

# DRAFT EMERGENCY RESPONSE LAW BODES ILL FOR CIVIL SOCIETY

BY HU SHAOJIANG

A draft law currently under consideration by the National People's Congress could further restrict the media and members of the public in defending human rights.

During the 22nd Session of the Standing Committee of the National People's Congress in June 2006, one item on the agenda attracted particular notice from both domestic and foreign media: the Draft Law on Handling Emergency Response.<sup>1</sup> This draft was sent to the current session of the NPC Standing Committee on June 24 after being passed by the State Council. The title suggests that the law stipulates how each level of government should handle and take responsibility for public emergencies, which is not a bad thing in a place like China, where major incidents are a frequent occurrence. However, a careful reading of official media coverage of this draft law indicates that it is much more complicated than its title would suggest.

The new law provides for legal sanctions to be imposed on officials who commit serious economic and administrative crimes in the course of emergency relief work. Again, at first glance this appears to be a good thing. However, such actions are already covered by numerous existing laws, and there is absolutely no need for new legislation. From this perspective, the new draft law appears to be nothing more than political propaganda; it cannot be considered a significant step towards the perfection of Chinese law, but will only create further confusion in enforcement.

A close reading of this draft law suggests that the real issue is the further delimitation of the rights and duties of officials and citizens, with the disparities between these respective rights intensified to a deplorable degree.

This law greatly increases the powers of every level of government in handling so-called public emergencies, such as controlling all public facilities, imposing lockdowns on public venues, restricting public activities and employing coercive measures in dealing with persons concerned. In fact, neither the Party nor the government has ever been subject to legal restraints. To confer these rights on the government through legislation simply whitewashes the scandalous violation of the standards of modern civilized society.

By specifying the responsibilities of each level of government, this law works to the advantage of officials. Many actions considered illegal or criminal under current laws—such as reporting false information and illegally requisitioning citizens' property—are described in the new draft law as merely "administrative errors," and the punishment imposed is likewise only administrative.

Another aspect of the draft law is its unreasonably strict provisions regarding actions that are civic duties. For example, the draft law stipulates: "Citizens located in the vicinity of public emergencies must obey the instructions and arrangements of their local people's government, residential committee, village committee or the unit to which they belong." It further stipulates that if citizens do not obey the decisions or orders announced by the local people's government and its related departments, or do not comply with the measures adopted by those bodies, this constitutes a violation of public order management laws and is punishable by public security organs. If such actions constitute a crime, the offender shall be held criminally responsible.

This is tantamount to saying that by labeling an incident in a particular locale a public emergency, the government can force citizens to obey its orders. A regulation that openly deprives citizens of their rights in this way provides a loophole for officials at all levels of government to suppress peaceful and legal opposition by citizens.

Another significant characteristic of this draft law is its further restriction of news coverage through legislative means. The draft law stipulates that if Chinese media outlets "spread, without authorization, news on the management of public emergencies or the development of events" or "report false situations," they "will be subject to fines ranging from 50,000 to 100,000 yuan." Reporting on events and persons concerned in public incidents without being empowered to do so, or without authorization, will result in imprisonment by the local authorities on charges of "illegally obtaining and leaking state secrets."

The Chinese media have long been a tool of the Party, used for reporting only the good news, not the bad. For example, the fact that the collapse of a dam in Henan Province in 1975 resulted in the deaths of 85,000 people was not made public until it was mentioned in a book on China's worst twentieth-

century disasters published in 1988. Last November, an explosion at a chemical plant in Jilin polluted the Songhua River, Harbin's water source, but this was only made public after being covered up by the authorities for several days. As for the unnatural deaths of more than 10 million people during the 1960s and the tragic fates of families who suffered persecution during the Cultural Revolution—these are still off-limits to reporters.

In recent years, many people of conscience in the news industry have attempted to break open areas that have been declared off-limits through official regulations. They have diligently used major incidents to expose the corruption and uselessness of officials at every level. Now it looks as if even this pathetically minimal leeway enjoyed by media outlets will also be eliminated. This turn of events further exposes both the fragility of China's social situation and the fear that lies in the hearts of those in power. It also illustrates the government's intractable opposition to the international trend toward press freedom and media transparency.

Neither the closing remarks delivered by Wu Bangguo, the chairman of the NPC Standing Committee, nor the meeting's press release mentioned the outcome of the deliberations on this draft law. However, according to normal operations of the Chinese government, the relevant departments of the Commu-

nist Party would have passed the law in principle before the State Council sent it to the NPC. Therefore, one can assume that, following revisions, the draft law will be sent to the NPC for ratification. The day this draft bill becomes law will be another day for the public to feel ashamed of its rubber-stamp People's Congress.

Translated by a friend of HRIC.

The original Chinese version of this article was posted on the Web site of Radio Free Asia: <http://www.rfa.org/cantonese/pinglun/2006/06/30/>.

#### NOTE

1. The Chinese title of this draft law is Tufa Shijian Yingdui Fa Cao'an. For further information on the draft, see "Guojia tufa gonggong shijian yu'an tixi quanwen," People's Daily Online, January 12, 2006, <http://politics.people.com.cn/GB/8198/57347/57350/4021527.html>; Josephine Ma, "Mainland Gag Would Include Foreign Media," South China Morning Post, July 4, 2006, <http://www.scmp.com/topnews/ZZZFLGX51PE.html>; "Chuanmeijie ji xinwen xuezheng pingsuo 'Tufa Shijian Yingdui Fa' cao'an zhong guanyu xinxi pilu de tiaokuan," Caijing, June 29, 2006, <http://caijing.hexun.com/text.aspx?lm=2550&id=1708357>.

## Salute

BY OUYANG XIAORONG

*Ouyang Xiaorong, a computer programmer based in Yunnan Province, was detained for nearly two months earlier this year while helping to coordinate a hunger strike led by rights defence lawyer Gao Zhisheng. Ouyang was detained again in Qingdao on August 21, and as this journal went to press, he was reportedly still under house arrest in Kunming.*

For conscience, and the tears and blood, the yearning . . .  
I salute you.

Youths who died so soon:  
I send you all  
A lover's kiss.  
Affixing a begonia stamp (tracing our ancestors' footprint),  
I consign a bottle to the waves to seek the gilded barque  
That has been drifting for a hundred years.  
Allow me, please,  
To pluck the bullet red-hot from your breast.  
I'll put it to good use  
—To brand a searing mark into my soul.

Elders whose homecoming's overdue:  
I send you all  
A son's blessing.  
With faith in your bequest, I'll roll a rose-red note  
And in the gloaming bind it to an osprey's wing.  
Allow me, please,

To take on your cascading grief.  
I'll put it to good use  
—And charge the air with longing when I weep.

Souls anguished in the nether world:  
I send you all  
A brother's care.  
Humming the tunes of our sacred land,  
I'll weave of winter blooms a stout warm coat  
And thus await, in frozen marsh,  
The night of wild rejoicing when the ghosts come home.  
Allow me, please,  
To ladle out a gourdful of your blood:  
A Yangtze's never-ending stream.  
I'll put it to good use  
—It shall sustain the small craft of my life.

For the path of suffering, and the human spirit, and all that  
is to come . . .  
I salute you.

Rendered into English by A. E. Clark

The original Chinese poem was posted on the Web site of the Asia Democracy Foundation, [www.asiademo.org](http://www.asiademo.org), on July 21, 2006.