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Readings on Liu Xiaobo and Xu Zhiyong

August 18, 2009 in The Five-List Plan by The China Beat | 1 comment

News came today that legal scholar Xu Zhiyong was formally arrested last week, though he has not yet been charged, according to his lawyer (see recent China Beat posts on Xu Zhiyong here and here). Xu is one of several detainees whom netizens are seeking to free through a postcard campaign; another is Charter ’08 organizer Liu Xiaobo, who has been in custody since last December. Here are several readings related to Liu, and one on Xu, that have caught our attention:

1. Before Charter ’08, Liu Xiaobo was already well-known as a participant in the 1989 Tiananmen Square demonstrations. His essay on “That Holy Word, ‘Revolution’” is posted on the website of the Tiananmen documentary Gate of Heavenly Peace. In June 2006, Liu reflected on the 17 years that had passed since the 1989 movement, expressing his dissatisfaction with “China’s Tiananmen Paranoia,” but also speaking of his hopes for the future.

2. In that essay, Liu Xiaobo briefly mentions the changes to China’s activist landscape brought by the internet. This topic is the focus of another 2006 piece by Liu, re-posted last April by the Times (UK), in which he calls the internet “God’s present to China.” While in past years Liu and his colleagues wrote essays by hand, collected petition signatures one-by-one, and bicycled great distances to find fax machines they could safely use, the introduction of new technology has completely changed their work since the late 1990s:

   The internet has made it easier to obtain information, contact the outside world and submit articles to overseas media. It is like a super-engine that makes my writing spring out of a well. The internet is an information channel that the Chinese dictators cannot fully censor, allowing people to speak and communicate, and it offers a platform for spontaneous organisation.

3. During the months before last summer’s Olympic Games, quite a bit of attention was focused on the possibility of the Games having a liberalizing effect in China (Der Spiegel ran an interview with Liu on this topic). In the year since the Olympics ended, however, events like the arrests of Liu Xiaobo and Xu Zhiyong have led observers to conclude that the Games left no such legacy. “The Olympics were a delightful event with no direct, meaningful impact on altering the way China is run or where it might be heading,” states scholar Russell Leigh Moses in an article run by the Ottawa Citizen.

4. Quoted in that same Ottawa Citizen article is Phelim Kine of Human Rights Watch, who authored “Free Liu Xiaobo,” at the Far Eastern Economic Review. Kine outlines the story behind Liu’s arrest, then asks

   Why should Mr. Liu be charged for actions the Chinese government periodically insists are within the boundaries of the law? After all, Charter ’08’s affirmation that “freedom, equality, and human rights are universal values of humankind and that democracy and constitutional government is the fundamental framework for protecting these values” echoes the Chinese government’s own human-rights rhetoric. China’s Constitution guarantees the freedoms of expression, assembly, and religion, and states that, “The state respects and preserves human rights.” And on April 13, 2009, the Chinese government issued its first ever National Human Rights Action Plan which states that “The Chinese government unswervingly pushes forward the cause of human rights in China.”

   So why does Mr. Liu’s reality stand in such stark contrast to the government’s rhetoric? Because he and Charter ’08 by their very existence make that contrast painfully clear, and in doing so thoughtfully and peacefully challenge the legitimacy of the ruling Chinese Communist Party. The document demonstrates that at least a wide cross section of the intelligentsia the government had long assumed it had bought, bullied or bludgeoned into submission is questioning the trade-off of economic development at the expense of fundamental human rights. Consciously modeled on Charter ’77, a document issued in 1977 by dissidents in the then-Czechoslovakia, Charter ’08 declares that the status quo is unacceptable and unsustainable.

5. Elizabeth Lynch of chinalawandpolicy.com published a piece at The Huffington Post yesterday on “Xu Zhiyong and What His Detention Means for Rule of Law in China.” Lynch argues that recent
moves by the Chinese government against public interest lawyers are not simply due to a desire to control dissent before the PRC’s 60th anniversary celebration this October. Rather, Lynch states, all of these actions paint the picture of a government that has become increasingly more alarmed by a more vocal and organized group of lawyers. The government, and the Chinese Communist Party (CCP) which ultimately controls all governmental bodies, has begun to view the development of these non-profit lawyers and legal reform as a threat to its authority and to the one-party rule of the CCP. Recent governmental assaults on the public interest law field are not just a one-off affair. Rather, they show a CCP not looking to embrace the “rule of law,” but instead seeking to contain it.

Lynch discusses Xu’s arrest in the context of the Chinese government’s increasingly conservative legal ideology, and comments on the difficulty of establishing rule of law in such an environment:

In recent months, Chinese public interest lawyers have been effectively organizing themselves, especially through the internet, to challenge the current system. However, these lawyers are far from what the rest of the world would deem radical. They are merely using the laws passed by the National People’s Congress to protect people, especially those in disadvantaged groups like rural parents in Sichuan or people with AIDS. They are not looking to overturn underlying constitutional principles; they just want to enforce the law as written.

Even though these lawyers work within the system to improve Chinese society in a way that the law permits, as soon as they amass sufficient numbers, in the minds of the CCP, they are no longer operating within the legal system, but within the political one. In these situations, the CCP will abandon the legal system in favor of the political one.