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Public Accountability and Rule of Law in China

Can Investigative Journalism promote Social Justice and Human Rights?

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Investigative Journalism and Social Justice *Western and Chinese Perspectives*

Freedom of speech and the press are usually described as important human rights but often analysed in isolation from discussions on social and economic rights and justice. However there is a strong link between freedom of speech and social justice. The media is an important tool for providing citizens with the information they need to safeguard their rights and hold governments and officials accountable. The effectiveness of the media depends on access to information and freedom of expression and that journalists are bound by certain professional and ethical guidelines. The media need to supervise power holders and big businesses but there are many obstacles, even in democratic countries, including strong market forces and economic interests that may obstruct access to information. In the West, concepts such as “watchdog journalism,” “investigative journalism” and “muckraking” have been used to describe journalism that in the name of the public interest uncovers stories of official abuse and unjust or illegal activities⁵. Since investigative journalism emphasize public accountability many sees it as an important force for promoting rule of law and democratization.

Although news production in China takes place in an authoritarian political system where the political leadership aim to guide and control both the media and public opinion, the Chinese Communist Party (CCP) has also entrusted and

expect the media to supervise official institutions and local leaders as a way to curb widespread and serious problems, such as corruption and poor implementation of laws and policies⁶. Due to market forces the Chinese media today also have to be more responsive to its readers/audience and write about issues of interest to them. Many citizens seek out journalists with their stories since they believe that the media is the most effective and important avenue for redress⁷. Even in a country such as China where there is no complete freedom of speech or any independent media there is still some scope for journalists to push and promote different legal and social rights and issues.

Several factors characterise Chinese investigative journalism and distinguish it from investigative journalism in the West⁸. In China the main target is lower level individual officials and institutions and their execution of policies and dereliction of duty, rather than higher leaders, national policies or the system as such. In general, investigative reporting in China is mainly devoted to reveal a lack of or problems with enforcing existing laws and policies, and thus in a sense aim to strengthen the legal system. But in some cases, investigative journalism and reports in the media lead to demands for policy changes, law amendments, and adoption of new laws and regulations. Investigative reporting could thus, somewhat paradoxically, help strengthen people's faith in the system as well as help the government to address problems and put pressure on lower-level bureaucracy. Investigative reporting often takes the form of first revealing a case of injustice and then ending up with showing that justice has been achieved. There exist both published and unwritten rules for what can and cannot be reported on, although these rules change with time. Criticism directed at Party leaders, national policies and laws are not permitted, so that criticism can only be directed against lower level officials and their abuse of power.

Many Chinese journalists today see themselves as supervisors of the powerful and protectors of the weak and vulnerable⁹. Several newspapers and magazines, such as *Beijing Qingnian bao* (Beijing Youth Daily), *Nanfang zhoumo* (Southern Weekend), and *Caijing* (Finance Magazine), have a reputation for publishing critical and investigative stories, which also explain their high circulation figures. There are also a number of investigative programmes, as well as more specialised programmes devoted to legal issues, on both national and local television. The most popular investigative programme on the national television, *Jiaodian fangtan* (Focus), has an audience of between 200 and 250 million people. It began to be broadcast in April 1994 and is shown on CCTV each evening for thirteen minutes on prime time after the 7 o'clock news. The programme covers a wide range of cases that often target local officials and their corrupt and illegal activities. Apart from more investigative

reports, the programme also broadcast more propagandistic and upbeat reports, as well as general information on policies, national role models and important events. Other popular investigative programmes include *Xinwen diaocha* (News Probe) that began to be broadcast in 1996 and also is shown on CCTV. The programme is shown for ca 45 minutes on Saturday evenings at 21.30 with repeat later during the week. There also exist a number of specialised programmes addressing legal issues such as *Jinri shuo fa* (Law Today), shown on CCTV. Law Today was set up in 1999 and is now broadcast at 12.40 PM for 15 minutes every day.

Investigative Journalism, Justice, and Human Rights in a Chinese Context

The important issue in the Chinese context is what social and legal issues are addressed in the media, and how and to which extent the media is able to reflect or shape public opinion and influence policy- and lawmaking. The investigative reports in the print media and on television have somewhat different formats, set-ups and face different constraints¹⁰. Journalists on the television programme News Probe estimate that they on average devote one month to each programme. The programmes use different methods and often combine studio discussions with experts and officials with interviews on the spot, sometimes done undercover. Some of the hosts of Law Today have a legal background and training and the programme also invites legal specialists to give comments on the legal issues discussed in the programme. These television programmes have different editorial policies and focuses that also have shifted and developed since the programmes were inaugurated. News Probe for instance today has four major areas of concern: the peasant issue, health and education, environmental issues, and the legal system. Law Today takes up special legal cases or legal problems and gives a brief overview of the problem as well as applicable laws, legal rulings, and weaknesses or loopholes in current laws. The cases covered include civil, economic, and criminal cases. Many cases reported and disclosed on television have often first been reported in the local or national print media or on the Internet. Ordinary citizens and lawyers often approach journalists and provide them with information on interesting and difficult issues and cases of miscarriage of justice.

Given the nature of problems in Chinese society today it is hardly surprising that among the more common investigative reports are exposures of corrupt officials who break the law by for example charging illegal fees of peasants, or engage in other types of illegal and corrupt activities. Many issues are related to China's rapid and somewhat unregulated economic development. Recent issues have for example concerned official collusion with mine owners who don't fulfil safety regulations

and brick kiln owners who use underage and slave labour. Other popular and widespread issues are consumer rights and dangerous and shoddy products. Famous reports have focused on the sale of old moon cakes and sub-standard milk powder. Other reports focus on the Chinese health sector, including bribery by pharmacy companies, overcharging by hospitals, sub-standard medicines, and dangerous and irresponsible medical treatments etc. Other reports deal with problems in the legal system, including corrupt judicial personnel and unlawful and cruel treatment of minors, prisoners and others¹¹. Yet other issues deal with imperfect laws or attempts by citizens to use the law to defend their lawful rights and interests, including right to ownership and the right to a good environment etc.

Although there are a lot of problems and dangers for Chinese journalists as they risk not only the wrath of local officials but also rich entrepreneurs, and may overstep the official line, many journalists are nonetheless pushing the limits and eagerly taking the chances to report on legal and social ills and injustices. It is becoming increasingly difficult for the Chinese authorities to stop this development that they themselves have encouraged. It is also something of a dilemma for them. Although problems may be local they are often due to lack of good mechanisms for supervision and implementation and bureaucratic struggle and unclear lines of power. Allowing critical investigative reports may strengthen people's faith in the central authorities they may ultimately undermine people's faith in the capabilities of the current political system.

Chinese Media in the Aftermath of the Olympics *Censorship and Blocking of Information*

When China was awarded the Olympic Games in 2001, the Chinese government promised that there would be no restrictions on the foreign media and special regulations on the reporting activities of foreign journalists before and during the Games were also adopted¹². However, Chinese journalists were not given more freedom but continued to face the same or even more restrictions. In fact, Chinese journalists were called upon to show a united front and only publish positive and constructive news in the build-up to and during the Olympics. The harmful consequences of this silencing of critical media reports were highlighted by the milk scandal that hit the headlines in September. The reporting on the Tibet protests and the Sichuan earthquake in March and May, respectively, already illustrated how the media is controlled and the limits of critical media reporting. In March and April, the Chinese media was full of reports and propaganda pieces that defended the official Tibetan policy and criticised the Dalai Lama's alleged role in the protests¹³. As the Tibetan issue concerned national sovereignty there was no

room for any alternative views, or reports that tried to uncover the cultural, social, and economic reasons behind the protests, such as growing marginalization of Tibetans due to immigration of Han-Chinese into Lhasa and the harsh repression of religious activities, or discussed minority and religious policies more generally. Even television programmes that have a reputation for more critical and investigative journalism, such as *News Probe*, broadcast more propagandistic programmes on Tibet. Some critical print media however opted to refrain from publishing anything at all on the Tibetan issue. *Southern Weekend* thus didn't publish anything on the issue for two weeks. Immediately after the earthquake in May, Chinese media outlets, including *Xinhua* news agency, newspapers, television stations, and Internet providers, began to fill reports on the earthquake and soon many had dispatched journalists to the area. The Chinese government and propaganda departments have in the past not allowed local and commercial newspapers to dispatch their own journalists and publish their own stories on natural and manmade disasters but requested that they use the official *Xinhua* news reports. According to several sources the Chinese government initially tried to prevent local and commercial newspapers from sending their own journalists to Sichuan. But since many editors and journalists defied this directive, or were already on their way to Sichuan when it arrived, the government then decided to rescind the directive¹⁴. However, the central government issued directives against "critical reporting" on the disaster and urged local and commercial media to follow the lead of central party media, i.e. *Xinhua* and CCTV¹⁵. Chinese journalists initially focused on the rescue work and the heroism of rescue workers and victims, but soon difficult questions began to be raised about why so many schools had collapsed, causing the death of thousands of school children. Parents, citizens on the web, and some journalists put the blame on the low official spending on education and school buildings, leading to corruption and the use of sub-standard construction materials¹⁶. There was initially some hope among Chinese journalists and outside observers that the new openness and transparency would last and herald a new development for Chinese journalism. But this hope was crushed by late May when new directives were issued preventing critical discussions on school construction and reports on protesting parents who were seeking justice for their dead children¹⁷.

In late July, a journalist from *Southern Weekend* began investigating reports that infants had fallen sick after consuming milk powder from the dairy company Sanlu. But the report was never published as the newspaper was under pressure to only publish positive news in the build-up to the Olympics. It took more than a month, until mid-September, before the news about the addition of melamine to the milk powder was published and that information that 22 different companies

were involved and that some 53,000 infants had become sick. The government then started investigations of the dairy industry in order to hold those responsible to account but the domestic and international damage was by then quite serious and could be compared to the reaction and effects of the SARS case outbreak back in 2003. Not long after the milk story broke it was revealed that the local government had suppressed information of a landslide in Shanxi that occurred on August 1. These events all show that not much has changed in China and that the media is still very vulnerable if local or national concerns call for suppression of information. In these recent cases the Olympics was the reason for the silencing of the bad news but local economic interests is also a big obstacle for truthful reporting. The consequences of suppressing information can be severe however, and Chinese citizens are unlikely to accept censorship when lives are at stake¹⁸. It also seems that there is more official tolerance for reports that concern health issues. But some journalists have also begun to discuss the larger issues at stake and demand the right to know and report. The Olympics has not heralded a more open China but there are strong demands from both ordinary citizens and journalists for accountability and transparency. The Open Government Information Regulations that went into effect on May 1 in addition now provides at least the legal framework for such demands of more transparency although the reality since its implementation is far from promising.

Human Rights, Civil Society, and the Media

In many countries the media, especially the Internet, have opened up new possibilities for disadvantaged groups and human rights organisations to link up both within their own societies and with the international community. They can thus spread information about social and legal issues within their own society, offer support to each other, and get support from the international community. Citizen journalism is a term often used to describe the phenomenon of ordinary citizens using non-traditional media such as blogs etc. According to recent studies, blogging is also becoming more and more popular in China¹⁹. There are currently some 1,460 blog service providers, and one of the largest, blog.sina.com.cn, has some 40 million registered bloggers and 300 million daily page views²⁰. The blogs unite different people and create virtual communities. The topics discussed range from life-style issues to more social issues including protests over various issues. There thus exist blogs and sites for gays and lesbians, people with hepatitis B and AIDS/HIV, and people who share a common concern about the environment etc. In the famous PX Xiamen case in 2007, where citizen protests eventually led to a halt to the construction of a chemical factory, local media was initially silent on

the issue and had to confirm the official policy and reassure residents²¹. But local citizens made efficient use of SMS, BBS, and e-mails to contact each other and spread information and organised demonstrations. Local BBS boards were later closed/blocked and Xiamen residents had to use national BBS boards. News about the protests and the environmental dangers of the factory were later taken up by different national media, such as Chinese Newsweek, New Beijing News, and Southern Weekend, which all gave detailed accounts of the debate and the protests. Blogs are used by ordinary citizens but many journalists also have their own blogs where they discuss things that they cannot publish. Despite the great potential of the Internet and blogging, the Chinese government is keeping a close eye and blogs are often closed or made unavailable²². There is thus strong links between more traditional media and new media as well as between professional journalists and citizen journalists. It is in this interface that there are some room and possibilities for investigative journalism to really have an impact on Chinese society.

Investigative journalism and citizen journalism as a tool of empowerment *a tentative research agenda*

Although Chinese journalists and citizens because of the authoritarian political system face some particularly difficulties and dangers, the Chinese case offers some interesting starting points for further thinking and research on issues related to media, legal empowerment and human rights.

- Are freedom of speech and the press useful rights for poor and marginalised groups of people? How can poor and disadvantaged groups of people get better access to the media?
- To which extent can the media provide citizens with the information they need to safeguard their rights and hold governments and officials accountable.
- Does the media address issues of relevance to poor and marginalised groups of people?
- To which extent can investigative journalism help safeguard different human rights (including social and economic rights) and promote rule of law and democracy?
- How and under which circumstances can new media (such as the Internet, sms) serve as a tool of empowerment?
- How and to what extent is investigative journalism possible in non-democratic countries? This requires both empirical studies and new approaches and development of theoretical framework.

- To which extent is commercialization a threat to investigative journalism in different political settings?
- To which extent and how can an activist research agenda support investigative journalists and citizen journalists, including civil society?

Notes

⁵ See Hugo de Burgh ed. 2008. *Investigative Journalism. Context and Practice*. London: Routledge.

⁶ For overviews of the Chinese media system, see Zhao, Yuezhi. 1998. *Media, Market and Democracy in China between the Party Line and the Bottom Line*. Urbana & Chicago: University of Illinois Press, and *Communication in China. Political Economy, Power, and Conflict*. 2008. Lanham, Boulder: Rowman and Littlefield.

⁷ See for example, Marina Svensson. 2005. "The Media as the Judge: The Role of the Chinese Media in Addressing Injustices," *NIASnytt*, No. 3, September 2005, pp. 15-17, and "Legal and Social Justice: The Role of Investigative Journalism in China," paper presented at the CASS-SSAAPS conference in Beijing, October 26-29 2005.

⁸ See Zhao Yuezhi. 2000. "Watchdogs on Party Leashes? Contexts and Implications of Investigative Journalism in post-Deng China," *Journalism Studies*, Vol. 1, No. 2, 2000, pp. 577-597, and Hugo de Burgh. 2003. "Kings without crowns? The re-emergence of investigative journalism in China," *Media, Culture & Society*, Vol. 25, 2003, pp. 801-820.

⁹ See Hugo de Burgh. 2003. *The Chinese journalist: mediating information in the world's most populous country* London: RoutledgeCurzon, 2003. See also Pan Zhongdang & Joseph Man Chan. 2003. "Shifting Journalistic Paradigms: How China's Journalists Assess 'Media Exemplars'," *Communication Research*, Vol. 30, No. 6, December 2003, pp. 649-682.

¹⁰ Marina Svensson, "Undersökande program på kinesisk TV: Drama, grävande journalistik, och propaganda," forthcoming in conference proceedings from a conference at Copenhagen University.

¹¹ See Marina Svensson. 2005. "Brottsjournalistik, rätt och politik i Kina (Criminal reporting, law and politics in China)," *Kinapport* Nr 4/2005, pp. 38-42.

¹² On the regulations and continuing problems for foreign journalists, see Human Rights Watch. 2008. *China's Forbidden Zones: Shutting the Media out of Tibet and Other "Sensitive" Stories*, July 2008, accessed at <http://www.hrw.org/reports/2008/china0708/> See also Committee to Protect Journalists. 2008. *Falling Short: Olympic Promises Go Unfulfilled as China Falts on Press Freedom*, updated edition June 2008, accessed at http://cpj.org/Briefings/2007/Falling_Short/China/index_new.html.

¹³ For an analysis of the Chinese media reporting on the Tibetan protests, see also Human Rights Watch, *China's Forbidden Zones*, pp. 45-49.

¹⁴ See Howard French, "Earthquake Opens Gap in Controls on Media," *New York Times*, 18 May, 2008, internet edition accessed at <http://www.nytimes.com/2008/05/18/world/asia/18press.html> and Maureen Fan, "Chinese Media Take Firm Stand on Openness about Earthquake," *Washington Post*, 18 May, 2008, internet edition accessed at <http://www.washingtonpost.com/wp-dyn/content/article/2008/05/17/AR2008051701790.html?sid=ST2008051201226>.

¹⁵ See David Bandurski at the China Media Project, accessed at <http://cmp.hku.hk/2008/05/15/977/> on May 21, 2008.

¹⁶ For English translations of some of these articles, see www.caijing.com.cn/20080617/70077.shtml, <http://peijincheng.com/blog/2008/06/03/southern-weekend-investigative-report-on-the-juyuan-middle-school/#more-756> and http://zonaeuropa.com/20080602_1.htm.

¹⁷ See for example Tom Mitchell, "Beijing Reins in Quake Coverage," *Financial Times*, June 1, 2008, accessed at http://www.ft.com/cms/s/0/7c4d88c8-2fef-11dd-86cc-000077b07658.html?ncklick_check=1.

¹⁸ For a brief analysis, see Alex An and David An, "Media Control and the Erosion of an Accountable Party-State in China," *China Brief*, Vol. 8, Issue 19, October 7, 2008, accessed at www.jamestown.org.

¹⁹ See for example Rebecca MacKinnon, "Flatter world and thicker walls? Blogs, censorship and civic discourse in China," *Public Choice*, Vol. 134, No. 1, 2008, pp. 31-46.

²⁰ See Guo Liang, *Surveying Internet Usage and its Impact in Seven Chinese Cities*, November 2007, published by the Markle Foundation, accessed at http://www.markle.org/markle_programs/project_archives/2001/chineseacademy.php.

²¹ For an account of the case and translated reports from *Southern Weekend*, see http://zonaeuropa.com/20070601_1.htm.

²² For a short critical discussion on blogging, see Dan Southerland, "China's Media Controls: Could Bloggers Make a Difference?" *China Brief*, Vol. 7, Issue 8, April 2007, 2007, accessed at www.jamestown.org.