

Social Instability in China: Causes, Consequences, and Implications

by Carl Minzner, Council on Foreign Relations Visiting Fellow, CSIS

Abstract

Social unrest is rising in China. The increase in citizen protests and petitions is driven in part by China's massive social and economic transformations over the last several decades. However, governance flaws at the heart of the Chinese state also fuel increasing social unrest. Chinese citizens lack independent political institutions to participate in the decisions that affect their lives. They also lack independent legal institutions to resolve their grievances against local officials. The absence of such institutions, combined with Communist Party use of responsibility systems that apply increasingly severe disciplinary sanctions to local officials who experience larger or more frequent protests, channels citizen grievances into the streets rather than into formal legal and political institutions.

Chinese officials are seriously concerned about rising social unrest. Some Chinese authorities believe economic reform alone will reduce levels of social unrest. Others are experimenting with a range of reform measures. But existing reforms remain firmly committed to the principle of centralized Party control, undermining efforts to address the institutional factors driving social unrest.

This report recommends that U.S. and Chinese officials:

- Recognize that existing Chinese political and legal controls fuel social unrest
- Recognize Chinese domestic social unrest as a shared concern
- Replace responsibility systems with direct means of citizen supervision over local officials
- Establish independent checks on the power of local Party committees
- Discuss concrete governance reforms rather than abstract principles of democratization

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We predict that in 2006 and for some period thereafter, China's social order problems can be controlled within a certain sphere and level, and that macro-level social order can be held stable. But it should be observed that China's current overall level of stability has been achieved within a high-pressure environment of unceasing, tough public security measures [*yanda*], and that the foundation of social order is relatively fragile.

Zong Shengli, Li Guozhong, General Office of the Ministry of Public Security, "The Situation of Social Order in 2005"¹

I) Introduction

Social unrest is rising in China. In the summer of 2005, senior Chinese officials announced that "mass incidents," including riots, strikes, demonstrations, and protests, had increased from 8,700 in 1993 to 74,000 in 2004.² Ministry of Public Security sources announced in 2006 that public order disturbances rose by 6.6 percent over 2005, to 87,000.³ Mass petitions to government authorities by groups of citizens seeking the redress of their grievances increased at double digit annual rates of growth throughout the 1990s and into the early 21st century.⁴ As one American academic noted, "[b]y the early 21st century, social unrest had become a normal feature of Chinese society."⁵

Protest activities are increasingly taking the form of organized challenges to the decisions of local officials. Protest leaders, often employing organizational skills learned in the

¹ Zong Shengli, Li Guozhong, 2005 年社会治安形势 [The Situation of Social Order in 2005], in Ru Xin, Lu Xueyi, Li Peilin, eds., 2006 年 : 中国社会形势分析与预测 [Analysis and Forecast on China's Social Development (2006)] (Beijing: Social Sciences Academic Press, 2006), p. 151.

² M. Scot Tanner, "China Rethinks Unrest," *The Washington Quarterly*, vol. 27, no. 3. (Summer 2004), pp 138-140; Edward Cody, "China Growing More Wary Amid Rash of Violent Protests," *Washington Post*, August 12, 2005.

³ Joseph Kahn, "Pace and Scope of Protest in China Accelerated in '05," *New York Times*, January 20, 2006; 公安部召开新闻发布会通报 2005 年全国社会治安形势暨火灾形势 [Ministry of Public Security Holds Press Conference to Announce Public Security and Fire Situation for 2005] Ministry of Public Security Web site, January 20, 2006, accessed at <http://www.mps.gov.cn/cenweb/brj/Cenweb/jsp/common/article.jsp?inford=ABC0000000000001018>. Chinese authorities' use of different terms in the two sets of statistics, "mass incidents" and "public order disturbances," complicates direct comparisons between them.

⁴ Cai Yongshun, "Managed Participation in China," *Political Science Quarterly*, vol. 119, no. 3 (2004), p. 441; Carl Minzner, "Xinfang: An Alternative to Formal Chinese Legal Institutions," *Stanford Journal of International Law*, vol. 42, no. 1 (2006), p. 163.

⁵ Thomas Bernstein, *Unrest in Rural China: A 2003 Assessment*, August 1, 2004, p. 1, accessed at <http://repositories.cdlib.org/csd/04-13>.

military, can assemble dozens, hundreds, or even thousands of people to challenge local decisions that they regard as illegal or unfair. Protests generally do not seek to oppose the decisions of central Chinese authorities. Rather, they challenge local decisions that they assert are in violation of national requirements, often attempting to prompt the intervention of higher level officials in resolving their grievances. For these reasons, these citizen protests do not currently pose a threat to authority of central Chinese officials. Increased citizen protests do pose a challenge to the ability of local officials to govern effectively, particularly as protest leaders have increasingly adopted more radicalized “direct action” techniques since the 1990s.⁶

Chinese authorities are seriously concerned about increasing social unrest. In late 2005, Central Party Committee and State Council leaders issued an internal directive that made reducing the level of social unrest a major policy goal in 2006.⁷ Chinese authorities subsequently launched a major campaign to achieve this target. In 2006, authorities announced that mass protests and petitions registered sharp declines compared to the prior year.⁸ It is unclear whether these announcements are accurate and if they represent a sustained reduction in social unrest. Chinese officials routinely bar media from reporting on citizen protests, and the National People’s Congress is currently considering legislation that would fine domestic and foreign media for unauthorized reporting on “sudden incidents,” including citizen protests and riots.⁹

What are the causes of social unrest in China? Clan or ethnic conflicts trigger some clashes. Others are the result of citizen dissatisfaction with specific government actions.¹⁰ Chinese citizens have taken to the streets to protest official corruption,

⁶ Written Statement of Kevin O’Brien, “New Tactics in Rural Protest,” at Access to Justice in China, Staff Roundtable of the Congressional-Executive Commission on China, July 12, 2004, accessed at <http://www.cecc.gov/pages/roundtables/071204/obrienreport.php>; Carl Minzner, “Xinfang: An Alternative to Formal Chinese Legal Institutions,” *Stanford Journal of International Law* vol. 42, no. 1 (2006), pp. 140-46, 158-65.

⁷ 中共中央办公厅国务院办公厅转发《中央政法委员会、中央社会治安综合治理委员会关于深入开展平安建设的意见》的通知 [Circular of the General Offices of the Chinese Communist Central Committee and the State Council Regarding the Reissuance of the “Political and Legislative Affairs Committee and the Committee for Comprehensive Management of Public Security ‘Joint Opinion Regarding Carrying Out Stable and Secure Development’”], issued October 21, 2005; 中央综治办负责人就关于深入开展平安建设的意见答记者 [Spokesman for the Committee for Comprehensive Management of Public Security Responds to Journalist’s Questions Regarding Deepening Peaceful Construction], December 5, 2005, accessed at <http://www.npc.gov.cn/zgrdw/common/zw.jsp?label=WXZLK&id=343072&pdm=010520>.

⁸ 1-9 月农民参与群体事件 38 万人次 居各类人之首 [From January to September, 380,000 Farmers Participated In Mass Incidents, Represent Largest Group], Xinhua, November 6, 2006, accessed at <http://news.sohu.com/20061106/n246226211.shtml>; 信访总量持续攀升势头获遏制 上访更趋向理性 [The Tendency of Continual Increases in Numbers of Xinfang Cases Has Been Checked, Petitioning Trends More Reasonable], Xinhua, April 29, 2006, accessed at http://news.xinhuanet.com/politics/2006-04/29/content_4490873.htm.

⁹ Joseph Kahn, “Chinese Law Would Apply To All Media,” *International Herald Tribune*, July 3, 2006.

¹⁰ Central Chinese officials have themselves admitted that failures of local government officials are at the heart of many protests. “Senior Chinese Officials Acknowledge Rising Social Unrest, But Rule Out

excessive taxation, unpaid back wages, and inadequate compensation for laid-off workers. Still others are linked to China's massive social and economic transitions, such as urbanization. Since the late 1990s, government seizures of village land and urban housing for development projects have become increasingly important as a cause of citizen protests and petitions. Citizen discontent regarding these issues reflects a range of problems, including ongoing economic transitions, weak legal protections for citizen rights, and a limited social security net for the poor and disadvantaged.

Increasing social unrest in China is also directly linked to governance flaws at the heart of the Chinese state. Local Party authorities enjoy extensive control over the media, judiciary, local legislatures, and village committees. Chinese citizens consequently lack independent political channels to influence government decisions that affect their lives. They also lack independent legal channels to check decisions of local officials that infringe on their rights.¹¹ As a result, Chinese citizens increasingly use organized protest activities to circumvent the control of local officials over formal political and legal institutions and prompt the intervention of higher-level officials in resolving citizen grievances.

The mechanisms that central Chinese authorities use to evaluate local officials also exacerbate social unrest. The Chinese bureaucracy uses "responsibility systems" that discipline local Party authorities for outbreaks of social unrest, such as mass petitions to higher level authorities. Local officials who experience more frequent or more numerous protests, or protests that are directed to higher levels of the government bureaucracy, receive more serious disciplinary punishments. In the absence of independent legal or political channels, these systems create incentives for citizens to resort to street protests to try to resolve their grievances against local authorities. However, since these systems link the career prospects of local Party officials to the incidence of citizen petitioning and protests, they create incentives for local officials to employ a range of abusive tactics against petitioners who try express their discontent publicly to higher level officials. The conflicting incentive structures facing citizen protestors and local officials appear to be fueling a destabilizing spiral of escalating citizen protests and increasingly stiff local government repression.¹²

While Chinese officials admit that failures of local government officials are the cause of many citizen protests, they have ruled out political liberalization as an institutional response. Some officials believe that economic development alone will be sufficient to appease citizen discontent. Others appear willing to support limited reforms that increase citizen participation within the existing political system, but do not challenge core principles of Party control. Still other reforms appear to actually increase centralized

Political Liberalization," Congressional-Executive Commission on China website, August 1, 2005, accessed at <http://www.cecc.gov/pages/virtualAcad/index.phpd?showsingle=17209>.

¹¹ Congressional-Executive Commission on China, *2006 Annual Report*, September 20, 2006, pp 2-16, 25-42, 119-42.

¹² Carl Minzner, "Xinjiang: An Alternative to Formal Chinese Legal Institutions," *Stanford Journal of International Law*, vol. 42, no. 1 (2006), p. 151-65, 172-8.

political controls and strengthen the destructive incentives that encourage citizens to resort to larger and larger protests to resolve their grievances.

The role of Chinese authoritarian controls as a source of rising social unrest offers U.S. officials an opportunity to advance human rights and political liberalization in a more effective manner. By pointing out the linkage between the absence of an independent judiciary, meaningful electoral channels, and media controls to the increase in citizen protest activities, U.S. authorities can credibly tie greater political liberalization to a core interest of Chinese leaders: social stability.

Naturally, this will be of little value to those American officials who believe that an increase in domestic Chinese social unrest is to be desired. Nor is it likely to sway those Chinese officials who remain fundamentally committed to the concept of the Communist Party as the source of all legitimacy in China. But for other American and Chinese officials, recognizing the institutional links between China's political controls and growing social unrest might open up room for a meaningful dialogue regarding gradual liberalization of centralized Party control of China's political and legal system as a means for shifting citizen discontent from street protests to other channels.

II) Social Unrest: Socioeconomic and Institutional Causes

The direct causes for individual outbreaks of citizen unrest and discontent are numerous. In a 2003 interview, Zhou Zhanshun, head of the national bureau responsible for receiving citizen petitions, identified several primary causes for an increased number of citizen petitions and protests over the prior decade.¹³ These included:

- Restructuring of state-owned enterprises, including the failure to pay wages and benefits;
- Rural problems, such as illegal taxation, illegal seizures of land, and interference with village elections;
- “Legally-related” grievances, such as disagreements with court decisions;
- Forced urban demolitions and resettlements;
- Corruption and illegal behavior of cadres;
- Environmental pollution;

Other Chinese officials and scholars have highlighted these problems. In December 2005, Premier Wen Jiabao himself warned that: “In some areas, illegal seizures of farmland without reasonable compensation have provoked uprisings. This is still a key source of instability in rural areas and even the whole society.”¹⁴ Chinese scholars have highlighted low wages, unpaid back wages, and inadequate retirement

¹³ 国家信访局局长称 80% 以上信访应解决 [Head of the State Bureau for Letters and Calls Says Over 80% of Petitions Should Be Resolved], *Chongqing Zaobao*, November 21, 2003, accessed at <http://news.sina.com.cn/c/2003-11-21/03581158276s.shtml>.

¹⁴ Joseph Kahn, “Chinese Premier Says Seizing Peasants’ Land Provokes Unrest,” *New York Times*, January 21, 2006.

benefits as leading to a dramatic increase in the number of mass labor disputes, rising from 1,482 in 1994 (involving 52,637 workers) to 11,000 in 2003 (involving 515,000 workers).¹⁵ Expressions of citizen discontent often reflect an aggregation of grievances, merging complaints of government corruption, excessive taxation, and physical abuse by cadres.¹⁶

Many of these sources of social unrest are rooted in the sweeping social and economic changes of recent decades.¹⁷ The economic restructuring of the 1990s led to a wave of urban protests arising from resulting lay-offs at state-owned companies. Rapid urbanization has generated a massive influx of migrant workers to Chinese cities, and increasing citizen complaints regarding the failures of employers to pay their wages on time. In contrast to these more recent sources of social unrest, others are more systemic. Citizen protests regarding excessive taxation and official corruption date back to Chinese imperial rule.

Chinese domestic social unrest also reflects deeper governance problems. Over-concentration of political power in the hands of local Party elites, the lack of independent political channels for citizens to participate in the decisions that affect their lives, and the absence of independent legal channels for individuals to protect their rights multiplies the problems created by rapid economic and social change. Chinese scholars, for example, have linked the rise in labor disputes not only to prevailing low wages, but also to the failure of government supervisory institutions to enforce relevant regulations and to the absence of independent unions to safeguard worker rights.¹⁸

Land Disputes: Example of Economics and Governance Jointly Fueling Unrest

Citizen protests regarding land and property seizures illustrate the merger of economic and governance problems that fuel social unrest. China's rapid urbanization and economic development has generated massive demands for land on the part of governments and developers. In urban areas, planners seek to level entire city districts to

¹⁵ Qiao Jian and Jiang Ying, 市场化进程中的劳动争议和劳工群体性事件分析[An Analysis of Labor Disputes and Mass Incidents During Marketization], in Ru Xin, Lu Xueyi, Li Peilin, eds., 2005年：中国社会形势分析与预测 [Analysis and Forecast on China's Social Development (2005)] (Beijing: Social Sciences Data Press, 2005), pp 297-314. Participants in all labor disputes rose from 77,794 in 1994 to about 800,000 in 2003. Id.

¹⁶ Yu Jianrong., 信访制度调查及改革思路 [An Investigation Into the System of Letters and Visits and Thoughts on Reform], in Ru Xin, Lu Xueyi, Li Peilin, eds., 2005年：中国社会形势分析与预测 [Analysis and Forecast on China's Social Development (2005)] (Beijing: Social Sciences Data Press, 2005), p. 215, table 3.

¹⁷ See Albert Keidel, "China's Social Unrest: The Story Behind the Stories," Carnegie Endowment Policy Brief, no. 48, September, accessed at http://www.carnegieendowment.org/files/pb48_keidel_final1.pdf.

¹⁸ Qiao Jian and Jiang Ying, 市场化进程中的劳动争议和劳工群体性事件分析[An Analysis of Labor Disputes and Mass Incidents During Marketization], in Ru Xin, Lu Xueyi, Li Peilin, eds., 2005年：中国社会形势分析与预测 [Analysis and Forecast on China's Social Development (2005)] (Beijing: Social Sciences Data Press, 2005), pp 297-314.

build freeways, shopping malls, and economic development zones. Between 1991 and 2003, Shanghai municipal authorities displaced nearly 1.2 million people from their homes as part of city development plans.¹⁹ Metropolitan areas seek to expand their borders and establish bedroom communities by converting agricultural land to new housing estates. From 1991 to 2004, nearly 66 million agricultural residents lost their land.²⁰ Massive infrastructure projects such as dams have also forced the relocation of large numbers of people. The Three Gorges Dam project has forced the evacuation of over a thousand villages and a million residents.²¹

Economic incentives introduced by China's property rights regime contribute heavily to the land seizures underlying increased social unrest. Under China's Land Management Law (LML), urban land is state-owned, while rural collective organizations own rural land. Rural residents possess 30-year land use rights assigned by local village committees. Urban residents possess long leaseholds to the land beneath the residential buildings or apartments they own.²²

China's urbanization has increased the market value of both urban land and farmland that might be developed into urban or industrial projects. But because citizens do not hold title to the land itself, they are not able to capture this increased value. Compensation formulas for urban land seizures are linked to the value of the residential or commercial buildings, rather than the land itself. Similarly, when authorities seize rural farmland, they pay compensation based on the value of the crops and fixtures rather than the land. Rapidly appreciating urban and periurban land thus represents a large automatic teller machine for local governments.²³ By seizing land and housing from low-income residents and farmers for low compensation, and subsequently leasing the same land to developers for large sums of money, local governments can capture large revenue streams.

These incentives have generated an increasing wave of land seizures and citizen protests. In the first five months of 2006, the total amount of land involved in cases of illegal land transactions filed before the State Land Bureau increased by over 20 percent compared with the previous year. Illegal local government approvals of land transfers were the primary cause of these cases.²⁴ Chinese officials themselves have noted that corrupt relationships between officials and developers are partially responsible for this trend.²⁵ But local Chinese governments also face increasing budgetary constraints as a

¹⁹ Congressional-Executive Commission on China, *2004 Annual Report*, October 5, 2004, p. 92.

²⁰ Zhao Ling, "Significant Shift in Focus of Peasants' Rights Activism," China Elections Website, September 16, 2004, accessed at <http://www.chinaelections.org/en/readnews.asp?newsid={A0B4FFF9-1F57-460D-BBB3-824B59420C2F}&classid=17&classname=Villages>.

²¹ Jill McGivering, "Three Gorges Dam's Social Impact," BBC News Website, May 20, 2006, accessed at <http://news.bbc.co.uk/2/hi/asia-pacific/5000198.stm>.

²² Congressional-Executive Commission on China, *2004 Annual Report*, October 5, 2004, p. 91.

²³ *Id.*, pp 92-93.

²⁴ 土地违法案件上升 地方政府违法批地是主因 [Illegal Land Cases Increase, Illegal Approvals by Local Governments Are the Main Cause], People's Net Website, September 28, 2006, accessed at <http://finance.people.com.cn/GB/4866939.html>.

²⁵ Congressional-Executive Commission on China, *2004 Annual Report*, October 5, 2004, p. 93, fn 882.

result of official tax reforms that separated them from national tax revenue streams in the 1990s, and gradually eliminated the agricultural tax since 2001. Many local governments rely on income from land seizures to fund their operations.²⁶ Local authorities often do not hesitate to use coercion, intimidation, and violence in their efforts to evict “hold-out” residents.²⁷ Chinese scholars note that in the wake of these trends, protests over land seizures have surpassed tax protests as the most important source of rural unrest.²⁸

Institutional governance flaws magnify the problems created by social and economic change and further fuel social unrest. First, homeowners and rural residents lack independent channels for their voices to be heard in the planning process. Many Chinese authorities do not provide citizens with notice nor an opportunity to comment on planning or demolition decisions that affect them.²⁹ Citizens lack electoral mechanisms to influence the city planning decisions of Party and government officials. Wealthy and politically-connected developers are thus able to exert influence over local officials, leading to corruption and illegality.³⁰ As one Construction Ministry noted, some local governments “single-mindedly pursue construction, ignore citizens’ legal property rights, reduce compensation and relocation standards, excessively use coercive measures, injure the legal interests of evicted residents, and threaten overall social stability.”³¹

Second, Chinese citizens lack effective channels to defend against violations of their legal rights. Chinese law allows authorities to annul land use rights and seize land in the public interest.³² But Chinese laws and regulations do not define “public interest,” leaving local authorities wide discretion to seize land, and citizens unable to use legal channels such as the Administrative Litigation Law to contest the underlying determinations.³³ Chinese law also allows citizens to challenge the amount of compensation offered for their eviction in arbitration proceedings run by land

²⁶ Zhao Ling, “Significant Shift in Focus of Peasants’ Rights Activism,” China Elections Website, September 16, 2004, accessed at <http://www.chinaelections.org/en/readnews.asp?newsid={A0B4FFF9-1F57-460D-BBB3-824B59420C2F}&classid=17&classname=Villages>.

²⁷ Human Rights Watch, “Demolished: Forced Evictions and the Tenant’s Rights Movement in China,” March 2004, accessed at <http://hrw.org/reports/2004/china0304/>; Testimony of Sara (Meg) Davis, Senior Researcher, Human Rights Watch, at Property Seizures in China: Politics, Law and Protest, Staff Roundtable of the Congressional-Executive Commission on China, June 21, 2004, accessed at <http://www.cecc.gov/pages/roundtables/062104/index.php>.

²⁸ Zhao Ling, “Significant Shift in Focus of Peasants’ Rights Activism,” China Elections Website, September 16, 2004, accessed at <http://www.chinaelections.org/en/readnews.asp?newsid={A0B4FFF9-1F57-460D-BBB3-824B59420C2F}&classid=17&classname=Villages>.

²⁹ Congressional-Executive Commission on China, *2004 Annual Report*, October 5, 2004, p. 93; Human Rights Watch, “Demolished: Forced Evictions and the Tenants’ Rights Movement in China,” March 25, 2004, accessed at <http://hrw.org/reports/2004/china0304/index.htm>.

³⁰ Congressional-Executive Commission on China, *2004 Annual Report*, October 5, 2004, p. 92-3.

³¹ Du Yu, 建设部要求建立健全拆迁公示和听证制度[Ministry of Construction Demands the Creation of a Robust Notice and Hearing System for Demolition and Removal Proceedings], Chinacourt Website, February 11, 2005, accessed at <http://www.chinacourt.org/public/detail.php?id=150238>.

³² 中华人民共和国宪法[P.R.C. Constitution], enacted December 4, 1982, amended March 14, 2004, art. 10; 中华人民共和国土地管理法[PRC Land Management Law], enacted August 28, 2004, arts. 43-65.

³³ Rural Development Institute, Land Takings in China: Policy Recommendations, June 5, 2003, accessed at <http://www.cecc.gov/pages/roundtables/062104/memo.pdf>.

management authorities, as well as in court.³⁴ But many local land management bureaus have tight financial links with developers, creating serious conflicts of interest.³⁵ In some areas, officials instruct courts not to handle cases involving compensation for land seizures.³⁶

Ordinary government mechanisms to suppress illegal deals supported by local Party officials can prove ineffective, requiring the personal intervention of central Party officials to address. In September 2006, a session of the State Council personally chaired by Wen Jiabao publicly sanctioned the Henan provincial government, and seriously disciplined the Party secretary of Zhengzhou, for illegally approving the seizure of land to build a new municipal university district, even after being investigated by national land authorities and receiving a request to halt.³⁷

Absence of Independent Political and Legal Institutions For Citizen Grievances

Growing social unrest in China reflects deep institutional problems. Particularly at local levels of government, control over all formal political and legal institutions is centralized in the hands of the local Party secretary and a few deputies. These individuals exercise extensive control over institutions such as local legislatures, courts, Party disciplinary committees, and the media. This concentrated power in the hands of a few individuals breeds numerous problems. First, it allows corruption to thrive. Second, it allows local leaders to choke off the flow of information to higher-level leaders regarding policy failures that might reflect poorly on local officials' performance. Third, it deprives citizens of effective redress of their rights through local legal and political institutions, particularly when the source of the violation is a local Party official. Chinese citizens appear to be increasingly resorting to mass protests and petitions directed at higher-level authorities as a means of circumventing the controls of local officials over legal and political institutions, and triggering the intervention of higher level officials in resolving their grievances.

China is an authoritarian state. The State Council's October 2005 White Paper on "Building Political Democracy in China" states that:

"Party committees serve as the leadership core over all [government and mass] organizations at the same level . . . and through Party committees

³⁴中华人民共和国土地管理法[PRC Land Management Law], enacted August 28, 2004, art. 16; 城市房屋拆迁管理条例[Regulations on the Management of Demolition and Removal of Urban Buildings], issued June 13, 2001, art. 15.

³⁵ Human Rights Watch, "Demolished: Forced Evictions and the Tenants' Rights Movement in China," March 25, 2004, accessed at <http://hrw.org/reports/2004/china0304/index.htm>.

³⁶广西法院不受理 13 类案件 省高院称由国情决定 [Guangxi Courts Will Not Handle 13 Types of Cases, Provincial High Court Says Determination in Accordance With 'National Spirit'], China Youth Daily, August 24, 2004, accessed at <http://www.beelink.com/20040824/1661293.shtml>.

³⁷国务院通报批评河南省政府 [State Council Criticizes Henan Provincial Government], *Beijing News*, September 28, 2006.

and cadres in these organizations, ensure that the Party's policies are carried out . . . Party committees ensure that Party proposals become the will of the state, and that candidates recommended by Party organizations become leaders in the institutions of state power.³⁸

Party regulations on the selection of cadres charge local Party committees with nominating key officials in local governments, legislatures, and courts.³⁹

Concentration of political power in the hands of a few local Party officials has been exacerbated by official efforts to reduce the numbers of cadres. In 2004, central Party officials issued a directive instructing officials to increase the use of joint Party-government appointments.⁴⁰ This decision took place at the same time as central authorities were attempting to eliminate the agricultural tax, reduce the tax burden on farmers, and cut government expenditures. One side effect appears to be the concentration of power in the hands of a smaller and smaller number of officials in some localities. For example, in 2006 Lingnan township reduced the number of local Party committee members from nine to five. Under the new measures, the Lingnan township Party secretary also serves as township head, while the deputy Party secretary serves concurrently as both chair of the local people's congress and chair of the local Party disciplinary committee.⁴¹

Local Party committee control extends over the electoral systems that permit citizen participation in the selection of delegates to local people's congresses and village/residents committees. Selection of who may serve as a candidate is under the control of local election committees dominated, and sometimes chaired, by county and township Party secretaries.⁴² Election committees use non-transparent practices to narrow the list of acceptable candidates, a practice that the NPC Legal Affairs office has noted "easily leads in practice to behind-the-scenes manipulation of elections."⁴³ Citizens who attempt to challenge Party-nominated candidates can find themselves unable to even get on the ballot.⁴⁴

³⁸ State Council Information Office, White Paper on Building of Political Democracy in China, October 19, 2005, accessed at http://www.chinadaily.com.cn/english/doc/2005-10/19/content_486206.htm.

³⁹ 党政领导干部选拔任用工作条例 [Regulations on the Selection of Party and Government Cadres], issued July 23, 2002, arts. 4, 43-50.

⁴⁰ 中共中央关于加强党的执政能力建设的决定 [Chinese Communist Party Central Committee Decision on Strengthening the Party's Ruling Capacity], issued 19 September 04, art. 5(5).

⁴¹ Qian Haoping, 非常务副县长入常委现象背后 [Behind the Phenomena of Deputy County Heads Who Are Not Members of the Party Standing Committee Becoming Members of the Party Committee], *Beijing News*, October 19, 2006. The Lingnan reform is part of a broader effort in Anhui province to expand an experimental program aimed at implementing the 2004 central Party decision, and recentralizing Party and government positions in the hands of the same individual. Congressional-Executive Commission on China, *2006 Annual Report*, September 20, 2006, p. 128.

⁴² Congressional-Executive Commission on China, *2005 Annual Report*, October 11, 2005, pp. 91-3.

⁴³ Id.

⁴⁴ Id.

Chinese officials do permit a degree of citizen political participation, but only within channels that local Party institutions can control and monitor. Some non-Party members do win seats on local village committees. “Consultative” channels, such as the Chinese People’s Consultative Conference, allow non-Party members to offer non-binding input into policy formulation. Chinese authorities have also recently experimented with allowing citizen participation in the selection of local Party officials. These experiments, however, grant citizens only a limited voice in the nomination of potential candidates, allow Party committees to eliminate names from the nominee lists, and retain Party control over the final approval of the results.⁴⁵

Local Party and government officials also wield authority over citizen access to civil society organizations and the media. Citizens who seek to establish a civil society organization must first locate an approved Party or government sponsor organization to supervise their operations.⁴⁶ They must also receive approval to register from the corresponding local branch of the Ministry of Civil Affairs.⁴⁷ Party propaganda officials and government censors screen news media, internet posts, and television broadcasts.⁴⁸ In 2005, Chinese authorities moved to clamp down on the increasingly active use of “extraterritorial” reporting by Chinese media in one region criticizing officials in another.⁴⁹ Pursuant to the ban, negative media reports must first be sent to local Party officials immediately above the official criticized, prior to publication of the report.⁵⁰

Local Party committees also exercise authority over judicial institutions. National Party regulations charge Party institutions with nominating and supervising the selection of judges.⁵¹ Local Party committees wield influence over the selection of court presidents and vice-presidents in their localities.⁵² Local governments exercise control

⁴⁵ Congressional-Executive Commission on China, *2006 Annual Report*, September 20, 2006, p. 129.

⁴⁶ *Id.*, p. 121; 社会团体登记管理条例[Regulations on the Registration and Management of Social Organizations], issued October 25, 1998, arts. 6, 11.

⁴⁷ *Id.*

⁴⁸ “Central Propaganda Department,” Congressional-Executive Commission on China website, August 1, 2005, accessed at <http://www.cecc.gov/pages/virtualAcad/exp/expcensors.php#propagandadepartment>; “State and Party-Run Web Sites Publish Op-Ed Critical of Local Censorship,” Congressional-Executive Commission on China website, March 22, 2006, accessed at <http://www.cecc.gov/pages/virtualAcad/index.phpd?showsingle=41788>; “Local Officials Censor Guangdong Paper,” Congressional-Executive Commission on China website, July 1, 2005, accessed at <http://www.cecc.gov/pages/virtualAcad/index.phpd?showsingle=15974>;

⁴⁹ Congressional-Executive Commission on China, *2005 Annual Report*, October 11, 2005, p. 60.

⁵⁰ 中国禁止媒体搞异地监督[China Bans the Media From Practicing Extraterritorial Reporting], Radio Free Asia, June 7, 2005, accessed at <http://www.rfa.org/mandarin/shenrubao/2005/06/07/yidijian/du/>.

⁵¹ 党政领导干部选拔任用工作条例 [Regulations on the Selection of Party and Government Cadres], issued July 23, 2002, arts. 4, 5, 32-7.

⁵² Higher-level Party committees must approve the selection of court presidents and vice-presidents. See, e.g. the regulations for Qufu municipality in Shandong province, 关于进一步加强和改进人民法院工作的意见 [Qufu Municipal Party Committee Opinion Regarding Further Strengthening and Improving the Work of the People’s Courts], Qufu municipal government Website, issued February 28, 2005, art. 4, accessed at <http://www.qufu.gov.cn/news/display2.asp?id=758>, and media reports on those for Jiangxi province, 江西省委《决定》支持法院更好地履行职责 [Jiangxi Party Committee’s ‘Decision’ Supports

over the finances of courts within their jurisdictions, and local judicial officials rely on the support of local Party committees to resolve personnel and infrastructure needs.⁵³ As a result, local Chinese courts have institutional disincentives to handle legal cases brought by citizens that challenge entrenched local interests, particularly those tied to the local Party officials.

Similar institutional restrictions limit citizen access to independent legal counsel. Local branches of the Ministry of Justice (MOJ) and the All-China Lawyers Association (ACLA) regulate Chinese legal professionals, both lawyers and legal service workers.⁵⁴ Lawyers seeking to represent clients in sensitive cases face professional sanctions by these organizations. In March 2006, ACLA officials issued a Guiding Opinion that curtailed citizen access to private legal counsel in “sensitive, mass cases” involving 10 or more litigants. Law firms who accept such cases must assign “politically qualified” lawyers to handle them and report on case developments to local MOJ authorities.⁵⁵ Chinese officials have closed the law firms, arrested, and sentenced to prison, lawyers such as Gao Zhisheng and Zheng Enchong, after they provided legal assistance to citizen challenges to local officials in Guangdong and Shanghai, respectively.⁵⁶

This excessive monopoly of power in the hands of a few local Party leaders, combined with the absence of independent channels to check their power has extremely negative effects on governance. First, it breeds corruption. Since even internal Party supervisory institutions such as the disciplinary inspection commissions are subservient to local Party committees,⁵⁷ massive instances of high-level corruption can go unchecked unless top leaders specifically decide to intervene in particular cases for political motives. In September 2006, immediately prior to the Party plenum hearing, Central Party officials sacked Shanghai Party secretary Chen Liangyu from his official posts for involvement in

Courts To Better Carry Out Their Responsibilities], Chinacourt Website, January 17, 2006, accessed at <http://www.chinacourt.org/public/detail.php?id=192622>.

⁵³ Ren Hongqi, Wang Yuxin, 西峡县委三年为法院解决三件大事 [Xixia Party Committee Resolves Three Major Issues For Court In Three Years], Chinacourt Website, September 3, 2004, accessed at <http://www.chinacourt.org/public/detail.php?id=130214>.

⁵⁴ Congressional-Executive Commission on China, *2004 Annual Report*, October 5, 2004, p. 76; 中华全国律师协会简介[Introduction to the All-China Lawyers Association], ACLA Website, accessed at http://www.acla.org.cn/pages/profile_union.html.

⁵⁵ 中华全国律师协会关于律师办理群体性案件指导意见 [Guiding Opinion of the All China Lawyers Association Regarding Lawyers Handling Cases of a Mass Nature], issued March 20, 2006, art. 3(3), accessed at <http://www.cecc.gov/pages/virtualAcad/index.phpd?showsingle=53258>.

⁵⁶ “Gao Zhisheng Held Incommunicado, Without Charge or Access to His Defense Lawyer,” Congressional-Executive Commission on China Website, October 3, 2006, accessed at <http://www.cecc.gov/pages/virtualAcad/index.phpd?showsingle=71484>; “Authorities Release Shanghai Lawyer Zheng Enchong, Restrict His Speech and Movement,” Congressional-Executive Commission on China Website, June 30, 2006, accessed at <http://www.cecc.gov/pages/virtualAcad/index.phpd?showsingle=58285>.

⁵⁷ 中国共产党党内监督条例 (试行) [Chinese Communist Party Regulations on Intra-Party Supervision (Trial)], issued December 31, 2003, art. 8.

allegedly diverting \$500 million from the municipal pension fund.⁵⁸ Analysts perceived the decision as a move by top Chinese leaders aimed at curtailing the influence of a prominent protégé of former president Jiang Zemin. Excessive concentration of power in the hands of a few officials has also given rise to what scholar Minxin Pei has termed “local mafia states,” in which criminal elements form pervasive alliances with key government officials, allowing them to freely manipulate local power to their benefit. For example, crime lord Liu Yong bought off officials in seventeen different government organs in the Shenyang municipal government during the 1990s, including the intermediate court, the procuratorate, and the tax bureau.⁵⁹

Second, the excessive concentration of political power in the hands of local officials allows them to choke off the flow of information to central authorities that might reflect poorly on their own performance. This limits the ability of central authorities to respond effectively to emergencies and social problems. For example, in November 2005, Jilin provincial officials prevented news media from reporting on a large industrial accident that caused in a massive benzene leak on the Songhua river for over a week. This delay limited the ability of national environmental authorities to respond to the accident, created an international incident with Russia, and led to panic among Harbin residents denied accurate information as to why the municipal water system had been shut off.⁶⁰

Third, local Party leaders’ monopoly of power over formal legal and political institutions limits the ability of Chinese citizens to obtain effective redress for their grievances through these channels. Why file an administrative lawsuit against local government land seizures when the Party secretary who authorized the seizure controls the personnel and funding of the court that will hear the case? Why rely on the local people’s congress (LPC) to challenge local police abuses when the deputy Party secretary who chairs the LPC may also simultaneously head the local public security bureau responsible for the abuses?

The pervasive influence of local officials over judicial institutions contributes to a disinclination on the part of citizens to rely on formal legal institutions to resolve their grievances. One study suggests that Chinese citizens resort to formal legal channels to resolve their grievances in less than 2 percent of cases surveyed.⁶¹ This appears to be leading to the atrophy of the court system as a channel to resolve citizen grievances. The total numbers of Chinese administrative law cases (those brought by citizens against

⁵⁸ “Shanghai Party Chief Sacked for Graft,” Xinhua, September 25, 2006, accessed at http://www.chinadaily.com.cn/china/2006-09/25/content_696159.htm; Alexa Oleson, “Corruption Probe in Shanghai Expands,” *Washington Post*, September 26, 2006.

⁵⁹ Minxin Pei, *China's Trapped Transition: The Limits of Developmental Autocracy*, (Cambridge: Harvard University Press, 2006), pp 147-166.

⁶⁰ Kim Hunter Gordon, “Ssh, Don’t Mention it to the Emperor,” *The Observer*, December 4, 2005.

⁶¹ Ethan Michelson, “Causes and Consequences of Grievances in Rural China,” cited in Congressional-Executive Commission on China, *2004 Annual Report*, October 5, 2004, p. 72.

government institutions) has declined since its peak in 1998.⁶² The total number of civil cases (those brought by citizens against each other) handled in Chinese courts in 2005 was about 4 million, roughly the same number as in 1996. In contrast, the total number of criminal cases brought by the Chinese government has increased steadily throughout the past fifteen years.⁶³

The absence of political or legal institutions independent of the control of local Party officials leads many Chinese citizens to search for alternative channels to participate in the political decisions that affect their lives or to obtain redress against local Party officials who violate their rights. One popular option is petitioning: seeking to trigger the intervention of higher level Party or government leaders in the resolution of local problems through written letters or in-person visits to their offices. Individual petitioning may be as simple as one disgruntled individual visiting multiple government bureaus. Collective petitioning carries stronger political overtones, and may involve organized demonstrations, strikes, or protests of hundreds or thousands of individuals seeking to present their grievances to higher level leaders, despite official bars on such activity.⁶⁴

Chinese authorities maintain an extensive network of *xinfang* (letters and visits) bureaus to receive such petitions. Citizens resort to the *xinfang* system more frequently than the courts. Citizens presented 12.7 million petitions to county-level and higher *xinfang* bureaus in 2005. In contrast, the entire Chinese judiciary handled 8 million total court cases the same year.⁶⁵ Research by Chinese scholars suggests, however, that less than 0.2 percent of petitions are actually addressed.⁶⁶ Nonetheless, Chinese officials and Western scholars have noted a dramatic rise in the numbers of citizen petitions since the early 1990s. In particular, the number of mass petitions to higher-level government and Party institutions has increased dramatically in recent years.⁶⁷ What explains this trend?

Responsibility Systems

Internal Chinese cadre management practices exacerbate the incentives for Chinese citizens to resort to petitions and protests as a means to circumvent the control of local Party officials over formal legal and political institutions. Party authorities use

⁶² Statistics from the China Law Yearbook and the 2006 Supreme People's Court Work Reports cited in Ben Liebman, "China's Courts: Restricted Reform," [unpublished draft manuscript] November 11, 2006, table 1.

⁶³ Id.

⁶⁴ Carl Minzner, "Xinfang: An Alternative to Formal Chinese Legal Institutions," *Stanford Journal of International Law*, vol. 42, no. 1 (2006), p. 163-4.

⁶⁵ 2006 Supreme People's Court Work Report, issued March 19, 2006, accessed at <http://www.lianghui.org.cn/chinese/zhuanti/2006lh/1158480.htm>. Of the roughly 8 million cases handled by Chinese courts in 2005, 95707 were administrative challenges to government actions.

⁶⁶ Zhao Ling, 国内首份信访报告获高层重视 [China's First Report on *Xinfang* Work Receives High-Level Attention], *Southern Weekend*, November 4, 2004, accessed at <http://www.nanfangdaily.com.cn/zm/20041104/xw/szxw1/200411040012.asp>.

⁶⁷ Carl Minzner, "Xinfang: An Alternative to Formal Chinese Legal Institutions," *Stanford Journal of International Law*, vol. 42, no. 1 (2006), p. 163.

responsibility systems (*zeren zhuijiu zhi*) to evaluate the work performance of local cadres. These systems set specific targets in areas such as economic development, environmental protection, and social order that local cadres must meet. Success brings career rewards. Failure can result in criticism, suspension, loss of promotions, or even loss of Party membership. Particularly important are so-called “hard” targets in fields such as birth control or social order, where failure can cancel out positive performance in other areas.⁶⁸

Anhui provincial regulations issued in 2003 illustrate the use of social order targets to discipline local Party officials. Under the regulations, local Party leaders receive formal criticism for mass petitions of 50 or more people to the provincial capital, or 20 or more to Beijing. Mass petitions of 100 or more individuals to the provincial capital, or 30 or more to Beijing, result in suspension of local officials.⁶⁹ Responsibility systems for other localities resemble the Anhui ones, applying increasingly severe disciplinary sanctions to local Party officials in accordance with the frequency, size, and level of government to which mass petitions are directed.⁷⁰

Why do this? These responsibility systems serve two key governance functions for Chinese leaders. First, they create strong incentives for local officials to pacify, contain, or suppress citizen protests, particularly organized, large-scale actions directed at higher levels of the government. Second, these targets help higher-level Chinese authorities address the principal-agent problem discussed earlier, that local Party officials can choke off channels of information from citizens to higher level leaders. If a thousand citizens from a particular county succeed in surrounding the provincial Party headquarters, it vividly indicates to higher level leaders that there is a problem with that county’s governance, even if they have been receiving a flow of positive information from the local leaders. Unsurprisingly, one of the core functions of *xinfang* bureaus is to provide higher-level leaders with a flow of information as to which geographical regions petitioners come from, so as to help establish which lower-level leaders should be punished.⁷¹

These responsibility systems set up a very destructive incentive system. First, they create strong incentives for Party officials to use any and all measures to suppress manifestations of citizen grievances. A 2004 Chinese Academy of Social Science survey found that half of petitioners surveyed had experienced beatings at the hands of local officials, despite national guidelines barring the use of violence and intimidation against petitioners.⁷² A 2005 international NGO report details the “rampant” abuse experienced

⁶⁸ Id., p. 151.

⁶⁹ Id., p. 153.

⁷⁰ Id.; see, e.g., 庐江县实行信访工作过错责任追究制的暂行规定 [Lujiang County Trial Decision on Implementing Responsibility System for Errors in Xinfang Work], issued December 9, 2005, accessed at <http://www.ljxf.gov.cn/show.asp?id=342>.

⁷¹ Carl Minzner, “Xinfang: An Alternative to Formal Chinese Legal Institutions,” *Stanford Journal of International Law*, vol. 42, no. 1 (2006), p. 117-8.

⁷² Yu Jianrong., 信访制度调查及改革思路 [An Investigation Into the System of Letters and Visits and Thoughts on Reform], in Ru Xin, Lu Xueyi, Li Peilin, eds., 2005年：中国社会形势分析与预测

by petitioners in Beijing, and the extensive use of illegal kidnappings by “retrievers” employed by local governments to prevent citizens from presenting their petitions to national authorities.⁷³

Second, these systems actually create incentives for citizens to resolve their grievances through large-scale protest activities rather than formal legal or political channels. Imagine yourself in the shoes of an aggrieved Chinese peasant who has had his land seized for a local development project supported by local Party officials. Hiring a lawyer is expensive. Success in local court is uncertain anyway, given the network of influence local Party officials enjoy over local courts. Successfully mobilizing a large number of similarly disgruntled peasants to show up at a higher level of government, however, gives the aggrieved peasant a direct political tool to compel sanctions on local Party officials. Even just a credible threat to mount a mass petition can give citizens a bargaining chip to use in negotiations with local officials regarding compensation or changed policies. Moreover, since responsibility systems impose greater punishments on local leaders for mass petitions that are larger in number, or that are directed at higher level government authorities, they effectively incentivize citizens to engage in more and more socially destabilizing behavior.

Is this a contradiction? How can responsibility systems simultaneously create incentives for officials to repress mass petitions and yet also create incentives for citizens to engage in them? Wouldn't the threat of official repression actually *discourage* petitioners from launching mass petitions? The answer for some, of course, is yes. Leaders of mass petitions are commonly beaten, arrested, and imprisoned. Some are arrested for organizing entirely peaceable demonstrations that violate harsh Chinese laws restricting assembly, speech, and demonstration.⁷⁴ Some are jailed for organizing disruptive or violent activities, such as blocking traffic or storming local government offices. Naturally, some aggrieved individuals choose to simply abandon their petitioning efforts in the face of repression. Others adapt. Successful leaders of Chinese mass petitions learn to use strategies such as decentralized cell organizations, covert communications, and concealment within a supportive local citizenry in order to successfully evade official repression while continuing to carry out the work of organizing mass petitions.

III) Consequences

China's political and social controls fuel a destabilizing cycle of social unrest. First, these controls appear to be contributing to atrophy of the formal legal system as Chinese citizens resort to other measures to resolve their grievances. One might have expected that China's population growth, economic development, and rapid urbanization

[Analysis and Forecast on China's Social Development (2005)] (Beijing: Social Sciences Data Press, 2005), p. 215, table 3.

⁷³ Human Rights Watch, “China: Rampant Violence and Intimidation Against Petitioners,” December 8, 2005, accessed at <http://hrw.org/english/docs/2005/12/08/china12144.htm>; Human Rights Watch, “We Could Disappear at Any Time: Retaliation and Abuses Against Chinese Petitioners,” December 2005, accessed at <http://hrw.org/reports/2005/china1205/>.

⁷⁴ Congressional-Executive Commission on China, *2006 Annual Report*, September 20, 2006, p. 141.

over the past decade would have led to increasing citizen use of the courts as a locus for the resolution of their grievances. This appears not to be the case. As mentioned earlier, the total number of civil cases in China has remained stagnant since 1995, while administrative cases have declined since 1998. In contrast, both citizen petitions and mass incidents have increased steadily since the early 1990s.

Second, Party use of responsibility systems to monitor local officials and the lack of independent political or legal channels for citizens to address their grievances appears to be fueling an increase in the scale and size of mass petitions. Scholars have noted the rapid growth of mass petitions in China throughout the 1990s. In Henan province alone, the incidence of collective petitions nearly tripled between 1992 and 1999.⁷⁵ Other studies have shown that the increase in mass petitions has taken place even while the total numbers of individual petitions has held constant. The increase in petitions is also not spread evenly throughout the government. Rather, it is increasingly focused on higher levels of the Chinese bureaucracy. For example, between 2002 and 2003, mass petitions to national *xinfang* authorities increased by over 40 percent.⁷⁶ All of these phenomena are precisely what one would expect given the incentive structures established by official use of responsibility systems.

Third, the incentive system above appears to be generating a cadre of professionalized protest leaders who are capable of mobilizing hundreds, and sometimes thousands of individuals, to participate in mass petitions directed at opposing local government abuses. These petition leaders are often tough, seasoned veterans of multiple petition campaigns. Many have gained organizational experience through service in the military. Some petition leaders rely on law and regulation to ground their claims. But not all are Gandhi-like figures of moral rectitude. Repeated confrontations with local authorities and a range of official abuse often ensures that only the toughest and most psychologically hardened emerge as successful petition leaders. Many are die-hards who do not hesitate to use intimidation in dealing with abusive local officials who are the targets of their petitions. Others “brib[e] families to participate in a tractor procession to a county office” or “mislead illiterate villagers about the topic of a complaint” in order to swell the ranks of participants.⁷⁷ Scholars who study citizen protests in China have noted a “radicalization of tactics” by citizen protestors through the 1990s, as more and more adopted “direct action” techniques to compel action by local officials.⁷⁸

Fourth, the petitioning process “provides fertile soil for the rapid growth of political radicalism,” as noted by an official 2004 Chinese Academy of Social Sciences

⁷⁵ Cai Yongshun, “Managed Participation in China,” *Political Science Quarterly*, vol. 119, no. 3 (2004), p. 434, table 3.

⁷⁶ Carl Minzner, “Xinfang: An Alternative to Formal Chinese Legal Institutions,” *Stanford Journal of International Law*, vol. 42, no. 1 (2006), p. 163-4.

⁷⁷ Kevin O’Brien and Li Lianjiang, “The Politics of Lodging Complaints in China,” *China Quarterly*, vol. 143 (1995), at 775.

⁷⁸ Written Statement of Kevin O’Brien, “New Tactics in Rural Protest,” at Access to Justice in China, Staff Roundtable of the Congressional-Executive Commission on China, July 12, 2004, accessed at <http://www.cecc.gov/pages/roundtables/071204/obrienreport.php>. See generally Kevin O’Brien and Li Lianjiang, *Rightful Resistance in Rural China*, (Cambridge: Cambridge University Press, 2006).

(CASS) study commissioned by the State Council.⁷⁹ Petitioners often arrive at higher levels of government filled with hope that central officials will assist in resolving their grievances, but are rapidly disillusioned by the repression and violence that they face. The CASS study found that 94.6% of surveyed petitioners who had just arrived in Beijing agreed with the statement that “Central authorities welcome citizen petitions.” In contrast, only 39.3% of petitioners who had spent a week or more in Beijing held this view. 58.9% and 44.7% of petitioners who had spent a week or more in Beijing asserted, respectively, that central leaders feared petitioners or retaliated against them.⁸⁰ The petitioning experience appears to lead petitioners to adopt more radicalized tactics. Asked what they would do if they were dissatisfied with the results of their petitions to Beijing, 70.2% of respondents replied “organize the masses to negotiate directly with the government,” while 53.6 percent said “do something to frighten the cadres.”⁸¹

Does the rise in mass petitioning behavior pose an imminent threat to the stability of the Chinese state? No. Chinese authorities retain the ability to bring overwhelming force to repress those citizen petitions and protests they perceive as getting out of hand. Citizen mass petitioning activities exhibit weak cross-linkages between different groups of aggrieved citizens, such as migrant workers seeking back wages and farmers complaining about land seizures. Moreover, there has been no emergence of anything resembling a coordinated political opposition that might challenge Party power.⁸²

But the rise in citizen protest activity does pose serious long-term threats to Chinese national stability. First, it undermines the ability of national authorities to effectively administer China. Rural turmoil limits Beijing’s ability to implement policies addressing pressing rural needs in the fields of health, environmental protection, and economic development. Second, it undermines the development of a healthy legal system. Citizens are learning to trust social mobilization to resolve all their grievances, while local officials are learning to rely on naked repression as a means to address them.

Third, ongoing strife between mobilized groups of citizen petitioners and local officials provides a breeding ground for the emergence of much more extreme forms of citizen protest activity in the future. Local politics throughout much of China is not breeding a new crop of labor, church, or NGO leaders who gain experience in forming and leading progressively more open, independent, and organized political opposition groups. Chinese dissidents who try to do so, such as the 1998 Democracy Party activists, end up in jail. Rather, Chinese local politics is breeding the reverse: radicalized local activists who are becoming better at operating underground, using decentralized organizational structures, and launching larger and larger mass petitions at higher levels

⁷⁹ Yu Jianrong., 信访制度调查及改革思路 [An Investigation Into the System of Letters and Visits and Thoughts on Reform], in Ru Xin, Lu Xueyi, Li Peilin, eds., 2005年：中国社会形势分析与预测 [Analysis and Forecast on China’s Social Development (2005)] (Beijing: Social Sciences Data Press, 2005), p. 216.

⁸⁰ Id., p. 214, table 2.

⁸¹ Id., p. 217, table 5.

⁸² Thomas Bernstein, *Unrest in Rural China: A 2003 Assessment*, August 1, 2004, p. 19-21, accessed at <http://repositories.cdlib.org/csd/04-13>.

of government. This does not appear to be setting the stage for the emergence of moderate opposition forces that might help China undertake a peaceful political transition in the future.

This trend in China differs from transitional periods in Eastern Europe, South Korea, and Taiwan. In both Poland and South Korea, early opposition to authoritarian rule emerged in the form of somewhat independent church and labor organizations. In Taiwan, the gradual emergence of the *dangwai* movement played the same role. Leaders and participants in these movements gained skills and experience running organizations semi-openly, convening public meetings, bringing lawsuits, and sometimes competing for elections. Although subject to abuse and repression, they had the ability to gradually evolve into something approaching a stable political opposition force. Authoritarian political and social controls in China are preventing precisely this kind of evolution from taking place. But they can not eliminate the emergence of popular opposition. Rather, these controls merely channel social discontent into progressively more disruptive forms.

IV) Chinese Government Responses

Chinese officials are extremely concerned with mounting social unrest. Top Chinese leaders have repeatedly linked their goal of a “harmonious society” with that of maintaining social stability,⁸³ and Party surveys of local officials find they list “upholding social stability” as the most critical task they face.⁸⁴ An internal circular issued jointly by the general offices of the Party and State Council in late 2005 set the reduction of the numbers of destabilizing mass petitions as a major policy goal for 2006.⁸⁵

Chinese authorities have issued different opinions on how to respond to increasing social unrest. Some officials have asserted that rising social unrest is a natural result of China’s economic development. In 2005, Deputy Director of the Party's

⁸³ See, e.g., 中共中央关于构建社会主义和谐社会若干重大问题的决定 [Decision of the Central Committee of the Chinese Communist Party Regarding Several Important Questions on the Construction of Socialism and a Harmonious Society], issued on October 11, 2006, accessed at http://news.xinhuanet.com/politics/2006-10/18/content_5218639.htm.

⁸⁴ Zhang Hui, Yuan Yue, 领导干部对 2005-2006 年中国形势的基本看法 [The Basic View of Leading Cadres As to the Situation of China in 2005-2006], in Ru Xin, Lu Xueyi, Li Peilin, eds., 2006 年：中国社会形势分析与预测 [Analysis and Forecast on China’s Social Development (2006)] (Beijing: Social Sciences Academic Press, 2006), pp. 47.

⁸⁵ 中共中央办公厅国务院办公厅转发《中央政法委员会、中央社会治安综合治理委员会关于深入开展平安建设的意见》的通知 [Circular of the General Offices of the Chinese Communist Central Committee and the State Council Regarding the Reissuance of the “Political and Legislative Affairs Committee and the Committee for Comprehensive Management of Public Security” Joint Opinion Regarding Carrying Out Stable and Secure Development’], issued October 21, 2005; 中央综治办负责人就关于深入开展平安建设的意见答记者 [Spokesman for the Committee for Comprehensive Management of Public Security Responds to Journalist’s Questions Regarding Deepening Peaceful Construction], December 5, 2005, accessed at <http://www.npc.gov.cn/zgrdw/common/zw.jsp?label=WXZLK&id=343072&pdm=010520>.

Organization Department, Li Jingtian responded to a journalist's question regarding the increase in mass incidents, stating:

Everyone knows that China's reforms and modernization has entered a crucial period, where per capita income increases from US \$1,000 to US \$3,000 a year. This period is the "golden development period" and the "period of pronounced social conflict" . . .⁸⁶

Ministry of Public Security officials have issued identical analyses, and noted that "the continual increase in Chinese public order problems is tightly linked to the increasing speed of modernization in China."⁸⁷

Some Party officials draw the conclusion that economic development alone will suffice to address these problems. A 2005 survey conducted by the Central Party School asked 143 local bureau heads what they perceived as the most important factor to maintain social stability. 64.3 percent chose "maintaining healthy and fast economic development" as their top priority. The second largest group, 12.6 percent placed "speeding up reform of the social security system" as their top priority. Structural political reform was not included as an option in the questionnaire.⁸⁸

Recent Party statements suggest some recognition that underlying institutional reforms are needed to address the problems posed by increasing social unrest. The section of the Central Party Committee's October 2006 plenum statement calling for officials to actively prevent "mass incidents" and resolve social tensions at the "grassroots level" specifically noted the need to "expand channels for public opinion to be expressed" and to "perfect systems for leaders of the Party, government, and local people's congresses to remain in contact with the masses."⁸⁹ State-run media noted that these reforms were intended to address social unrest and serve as a component to broader reform of the *xinfang* system.⁹⁰

⁸⁶中组部介绍保持共产党员先进性教育活动情况[Communist Party Organization Bureau Introduces the State of the Advanced Education Campaign for Party Members], Xinhua, July 7, 2006, accessed at http://www.gov.cn/xwfb/2005-07/07/content_12660.htm

⁸⁷ Zong Shengli, Li Guozhong, 2005 年社会治安形势 [The Situation of Social Order in 2005], in Ru Xin, Lu Xueyi, Li Peilin, eds., 2006 年：中国社会形势分析与预测 [Analysis and Forecast on China's Social Development (2006)] (Beijing: Social Sciences Academic Press, 2006), p. 149.

⁸⁸ Zhang Hui, Yuan Yue, 领导干部对 2005-2006 年中国形势的基本看法 [The Basic View of Leading Cadres As to the Situation of China in 2005-2006], in Ru Xin, Lu Xueyi, Li Peilin, eds., 2006 年：中国社会形势分析与预测 [Analysis and Forecast on China's Social Development (2006)] (Beijing: Social Sciences Academic Press, 2006), pp. 43-4.

⁸⁹ 中共中央关于构建社会主义和谐社会若干重大问题的决定 [Decision of the Central Committee of the Chinese Communist Party Regarding Several Important Questions on the Construction of Socialism and a Harmonious Society], issued on October 11, 2006, accessed at http://news.xinhuanet.com/politics/2006-10/18/content_5218639.htm.

⁹⁰ Chai Hailiang, Sun Yingwei, Liu Shen, 我国将疏通和增加人民群众的利益诉求渠道 [China to Open and Increase Channels for Citizens To Appeal Their Interests], Xinhua, October 5, 2006, accessed at

These calls are consistent with other political reforms that Chinese officials have taken in recent years. Chinese authorities have emphasized the expansion of “intraparty democracy” efforts that allow a limited degree of public participation in the selection of local officials. They have attempted to strengthen the system of Party delegate conferences as a means of providing heightened supervision of local Party officials. Since 2000, Chinese officials have also experimented with hearings as a means of soliciting citizen input in the drafting of pending legislation.⁹¹

All of these institutional reforms, however, share a common thread: firm commitment to the principle of centralized Party control. Central directives such as the October plenum statement instruct that reforms, such as that of constructing a “mechanism for upholding citizen interests,” take place “under the direction of Party and government officials.”⁹² Similarly, regulations that permit public participation in the selection of cadres caution that selection of candidates should not depend solely on the total number of votes the candidate received in the nomination process. In short, as both academics and U.S. officials have noted, Party officials are attempting to use popular participation as a tool of governance, instead of as a stepping stone to representative democracy.⁹³

Officials have curtailed social and political reforms when they appear to challenge this core principle of centralized Party control. Since the late 1980s, Chinese officials have allowed citizens to take part in local elections for village committees. But they have quashed local experiments aimed at expanding these initiatives to higher levels in the Chinese bureaucracy, and have maintained tight control of the nomination and selection of candidates to screen out individuals who might challenge Party control.⁹⁴ Similarly, in the late 1990s, Chinese officials created a regulatory structure to govern the registration of civil society organizations with more attenuated ties to the state. But when a group of social activists attempted to use these channels in 1998 to openly register branches of the Democracy Party, Chinese officials rapidly suppressed the group and sentenced the leaders to lengthy prison terms.⁹⁵ This unwillingness to alter core principles of centralized Party control appears to make it unlikely that officials will be able to address the institutional factors that drive social unrest.

http://news.xinhuanet.com/politics/2006-10/05/content_5170062.htm; Ting Shi, “Petition System Reform Due After Party Plenum,” *South China Morning Post*, October 6, 2006.

⁹¹ Congressional-Executive Commission on China, *2006 Annual Report*, September 20, 2006, p. 129.

⁹² 中共中央关于构建社会主义和谐社会若干重大问题的决定 [Decision of the Central Committee of the Chinese Communist Party Regarding Several Important Questions on the Construction of Socialism and a Harmonious Society], issued on October 11, 2006, accessed at http://news.xinhuanet.com/politics/2006-10/18/content_5218639.htm.

⁹³ Written Statement submitted by Richard Baum, Director of the UCLA Center for Chinese Studies, at China's State Control Mechanisms and Methods, Hearing of the U.S.-China Economic and Security Review Commission, 14 April 05, accessed at http://www.uscc.gov/hearings/2005hearings/hr05_04_14.htm; Congressional-Executive Commission on China, *2005 Annual Report*, October 11, 2005, pp. 90.

⁹⁴ Congressional-Executive Commission on China, *2005 Annual Report*, October 11, 2005, pp. 91-2.

⁹⁵ Human Rights Watch, “NIPPED IN THE BUD: The Suppression of the China Democracy Party,” September 2000, accessed at <http://www.hrw.org/reports/2000/china/>.

Recent central policies appear to actually exacerbate the institutional factors driving social unrest. In 2005, Chinese authorities mounted a national campaign directed by the Ministry of Public Security aimed at reducing the numbers of citizen petitions. Pursuant to this campaign, the Ministry of Public Security (MPS) issued regulations in October 2005 applying disciplinary sanctions to local MPS officials who fail to prevent outbreaks of citizen protests. Chinese officials also issued amended 2005 national regulations governing the *xinfang* system and top level Party circulars that call for the widespread implementation of *xinfang* responsibility systems as a means to address citizen petitions. Pressure has been placed on the Chinese judiciary to adopt similar systems that require judges to personally handle citizen petitions or suffer adverse career consequences.⁹⁶

Chinese authorities announce that these measures have been successful in handling social unrest and reducing the numbers of citizen petitions. In November 2006, Chinese public security authorities announced that the MPS handled a total of 17,900 mass incidents between January and September of 2006, a 22.1 percent decline over the prior year.⁹⁷ Chinese authorities have announced similar decline for the numbers of citizens participating in collective petitions aimed at Party and government authorities.⁹⁸ They also report that the total number of petitions submitted by Chinese citizens to *xinfang* bureaus decreased from 13.73 million in 2004 to 12.66 million in 2005, the first decline in twelve years.⁹⁹

Since the reduction in officially reported statistics have been accompanied by more severe sanctions directed at officials who experience mass petitions or protests and official efforts to more tightly control media reporting of citizen protests, its' importance is unclear. The decline may represent greater official success in resolving citizen grievances, efforts by local officials to conceal data that might reflect unfavorably on their work performance, or temporary success by security officials in suppressing manifestations of citizen discontent. If the decline in mass petitions and mass incidents has been bought with the use of heightened repressive measures and incentives, then it may simply represent a temporary lull in a process that is undermining the long-term stability of both the Chinese legal system and the state.

⁹⁶ Carl Minzner, "Xinfang: An Alternative to Formal Chinese Legal Institutions," *Stanford Journal of International Law*, vol. 42, no. 1 (2006), pp. 133-5, 178;

⁹⁷ 1-9 月农民参与群体事件 38 万人次 居各类人之首 [From January to September, 380,000 Farmers Participated In Mass Incidents, Represent Largest Group], Xinhua, November 6, 2006, accessed at <http://news.sohu.com/20061106/n246226211.shtml>.

⁹⁸ Chinese media reported that officials in the State Council Bureau of Letters and Calls announced the total number of petitioners participating in collective petitions to provincial, prefectural, and county *xinfang* (letters and visits) bureaus declined by 22.5%, 14.7%, and 12.2% respectively between 2006 and 2005. 信访总量持续攀升势头获遏制 上访更趋向理性 [The Tendency of Continual Increases in Numbers of Xinfang Cases Has Been Checked, Petitioning Trends More Reasonable], Xinhua, April 29, 2006, accessed at http://news.xinhuanet.com/politics/2006-04/29/content_4490873.htm.

⁹⁹ Id.

V) Recommendations

Recognize That Existing Chinese Political and Legal Controls Fuel Social Unrest

Both American and Chinese officials should recognize that the authoritarian political and legal controls Chinese authorities rely on to govern China actually fuel escalating protests by Chinese citizens. Rather than channeling citizen discontent into formal institutions such as local legislatures or courts, these controls encourage citizens to resort to street protests to resolve their grievances. Rather than helping China to gradually develop stable, mature institutions to handle citizen discontent, Chinese political and legal controls contribute to escalating levels of social unrest.

Recognize Domestic Chinese Social Unrest as a Shared Concern

Both American and Chinese officials should recognize that their respective interests in human rights, political reform, and social stability are not completely irreconcilable. American officials are not likely to waiver in their belief that multi-party democracy is the end goal for states in political transition. Nor are Chinese officials likely to compromise on their commitment to one-party rule. But both sides have a shared interest in meaningful discussions and research into the specific problems of how to effectively constrain the power of local Party officials, ensure that they abide by national standards that Chinese officials themselves have set, and respect the legally-guaranteed rights of Chinese citizens. These issues are central to both improving Chinese human rights conditions and reducing the incidence of social unrest in China.

Replace Responsibility Systems With Direct Means of Citizen Supervision Over Local Officials

Chinese officials should seriously reconsider the use of responsibility systems that discipline officials for the occurrence of citizen protests. On the one hand, these systems tacitly encourage citizens to resort to street protests in the hope of prompting disciplinary sanctions against local officials. On the other hand, they give local Party officials a direct incentive in suppressing citizen protests. This fuels a destabilizing cycle of protest and repression.

Establish Independent Checks on the Power of Local Party Committees

Chinese officials should consider the creation of independent political and legal channels to check the power of local Party committees, allow effective supervision of local officials, permit citizens access to meaningful channels for political participation, and uphold social stability. Chinese officials, experts, and citizens will need to determine for themselves the right form that these measures should take. Successful policies may involve importing practices from Hong Kong and Singapore, such as the creation of independent anti-corruption authorities. Others may incorporate practices such as citizen electoral participation and independent judicial channels. But these reforms should offer

Chinese citizens meaningful external, bottom-up constraints on the power of local Party officials.

Discuss Concrete Governance Reforms Rather Than Abstract Principles of Democratization

American officials should consider shifting their emphasis from promoting abstract notions of democratization to addressing concrete problems of Chinese governance. Chinese authorities are grappling with a core problem: how to ensure effective supervision over the actions of local elites. Many of the values U.S. authorities would like to promote in China, such as a free media, electoral participation, and an independent judiciary and civil society, offer concrete measures to resolve this problem. But presenting them as gradual, technical solutions to specific governance problems that Chinese authorities themselves are attempting to resolve may prove more constructive and palatable, particularly when coupled with repeated emphasis on the extent to which existing Chinese governance methods are undermining Chinese social stability and existing legal institutions.