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The Two Stages of the Re-education Through Labour System From Tool of Political Struggle to Means of Social Governance

YU JIANRONG

Through a retrospective summary of the history of the re-education through labour (RTL) system, the author concludes that the emergence and development of the RTL system can be divided into two stages: its use as a tool of political struggle, and its use as a means of social governance. Although the RTL system has undergone a number of reforms in the wake of social developments, leading to significant changes in its functions and targets, this can be considered adaptation to the varying social requirements of different time periods and changes to its specific tasking, while the intrinsic violation of individual rights by the authorities that underlies this system has never changed. For this reason, although the RTL system remains an effective anomaly, it has lost all legitimate grounds for continued existence.

In the more than 50 years that have passed since its establishment as part of a legal system with Chinese characteristics, the Re-education Through Labour (RTL, *laodong jiaoyang* or *laojiao*) system has always been considered an important means of safeguarding public order and carrying out social control. In the push to develop China's legal system, however, and with implementation of a policy of governance according to law, the legitimacy of and rationale for the RTL system's existence have come under increasingly harsh examination. This article attempts, through a concise retrospective of the history of the RTL system, to reveal the intrinsic arbitrary violation of personal rights by public authorities that underlies this system. Chen Ruihua divides the development of the RTL system into four stages corresponding to the campaign to eliminate counter-revolutionaries (*Sufan*), the Anti-Rightist Campaign, the re-establishing of the RTL system, and the RTL system in place since 1982.⁽¹⁾ Wang Shun'an and Gao Ying divide the system's development into five stages, namely the founding stage (August 1955-August 1957), the development stage (August 1957-May 1966), the suspension stage, during which the system suffered damage (May 1966-October 1976), the recovery stage

(October 1976-January 1982), and the reform and innovation stage (since January 1982).⁽²⁾ Zhao Bingzhi and Shi Yan'an see no real difference between these divisions. In their view, the emergence and development of the RTL system can be divided into two stages, before and after the Cultural Revolution. The pre-Cultural Revolution stage refers to the CCP Central Committee's establishment of the RTL system on 25 August 1955 with its publication of the "Directives Regarding Thoroughly Eliminating Covert Counter-revolutionary Elements," and includes the campaign to eliminate counter-revolutionaries and the Anti-Rightist Campaign. The post-Cultural Revolution stage refers to the time up to the present that followed the State Council's 5 December 1979 promulgation of the "Supplementary Regulations Regarding Re-education Through Labour," which restored implementation of the 1 August 1957 "Resolution Regarding the Re-

1. Chen Ruihua, "Laodong jiaoyang de lishi kaocha yu fansi" (A historical examination and rethinking of re-education through labour), *Zhong-wai faxue*, no. 6, 2001. Translator's note (TN): Chen Ruihua is a professor of law at Peking University.
2. Wang Shun'an, Gao Ying, *Laodong jiaoyangxue* (Studies in re-education through labour), Falü chubanshe, 2000, pp. 41-48. TN: Wang Shun'an is a professor at the College of Criminal Justice of the China University of Political Science and Law.

education Through Labour Issue.”⁽³⁾ In my view, if function serves as the criterion for the emergence and development of the RTL system, this development can be divided roughly into two stages: the system’s use as a tool of political struggle, and its use as a means of social governance.

Re-education Through Labour as a tool of political struggle.

The policy of “re-education through labour” was first explicitly raised in 1955. At that time, the People’s Republic of China, still in its infancy, sought to bolster the stability of the regime by launching a series of political movements to eliminate counter-revolutionaries and bad elements hostile to the new regime. Tens of thousands of counter-revolutionaries and bad elements were purged, but conventional handling through admonishment, transfer, dismissal, termination of Party membership, sentencing, and execution proved inadequate in the face of the developing situation. For that reason, on 25 August 1955, the CCP Central Committee published its “Directives Regarding Thoroughly Eliminating Covert Counter-revolutionary Elements,” in which the first explicit reference was made to “re-education through labour.” The Directives pointed out:

When sentencing is not possible, continued employment is not politically appropriate, and release into society would only increase the ranks of the unemployed, an alternative method is to carry out re-education through labour: there is no sentencing, but while there is not total loss of freedom, such persons should be gathered together to carry out manual labour for the state, and be paid a set wage by the state.

The Central Committee followed up on 1 October 1956 with “Directives Regarding the Need for All Provinces and Cities to Immediately Prepare Re-education Through Labour Mechanisms,” which required all localities to “gather up and deliver to state-designated locations” all “counter-revolutionaries and bad elements” for re-education through labour. It also specified that the aim of RTL was education and transformation, i.e., “to carry out political and ideological remoulding on them and make them gradually become persons genuinely useful to the country.” Soon afterward, all localities one after another established RTL mechanisms for preliminary implementation of the RTL concept through education and remoulding of “counter-revolutionaries and bad elements.”



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In 1957, the Anti-Rightist Campaign was carried out against a large number of intellectuals, patriots, and Party cadres who had been responding to the Party’s appeals to criticise errors and shortcomings in the Party’s work and problems in the socialist system. More than 550,000 people were wrongfully labelled Rightists during this campaign. “At Qingdao, Mao Zedong proposed the upper limit of punishment for Rightists: he said it was necessary to make re-education through labour regulations, and apart from a minority of notables, some Rightists had to be sent to re-education through labour. He said this on 18 July, and right away on 3 August, the State Council promulgated the ‘Resolution Regarding the Re-education Through Labour Issue,’ which formally established re-education through labour as an institution.”⁽⁴⁾ The targets of RTL were subsequently expanded from the original counter-revolutionaries and bad elements to four types of people: “1) those not engaged in honest work, those engaged in hooligan behaviour, theft, or fraud, and incorrigible violators of public order against whom criminal liability is not sought; 2) counter-revolutionaries and anti-socialist reactionaries whose crime is minor and against whom criminal liability is not sought, and those who have

3. Zhao Bingzhi, Shi Yan’an, “Zhongguo laodong jiaoyang zhidu de gaoge fangxiang” (Reform trends in China’s re-education through labour system), <http://www.criminallaw.com.cn/xingfaxue/xingfaxue/qyzbzlaojiao.htm>. TN: Zhao Bingzhi is director of the Research Centre for Facilitating the Reform of the Death Penalty at Beijing Normal University’s College for Criminal Law Science. Shi Yan-an is an associate professor at Renmin University’s Research Centre for Criminal Jurisprudence.
4. Zhu Zheng, *1957 nian de xiaji: Cong baijiazhengming dao liangjia zhengming* (The summer of 1957: From contention of a hundred schools of thought to contention of two schools), Henan renmin chubanshe, 1998, p. 490.

been dismissed and disciplined by their organisations, groups, enterprises, or schools and who have no means of livelihood; 3) able-bodied persons within organisations, groups, enterprises, and schools who have been dismissed for protracted refusal to work, breach of discipline, or disruption of public order, and who have no means of livelihood; 4) those who do not submit to work assignment or arrangements for employment or transfer, or who reject guidance on carrying out labour and production, or who constantly and incorrigibly stir up trouble for no reason and disrupt the performance of official duties.”⁽⁵⁾ The second item referred to the large number of persons designated Rightists in the Anti-Rightist Campaign. “This ‘Resolution’ declares: These persons should all be ‘taken into custody for the carrying out of re-education through labour.’”⁽⁶⁾ It can be seen, as the scholar points out, that the RTL system was formally established to meet in a timely fashion the developing needs of the Anti-Rightist Campaign.

On 4 August of that same year, *People’s Daily* published an editorial entitled “Why We Need to Implement Re-education Through Labour,” which explained the system in this way:

For these bad elements, using routine methods of persuasion and education is ineffective; adopting simple punishment methods is impracticable; it is decidedly impossible to continue retaining them in organisations, groups and enterprises; and if they are asked to seek other employment, no one will be willing to take them in. For this reason, an appropriate way is needed to remould them and also guarantee their means of livelihood. According to the long-term research and consideration of the People’s Government, taking them into custody and carrying out re-education through labour is the most suitable and best way. Put in the most straightforward language, this method involves the state taking those bad elements into custody and arranging suitable labour for them, for example at some state-invested and operated farms and factories, organising them or even compelling them to engage in production, and using this as a way to provide them with sustenance. That is to say, re-education through labour is a means of using their own labour to support themselves, while at the same time remoulding themselves through labour. This demonstrates our socialist state’s spirit of loving concern and responsibility toward the lives, labour, and future of these people. The state’s handling and arrangements for them are also to ensure that no damage is incurred

to the free and happy life of the vast majority, and to the socialist order.⁽⁷⁾

In the years that followed, nearly 100 RTL camps were established throughout the country, taking in nearly one million inmates. However, the State Council’s “Resolution Regarding the Re-education Through Labour Issue” and other related provisions were never properly observed or executed.

In 1961, the Ministry of Public Security was compelled to acknowledge:

The enlarged parameters and targets of intake for re-education through labour resulted in the erroneous taking into custody of a group of people that should not have been managed by this system. In terms of supervision, they were equated with prisoners serving sentences of reform through labour [laogai]. In the course of livelihood management and labour production, some excessively hard labour resulted in a serious incidence of unnatural death among persons being re-educated through labour.⁽⁸⁾

From the time that the Cultural Revolution began in 1966 to its conclusion in 1976, against a broad social background of “daily rebellion and smashing the public security, procuratorial, and judicial organs,” the RTL system likewise suffered serious damage. According to statistics, in 1969, only 1,000 people were held in RTL camps throughout the country, and RTL facilities were effectively closed down.⁽⁹⁾

A concise review of the origins and development of the RTL system shows that the system emerged soon after the founding of the People’s Republic as a product of the governance concepts of that time. In those early years, the Communist Party had not established the concept of governance in accordance with law, and made no attempt to impose control over society on the basis of rule of law. Its control methods consisted on the one hand of political mobilisation that designated “counter-rev-

5. “Guanyu laodong jiaoyang wenti de jue ding” (Resolution regarding the re-education through labour issue), passed by the Standing Committee of the National People’s Congress and promulgated by the State Council in 1957.

6. Zhu Zheng, *ibid.*

7. *People’s Daily* editorial, “Weishenme yao shixing laodong jiaoyang” (Why implement re-education through labour), *People’s Daily*, 4 August 1957.

8. See the Baidu Encyclopedia entry on “Re-education Through Labour”: <http://baike.baidu.com/view/5088.htm>.

9. Zhang Yuanren, *Laodong jiaoyangxue* (Studies in re-education through labour), printed by the Central Cadre School for Reform Through Labour and Re-education Through Labour Management (Zhongyang laogai lao jiao guan li gan bu xue yuan), 1985, p. 20.

Yu Jianrong's book *A Critique of China's Re-education Through Labour System: An Analysis of 100 Petitioner Cases*.

olutionaries and bad elements” as outside of the people’s camp for management and control as class enemies; and on the other hand of assigning individuals to specific social positions in which they depended on work units and so on to acquire the right to work and obtain economic income. No “vacuums” were allowed to form in society, and people were not allowed to circulate freely. In this way society’s normal order was preserved. As for laws, due to certain “flaws” such as their specific range of application, complex procedures, the regulatory nature that made them sometimes inflexible, their relatively technical nature, and the inability to revise them in a timely manner, they did not satisfy the Party’s governance needs, and for that reason were not paid the appropriate regard.

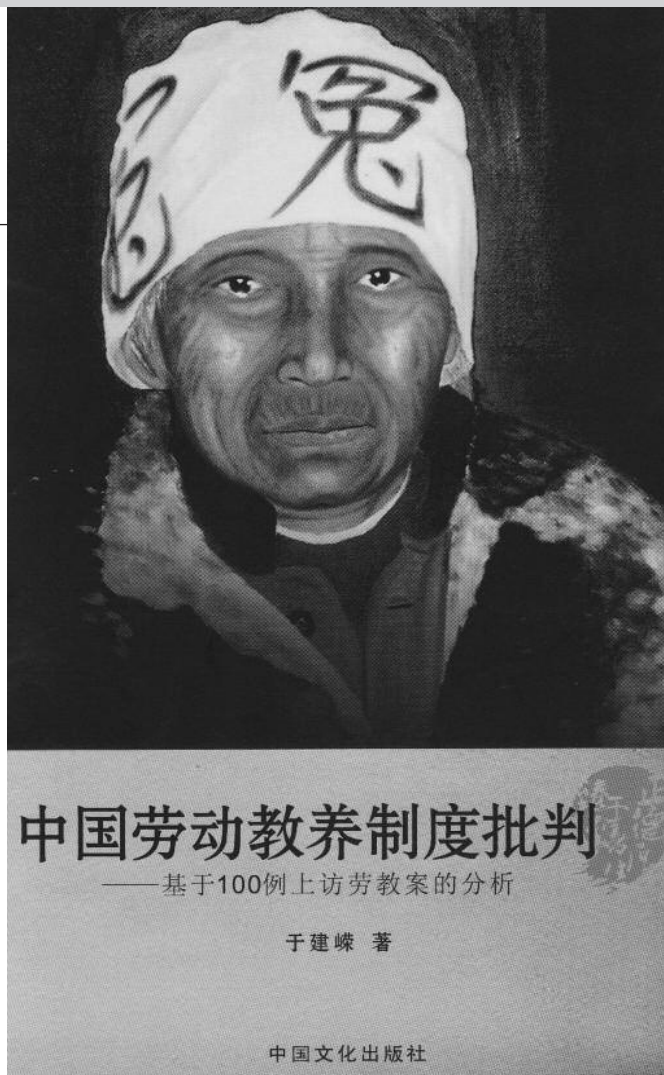
As a result, at this stage the RTL system was mainly used as a means of political punishment rather than for targeting criminal offenders. It was also used to forestall the emergence of urban “vagrants.” Under the planned economy system, economic means were used to exercise control over people; being unemployed implied a casting off of this social order and the potential to “endanger” the country. At that time, rural residents were not included among the targets of RTL, as they fell under another set of mechanisms of social control, including the agricultural cooperatives.

In actual practice, RTL very quickly departed from its planned course of forced labour, education, and remoulding, and in terms of management was indistinguishable from prison, becoming merely another means for depriving citizens of their personal liberty.

In a sense, from its earliest establishment, RTL was an extrajudicial method of social control, which began by stripping citizens of their freedom to decide their own mode of life and eventually developed into stripping citizens of their personal liberty. RTL was highly efficient, an administrative act that the government could perform unilaterally, without giving citizens any leeway for dispute, refusal, or resistance. For the sake of “ensuring that no damage was incurred to the free and happy life of the vast majority, and to the socialist order,” the RTL system did not need to ensure the basic rights of “a tiny minority,” a rationale that gained legitimacy through such political concepts as the “class enemy.”

Re-education Through Labour as a means of social governance

In the process of bringing order out of chaos and rehabilitating cases of injustice during the third plenum of the 11th CCP Central Committee in 1978, awareness gradually



emerged regarding the importance of the legal system in governance and in safeguarding citizens’ rights. Efforts were then initiated to construct a socialist democratic legal system, and it was against the background of this era that the RTL system was revived.

Following ratification by the Standing Committee of the National People’s Congress on 29 November 1979, the “Supplementary Regulations Regarding the Issue of Re-education Through Labour” were promulgated by the State Council on 5 December, and the 1957 “Resolution Regarding the Issue of Re-education Through Labour” was re-issued and put into effect. This indicated that the RTL system had entered a new stage of renewal and rehabilitation following its ten-year suspension during the Cultural Revolution. On 26 February 1980, *People’s Daily* published an editorial entitled “Continue to Successfully Carry Out Re-education Through Labour,” which explained the re-establishment of the RTL system thus:

In our country, although the class situation has undergone a fundamental change, and public order is generally good, class struggle still exists, and destabilising factors that threaten public order and interfere with the Four Modernisations still exist. Apart from frequent acts of disturbance and sabotage carried out by

a small number of counter-revolutionaries, secret agents and spies, and other criminal elements who seriously damage social order, an even larger number of people do not violate major laws, but regularly violate minor laws, and regularly disturb public order and endanger the people's interests. Although their criminal acts are too minor to justify the pursuit of criminal liability, they still seriously impair social order, production arrangements, work arrangements, and the livelihood arrangements of the masses. If compulsory administrative measures are not taken against these people to educate, rescue, and transform them, and they are simply allowed to carry on, they can easily embark on a path of serious crime through which they may become an even greater threat to the country and the people. For that reason, it is necessary to rectify public order and to impose harsh criminal sentences under the penal code against the small number of counter-revolutionaries and other criminal elements engaged in serious criminal acts; to rely on various social forces to carry out assistance and education or send to reform school those young people engaged in routine offences; and, in accordance with the "State Council Resolution Regarding the Issue of Re-education Through Labour" and its supplementary provisions, to round up and carry out re-education through labour on the group that falls between these two — those incorrigibles who do not violate major laws but regularly violate minor laws. If such people remain loose in society to disturb peace and order through their thefts, frauds, robberies, beatings, hooligan acts, and other misdeeds, this shows a lack of responsibility to society, to the people, and to the miscreants themselves. For that reason, it is necessary to take them into custody and carry out re-education through labour, to lead them to repent and make a fresh start and embark on a path beneficial to society. This is a manifestation of our socialist state's spirit of loving concern and responsibility toward the learning, labour, life, and future of these people, and is a key measure to ensure that no violation or damage is incurred to the free and happy life of the vast majority, and to the socialist order.⁽¹⁰⁾

After this, the CCP Central Committee, State Council, and Public Security Ministry each in turn drafted legal and regulatory documents relating to RTL. Among these, two had the greatest effect on the restoration and development of the

RTL system: the "Notice Regarding Integrating the Two Measures of Forced Labour and Custody and Investigation into Re-education Through Labour," issued by the State Council on 29 February 1980, and the Public Security Ministry's "Trial Measures for Re-education Through Labour," approved and transmitted by the State Council on 21 January 1982. The Trial Measures expanded the targets of RTL to a considerable extent, from the four types of people specified in the "Resolution Regarding the Issue of Re-education Through Labour" to the following six categories:

- 1) counter-revolutionary elements and those opposing the Party and socialism whose crimes are light and fall short of criminal sanction;
- 2) members of criminal gangs colluding in murder, robbery, rape, arson, and the like whose crimes fall short of criminal sanction;
- 3) those who incorrigibly engage in such unlawful acts as hooliganism, vice, theft, and fraud, falling short of criminal sanction;
- 4) those who disturb public order by engaging in public brawls, inciting quarrels, and causing disturbances, falling short of criminal sanction;
- 5) those who have work postings but who over an extended period refuse to work, break down work discipline, constantly stir up trouble without cause, disrupt production, work, scientific research, and livelihood arrangements, disrupt the performance of official duties, and refuse to heed advice and desist in such actions;
- 6) those who aid and abet others in unlawful acts, falling short of criminal sanction.⁽¹¹⁾

It can be seen that with the promulgation and implementation of some laws, regulations, and policies, the RTL system during this period gradually entered the trajectory of the legal system, and evolved from a dictatorial method for punishing counter-revolutionaries and Rightists to a means of punishing those individuals who did not commit major crimes, but who broke down public order through the routine commission of minor offences that fell short of criminal sanction. At the same time that it drafted laws and regulations, the state carried out a series of reforms regarding the examination and

10. *People's Daily* editorial, "Jixu banhao laodong jiaoyang" (Continue to successfully carry out re-education through labour), *People's Daily*, 26 February 1980.

11. "Laodong jiaoyang shixing banfa" (Trial measures for re-education through labour), passed by the State Council and promulgated by the Ministry of Public Security in 1982.

supervision of RTL work, improving standards in RTL camps, and building up a corps of RTL cadres, in order to better meet the requirements of social development. These reforms contributed to the rapid revival and development of the RTL system.

The revived RTL system underwent some changes. Although the emphasis on class struggle remained, the main target had become the breakdown of public order and social order. This was determined by the social reality of the early 1980s. Due to the pernicious vestiges of the Cultural Revolution and other factors, public order was not optimal, while class enemies and the like had already departed from mainstream political discourse. For this reason, the political flavour of RTL weakened considerably, while the goal of defending public security and order was strengthened. Due to the gradual diversification of the economy, individuals with “no means of livelihood” were no longer mentioned among RTL’s targets, indicating that social controls over individual citizens had been relaxed, and positions within the system were no longer imposed on each individual. The main targets of RTL became individuals who “did not commit major crimes, but regularly committed minor offences,” indicating that the correctional function had been greatly enhanced, while the function of education and remoulding had become increasingly prominent in the plan.

However, what was actually recognised at that time was the “legal” function; the understanding of “rule of law” was still quite superficial, with no awareness of the basic rule-of-law principle that a citizen cannot be deprived of his liberty without trial. In addition, the essence of RTL had not changed; it remained an extrajudicial means of stripping citizens of their liberty and rights. In the wake of deeper reforms and a push toward building up the legal system, the RTL system’s abuses in violation of rule of law were increasingly laid bare. With the gradually increasing knowledge of social governance methods, the 15th Party Congress of the CCP confirmed “governance according to law, and building a socialist state ruled by law” as part of the fundamental plan for the Party’s leadership of the people and governing of the country. When the Constitution was amended on 15 March 1999, the clause “The People’s Republic of China practices ruling the country in accordance with the law and building a socialist country of law” was added to Article 5.⁽¹²⁾ This signified that rule of law had already become an important constitutional principle. Because of this, the personal liberty and rights of PRC citizens acquired a deeper significance and more ample safeguards. The Party’s report at the 17th Party Congress even more explicitly put forward: “We must

uphold the rule of law as a fundamental principle and adopt the socialist concept of law-based governance to ensure that all work of the state is based on the law and that the legitimate rights and interests of citizens are safeguarded.”⁽¹³⁾ From this it can be seen that the concept of rule of law had taken on great significance on the push toward building China’s legal system.

Using rule of law concepts to examine the RTL system exposes its violation of the Constitution. Article 37 of the PRC Constitution explicitly stipulates:

The freedom of person of citizens of the People’s Republic of China is inviolable. No citizen may be arrested except with the approval or by decision of a people’s procuratorate or by decision of a people’s court, and arrests must be made by a public security organ. Unlawful deprivation or restriction of citizens’ freedom of person by detention or other means is prohibited; and unlawful search of the person of citizens is prohibited.⁽¹⁴⁾

It is evident from this stipulation that depriving or limiting a citizen’s personal liberty for an extended period of time requires approval or a decision from the People’s Procuratorate or a decision by the People’s Court, to be executed by the public security organs; otherwise it must be considered unlawful. But RTL does not go through proper judicial procedures; simply on the basis of an examination and decision by an RTL committee established by a public security organ or Party or administrative department, a citizen’s personal liberty can be restrained for one to three years, with a possible extension to four years. This clearly contravenes the Constitution’s stipulations.

The RTL system even more directly violates the Law of the People’s Republic of China on Administrative Penalties and the Legislation Law. The Law on Administrative Penalties, which came into effect as early as 1 October 1996, stipulates in Article 9: “Various kinds of administrative penalties may be established by law. Administrative penalties that restrict personal liberty can only be established by law.” Article 10.1 stipulates: “Administrative regulations can establish administrative penalties except for those restricting

12. TN: See the official translation of 1999 amendments to the 1982 Constitution provided at <http://english.peopledaily.com.cn/constitution/constitution.html>.

13. TN: See the official English translation of the report given by President Hu Jintao at the 17th Party Congress at <http://www.china.org.cn/english/congress/229611.htm>, under item VI, “Unswervingly Developing Socialist Democracy.”

14. TN: Official translation at <http://english.peopledaily.com.cn/constitution/constitution.html>.

personal liberty.” The Legislation Law, which came into effect on July 1, stipulates in Article 8.5: “[The following affairs shall only be governed by law:]... mandatory measures and penalties involving deprivation of citizens of their political rights or restriction of the freedom of their person.”⁽¹⁵⁾ It is clear that mandatory measures and penalties that restrict personal liberty can only be established by law. Yet the several provisions that established the RTL system, including the “State Council Resolution Regarding the Issue of Re-education Through Labour,” the “Supplementary Regulations Regarding Re-education Through Labour,” and the “Implementation Measures for Re-education Through Labour,” are not laws. It is thus clear that once the Legislation Law came into effect, the provisions on which the RTL system relied became unlawful, and should have been amended and rescinded.

The case of a young man named Sun Zhigang who was beaten to death in custody in 2003 aroused ardent public debate over citizens’ personal liberty, and ultimately led to the scrapping of the Custody and Repatriation system. Yet the essentially similar RTL system, which has been criticised on the same grounds, has been retained up until the present, and has even acquired new use. The most recent targets of RTL are Falun Gong practitioners, urban migrant workers who have committed minor offences, petitioners, and individuals holding alternative political views. It can be said that at this stage, the authorities are already aware of the great significance of not depriving an individual of his personal liberty without trial, as explicitly reflected in the Constitution, laws, and Party policies. Yet the clearly unlawful RTL system continues to be implemented; this is no longer a matter of “committing a crime in ignorance,” but of “knowingly violating the law.” This shows that the authority of the legal system has not been duly respected and upheld; the ruling Party’s will has overridden the Constitution and the law; and personal liberty and rights can be arbitrarily violated by administrative power. For this reason, in recent years, there have been unceasing calls among scholars, the media, and public opinion demanding the abolition of the RTL system.

Conclusion

A broad overview of the development of the RTL system over the last 50 years shows no change to its essence. This essence is to serve as a means of social control, which is used by the party holding executive power to strip citizens of their personal liberty and political rights through an extrajudicial

process, with the aim of “high efficiency” and to the greatest extent guaranteeing the authorities the ability to infringe on civil rights. Although the RTL system has undergone a number of reforms with the developments of the times, and its functions and targets have also undergone substantial change, it can be said that this is only an adaptation to the social requirements of different time periods, and that in relation to its specific purpose, the RTL system has undergone no essential change.

It might be allowed that in the years shortly after the founding of the PRC, the RTL system was part and parcel of the political climate and concepts of social governance under authoritarian rule; history has borne out, however, that the forms of social control at that time were unsustainable, and China has transformed to its present situation of governance according to law. Using the principles of rule of law to pass judgment on the RTL system, the inevitable conclusion is that it violates the Constitution, violates law, violates the spirit of the rule of law, and is seriously out of sync with ordinary people’s recognition of personal liberty and rule of law. Although the RTL system continues to serve its misbegotten purpose, it has already lost all legitimate grounds for continued existence.

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• Translated by Stacy Mosher

15. In addition, the Legislation Law of the People’s Republic of China (*Zhonghua renmin gongheguo lifa fa*) stipulates in Article 9: “If laws have not been enacted on the affairs specified in Article 8 of this Law, the National People’s Congress or its Standing Committee has the power to make a decision to authorize the State Council to formulate, according to actual needs, administrative regulations first on part of those affairs, except for the affairs concerning criminal offences and their punishment, mandatory measures and penalties involving deprivation of citizens of their political rights or restriction of the freedom of their person, and the judicial system.” Article 87 stipulates: “Under any of the following circumstances, laws, administrative regulations, local regulations, autonomous regulations, separate regulations or rules shall be altered or annulled by the organ concerned in accordance with the limits of power prescribed in Article 88 of this Law: (1) where the limits of power are transcended; (2) where provisions of the legislation of lower levels contravene those of the legislation of upper levels; (3) where, because of inconsistency between the provisions of different rules governing one and the same matter, it is ruled that the provisions of one side be altered or annulled; (4) where the provisions of rules are considered inappropriate and should therefore be altered or annulled; or (5) where legal procedures are violated.” TN: This is the English translation provided on the Chinese Government’s Official Web Portal, http://www.gov.cn/english/laws/2005-08/20/content_29724.htm (last accessed April 21, 2010).