

Liu Xiaobo, Charter 08, and the Challenges of Political Reform in China

Edited by

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In February 2011, some months after the submission of this essay, Teng Biao was "disappeared" for seventy days by the authorities, before being returned to his home in Beijing.

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Introduction

On the sixtieth anniversary of the Universal Declaration of Human Rights, Charter 08, a manifesto asking for the transformation of the People's Republic into a Federal Republic based on separation of powers, a multi-party system, and the rule of law, was sent to the Chairman of the People's Republic of China (PRC). It was signed by 303 persons from all walks of life: intellectuals and ordinary people, communist party members and dissidents. Two days before it was made public, one of its initiators, Liu Xiaobo, was taken away from his home by the police. After more than twelve months in detention, he was sentenced to eleven years in jail for "incitement to subversion of state power." Two years later, Liu was awarded the Nobel Peace Prize, a decision the Chinese leaders considered a display of hostility by Western powers. But why had they reacted with such severity to a non-violent petition signed by such a small proportion of the population?

This was a puzzle for most observers: the successful organization of the Olympic Games seemed to have reinforced the legitimacy of the Chinese Communist Party (hereafter "CCP" or "Party") both domestically and on the international scene. Those who had forecast the regime's collapse after the 1989 Tiananmen massacre had been proved wrong. Despite the fact that the third wave of democratization¹ had started in China with the spring 1989 demonstrations, the CCP survived the end of communism in Eastern Europe and the collapse of the USSR. In the winter of 2011, it showed its capacity to hold on to power when popular uprisings were sweeping North Africa and the Middle East. The CCP has not only survived; thanks to the double-digit growth of the economy that it has been able to achieve during the last two decades, China's GDP overcame Japan's in February 2011,² making

the People's Republic the second-largest economy in the world. This has allowed the Party to enhance its legitimacy at home: it can now claim to have achieved the dream which has haunted Chinese elites and masses since the Opium Wars — to make China a prosperous and powerful country (*fuguo qiangbing*, 富国强兵).

In the last few years, the People's Republic has become more assertive on the international scene. Many developing countries' governments see it as a model to emulate, while in the wake of the 2008 financial crisis, most Western countries regard it as the savior of the world economy. During the last two years, thanks to its huge foreign exchange reserves, China has been able to intervene in the European debt crisis and has defended its interests in the South China Sea with unprecedented self-assurance. As a consequence, an increasing number of countries consider China's growing power with increasing nervousness.

These remarkable developments explain why some scholars have described the regime as "resilient authoritarianism"³ — resilient because of the CCP's willingness and ability to adapt to new circumstances and to change. In fact, at the political level, the Party has modified some of its ideological messages and organizational structures, and not all of these changes have been merely cosmetic.

In order to renew its elites, the CCP has introduced elections at the village level, co-opting many recruits by allowing them to participate in a large number of newly established "consultative" institutions. To overcome bureaucratism, it has introduced mechanisms supposed to promote inner-party democracy. Efforts have been made to enhance the capacity of institutions and improve governance effectiveness and, aware of the dangers of corruption, it has declared its intent to reinforce disciplinary measures. Since the beginning of the reform, it has started to develop a legal system. Changes have also been brought to the media, and control by the propaganda department has become less punctilious. Some scholars view these reform efforts as responses to market developments and new social needs and demands in China's market economy.⁴

Institutional innovation and newly designed mechanisms have allowed the Party to cope with the challenges arising from rapidly expanding information technology, in particular the Internet, and from

demands and criticisms articulated by domestic civil society forces and the international community.

The reform measures and institutional adaptation have worked not only in terms of containing social conflict. Some argue that they have also helped to enhance the legitimacy of the Party. For one thing, in today's system, individuals have some measure of economic freedom, even though their economic and social rights are often not well protected. Social media are allowed vibrant growth. The Party has understood that the new information technologies could help develop the economy and make its propaganda more efficient, but it has been keen on preventing them from challenging its authority. It has also allowed the emergence of non-governmental organizations, but has kept them under control — to a point where even the use of the term “civil society” has been prohibited.

Some believe that authoritarian rule has made itself attractive to Chinese citizens who benefit from it and, charmed by its promise of stability and prosperity, widely accept or even welcome it.⁵ According to one view of what may be called a “Chinese exceptional mode,” social and economic development is therefore possible without political liberalization: there can be rule of law without judicial independence; representation without political participation; freedom without political rights; and accountability without democracy.⁶

In times of relative stability, like many other authoritarian regimes,⁷ the Party-state may loosen its control over the economy and society, delegate powers to other institutions, allow a larger social space, and tolerate critical voices. The litmus test is how the Party-state responds to crises — perceived or real. Any existing fault lines between democracies and authoritarian systems become more visible when these systems confront political challenges.

So how can contemporary China pass that litmus test as a post-totalitarian state where judicial independence is absent, where the official media are compliant, where independent media and “citizen journalism” are subdued, and in which civil society organizations remain fragile?

One of the problems which, traditionally, have plagued post-totalitarian regimes has been the question of succession. Despite the fact that since the 1980s, the leaders are not allowed to serve more than

two terms in office, the succession process has not yet been institutionalized. Only in 2012, for the first time in the history of the PRC, will a new General Secretary be appointed without the intervention of a charismatic leader.⁸ Even though it appears that a consensus has been reached among the top leaders on the name of the future head of the Politburo Standing Committee, tensions seem to have emerged at the highest level — and when there are tensions at the top, the leadership often opts in favor of repression.

The arrest and trial of Liu Xiaobo are a case in point: they have shown that the authorities can react harshly to what appears to most observers as a very mild challenge by a few isolated intellectuals. Seemingly worried that “a single spark can set a prairie fire,” the rulers are ready to violate the laws that they have adopted and implemented since the beginning of the reform process. The intimidation of human rights lawyers in the wake of calls for a “Jasmine Revolution” has also revealed that the instruments of control at the disposal of the post-totalitarian regime can be mobilized at any time if the rulers feel under threat. However, these events also seem to show that not everyone in the leadership is convinced that repression is an efficient way to respond to challenges in the long run. The sequence of events in Liu Xiaobo’s case points to the fact that there might be divergences in the leadership.

The fact that more than a year had elapsed between Liu’s detention and his trial might indicate that some of the top leaders did not agree with such a harsh sentence. Other factors seem to point in that direction: in March 2009, three intellectuals were allowed to go to Prague at the invitation of former Czech president Václav Havel to receive a human rights prize in Liu’s name,⁹ a decision which was quite surprising as, at the same time, most members of the first batch of Charter 08 signatories were summoned for “tea” by the secret police (*guobao*, 国保), which pressured them to retract their signatures. Besides, despite the strong reaction from the authorities, it took more than three weeks to erase the Charter from the Internet, allowing it to be signed by more than 6,000 people¹⁰ on the Mainland. Although since Liu’s trial, immense resources have been invested in the protection of stability (*weiwen*, 维稳), some leaders have insisted on the necessity to implement political reform,¹¹ while officials have stressed the need to listen to divergent voices.

Whereas the term “civil society” has been banned from the press, many autonomous organizations have continued to lobby the government, and their leaders have not all been jailed. Finally, after Ai Weiwei’s (艾未未) arrest in April 2011, international uproar and critiques by netizens in China have led the authorities to release him.¹² On the other hand, protests by Western leaders against the jailing of Liu Xiaobo have been met with deaf ears.

Undeniably, as we have observed in the post-1989 era, China can react forcefully and repressively without external, institutional constraints in the persecution of Falun Gong (法轮功) and other religious practices, as well as against Chinese Democracy Party (中国民主党) members and other political dissidents, against lawyers and other rights activists, and against Liu Xiaobo and other Chartists. But the problem with views that emphasize the survival skills of the current regime and measure legitimacy by the absence of successful rebellion is that they tend to leave further implications of the system’s repressive character in the shadows.

We believe that these should be brought out into the light to allow everyone to assess the system at its full spectrum. It is in this context that this book studies the case of Liu Xiaobo and Charter 08. The Party may have evolved and adapted to new circumstances over the past thirty years, but it remains authoritarian at its core and the authoritarian aspects of the system manifest themselves more clearly when facing a political challenge.

This book is divided into three parts. Part One is about Liu Xiaobo and the criminal process that led to his conviction in December 2009 for “incitement to subversion of state power.” Part Two provides discussions and comments on Charter 08 and the political forces it represents. Part Three places Charter 08 in the larger context of contention between protecting rights (*weiquan*, 维权) and maintaining stability (*weiwen*).

The opening chapter by Jean-Philippe Béja introduces Liu Xiaobo as a person, a scholar, an activist. In particular, it highlights the turning points in Liu’s life and puts them in political context. As is the case with many activists, Liu’s transformation from a bookish scholar into a person at the forefront of the opposition is triggered by political events. In his case, the experience of the bloodshed on June Fourth had a profound impact on his thinking and priorities in life. He moved from

literary critique to political critique, engaging in progressively open criticism of the CCP and advocacy for fundamental political reform. Subsequent developments led to his increasingly overt challenges and his participation in the drafting of Charter 08.

Joshua Rosenzweig's chapter turns to Liu as a target of criminal prosecution. It provides a careful and detailed historical review of the offence of inciting subversion, on which Liu was convicted. The chapter traces the legislative change from "counter-revolutionary crimes" to "crimes endangering state security" and the accordingly changing elements and nature of subversion offences. In the second half, Rosenzweig provides an analysis of the defenses that Liu Xiaobo and his lawyers presented in the trial. The chapter concludes that, given the offence of subversion is so vaguely defined, defenses are hard to come up with and of little legal consequence. Rosenzweig's careful analysis thus supports the conclusion that prosecution of "subversion" only serves the purpose of silencing political speech.

In the following chapter, Liu Xiaobo's defense team, led by Mo Shaoping, gives a brief introduction of major subversive cases that the lawyers have defended over the years, including the cases of Yao Fuxin (姚福信), Xu Wei (徐伟), Jiang Lijun (姜立军), Du Daobin (杜导斌), and of course, Liu Xiaobo. By setting out the prosecution evidence and arguments, the authors invite readers to pass judgment on the legality of the prosecution, and the constitutionality and legitimacy of the "subversion" crime at its core. If they do so implicitly rather than explicitly, this by itself is a comment on the difficulties and high risks associated with criminal defense, particularly in "political" cases. Undoubtedly, the answers are straightforward — the argument that crimes subsumed under "subversion" lack any constitutional, legitimate basis has been advanced by others and is put forth in another chapter in this book by Teng Biao. The authors also offer a concise account of the substantive and procedural legal difficulties they have encountered throughout their defense, as well as an analysis of the political causes of these difficulties.

The final chapter in Part One consists of Cui Weiping's account of how she collated the first reactions of famous intellectuals and artists to Liu Xiaobo's conviction and eleven-year sentence. Spurred into action by her own outrage and sense of injustice, Cui moved to collect these

comments in the form of “Tweets” — short, concise summaries of what people told her over the phone — and later posted them online on her blog. Together, they make for a fascinating testimony to the mood of the intellectual elites in that consequential moment. This chapter shows the strength of China’s intellectual community in what may have been one of the country’s darkest hours in the past three decades and gives us a sense of the great challenges ahead.

Part Two moves to a substantive analysis of Charter 08 as a text, as well as of the intellectual and political forces it represents. It is composed of five chapters. Potter and Woodman’s chapter provides a critical review of Charter 08’s compatibility and inconsistency with the existing constitutional and legal order. For Potter and Woodman, Charter 08 is a sophisticated document that both reflects a Western bourgeois agenda in advocating a new liberal order and engages the existing system in calling on the Party-state to live up to its own rhetoric of rights. Because the Charter adopts official rights discourses to challenge the government, the authors argue, it opens a window of opportunity for a possible alliance between the Chartists outside the political system and reformers within the political system. In the end, Potter and Woodman think that the perceived danger of Charter 08 can only be understood within China’s “segmented publics,” in which “the Chinese government sets formal and informal rules to limit discussions of particular issues to specific institutional spaces.” Whether a particular political criticism is regarded as dangerous depends on the identity and circumstances of the critic more than the content of the criticism, and aspects such as foreign contacts or foreign support may play a role. This is an assessment echoed in several other chapters in this book.

For Feng Chongyi, Charter 08 is a significant political manifestation on its own. Similar to the argument put forward by Potter and Woodman, Feng sees Charter 08 as a document that seeks to forge “a grand alliance of Chinese liberal elements ‘within the system (*tizhi nei*, 体制内)’ and ‘outside the system (*tizhi wai*, 体制外).” Its signatories and supporters include known dissidents as well as officials, retired officials, and others from within the system. More significantly, Charter 08 symbolizes yet another alliance between political dissidence and the *weiquan* movement which is more rooted in Chinese society. The two political forces have been sharply divided since 1989. While

the former challenges the CCP directly and calls for a fundamental political change, the latter takes concrete actions in protecting the legal rights of citizens within the framework of the existing political system. Charter 08 provides a common ground for the two forces.

In her chapter, Karen Lee regards Charter 08 as an output of China's long fight for dignity by generations of dissidents. Indeed, despite the different views between Wei Jingsheng (魏京生) and Liu Xiaobo on Charter 08, they are both part of a common intellectual history and political movement. According to Lee, speaking one's mind against the government when called for and fighting for a political system that one believes in is, in essence, what a self-respecting person would do in keeping his or her dignity. After all, as Lee writes, "only human beings are capable of transcending basic animal instincts for the pursuit of higher values." It is that pursuit of higher values that has been motivating dissidents and activists in a hostile environment.

Michaela Kotyzova offers a well-grounded comparison between Charter 08 and Charta 77, the manifesto written by Czechoslovak dissidents, mainly Václav Havel and Jan Patočka, to demand the respect of human rights by the Communist Party in Czechoslovakia. The two charters, according to Kotyzova, are similar in their content, both invoking international human rights norms and both attempting to function largely within the existing legal framework. Another related similarity between the two lies in the fact that their objectives are not so much to subvert the regimes as to provide a support structure when the regimes fall. However, despite their similarities, both exist in drastically different political and economic contexts. China in 2008 was different from Czechoslovakia in 1977 in terms of the politics, economy, and soft power that the respective communist parties may have, and those differences affect the impact of the respective charters in society.

The four chapters in Part Three relate Charter 08 to tensions and contradictions between the imperatives of "defending rights" (*weiquan*) and "preserving stability" (*weiwen*).

Fu Hualing's chapter, entitled "Challenging Authoritarianism through Law," provides a historical background discussion of the legal rights-based *weiquan* movement in China, traces what the author characterizes as a tension between the supply and demand of rights, and explains an institutional failure in meeting the increasing demand for

rights and the social consequences of that failure. China in the 1990s has been referred to as the “age of rights,”¹³ when legislatures at central and local levels passed a large number of laws granting new rights. This is not merely window-dressing in China, as is often argued. Armed with legal rights, citizens of different social and economic backgrounds have started to assert these and engage in a movement of “rightful resistance.”¹⁴ Gradually, law has become a rallying point for aggrieved people, and lawyers have become organizers of an emerging social movement. However, as the chapter illustrates, the brutal and drastic social changes and acute conflicts are often beyond the capacity of legal norms and institutions to grasp. As a result, Fu argues, the legal system has failed to serve as a governing tool for the Party-state and to provide remedies for citizens seeking justice — both are giving up on law and resorting to extralegal and illegal measures to settle the score.

Michael Dowdle’s chapter places Charter 08 in the comparative and historical context of popular constitutionalism, a concept that Dowdle uses to capture the social meaning of constitutions. For Dowdle, popular constitutionalism does not appeal to the constitutional text or institutional authority, but to the understanding of generations of people who make use of, and give meaning to, the constitutional text. Popular constitutionalism also speaks to the tension and dialogue between the popular and official components in the constitutional development. Putting it in the Chinese context, Dowdle traces the growth of popular constitutionalism from the trial of the Gang of Four, the creeping Parliamentarianism, and public litigation and petition. Significantly, Dowdle explains how popular constitutionalism continues to evolve and develop in the form of online and offline citizen activism even though it is facing the post-2005 crackdown. Charter 08 is part of the evolving popular constitutionalism in China and its significance lies in its attempt and ability to broaden and free the epistemological space.

Eva Pils’ analysis of the *weiquan* movement focuses on what the author calls its “dark sides.” As Fu also observes, the introduction of rights discourse has given victims of injustice new arguments and mechanisms in their quest for redress. But the Party-state’s failure to submit itself to the laws and principles it has recognized has given rise to a worrying trend. Drawing on interviews with lawyers and petitioners, Pils describes the at-times brutal persecution of rights defenders,

especially those without fame or professional status, and discusses what she views as increasingly vindictive and violent reactions among some members of the movement. A brief review of attitudes toward violence amongst petitioners, intellectuals, and lawyers shows that beneath an oft-asserted commitment to non-violence in political resistance, there is much doubt and debate within the movement, and that to some, violence seems to be the only last answer. What, they ask, is the argument against violent resistance in circumstances where the state, not its citizens, is the main agent of brutalization? Pils argues that while Charter 08 provides little guidance on how to effect the rational, liberal transformation of Chinese society that is so clearly its vision, its protagonist Liu Xiaobo is perhaps best understood through his noble but hard-to-emulate credo of “having no enemies.” In that sense, Charter 08 represents a moral challenge both to the repressive authoritarian state and to the *weiquan* movement.

Willy Lam explores the macro-level political development in China and the possibilities of liberalization in the context of *weiquan* and *weiwen*. For Lam, the government is resorting to both hard and soft measures to maintain stability and legitimacy. On the one hand, a “scorched earth policy” is used against dissidents who may be perceived to challenge the CCP directly, as demonstrated by the prosecution and heavy punishment of Liu Xiaobo and his comrades-in-arm. On the other, Lam argues that the CCP has taken a reconciliatory approach in dealing with the poor, the liberal elements within the CCP, and the Uighurs in Xinjiang. In general, however, Lam is of the view that, when facing color revolutions that have occurred elsewhere, frequent social unrest in different parts of China, and political challenges posed by likes of Liu Xiaobo and Charter 08, the CCP is retreating to a conservative comfort zone ideologically and institutionally. This means that there are only slim chances of further political reform.

Teng Biao’s chapter concludes the book. His is a powerful and passionate voice from the heart of someone who has been at the forefront of rights defense and who has experienced first-hand the pains and suffering of *weiquan*. Teng is thus perhaps best situated to explore the psychology of resistance that explains why and how some people — always but a few — refuse to back down, acquiesce, accommodate official lies, and reach arrangements with the system. In a largely “neo-totalitarian”

system like that of China today, the problem is no longer naked fear such as might be induced by a tyrannical regime, he argues. Rather, it is the ability to avoid thinking, “that hard-to-attain confusion” that allows people not even to be aware of their deep-down anxieties and constraints. While some observers, as pointed out at the beginning of this introduction, believe that the government has won “legitimacy” in the sense of wide social acceptance of its rule, Teng’s analysis leaves no room for such a comforting conclusion. He does not even believe that the Party’s partial achievements could win it what he defines as *ex post* “justification,” while it continues to be as highly repressive as it is; and citizens acquiescing in the Party’s rule appear, on Teng’s account, to be at some level complicit in its injustices. Teng’s chapter is in some ways one of the most somber accounts of China’s liberal movements in this book, but in his analysis of China’s rapid social change and his account of the great vibrancy of contemporary activism, he also shows the strength of his own optimism and ideals. There is no doubt in the mind of the author that political change will come eventually — “you can destroy the flowers but you cannot prevent spring,” he quotes.

Academic institutions in Hong Kong offer platforms for public debate on sensitive issues in Mainland China, such as the case of Liu Xiaobo and Charter 08. This book is the result of a series of conferences and seminars on Charter 08 organized by the Faculty of Law at the University of Hong Kong in the aftermath of Liu Xiaobo’s conviction. The editors would like to thank the University of Hong Kong for its generous funding of the event; the French Centre for Research on Contemporary China (CEFC) for co-organizing one of the conferences; and all the participants who contributed to passionate debates over China’s constitutional and political future. Hong Kong is the only place where Liu Xiaobo and Charter 08 can be freely, extensively, and seriously discussed on Chinese soil and we are delighted that the Hong Kong University Press has agreed to publish this book.

Jean-Philippe Béja

Fu Hualing

Eva Pils

25 December 2011

Hong Kong

Appendix: Charter 08*

9 December 2008

I. Preamble

This year marks 100 years since China's [first] Constitution,¹ the 60th anniversary of the promulgation of the Universal Declaration of Human Rights, the 30th anniversary of the birth of the Democracy Wall, and the 10th year since the Chinese government signed the International Covenant on Civil and Political Rights. Having experienced a prolonged period of human rights disasters and challenging and tortuous struggles, the awakening Chinese citizens are becoming increasingly aware that freedom, equality, and human rights are universal values shared by all humankind, and that democracy, republicanism, and constitutional government make up the basic institutional framework of modern politics. A "modernization" bereft of these universal values and this basic political framework is a disastrous process that deprives people of their rights, rots away their humanity, and destroys their dignity. Where is China headed in the 21st century? Will it continue with this "modernization" under authoritarian rule, or will it endorse universal values, join the mainstream civilization, and build a democratic form of government? This is an unavoidable decision.

The tremendous historic changes of the mid-19th century exposed the decay of the traditional Chinese autocratic system and set the stage for the greatest transformation China had seen in several thousand

* Reprinted with permission. Translation by Human Rights in China. The full text of the translation is available at Human Rights in China, *Freedom of Expression on Trial in China* (China Rights Forum, No. 1 of 2010), <<http://www.hrichina.org/crf/article/3203>>.

years. The Self-Strengthening Movement [1861–1895] sought improvements in China’s technical capability by acquiring manufacturing techniques, scientific knowledge, and military technologies from the West; China’s defeat in the first Sino-Japanese War [1894–1895] once again exposed the obsolescence of its system; the Hundred Days’ Reform [1898] touched upon the area of institutional innovation, but ended in failure due to cruel suppression by the die-hard faction [at the Qing court]. The Xinhai Revolution [1911], on the surface, buried the imperial system that had lasted for more than 2,000 years and established Asia’s first republic. But, because of the particular historical circumstances of internal and external troubles, the republican system of government was short lived, and autocracy made a comeback.

The failure of technical imitation and institutional renewal prompted deep reflection among our countrymen on the root cause of China’s cultural sickness, and the ensuing May Fourth [1919] and New Culture Movements [1915–1921] under the banner of “science and democracy.” But the course of China’s political democratization was forcibly cut short due to frequent civil wars and foreign invasion. The process of a constitutional government began again after China’s victory in the War of Resistance against Japan [1937–1945], but the outcome of the civil war between the Nationalists and the Communists plunged China into the abyss of modern-day totalitarianism. The “New China” established in 1949 is a “people’s republic” in name, but in reality it is a “party domain.” The ruling party monopolizes all the political, economic, and social resources. It has created a string of human rights disasters, such as the Anti-Rightist Campaign, the Great Leap Forward, the Cultural Revolution, June Fourth, and the suppression of unofficial religious activities and the rights defense movement, causing tens of millions of deaths, and exacting a disastrous price from both the people and the country.

The “Reform and Opening Up” of the late 20th century extricated China from the pervasive poverty and absolute totalitarianism of the Mao Zedong era, and substantially increased private wealth and the standard of living of the common people. Individual economic freedom and social privileges were partially restored, a civil society began to grow, and calls for human rights and political freedom among the people increased by the day. Those in power, while implementing

economic reforms aimed at marketization and privatization, also began to shift from a position of rejecting human rights to one of gradually recognizing them. In 1997 and 1998, the Chinese government signed two important international human rights treaties.² In 2004, the National People's Congress amended the Constitution to add that "[the State] respects and guarantees human rights." And this year, the government has promised to formulate and implement a "National Human Rights Action Plan." But so far, this political progress has largely remained on paper: there are laws, but there is no rule of law; there is a constitution, but no constitutional government; this is still the political reality that is obvious to all. The ruling elite continues to insist on its authoritarian grip on power, rejecting political reform. This has caused official corruption, difficulty in establishing rule of law, the absence of human rights, moral bankruptcy, social polarization, abnormal economic development, destruction of both the natural and cultural environment, no institutionalized protection of citizens' rights to freedom, property, and the pursuit of happiness, the constant accumulation of all kinds of social conflicts, and the continuous surge of resentment. In particular, the intensification of antagonism between the government and the people, and the dramatic increase in mass incidents, indicate a catastrophic loss of control in the making, suggesting that the backwardness of the current system has reached a point where change must occur.

II. Our Fundamental Concepts

At this historical juncture that will decide the future destiny of China, it is necessary to reflect on the modernization process of the past hundred and some years and reaffirm the following concepts:

Freedom: Freedom is at the core of universal values. The rights of speech, publication, belief, assembly, association, movement, to strike, and to march and demonstrate are all the concrete expressions of freedom. Where freedom does not flourish, there is no modern civilization to speak of.

Human Rights: Human rights are not bestowed by a state; they are inherent rights enjoyed by every person. Guaranteeing human rights is

both the most important objective of a government and the foundation of the legitimacy of its public authority; it is also the intrinsic requirement of the policy of “putting people first.” China’s successive political disasters have all been closely related to the disregard for human rights by the ruling establishment. People are the mainstay of a nation; a nation serves its people; government exists for the people.

Equality: The integrity, dignity, and freedom of every individual, regardless of social status, occupation, gender, economic circumstances, ethnicity, skin color, religion, or political belief, are equal. The principles of equality before the law for each and every person and equality in social, economic, cultural, and political rights of all citizens must be implemented.

Republicanism: Republicanism is “joint governing by all, peaceful coexistence,” that is, the separation of powers for checks and balances and the balance of interests; that is, a community comprising many diverse interests, different social groups, and a plurality of cultures and faiths, seeking to peacefully handle public affairs on the basis of equal participation, fair competition, and joint discussion.

Democracy: The most fundamental meaning is that sovereignty resides in the people and the government elected by the people. Democracy has the following basic characteristics: (1) The legitimacy of political power comes from the people; the source of political power is the people. (2) Political control is exercised through choices made by the people. (3) Citizens enjoy the genuine right to vote; officials in key positions at all levels of government must be the product of elections at regular intervals. (4) Respect the decisions of the majority while protecting the basic human rights of the minority. In a word, democracy is the modern public instrument for creating a government “of the people, by the people, and for the people.”

Constitutionalism: Constitutionalism is the principle of guaranteeing basic freedoms and rights of citizens as defined by the constitution through legal provisions and the rule of law, restricting and defining the boundaries of government power and conduct, and providing appropriate institutional capability to carry this out. In China, the era of imperial power is long gone, never to return; in the world at large,

the authoritarian system is on the wane; citizens ought to become the true masters of their states. The fundamental way out for China lies only in dispelling the subservient notion of reliance on “enlightened rulers” and “upright officials,” promoting public consciousness of rights as fundamental and participation as a duty, and putting into practice freedom, engaging in democracy, and respecting the law.

III. Our Basic Positions

Thus, in the spirit of responsible and constructive citizens, we put forth the following specific positions regarding various aspects of state administration, citizens’ rights and interests, and social development:

1. Constitutional Amendment: Based on the aforementioned values and concepts, amend the Constitution, deleting clauses in the current Constitution that are not in conformity with the principle that sovereignty resides in the people, so that the Constitution can truly become a document that guarantees human rights and allows for the exercise of public power, and become the enforceable supreme law that no individual, group, or party can violate, establishing the foundation of the legal authority for democratizing China.

2. Separation of Powers and Checks and Balances: Construct a modern government that separates powers and maintains checks and balances among them, that guarantees the separation of legislative, judicial, and executive powers. Establish the principle of statutory administration and responsible government to prevent excessive expansion of executive power; government should be responsible to taxpayers; establish the system of separation of powers and checks and balances between the central and local governments; the central power must be clearly defined and mandated by the Constitution, and the localities must exercise full autonomy.

3. Legislative Democracy: Legislative bodies at all levels should be created through direct elections; maintain the principle of fairness and justice in making law; and implement legislative democracy.

4. Judicial Independence: The judiciary should transcend partisanship, be free from any interference, exercise judicial independence,

and guarantee judicial fairness; it should establish a constitutional court and a system to investigate violations of the Constitution, and uphold the authority of the Constitution. Abolish as soon as possible the Party's Committees of Political and Legislative Affairs at all levels that seriously endanger the country's rule of law. Prevent private use of public instruments.

5. Public Use of Public Instruments: Bring the armed forces under state control. Military personnel should render loyalty to the Constitution and to the country. Political party organizations should withdraw from the armed forces; raise the professional standards of the armed forces. All public employees including the police should maintain political neutrality. Abolish discrimination in hiring of public employees based on party affiliation; there should be equality in hiring regardless of party affiliation.

6. Human Rights Guarantees: Guarantee human rights in earnest; protect human dignity. Set up a Commission on Human Rights, responsible to the highest organ of popular will, to prevent government abuse of public authority and violations of human rights, and, especially, to guarantee the personal freedom of citizens. No one shall suffer illegal arrest, detention, subpoena, interrogation, or punishment. Abolish the reeducation through labor system.

7. Election of Public Officials: Fully implement the system of democratic elections to realize equal voting rights based on "one person, one vote." Systematically and gradually implement direct elections of administrative heads at all levels. Regular elections based on free competition and citizen participation in elections for legal public office are inalienable basic human rights.

8. Urban-Rural Equality: Abolish the current urban-rural two-tier household registration system to realize the constitutional right of equality before the law for all citizens and guarantee the citizens' right to move freely.

9. Freedom of Association: Guarantee citizens' right to freedom of association. Change the current system of registration upon approval for community groups to a system of record-keeping. Lift the ban on political parties. Regulate party activities according to the Constitution

and law; abolish the privilege of one-party monopoly on power; establish the principles of freedom of activities of political parties and fair competition for political parties; normalize and legally regulate party politics.

10. Freedom of Assembly: Freedoms to peacefully assemble, march, demonstrate, and express [opinions] are citizens' fundamental freedoms stipulated by the Constitution; they should not be subject to illegal interference and unconstitutional restrictions by the ruling party and the government.

11. Freedom of Expression: Realize the freedom of speech, freedom to publish, and academic freedom; guarantee the citizens' right to know and right to supervise [public institutions]. Enact a "News Law" and a "Publishing Law," lift the ban on reporting, repeal the "crime of inciting subversion of state power" clause in the current Criminal Law, and put an end to punishing speech as a crime.

12. Freedom of Religion: Guarantee freedom of religion and freedom of belief, and implement separation of religion and state so that activities involving religion and faith are not subjected to government interference. Examine and repeal administrative statutes, administrative rules, and local statutes that restrict or deprive citizens of religious freedom; ban management of religious activities by administrative legislation. Abolish the system that requires that religious groups (and including places of worship) obtain prior approval of their legal status in order to register, and replace it with a system of record-keeping that requires no scrutiny.

13. Civic Education: Abolish political education and political examinations that are heavy on ideology and serve the one-party rule. Popularize civic education based on universal values and civil rights, establish civic consciousness, and advocate civic virtues that serve society.

14. Property Protection: Establish and protect private property rights, and implement a system based on a free and open market economy; guarantee entrepreneurial freedom, and eliminate administrative monopolies; set up a Committee for the Management of State-Owned Property, responsible to the highest organ of popular will; launch

reform of property rights in a legal and orderly fashion, and clarify the ownership of property rights and those responsible; launch a new land movement, advance land privatization, and guarantee in earnest the land property rights of citizens, particularly the farmers.

15. Fiscal Reform: Democratize public finances and guarantee taxpayers' rights. Set up the structure and operational mechanism of a public finance system with clearly defined authority and responsibilities, and establish a rational and effective system of decentralized financial authority among various levels of government; carry out a major reform of the tax system, so as to reduce tax rates, simplify the tax system, and equalize the tax burden. Administrative departments may not increase taxes or create new taxes at will without sanction by society obtained through a public elective process and resolution by organs of popular will. Pass property rights reform to diversify and introduce competition mechanisms into the market; lower the threshold for entry into the financial field and create conditions for the development of privately-owned financial enterprises, and fully energize the financial system.

16. Social Security: Establish a social security system that covers all citizens and provides them with basic security in education, medical care, care for the elderly, and employment.

17. Environmental Protection: Protect the ecological environment, promote sustainable development, and take responsibility for future generations and all humanity; clarify and impose the appropriate responsibilities that state and government officials at all levels must take to this end; promote participation and oversight by civil society groups in environmental protection.

18. Federal Republic: Take part in maintaining regional peace and development with an attitude of equality and fairness, and create an image of a responsible great power. Protect the free systems of Hong Kong and Macau. On the premise of freedom and democracy, seek a reconciliation plan for the mainland and Taiwan through equal negotiations and cooperative interaction. Wisely explore possible paths and institutional blueprints for the common prosperity of all ethnic groups, and establish the Federal Republic of China under the framework of a democratic and constitutional government.

19. Transitional Justice: Restore the reputation of and give state compensation to individuals, as well as their families, who suffered political persecution during past political movements; release all political prisoners and prisoners of conscience; release all people convicted for their beliefs; establish a Commission for Truth Investigation to find the truth of historical events, determine responsibility, and uphold justice; seek social reconciliation on this foundation.

IV. Conclusion

China, as a great nation of the world, one of the five permanent members of the United Nations Security Council, and a member of the Human Rights Council, ought to make its own contribution to peace for humankind and progress in human rights. Regrettably, however, of all the great nations of the world today, China alone still clings to an authoritarian way of life and has, as a result, created an unbroken chain of human rights disasters and social crises, held back the development of the Chinese people, and hindered the progress of human civilization. This situation must change! We cannot put off political democratization reforms any longer. Therefore, in the civic spirit of daring to take action, we are issuing Charter 08. We hope that all Chinese citizens who share this sense of crisis, responsibility, and mission, whether officials or common people and regardless of social background, will put aside our differences to seek common ground and come to take an active part in this citizens' movement, to promote the great transformation of Chinese society together, so that we can soon establish a free, democratic, and constitutional nation, fulfilling the aspirations and dreams that our countrymen have been pursuing tirelessly for more than a hundred years.

Notes

Introduction

1. Samuel Huntington, *The Third Wave: Democratization in the Late Twentieth Century* (Norman: University of Oklahoma Press, 1991).
2. "China Overtakes Japan as World's Second-Biggest Economy," BBC, 14 February 2011, <<http://www.bbc.co.uk/news/business-12427321>>.
3. Andrew Nathan, "Authoritarian Resilience," *Journal of Democracy* 14 (2003): 6–17; Minxin Pei, *China's Trapped Transition: The Limits of Developmental Autocracy* (Cambridge, Mass: Harvard University Press, 2006).
4. Dali L. Yang, *Remaking the Chinese Leviathan: Market Transition and the Politics of Governance in China* (Stanford, California: Stanford University Press, 2004).
5. Teresa Wright, *Accepting Authoritarianism: State-Society Relations in China's Reform Era* (Stanford, California: Stanford University Press, 2010).
6. Randall Peerenboom, *China's Long March toward the Rule of Law* (Cambridge: Cambridge University Press, 2002).
7. Tom Ginsburg and Tamir Moustafa, *Rule by Law: The Politics of Courts in Authoritarian Regimes* (Cambridge: Cambridge University Press, 2008).
8. Despite the fact that he succeeded Jiang Zemin (江泽民) in 2002, Hu Jintao (胡锦涛) had been designated by Deng Xiaoping (邓小平) in 1992.
9. "Chinese Charter 08 Signatories Awarded Homo Homini, Speeches by Vaclav Havel, Xu Youyu, and Cui Weiping," Laogai Research Foundation, <<http://www.laogai.it/?p=8060>>.
10. Interview with Zhang Zuhua (张祖桦), January 2009.
11. "Wen Makes Accountability Pledge," *South China Morning Post*, 28 August 2010.
12. Liang Chen, "Exclusive: Ai Weiwei Breaks His Silence," *Global Times*, 9 August 2011, <<http://www.globaltimes.cn/NEWS/tabid/99/articleType/ArticleView/articleId/670150/Exclusive-Ai-Weiwei-breaks-his-silence.aspx>>.

13. Xia Yong (ed.), *Zouxiang Quanli de Shidai: Zhongguo Gongmin Quanli Fazhan Yanjiu* [Toward an Age of Rights: A Perspective of the Civil Rights Development in China] (Beijing: China University of Politics and Science Press, 1999).
14. Kevin J. O'Brien and Lianjiang Li, *Rightful Resistance in Rural China* (Cambridge: Cambridge University Press, 2006).

Chapter 1 Is Jail the Only Place Where One Can “Live in Truth”?

1. “2010 Nobel Peace Prize a Disgrace,” *Global Times*, 9 October 2010, <<http://opinion.globaltimes.cn/editorial/2010-10/580091.html>>.
2. Zhou Duo (周舵) was then the head of the Stone Research Center, Gao Xin (高新) was a professor at Beijing Normal University (北京师范大学), and Hou Dejian (侯德健) was a Taiwanese singer who chose to settle down in the PRC at the beginning of the 1980s.
3. These articles have been republished and translated into English in *China Rights Forum* 2010, no. 1, <<http://www.hrichina.org/crf/issue/2010.01>>.
4. Liu Xiaobo’s Final Statement, “China’s Endless Literary Inquisition” (trans. David Kelly), *The Guardian*, 11 February 2010, <<http://www.guardian.co.uk/commentisfree/2010/feb/11/china-liu-xiaobo-free-speech>>.
5. After the publication of his article “Crisis! The New Era Literature is in Crisis!” (published in *Shenzhen Qingnian Bao* [Shenzhen Youth Post] on 3 October 1986), Liu Xiaobo was called “black horse”. “Scar literature” (伤痕文学) refers to the novels and short stories which were published in the late 1970s and the 1980s which recalled the sufferings of the Chinese people under Mao’s political campaigns. The name comes from a short story entitled “*Shanghen*” [伤痕, The Scar] by Liu Xinwu (刘心武), which was published on 11 August 1978 in the *Guangming Ribao* [Guangming Daily].
6. In 1981, a movement against “bourgeois liberalization” was launched to criticize Bai Hua’s (白桦) *Kulian* [苦恋, Unrequited Love].
7. “Crisis!” (note 5). During the Jinshan conference on contemporary literature organized by Wang Meng in October 1986, many writers, especially Cong Weixi (丛维熙), lashed out at this iconoclast.
8. They made their poems known in the unofficial journal *Jintian* [今天, Today], created by Bei Dao (北岛) and Mang Ke (芒克) in 1978.
9. One of the most famous exponents of this school is Ah Cheng (阿城), who had been a member of *Jintian*, a group which had become famous during the Democracy Wall in 1979. He was the target of Liu’s criticism.
10. Geremie Barmé, “Confession, Redemption, and Death: Liu Xiaobo and the Protest Movement of 1989,” *China Heritage Quarterly* 17 (March 2009), <<http://www.chinaheritagequarterly.org/017/features/ConfessionRedemptionDeath.pdf>>.

“Chen Guangcheng,” Wikipedia, <http://en.wikipedia.org/wiki/Chen_Guangcheng> (accessed 2 April 2012).

40. As Kong Youping (孔佑平) stated in his statement before his first instance trial:

We all honestly ask ourselves, this kind of state power that is opposed to the people, to history, surely it must undergo change? “Change” is not equal to “subversion,” it is merely getting it genuinely to stand on the people’s side, genuinely to represent the people’s will, to reflect the people’s will! We who have a conscience, who cherish open, reasonable, peaceful, and non-violent strategies, when we use the form of dialogue to express our different political views within the boundaries set by the Constitution and the law, that is our only goal! That is to say, we want the state power to be healthier, in better order; and we want to change its current status of abnormality and deformity. Establishing a political party is entirely to make the state’s political power a better one! If a state power has no effective constraints, no supervision mechanisms, then it is of necessity imperfect.

Kong Youping, “Whose Crime — Kong Youping’s Statement at First Instance Trial at Anshan City Intermediate Court, Liaoning Province,” 8 March 2001, <<http://boxun.com/news/gb/pubvp/2010/04/201004191724.shtml>>.

41. [Editors note:] Liu Xianbin, rights activist, China Democracy Party organizer, and Charter 08 signatory, detained on suspicion of inciting subversion in June 2010.
42. [Editors’ note:] Chen Guangcheng, a well-known rights advocate, released from prison in September 2010 and subsequently detained in his home in Dongshigu Village, Linyi City, Shandong Province.
43. Kang Xiaoguang, *90 Niandai Zhongguo Dalu Zhengzhi Wendingxing Yanjiu* [A Study of the Political Stability of Mainland China in the 1990s] (Hong Kong: 21st Century Press, CUHK Chinese Cultural Studies Institute, August 2002).

Appendix: Charter 08

1. [Translator’s note:] Announced on 27 August 1908, in the late Qing dynasty, the first Chinese “constitution” was in fact an outline of principles for a constitution that was meant to go into effect nine years later. As part of an ambitious government program to modernize China, the constitution was aimed at strengthening the state while preserving the power of the emperor. See Andrew J. Nathan, “Political Rights in Chinese Constitutions,” in Randle Edwards, Louis Henkin, and Andrew J. Nathan, *Human Rights in Contemporary China* (New York: Columbia University Press, 1996), 77–124.

2. [Translator's note:] China signed the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1997, which it ratified in 2001; it signed the International Covenant on Civil and Political Rights (ICCPR) in 1998, but has not yet ratified this covenant.

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