

A Chinese Think-Tank's View of Human Rights

Following is an excerpt from China's Political Development 2005, edited by Liu Jie, director of the Democratic Government Research Center under the School of World Economy and Politics of the Shanghai Academy of Social Sciences (SASS).¹ China's oldest research institution for the humanities and social sciences and the largest outside of Beijing, SASS receives most of its funding from the municipal government, and also draws financial support from various non-governmental sources.²

Judging from the greater international situation at the present time, respecting and protecting human rights has become an important trend in the progress of human civilization, and human rights is having an increasingly greater impact on international relations and on the international situation. Judging from the domestic situation, with the development of the socialist market economy and the socialist democratic legal construction, the broad masses of the people will certainly have a significantly stronger sense of and demand for rights, and the number of contradictions the broad masses of the people will encounter when protecting and exercising their rights will also increase significantly. At present, the increase in people's demand for rights has become a major, deep-seated issue in economic, political and social life, and the issue is taking shape and will become increasingly more prominent.

The lack of a consciousness and sense of human rights is a widespread phenomenon in our society. First, a significant number of cadres and public service personnel have little knowledge or sense of human rights, and are only aware of human rights from the angle of international human rights struggles. They are unable to conscientiously associate human rights with the basic goal of our country to build our socialist democracy and socialism with Chinese characteristics, and they are unable to correctly understand the relationship between public power and the rights of the people. The mentality of "rule of man," the "privileges" mentality and the government-oriented mentality still exist to a certain extent and in various forms.

Second, a significant percentage of the public has only a vague understanding of the concept of human rights. They are not aware of the rights they enjoy, they do not know how to exercise and preserve their rights, and they do not know what actions violate the law and human rights. Third, owners of some enterprises have no sense of human rights. They force workers to do overly strenuous work and pay them far less than what they deserve. They make workers live, eat and work in abominable conditions, employ child labor, and even subject workers to verbal abuse, restrictions on personal freedom and corporal punishment.

How to propagate and spread knowledge about human rights in a country like ours with its long feudal history, how to strengthen human rights consciousness in society as a whole, and how to lay the ideological groundwork for respecting and protecting human rights are important tasks

that we face in human rights construction in our country.

Developing a system of promoting human rights is a key task. In 2004, the concept of human rights was introduced into the Constitution for the very first time. Experts believe that this is a major event in the construction of democratic constitutional government and political civilization, as well as an important milestone in human rights development in China. It also means that the country has pledged, through the establishment of a fundamental principle, that it has a constitutional duty to protect human rights. . . .

Upgrading "human rights" from a political concept to a legal concept is only the first step toward development of the human rights cause. In order for ordinary citizens to protect their rights more legally and more effectively, the focus will have to be placed on perfecting the system overall, including legislation before the fact, judicial fairness, equal protection of rights and public monitoring, as well as a series of other procedures. Preventing the development of the human rights system from lagging behind the current state of development may be the key to whether or not China can make a breakthrough in its human rights endeavors. From numerous experiences and lessons learned, we have come to the conclusion that systematization is the key: it can produce predictability and thus is the most effective means to achieve a relatively democratic state. Only when there is a sound system and procedures that preserve human rights by way of laws or ordinances can we have rules to follow in protecting legally defined human rights, and only then can the human rights endeavors of our country develop in a healthy direction.

In the human rights movement in our country, there are still some system- and standards-related problems that need to be solved immediately. For example, there are still gaps in human rights legislation. In addition, the judicial process is still plagued with practices such as overriding laws on the basis of power, personal relations and money; relying on punishment, power and words as substitutes for laws; and generally disregarding and failing to strictly enforce laws. Furthermore, human rights principles such as "all people are equal before the law," "presumption of innocence," "judgment and punishment based on provisions of laws" and "commensurability between crime and punishment" have not been fully observed. How to expedite the development of the human rights system, enhance its quality and truly protect the rights defined by the Constitution and other laws of our country is an important task our country faces in our human rights construction.

Translated by David Cowhig

NOTES

1. Liu Jie, ed., *Zhongguo Zhengzhi Fazhan Jincheng 2005 Nian*, Shisi Chubanshe, March 2005. This excerpt comes from Chapter 7.
2. For further information on SASS publications, see <http://www.sass.org.cn/kyc.jsp?sortid=1149&artid=10664>.