Announcing the Ten Most Influential Cases of 2010*

Southern Weekend** Editorial Board, translated by Shirley Lou, Bradley Sova, Thomas Villalón, Brian Mackintosh, and Lawrence C. Foster

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EDITORS’ NOTE

“Announcing the Ten Most Influential Cases of 2010,” as selected by the China Law Society’s Special Committee on Case Research, include “the case of Zhao Zuohai,” the case of “Li Gang-Gate,” “the case of going to Beijing to arrest a writer,” and “the case of An Yuan Ding’s black prisons.”

Although the legal field does not yet have a unified view as to what is considered an “influential case,” the famous legal scholar Zhou Daoluan, consultant to the Special Committee on Case Research of the

* This translation is a product of a fall 2011 Readings in Chinese Law course at the William S. Richardson School of Law. The translators are law students Shirley Lou, 2013 J.D. candidate, Bradley Sova, 2013 J.D. candidate, and Thomas Villalón, 2013 J.D. candidate, as well as University of Hawai’i graduate student Dr. Brian Mackintosh, together with the course professor, Dr. Lawrence C. Foster, Ph.D., J.D. The translators provided all subsequent footnotes included in this article.

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China Law Society, expressed that there is one point on which agreement has been reached. In order be named an influential case, the case must elicit legislative and judicial reform; change public policy; test rule of law principles; influence the public’s conception of the rule of law; and promote the security of the rights of citizens.

Zhou Daoluan believes that the primary function and significance of these cases are not to be found in the cases themselves, but rather in the process of their influences upon society. An influential case allows a citizen without formal legal education to understand, through the media, law in action and law’s real situation and, through experts’ explanations, to understand the spirit and significance of law.

Professor Zhou Daoluan commented on the Zhao Zuohai Case. He expressed that, in order to prevent similar cases from recurring, we should abrogate the system of permitting the judiciary’s party committee to discuss cases. He further believes that in carrying out the judicial process, the public security bureau, procuratorate, and judiciary are often fixated on the common goal of accurate penal sanctions. But in focusing on accurate penal sanctions as well as emphasizing cooperation, they ignore their different functions in the litigation process; as a result, relaxed restraint\(^1\) has become the unspoken rule. This is an important reason for the occurrence of cases such as the Zhao Zuohai Case.

Professor Zhan Zhongle of Beijing University Law School points to the “Zhao Zuohai Case” and the “Beijing Writer Arrested Case,” as examples of the strong contrast between 1982 Constitution and related laws, which in their text and on paper recognize and grant rights, and the actual condition of the protection of those rights. Although China has promulgated the “Human Rights Action Program,” it is far from sufficient to only have talk and promises. All the more, these rights need to be realized in actions, and realized in each case in order to truly secure the citizens’ rights and freedoms.

Professor Li Renyu, Dean of the Beijing Technology and Business University School of Law, commented on the “Yi Huangqiang Case” and the “Forced Treatment for Mental Illness Case.” He believes that rights of the public overly infringe upon and put pressure upon private rights, forcing ordinary people to use negative or even extreme methods to protect their own rights and interests.

I. THE LI QIMING CAMPUS HIT AND RUN CASE ("LI GANG-GATE")

On October 16, 2010, 9:40 p.m., on the Hebei University campus, a black sedan struck two female students, throwing them several meters. One female student, named Chen, died the next day despite efforts to save

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\(^1\) Translator’s Note: Referring to the exercise of restraint by each body of the judiciary or quasi-judiciary body on the other two.
her. The other female student was severely injured. According to eyewitness accounts: after hitting the two students, the driver involved in the collision, Li Qiming, acted as if nothing had happened and drove on to a classroom building to pick up his girlfriend. He was then blocked by security guards and numerous students chasing after him. It is said that Li Qiming got out of the car and said in a soft voice, "[m]y father is Li Gang." He did not realize he would become world-renown for this remark. Afterwards, it was confirmed that Li Qiming's father, Li Gang, was indeed the Deputy Director of the Public Security Bureau of Baoding City in Hebei province. For twenty-two days, the Li Gang father and son team posed on the central television news channel, tearfully apologizing to the accident victims and their families. After this, the web exploded continuously with a series of bewildering stories such as: "Li Gang and his son own five homes;" "the President of Hebei University President is involved in a 'plagiarism-gate;'" "all the female students living in the accident victims' dormitory were detained for questioning;" "Li Qiming received a suspended sentence;" and "the victims' lawyers were beaten." And yet, as of now, the "Li Gang-gate" case has still not been closed. The Li Gang case is a classic case of the internet era which provokes netizens' collective, unintentional conduct and provides a sample for research on the web's influence on the administration of justice and government policy.

II. THE ZHAO ZUOHAI CASE

In 1999, Zhao Zuohai and fellow villager Zhao Zhenshang had a dispute. Later, after Zhao Zhenshang had disappeared, the police found a headless corpse, so they believed Zhao Zuohai had killed Zhao Zhenshang. During the course of their investigation, the police repeatedly used torture to force Zhao Zuohai to confess. In 2002, the Shangqiu City Intermediate People's Court sentenced Zhao Zuohai to death for intentional homicide, postponing the execution for two years. On April 30, 2010, the "victim," Zhao Zhenshang, returned to the village. On May 9, 2010, the Henan Province Superior Court concluded Zhao Zuohai's intentional homicide case was a misjudged case, and declared him innocent.

III. THE CASE OF GOING TO BEIJING TO ARREST A WRITER

On August 19, 2010, writer Xie Chaoping was taken from his home in Beijing by the police of Weinan City, Shaanxi province for "suspicion of engaging in illegal activity," because he published a long documentary piece in May of that year called, "The Great Migration." In that book, Xie Chaoping recorded many issues relating to Sanmenxia Reservoir's migration since the 1950s, touching upon the corruption of local officials in violating migration policy and their rotten behavior.
Before this, local officials had already sent public security, town cadres, and cultural investigators to migrants’ homes to forcibly confiscate copies of "The Great Migration.”

IV. THE CASE OF “BLACK PRISONS” SET UP BY THE “AN YUAN DING” SECURITY COMPANY, LTD.

According to a Caijing Net story on September 13, 2010, in recent years, more than ten petitioners who have come to the capital from at least seven different provinces were illegally detained by a security company. A series of incidents of being taken into custody pointed to a security services company in Beijing, the Beijing An Yuan Ding Security Technology Services Limited (“An Yuan Ding”). This group that wear dark blue uniforms and hats which read, “Special Police.”, and badges labelled “Special Forces” are, in fact, security personnel from An Yuan Ding. Following opinions and reports from all the major media, the secret of An Yuan Ding has been gradually unveiled: the company signed agreements and received commissions from local governments to detain and escort petitioners back home, and charged anywhere from a few thousand to as many as several million yuan [the current exchange rate is USD 1 = RMB 6.4] in fees. While in custody and being returned, many petitioners were beaten. Consequently, An Yuan Ding has been charged and is being investigated by the Public Security Bureau for suspicion of committing the two crimes of “illegal detentions and illegal operations.” An Yuan Ding Company Chairman Zhang Jun, and General Manager Zhang Jie have been criminally detained.

V. JIANGXI’S YIHUANG COUNTY’S CASE OF SELF-IMMOLATION TO STOP DEMOLITION/RELOCATION.

On September 10, 2010, an incident of self-immolation resulting from demolition/relocation occurred in Yihuang Country in Fuzhou District, Jiangxi Province. Household head Zhong Rukui’s younger sister, Zhong Ruqin, his mother Luo Zhifeng, and uncle Ye Zhongcheng were seriously burned. To seek explanations, on the morning of the 16th, Zhong Jiajiu, her younger sister Zhong Rujio, and her older sister Zhong Rucui prepared to go to Beijing to report this incident. When they reached Changbei Airport in Nanchang, they were unexpectedly surrounded by the County Party Secretary Qiu Jianguo and more than forty other officials. Additionally, the “stealing of corpses,” “family house arrest,” and other matters were exposed. On September 17th, Fuzhou City issued a decision

2 Probably meant by the company to connotate Special Forces or SWAT Team, 特勤队.
charging eight government officials with interrelated responsibility for these incidents. Of the eight officials, Qiu Jianguo, Party Secretary of Yihuang County, and Su Jianguo, the Magistrate of the County, both of whom had important leadership responsibilities in these matters, were charged and investigated.

VI. THE CASE OF THE SHAANXI NATIONAL LAND RESOURCES OFFICE
REJECTING THE COURT’S DECISION

It started out as a simple case involving a mineral rights dispute. But, after the Municipal Intermediate People’s Court of Yulin decided the case and the Shaanxi Province Supreme People’s Court issued their ruling, the final court ruling had still not been implemented, resulting in several hundred million yuan [the current exchange rate is USD 1 = RMB 6.4] worth of collectively owned property going into the pockets of individuals. Most remarkably, when confronted with a final court ruling, the Shaanxi Provincial National Land Resource Office, on March 1 of this year, convened a coordinating meeting and used that meeting to decide to nullify the court’s final ruling.

VII. THE CASE OF CHANGSHA OFFICIALS RESISTING A COURT RULING IN ORDER TO MAINTAIN SOCIAL STABILITY

Chansha businessmen, Xu Junwei and Zhang Jianying, defrauded Zhang Shenghan, a resident of Cili County in Zhangjiajie City, of forty-four million six–hundred thousand yuan [over seven million USD] [they sold him land they did not own] and were sentenced to life imprisonment. The injured party, Zhang Shenghan, applied to make the defendants disgorge their ill-gotten gains and return it to him. The Changsha Intermediate People’s Court agreed to hear the case. But, pressure from all sides left the court completely unable to move forward. On September 10, 2010, Judge Zhao Shujun and the other presiding judges, issued a written opinion citing a number of reasons including: “After hearing this case, this court’s collegiate panel believed that the grounds to release the sealed assets have not been established. The higher court, however, based on protecting social harmony has instructed this court to release the seal on the assets. This court, after discussing the matter with the Adjudication Committee, has decided to release the seal on this property.” Thus, the court lifted the seal which, after many twists and turns, had been placed on the property whose ownership was not clear. On October 28, 2010, the injured party who was forced to apply for the release of the seal on the property, Zhang Shenghan, was dissatisfied with the decision and appeared depressed. The emotional excitement triggered a cerebral hemorrhage and he died suddenly. He was fifty-nine years old.
VIII. CASE OF TENCENT SUING 360 FOR UNFAIR COMPETITION

On September 27, 2010, 360 Security Systems (“360”) released a personal privacy protection tool, 360 Safeguard, to criticize Tencent QQ’s software for spying on user’s private information. On October 14, Tencent officially initiated suit against 360 for unfair competition, demanding the other side cease violating its rights, issue a public apology, and pay compensation. Soon after, 360 responded to Tencent by bringing a counter-claim. On October 29, 360 released “Koukou [homophone for QQ] Bodyguard” Security Tool that “castrated” many of QQ’s functions. On the evening of November 3, Tencent published “A Letter to All QQ Users,” in which it said it had decided to stop operation of QQ software on computers that had installed 360 software. Later that night, both sides were repeatedly too offensive. In the afternoon of November 4, Tencent called a press conference and told users that the “either or” selection was a meaningless choice. Tencent also provided evidence to prove 360’s malicious attacks on Tencent. Soon after, 360 denied attacking Tencent. Later that afternoon, 360 stated that, through mediation by relevant departments, the two sides had restored compatibility.

IX. CASE OF “DEATH BY A GLASS OF HOT WATER”

On February 2, 2010, police took Wang Yahui away on suspicion of theft and other crimes. On the evening of February 21, Wang Yahui died in the Public Security Bureau’s detention center in Lushun County in Henan Province. Family members discovered many pronounced bruises on Wang Yahui’s body. The Detention Center stated that, during his questioning, Wang Yahui got thirsty. The police poured him a glass of hot water with dissolvable cold medicine, and he died immediately after drinking it. On February 28, the police handed over the four officers who were suspected of using torture to extract a confession to the prosecutor’s office to be dealt with.

X. CHEN MIAOSHENG’S BEING FORCED INTO MEDICAL TREATMENT BY HIS WORK UNIT

On October 11, 1995, Chen Miaosheng was forcibly sent to Beijing Huilongguan Hospital for medical treatment by his work unit, Sinopec’s Chemical Research Institute. On September 15, 2008, he died in the mental hospital at the age of sixty-five. Fourteen years after admission into the hospital, in 2009, Chen Miaosheng’s wife filed suit against Cheng Miaosheng’s work unit, China National Petroleum Corporation [Sinopec], Ltd.’s Beijing Chemical Research Institute, claiming that the Institute’s act of forcefully sending Chen Miaosheng to the mental hospital for treatment was an invasion of rights, and asked the court to order damages of RMB

3 Brackets [ ] indicate a translator’s note embedded in the text.
1,440,000 [USD 225,000]. The trial court of first instance did not support his wife’s complaint or request. Chen’s wife rejected the ruling and filed an appeal. The Beijing City People’s Second Intermediate Court began the trial for this case on October 12, 2010; the decision in that case has not yet been announced. The case questions the problem-ridden system of accepting and treating patients with mental disorders.