolution, imposed to strengthen the people's democracy and the socialism legal system. It emphasized that “in order to guarantee the people's democracy, socialism law system needs to be strengthened and to make the democracy systematic and legalized; Therefore to ensure the system and law to be stable, continuous and enjoying high authority.”

**NPC:** The year of 1979 was crucial to the electoral system of China. Complied with the spirit of the 3rd Plenary of the 11th CPC Central Committee, the 2nd Session of the 5th NPC hammered out seven laws, among which both the Electoral Law and Organic Law of Local People's Congresses and Local People's Governments were revised, would you explain the reason?

**Gu:** If the democracy of the State were to be resumed, the people's congress system should be resumed and strengthened at first.

**NPC:** What had been done to resume and strengthen the people's congress system?

**Gu:** The so-called Revolutionary Committee is a side-product of Cultural Revolution, it didn't complied with the requirement of democracy. Therefore in 1979, the Revolutionary Committees were cancelled according to the Organic Law of Local People's Congresses and Local People's Governments.



Besides, the people's governments were restored.

The law also stipulated that: governors, deputy governors, mayors, deputy mayors, heads and deputy heads of counties, districts, townships and towns should be nominated by the presidium and deputies with joint nominations. There shall generally be more candidates than the number of persons to be elected. The law required the establishment of standing committees affiliated with people's congresses at the county and above.

**NPC:** In the past, only the NPC set the Standing Committee, people's congresses at local levels didn't have such committees, the people's committees, or the people's governments, exercised the functions of the standing bodies of the legislation organs.

**Gu:** That is true. Establishing the standing committees of people's congresses at and above the county level was an important reform of the people's congresses system.

**NPC:** Why do you think so? How could it improve and develop the electoral system?

**Gu:** The electoral system is the foundation of the people's congress system. There are several reasons to the establishment of standing committees of people's congresses at all levels.

Firstly, the people's congress usually has its meeting once a year, while the standing committee can convene regularly, giving full function of the legislation organ.

Secondly, the provincial people's congresses as well as their standing committees, according to the local situation, can make local law and regulations with no contradiction to the Constitution and national laws and regulations.

Thirdly, it's good for supervision, not only to supervise the deputies at a higher level during the adjournment of the people's congresses, the standing committees can dismiss and replace the deputies, but also to monitor the work of government at the same level.

Fourthly, the power to appoint or remove vice-presidents and judges of the people's courts, deputy chief procurators and procurators of the people's procuratorates was moved from the local people's governments to the people's congresses. It can ensure the court and the procuratorates to exercise judicial and procuratorial powers independently and impartially.

**NPC:** Also, comparing with the Electoral Law of 1953, the Electoral Law of 1979 brought some important changes to the election system, and helped the political democracy move forward. Would you explain the new changes?

**Gu:** At first, the scope of direct elections was enlarged to county level. Second, competitive elections were introduced. Third, it required anonymous voting.

**NPC:** How could we understand the meaning and influences of the reform?

**Gu:** The size of a county usually is not very big. Local people know better the local deputies, public servants and candidates from different trades. The direct election system not only ensures a democratic voting, but also be conducive to people exercising supervision rights.

**The direct election system not only ensures a democratic voting, but also be conducive to people exercising supervision rights.**

The competitive elections and the anonymous voting enable voters to express their willingness more freely, and bring those who can better represent them. We may say that the reform of election system and the local people's congress system in 1979 provided a legal basis and assured the legal rights to guarantee the people's election right and promote the democracy.

**NPC:** With the situation developed rapidly, more experiences were learnt. The 5th Session of the 5th NPC, the 18th meeting of the Standing Committee of the 6th NPC, the 8th meeting of the Standing Committee of 8th NPC held respectively in 1982, 1986 and 1995, made further clarification to the Electoral Law and the Organic Law of Local People's Congresses and Local People's Governments. What other key issues about the development of the electoral law system should be remembered?

**Gu:** The revision of the Electoral Law in 1995 is worth noting. Changes were made for ratio of deputies to the represented population in the urban and

rural areas, based on the population of the State, the province, and the autonomous region, the ratio were unified to 4:1, comparing with the 8:1, 5:1 in the past, the ratio for autonomous prefectures, the autonomous counties and counties stayed unchanged as 4:1. The revision brought more equality to the election system of country.

In October 2000, the 5th Plenary of 15th CPC Central Committee adopted the Proposals on the 10th Five-year Plan for National Economic and Social Development which proposed that developing socialist democratic politics, rule of law, building a socialist State under the rule of law, are the important objectives of socialist modernization. We must “stick to and perfect the people’s congress system”, “strengthen the construction of democratic politics, improve the socialist democracy, enforce the law making and supervision function of the people’s congress, maintain close ties between the depu-

**Judging from the elections in the past 50 years, the principle of “equality” was stressed from the very beginning. But it developed step by step based on actual conditions.**

ties and the general public, facilitate scientific and democratic decision-making. We also need to carry out democratic elections, decision-making, administration and oversight in accordance with the law to guarantee the people’s rights for universal rights and freedom.”

In 2001 and 2002, general elections were held at county and township levels, producing great importance.

Peng Zhen, Chairman of the Standing Committee of the 6th NPC paid close attention to the direct elections at the grassroots levels. “Elections of people’s congress deputies at county level are the foundation for provincial and national elections of people’s congress deputies. Direct elections of the people’s congress deputies at county level are an important link in the building of government construction, it is vital to develop socialist democracy and improve the socialist legal system, and it must be handled well.”

In fact, the direct elections of this time accumulated lots of experiences, played an important role to improve the existing electoral law system.

**NPC:** We all remember another round of direct elections for the people’s congresses at county and township levels were held from 2006 to the end of 2007, nearly simultaneously. It became quite influential at that time.

**Gu:** It was the first synchronized election at the county and township levels after the amendment act of the Constitution adjusted the terms of deputies of country level from 3 to 5 years. We can say, it was one of the most universal and profound practice of the Socialism democracy. It was of great significance to guarantee the right of people to administer the State, consolidate the State power, build a Socialism homonymous society and strengthen the executive ability of the Party.

**NPC:** Judging from the elections in the past 50 years, the principle of “equality” was stressed from the very beginning. But it developed step by step based on actual conditions. Deng Xiaoping said, “With the development of politics, economy and culture, we will adopt more completed election system in the future.”

It was the most accurate description of the elections at that time. While based on the State situation, being practical and realistic was the keys for our electoral law system to proceed smoothly. We know, on the 11th Session of the 11th NPC Standing Committee, amendment to the Electoral Law was submitted for deliberation. I think the “equality” principle should have another breakthrough this time.

**Gu:** You bet. The Electoral Law was enacted in 1953 with first revisions made in 1979. It has been amended for four times since then. The suggestions to have the same ratio of deputies to the represented population in the urban and rural areas indicated that complete equal vote rights would be achieved all over the country.

**NPC:** Do you think the conditions are ripe now to move one step forward to implement the equal voting between urban and rural areas?

**Gu:** Thanks to the reform and opening-up policies, economy and society in urban and rural areas developed rapidly. Urbanization gained increasing



momentum.

At the same time, the people's congresses at all levels accumulated abundant experiences through dozens of elections. The building of democracy and legal system has achieved great success. I believe the objective conditions are mature and the timing proper to implement the same ratio of deputies in town and county at one go.

**NPC:** Besides what we have discussed, I have one more question, how do you comment the influences of the electoral law system to the political democracy so far?

**Gu:** If we looked at the ratio of deputies in urban and rural areas, from 1953 to now, the voting right headed towards “equality” of higher level step by step, it indicated the speeding up of the urbanization of China and the well-coordinated development of urban and rural areas, it shows that the smoothness of socialism democratic politics was further improved.

I think the influences of the great changes to the electoral law system will surely reveal in the political life in the future.

**NPC:** The proposal to implement equal voting in urban and rural areas, to guarantee the appropriate numbers of deputies from basic level, to add an “electoral organ” chapter, to increase the upper limit of deputies from counties and towns, to prohibit the deputy to be elected at the same time in different places, to increase the “transparency” of candidates, to guarantee the voting rights of the voters and the deputies, and to set up closed voting closets etc. highlighted the amendments of the Electoral Law this time.

If the revision of Electoral Law in 1979 resulted from the spirit of 3rd Plenary of 11th CPC Central Committee, then the 17th National Congress of CPC should serve an engine for the reform of the electoral law system, do you agree?

**Gu:** Just as you said, the law should represent the



Local residents attend elections to select deputies of people's congresses at county- and township-level in Yulong Naxi Autonomous County in Yunnan Province.

Zhang Di

interests of the people. It concreted the policy of the State and the Party. The 17th National Congress of CPC meeting suggested that “both urban and rural areas gradually adopt the same ratio of deputies to the represented population in elections of deputies to people's congresses.”

According to the amendment, it will definitely better protect the equal voting rights of the people in urban and rural areas by adopting same proportion in urban and rural areas. By doing that, the Party's proposition could be raised to the willingness of the State.

**NPC:** I noticed that some deputies declared in the group discussions, if the cancellation of “agriculture taxes” was regarded as a revolution, the election of deputies by same population proportion in urban and rural areas would be another one. It is said that Deng Xiaoping predicted the situation as early as 1953, is that true?

**Gu:** Yes, Deng mentioned, “With the development of politics, economy and culture, our country will surely adapt...more completed electoral system” and “gradually transit to more equal elections.” The day is coming. In the future, our electoral law system will be further improved.■

# Haiti: earthquake and rescue

By Kang Juan



Chinese rescuers take part in a rescue effort in Haiti, which was jolted heavily by an earthquake on January 13, 2010. *Xinhua*

Earthquake rescuers in Haiti were struggling to search for people buried and help survivors of the devastating earthquake on January 17 amid anger at the sluggish aid delivery, mounting security challenges and the possibility of an epidemic.

China, with fresh memories of the devastating 2008 earthquake in its southwestern region, announced on January 17 that more personnel and materials are ready to back up the rescue and medical aid in the quake-hit Caribbean country, after its first batch of humanitarian aid arrived in Port-au-Prince yesterday and an emergency rescue team arrived on January 14, two days after the quake.

The 13 million-yuan (\$1.9 million) cargo, including 1,000 tents, water, food, emergency lights, medicine, clothes and water-purification equipment, was part of a 30-million-yuan relief package announced by Beijing on January 15.

Yu Yingfu, deputy director of the department of aid to foreign countries at the Ministry of Commerce, told the *Global Times* that other aid materials are stored at the Capital International Airport in Beijing and can be immediately transported. Wu Min, press officer with the Chinese rescue team, said there were



55 rescuers on standby.

Chinese President Hu Jintao expressed the nation's deep condolences for the death of eight Chinese police officers in the Haiti quake and sent words of comfort to their families. Many Web users also sent messages to the relatives of the "heroes."

The bodies of all eight officers, including one woman, buried under the collapsed UN headquarters in Port-au-Prince in the quake, had been found as of early yesterday morning Beijing time after 94 hours of search, the Ministry of Public Security said.

According to the ministry, the bodies would be repatriated to China as soon as possible. Four of the victims were peacekeepers in Haiti and the other four ministry officials were members of a team sent to Port-au-Prince for "peacekeeping consultations," the Xinhua News Agency reported.

The UN had announced the death of at least 40 peacekeeping mission members, including the mission chief in Haiti, Hedi Annabi of Tunisia, but UN officials expect the death toll to rise well over 100.

"The World Health Organization (WHO) and Pan American Health Organization (PAHO) estimated that the number of dead ranged between 40,000 and 50,000 people," said a situation report issued by the UN office.

Good news could also be heard. More than 70 people have been pulled out alive from the debris by rescue teams five days after Tuesday's 7.0-magnitude earthquake, Elisabeth Byrs, spokeswoman of the UN Office for the Coordination of Humanitarian Affairs, told AFP.

"The morale of the rescue team is very high despite the hardship and the conditions," she said. "We don't give up hope of finding more survivors."

Some 43 international teams comprising 1,739 rescue workers and 161 dogs have already scoured 60 percent of the worst-affected areas hit by the earthquake.

## Chaotic aid effort

However, the shadow of death is still following survivors of the deadly earthquake, due to the lack of food, clean water and medicine. UN Secretary-General Ban Ki-moon also called the devastating quake in Haiti the "most serious humanitarian crisis" to face the world body in decades, as he left for the nation.

The Haitian government has established 14 distribution points for food and other supplies, and US Army helicopters were reconnoitering for more. With eight city hospitals destroyed or damaged, aid groups opened five emergency health centers. Vital equipment, such as water-purification units, was arriving from abroad, the Associated Press reported.

But for the estimated 300,000 newly homeless in the streets, plazas and parks of Port-au-Prince, help was far from assured.

Aid delivery was still bogged down by logistical challenges and the fear of looters and robbers. China's chartered flight of supplies circled around the busy airport for an hour and was diverted to a Jamaican airport before flying back to Port-au-Prince airport on January 17.

France and Brazil both lodged official complaints that the US military, in control of the international airport, had denied landing permission to relief flights from their countries. Haitian government official Michel Chaney also complained that locals were not notified about the arrival of planes and a large amount of goods are arriving without coordination.

The UN Security Council met to discuss coordination of the aid effort. US Ambassador to Haiti Kenneth Merten, defended American efforts at the airport, which was up-and-running 24 hours after the massive quake, even though the air traffic control tower was damaged.

Another looter quickly snatched the rucksack off the dead man's back as clashes continued and police reinforcements descended on the area armed with

pump-action shotguns and assault rifles.

The security situation was getting worse in the capital city, Li Xiangyang, a member of the Chinese Rescue Team, told the Global Times via maritime satellite telephone.

"We are under the protection of Chinese peacekeepers during our work, for fear of robbery," Li said.

Haitian police opened fire on a group of looters yesterday, killing at least one of them, a man in his 30s, as hundreds of rioters ransacked a market in Port-au-Prince. Many Haitians, angry at being left to their fate, set off a new wave of pillaging stores and assaulting vendors in the capital, under the impassive gaze of police and UN peacekeepers.

## Epidemic fears

Wang Mingxin, a medic of the Chinese Rescue Team, warned on the team's blog that the risk of a major outbreak of an epidemic is increasing as high temperatures linger and the death toll keeps rising.

"We have intensified epidemic prevention and control efforts as we started disinfection, especially in the refugee camps. No such work has been noticed in other parts of the city. Bodies of the victims are scattered throughout the city."

The Haitian government was planning a mass evacuation of survivors to prevent a possible epidemic in the capital city.

"In many cases we will have to proceed by evacuating the population, and we plan to build provisional camps to receive the victims and keep an epidemic from breaking out when the rains start," Interior Minister Antoine Bien-Aime said Saturday.

Meng Haojun, another Chinese medic, said 80 percent of the injured suffered severe infection as they could only find waste paper or rugs to cover wounds with, and which were worsened by the high temperatures.

(Qiu Wei contributed to this story) ■

# How did the People's Republic of China get its name?

By Wu Wentai



On October 1, 1949, Chairman Mao Zedong solemnly announced the establishment of the People's Republic of China on the Tiananmen Gatetower.

**T**he year of 2009 marks the 60th anniversary of the foundation of New China. At this moment, it's quite meaningful to tackle the story behind the naming of the People's Republic of China (PRC).

## Chairman Mao initially suggested and used PRC as the name of New China

"Mao Zedong is a great Marxist, a great proletariat revolutionary, strate-

gist and theorist," said the Resolution on Certain Questions in the History of Our Party since the Founding of PRC, which was approved during the 6th Plenary Session of the 11th Central Committee of the Communist Party of China (CPC). Among all the revolutionaries and leaders of the old generation, only Mao was regarded as a great political and military strategist. Being a strategist, Mao was famous for his great ability and profound thinking of the future.

From July to September 1947, the People's Liberation Army launched all-out offensive operation throughout the nation. "The Chinese people's revolu-

tionary war has now reached a turning point," noted Mao when addressing at a meeting of the CPC Central Committee at Yangjiagou Village, Mizhi County, Shaanxi Province at the end of the same year.

After Mao delivered the famous speech entitled *On the Current Situation and Our Tasks*, the meeting reached a resolution, claiming that "This report is a guiding document for the political, military and economical activities during the period that the Chiang Kai-shek regime will be defeated and the New China will be established."

After that meeting, Mao was busy with commanding the liberation war, directing land reform in the new liberated areas and Party construction as well as establishing the revolutionary United Front. He was also outlining and depicting the future of the New China, including its name.

In his article drafted on January 18, 1948 for the CPC Central Committee, *On Some Important Problems of the Party's Present Policy*, Mao repeated three times the name of "People's Republic of China" when talking about State power.

"The new democratic State power is the anti-imperialist and anti-feudal State power of the masses of people led by working class," it said.

"The masses of the people form their own State (the People's Republic of China) and establish a government (the Central Government of the People's Republic of China) to represent the state," Mao wrote.



He also pointed out that the organs of State power of PRC are the people's congresses at different levels and the governments at different levels that these congresses elect.

One month later, Mao drafted the first two chapters for the 25-chapter document the CPC Central Committee's Regulations on the Classification of the Different Classes and Their Benefits in the Land Reform. He once again mentioned the establishment of the State power of PRC.

That means as early as in January and February 1948, Chairman Mao had suggested and used the name of PRC for the future New China when drafting documents for the Party.

## **Chairman Mao also used the "People's Democratic Republic of China"**

Chairman Mao was somewhat a linguist as well as a giant in writing poems. He paid high attention to and pondered hardly on the naming of the New China to which millions of revolutionary soldiers and martyrs had devoted their lives.

From his report on the meeting of Political Bureau of the CPC Central Committee on September 8, 1948, Mao brought forward his suggestions and thinking on the naming of government organizations.

"Shall our State power adopt the parliamentary system or the democratic centralism system? In the past, we used the Soviet Congress system, the Soviet means the congress. Using them at the same time, it is meaningless by duplicating foreign names directly. Now we will use the People's Congress directly," Mao said.

He also mentioned that, "In the fourth year of the war, a new central government should be established. How to name

it? Both the Interim Central Government and the People's Liberation Committee of China indicate it a temporary one. What name should be used? Let's make a decision in due time."

After thinking twice on the name of the New China, Mao still preferred the People's Democratic Republic of China.

On August 1, 1948, in his telegraph to Li Jishen, He Xiangning and Shen Junru who were living in Hong Kong on the convening of the new political consultative conference, Mao used the People's Democratic Republic of China.

The conference aims to "to eliminate the reactionary forces, prevent the intrusion of the imperialism from the United States, and to establish an independent, free, prosperous and strong as well as united People's Democratic Republic of China at an early date," Mao said.

## **Zhang Xiruo, the legitimate proposer of the name of PRC**

On June 15-19, 1949, a preparation meeting was held before the convening of the Chinese People's Political Consultative Conference (CPPCC) in Beijing.

During the first two days of the meeting, all the speeches, addresses and documents used the People's Democratic Republic of China to refer to the New China in line with Chairman Mao's proposal.

On the opening of the CPPCC Preparatory Committee's first meeting on June 15, Mao delivered an important speech on behalf of the CPC Central Committee. In his speech, he mentioned three times the soon-to-be-established New China as the People's Democratic Republic of China.

"The CPPCC's first meeting will announce "the establishment of the People's Democratic Republic of China," said Mao, who also called to "establish a brandnew, strong and real People's Dem-

ocratic Republic of China."

One of the three slogans to be chanted at the meeting is "Long Live the People's Democratic Republic of China," Mao also suggested.

After that, Li Jishen, Shen Junru, Chen Shutong and Tan Kah Kee delivered a speech respectively at the opening ceremony. On June 16, the organizing regulations and other related documents of the CPPCC Preparatory Committee got passed. The name of the People's Democratic Republic of China was used when referring to the New China.

The name problem is a hot topic among the six working panels under the CPPCC Preparatory Committee. Headed by Dong Biwu, the fourth panel which are responsible for the drafting of the organic law of the Central People's Government held a heated discussion.

Three different opinions on the name of New China were proposed by the fourth panel on July 8. First, since the spelling of the People's Democratic Republic of China is a bit long for the name of a country, it could be abbreviated as the Republic of China if necessary. Second opinion was jointly proposed by Huang Yanpei and Zhang Zhirang, who suggested using the name of the People's Democratic of China. A third opinion was raised by Zhang Xiruo, who insisted the name of the People's Republic of China. Zhang said that the using of "people" in the nation's name indicates the meaning of democracy. Besides, "through the word 'republic' we could easily understand that it's a republic country instead of a monarchical one. It's a country belonging to the people but not to the petty bourgeoisie," he explained. Zhang's opinion was widely welcomed by the representatives of the meeting.

On August 17, the draft of the organic law of the Central People's Government was approved during the 3rd meeting of the fourth panel of the CPPCC Preparatory Committee. The name of New China was changed to the People's Republic of

China in the draft.

Though the draft had been revised for several times before it was finally submitted to the 1st meeting of CPPCC for approval, the name remained unchanged.

On August 18, Chairman Mao sent a telegraph to Maitijiang, inviteing him to attend the CPPCC, he also used the name of PRC.

On the 2nd session of the fourth panel, Zhang Xiruo once again explained the use of PRC instead of the People's Democratic Republic of China. The use of "republic" indicates China's State system, while "'people' in the new democratic China includes not only the working class, peasants, petty bourgeoisie and national bourgeoisie but also the patriotic democrats," Zhang said. It had the explicit connotation that already indicates the democratic meaning. So it's no necessary to repeat it.

"The draft of the organic law of the Central People's government omitts the word 'democratic' from the name of People's Democratic Republic of China. The reason behind is that the words of 'democratic' and 'republic' share something the same, so there is no need to repeat that,"

said Premier Zhou Enlai. "For the name of a country, it's better to use 'republic' than 'democratic.'"

"After the Revolution of 1911, China began to use the name of the Republic of China, which has the meaning of 'republic' but it is quite confusing. Now it's time for us to differentiate the old democratic period from the new one...Today, to make the name of our country fits its nature, our country's name should be the People's Republic of China."

The above is the story behind the naming of PRC: Chairman Mao Zedong firstly used PRC on January 18, 1948, but he changed it into the People's Democratic Republic of China on August 1 in the same year. On July 8, 1949, CPPCC member Zhang Xiruo argued that this name of PRC was much better and his opinion won wide support.

In late September, the name of PRC was legalized when the Organic Law of the Central People's Government got approved by the 1st Meeting of CP-PCC. Meanwhile, Zhang had no idea that Chairman Mao had used the name of PRC one year ago. Besides, the latter never notified the fact. ■

Zhang Xiruo (1889-1973), Chinese politician, patriotic democrat. Zhang was born in Chaoyi, Shaanxi Province. In his early years, he joined in the Chinese Revolutionary League. After the Revolution of 1911, he went to study at the Columbia University and got his master's degree in political science. After retuning to China, he was nominated as the director of the International Publication Exchange Bureau of the Ministry of Education for the Natioanl Government, head of the Department of Higher Education. He also worked as a professor of the National Center University, Tsinghua University and the National Southwest Associated University and a member of National Congress. He supported and participated actively the patriotic movements. In 1949, he participated the first CPPCC meeting in Beijing. After the establishment of the People's Republic of China, he was a member of Central Government, deputy director of the Political and Law Committee under the Government Administration Council, minister of the Ministry of Education, director general of the Liaison Committee of Cultural Exchanges and chairman of the Chinese People's Institute of Foreign Affairs. He was also the deputy to the 1st to 4th NPC and a member of the Standing Committee of the 1st to 4th CPPCC National Committee.



Vice-Premier Chen Yi proposes a toast with Dalai Lama and Panchen Erdini to celebrate the establishment of Organizing Committee of Tibet Autonomous Region in Lhasa in April 1956.

Zhang Fengqi

The 14th Dalai Lama Tenzin Gyatso was born into a very small village called Qijiachuan, in north-eastern Qinghai Province. Today, the place is called the Hongya Village. When he was born, his given name was Lhamo Thondup. In 1938, Lhamo Thondup was chosen by the then Local Tibet Authority as the only reincarnated soul boy of the 13th Dalai Lama. In 1940, the Nationalist Government sent a special envoy, whose name was Wu Zhongxin, to Lhasa to preside over the enthronement ceremony that formally announced Lhamo Thondup as the 14th Dalai Lama.

The year of 1949 witnessed the establishment of the People's Republic of China. Evaluating the unique situation in Tibet, the Central Committee of the Communist Party of China (CPC) reached a consensus concerning the peaceful liberation of Tibet. Once the decision was announced, it received a warm welcome among Tibetans living in the region as well as Tibetan-inhabited areas in other provinces. It also summoned supports from patriots at higher levels.

However, there were separatist forces who stuck to the idea of splitting the motherland. They were supported and incited by national expansionist forces in Britain, the United States and India.



# A true story about Dalai Lama

By Zhang Baoshan

These separatist forces disregarded suggestions and decisions by the CPC Central Committee, organizing military riot to disturb the peaceful liberation of Tibet. Having no alternative options, the CPC Central Committee resorted to force. In October 1950, the People's Liberation Army (PLA) won the decisive battle in Changdu and eliminated the backbone

of local Tibetan armed forces.

On November 14, 1950, the 14th Dalai Lama assumed his power ahead of time at the age of barely 16. Like all of his predecessors, the 14th Dalai Lama is the supreme authority under the feudal serfdom representing the interests of the serf-owners. However, the 14th Dalai Lama was different from his predecessors



The picture shows the two Living Buddhas – Dalai Lama and Panchen Erdini – after the liberation of Tibet. Zhang Fengqi

during the period over which he grew up, separatists from the upper classes have filled his mind with separatist ideologies. This hostile environment made it certain for Dalai Lama going on the wrong path of alienating himself with the motherland and its people.

In 1950, under the incitement of Tibetan separatist, Dalai Lama fled to Yadong, a place located along the China-India border. He set up an interim administrative body called Yadong Gaxag, meaning local government in Tibet. There he waited for his chance to flee abroad seeking support from US, UK and India. But due to the international political environment at that time, these countries felt reluctant to support Dalai's separatist ideology publicly for fear of making an enemy with the fledgling People's Republic of China (PRC).

Dalai's calls for help were turned down and he was forced to stay in Yadong. He then dispatched an envoy to Beijing for negotiations on the peaceful liberation of Tibet. On May 23, 1951, the Chinese Government signed the 17-Article Agreement on the Peaceful Liberation of Tibet with local authority in Tibet, ushering in a new era in the process of peaceful liberation and a new page in the relations between the Central Government and the local Tibetan authorities.



Buddha statues and appliance could be seen outside the scripture hall of the former residence of Dalai Lama in Tibet. Liu Jin

The signing of the 17-Article Agreement has drawn warm welcome from Tibetans from all walks of life. But Dalai Lama was not keen to state his stance toward the agreement. On July 14, Zhang Jingwu, representative of the Central Government in Tibet arrived in Yadong. Through numerous dialogues and negotiations, Zhang finally succeeded in persuading Dalai to return to Lhasa. On October 24, five months after the inking of the 17-Article Agreement, Dalai wrote a letter to Chairman Mao Zedong, expressing his support for the document and agreeing to assist the PLA's entry into Tibet.

In May 1954, the Central Government invited Dalai to attend the first National People's Congress. He arrived in Beijing from Chengdu via Xi'an. Wherever he went, Dalai received warm welcome from local officials and the public. During the conference, Chairman Mao met

Dalai and Bainqen in person. When Mao touched on the issue of establishing a Preparatory Committee for the Tibet Autonomous Region, Dalai immediately expressed his support.

On February 24, 1955, Dalai and Bainqen jointly arranged a banquet to celebrate the Tibetan Year of the Sheep. Several Party leaders including Chairman Mao, Liu Shaoqi and Zhou Enlai appeared before the banquet. During the banquet, Chairman Mao delivered a speech extending his congratulations to Dalai, Bainqen and the Tibetan people.

When Chairman Mao illustrated the Central Government's working policy towards Tibet, Dalai promised that he would "work under the leadership of the Party, and do his best in carrying out his duty in Tibet."

On March 8, before Dalai left Beijing for Tibet, Chairman Mao paid a visit to his residence. Mao shook hands with Da-

lai and his followers and reiterated the Central Government's policy towards Tibet.

In return, Dalai said solemnly "the sudden arrival of Chairman Mao is like one of my dreams coming true. Through meetings and talks with the Chairman, I've set my mind to turn these instructions into actions, and to sincerely cooperate with the Central Government."

On March 10, Premier Zhou Enlai held a banquet to bid farewell to Dalai. During the banquet, Dalai exclaimed again that "during my stay in Beijing, all the facts have made me realize that under the leadership of the CPC and Chairman Mao, China will become a powerful peace-loving country. We are not afraid of any foreign invasions. At the same time, these facts made me realize the importance of unity among all ethnic groups, especially among Tibetans and Hans, and among Tibetans ourselves. We



The picture shows the Dalai Lama's palace of repose inside the Potala Palace. Wang Miao



should love our country.”

However, during his trip back, Dalai broke his words. He plunged himself into the evil acts of fanning the flame of sedition and conspiring the independence of Tibet.

His followers also engaged themselves in propaganda for reactionary movements. They made irresponsible remarks to attack the CPC's policy, hoping to resist the government's policies and principles with large-scale unrests.

In a speech delivered at the Labrang Lamasery, Dalai said at variance with the facts that “judging from all aspects, since the liberation, the number of Lamas has decreased. The government's protection to religious beliefs is tip service. At Ta'er Lamasery, they have opposed religious beliefs. They will carry out Socialist reform in the pastoral area. This is the policy from the Party. They want to send in the army to prevent us from believing in Buddhism and chanting scriptures. They want to carry out ideological remolding to our youths and uproot our religious faith. This is why we must fight against the CPC.”

“As the supreme Lama, I order you to actively publicize my words. I hope you could take my will as your own will,” he said. These remarks revealed that Dalai is a hypocrite who constantly fails to carry out his own promises.

Around 1955, Tibet's neighboring provinces have carried out socialist reform one after another. Reforms in the region on the east of Jinsha River. Reforms in these areas have aroused great panic from Dalai and his followers in the local government. They were afraid that they would be deprived of their means to exploit the serfs. Some serf-owners seized on an incident and exaggerated the situation.

In an attempt to resist the socialist reform and maintain the feudal serfdom, they conspired and carried out a bloodshed that killed 21 PLA soldiers. In April 1956, Dalai expressed publicly his sup-



An outdoor scene of the scripture hall of the former residence of Dalai Lama. *Liu Jin*

port for the riots in Jiangdong Tibetan-inhabited area.

To handle the situation, the Central Government made a promise that no reform would be carried out in Tibet within six years. The reactionary activists led by Dalai Lama thought they have achieved a victory. They considered the government's policy a manifestation of its weakness. They even clamored publicly that “our aim is not to prevent the reform for six years, but to prevent it forever.” These words revealed the desire of Dalai and the prominent serf-owners to maintain the feudal serfdom forever.

In late November 1956, Dalai and Bainqen were invited to India to attend a ceremony marking the 2,500 anniversary of the nirvana of Shakyamuni.

During his three-month stay in India, Dalai received many reactionary ideologies from reactionary activists on how to split China, selling himself to the enemy and seeking Tibet independence. These reactionary activists have also gained concession, support and encouragement from the Dalai Lama, which became directions and motivations in their actions afterwards.

During his stay in India, Dalai also met with anti-China activists from abroad. He accepted much of their incitement and instigations. For example, in a secret meeting, a senior official from the Indian Government promised to Dalai that “after the signing of the agreement between China and Tibet, Tibet should acknowledge that fact that it is an integral part of China. However, if Tibet feels that the Chinese Government's measures have gone beyond those regulated by the agreement and the Tibet authority feels it is difficult to comply with such measures, the Indian government would be willing to provide Tibet with assistance.” Spies from US and UK also had frequent contacts with Dalai to draw plans for Tibet independence and to split China. They even openly expressed their wish of “welcoming Dalai to the US.”

In April 1957, during his visit to India, Premier Zhou Enlai held talks with Dalai and succeeded in persuading him to return to Lahsa from India via Rikaze and Yangbajing. But during his trip back, Dalai made full use of every opportunity to carry on with propaganda for the maintenance of the old feudal serfdom which



Taiwan's civil groups that belong to the organizing committee of peace and development forum across the Straits hold a protest outside the Taipei Howard Plaza Hotel on the morning of September 3, 2009. Protesters hoist banners and slogans that read, "Dalai, Get out of Taiwan." Dong Huifeng

combines religious with political rule. He made his utmost effort in spreading local ethnic chauvinism and openly protected pro-imperialist separatists.

In May 1957, a group of separatists fled to Lhasa and formed a rebellious organization named "Four Rivers and Six Ranges" (the four main rivers and six mountain ranges in Tibet and the Tibetan-inhabited areas of Sichuan Province in southwestern China).

After the organization was founded, they immediately started to raise money. In July, they presented a Golden Seat to Dalai Lama along with a pledge to ask Dalai to lead the organization and fight against the Socialist reforms.

Dalai offered Khatag to the 500 members of the "Four Rivers and Six Ranges" organization and blessed them to show his support for the group. In this way, Dalai summoned all reactionary forces within Tibet and other neighboring Tibetan-inhabited areas. They came under his direct control.

From then on, riots had occurred continuously in Tibet and neighboring areas. Their sphere of influence has been spreading and the damages they caused

have been on the rise. These posed great threat to the PLA and Tibetans and their properties.

In view of this, Zhang Jingwu and Zhang Guohua met with Dalai Lama on July 18, 1958. They delivered the Central Government's fixed policy on the socialist reform and handling of the armed riots in the region. The policy required the Gaxag to correct its indulgence over the riots and take on the responsibility to maintain Tibet's social stability. But Dalai remained equivocal.

In March 1959, Dalai told Deng Shaodong, deputy commanding general of the Tibet Military Area Command that he wanted to watch an opera. Through negotiations between the Working Committee of the Central Government in Tibet and the Gaxag, both sides fixed a date and time for the opera to be performed. It was 3 pm on March 10. The Military Area Command made deliberate preparations to receive Dalai Lama. But when the time has come for Dalai to go, he refused to show up.

Meanwhile, separatists began to spread rumors that Dalai Lama was detained by the PLA. In an instant, Lhasa was full of

reactionary militants. Till then, the armed rebellions in Tibet flared up. It turned out later that Dalai's request to watch an opera was a big farce fabricated by him and his aides.

To express its consistent sincerity to the Dalai Lama and to understand his real intentions, General Tan Guansan sent three letters to Dalai dating from March 10-15. And Dalai wrote back three replies. In the letters Dalai made full use of his deceptive skills to win support from the Central Government and the working committee.

This has also won him time to carry on with the rebellion and prepare to flee abroad. On March 16, the rebellion leaders used the name of "Independent Tibet Congress" and sent a secret message to separatists abroad through the Indian Consulate in Lhasa. In the message, he said an Independent Tibetan State has been founded on February 1 according to the Tibetan calendar. That is March 10 on the Gregorian calendar.

On the morning of March 17, after thorough preparations, Dalai fled to Shannan with officials from Gaxag and his followers. Upon leaving, he left a letter publicly claiming that "Tibet used to be an independent state."

Upon arriving in Shannan on March 24, he immediately got in touch with rebellion forces entrenched in the area.

He also brought two US spies and two radio transmitters. Since then, He has kept close contacts with the US Central Intelligence Agency. On March 26, at Long Zizong, Shannan, Dalai announce publicly that Tibet has won independence. He said he had established an interim government in the region and chosen Long Zizong as the interim capital, hoping to maintain the three prominent serf owners' control over Tibet.

On March 31, Dalai and his followers traversed the McMahon Line and entered India. From Then on, he has gone on the path of betraying his fatherland and selling himself to the enemies. ■



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