

July 25, 1991

Guilt by Association: More Documents from the Chinese Trials

Introduction

The verdicts which emerged from the closed trials of democracy advocates show Beijing's effort to portray the broad-based movement of April-May 1989 as "turmoil" and "rebellion" orchestrated by a small band of conspirators. Wang Juntao and Chen Ziming, two young intellectuals who ran a social science institute in Beijing, were branded as the "black hands" of the movement, both for their long involvement in pro-democracy activities and for their success in bringing disparate elements of the 1989 movement together. Both received sentences of 13 years in prison.¹

The government's determination to punish these two men is evident in the harsh treatment it accorded other defendants known to be connected to them, however slightly. The documents presented here relate to the cases of three such defendants: Liu Gang, a young physicist employed in the institute founded by Wang and Chen; Luo Haixing, a Hong Kong businessman implicated in attempts to aid Chen Ziming and his wife escape from China; and Yi Jingyao, a Beijing driver arrested for allegedly trying to get workers out in the streets to block the entry of martial law troops into Beijing. Wang Juntao had tried to get him a lawyer and an open trial, and one of the charges against Wang was that he tried to "rescue Criminal Yi." Yi was sentenced to four years in prison in June 1989.

The documents consist of the verdicts in the cases of Chen Ziming and Liu Gang; a farewell letter from Luo Haixing to his wife after his trial, expressing sadness at leaving his family and bitterness at how he was treated; Luo Haixing's appeal and the statement of his defense lawyer; an excerpt from a legal textbook defining the crime for which Luo Haixing was convicted; a letter from Yi Jingyao's sister describing the arrest of her brother; and a circular published by a coalition led by Wang Juntao urging everyone to come to Yi's support.

The Trials

These documents provide further evidence of how unfair and arbitrary China's judicial system is. The trials of all pro-democracy activists were closed to foreign observers and often to family members.² Not a single member of Luo Haixing's family was allowed to attend, for example.

While the defendants and their lawyers were allowed to make statements at their trials, the verdicts are utterly unresponsive to defense arguments and bear clear marks of having been prepared in advance. The verdict in

¹ see "Rough Justice," *News From Asia Watch*, January 27, 1991 and "The Case of Wang Juntao," *News From Asia Watch*, March 11, 1991.

² See "The Beijing Trials: Exclusion of Foreign Observers," *News From Asia Watch*, February 27, 1991.

the case of Liu Gang, announced the same day as that of Wang Juntao, closely follows the events and language used in the Wang verdict.

The lawyers defending Wang and Chen, who made unusually spirited defense pleas, were pressured not to represent their clients on appeal. Wang's wife, Hou Xiaotian, took on her husband's appeal herself and lost. Chen Ziming's lawyers, Ji Suwan and Gao Xiaofeng, were effectively disbarred by the Ministry of Justice, which confiscated their licenses to practice following their defense of Chen. Sun Yachen, one of the lawyers who defended Wang Juntao, was told he would be denied state housing for actions on behalf of his client.³ Hou Xiaotian herself had already been evicted from her home for daring to talk to the foreign press about her husband, Wang Juntao.

Luo Haixing was convicted having "harbored and shielded" a counterrevolutionary, namely, Chen Ziming. But according to a legal textbook on Chinese criminal law, a defendant can only be convicted of this crime if the defendant "clearly knows" that the person aided was a counterrevolutionary. Chen Ziming was not on any wanted list nor was he in custody when Luo Haixing was arrested. Given the vagueness of the term "counterrevolutionary" (a term which China's lawmakers recently discarded in favor of "anti-state"), it is especially pernicious that the court inferred Luo Haixing "knew" Chen to be such a person.⁴ This inference appears to rest only on Chen Ziming's conviction *after* Luo Haixing's arrest, and the interest that an organization called the Hong Kong Alliance expressed in helping Chen Ziming escape.⁵

Despite these developments, Chinese officials continue to insist, as the head of China's Supreme Court reported to the National People's Congress, that the recent political trials were open, the defendants accorded due process, and the sentences handed down lenient.⁶ At the same time, the report emphasized an increased effort to train court personnel in Marxist ideology, including the importance of "the dictatorship of the proletariat" and "combatting bourgeois liberalization."⁷

Background to the Defendants Named in the Documents

1. Chen Ziming (Appendix D)

Chen Ziming, 39, a veteran pro-democracy activist, worked with Wang Juntao to set up the Beijing Social and Economic Sciences Research Institute, a private think tank, in early 1987. At the height of the 1989 student demonstrations, the two men formed a coalition organization bringing together all sectors of the protest movement. The activities of the coalition, called the Joint Liaison Group of All Circles in the Capital, figure prominently in the government's case against Chen.

2. Liu Gang (Appendix D)

Liu Gang, 30, was listed third on the most-wanted list of student leaders issued after the army crushed the democracy movement in June 1989. A physics student, he had organized a council of student leaders from all the major Beijing schools in May 1989. He was arrested in mid-June in Baoding, a city just south of Beijing, after arousing suspicion while trying to buy a train ticket to a remote western province. He had tried to pass himself off as a worker,

³ "China Punishes Defense Lawyers in Cases Linked to Unrest" by William Kazer, *Reuters*, April 2, 1991.

⁴ See "The Case of Wang Juntao, *News From Asia Watch* March 11, 1991.

⁵ The full name of the organization is the Hong Kong Alliance in Support of the Patriotic Democratic Movement in China.

⁶ "June 4 Criminals Dealt with Leniently, Says Judge", *South China Morning Post*, April 2, 1991.

⁷ "Party Boosts Control Over Judicial System," *South China Morning Post*, April 4, 1991.

but his hands looked reportedly too white and uncalledoused.⁸ Liu Gang was tried on February 6, 1991, for the potentially capital offense⁹ of conspiracy to subvert the government, the same charge as that levied against Wang Juntao and Chen Ziming.

The verdict closely ties Liu's supposed misdeeds to the activities of Wang Juntao and Chen Ziming. The trial court, however, found Liu Gang merely "attended" the various meetings organized by Wang and Chen, "urged" them "to form an illegal organization to influence the students," "splied" on the blocking of martial law troops" with Wang Juntao, "distributed" copies of a "counterrevolutionary" leaflet in Tiananmen Square "at the bidding of Chen Ziming," and established a national student union "with the consent of Wang Juntao."

The day of Liu Gang's trial, February 6, the courthouse was heavily guarded, with dozens of plainclothes and undercover police prohibiting foreigners from approaching even close enough to read the posted listings of trials. According to reports from Chinese observers of the trial, Liu Gang's defense attorney argued that the prosecution's evidence was weak and relied too heavily upon blame placed on Liu by other students. Liu Gang spoke for an hour in his defense at the three and a half hour trial, denying that he had conspired to subvert the government. He reportedly stated, "What I said before doesn't count, what does count is what I say this morning,"¹⁰ disavowing his prison confessions because they were induced under threat of death. Nevertheless, the court imposed an apparently pre-ordained sentence of six years out of a possible ten years or more, which it justified in part because Liu "confessed to the facts of his crime."

Despite the alleged "confession", Liu's uncooperative behavior in prison may have contributed to the particularly serious charges brought against him. During nearly 20 months of detention in Qincheng Prison on the outskirts of Beijing, Liu tried to organize his fellow prisoners to perform acts of defiance, such as singing the Internationale, or going on hunger strike to commemorate the anniversary of June 4, 1989. Following this last effort, Liu was placed in leg shackles and held in solitary confinement for two months.¹¹ On another occasion, he was reportedly punished by having his arms lashed behind his back in a painful position for several days.¹² He nevertheless maintained his spirits, writing his family that "being in prison is like going to a new school."¹³ Liu's mother, who was critically ill with cancer, was denied permission to visit him and died while he was incarcerated. His father, a cadre who works in the public complaints division of the Liaoyang Public Security Bureau, and his brother were allowed to see him shortly before his trial.

3. Luo Haxing (Appendix III)

⁸ "Second Democracy Activist Tried on Sedition Charges" by Kathy Wilhelm, *Associated Press*, Feb. 6, 1991.

⁹ Article 92 of the Criminal Law of the People's Republic of China provides life imprisonment or a minimum term of ten years' fixed-term imprisonment for "whoever plots to subvert the government," and Article 103 permits the death penalty to be imposed for this crime "when the harm to the state and the people is especially serious and the circumstances especially odious."

¹⁰ "China Tries Another Student for Protests" by Sheryl WuDunn, *The New York Times*, Feb. 7, 1991.

¹¹ *World Journal*/AFP report, Feb. 6, 1991.

¹² *Id.*

¹³ "Second Democracy Activist Tried on Sedition Charges" by Kathy Wilhelm, *Associated Press*, Feb. 6, 1991.

Appendix III consists of four documents relating to the case of Luo Haixing.¹⁴ The first is a letter to his wife following his conviction for "harboring counterrevolutionary elements."¹⁵ Luo, a Hong Kong citizen, was sentenced by the Guangzhou Municipal Intermediate People's Court to five years' imprisonment for allegedly passing both a list of dissidents wishing to escape China and information on Chen Ziming's hiding place to an informant in Guangzhou and a member of the Hong Kong Alliance. Luo's defense counsel argued that the passing of information per se could not be construed as active harboring of a criminal according to Chinese law.

Luo Haixing's letter shows his shock and disillusionment with his treatment by the criminal justice system. No relatives were permitted to attend his trial, for which he had less than a week to prepare, nor was he allowed to see his wife. The five-year sentence, which the court described as "light," to the contrary, is especially severe compared with that given other cooperative defendants, such as the four-year term for "counterrevolutionary propaganda" given Wang Dan, once No. 1 on the most wanted students list, or the suspended sentence given Hong Kong citizen (see update 3)... for aiding dissidents to escape China. Luo wrote he was considering a petition to the Supreme Court. "To be sure, it is only a formality. The dish had long ago been prepared for me to swallow." Luo Haixing's appeals failed.

4. Yi Jingyao (Appendix IV)

The fourth appendix contains a letter from Yi Jingyao's sister describing the arrest of her brother, a driver in the Beijing Civil Administration Bureau's Fourth Branch Construction Company, for his alleged attempt to organize workers in the Beijing Iron and Steel Works to help students block the entry into Beijing of martial law troops. In response, the coalition led by Wang Juntao and Chen Ziming, the Joint Liaison Group of All Circles in the Capital for the Patriotic Upholding of the Constitution, took up his cause.

The final document is the circular published by the Joint Liaison Group calling for assistance from all quarters to support Yi Jingyao and demand that he be tried openly. The circular also makes a general appeal for all to report any arrests of persons for participation in the democracy movement to the Joint Conference, which undertook to try to aid such persons.

This circular became part of the evidence against Wang Juntao, relied on in the Beijing Intermediate Court verdict to show the supposedly "criminal" nature of the Joint Liaison Group.¹⁶ Yi was sentenced to four years in prison in a trial that began June 1, 1989 in Shijingshan Court.

¹⁴ In Cantonese, Lo Hoi-sing.

¹⁵ The bill of prosecution and verdict in his case are reprinted in the Asia Watch article, "The Case of Wang Juntao," March 11, 1991.

¹⁶ See "The Case of Wang Juntao," *News From Asia Watch*, p. 8.

APPENDIX I

Verdict in the Case of Chen Ziming Criminal Verdict of the Beijing Intermediate People's Court (1991) Intermediate/Criminal/No.294

Public Prosecutors:

Zhao Shiru, Procurator acting on behalf of the Subprocuratorate of the Beijing Municipal People's Procuratorate.

Jiang Yu, Procurator acting on behalf of the Subprocuratorate of the Beijing Municipal People's Procuratorate.

Defendant:

Chen Ziming, male, 39, born in Haiyan County, Zhejiang Province; former head of the privately-operated Beijing social and Economics Sciences Research Institute. Resident: 83 Talou, 20, Xinde Street, Xicheng District, Beijing. Arrested on November 23, 1990 on charges of conspiring to subvert the government and carrying out counterrevolutionary propaganda and incitement. Currently in custody.

Defenders:

Ji Suwan, attorney, Beijing Municipality Qingshan Legal Affairs Office.

Gao Xiaofeng, attorney, Beijing Municipality Qingshan Legal Affairs Office.

On January 31, 1991, the Subprocuratorate of the Beijing Municipal People's Procuratorate brought an indictment in this court against the defendant, Chen Ziming, who was charged with conspiring to subvert the government and conducting counterrevolutionary propaganda and incitement. This court formed a collegial panel in accordance with the law and on February 11, 1991, opened the court session and conducted a public hearing of the case.

The collegial panel heard the public prosecutor's speech in support of the prosecution; questioned the defendant and listened to the defendant's statement, defense and final statement; listened to the defense counsel's statement of defense; and verified the evidence having a direct bearing on the case. The following facts were ascertained:

From April through June 1989, Chen Ziming and his colleague, Wang Juntao (prosecuted separately), together and in concert with Liu Gang and Chen Xiaoping (both prosecuted separately) and others carried out a series of organized, planned and premeditated activities aimed at subverting China's government and conducting counterrevolutionary propaganda and incitement.

In April 1989, serious turmoil occurred in Beijing. On April 23, Chen Ziming convened a meeting at the Beijing Social and Economic Sciences Research Institute on the topic: "Evaluation of the Past Ten Years and Assessment of the Current Situation." At the meeting, Chen Ziming, Wang Juntao and Chen Xiaoping spoke in concert and molded the counterrevolutionary opinion to intensify the turmoil in an organized way. Chen Ziming declared, "China's independent intelligentsia has risen in history. Its next step toward maturity obviously requires a process of organizing, and (it must) move forward from a politically conscious to an organizationally powerful force...The epochal duty of the intelligentsia, the advanced elements of the intelligentsia in particular, is to rapidly complete the process of organizing the intelligentsia," in order to "form a new source of leadership for the common people." Wang Juntao said that China "is on the verge of a brand new civilization. And present circumstances attest

to the fact that the old methods are outdated. Therefore, all the old methods employed by Chinese civilization must be transformed, and the basic tendency of this transformation will be toward mainstream civilization." Chen Xiaoping said, "China's problem today is not a matter of reform, but a matter of changing the government." He suggested that they should "conduct propaganda and incitement and form an organized force." That evening, Chen Ziming and others went to Beijing University to read the big-character posters. Chen Ziming looked up Wang Dan (prosecuted separately), talked with him and gave him 3,000 *yuan* rmb.

Instigated and incited by certain people, some university students went to Tiananmen Square and began a hunger strike there on May 13. On May 15, at a symposium on the topic of "Political Structural Reform and the Labor Unions" sponsored by the editorial board of "China's Labor Movement," Chen Ziming acted further to mold public opinion, conspiring to subvert the government, and offered a scheme, saying: "The journalists took to the streets on May 4...forming a force that is better organized, more conscious, better educated and better able to cope with the situation." "On May 15," he said, "we witnessed a new phenomenon: the teaching staff and the scientific research units took to the streets." "I propose," he said, "that at the present moment, it would be best for us to be prepared, but not to play the All-China Federation of Trade Unions card." "We should," he said, "play our cards one by one, and not all our cards at once." "If you play all your cards," he said, "you would have no deterrent left whatsoever." "The best way," he said, "is to use the deterrent skillfully, and wield your power sparingly." Chen Ziming also hinted: "A hero of world stature like de Gaulle was blown away by the May 1968 storm. What ranking people will this May storm blow away? Possibly of three different ranks." He openly referred to the top leaders of the communist party and the state and declared "We are drawing up our plans here, and it depends on how they would handle our people."

On May 17, Chen Ziming schemed with Wang Juntao and Chen Xiaoping respectively at Jimen Hotel to form an illegal organization to "unite all the various circles." On the following day, Chen Ziming and Wang Juntao mustered more than 20 so-called "elite individuals" for a meeting at Jimen Hotel, and once again plotted to form an illegal organization. At that meeting, Chen Ziming outlined his tactic for conspiring to subvert the government: "The words of the elite will influence the students, and the words of the students will influence people throughout the country." At that meeting, Bao Zunxin (prosecuted separately) read aloud the "May 17 Declaration," a counterrevolutionary circular concocted by Yan Jiaqi. That "Declaration" vilified the government by maintaining that it had "lost its capacity for human feeling" and was a government under the power of an autocrat." It characterized the turmoil as being "a great patriotic and democratic movement which will finally bury autocracy and end the system of rule by emperor," [thus] maliciously slandering the leaders of the Chinese government and Communist Party and conspiring for their overthrow.

On May 19, Chen Ziming called a meeting at Jimen Hotel and, together with Chen Xiaoping and others, further concocted the plan for establishing an illegal organization. At his suggestion, Zhou Duo concocted the counterrevolutionary leaflet "A Letter to the People."¹⁷ According to this rumor-mongering document, "military rule is about to be enforced at any moment, and the dark period which ensued from the repression of April 5, 1976 is about to be repeated." The document incited the masses to "begin a nationwide work strike, class boycott, and market boycott" and clamored for an "immediate convening of the Standing Committee of the National People's Congress" for the purpose of dismissing the Prime Minister.

On May 20, the State Council promulgated the order that certain areas of Beijing were to be placed under martial law. During the night of May 19 and early morning of May 20, Chen Ziming drove along Beijing's No. 3 Ring Road, surreptitiously observing scenes of martial law troops being blocked and obstructed.

On the evening of May 22, Chen Ziming, together with Wang Juntao and others, went to the Monument to the

¹⁷ This differs from the verdict in the case of Wang Juntao, when the court states that it was Wang who "helped concoct" the "Letter to the People" at a meeting on May 19, 1989. See *News From Asia Watch*, "The Case of Wang Juntao," p.7.

People's Heroes on Tiananmen Square, where they summoned the leaders of all the various illegal organizations and convened a preparatory meeting for the founding of the "All Circles" illegal organization. On May 23, Chen Ziming and Wang Juntao, acting in league together, summoned the leaders of the "Command Headquarters of Tiananmen Square," the "Beijing Students Autonomous Federation," the "Beijing Workers Autonomous Federation," the "Beijing Citizens Autonomous Union," the "Citizens Dare-to-Die Squad," and other illegal organizations and more than 30 so-called elite individuals together at the Marxism-Leninism Institute of the Chinese Academy of Social Sciences and there founded the "Joint Liaison Group of All Circles in the Capital for the Patriotic Upholding of the Constitution" [hereafter referred to as the "Joint Liaison Group"]. The meeting schemingly resolved to rename the "Command Headquarters of Tiananmen Square" as the "Command Headquarters for the Protection of Tiananmen Square," and appointed a "General Commander of the Command Headquarters," and also heads of a "General Staff Office," a "Liaison Department," a "Propaganda Department," and a "General Picket Headquarters." Zhang Lin (currently on the run), after assuming leadership of the "General Picket Headquarters," immediately convened a meeting of the leaders of the "Students Picket Squad," the "Workers Picket Squad," the "Citizens Picket Squad" in order to establish a division of labor, create contact code names, and pinpoint the location of martial law troops on a map of the Beijing Municipality. After the meeting, a "United Picket Headquarters" was established on Tiananmen Square and members were issued walkie-talkies and binoculars in order to help them in their conspiracy to block the movement of martial law troops.

After the founding of the "Joint Liaison Group," Chen Ziming and Wang Juntao schemed to establish a division of labor with the understanding that the former would continue to support the latter in using the "Protect the Constitution Group" and carrying out conspiratorial activities.

In mid-May, when over a thousand students were staging a hunger strike on Tiananmen Square, Chen Ziming sent others to print several hundred copies of the counterrevolutionary leaflet concocted by Ren Wanding (prosecuted separately) entitled "Whither the April People's Democratic Movement--Still More on Reforming China's Socio-political Structure and the Historical Merit and Achievement of the People's Democratic Movement--Dedicated to the Heroes of the Hunger Strike Group" for Ren to distribute. That leaflet slandered China's socialist system as "politically, judicially and journalistically dark and corrupt." It also vilified the Chinese Communist Party.

In the latter part of May, Chen Ziming instructed Wang Zhihong (prosecuted separately) to print over a thousand copies of the counterrevolutionary journal, "News Flash", at the latter's print shop in the Beijing Scientific Instrument Company for sale and distribution by others. "News Flash" carried such counterrevolutionary articles as the "Final Showdown Between Light and Darkness--a Statement of the Joint Liaison Group of All Circles in the Capital on the Current Situation." This statement attacked and slandered leaders of the Chinese Communist Party and Chinese government, and vilified the government as "brutally using military force to force the people to submit." It incited the people, saying "the incompetent government will certainly be toppled if we persist in the struggle."

At the end of May and beginning of June, Chen Ziming and Wang Juntao secretly conspired to set up places where they could go into hiding, discussed and decided on name lists of those who were to be transferred and withdrawn; and engineered the escape of the backbone elements of the "Protect the Constitution Group" one after another. Chen Ziming fled to the city of Zhanjiang in Guangdong Province. He was captured and taken into custody.

The above-mentioned facts are attested to by the witnesses' testimony, by the written evidence and by the tape-recordings placed on file. The facts are clear, the evidence solid, complete, and sufficient to prove the case.

This court is of the opinion that during the serious turmoil which took place in Beijing in 1989, Chen Ziming, in collusion with Wang Juntao, stirred up counterrevolutionary sentiment, founded the illegal "Protect the Constitution Group" [Joint Liaison Group--tr.], instigated, incited, organized and directed all the various illegal organizations in the occupation of Tiananmen Square, and resisted the implementation of the martial law decrees, with the aim of overthrowing the people's government. These acts constitute the crime of plotting to subvert the

government and the crime of counterrevolutionary propaganda and incitement and must be punished according to the law.

In order to uphold the political authority of the people's democratic dictatorship and the socialist system, this court renders, on the basis of the facts of the defendant Chen Ziming's criminal acts, the nature and circumstances of his crimes, and the degree of harm thereby caused to society, and in accordance with Article 92, Article 102, Article 52, and Article 64 of the Criminal Law of the People's Republic of China, the following judgement:

For the crime of conspiring to subvert the government, defendant Chen Ziming is sentenced to a fixed-term period of 12 years' imprisonment, with three years' subsequent deprivation of political rights. For the crime of carrying out counterrevolutionary propaganda and incitement, he is sentenced to a fixed-term period of three years, with one year's subsequent deprivation of political rights. It is hereby decided that he will serve a total fixed-term period of 13 years' imprisonment (the period of imprisonment to be calculated starting from the date of this judgement's execution, and with a one-day reduction of sentence for each day spent in custody prior to the execution of judgement, that is, from October 11, 1989 until October 10, 2002) with four years' subsequent deprivation of political rights.

If he does not submit to this judgement, [the defendant] may, within a ten-day period starting from the day following the receipt of the judgement, lodge with this court a petition, plus one duplicate copy, as an appeal to the Beijing High People's Court.

Chief Judge: Wei Zijian

Judge: Tan Jinsheng

Beijing Intermediate People's Court

**The Verdict
On the Criminal Case of Liu Gang
returned by
The Intermediate People's Court of the City of Beijing**

(1991) Zhong(Intermediate) Xing(Criminal) No. 267

**The prosecutors: Wang Zhongua, prosecutor, Branch Office,
People's Procurate of the City of Beijing
Zhao Shiru, acting prosecutor, Branch Office, People's Procuratorate of
the city of Beijing**

The defendant: Liu Gang, male, 30, Han nationality, native of the city of Liaoyuan, Jilin Province; formerly a temporary worker of the Beijing Gaolian Wear-Resistant Materials Development Corporation, staying in the corporation dormitory; arrested on November 24, 1990 on charges of conspiracy to subvert the government; currently in custody.

The defense attorney: Wang Yaoting, attorney, the No. 2 Law Office of the City of Beijing.

The Branch Office of the People's Procuratorate of the City of Beijing, on January 25, 1991, brought before this court the suit against Liu Gang on charges of conspiracy to subvert the government. This court organized a collegiate bench of judges according to law and held a public trial February 6, 1991. The bench heard a statement by the prosecutors in support of the prosecution; tried the defendant, heard the latter's deposition, defense and final statement; heard the defense offered by the defense attorney; checked and confirmed the evidence directly relevant to this case. The facts have been ascertained as follows:

In April 1989, disturbances occurred in Beijing. On April 23, Liu Gang, the defendant, in league with Wuerkaixi (at large), mustered some 20 leaders of several illegal organizations of Beijing college students and held a meeting at Liu's temporary lodging. They planned and founded the illegal organization "The Provisional Federation of Beijing College Students." On the evening of April 25, Liu Gang attended the meeting of the "Standing Committee" of the "Provisional Federation of Beijing College Students" to plot and organize an illegal demonstration to be held on April 27, by college students in Beijing, to counter the *Renmin Ribao* (*People's Daily*) editorial "We Must Unequivocally Oppose the Disturbances," which was broadcast by the Central People's Broadcasting Station that evening and to be published in *Renmin Ribao* the following day.

Instigated and incited by a handful of people, some Beijing college students went to Tiananmen Square in mid-May and staged sit-down and hunger strikes. Liu Gang urged Chen Ziming and Wang Juntao (both to be dealt with in separate cases) to form an illegal organization "to influence the students by social forces" so as to intensify the disturbance. On May 18, Chen Ziming and Wang Juntao called a meeting in Jimen Hotel to plan that illegal organization. Liu Gang attended that meeting. At that meeting Chen Ziming formulated the tactics of conspiracy to subvert the government by "having the élite speak out to influence the students, and the latter, in turn, speak out to influence people throughout the country," "to push the behind-the-scenes influence to the front stage." At that meeting, Bao Zunxin (to be dealt with in a separate case) read out the counterrevolutionary leaflet the "May 17 Declaration" cooked up by Yan Jiaqi (at large). That "declaration" slandered the government as "having lost humanity," "a government under the power of a dictator," and claimed that the disturbance was a "great patriotic democratic movement to finally bury the dictatorship and imperial system in China." It viciously attacked and

slandered the party and state leaders. The meeting also plotted to overthrow these leaders. On May 19, Liu Gang sought out the "student representative" Wang Dan (to be dealt with in a separate case) and the two attended the meeting called by Chen Ziming and Wang Juntao to plan the founding of an illegal organization. At that meeting, Zhou Duo (to be dealt with in a separate case), at the bidding of Chen Ziming, cooked up the counterrevolutionary leaflet "An Appeal to the People," inciting the masses to "stage nationwide workers', teachers', students' and shopkeepers' strikes," clamoring for the "immediate convening of the "Standing Committee of the National People's Congress" to recall the premier of the government.

On May 20, the State Council issued an order to place parts of the city of Beijing under martial law. That evening until the early hours of the 21st, Liu Gang, in league with Wang Juntao et al., drove around the city to spy on the blocking of martial law troops. They also drove to Tiananmen Square and distributed close to a thousand copies of the counterrevolutionary leaflet "An Appeal to the People" drafted by Zhou Duo at the bidding of Chen Ziming.

On the evening of May 22, Chen Ziming and others called a preparatory meeting at the Monument to the People's Heroes for the founding of the illegal joint organization of "all circles." Liu Gang gathered together some of the leaders of the illegal organizations on Tiananmen Square to participate in that meeting.

After plotting, Chen Ziming and Wang Juntao gathered together, on May 23, leaders of the illegal organizations the "Tiananmen Square Headquarters," the "Autonomous Federation of Beijing College Students," the "Beijing Workers Autonomous Federation," the "Autonomous Federation of Beijing Residents" and the "residents' Dare-to-die Corps" as well as the so-called "representatives of all circles" to convene a meeting at the Chinese Academy of Social Sciences. There, they founded the illegal organization the "Joint Liaison Group of All Circles of the Capital for the Patriotic Upholding of the Constitution." [hereafter the "Joint Liaison Group" for short], decided to rename the "Tiananmen Square Headquarters" the "Headquarters for the Defense of Tiananmen Square," unified the pickets of the various illegal organizations on Tiananmen Square into the "Picket Command," so as to unify command to direct the illegal occupation of Tiananmen Square and to block martial law troops, to prevent them from moving in and carrying out their mission. Liu Gang took part in that meeting and became "chief of staff" of the "Headquarters for the Defense of Tiananmen Square." After the meeting, Liu Gang, in league with Liu Suli (to be dealt with in a separate case), set up a tent on Tiananmen Square as the "liaison office" of the "Joint Liaison Group to Uphold the Constitution."

On May 25, at a meeting of the "Joint Liaison Group" chaired by Wang Dan, Liu Gang put forward the proposal that "once the martial law troops enter the city, the demonstrations should continue, and the Joint Liaison Group should issue a circular, calling on city residents to stage a mass demonstration on their own every third day." The "Joint Liaison Group" together with a dozen other illegal organizations, jointly printed and distributed the leaflet "An Urgent Appeal." That leaflet incited people to "set up roadblocks," "stage mammoth demonstrations to protest the martial law order."

On May 27, Liu Gang attended a meeting of the "Joint Liaison Group" called by Wang Juntao, and took part in the discussion and adoption of the "Ten-point Statement of the Joint Liaison Group of All Circles of the Capital Concerning the Present Situation." That statement slandered and attacked the martial law order issued by the State Council on May 20 as "a fascist means of intimidation in violation of democracy and the legal system." That same evening, Liu Gang attended the "press

conference" convened on Tiananmen Square by the "Joint Liaison Group," at which that statement was read out by Wang Dan.

On May 27, at a meeting of the "Joint Liaison Group" convened by Wang Juntao, Liu Gang put forward the proposal to establish the "All-China Students' Autonomous Federation." With the consent of Wang Juntao, Liu Gang gathered together the leaders of the illegal organizations, the "Beijing Students' Autonomous Federation" and the "Autonomous Federation of College Students from Outside Beijing" to a meeting at Beijing University to plan the

founding of the illegal organization the "All-China Students Federation."

At the end of May, 1989, Liu Gang, following the plan drawn up for him by Chen Ziming and Wang Juntao, absconded to Changping County and Fangshan District of the city of Beijing. On June 6 of that same year, he absconded to other parts of the country. On June 13, he was put on the most wanted list by the public security organs. On June 19, he was found and apprehended in the city of Baoding, Hebei Province.

The above facts have been confirmed by witnesses, oral and written testimonies as well as recorded depositions. The facts are clear-cut and the evidences are solid and sufficient, so these facts can be ascertained.

In the opinion of this court, Liu Gang, the defendant, took part in planning the founding of the illegal organization the "Beijing Students' Autonomous Federation" during serious disturbances in Beijing in 1989, so as to stir up trouble. He participated in the "Joint Liaison Group" put together by Chen Ziming and Wang Juntao, joined in the plotting, inciting, organizing and directing the illegal organizations to occupy Tiananmen Square, resist the implementation of martial law order, so as to intensify the disturbances and overthrow the people's government. His actions constituted the crime of conspiring to subvert the government, and must be punished according to law. In view of the fact that Liu Gang was in a secondary position in those crimes and that his responsibility for the criminal offense was relatively light, and that he did confess to the facts of his crime, his punishment could be reduced according to law. On the basis of the facts, the nature and circumstances of Liu Gang's crime, and the harm done by the defendant to society, and in accordance with Article 92, section 2 of article 59 and article 52 of the "Criminal Law of the People's Republic of China," the court returns the following verdict:

The defendant Liu Gang committed the crime of conspiracy to subvert the government and is sentenced to six years in prison (beginning with the execution of the sentence; one day in custody before the execution of the sentence will be counted for one day in prison, i.e., the prison term began on June 19, 1989 and will end on June 18, 1995), and he will be deprived of political rights for two years.

If the defendant refuses to accept this verdict, he may, within ten days from the second day after receiving this verdict, submit his appeal and a copy thereof to this court, to appeal to the Higher People's Court of the City of Beijing.

**Presiding Judge: Tan Jingsheng
Acting Judge: Zhang Yanfen
Acting Judge: Hu Chun
of the Intermediate People's Court
of the City of Beijing (seal)
February 12, 1991
Clerk of the Court: Li Yongjing
February 12, 1991**

APPENDIX III; PART I

Letter from Luo Haixing to His Wife

March 4, 1991

Mimi,

After I got your letter of the 26th, I wrote you a reply. Before I could mail it, the court convened today to announce the verdict. I was sentenced to five years in prison, and they described that as "a light sentence in view of the circumstances." I don't know how harsh a heavy sentence would be. My prison term began on the day they

detained me, i.e., October 14, 1989. I have to stay in prison for more than three and a half years until October 13, 1994. My sentence is even one year longer than that meted out to Wang Dan. I really don't understand it at all. This makes it even harder for you. But I do hope you can stick it out. When you have difficulties, please do talk them over with Hailei, Haisha and mother. Don't keep them to yourself. The strength of a single individual is limited. Don't force yourself. Three years is not all that long.

I shall meet with my attorney tomorrow or the day after to consider whether I should appeal. To be sure, it is only a formality. The dish had long ago been prepared for me to swallow. But there is no harm trying. Anyway, they won't increase my sentence. I shall still be able to appeal when I arrive in prison. But this is politics. I may not try after all. I have been away by myself all these years. I am still pretty healthy. I should be able to take care of myself. So please rest assured.

I didn't expect it to happen so soon. The whole thing took only six days. I wanted to see you, but that proved impossible. No relative was allowed to attend the trial today. Somebody's elder brother came, but he was not allowed in. So he waited at the door. When we rode the bus back to our cells, we could only have a glimpse of the outside world. That was hard. It is fortunate you were not there. I did not see Hailei or uncle either. We'll have time to see each other in the future. It saves you a few trips back and forth.

The children are beginning to understand things. Please think about talking to them, so that they will know their father hasn't done anything wrong, and he has a clear conscience. This may make them feel better.

Mimi, I used to be quick tempered. I had not been tender and caring enough to you. If I was not perfect in the past, please don't keep it in your heart. I shall write again when everything is settled. Don't write me for the time being.

Haixing

**Luo Haixing Did Not Commit the Crime
of Harboring a Counterrevolutionary
-- Defense Counsel Kang Shu's Statement on Legal
Points at the Second Trial (on Appeal)
(Abstract)**

Quoting article 162 of (China's) Criminal Law, Luo Haixing's defense counsel said: "Only the acts of those who harbor or shield a counterrevolutionary or other criminal by perjury constitute the crime of harboring (a criminal). The 1988 edition of the Dictionary of Law defines the crime of harboring (criminals) as "the act of providing a hiding place for one who is clearly known to be a criminal, to help him escape legal sanction." The Chinese Criminal Law Dictionary gives the following definition: "The act of providing a hiding place for a known counterrevolutionary or other criminal, or otherwise helping him hide himself and escape legal sanction by giving him financial (material) assistance." The quintessence of this crime lies in "objectively and actively carrying out an act of providing a criminal with a hiding place, or financially helping him to hide somewhere else."

According to the above-mentioned definition in Chinese law of the crime of "harboring a criminal," Luo Haixing's defense counsel declared: "The defendant Luo Haixing subjectively had no intention of shielding a criminal, and objectively did not act to harbor a criminal. The defendant Luo Haixing did not know Chen Ziming, never met him, did not provide Chen Ziming with a hiding place, or material assistance to help him hide himself. The public prosecutors have failed to provide any evidence to show when, where and how Luo Haixing harbored Chen Ziming, or how Luo Haixing financially helped Chen Ziming hide himself.

The public prosecutors argued that Luo Haixing passed on information to help Chen Ziming escape the country and avoid sanction, and that this constituted aiding and shielding. But Luo Haixing's defense counsel held that "the Dictionary of Law and the Chinese Criminal Law Dictionary as well as the text of the Criminal Law itself all made it clear that [to constitute the crime of harboring a criminal] the assistance rendered must be material and not spiritual; still less can it be passing on information. That assistance must directly serve to help provide the criminal with a place to hide, whereas the action of the defendant was merely passing on information on behalf of someone else about crossing the border. He did not know Chen Ziming was a criminal, nor did he know where Chen actually was. Yet the verdict clearly states that Luo Haixing's action was one of assisting Chen Ziming abscond across the border. Helping someone abscond across the border does not meet the objective conditions of harboring a criminal by providing him with a hiding place or providing material assistance to enable him to hide himself."

Luo Haixing's defense counsel, at the first trial, also mentioned the relationship between Luo Haixing and Cen Jianxun.¹⁸ He pointed out: "The defendant Luo Haixing is a Hong Kong businessman. During the early eighties, he was a friend of Cen Jianxun's wife, through whom he later came to know Cen Jianxun. After June 4, Cen Jianxun became a member of the "Hong Kong Alliance." But Luo Haixing did not join that organization and had nothing to do with it. He only maintained a relationship of personal friendship with Cen Jianxun."

"The fact that Luo Haixing did not take part in the June 4 events, did not join the "Hong Kong Alliance," and received no remuneration whatsoever for his efforts, shows that it was out of his sympathy for the students and his loyalty to their cause that he did what he did. This was also attested to by the minutes of the trial by the Public

¹⁸In "The Case of Wang Juntao," *News From Asia Watch*, March 11, 1991, pp.21-26, Cen Jianxun was wrongly identified as Shan Jianxun. In Hong Kong, Cen Jianxun is known as John Sham Kin-fun.

Security Bureau and by the witnesses and written testimonies."

As for the fact that the relevant authorities linked Luo Haixing with Wang Juntao, the defense counsel also thought that to be inappropriate because "Wang Juntao in fact never went to Guangdong Province, and the defendant did not help Wang Juntao in establishing contact with others. That is to say, there was no act and, in criminal law theory, the objective conditions for committing a crime were lacking. Therefore, the indictment, in accusing Luo Haixing as having harbored Wang Juntao, has no basis in fact and is inadmissible."

The defense counsel finally pointed out that the indictment claims that there are witnesses, testimonies, material evidence and written testimonies. But in fact all this is indirect evidence and there is no direct evidence.

Luo Haixing's (Lo Hoi-sing's) Appeal

Summary

(1) I never met and I did not know Wang Juntao or Chen Ziming. The public prosecutor's allegation that Fei Yuan told me about Wang and Chen when we met for the second time was not true.

(2) I only learned from the newspapers that Wang Juntao was a participant of the June 4 events, but I did not know he was a criminal. Now that both Wang and Chen have been sentenced to long prison terms, that should not serve as basis for my sentencing.

(3) I only met Fei Yuan twice, two short encounters. The first time he gave me a list of names of people planning to cross the border. The second meeting lasted a little more than 30 minutes. It is absolutely untrue to allege that we plotted the rescue in secret. Fei Yuan alone worked out the method and place of liaison and the code words for Chen Ziming to go to Zhanjiang. I only passed on the information. The first time I met Fei, I told him I was no specialist in helping people escape. I was only asked by a friend to meet Fei. I contacted him also out of my sympathy for the students. But I did not even know who was planning to abscond.

(4) I do not even know my co-defendants Li Peicheng (Lai Pui-shing) and Li Longqing (Li Lung-hing). The only thing we had in common was the help given to Chen Ziming. It is inappropriate to indict us as co-defendants with myself as the chief culprit. This was recognized by the public prosecutors. Yet my sentence is much heavier than those meted out to Li Peicheng (Lai Pui-shing) and Li Longqing (Li Lung-hing) who actually helped Chen Ziming and other criminals escape on 14 occasions. My sentence (5 years) is even heavier than those meted out to Wang Dan, Fang Lizhi or Liu Xiaobo, the central figures of the June 4 events. Is not this taking the branch for the root?

(5) The overwhelming majority of Hong Kong residents were sympathetic to the student movement. This can by no means be interpreted as sympathy for criminals. It was against that background that I, a Hong Kong resident, gave a little help to a friend, at his request. All this should be taken into consideration.

**Definition of Crime in Which Charges
Against Luo Haixing Are Based:**

**Legal Textbook on "Suppressing the
Counterrevolutionary Rebellion"¹⁹**

August 1989

33. What kind of crime does harboring and shielding counterrevolutionaries or other criminals constitute?

In order to achieve total victory in curbing the disturbance and suppressing the counterrevolutionary rebellion, we must go all out to mobilize the masses, strengthen the people's democratic dictatorship and carry out our work of ferreting out the counterrevolutionary rioters through to the end. We must thoroughly expose the conspiracy behind the disturbance and rebellion, punish according to law the organizers and instigators of the disturbance and counterrevolutionary rebellion—those who have long persisted in their stand of bourgeois liberalization and who engage in political intrigue; those who work in collusion with overseas and foreign hostile forces; those who provide core secrets of the Communist Party and the state to the illegal organizations; heads and backbone members of the illegal organizations; and those criminal elements who engaged in such brutal acts as beating, smashing, looting, arson and killing. These people have either been arrested by our public security institutions or placed by them on the most wanted list. In accordance with Article 59 of China's Law of Criminal Procedure, government offices, people's organizations, enterprises, institutions and citizens have the right and duty to bring charges and inform against suspects when these are discovered, bring cases to the public security institutions, people's procuratorates, or people's courts. Harboring or shielding by perjury known criminals constitutes the crime of harboring and shielding criminals.

According to Article 162 of China's Criminal Law, the crime of harboring and shielding criminals means broadly the criminal act of a person who helps a criminal escape legal sanction in a premeditated way, thereby obstructing justice. Specifically, the crime of harboring a criminal means the act of intentionally providing a place to one, who is clearly known to be a counterrevolutionary or other criminal to help him escape legal sanction. The crime of shielding a criminal means the act of oral or written perjury before law-enforcement or other relevant institutions to help cover up the crime of one who is clearly known to be a counterrevolutionary or other criminal, so as to help him escape the legal sanction he deserves.

The conditions that must be met for an act to constitute the crime of harboring and shielding a criminal:

(1) The object of the act of harboring and shielding must be a counterrevolutionary or other criminal. This includes elements on the run after committing a criminal offense, those who have or have not been sentenced, or those who were arrested and taken into custody but have since escaped. If the person harbored or shielded is

¹⁹ *Zhizhi Dongluan Pingxi Fangeming Baoluan: Fali Wenti Jieda* ("Curbing the Turmoil and Suppressing the Counterrevolutionary Rebellion: An Explanation of the Legal Issues"), compiled by the Beijing Municipal Bureau of Justice and published in August 1989 by Beijing Publishing House.

not a criminal, that act does not constitute the crime of harboring or shielding (a criminal).

(2) Subjectively, the subject must clearly know the object to be a counterrevolutionary or other criminal and premeditatedly harbors and shields him; only thus can his act constitute a crime. If the subject does not know the object as a criminal and provides him with a place to live, or if he testifies in favor of the criminal without knowing the truth, his act does not constitute the crime of harboring or shielding (a criminal). If the subject clearly knows some one to be a criminal, his act also cannot constitute the crime of harboring or shielding (a criminal). If the subject had conspired with the criminal beforehand and promised to harbor and shield him after he committed an offense, that act, according to criminal law, does not constitute the crime of harboring or shielding a criminal, but it does constitute the crime of an accomplice, and shall be dealt with accordingly.

(3) Viewed from the bodies harmed by the subject, harboring or shielding a criminal directly obstructs the normal functioning of the law-enforcement agencies and provides favorable conditions for the criminal to escape punishment and continue to do harm, thereby seriously threatening and harming the interests of the people and social stability. Therefore, the subject must be punished as a criminal offender.

Article 162 of the Criminal Law stipulates that: "Those harboring or shielding counterrevolutionaries by perjury should be sentenced to prison terms of under three years, taken into custody to do forced labor, or put under surveillance. Serious offenders may be sentenced to prison terms of over three years and under ten years. Those harboring or shielding by perjury other criminals should be sentenced to prison terms of under two years, taken into custody to do forced labor, or put under surveillance. Serious offenders may be sentenced to prison terms of over two years and under seven years."

Letter from Yi Jingyao's Sister²⁰

May 26, 1989

You probably know me. I am Yi Jingyao's sister, a waitress at the Peking Duck Restaurant. The reason I have come to you is that I am dissatisfied with the government's handling of (the term is probably incorrect as Yi had not yet been tried--tr.) my brother, and I would like to get your understanding and support.

Let me describe what had actually happened briefly: On the 19th (of May), i.e., the first day the (martial law) troops were about to enter the city, they learned from the students at Dongdaqiao that troops were about to suppress the students, and city residents were asked to help block the army trucks. My brother, filled with enthusiasm, drove to the Capital Steel Works to call on the workers there to unite and help the college students block the army trucks. He was stopped at the gate by the guards. But he did not commit any crime. The *Beijing Daily* reported on the 22nd that (he) "tried to pass himself off as a college student, rushed a certain factory and spread rumors. The case is under investigation." On the 23rd, that paper reported: "he tried to incite the workers to go on strike, shouted indiscreet slogans and disrupted social order. He was arrested with the approval of the Intermediate People's Procuratorate. He has been turned over to the Shijingshan Court to be tried next Thursday." I request that you help me engage a trustworthy attorney, who has a sense of justice, to find out the truth about this case, help defend my brother to obtain a fair verdict. My brother has always acquitted himself well at his unit. He is a young man with a sense of justice. We know he is innocent. Maybe the way he looks at things leaves something to be desired, so he gave the authorities a handle against himself. As you have a lot of things to do, I will not go and talk to you in person. In case you want to get in touch, please call me at (telephone number), Peking Duck Restaurant. My address is 500.8507 Dongdaqiao.

You have the support of the people.

Yi Jingning

²⁰ *Letter from Yi Jingyao's sister* (Appendix IV; Part I) and *Report of the Group Investigating the Arrest of Yi Jingyao* (Appendix IV; Part II) appeared together in an undated, one-page flyer issued a few days after May 26, 1989 by the Joint Conference for Consultation of All Circles in the Capital (JCCACC). The JCCACC was one of the alternate names adopted by the group set up by (among others) Wang Juntao and Chen Ziming after May 20, 1989, and which was eventually known as the Joint Liaison Group for All Circles in the Capital (JLGACC).

APPENDIX IV; PART II

Report of the Group that is Investigating the Arrest of Yi Jingyao

The Joint Conference for Consultation of All Circles of the Capital has asked Pu Zhiqiang and others to form a group to investigate the arrest of Yi Jingyao. Following is a report on the progress of our investigation and the steps we propose to take. We have been in touch with Yi Jingning, Yi Jingyao's sister. She has written a statement.

The incident of the arrest of Yi Jingyao was reported by *Beijing Daily* on May 22. We are conducting an investigation of this matter. We request assistance from all quarters [words missing]...organize all circles of society to demand that the case of Yi be tried openly. [words missing]...nothing actually happened. We will hire a defence attorney for Yi, and we call on people from all walks of life to give him support, and lodge a protest. [We will] take those responsible for the illegal arrest of Yi to court. [We call on] people from all walks of life who had participated in the patriotic movement for democracy to supervise each other and [words missing] each other. Once it is discovered that someone has been arrested or treated unfairly because he (she) had participated in the patriotic movement for democracy, please get in touch with us and we shall do our best to come to his (her) aid.

**The Joint Liaison Group
of All Circles of the Capital**

* * *

**For further information:
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News From Asia Watch is a publication of Asia Watch, an independent organization created in 1985 to monitor and promote internationally recognized human rights in Asia. The Chair is Jack Greenberg, the Vice Chairs are Orville Schell and Harriet Rabb, and the Executive Director is Sidney Jones.

Asia Watch is a component of Human Rights Watch, which includes Africa Watch, Americas Watch, Helsinki Watch and Middle East Watch. The Chair of Human Rights Watch is Robert L. Bernstein and the Vice Chair is Adrian DeWind. Aryeh Neier is Executive Director; Kenneth Roth, Deputy Director; Holly Burkhalter, Washington Director; Susan Osnos, Press Director.