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PRESERVE THE COMMON DEMONOMINATOR FOR SOCIAL STABILITY

SPEECH AT THE BEIJING LAWYERS ASSOCIATION

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*[Yu Jianrong (b. 1962) is an independent-minded researcher in the Institute of Rural Development of the China Academy of Social Sciences. He is probably best known for his studies of rural “mass incidents,” that is, popular protests against officialdom for redress of grievances. This lengthy work is a transcript of a speech by Yu to a meeting of lawyers delivered at the end of 2009. The thing was apparently transcribed from the oral presentation, and sometimes seems a little incoherent—that is, it smacks more of the spontaneous presentation than a well-worked out essay. The theme is that adherence to the rule of law is the “common denominator” (literally, “bottom line”) that can be accepted by all sectors of society for the working out of social problems, in the absence of a moral or ideological consensus. The speech contains a great deal of interesting information on how the prospering Chinese society looks to those who do not fully share in the growing prosperity, and so holds sociological as well as human and intrinsic interest.]*

Good afternoon to everyone. I actually became a lawyer in 1987. I practiced for eight years, but now I work in the Rural Institute at the Academy of Social Sciences and haven't done any law work since then. The title of my talk to day is “Preserve the Common Denominator for Social Stability.” I originally thought of calling it “Let the Constitution Become the Common Denominator for Social Stability.” Why did I want to discuss this theme? I wanted to be able to organize my thoughts about what was going on in Chinese society, what will be going on in the future, and what we should be doing about it.

Chinese society has entered an era in which there are multiple contradictions and conflicts. Which direction will China move in? This is a very controversial issue. There has been for a long time one basic perspective on Chinese society, namely, that it is undergoing a great deal of social turbulence. At the beginning of this year there was a lot of discussion about this. . . . At the beginning of the year I published an article in *Caijing* [Finance] magazine to the effect that while China has lots of problems, overall it is stable: there would be no social turbulence in 2009. That is to say, the possibility of social turbulence existed, but because of the steel-hard stability of Chinese society there was a long distance to go before there would actually be turbulence.

Recently, however, I visited some retired high-level cadres, among them one who had been a core member of a brain-trust group to the Center. He had this to say: “You think there will be no turbulence in Chinese society, but I think there certainly will be, and that it will be coming soon.” I also visited some leading cadres who are still working. They had this conclusion: social turbulence is inevitable in China. Is this really how things are? I myself feel increasingly confused, so when Lawyer Wei Dazhong and Lawyer Wei Rujiou asked me to come give you a speech, to be honest I felt I was not up to it. This issue has been discussed at home and abroad for a whole year, including within Party committees at all levels and at the Central Party School, but I have never felt less up to it than I do today. Why is this? It is because my understanding has been influenced by the various people I have interviewed. I tried to ponder: why do they think that Chinese society must undergo turbulence? And what, after all, are we supposed to do? A couple of days ago there was a group of lawyers at my house. We discussed this question: if certain elite personages believe that there will be social turbulence in China, what should we as lawyers do about it? My conclusion then was that the Constitution was the common denominator for maintaining social stability. But today I made a provisional change in the title, “Holding to the Common Denominator for Social Stability.” I hoped to discuss with you just exactly what kinds of problems is China facing. Why do we need to seek the common denominator for social stability, and what is that common denominator?

Indeed, at the start of the year relevant leaders at the Center expected that 2009 would not go well. Today is only the 26<sup>th</sup>—there are four more days to go before the year is over—but more and more phenomena show that the current situation is becoming increasingly tense. The most direct and obvious expressions of this social situation are the mass incidents. In fact, the number of mass incidents rose from 8,709 in 1993 to more than 90,000 in 2006 and to 90,000 in 2007, 2008, and this year. The most crucial point is that the number of large mass incidents has grown. This growth has caused the rulers to waver in their judgment of the position of the state. On the surface we have put up some very nice buildings and built some very fine roads. Everyone feels things are going swimmingly. But in fact these things have caused the judgment of the rulers to waver.

I first want to explore with you just what it is that is happening in Chinese society. Over the past few years I have made some simple analyses of Chinese mass incidents. These movements can be roughly divided into those directed toward defending rights, expressing indignation, and rioting. Those directed toward defending rights can be divided among those by peasants, workers, and urbanites.

I’ll focus first on the defense of rights by workers, by peasants, and by urbanites. I’ll give a simple explication of the

nature of each.

On the problem of the peasantry, I have written a book called *The Struggle by Peasants in Contemporary China to Defend Their Rights*. For that book I did research among peasants in Hunan, and I treat the rural situation prior to 2004. I tried to answer this question: what went on in the countryside prior to 2004? I came to this conclusion: the main struggles prior to 2004 had to do with tax resistance. [Shows a powerpoint] This is a picture of me during my 2002 investigation in Hunan. At that time there was grain resistance, tax resistance, and resistance to unlawful confiscations. Grain resistance, as everyone knows, means not turning over public grain. Tax resistance means refusal to pay the national tax or the land tax. Resistance to unlawful confiscations is refusal to pay fees, fees on all sorts of things above and beyond taxes. For simplicity we can refer to these last two as resistance to taxes and fees. [Powerpoint] This is a picture of me in a rural village in Jiangxi. At that time it was being proclaimed: "There can be no resistance to the payment of grain to the Emperor or taxes to the state." [Powerpoint] I took this picture on 22 December 2002, when I was conducting investigations in the Hunan village. What does it show? These peasants have organized a meeting. Mao Zedong once organized a Peasants Cooperative in a place not very far from there. There was a great man named Xia Minghan. He said, It doesn't matter if you chop off my head; only allow for justice to be done; after I'm gone others will come. All of the peasants in that area could tell you about this. Losing your head isn't important; what's important is keeping to the truth. Kill me, whatever my name is; there will be others who will come after. I once asked them why they wanted to organize a peasants' association. They told me the purpose of the peasants' association was to resist to the end the corrupt officials of that locality. My heart was greatly agitated. When I got back I wrote a report to the Center, "Organized Peasant Resistance and Its Political Risks." I said that All Under Heaven had to concern itself with the rights of the people and fear the people's anger. There were so many peasants in that locality angered by corrupt officials and you in power need to think about the risks in that area.

After the report came out, the Social Science Academy passed a summary of it to the Center. Later the Center made an important change. On 5 March 2004, during the two sessions, <sup>[1]</sup> Wen Jiabao announced the elimination of the agricultural tax. This received a standing ovation from all the NPC delegates.

There is indeed a relationship between the Hunan peasantry and the elimination of the agricultural tax. (Powerpoint) This man is named Peng Rongjun. He was a leader of the peasants' association at that time. On 6 December 2008 he was named as a Hero of the agricultural reforms over the past three decades. I'd like to say something here. China's political reform is not necessarily a reform of the Central political concepts; it's not a matter of the leadership loving the people or renewing the people. It comes mainly from pressures from society. According to the Center's analysis at that

time, the pressures from society required a comparison of the costs and benefits of collecting an agricultural tax. The better policy was to let go of the tax. The Center made that decision based on a consideration of the political and economic issues. Lots of people thought that China's agrarian problems would be solved by the elimination of the agricultural tax. But, I tell you, they were not solved. Rather, the situation changed immediately. (Powerpoint) These are some of the statistics discussed by the Center. Every day people called the discussion group to make their reports. They and I came to an agreement. They brought me into the so-called secret system. I could, then, know how many people were talking to how many other people, how many government offices were being consulted, what kinds of problems were coming up. I had to make two reports each month concerning what were China's current main concerns. According to the number of telephone calls made, beginning in June 2004 the land issue had become China's major agrarian issue.

Let's analyze the special traits of the land issue. I published a work report in *Southern Weekend* saying that the land issue had become the major agrarian issue.

First of all, there were two major changes among people in those days. (Powerpoint) This shows a summary of incidents concerning provincial secretaries since the Cultural Revolution. A Sichuan secretary wanted to go have a look at exactly what was going on. He didn't know that he would be recognized by the peasants, and he had to be rescued by the Armed Police. Look at this picture. What kinds of people do you see? Old people; old women. When I was investigating tax resistance I came across a woman whose father had been beaten to death. That maiden was the only one left of her family, so she participated in the tax resistance movement. On the land question, you will find women and old ladies in the front lines. How come? Two reasons. One, we are old and want to be able to leave some land to our children and grandchildren. Two, the local officials don't dare use harsh methods against us old folks. So I once wrote that these old people exercised soft power. You can't just look on them as old people. The local government really is afraid of them. They aren't afraid of young people standing up to them: if you knock them down it doesn't matter. But if you knock old people down they may have to go to the hospital.

Those who are the objects of accusations have also changed. In the tax resistance the peasants mainly accused the county and township governments. On the land question they mainly accuse the municipal and provincial governments; they even accuse the Center.

There has also been a change in the locale of the protests. The tax resistance took place mainly in Hunan, Hubei, Jiangxi, Sichuan—economically relatively backward localities. But the land protests happen mainly in Guangdong,

Zhejiang, Jiangsu, Shandong, Hebei—economically developed localities. The tax protests took place mainly in peripheral areas, whereas the land protests occur in areas near cities.

Finally, there has been a change in the method. In the tax protests you couldn't see or find those who were responsible, whereas the land protests are directly in your face.

During the tax protests the Center had an enlightened policy of not sending in the police to collect the taxes. In the land protests the Center has not said that the police should not be used. The local governments, however, in the name of furthering social projects use force on a large scale, including special police and armed police. So the land protests involve a larger scale of violence than the tax protests and also a greater degree of involvement by outside forces.

There were very few outside forces involved during the tax protests. But both lawyers and black societies have become involved in the land protests. I've concluded there are two reasons for the large role played by lawyers: One, in recent years there has been civic education, a consciousness of upholding rights, and large numbers of public intellectuals and public service lawyers. So they get themselves involved in the peasant protests. Two, in the tax protests there was very little to supplement official incomes; but on the land issue there is the opportunity to gain huge profits. I don't think there's anything wrong with economic interests, but lots of lawyers think they can make a lot of money in such cases.

On the other hand, the involvement of black societies is a very serious problem. In China today, 89 percent of land cases have a black society background. Today there is nothing black societies dare not do, including gunning down peasants. A serious instance was the Dingzhou incident [in Hebei] of June 2005. The Dingzhou Party secretary used secret society elements to seize the land of the peasants. He is now in prison. I once visited him. I asked him, You are a Party member and a committee secretary. You throw parties and give out presents, go through the back door--I don't know how many different ways are open to a municipal Party secretary. Why did you have to resort to black societies? He said, with a sense of grievance, I didn't organize black societies or tell the black societies what to do. But it was that company—they said your government can't take care of the problem, so what was I supposed to do? I said to them then, "Well, you take care of it." It didn't occur to me that they would actually employ black societies to go beat the peasants. The municipal secretary said: You take care of it. I found that response to be very troublesome.

In 2008 the Australian ambassador to China asked permission from the Foreign Ministry and the Social Science Academy to talk to me. The Social Science Academy was very nervous, since ordinarily an Ambassador doesn't come around to talk to people. The unit set up a program, just like the agenda for this lawyers' conference. They got a group

together to guess about what he might ask about and how I ought to respond. When he finally arrived his questions had nothing to do with what we had anticipated. He asked three things. One was that in 2007 in three localities in China peasants had declared that land was private property. What would happen if someday peasants all over the country proclaimed land to be private property? I had a headache when I heard that, since that particular condition was not among our list of possible topics. (Laughter) I answered that according to our investigations more than 90 percent of Chinese peasants did not have that concept. I didn't tell him the inside story, that this was something that one of our legal workers who is not a lawyer had been giving thought to. Everyone knew about him. When he had set out this plan he had given me the material to look over. But in any case, since in three localities peasants had declared for private property, that shows that it is possible that someday society might move toward that. [\[2\]](#)

Among the newest developments in rural problems, one has to do with the intensified struggle over underground resources. You all may know that on 12 December 2009 four peasants were killed, shot to death over the plunder of their underground resources. The second has to do with increased fights over forest land. Our analysis leads us to believe these will become more intense over the next five years. How come? Because of reforms adjusting rights over forest land. Thirdly, there will be more problems concerning rural environmental issues. The more serious problems will move from the eastern areas toward the west, and will stem from industrial pollution and pollution resulting from the extraction of resources. There will be more pollution from mining and the like and also more water pollution resulting from the use of water to generate electricity.

All of the above refer to rural problems. Let's talk now about worker problems. I also wrote a book about that, *The Condition of China's Working Class*. It was written about the Anyuan coal mines, where Mao Zedong had led a workers' movement [in 1922-1923]. The Communist party directly organized the workers' movement at the Anyuan coal mines. It was there that the CPC set up its first workers' organization and its first workers' Party branch. The Communist Youth League and the Young Pioneers both have a deep connection with Anyuan. The main leaders of the CPC all served at Anyuan. I carried out an investigation there for four years and wrote a book all about what the workers at Anyuan were doing. The investigation discovered that the problems of workers are considerably more complicated than those of peasants. The reasons for reform of state-owned units and the dispersal of state-owned resources are varied and dispersed, whereas 60 percent of the problems of peasants have to do with land. [\[3\]](#) Workers' methods of resistance include petitions, sit-ins, strikes, demonstrations, blocking traffic. Recently there have been two very important methods of resistance: strolling and traveling. (Powerpoint) Take a look: this is the 3 April 2009 stroll of

workers from Baoding to Beijing. It's 137 kilometers from Baoding to Beijing. I hurried there when I heard the news. They had already reached the toll station at Xushui County. Beijing was very tense at that time, and so were Shijiazhuang and Baoding. They sent a large cohort of men to talk with the workers, to tell them they couldn't go to Beijing that way. The workers asked, What's wrong with our traveling to Beijing? Nothing. There's no law that says we can't travel to Beijing. Those trying to persuade them responded that you can't travel to Beijing in this manner. The workers immediately answered: What law says we can't? Once again they were told you can't go to Beijing in that way. The workers said, Since we have no money, how else are we supposed to travel? The situation became very tense. In the end, the Baoding authorities yielded the field to the workers, telling them we will take care of all of your problems. The workers said, We don't have any problems, except the problem of travel. Look—we're not carrying any petitions; we haven't put up any slogans. We don't have any problems; we're not petitioning; we're not making accusations. We're simply taking a walk. Finally the authorities arrested the chairman of the board of their company, and then they dispersed. Maybe everyone is under the impression that this method of strolling was first used at Xiamen, but actually it was used earlier at the Anyuan coal field. That's why I became interested in the Anyuan mines. Some old workers asked for an increase in pay but no one paid any attention to them. They tried to go to court, but were told they had no case. They submitted a request to the public security office to hold a demonstration, but the public security office ignored them. Finally they came to Beijing to present a petition; but because there were more than five people involved they were put under arrest. So in the end they had no other recourse. They decided that 20,000 of them would convene at the same time in Pingxiang city in Anyuan. What does it mean if 20,000 people are strolling along the road? I have recently begun to do research on this kind of behavior, where it is hard to demarcate what is legal and what is illegal.

What is even more important is that there has been an acceleration in the tendency toward violent behavior by workers. On 24 July 2009 there was a strike at the Tonghua steel mill. After that there appeared posters and slogans at old state-owned enterprises in many localities. One of the slogans was, "Our big brothers at Tonghua have taken action; what should we do?" Many of the bosses at these state-owned factories that were in the process of reform were afraid to go to the office. Why? They feared they might be beaten to death. Following this I wrote three essays. The first was "We Need a System to Assure Harmony Between Capital and Labor." In September there was an important training session for the Trade Union Federation at the Pudong Cadre Academy in Shanghai. It was attended by the Chairmen of the Trade Union Federation in all provinces as well as the heads of research institutes. I taught one of the classes. The trade union people asked, how come the workers are not listening to us? I said that people don't listen to you because you do not represent their interests. Right now they are rioting; do you expect them still to be listening to what you say? I concluded that the tendency toward violence among workers will become more evident and it is already becoming a

main method of resolving problems. Many years ago there were riots at the Anyuan coal mines. They came to an end, but now are starting up again. The workers of Anyuan are taking strolls, going on trips, engaging in all kinds of activities. The original historical problem has returned.

Taxi strikes have also been relatively serious. The most paradigmatic was the one in Chongqing in November 2008. The Party Secretary of Chongqing Municipality [Bo Xilai] did two things. He met with a cohort of people whose wages had been reduced and said they could form their own union. After he did this, everyone in the country applauded. But there were still a couple of problems. First, what was going to happen in all other localities throughout the country? What is the basic attitude of the state toward this sort of issue? On 10 November there was a taxi strike in Sanya city. The municipal secretary there is Jiang Zelin, a PhD from the Rural Department of our Academy of Social Sciences. He was very nervous. Should he meet with them or not? The Chongqing man was a member of the Politburo, while he was merely a member of the Hainan provincial Party committee. How could he compare himself with the Chongqing man? <sup>[4]</sup> He decided that he had no option but to meet with the drivers, and that he could not but take a position. But can a union representing the drivers in China's taxi-car industry actually be set up? At that time there were only a handful of us studying such questions at Peking University. I held that according to my understanding of the position of the CPC elite at this time, there could be no such union. In fact, this was the sort of thing they were most afraid of.

The second characteristic is that the concept of rules is greater than the concept of rights. (Powerpoint) That's what this person said. Her name is Elizabeth Perry, a world-famous political scientist. In 2007 she published an important thesis, "On the Chinese Consciousness of Rights." She said that after 1989 we westerners all thought China would collapse; but almost 20 years later the CPC had not collapsed. The westerners saw the Chinese popular masses going to the streets and putting on demonstrations and figured that the Party would collapse. But after a few days they went back home. Why? She said that what we western scholars had not taken into consideration was a key element: we had not understood what the ordinary people were thinking. When ordinary people in China take to the streets it is not like similar displays in the west. When westerners take to the streets they demand rights. The Chinese want rules.

This assertion is not easy to explain. I'll give some examples. Why do Chinese take to the streets? Ordinary Chinese people will say, You agreed to give me ten dollars; why have you given me only five? Your words cannot be counted on. Your law says there should be elections by the peasantry, that land confiscations must be agreed upon by the people of the village. How come, then, there are no elections and no consultations with us about land confiscations? Your local government is not operating in accord with the law of the state. In sum, your words can't be counted on. Whereas when



westerners take to the streets, they would say things like this: Didn't they say they'd give us ten dollars? We have a human right to those ten dollars, a right by nature: you've got to give me those ten dollars; the rule is wrong.

The Chinese common people are now carrying out large-scale demonstrations. You and I believe that resistance should be according to law: you should express your opposition in a lawful manner. But we don't say that the law itself is erroneous. Very few among the common people consider the law to be in error. Those who do say that are people like us. If you go to Beijing where the petitions are submitted, you'll find out that the petitioners often reproduce large numbers of documents. Most of them talk about how the regulations of the local authorities violate the Center's regulations. But no one dares challenge the Center's regulations. Elizabeth Perry thinks this is the key to why China did not collapse. She says that if one day the Chinese popular masses were to consider the regulations to be wrong, that regime of yours would be in danger. Therefore, she says that Party members should know just how lucky they are. Your common people are too well-behaved. All they have to do is say that you are not acting according to the rules, and then all you have to do is to act according to the rules. As long as you are following the rules, they will support you. In July 2008 Perry invited me to Harvard University. We had discussions lasting a week and wrote an article. If you're interested you can give it a look. It's called "The Chinese Political Tradition and Development: a Dialogue Between Yu Jianrong and Elizabeth Perry." It's published in *Window on the Southern Breeze*. Yesterday *Southern Weekend* published a new dialogue between me and Elizabeth Perry. The title is "Vitality and Pitfalls of Chinese Politics." The theme is in just what respect does the CPC have vitality. How long can its life go on?

The third trait is that responsiveness is greater than initiative. What's at the core of that concept? That is to say, if you don't make trouble for the common people they will generally not make trouble for you. For example, the question of condemned housing. They say, you're always tearing down our houses. When you tear down our house, why don't you give us some compensation? That is, they clearly understand the good points about condemning housing and they absolutely do not dare tell you not to tear the house down. That is to say, generally if you don't make trouble for them, they won't make trouble for you.

Fourth, the legitimacy of the goal gets mixed together with the lawless means of obtaining it. Activities by the Chinese masses in protecting their rights are generally along the unclear boundary between the lawful and the unlawful. All of the above encompasses about 80 percent of the activities by the Chinese masses in protecting their rights.

So what about the events in Shidao in Hubei on 17 June 2009? Armed crack troops were attacked and repelled in street fighting by the common people. What was going on there? Is this in the same category as the behavior I've been

discussing so far? No, it's not the same. I call it an instance of "venting anger" (泄憤). I had a lot of trouble deciding on that term. I put it under "extralegal detention" (雙規).<sup>[5]</sup> (Laughter) I gave a speech at UC Berkeley on 30 October 2007 on the new kind of mass incidents in China. These are not the same as the defense of rights. That's when I hit on the term venting of anger. The first trait is that the participants do not make claims based on their interest. Rather, they are mainly a venting by the common people of their dissatisfaction with society. What are they unhappy about? They are unhappy about public officials and rich people. The second is that these are unorganized activities. They flare up and they die down.

On 8 November I returned to Beijing. There was trouble. I received a message on my cell phone from our department's Party secretary, telling me to get in touch with him immediately. I phoned him and told him I was back, and asked him what he wanted. He said, Are you back? I said I just got off the plane; I haven't been through customs yet. He said, Come back to the unit right away. I asked what was the matter. He said there was something very serious. I asked him if the next day would be OK. He said no, it's got to be today; it's got to be the first thing. Our unit was not one where you have an office; no one cares whether you are physically present or not. Ordinarily I would go there only a few times each year. People joke about how I'll sometimes deign to stop by at the Social Sciences Academy. (Laughter) This time, however, there was no alternative. I felt there must be something very serious. I was on the payroll. All I could do was to pick up my suitcase and get over there. I saw the secretary as soon as I arrived and asked him what was the matter. He handed me a piece of paper. It was a report submitted by the Center by a certain office. Its title was, "Speech Given in the United States by Yu Jianrong of the Social Sciences Academy." The first sentence told how Yu Jianrong had said there was an incident of anger-venting in China arising mainly from dissatisfaction with the public authorities and with the rich. It implied enmity toward officials and toward the rich. It was about 300 words long. An official who had just arrived at the Center from the localities had made marginal notes. His criticism was very good, very tactful. He proposed that the Social Sciences Academy have a chat with Comrade Yu Jianrong; a famous scholar has to be aware of the kind of influence he has. And he signed his name. That was the trouble.

When that report reached my unit it was a big deal. The big leaders of the unit were not there. The secretary was angry and made his own marginal note: the Rural Department should have a good talk with Yu Jianrong. (Laughter) We're a socialist country; our people support our government. What anger is there to vent! If the people have no anger, how can they be venting their anger. Aren't you talking nonsense? Our leaders have told you not to speak irresponsibility, so how come that's all you ever do? (Laughter) See what trouble you've caused. I said I didn't see that this was any real trouble. What do you mean? he said. The Center has ordered us to talk with you and we also have to

report back all the contents of that talk to the Center. That's the rule. What are we supposed to do except have a chat with you? I asked my leader, "Did you read my draft?" He said no, he hadn't read it; a rascal like you goes around making speeches all over the place, but never gives the leadership a draft of what you say. (Laughter) I asked if he'd heard a recording. He said he had not; you were in America—how was I supposed to get a recording? So I said, then, there is nothing to talk about. He said, What do you mean there is nothing to talk about? I said, As your master and teacher Mao Zedong said, without investigation there is no right to speak. I spoke for three hours in America, but even if it were only 300 words I wouldn't talk to you. You need to make an investigation. Unless there's an investigation I won't talk. I lay down on the sofa there to sleep, saying I had jet lag. The secretary kept on trying to persuade me, but I wouldn't say anything and he got annoyed. Finally there was a meeting of the department's Party committee. When it was over the secretary came back to me with a decision. It said the matter had been discussed by the committee and it was somewhat reasonable for me not to want to talk now. We want to be reasonable with people in the Academy, so the Party has decided that I could go home now but for the coming week should not leave Beijing and to let them know what I am doing. I said, wasn't this extralegal detention? (Laughter) The secretary called me five days later. He said he knew I liked to run around all over the place to wherever there were problems to see what was going on. So he knew it was a strain on me not to be able to leave Beijing. I asked him, what, then, would he like to talk about? He said he didn't want to have a talk. I asked, Why not? He said that a recording of my speech at Berkeley had been posted on the internet and they had found someone who understood Hunanese (laughter) to transcribe it. <sup>[6]</sup> Our Party committee had looked it over and decided there was nothing wrong with it. You're a good comrade who cares about the country and the people. (Laughter, applause) If you're interested you can read the speech I gave at Berkeley. It's in the *Southern Weekend* and lots of other papers in the Southern system.

Today the concept of anger-venting incidents has become part of general usage. It's used by Xinhua and the *People's Daily*. Last year there was the riot at Wengan, and this year there was Shidao. Some people joked that Yu Jianrong can see into the future: you invented a definition, you invented a concept, you're really great. In fact, I can't see into the future. This problem has been around for a long time but no one paid any attention to it.

The first time this problem came to my attention was an incident in Chongqing that occurred on 18 October 2004. A porter named Yu bumped into a woman named Zheng with his pole. That woman swore at him: Are you blind! You can't even carry a pole! Porter Yu had been working for a good many years and he tried to treat the matter as a joke and let it pass. He said: What do you mean, I'm blind? My eyes are looking to the front, but you were behind me. The eyes in back of my head are blind, but the eyes on my face can still see. An old policeman named Zheng was passing by. He

slapped Yu, saying, you bumped into people and instead of admitting your fault you give them lip! Yu dropped his burden but kept a hold of one end of the pole. He said, Why are you hitting me? If I bump into you and hurt you, I'll take you to the hospital. If I ruin your clothes, I'll get you some new ones. Why do you have to hit me? And that's how the quarrel developed. Once the quarrel was going, people converged from all sides—right: why do you have to hit people? You city folk think you're so great, think you can go around hitting people!

That old policeman then said something he will regret for the rest of his life. He said, I am a state official. Is there some problem about my hitting you? (Laughter) There was trouble. The crowd was growing larger and larger. The official didn't know what to do. He was surrounded by a dense crowd and those on the outside could not see what was going on on the inside. Someone said, A state official has beaten one of our guys to death. (Laughter) If it were thought someone had been killed, what would happen then? Some went to the police station to ask that cops be sent to fetch the body and find the murderer. The cops at the station said no one has been killed. No one killed! We say there has been a killing! Finally they tore the station apart. They said the station is under the management of the government, and they were going to trash the government as well.

This caused a big shock in Beijing. I took a team there to conduct an investigation. At that time wondered whether this kind of trashing of government offices by more than 10,000 people could really be attributed to black societies. But the investigation showed it was not; it was completely spontaneous.

This kind of affair starts with something very small. It flares up suddenly, and when it's over everyone disperses. They go off to drink. (Laughter) In this case there had been no mobilization, so we could not discover any organization. No black society whatsoever. It was completely spontaneous. The most crucial issue is that those who participated in the riot had no connection at all with the original incident. A number of people had been arrested. We asked them: Do you know that porter named Yu? No. Do you know the woman Zheng? Not her either. Then why do you want to go and trash a government office? They said, we want revenge for our porter that they killed. We need to uphold justice. We then asked, What's this justice you're talking about? He said, For government officials to kill our people is not something that can be tolerated. If we don't uphold justice for the common people, then who will?

Immediately afterward there was a new incident, on 26 June 2005, in Chizhou in Anhui. A taxi owner was driving a car with Jiangsu license plates; he ran over a child at an intersection. That child's name was Liu Liang. The boss's car stopped. The chauffeur was very nervous. But he saw that Liu Liang was standing up. You can understand what was going on inside him. He was first very nervous, but then he saw the child standing up and crying in a loud voice. So he

cursed the child: Why are you walking in the middle of the road? If I hadn't slammed on the brakes I would have killed you. Liu Liang was a high school student. He was very tall. But even so he kept on crying: You ran me over. If you don't get me to the hospital then what kind of person are you? He grabbed ahold of the car. The two were pushing and shoving, and Liu Liang pulled off the side-view mirror. The people inside the car got out and surrounded him, blocking his escape. Around that time two people came by pedaling tricycles. They said, You run over people; what kind of people are you if you don't take them to the hospital for treatment. Do you think you can go around beating people up? The chauffeur said something to the effect that he had run into someone, but that the person was OK. The people said, How do you know that? You haven't taken him to the hospital; there are no X-rays. How can you say he's OK? He seems OK now, but maybe in a while he'll be in bad shape. At that point one of the passengers said: No one was killed; if someone were killed, you in Anhui have to pay 300,000 in compensation. What's the big deal? There was trouble. The crowd grew larger and larger, and people on the outside asked those closer in what was going on. Intolerable: some cab driver from Jiangsu has run over and killed a child of ours and is trampling on the corpse. (Laughter) They also say that Anhui people aren't worth anything; you can kill one if you're willing to pay 300,000. This is the news that spread all over Chizhou. They say Anhui people aren't worth anything. Isn't Hu Jintao from Anhui? (Laughter) What do to? Let's trash their car. They also looted a supermarket and trashed the police station.

Because of those two incidents I began to entertain some doubts. Is it possible that there is a change taking place in the character of social conflict in China? If we hear that you are an official, a public servant, a rich person, our hearts flare up in rage. Those who participate in such incidents have no connections at all with each other. None of them knew Liu Liang nor did they know the driver of the car. Nor did they know the boss of the supermarket. They only knew that some rich guy had crushed to death one of our own guys, taking advantage of us poor folks. After finishing the investigation I began to think that there is a basic difference between that kind of incident and a defense of rights. Should there be a new definition for it? I thought it over until I grew angry and disgusted. So I finally just called it a venting of anger incident.

This kind of incident has three special characteristics. There is no authoritative information. Ever since people have been able to communicate over the net and people can send texts over cell phones, there has been no authoritative information in China. (Powerpoint) This is Ruian in Zhejiang, August 2006. Ruian is a small town south of Wenzhou. It's very rich. This person jumped off a building. Who was she? She was a university student majoring in English. She had been given in marriage to the child of a factory owner in Ruian. A maiden married to a prince on a white horse—she should have lived happily ever after. But she jumped off a building. Her father-in-law made a report and the Public

Security immediately decided it was a suicide. Her family did not agree; nor did her students. One of the students put this picture on the internet, and posed a simple question to the people of the whole country, the people of Zhejiang, the people of Wenzhou, the people of Ruian: Would someone this pretty kill herself? (Laughter) How could she kill herself? See how beautiful she is, how radiant, how bright the future before her eyes? Why would she ever kill herself? So according to the analysis of lots of people on the net, she was killed by someone else. How could it have been done? The murderer must have thrown her off the building to make it look like she killed herself. Her students saw these analyses: The people of the whole country say it was murder. What should we do? Our teacher was a good person. How can we bear it? (Powerpoint) Here you see they destroyed her family's factory and vandalized the government offices.

I say, therefore, that modern science and technology have changed the structure of Chinese politics. It's very simple. You sport a very nice wristwatch. Everybody has a cell phone that's able to take pictures. Someone photographs you and posts it on the web. It says this person is a state civil servant, he's the leader of such and such an office. How can he afford a watch worth several hundred thousand dollars on his salary? Someone does a search on the web and traces your ancestry back 18 generations. They find out what your old lady does; they find out what your kids do. And they come to the conclusion that you're a corrupt official. That can mean trouble. Before, when you wanted to report someone as corrupt, it would have to go through the municipal secretary. Now all the public has to do is get on the internet and conclude that you are corrupt; and then you're in trouble. You can't think that because you have not been investigated yet by the municipal secretary that the public will let it pass. No way. The ordinary people will start to say: That fellow is corrupt; how come he hasn't been investigated by the municipal committee? They'll do a search on the municipal secretary. Who is this secretary; they'll search and search, and find out that you two scoundrels once worked together. That secretary can't find out things about me; but I can find out things about him, investigate him. (Laughter) So the municipal committee decides to launch an immediate investigation. The common people have it all figured out; I'm a corrupt official. Now no one can get through an investigation. (Laughter; applause) Ever since the internet it's become very easy to hurt people. We have a meeting; you buy someone a packet of very nice cigarettes—two hundred dollars a pack. He comes to the meeting and sits here. You send over the cigarettes and someone takes a picture. It's on the web. How can a public servant like you afford such things? It's the same story—you're corrupt. Not long ago the head of an inspection agency bought a nice car. It's on the internet and there's trouble; you're suspected of corruption. With the internet, any molehill can suddenly become a mountain.

Sometimes I actually want to use the power of the internet to make mountains out of various corrupt phenomena, bring them to public notice. What's more, it can make them into criminal cases. I often reflect that today science and

technology have meant great changes in the political environment. Today I saw a peasant who was bringing a petition. His name is Zhang Juzheng. Once when I gave a speech at the Political-Legal University he brought in a packet. Out of it he took something that looked like a tape cassette. I asked him what it was. I thought it was a cassette. I've got a lot of those. But it wasn't that. It was a pinhole camera! I was amazed. I asked, How does a scoundrel like you get something so fancy? (Laughter) He said it was nothing fancy. He had bought it. I could get one myself for about 200 dollars in Zhongguan village. I said I didn't believe him. But he said he really had bought it, and that if I gave him the money he would sell it to me. A couple of days later he returned and brought one for me and showed me how to work the buttons and everything. So I was very amazed. But when I got to Zhongguan village I found it was all true. There were products everywhere—all kinds of watches, things with buttons, everything. So now when I talk with people I need to see first whether they have a pen with them or not. (Laughter) Is this the right button? What's that? No way! All of this used to be high technology, very fancy. Now the common people all use them.

I once talked about how the copier changed the relationship between China's peasants and the government. You may know that when peasants complain about officialdom they carry around in their pockets copies of all sorts of Central documents. You don't want to underestimate the copier. Without it, the relationship between peasants and the government would be different. Once this happened to me. I was in Hunan making an investigation, and these Hunan peasants came to the government office. They slapped the documents down on the desk and said, You are going against the Center; we are the people who are carrying out the policies of the Center. That official was amazed. He asked, Just how are we going against the Center. The peasants said: Take a look. The documents say that the tax should not be a head tax, but that is how you are collecting it. The government official looked at the document and became very tense and annoyed. He said: When did you get this? How come I haven't seen it? Maybe he'd been playing mahjong. (Laughter) But the ordinary people had been on the job, working away at this. Sometimes the common people reproduce even more documents than we lawyers do. If there were no copying machines, would the peasants dare speak that way? No. If you put a [hand-copied?] document on the desk of an official and that official will pound the desk and declare it a forgery. No matter how careful you are, you are bound to miscopy at least one word.

I met a peasant in Hunan whom, in my book, I called a peasant propagandist. What kind of peasant was he? Before I met him I imagined he must be very learned and eloquent. But when I met him I found him to be just a peasant, a peasant who could not be more honest and naïve. What was he doing? At the time that taxes were being collected he was working temporarily in Guangdong. He wasn't at home, so the local government officials listed him as dead. So when he got back he couldn't find any work. So he bought a loudspeaker and a tape recorder, and had somebody tape

the Central documents about how the burdens on the peasants should be lightened. After that, every day he would carry his stuff to the government office, and follow them when they would go out to collect taxes broadcasting the documents over the loudspeaker. That government official really grew to hate him but he couldn't do anything about it because he was propagating the policies of the Center. (Laughter)

I once asked that peasant why he used a tape recorder. He said, first, I'm old and I have a hard time seeing what I'm reading; so it would be a lot of trouble to read the documents out every day. Number two is the key question. I had a teacher record them for me. I then told the local government that I had lots of recordings of this document, and that I have put them in lots of different places. So they should not think of trying to hurt me, because not a single word of what I recorded is wrong. They are all recordings of Central policy documents. So I'm not afraid that they should decide someday to put me in jail. I've got the proof that I wasn't just talking wildly. I haven't said anything: the words are all those of the Center. (Laughter) Don't underestimate this sort of thing. When I was writing the book I interviewed him lots of times and came to understand deeply the wisdom of the peasants and how they dare use the law of the state to respond to illegal government action. Without a printer, would they dare say anything? Without a tape recorder, without that tape recorder, would he have dared to go make propaganda? He would not have dared. Because then the local government could have said that he was forging documents, that he was making reactionary propaganda. So in some respects lawyers like us are not up to quality of the peasants. So I want once again to urge everyone to make use of today's technology. It is not necessary that we come up with proofs but at least we should protect ourselves. Whenever I make a speech, I always get a recording.

The fourth point is an unregulated common denominator. When I was speaking of the protection of rights movement I went over the rules governing them. But there are no rules governing these anger-venting incidents. Rather, there are often beatings, smashings, looting, arson. Indeed, these will necessarily occur. If not, we wouldn't call them anger-venting. There have already been several major incidents this—the one in Hainan, in Sichuan, so forth.

I've talked about defense of rights, about venting anger. Now I'll talk about riots. How are riots any different from venting anger? Everyone look at this. (Powerpoint) There was a riot in Hunan in September 2009. Look at how the name plates for the people's government are being smashed. This sort of thing often happens. Look here especially. This is a supermarket. The people looted it and then later found out that the supermarket had nothing whatsoever to do with the incident. This is a distinction between a defense of rights, a venting of anger, and a riot. In a riot it doesn't matter whom you attack. A defense of rights is directed mainly against those who violate rights and against the government. Venting of anger is also directed against the government and those who violate rights. But a riot is directed against



anyone at all. Look again. Doesn't this seem a carnival of madness? Looting supermarkets, looting stores, happy as all-get-out. In October 2008, during the National Day holiday, all the stores in that locality shut their doors and did not dare open. Finally regular troops were sent in to restore order. This is the kind of behavior we call a riot. A riot might possibly have ideological motivations. I consider the events in Lhasa in March 2008 to have been a riot, the determining factor being that the violence was directed against anyone whatsoever. <sup>[7]</sup> Some people consider the problem in Xinjiang this year to be an incidence of terrorism, but I think it's not; it's a riot.

These are my simple conclusions concerning current mass incidents. The main point about defense of rights is that there is a relatively clear demand based on interest. There are no clear demands concerning interest in venting of anger incidents; they are mainly an expression of the hatred in people's hearts. Ventings of anger are different from riots in the choice of object—in riots the object is anyone at all, people who have nothing to do with the grievances. Once you see that the objects of violence are people who have nothing to do with the grievances, you know you have a riot.

From my analysis of mass incidents I draw the following conclusions. Overall Chinese society today is stable. This is seen in the unity of China's rulers. Also there has been no behavior opposed to the Central Government. Our political studies look first to the capacity of the Central power to control the localities. Some people come to the conclusion that the Center today is very weak, China has already reached this or that condition. I'll tell you of another method of analysis. Up to now there has not been one local leader who has dared stand up and speak out against the Center. Look at all the local leaders in China. All the Center has to do is call a meeting. Whatever their real feelings about it, they will all express firm support for the decisions of the Center. They will firmly unite under the authority of this or that person. They don't dare express any opposition. If they do they will be overthrown. This is a demand of our overall political system. Today no one dares say openly that the Center is mistaken. Also the general management of society is effective. No matter how many problems there may be, the CPC still has the power to manage society. Suppose there should be SARS, or pig flu. Let's suppose we're in the middle of celebrating a great national holiday. We in Beijing really understand this sort of thing: it can make use of all sorts of force to maintain management order. Once an order is given, those old ladies all roll up their sleeves and go out to stand on the street corners: "Who are you!" That's how it begins. Do you think that any of the people are going to disobey them? When that day comes, they already have that kind of capacity. We all well know that during the time of National Day that if anyone takes one step out of line those old geezers and old ladies will call you out. And the CPC also knows how to fight a people's war. So my first conclusion is that currently Chinese society is stable.

But my second conclusion is that this is a rigid stability. Rigid stability is something that I invented this year. I borrowed it from science, especially from the language of the science of building. I think this has three characteristics.

Number one, true social stability means an enduring stability. It means that the enforcement of the law is stable. But that's not how we are. Our stability has a particular goal, the monopoly of political power. The core of all cores is the monopoly of political power by the Communist party: the so-called leadership of the Communist party. You can let go of the rest of the Four Cardinal Principles, but not the leadership of the Communist party.<sup>[8]</sup> You can change everything else, but not that. How come? The monopoly of political power is currently the key trait of this political regime of ours. It monopolizes and blocks off political power, not letting anyone else in. Nor does it allow any behavior whatsoever that challenges the government's monopoly of political power. This is the Communist party's common denominator. It is in this common denominator that distinguishes the stability of our society from that of western societies. The stability of western society is the stability of observing the constitution and the laws. Governments can change and it doesn't matter which person is president, but you can't change the basic constitutional system of the country. Whereas over here it doesn't matter what the basic system might be but the power of our Communist party can't change. So the first characteristic of rigid stability is the monopoly of political power.

Number two, behavior that was once said to reinforce social stability can be redefined as undermining it. So demonstrations and strikes are considered to be detrimental to stability; now even the submitting of petitions has come to be considered to be a sign of instability. Lots of local government documents assert that petitioning is now the main source of instability. Those who submit petitions are causing instability. No matter what form the petitions take, they mean instability. In fact, the submitting of petitions is a right guaranteed by your constitution; you have the right to submit letters to the authorities. How does this become an element of instability? It's because it comes into conflict with Central power. Any challenge to power means instability. So this is an extremely important issue.

Number three, rigid stability mean that control over society is not mainly through law but through state violence, ideology, control over social organization. That's why I say this kind of stability is rigid. If we go by directives concerning stability, Chinese society is more stable by far than western society. Why? Because our stability is exceptionally rigid. But there is a great risk in rigid stability. Maintaining stability has become an exceptionally important component of state behavior. It has become a huge burden. For the sake of so-called stability, local officials all have to run to Beijing to arrest people, to do their jobs. This kind of stability will result in chaos. So we bump into a huge trouble in discussing stability: if the local government says that something is a threat to stability, that's the end of discussion. Social stability has become the highest political goal of the state. Concern for stability trumps all reform and

everything else. Therefore, for the sake of “not tossing and turning” (不折腾) we have sacrificed reform.<sup>[9]</sup> And we can also sacrifice the legal rights of the people, since they may impact upon stability. But what is the sole goal of that stability? All of us here today can see this, and so can lots of other people. How come pessimism has become so prevalent? It is because everyone feels that this stability cannot last for long. I tell you it can't. This kind of stability carries within it a huge social disaster.

So what should be done? At the 17<sup>th</sup> Congress General Secretary Hu Jintao thought of lots and lots of ways to handle things. The Justice Ministry, the Public Security Ministry, the PAP, the courts, even the Petition Office have all thought of lots and lots of ways to handle things. The core perspective of these methods is to control all so-called challenges to authority in society. Are these methods OK? In my thinking, no. So what should be done? When all is said and done, how do we achieve stability?

Recently I've been telling a story from time to time, a story about my visit to Taiwan. In 2004 Taiwan's Mainland Affairs Council invited me to visit and to give a lecture at Taiwan's Chengzhi University. They fed me, housed me, and entertained me for 15 days. I brought up a request. I asked if it would be possible if, after I had given my speech, you could give a map and provide a chauffeur and drive me around to wherever I would want to go, anywhere on the map. Would that be OK? They said, What do you want to do? I said I thought I'd look around, see what the people of Taiwan are up to. They said no problem. You can look around our Taiwan as you please, and ask people anything that comes to mind. But, I said, you should send a bill, because it will involve food and lodging. (Laughter) No problem; we'll send a bill.

So after my speech they got me a car and drove me to wherever I wanted to go. I asked the Taiwan people I saw the same kind of question: if local officials want to tear down your house without your agreement, what would you do? Ninety-nine percent of the people answered, What do you mean? How could they tear down my house? This is impossible. I said, but suppose they did? The Taiwan people told me that in that case they would take them to court and sue them. The courts would severely punish any local officials who tore down my house without my agreement. And if I did agree they would pay me 100,000 dollars; and if it were against my will they might have to pay a million dollars.

So I asked next, suppose the courts did not take the case or did not decide it according to law? The Taiwan people said, That wouldn't happen? How could they dare not take the case? (Laughter) That's because my problem was very simple. I have a deed to the property; if they do the wrong thing, they must compensate me. It's impossible.

I continued to ask: But suppose that happened? The Taiwan people answered me, In that case I'd get a hold of my representative, who would investigate and then hold a press conference and bring it up in the Legislature. That would be the end of those officials and those judges. It wouldn't happen.

So I asked next, Suppose that representative didn't care about your affairs and did not conduct an investigation. What then? When I got to that point, the Taiwan people became annoyed with me. They said, "Why does a mainlander like you have so many 'what ifs'? Those what ifs could never happen. (Laughter; applause) That isn't something I would make the representative do. It's something he would do on his own. Representatives dream every day of an opportunity like that. (Laughter; applause) How could he not investigate? Impossible."

I say it's possible; they say it's impossible. The Taiwan people have a phone number they can use to get in touch with their representatives. They would give him a call. I say that's impossible. They say it's possible. They would give a call, and if the representative happened to be in the neighborhood he would be happy to come right over. He'd ask, "What's going on?" He'd be very enthusiastic. Because if a representative investigates some matter, he has a chance to become a national representative instead of a county representative; he can even become an "Ah Bian"<sup>[10]</sup> (Laughter) But I wasn't satisfied. I went on to ask what if he didn't come. Everyone told me, That's very simple; at the next election when he comes around asking for votes we'll repudiate him, throw him out forever. He won't be a representative anymore. So that's a very simple matter.

This is the conclusion I reached on my trip from Taipei to Tainan. I'm telling this story about Taiwan today, but actually I've asked the same kinds of questions in lots of different countries, in Japan, Germany, France, United States. I've been to lots of places and talked with lots of people, but the basic dialogue is always about the same and the basic logic is identical. Why have I talked about Taiwan? Because we and Taiwan have the same culture. We often say that the western system does not fit our China; but no matter, we also say that Taiwan is part of China—Taiwan is China. So how come the people of that part can talk the way they do? We can see fights on Taiwan on the Central Television station<sup>[11]</sup> and tomorrow they may talk about how Taiwan curses Ma Ying-jeou. But no matter, basically Taiwan society is perfectly harmonious and stable.

When I got to the region around Taichung I stayed in the house of a peasant, an old farmer who grew flowers. He was very excited because he had not seen a mainlander before. He said, Today I invite you to dinner. We won't eat at home but go to a restaurant in the village. How about it? I said, Fine, I'm happy to go to a restaurant. But he wouldn't let me have the check. He said, How can I charge you; of course there's no bill. He drove me in his car. We sat in the

front and the rear was full of flowers. After we had gone a couple of hundred meters I asked him to stop. I had a question. He said, What? I said, We were the last to leave, but we didn't shut the door. We didn't shut the main gate and we didn't shut the inner door. It's not good to leave the doors open like that. He said, What's wrong with not shutting the door? I said, You've got things in your house. He said, No matter. Our house has a surveillance camera. If anyone comes and takes something I'll know who it is and what he took. When I get back he'll return them. I thought to myself, Over here, when we got back we'd find someone had taken the surveillance camera as well. (Laughter; applause)

So I wondered to myself: We and Taiwan share a common culture, so why do they have so much there that is impossible here? I kept thinking it over—how can a society be so harmonious? First of all, they have clear ownership rights. This stuff is mine—there's no confusion about whether it belongs to me or to you. Are property rights in China clear or not? No, they are not. Today we ask: What do you do if the local officials tear down your house? The regular people in China definitely dare not say this is something impossible. You go out to buy some steamed bread, and when you get back your house isn't there. This kind of thing happens. Where is the peasant who would dare say a word about it, who would dare not to sell his land? Who would dare say anything? No one. They would just think over what to do. You don't own the land and you don't have any recourse against officials. If I want to tear down your house and you don't agree, I have a simple expedient: just say that it's an illegal structure. We do not have clear property rights so it's hard to say just who owns what.

Something very interesting happened a short time ago. Someone in charge of handling petitions in Guangxi submitted a petition himself. His house had been torn down. Among us sitting here today, who would dare to stand up and say that my property rights are completely protected? Because we don't have clear property rights someone can always figure out a way to transform what you lawfully hold into unlawful possession.

Actually, conflicts are nothing to be afraid of. Modern society has all kinds of conflicts; but whether society is harmonious or not depends upon whether there is an authoritative legal structure. Whether in the west or on Taiwan, what do you say happens when there is conflict? People tell you to go to court and sue someone. Can our common people say this sort of thing? No. When you talk to them about going to court, they all say that you can't trust the court officials. (Laughter) They can't be trusted. (Applause) Ask them if we lawyers can be trusted. They say you can't trust lawyers either. (Laughter) Because we cannot take the law as our common denominator, we don't have that kind of system! So the ordinary people all think, I don't care what your courts decide, I'll submit a petition! Can petitioning be trusted? No. There was an American called Julie, a foreigner who came to Beijing to submit a petition on behalf of her

Chinese husband. She came to my house to interview me, to ask me for advice. So I asked her, how do you go about this in the United States? She said, of course she would go to court. So I said, then how come in China you submit a petition? Because the Chinese courts are disobedient, she said. They don't obey the Center. So I'm coming directly to the Center to make my accusation and hoping that the Center will make them obey. I asked, Did this work? She said no. As soon as I made the accusation my husband was arrested. This is because after the accusation had been made the local officials found themselves in difficulties and so decided to make an example of him. They arrested him. So I say we don't have an authoritative legal system.

What's more, do we have a truly representative system? No, not that either. How many of us lawyers sitting here today have ever cast a vote to elect our representative to the National People's Congress? [\[12\]](#) No one. We don't even know who our representative is, and even if we do it doesn't matter. People say I didn't elect you. I know of only three representatives, but we can't figure out whom these three represent. (Laughter, applause) Why? Because our system of representation is flawed.

Finally, do we have open media? Once again, no. Don't think that today the internet creates some kind of space for us. The internet doesn't give any help. In Xinjiang today there is no way to get on the web. [\[13\]](#) Among you lawyers there's a very famous man, He Weifang, a good friend of mine. Today he's in Shihezhi [a city in Xinjiang]. He told me his greatest regret was that he had no way to get in touch with me. He can't get messages and he can't get on the web. What to do? So I said to him, who forced you to live in Shihezhi?

I often say that we are much more open than we were before, but that is for scientific reasons, not for reasons having to do with the government as such. There has been no change in their governing philosophy. When anything happens, some local government officials will say: Do you criticize me? Some in office say you are criticizing me—do you really dare to criticize me, it is so hard for us to get all this, I pay special attention to the importance of law. (Powerpoint) I took this picture on the 18<sup>th</sup>, when I was speaking in Suzhou. On the street there was a banner, "Down with lawless government." Why? It was torn down. The idea of a lawless government is very interesting—a government without law. Today the people don't speak of corrupt government but of lawless government. To my mind, law might be the common denominator of this society of ours. So as I'm talking, can our legal structure become the common denominator for society? I think they should, but that they can't!

There are lots of problems with our legal structure. A core problem is that it becomes more and more obvious that

the legal structure is taking on the characteristics of each locality and is coming more and more under the control of legal interest groups. The Party and government jointly manage the legal system—that's the idea of one of you lawyers, Wei Rujiu. The secretary is in charge of the hat, the mayor in charge of the belt, the political-legal commission is in charge of the case. That's something said by a very famous person in your legal circles. He said this in a lecture to the Central officials. Not long after he had given his lecture, the China Political-Legal University asked me to come speak to the students about legal issues. After speaking I was about to leave, but a student raised a point. He said, Teacher Yu, can you provide some proposals for our University. I said I'm nobody famous nor am I a Central leader. What kind of hopes or proposals can I put forth? The student said, Give us your opinion anyway. So I said, China is a country that does not have a religion or system of belief; in China the government has already lost some of its legitimacy; in China the ideology of the Party and government is becoming increasingly dysfunctional. So persons in the legal professions must all the more hold to law as the common denominator for society, to keep control of the future for our society and our people, for our prosperity. (Applause)

After I had finished speaking, someone who had already picked up his bag and was ready to go—he is a big leader in the Political-Legal University—he was very happy. He brought over the microphone and said a few words. He said, Teacher Yu has just told us that we in the legal professions guard the common denominator of society. This is right. But can we really guard it? We can't. (Laughter) He said, A couple of days ago we put on a celebration for the Deputy Head of the High Court of Hunan, who was visiting. He said, Teacher So-and-so, now the Secretary manages the hat—he determines who will be the head judge, who will be the procurator. The mayor manages the belt: your salary is paid by the government, it comes from the municipality. If you have office expenses, the mayor has to approve them. The political-legal commission manages the case: so we are helpless; in conscience, we are helpless!

After he had spoken, I also thought it was over. I picked up my bag and started to leave. But the students stood up and said, Teacher Yu, comment on what the Department head has just said. I said I can't comment. You've asked me to speak, you've paid me—how can I comment further? (Laughter)

The students said, That's no good; you still have to do an evaluation. So I said, OK, I'll make an evaluation if you really want me to. I said I hadn't thought of what qualifies a famous legal scholar to stand at the podium here and make a speech. What does it mean to say "The secretary manages the hat, the mayor the belt, the political-legal committee the case"? If we lawyers are really helpless, then we shouldn't put on our official hats and protest. We have no way out. Annoying. That's why I picked up my bag and got ready to leave. It was embarrassing. The next day there was an entry on the web saying Yu Jianrong angrily refuted So-and-so, really chewed him out. For many years that person ignored

me. When we were together at a conference he pretended he didn't recognize me. Now, however, our relations have improved. Not long ago there was a land case and he asked me once again to come to a meeting. He asked me, Yu Jianrong, at that time you said what was in your heart. But was I wrong? A scoundrel like you is kind of bad. You want all of our students to wear officials' crowns; if they all get fired, what then?

I said, What you said wasn't wrong. China today is in fact run by secretaries, mayors, and committees. But how could you say this in front of the students, causing them to lose all faith? This country of ours has hope only if we maintain firm faith in the law. (Ardent applause) You are a teacher, so how could you dare speak that way to your students. (Ardent applause)

China needs to reform—reform how? Does it mean that political power must be reformed as well? I've recently been thinking that we can't get major reform. The Center won't do anything, nor will the Central Legal-Political Commission, nor will the Supreme People's Court. Can we do anything at the basic levels? Because it is the basic and mid-level courts that have direct influence over the people's interests. Would it be OK to begin at these two levels? If we can't call for judicial independence, would it be OK to call for some judicial balance? We won't talk about balancing off against the Communist Party—that would make the Communist Party very unhappy. But how about calling for the local courts to balance against the local government. We'll uphold the leadership of the Communist party, but call for balance against local governments, since it is at the local level where there is the greatest impact on the interests of the people.

So recently I've convened several discussion groups, inviting lots of people from the Central Party School to talk about whether this is a possibility. But no one has paid me any attention. I've also written several reports that have been ignored; so that way doesn't seem to work. But I think that this is where China's problem actually is. So I've tried to think over just how to approach all the many problems facing China. Thinking it over, it seems we must rely on the law. We need to get away from all ideology. We don't want to go back to how things were in the Mao era. Nor do we want to go back to the Deng Xiaoping era. We want to cling firmly to our constitution. In Chinese society today there is really nothing to cling to. We've had one set of defeats after another. But can we hold to the common denominator? Will there be turbulence in Chinese society? It depends on whether we can hold to this common denominator.

Once someone was very worried and asked me, given how China is today, is it possible to have any systematic reform? Is there any direction that gives any kind of hope? I said that there is hope—the hope is in making a rational choice in how we face the pressures from society!



As contradictions deepen, social pressures become ever greater. When everyone feels there is no longer any road to walk, then all social pressures will converge toward the common denominator. If not, society will become very turbulent and social order will be completely overthrown. In the face of this, there are two basic choices. One, the disastrous results may induce all the interest groups to move toward rational compromise in search of some common denominator that all can agree upon. Two, because there is no such compromise, the outcome might be radical, revolutionary turmoil. As things go at present, the majority of people in China hope that social conflicts can be controlled. That is to say, the majority hope that there will not be large-scale turmoil. The problem is that all strata of Chinese society, especially those strata involved in political conflicts, need to figure out how what kinds of compromise are necessary to achieve a stable society. This depends upon the ability of those involved in the conflict to agree upon some kind of common denominator!

So, what is the common denominator for social stability in China today? As I see it, it's a matter of figuring out how truly to implement the constitution, to gain general recognition of the constitution as the bedrock for a stable society!

Wei Rujiu: Comrades, I am Lawyer Wei Ruju, a specialist in the constitution for the Beijing Lawyers Committee. People have come to hear this lecture on this cold weekend and I want to express my respect toward all of you! This is because attending this sort of lecture will not bring any direct benefit to you lawyers. If a lawyer represents a case involving mass action or something sensitive, he may actually come to grief. I once handled that kind of case and was kicked out of a certain famous legal association. That group later proposed a rule: anyone who takes on that kind of case is not eligible for membership. I took a picture of the written rule and prepared to get it displayed in the "Chinese Lawyers' Museum." Therefore, I express understanding for those lawyers who did not choose to attend today. And since that's how things are, I express my sincere respect for all who care about building our constitutional system and protection of basic human right commission. Everyone should be involved in our work of constitution-building and protection of human rights.

We now should be able to chat with Teacher Yu; everyone may freely raise any questions. First I'll make three criticisms of this talk by Teacher Yu. I think Teacher Yu has made three "serious mistakes."

1. If we don't face up to the truth about society and do not act to protect common denominator of the constitution and legality, people will say that all we are able to do is grub for money and indulge in sophistries; we will be regarded as shysters. We don't know what the future of our profession will be; we don't know Teacher Yu has made a mistake about the law. Teacher Yu says he was put under extraordinary detention for a week. This is a wrong way to speak.

Extraordinary detention is a way for the CPC to uphold discipline among its members according to the Party Charter. The laws of our state clearly stipulate that restrictions on personal freedom must be in accord with laws passed by the National People's Congress. But if Teacher Yu is subject to a Party document like the Party Charter, that means that the Party is able to restrict one's personal freedom. We know that Teacher Yu is not a Party member, so the double regulation could not apply to him. This is a legal error. [\[14\]](#)

2. The second error is one of perspective. Teacher Yu says that to uphold constitutional rights it is necessary to embody the constitution in law. This is an error. The head of the Supreme People's Court has openly said "the constitution trumps everything," the "good of the Party trumps everything," and the "good of the people trumps everything." But there was also an internal directive in the Supreme People's Court on the "Legalization of the Constitution," stipulating that legal officers should not use the constitution in handling cases; nor did it permit legal officers to participate in meetings concerning the legalization of the constitution; not did it permit them to publish essays concerning the legalization of the constitution. The "legalization of the constitution" is a slogan and nothing else. Everybody knows that this "constitution trumps everything" really means the "signboard trumps everything."

3. There is a political error. But I can't think of what Teacher Yu's political error is.

Our specialized constitutional committee is united firmly within the sphere of the Party Center. Earnestly study the directive of Minister of Law Wu Aiying, "Lawyers Must Discuss Politics." We had earnestly to study the speech by the head of the Chongqing Municipal Legal Department on how lawyers had to take into account the overall situation. The former head of the Department was no-count, but I don't know whether the current head is a good man or not.

If anyone has questions for Teacher Yu, please ask them now. Thank you.

Yu Jianrong: Rujiu has said that I've made a legal mistake, but it is he himself who is wrong. That is, Lawyer Wei Rujiu has treated something that is not a law as if it were a law.

Yu Jianrong (looking at a piece of paper). This lawyer's question has to do with the issue of changing household registration. The constitution says people may do this, so how come it is not allowed in practice? A lawyer from outside cannot move directly to Beijing. A child may have grown up in Beijing, but he has to go back to Hunan to take the Middle School entrance exam. What's the deal? On this question, I first want to say that there is no big difference here between lawyers and peasants. They are treated the same way. You shouldn't think that lawyers have more rights or power than peasants. And, of course, they shouldn't have. I have recently been investigating the process of reforming

the household registration system. Right now household registration in itself doesn't have much significance. The crux is how to handle what lies behind the registration. For example, you mentioned the middle school examinations. I think that this issue is a legal one. The resolution should be at the level of the system. We should begin with the issue of reform of the household registration system and move step by step to looking at all the questions that follow from it.

The second questioner says that he has not participated in elections. How do I view that? I have the same view of that as you do. I haven't participated in elections either. I think that as long as we do not have a genuine election system, we have no need to help others pretend that we do. Why is that? That's because to my mind there is still a little bit of faith. It's a very small thing, but I hope that we will always hold onto it and not simply go with the flow.

I wrote an essay about the Li Zhuang case. [\[15\]](#) The title was "Demonizing the System of Lawyers Is Not a Correct Attitude." This was a criticism of something in the *China Youth Daily*. Where was it mistaken? I think that no matter what the thing is with Li Zhuang personally, your newspapers cannot simply generalize to the entire system of lawyers. If you say that lawyers have a success rate of only 5 percent, then that 5 percent is something great. Given China's system, it would be a great victory if they could have a success rate of 1 percent. This would uphold the seriousness of the law. It would be a great victory to uphold the rights of those of us who are engaged in that business.

Some lawyers hope to come up in the world. Let me tell you: in the future, things will be that way. Take a look at the process of development in all the world's advanced countries. All of them, following the heroic age, entered into a so-called engineering age and finally into a legal age. The law in the end is bound to be basic common denominator for a government. Why do today's lawyers hope to come up in the world? That is to say, lots of people don't want to be lawyers, or lots of people don't want you to be lawyers. But I believe that China will someday be able correctly to manage the legal profession, and then possibly lots of people will want to be lawyers. There is nothing doubtful about this point; it's a world trend.

Yu Jianrong (looking at a slip of paper): This lawyer asks me to speak a bit about the special characteristics of riots. What is the main characteristic of a riot? It is directed against the blameless. Anger-venting incidents fracture the common denominator of the law. They break the law, they result in arson, in destruction of police stations. But anger-venting incidents also have their own common denominator: they don't fracture the common denominator of social morality. If you don't have anything to do with this business, they won't bother you. But in a riot they don't care who you are; you'll still get shot or beaten. So that's how a riot is different from anger-venting.

Here's another question: What is "politics"? The head of the legal department says that lawyers must pay attention

to politics. I once wrote an article published in a newspaper entitled “The Head of the Legal Department Doesn’t Know What Politics Is.” What is “politics”? I think the greatest politics for lawyers is to uphold the prestige of the law, to do what the law says you’re supposed to do. What does the law have you do? Uphold the legal rights of those involved in the affair. That is the politics presented to us by the law and is our only politics. A lawyer doesn’t have to pay attention to the overall situation. Our responsibility is to protect the legal rights of our client. And in doing this we uphold the common denominator of the state and of society. If we lawyers, if those who have doctorates or masters degrees in law, do not understand this, then we are really in great danger.

Yu Jianrong (reading from a slip of paper): Can I talk about the Falungong? I haven’t investigated the Falungong so I don’t feel right about expressing an opinion. I’m not afraid of political questions but I won’t talk about things that I haven’t investigated.

However, I have recently investigated house churches. Last year I wrote three reports. I urge you to pay attention to this issue. According to my studies, there are about 70 million Protestants in China now, and two-thirds of these belong to house churches. The current attitude of the government toward these churches is to keep them under observation but not too closely, to pretend they don’t exist. I spoke at Peking University last year calling for closer attention to the house churches. The first thing is to “desensitize” the question. It needs to be discussed. It’s no good to go on pretending it doesn’t exist. I basically don’t think the house churches in themselves will pose much of a danger to stability. I worry mainly about the attitude of the Communist Party of China toward them.

But the house churches themselves do raise a question that I worry about. What is that? It’s the schools they sponsor. If any of you should sometimes become interested in handling such a case, let me alert you that you should pay close attention. When I was doing work in Wenzhou the *Southern Weekend* heard the news and sent someone; and that evening, after going through a lot of connections, we entered an ordinary house. Inside were twenty-some kids from all parts of the country who were receiving some sort of instruction behind closed doors. Why do I worry about this? Because we don’t know what was being taught, what was being learned, or how they were taking what was being taught and learned. So I’m very worried about that sort of thing. Wei Rujiu once showed me the materials on a case he was handling. I came to a conclusion that secrecy facilitated the spread of heresy. If things were done openly there would be nothing to fear. So I have recently called for all house churches to open up. I’m against secrecy. The more you try to be secret, the more trouble you’ll have. So I don’t fear the size of congregations of the house churches but, rather, underground schools. I urge you lawyers here to pay more attention to the issue of house churches. Should the house

churches run into legal problems in the process of their development, I don't say you should argue for them or represent them, but at least study them a bit. My analysis leads me to think this is going to become an enormous problem. Thank you.

Question: May I ask, what role do you think lawyers can play in this society in regard to mass incidents? Aside from acting as advocates, do you think there is any role in the system or process?

Yu Jianrong: I think there are two things lawyers can do. The first is that before the business develops into a mass incident, if they find out about it, they could offer opinions concerning the legalities involved. If a lawyer can genuinely become involved, there could be a relatively good outcome. The second is the role after the incident has occurred. But there are obstacles to a lawyer's acting during the course of the mass incident. As I understand it, in many large-scale mass incidents in China, especially those involving the defense of rights, there have been attempts in advance to find a lawyer. But then that lawyer could not do anything. This is because people wouldn't bring a case. So what could the lawyer do? Nor does the government give any support. You all may know that in the Menglian incident in Yunnan it was said that the lawyers instigated the riot, leading the peasants on, playing a bad role. I think that attitude by the government is mistaken. Apart from this, some lawyers are unwilling to act in such cases because the people involved don't have money to bring suit or pay the legal fees. Lots of those involved are pretty obscure before the incident breaks out. Actually, society today has a divided opinion on lawyers. Recently, after the Li Zhuang incident, I wrote an essay demonizing lawyers. Lots of people commented saying that since I was a lawyer I was demonizing myself. So I think that lawyers must do more with the weak who are acting to protect their rights, especially on questions of land. But for reasons of self-defense I don't think that we lawyers should become models for mass incidents, thinking that just because there is some incident we have to get involved. We have our own proper sphere. That may be a way we can protect ourselves.

Question: So does this proper sphere mean that we should not give interviews to foreign reporters, that we and our partners should avoid them, that we should report to the legal departments and the proper authorities, so forth? What about it?

Yu Jianrong: That's a problem. I think it is right not to talk to foreign reporters. I agree with that. Why should we make trouble for ourselves? I have never given interviews to foreign reporters. If anyone calls me, I'll say I don't have the time. If a foreign reporter calls our unit and says he wants to interview Yu Jianrong, our leaders have all agreed to say they can't find me. If your foreigner wants to speak to me he needs the permission of the Institute and I need a

formal, documented notification. It's your loss and not mine if you don't see me. (Laughter) So I don't think we need to argue about this kind of issue. There's nothing to argue about. In China today it's OK to be a lawyer, a social personage, a public intellectual; but you need some common denominator in order to protect yourself.

But we must be clear about those things in the law that serve to protect lawyers. When there are, or might be, rights-protection or anger venting incidents, whether to participate or not, I urge that everyone act as a model and do not fear difficulties (麻煩). Sometimes it's necessary to compromise; in China you need wisdom to survive. The big problem is that we need to seek out the common denominator that forms the model for our action. The common denominator is that we must protect the seriousness of the law, protect the legal rights of people today. This is very important.

Question: Teacher Yu, let me ask you—with conditions in China today being as they are, is there any possibility of a change in the system? As you were just saying, the CPC Center's Political and Legal Committee is unwilling to withdraw, so there can be no legal independence to speak of. There is also the issue of a new transformation of the entire system. Do you think there will be any way out? Is there any hope for such a reform?

Yu Jianrong: I think there's still hope. That hope is in social pressure. But it seems today that it's hard to say whether this generation of leaders think that way. But as social pressure grows and grows, as everybody comes to feel there is no way out, it's possible that we may come to seek a common understanding and a common denominator. If as early as two years ago I had said we should make the constitution the common denominator for social stability, maybe everyone would have laughed at me. But if I say this today, no one laughs, because we have no common denominator. We're in retreat, always in retreat, we don't have anything. This nation doesn't have a thing. Up to today, if the ruling party still wants to continue to rule, if this set of rulers still wants to bear responsibility for the nation, we need to find some sort of common denominator that can be accepted by all sectors of society. That common denominator isn't any politics; it's not the Three Represents. I think it's the constitution. Contrariwise, we can't pick out very many problems from all the provisions of China's constitution.

So if I see things this way, will there be great turmoil in China's society? I think that's what will happen if we don't find that common denominator. Will turmoil utterly destroy the social order? No. Afterwards, everyone might go back to the common denominator. A political order that has undergone violent tyranny can be rescued only through violence, so this nation will once again walk the road of the past 60 years. This is something that the great majority are unwilling to see. So if there is turmoil in society, it might bring about some sort of common understandings. The only way to go is rationally to seek out a common denominator that can be accepted by everyone and to protect that common

denominator. The greater the argument, the greater the pressure, the more inclined the government will be to compromise. That's why I think the really important thing is to seek out this common denominator; without this, saying we need to look at the overall situation or talk about politics is nothing but empty talk. The only thing is the constitution. This is a constitution that is accepted by our Communist party and has been passed by our National People's Congress. I think that is our common denominator. Naturally there's lots of stuff in the constitution and we're not satisfied with all of it. But then we can change it. That's generally how I feel about things.

Yu Jianrong (reading): This lawyer is asking about whether traditional culture still has a role to play in China. Yesterday afternoon Chen Ming, who is very famous for his support of traditional culture, came to my house. I believe that there are certain things in Chinese traditional culture that society needs, but right now it would be very difficult to rely on traditional culture to maintain social stability. Traditional culture cannot be the common denominator for maintaining social stability. I've been looking at Christianity for the past few years, but I think it is already very hard to find a common understanding from the perspective of culture. This point may be relevant to us students of law. Those in the legal world talk about rules, but the rules in traditional Chinese culture are very vague. Some people now say we should return to the Way of Confucius and Mencius. Can the Way of Confucius and Mencius save China? No. As I see it, the only thing that can save China is the constitution. We should all uphold that constitution, making the principles of the constitution into the common denominator for the model of social stability. This may be very important. So that's my opinion.

Chairman: Time is already up. Professor Yu has given us a very perceptive and colorful talk. On some cases he has provided us with much enlightenment from a macroscopic perspective. Everyone should ponder over what he has said. Let's thank Professor Yu with a round of enthusiastic applause.

(Protracted enthusiastic applause)

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[1] That is, the full sessions of the National People's Congress and the Chinese People's Political Consultative Conference, held in March of each year. The sessions overlap in time.

[2] Peasants hold land through long-term leases, sometimes 50 or 60 years; and they have the right to transfer those

leases to others, a functional equivalent of the ability to sell land. But the ownership still resides with the “collective,” which may amount to the local government or Party committee. And despite the leases, land tenure is insecure, in that in practice local authorities are able to confiscate farm land and turn it over to those who wish to put it to other uses—with the authorities receiving their own pay-off in the process.

[3] Agricultural land is not privately owned, but is leased out to those who farm it, the leases running 30-50 years. Leases may also be sold or transferred, so the arrangement closely approximates private ownership. But since there are no ownership rights, and the legal status of leases is often weak, local officials may also confiscate the land from those who farm it and turn it over to those who would put it to more productive use—the officials often receiving side-payments (bribes) from those who newly control the land.

[4] Yu seems to be avoiding mentioning Bo Xilai by name. Bo was an ambitious politician, who may have been hoping to disrupt the 2112 succession arrangements, maneuvering to grab the leadership position himself.

[5] The term literally means double rule. It is a form of house arrest or detention not provided for in the official laws of the state, and in principle it can be applied only to members of the Party. But some of the discussion in this essay implies it is also applied to non-party members as well.

[6] The Hunanese accent is difficult for outsiders, especially northern Chinese, to understand. Chairman Mao, it might be noted, spoke with a strong Hunanese accent.

[7] The 2008 Lhasa riots seem to have begun with violence by indigenous Tibetans against Chinese Muslim (Hui) shopkeepers who had recently migrated to Tibet. This was followed by violence against Tibetans by Hui and Han residents, and by the police and possibly army, against the Tibetan population.

[8] In 1979, following the repression of a democratic ferment that had accompanied his rise to power, Deng Xiaoping announced that the new freedom in China would be constrained by four basic or cardinal principles: people’s democratic dictatorship, adherence to the socialist road, adherence to the Thought of Mao, and the leadership of the Communist Party. Yu is asserting that the four all boil down to Party leadership or supremacy.

[9] The concept of “not tossing and turning” was introduced by Hu Jintao in late 2008. The general idea seems to have been that China would adhere to the path of liberalizing reform, but that there would be no more radical changes in policy.

[10] Ah Bian is the nickname of Chen Shuibian, then president of the Republic of China (that is, Taiwan).

[11] Taiwan lawmakers are notorious for engaging in fist-fights on the floor of the legislative chamber.

[12] People vote only for representatives to local people’s congresses. Higher legislative bodies, including the National People’s Congress, are elected indirectly by the lower legislative organs.

[13] Following unrest in Xinjiang in early 2009, access to the internet was cut off in the region.

[14] It probably doesn’t need saying, but this paragraph is sarcastic.

[15] Li Zhuang, a defense lawyer, was convicted of fabricating evidence.



