

China's Changing State-Society Relations in the Internet Age: Case Study of Zhao Zuohai

Chin-fu **Hung***
National Cheng Kung University

Abstract

Recently we have witnessed information and communications technologies (ICTs) playing an important role in facilitating the so-called Arab Spring or Jasmine Revolution in authoritarian regimes. The revolutionary wave of demonstrations and protests that has occurred in the Middle East and North Africa since late December 2010 has given rise to the most current research on ICT-mediated democratic development. Although there is no actual Jasmine Revolution-like political transformation taking place in China, the Chinese Party-State regime is, however, encountering an ever-increasing challenge and counterforce from ICT-empowered grassroots movements. These movements are frequently rising to defend their legitimate rights, pressuring the authorities to be more responsible, transparent, and accountable. Taking the Zhao Zuohai incident as a case study, this article argues that China's state-society relations are in transition due mainly to rising Internet-enabled social forces; including social and political dissents and movements. The Chinese Party-State is being compelled to adapt itself to the new dynamic informational environment and to establish a new mode of public governance to both accommodate new social forces and strengthen its governing legitimacy in the Internet age.

Keywords: *state-society relations, public governance, ICT, Zhao Zuohai case, China*

JEL classification: *D83, K42, P37, Z13*

... as President of the United States, there are times where I wish information didn't flow so freely because then I wouldn't have to listen to people criticizing me all the time. I think people naturally are – when they're in positions of power sometimes thinks, oh, how could that person say that about me, or that's irresponsible, or – but the truth is that because in the United States information is free, and I have a lot of critics in the United States who can say all kinds of things about me, I actually think that that

makes our democracy stronger and it makes me a better leader because it forces me to hear opinions that I don't want to hear. It forces me to examine what I'm doing on a day-to-day basis to see, am I really doing the very best that I could be doing for the people of the United States.

(US President Barack Obama, 16th November 2009)¹

1. Introduction

Since the publication of the provocative and influential 1975 work, *The Crisis of Democracy*, there has been a growing concern about the health and fragility of modern democracy in the “Trilateral areas” – North America, Europe, and Japan. When this work was written, existing democracies were struggling with a crisis of governability. Specifically, states' ability to effectively respond to surging civic and public demands was impacted by uneven economic development, slower economic growth, and the decline of state authority.² This sombre account of the prospects for existing democracies was shared by a number of other works from the same era, with Americans still expressing political cynicism post-Cold War during the 1990s.³ In his book *Bowling Alone*, Robert Putnam called attention to the general anxiety regarding participatory democracy and the erosion of the sense of community.⁴ Both the waning of social capital, characterized as consisting of social mistrust, and the lack of associational membership and political apathy, has led academics to argue that the social capital upon which modern civil society and liberal democracy hinge may be reinvigorated and restored through the broadened application of Information and Communications Technologies (ICTs), in particular the Internet and social media such as Facebook or Twitter.

Entering the information age, ICTs have been instrumental in the information revolution, facilitating the transition from industrial society, driven mostly by forces of market globalization and technological innovation, to information society. Theorists of information society like Manuel Castells and Frank Webster have said that we human beings are living in an extricable networked society that is fundamentally different from those of the past.⁵ Castells in particular argues that a number of processes are increasingly converging in the information society, including the restructuring of market capitalism and the enhanced application, innovation, and sophistication of ICTs. These processes have jointly facilitated and reacted to the forces of globalization, (re-)shaping a distinct form of modern society, information society, so to speak, and altering the ways in which citizens communicate horizontally among themselves and vertically with the public sector.⁶

In this aspect, in conjunction with globalization and the information revolution, ICTs have the potential to restructure political processes and rejuvenate the conventional political practices at many levels, leading to an

extended reach of public governance and administration, and resulting in a more decentralized power structure and relationship between the governed and the governor.⁷ An extraordinary wave of popular protest swept the Arab world in 2011. Massive popular mobilization brought down long-ruling leaders in Tunisia and Egypt, helped spark bloody struggles in Bahrain, Libya, Syria, and Yemen, and fundamentally reshaped the nature of politics in the region. The revolutionary wave of demonstrations and protests occurring in the Middle East and North Africa since the late December 2010 has given rise to the most recent research on the ICT-mediated democratic development.

It is interesting to note that while ICTs are utilized by governments to help reinvigorate existing democratic systems by enhancing administrative efficacy and civic engagement, they are also used by political activists, dissidents, democrats, and western policy-makers to bring in democracy in authoritarian states. For example, US President Barack Obama once defended the right of people to freely access information at a town hall meeting with future Chinese leaders. In his remarks, “the more freely information flows, the stronger societies become”⁸, Obama argued that “access to information helps citizens hold their own governments accountable, generates new ideas, [and] encourages creativity and entrepreneurship.”⁹ The Secretary of State Hillary Clinton also delivered a speech on securing Internet freedom at The Hague in December 2011 while celebrating Human Rights Day. She noted,

... today, as people increasingly turn to the Internet to conduct important aspects of their lives, we have to make sure that human rights are as respected online as offline. After all, the right to express one’s views, practice one’s faith, peacefully assemble with others to pursue political or social change – these are all rights to which all human beings are entitled, whether they choose to exercise them in a city square or an Internet chat room. And just as we have worked together since the last century to secure these rights in the material world, we must work together in this century to secure them in cyberspace.¹⁰

On the issue of fostering Internet democracy, there is indeed a growingly robust body of literature on the nexus of political systems and ICTs that establishes how new (information) technologies are socially and politically impacting upon industrial democracies. English-language socio-political scholarship has explored and studied the application and influence of the new media in various countries, though the focus has largely remained on the United States, Europe, and the Commonwealth. The study of the ICT’s impact on social and political processes and institutions has been primarily centred on the roles that the Internet and social media have already played in facilitating democratic participation, engaging in what is called “virtual” civic discussion about public affairs in cyber forums, and enhancing information technology’s democratizing potentials.¹¹ While this research has reached a new

level of sophistication and elegance, the seemingly one-dimensional focus on ICT's impact in western contexts only gives us a limited appreciation of the real socio-political impact of ICTs. To gain a real understanding of this issue we need to look at the issue outside of the contexts of western countries and industrialized democracies.

Few would dispute that new media played a role in the recent "Occupy Wall Street" movement, the Arab Spring uprisings, the student protest movement in Chile, Yo Soy 132 in Mexico, and the social justice movement in Israel.¹² Given that there is controversy over the extent to which the Internet and social media matter in bringing about democratic change or democratic consolidation, the impact of the ICTs upon social and political interactions between citizens and government is effectively throwing up a new series of research challenges in not only existing democracies but also in authoritarian regimes. It is of paramount importance in the Chinese context as the country has dramatically emerged as the world's biggest Internet market since 2008 having 540m Net users, with this number expected to grow even further in the years ahead.¹³ The study of ICT's impact upon China's authoritarian regime is therefore of great significance as it may facilitate future comparative studies on like-minded authoritarian regimes and developing countries alike.

The same Internet technologies that help organize social and political movements for freedom are now also being hijacked and controlled by the Chinese government and some other undemocratic states to crush dissent and deny human rights. Corresponding to Winston Churchill's famous "iron curtain" (铁幕) notion, a new, nuanced, and sophisticated information curtain has been descending across much of the world in the wake of restrictive Internet practices, with this being particularly true following the September 11 attacks in the United States in 2001.¹⁴ Churchill's physical iron curtain is subtly being transformed and replaced by "cyber firewalls" by oppressive governments seeking to squash the liberties and legitimate rights of the citizenry. With what is popularly known as the "Great Firewall," (GFW, 网络防火墙) Internet censorship in China ranks amongst the most stringent and advanced in the world. For this reason, studying how and to what extent Chinese citizens are able to communicate horizontally amongst themselves and engage in public affairs on- and off-line enables us to further appreciate the prevailing power dynamics between the Party-State and the society in China's emerging "networked authoritarianism."¹⁵ This article has in this respect extended the enduring debate over contemporary China's state-society relations from the new media angle, with the empirical case study of Zhao Zuohai 赵作海 as supporting evidence. Through the careful examination of this case, this paper will explore and reflect upon the theme of the digital technologies-facilitated legal/political transition in China and its implications for the newly emerging state-society relations in the Internet age.

2. Case Study of Zhao Zuohai: Background

The highly publicized “wrongful conviction” (冤案/错案) of Zhao Zuohai’s case became a national sensation in Chinese society in 2010. The gist of the case is that Zhao had been imprisoned for murdering his neighbour over a decade ago, but was recently released after the supposed victim returned alive to his village of Zhaolou 赵楼, Shangqiu 商丘 city, Henan 河南 province, to seek welfare support. On the 30th of October 1997, Zhao Zuohai had a fight with his neighbour, Zhao Zhenshang 赵振响, who then disappeared. Zhao was charged when a headless, decomposed corpse was found in a well eighteen months later on 8th May 1999.¹⁶ During Zhao Zuohai’s imprisonment, he was repeatedly tortured by the local police in Henan; he was said to be beaten with sticks, forced to drink chilli-tainted water, and had fireworks set-off above his head in order to make him confess.¹⁷

It is common practice in the Chinese court system to extract forced confessions from the accused, with Zhao Zuohai’s case being no exception to this rule. Zhao Zuohai made confessions on nine different occasions during stringent interrogation between the 10th of May and the 18th of June 1999. On the 22nd of October 2002, he was charged with premeditated murder, and later on the 5th of December 2002, he was sentenced to death with a two-year reprieve and permanent deprivation of political rights for his intentional homicide by the Shangqiu Municipal Intermediate People’s Court. Because of his good behaviour in prison, he had his death penalty commuted firstly to a life sentence and further to a 29-year jail term for the second time in 2003 following a nationwide effort to clean up detention centres.¹⁸

After eleven years, the miscarriage of justice came to light in 2010 when the supposed victim Zhao Zhenshang turned out to be alive and returned to the village on 30th April 2010.¹⁹ A re-investigation into Zhao’s case was immediately launched by order of the Henan Provincial Higher Court in May 2010, merely one month after the supposed victim surfaced. After a series of investigations, the Court eventually decided to release Zhao with a verdict of not guilty. Even though he claimed more than one million yuan 元 (*renminbi* 人民币, RMB) as compensation, he would in the end receive state compensation and hardship grant of only 650,000 yuan for his unjust case.

Meanwhile, two policemen accused of beating him were also arrested. More importantly, the Chinese government enacted two new sets of evidence rules in late May 2010 in a swift response to this miscarriage of justice: Firstly, death penalty defendants have been given the right to ask for an investigation into whether their testimony was obtained illegally. Testimonies given under duress, such as violence and intimidation, are now to be excluded for people appealing against the death penalty. Secondly, any evidence of unclear origin and testimony that is obtained under or through torture cannot

be used in China's courts. The recent criminal justice reforms following Zhao's case mark a big progress for China, and can be seen as a major step forward for its legal procedures; moving away from abstract and vague law principles in the previous years. Table 1 below exhibits the timeline of Zhao Zuohai's case in chronological order.

Table 1 Timeline of Zhao Zuohai's Case

Date(s)	Developments of the Case
15th February 1998	Zhao Zuoliang 赵作亮, nephew of Zhao Zhenshang 赵振响, reported to the police that his uncle has been missing for more than four months since October 1997. He suspected his uncle has been murdered by his neighbour Zhao Zuohai 赵作海. After a series of investigations and interrogations, local police of Zhecheng 柘城 county treated Zhao Zuohai as a key suspect and held him for more than twenty days.
8th-9th May 1998	Villagers found a headless, limbless, decomposed corpse while a well was being dug in Zhaolou 赵楼 village. They suspected it was the missing Zhao Zhenshang and then reported to the Zhecheng county public security organs. The police once again listed Zhao Zuohai as a primary suspect, and imprisoned him on 9th May 1998.
10th May 1999 – 18th June 1999	Zhao Zuohai confessed to the murder crime nine times under interrogation. Police believed his made up stories despite their contradictory nature.
22nd October 2002	The Shangqiu 商丘 Municipal People's Procuratorate charged the defendant Zhao Zuohai guilty of manslaughter.
5th December 2002	The Shangqiu Municipal Intermediate People Court convicted the defendant Zhao Zuohai to the crime of intentional homicide, and sentenced him to a death penalty with a two-year suspension and deprivation of political rights for life.
13th February 2003	The Henan Provincial Higher People Court reviewed the case and affirmed the verdict made by the lower People Court of Shangqiu City. During the period of Zhao's detention, he was firstly commuted to life imprisonment, and later commuted to twenty years of imprisonment following two incidents of mitigation.
30th April 2010	The supposed murder victim of Zhao Zhenshang returned alive to his home village of Zhaolou.
1st May 2010	Shangqiu Municipal Intermediate People Court was told that Zhao Zhenshang had resurfaced. They immediately sent people to speak with him, his sister, niece and the village cadres and confirmed that the man was actually Zhao Zhenshang.

Table 1 (continued)

Date(s)	Developments of the Case
4th May 2010	The Henan Provincial People's Procuratorate suggested a retrial procedure of Zhao Zuohai's case and released him as soon as possible.
5th May 2010	The Henan Provincial High Court decided to start Zhao Zuohai's retrial procedure.
8th-9th May 2010	The Henan Provincial High Court held a press conference and made the following decisions: (1) rescind the verdict against Zhao Zuohai and pronounce him to be innocent; (2) immediately forward the relevant documents to the prison authorities for the release of Zhao Zuohai; (3) arrange for state compensation and provide for the future of Zhao Zuohai. The High Court disciplinary committee would also investigate those responsible for the wrong verdict.
12th May 2010	Henan Provincial High Court declared Zhao Zuohai would receive state compensation and hardship grants of 650,000 yuan (RMB). Three former police officers involved in torturing Zuohai were also arrested.
14th May 2010	Three judges – Chief Justice Zhang Yunsui 张运随, and judges Hu Xuanmin 胡选民 and Wei Xinsheng 魏新生 – who were also involved in Zhao's wrongful conviction, were reportedly suspended from their duties at the Intermediate People's Court in Shangqiu City.
14th-24th May 2010	Police identified three suspects – Yang Mingfu 杨明福, Li Haijin 李海金 and Zhang Xiangliang 张祥良 – and arrested them on separate operations.
26th May 2010	The expert group of investigators of the trial escorted three suspects to return to the crime scene where the dead bodies were buried in order to identify the same three people.
27th May 2010	Local police recovered the victim Gao Zhongzhi 高宗志's skull on 27th May at the crime scene identified by the three suspects and conducted DNA tests on his remains. Local police successfully resolved the Zhao's case.
30th May 2010	The Supreme People's Court, Supreme People's Procuratorate, Ministry of Public Security, Ministry of State Security, and Ministry of Justice promulgated "Notice Regarding the Issue of 'Rules on Certain Issues Relating to Examining and Judging Evidence in Death Penalty Cases'" and "Rules on Certain Issues Relating to the Exclusion of Illegal Evidence in Criminal Cases".
2nd June 2010	The Henan Provincial High Court designated 9th May as "Wrongful Conviction Reflection Day" (错案警示日), after Zhao Zuohai was mistakenly identified as a murderer and spent eleven years in prison.

Source: Compiled by the author from online media coverage.

3. Discussion

It is of vital importance to note that the reason why Zhao Zuohai's case reached this resolution was in large part due to the power of public opinion, mostly empowered and facilitated through Chinese cyberspace and mediaspace. The Chinese government, after some social and political deliberations, decided to pander to popular opinion to restore its legal authority and strengthen its public images and trust amongst the populace. If one examines Zhao Zuohai's case carefully, they would be bewildered by extent of the Chinese government's response. In a rapid manner, Zhao was acquitted of all charges involving intentional homicide and released from jail within a week after Zhao Zhensheng's reappearance on 30th April 2010. Three days after his release, he was also awarded 650,000 yuan (RMB) in state compensation and hardship grants and given a formal state apology from the Party and government officials. Nine days after his release, criminal investigators had identified chief judge Hu Ye 胡烨 as the responsible judge for the review of Zhao's case eleven years ago. Hu was also suspended from duty at the Higher People's Court of Henan. Three other judges – Zhang Yunsui 张运随, Hu Xuanmin 胡选民 and Wei Xinsheng 魏新生 – who were also involved in Zhao's wrongful conviction, had been suspended from their duties at the Intermediate People's Court in Shangqiu City.²⁰ In less than two months, the so-called "Two Evidence Rules" were also promulgated and went into effect. The pace and the extent to which Chinese government adopted corresponding policies is argued in this article to have been done as a response to heated on- and offline public opinion.

In essence, the "Two Evidence Rules"²¹ – the Death Penalty Evidence Rules and the Evidence Exclusion Rules – deal primarily with a wide range of evidentiary issues in criminal cases and set forth detailed and concrete procedures to tackle evidence obtained through legal/illegal means.²² The release of the Two Evidence Rules is boasted by the statement – "the first time Chinese law has explicitly spelled out rules for the admissibility of prosecutorial evidence."²³ If one is to examine the legal documents and its actual practices in China, s/he may be surprised to come to the fact that using torture to coerce a confession (刑讯逼供) has been banned since 1958. And this has been a criminal offence in some circumstances since 1979.²⁴ Yet, torture to extract testimony from alleged witnesses or accomplices remains commonplace partly because Chinese legal culture predominately holds that murder cases must be solved in order to ensure the safety of the masses. Therefore, the mantra that "solving cases wins prizes, cracking cases earns merit, no matter what methods are used" seems to be widely adopted in Chinese legal practices.²⁵

In this aspect, one may question the reason the Chinese authorities decided to make these corrections that seemingly restrain its predominant

power in order for them to further adapt to the new socio-legal dynamics. This article holds that the reason why the Chinese government is motivated to expedite making its "Evidence Rules" lies in the telling evidence that they need to reign in the mounting public discontent with rampant corruption, endemic distrust between the governed and the governors, numerous instances of social injustice and police brutality/abuses so as to effectively strengthen their governing legitimacy in the information age. The changes made in response to "Zhao's case"²⁶ along with several others²⁷ have profound implications for the changing state-society relations in China. In part owing to this, the authoritarian regime is increasingly being driven to accommodate more social forces, as the grassroots and middle class are now being empowered by the Internet, and in particular *weibo* 微博 (microblogging), to assert their rights and set the government's (policy) agenda.

In Zhao's case, a great deal of public interest and sympathy was generated in the mainstream media and cyberspace. Tables 2 and 3 highlight the discussions in the news and online during Zhao Zuohai's case. This well-known legal case generated an unprecedented groundswell of public outcry amongst Chinese Netizens and ordinary people over police misconduct and the miscarriage of justice.²⁸ In a report by the IRI Consulting Group from the Communications University of China, it is shown the Zhao Zuohai's case boasts the longest surviving online issue, lasting for more than seventy-nine days in the year 2010 alone.²⁹ Apart from showing sympathy for Zhao Zuohai's suffering, many users on web forums and *weibo* discussed issues of corrupt officialdom and the use of torture by Chinese police. They accentuated the far-reaching public resentment and discontent with what was usually perceived as endemic official corruption and deep disappointment if not rage at excess and abuse of power or other unlawful acts committed by the powerful organs of public security, people's procuratorate and people's court (公检法) that were still so much part of the Chinese society.³⁰ These netizens created mounting pressure on local and provincial authorities to solve crimes, tackle higher conviction rates and weak legal rules governing the administration of evidence in criminal trials, and address overly rapid trials in which courts often take police allegations as facts.

Despite Chinese authorities attempting to play down the extent of people's disillusion with the legal system the negative perceptions of the Party-State, Zhao's case sparked widespread media coverage and heated online discussions, together with public gossip offline. Netizens and the media also exposed many other wrongfully convicted defendants. To address potentially destabilizing social conflicts that could undermine the CCP's authority, the government decided to alter its policy/legal governance principals. In doing so they answered the calls from cyberspace, the mass media, and public intellectuals, in order to restore both their own legitimacy and the people's

Table 2 Highlights of News Communications in Zhao Zuohai's Case

Date(s)	News Communications
4th May 2010	Henan's <i>Dahe Bao</i> 大河报 (Dahe newspaper) covered the sensational story under the heading "The victim reappeared after the Henan Shangqiu's murderer was in jail for ten years" (河南商丘一「杀人犯」入狱10年后被害人复活). The same report had also been put online at its site called "Dahe Wang 大河网" (Dahe Net).
6th-7th May 2010	Other online media re-published and relayed the news from Dahe Net. It generated wide public attention to this case.
9th May 2010	The Henan Provincial High Court held a press conference and its details were circulated and covered with the heading of "Zhao Zuohai was found not guilty and released" (赵作海被无罪释放) by many agencies such as <i>Beijing Youth Daily</i> (北京青年报) and <i>The Beijing News</i> (新京报).
10th May 2010	CCTV Oriental Horizon (东方时空) produced a special feature programme on Zhao Zuohai's case. Many online media outlets relayed this programme in the following days, with this report triggering enthusiastic reactions among Chinese citizens. Tencent Net (腾讯网) alone received more than 42,060 contributions on its article titled "Legal authorities admit that there existed extraction of confession by torture in Zhao Zuohai's case" (办案机关承认「赵作海冤案」存在刑讯逼供).
12th May 2010	<i>The Beijing News</i> published an interview with Zhao Zuohai. This interview report was republished by other online media. Chinese Internet portal NetEase (网易) covered a story under the heading of "Zhao Zuohai: police set off fireworks above my head and intimidated me" (赵作海: 刑警在我头上放鞭炮, 威胁秘密处决). This story received more than 10,431 online comments.
13th May 2010	Dahe Net published a newspaper article with the heading "Zhao Zuohai who had been jailed for eleven years would receive state compensation and hardship grants of 650,000 yuan" (河南坐11年冤狱农民赵作海获国家赔偿65万元). This article was republished in many online media outlets, including the Tencent Net.

Source: Author's compilation of online media coverage.

Table 3 Top Five Most Commented News Articles in Zhao Zuohai's Case

Date	Article Title	Website	Original Source	Comment Numbers
7th May 2010	Victim surfaces in Henan village after alleged killer imprisoned for ten years (河南一名村民因杀人罪入狱十年后被害人现身)	<i>Sina.com</i>	<i>Renmin Wang</i> 人民网	37,613
9th May 2010	Henan Broadcasting covers the retrial of Zhao Zuohai's case: the court may release Zhao with a verdict of not guilty; compensation payment and investigation of accountable officials under way. (河南通报赵作海案再审情况: 无罪释放拟赔偿究责)	<i>Sina.com</i>	<i>Dahe Wang</i> 大河网	13,923
10th May 2010	Officials promoted despite wrongly imprisoning villager for 10 years over alleged homicide (村民被错判杀人罪入狱11年案责任人均已升迁)	<i>Sina.com</i>	<i>Jinghua Shibao</i> 京华时报	30,745
11th May 2010	Legal authorities admit that there existed extraction of confession by torture in Zhao Zuohai's case (办案机关承认「赵作海冤案」存在刑讯逼供)	<i>QQ.com</i>	CCTV (中国中央电 视台)	42,060
13th May 2010	Zhao Zuohai who had been in jail for eleven years will receive state compensation and hardship grants of 650,000 yuan (河南坐11年冤狱农民赵作海获国家赔偿65万元)	<i>QQ.com</i>	<i>Dahe Wang</i> 大河网	14,444

Source: Ding Junjie 丁俊杰 and Zhang Shuting 张树庭 (eds), *Internet Opinion and Public Emergency: Classic Cases of Crisis Management* (网络舆情及突发公共事件危机管理经典案例), Beijing: Central Party School Press, 2010, p. 272.³¹

trust and confidence in the Party-State. On the one hand, the official media began to soften their stance on the case by admitting that: “Judicial practice in recent years shows that improper methods have been used to gather, examine and exclude evidence in various cases, especially those involving the death penalty.”³² On the other hand, the Party-controlled media outlets reset their editorial agenda to compliment the prompt and resolute intervention of officials in resolving Zhao’s case. They highlighted, for example, that the Henan Provincial High Court had held up to thirteen press conferences to explain this case and compensate Zhao Zuohai, proving that the government was responsive, transparent, and accountable. The release of the “Two Evidence Rule” was also done in part as a response to Zhao’s case and resulted in Netizens’ issues being mediated online.³³ Consequently, it was anticipated by media officials, in particular leaders from the propaganda authorities, that these actions would in the end both help save the reputation of the Chinese court system amongst the masses, and also possibly boost confidence and trust of China’s top leaders over their legal governance in the information age.

4. Concluding Remarks

The above detailed case study demonstrates that the use of the Internet and *weibo* has developed in a diverse and vibrant manner in the information age. The practices and governing logic of the Chinese government had previously been less than accommodating to the needs of public opinion and civic engagement in public affairs. This resulted in a general denial of the public’s right to know, right to participate, right to freedom of speech, and the right to hold the government to account. The upsurge of mass opinion mediated online in China has had unintended political consequences for the Communist leaders over the past three decades.

Zhao Zuohai’s case is important in that it not only led to legislative and judicial reforms in China, but it has also tested the public’s conception of rule of law principles. Of equal importance was that it changed public policy and promoted the security of citizens in the Internet age. The significance of Zhao’s case is not simply to be found in the case itself, but rather in the process of its impact upon and implication for Chinese society.

The Chinese public has increasingly awakened to not only defend and assert their civil and legal rights stipulated in the People of Republic of China’s Constitution, but also to challenge the existing legal and government systems. This is not only impacting on the shift of China’s traditional engagement mechanisms between the citizens and government, but is also influencing China’s changing state-society relations in the information age.

Firstly, like previous rights protection incidents, Zhao Zuohai’s case has again raised the concept of “the people’s right to know” in circumstances

where local authorities have tried to cover things up. The influence of ICT's in bringing about legal reform is not new to the Chinese political scene. In fact, new media has been utilized in previous cases such as the Sun Zhigang 孙志刚 incident.³⁴ Both in Sun and Zhao's cases, the Internet not only contributed to heated debates both on- and offline, but also helped facilitate the eventual abolition of two decades old regulations on repatriating migrants and vagabonds in Sun's case, and the legalization regarding Two Evidence Rules in Zhao's case. Clearly the Internet has allowed public expressions of sympathy for victims of varying sorts of social injustice, and has also helped further fuse long-standing citizen discontent and anxiety into joint civic engagement.

Secondly, the "virtual" public discourse conducted via the Internet has pushed the boundaries of free speech and, most importantly, raised demands for a greater degree of accountability from the government, although the former may be more significant than the latter at this stage. Effectively, there is a "thin" public media space in which mass opinion can be expressed without fear of retaliation from the state, and there are few institutional mechanisms in the socio-political system to accommodate public opinion. The Internet has effectively extended the range of media outlets and broadened horizontal communications and thus the expression of public opinion.

China's 1982 Constitution (八二宪法) and its subsequent amendments, and the "International Convention on Civil and Political Rights" (公民权利和政治权利国际公约) signed in 1998 both give lip service to human rights and freedom of speech, which are mentioned in these documents in broad and unspecific terms, but public opinion is seldom taken seriously into account in public policymaking. Added to this is the strong contrast between 1982 Constitution and related laws, which on paper recognize and grant civic and political rights, and but in actual fact do little to protect those rights. In other words, it is far from sufficient to simply make promises regarding protecting civil and political rights. Rather, these rights need to be realized through actions in order to truly secure the rights and freedoms of citizens. New media has an important role to play in this regard.

Thirdly, the case under review also provides evidence that the Internet has to some degree impacted upon the traditional media. One aspect of this is the way in which the mainstream media has been stimulated to be bolder in following up topics debated online. In this, they are motivated by commercial considerations, and they are also in a less risky position. "Virtual" public discussions provide a justification for traditional media outlets to follow suit, or at least help test the boundaries of self- or government-imposed censorship. One direct consequence is that China has witnessed freer media coverage that is prepared to push the boundaries of censorship. Meanwhile, it is becoming increasingly common for online discourses to be incorporated

into the mainstream media, where previously traditional media channels were independent and separate. In fact, after exploring the role played by the Internet during the Arab Spring Revolution, Aday, Farrell, Lynch, Sides and Freelon argue that: “It is increasingly difficult to separate new media from old media. In the Arab Spring, the two actively reinforced each other. New media must be understood as part of a wider information arena in which new and old media form complex interrelationships.”³⁵ Although the Two Evidence Rules are frequently touted as a significant step forward for China’s jurisdictions incorporating exclusionary rules into their criminal justice systems, some local legal organs may still be reluctant to exclude any physical evidence, especially when the law does not explicitly and specifically require police to obtain approval for search warrants from a court. Yet, thanks to the Internet and *weibo*, Chinese citizens are becoming more adept at using the law and new communications tools to assert and defend their rights and interests against the government and others.

To sum up, examining the case of Zhao Zuohai allows us to argue that China’s state-society relations are in transition owing to rising Internet-enabled social forces, including social and political movements and dissidents. The Chinese Party-State is increasingly being compelled to adapt itself to the new dynamic informational environment and to establish a newer mode of public governance that both accommodates new social forces and strengthens its governing legitimacy in the Internet age.

Notes

- * Dr Chin-fu Hung 洪敬富 is Associate Professor at the Department of Political Science and Graduate Institute of Political Economy, National Cheng Kung University (NCKU), Taiwan. He holds a PhD in Politics and International Studies from the University of Warwick, UK. Dr Hung’s main research interests include the political and economic transition of China, the impact of the information and communication technologies upon political development and democratization, and the sociopolitical development in East and Southeast Asia. He has written several articles on topics of cyber participation and the Internet politics of democratic and (semi-)authoritarian states in Asia. <Email: befhung@mail.ncku.edu.tw; Personal website: <https://sites.google.com/site/bernhardhung/>>
1. “Remarks by President Barack Obama at Town Hall Meeting with Future Chinese Leaders”, The White House (Office of the Press Secretary), 16th November 2009, available at <<http://www.whitehouse.gov/the-press-office/remarks-president-barack-obama-town-hall-meeting-with-future-chinese-leaders>> (accessed 22nd September 2012).
 2. Michel Crozier, Samuel P. Huntington and Joji Watanuki, *The Crisis of Democracy: Report on the Governability of Democracies to the Trilateral Commission* (New York: New York University Press, 1975).

3. See, for example, Richard Rose, *Challenge to Governance: Studies in Overload Politics* (Beverly Hills and London: Sage, 1980); Pippa Norris (ed.), *Critical Citizens: Global Support for Democratic Government* (Oxford: Oxford University Press, 1999); and Susan J. Pharr and Robert D. Putnam (eds), *Disaffected Democracies: What's Troubling the Trilateral Countries* (Princeton: Princeton University Press, 2000).
4. Robert D. Putnam, *Bowling Alone: The Collapse and Revival of American Community* (New York: Simon & Schuster, 2000).
5. Frank Webster has, for example, distinguished five definitions of an information society, each of which presenting criteria for identifying the new. These are technological, economic, occupational, spatial, and cultural dimensions. See Frank Webster, *Theories of Information Society* (London and New York: Routledge, 2003), second edition, pp. 8-21.
6. Manuel Castells, *The Rise of the Network Society* (Cambridge, Mass. and Oxford: Blackwell, 1996); Manuel Castells, *The Power of Identity* (Cambridge, Mass. and Oxford: Blackwell, 1997); Manuel Castells, *End of Millennium* (Cambridge, Mass. and Oxford: Blackwell, 1998); and Manuel Castells, *The Internet Galaxy: Reflections on Internet, Business, and Society* (Oxford: Oxford University Press, 2001).
7. See, for example, Kevin A. Hill and John E. Hughes, *Cyberpolitics: Citizen Activism in the Age of Internet* (Lanham and Oxford: Rowman & Littlefield, 1998); and Miles Kahler (ed.), *Networked Politics: Agency, Power, and Governance* (Ithaca, NY, and London: Cornell University Press, 2009).
8. "Remarks by President Barack Obama at Town Hall Meeting with Future Chinese Leaders", The White House (Office of the Press Secretary), 16th November 2009, available at <http://www.whitehouse.gov/the-press-office/remarks-president-barack-obama-town-hall-meeting-with-future-chinese-leaders> (accessed 22nd September 2012).
9. Hillary Rodham Clinton, "Remarks on Internet Freedom", U.S. Department of State, 21st January 2010, available at <http://www.state.gov/secretary/rm/2010/01/135519.htm> (accessed 1st October 2012).
10. Hillary Rodham Clinton, Conference Remarks on Internet Freedom in The Hague, Netherlands, on 8th December 2011, available at <http://www.state.gov/secretary/rm/2011/12/178511.htm> (accessed 22nd September 2012).
11. See, for example, Peter M. Shane (ed.), *Democracy Online: The Prospects for Political Renewal through the Internet* (New York and London: Routledge, 2004); Sarah Oates, Diana Owen, and Rachel K. Gibson (eds), *The Internet and Politics: Citizens, Voters, and Activists* (London and New York: Routledge, 2006); Andrew Chadwick, *Internet Politics: States, Citizens, and New Communication Technologies* (New York and Oxford: Oxford University Press, 2006); Larry Diamond and Marc F. Plattner (eds), *Liberation Technology: Social Media and the Struggle for Democracy* (Baltimore, MA.: The Johns Hopkins University Press, 2012).
12. See, for example, Tapas Ray, "The 'Story' of Digital Excess in Revolutions of the Arab Spring", *Journal of Media Practice*, Vol. 12, No. 2, July 2011, pp. 189-196; W. Lancel Bennett and Alexandra Segerberg, "The Logic of Connective Action:

- Digital Media and the Personalization of Contentious Politics”, *Information, Communication and Society*, Vol. 15, No. 5, June 2012, pp. 739-768; Philip N. Howard and Muzammil M. Hussain, “The Upheavals in Egypt and Tunisia: The Role of Digital Media”, *Journal of Democracy*, Vol. 22, No. 3, July 2011, pp. 35-48.
13. According to a recent semi-annual report on the development of China’s Internet that was released by the quasi-official China Internet Network Information Center (CINIC, 中国互联网络信息中心) in July 2012, China had an estimated 538 million Internet users with its Internet penetration rate at 39.9 per cent. See the CNNIC, *The 30th Statistical Report on Internet Development in China* (第30次中国互联网络发展状况统计报告), July 19, 2012, available at <<http://www.cnnic.cn/hlwfzyj/hlwzxbg/hlwtjbg/201207/P020120723477451202474.pdf>> (accessed 22nd September 2012).
 14. See, for example, Ronald J. Deibert, John G. Palfrey, Rafal Rohozinski and Jonathan Zittrain (eds), *Access Denied: The Practice and Policy of Global Internet Filtering* (Cambridge, Mass.: MIT Press, 2008); Ronald J. Deibert, John G. Palfrey, Rafal Rohozinski and Jonathan Zittrain (eds), *Access Controlled: The Shaping of Power, Rights, and Rule in Cyberspace* (Cambridge, Mass.: MIT Press, 2010).
 15. The term “networked authoritarianism” is borrowed from one of Rebecca MacKinnon’s works, in which she defines it as an authoritarian regime that “embraces and adjusts to the inevitable changes brought by digital communications”. See Rebecca MacKinnon, “China’s ‘Networked Authoritarianism’”, *Journal of Democracy*, Vol. 22, No. 2, April 2011, pp. 32-46, particularly see page 33 for the author’s definition of “networked authoritarianism”.
 16. “China Clears Murder after ‘Victim’ Shows up Alive”, BBC News, 9th September 2010, available at <<http://news.bbc.co.uk/2/hi/asia-pacific/8671577.stm>> (accessed 24th September 2012).
 17. Zhao Zuohai told a newspaper that local police taught him how to plead guilty. They also told him to repeat what they said otherwise he would be beaten. See “Details of Police Torturing Zhao Zuohai to Extract His Confession,” (赵作海被刑讯逼供细节：警察拿枪砸头) *The Beijing News* (新京报), 25th August 2012, available at <<http://news.163.com/12/0825/02/89NIAF8G00014AED.html>> (accessed 30th September 2012); “Chinese Police Arrested in ‘Back from Dead’ Case”, AFP, 12th May 2010, available at <<http://www.google.com/hostednews/afp/article/ALeqM5jqh6rbMbYERzA9Kp9ZXOoYo7X-Ug>> (accessed 30th September 2012).
 18. Zhao’s case had been commuted to a lighter sentence in 2002 due to a nationwide effort to clean up detention centres. According to Shen Bin, a legal worker in Shanghai: “By the end of 2002, Henan had cleared more than 5,000 individual cases of extended detention. Zhao Zuohai was one of these 5,000 cases of cleared extended detention.” See Shen Bin, “Basis of Popular Opinion Contributing to the Zhao Zuohai Case of Injustice”, *Dui Hua: Human Rights Journal* (对话), 2nd June 2010, available at <<http://www.duihuahrjournal.org/2010/06/zhao-zuohai-case-provokes-responses-on.html>> (accessed 5th October 2012).

19. According to Zhao Zhenshang's personal account: On the night of 30th October 1997, he took a kitchen knife and went to the home of a local woman whose name is Du Jinhui 杜金惠. There were rumours circulated that both Zhao Zuohai and Zhao Zhenshang had affairs with the same woman. Zhao Zhenshang took a swing at the head of Zhao Zuohai. Because he was scared at having committed murder, he left home with his bicycle, blanket, ID and four hundred RMB in cash without telling anyone else. He became an itinerant seller of watermelon seeds and other goods all over the place. He never contacted his family thereafter. In 2009, he became sick and was advised by the doctors to return to his home village to see if he could get any medical insurance to pay for his treatment. See Shi Yu 石玉, "Zhao Zuohai Was Found Not Guilty and Released After Staying in Prison for Eleven Years" (蒙冤11年, 赵作海无罪释放), *Southern Metropolis Daily* (南方都市报), 10th May 2010, p. AA17, also available at <<http://gcontent.oeeee.com/1/e3/1e328ebc91246864/Blog/53c/620b58.html>> (accessed 3rd October 2012).
20. "The Higher People's Court of Henan Re-examined the Suspension of the Judges Involving 'Zhao Zuohai's Case'" (「赵作海案」河南省高院复核法官停职), *The Beijing News* (新京报), 20th May 2010, available at <<http://leaders.people.com.cn/BIG5/11643809.html>> (accessed 4th October 2012).
21. The two "Evidence Rules" are "Notice Regarding the Issue of 'Rules on Certain Issues Relating to Examining and Judging Evidence in Death Penalty Cases'" (*Guanyu Banli Sixing Anjian Shencha Panduan Zhengju Ruogan Wenti de Guiding* 关于办理死刑案件审查判断证据若干问题的规定) and "Rules on Certain Issues Relating to the Exclusion of Illegal Evidence in Criminal Cases" (*Guanyu Banli Xingshi Anjian Paichu Feifa Zhengju Ruogan Wenti de Guiding* 关于办理刑事案件排除非法证据若干问题的规定). Both new rules were promulgated on 24th June 2010 by five government bodies: the Supreme People's Court, Supreme People's Procuratorate, Ministry of Public Security, Ministry of State Security, and Ministry of Justice, and went into effect on 1st July 2010. For full text, see <http://www.law-lib.com/law/law_view.asp?id=316882> (accessed 24th September 2012) and <http://www.law-lib.com/law/law_view.asp?id=316883> (accessed 24th September 2012).
22. The principles of the Two Rules are also reflected in China's "National Human Rights Action Plan (2012-2015)" (国家人权行动计划, 2012-2015年), and the specific articles stipulated in China's "Criminal Law" (刑法) as well as the "Criminal Procedural Law" (刑事诉讼法), including the most recent amendment to the Criminal Procedural Law during the second plenary meeting of the Fifth Session of the 11th NPC (National People's Congress) on 8th March 2012. For example, the "Action Plan" stipulates that all confessions by suspects and defendants extorted by torture or other illegal methods, as well as testimonies and statements of witnesses or victims collected by violence, threat or other illegal means will be eliminated and not used in working out the verdict. In addition, the stipulations on evidences used to examine and decide cases of death penalty will be strictly observed, and more strict standards will be adopted in this regard. See the full text of the *National Human Rights Action Plan of China* (2012-2015) at <http://www.gov.cn/jrzq/2012-06/11/content_2158166.htm> (accessed

- 1st October 2012); Zhao Yanan, “Law to Ensure Human Rights,” *China Daily*, 9th March 2012, available at <http://usa.chinadaily.com.cn/china/2012-03/09/content_14792799.htm> (accessed 1st October 2012).
23. Andrew Jacobs, “China Bans Court Evidence Gained through Torture,” *The New York Times*, 31st May 2010, available at <http://www.nytimes.com/2010/06/01/world/asia/01china.html?_r=0> (accessed 1st October 2012).
 24. According to China’s Criminal Law: “Any judicial functionary who extorts by torture a confession from a suspect of crime or a defendant or extorts, by means of violence, testimony from a witness shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention. If another person’s deformity or death is caused, the offender shall be given a heavier punishment according to the provisions of Article 234 or Article 232 of this Law.” (司法工作人员对犯罪嫌疑人、被告人实行刑讯逼供或者使用暴力逼取证人证言的，处三年以下有期徒刑或者拘役。致人伤残、死亡的，依照本法第二百三十四条、第二百三十二条的规定定罪从重处罚。) See the Article 247 of *Criminal Law of the People’s Republic of China* (中华人民共和国刑法), available at <http://www.china.com.cn/policy/txt/2012-01/14/content_24405327_16.htm> (accessed 30th September 2012).
 25. See Amnesty International, *Torture: A Growing Scourge in China – Time for Action*, 12th February 2001, available at <<http://www.amnesty.org/en/library/asset/ASA17/004/2001/en/e68a91ef-dc53-11dd-bce7-11be3666d687/asa170042001en.pdf>> (accessed 30th September 2012). See also Zhou Guojun 周国均, “Some Questions Regarding Strictly Prohibiting Torture To Coerce a Confession” (关于严禁刑讯逼供的几个问题), *Journal of Renmin University of China* (中国人民大学学报), No. 1, 1994, p. 106; Murray Scot Tanner and Eric Green, “Principals and Secret Agents: Central versus Local Control Over Policing and Obstacles to ‘Rule of Law’ in China”, *The China Quarterly*, Vol. 191, September 2007, pp. 644-670.
 26. It should be noted that instead of the sole factor triggering the final enactment of legislation of the Two Rules, Zhao Zuohai’s case acted mostly as a catalyst to accelerate the release of the Two Rules. As a matter of fact, pressure to adopt the Two Rules has been building for years. See Margaret K. Lewis, “Controlling Abuse to Maintain Control: The Exclusionary Rule in China”, *New York University Journal of International Law and Politics*, Vol. 43, No. 3, Spring 2011, p. 634.
 27. Several notable cases can be found at Liu and other work, including one of the most notable cases, the She Xianglin 畚祥林 case (2005). See Srinii Sitaraman, *State Participation in International Treaty Regimes* (Burlington, VT: Ashgate Publishing, 2009), p. 255; Liu Bin 刘斌, “Cases Involving Unjust, False and Wrong Charges in Ten Years” (十年来的冤错假案), *China News Service-Perspective* (中新社-视点), No. 6, 2000, pp. 46-58, also available at <<http://www.china-judge.com/fzhm/fzhm229.htm>> (accessed 1st October 2012).
 28. The Public Opinion Monitoring and Measuring Unit of *People’s Daily Online* (人民网舆情监测室) listed the Zhao Zuohai’s case as one of the top twenty hottest issues in 2010, with online contributions in major online sites like the Tian Ya community (天涯小区) site (10,400 articles and comments), Kai Di

- community (凯迪小区) site (3,825 articles and comments), Strong Country forum (强国论坛) (1,386 articles and comments), Sina forum (新浪论坛) (1,759 articles and comments), Zhong Hua Online forum (中华网论坛) (2,984 articles and comments), and Sina Weibo (新浪微博客) (23,094 articles and comments). See Zhu Huaxin 祝华新, Shan Xuegang 单学刚 and Hu Jiangchun 胡江春, *Publication of The People's Daily Online Public Opinion Monitoring Center: 2010 China Internet Public Opinion Analysis Report* (人民网舆情监测室发布: 2010年中国互联网舆情分析), available at <<http://blog.people.com.cn/article/1345954914048.html>> (accessed 29th September 2012).
29. The 2010 report compiled by the IRI is arguably China's first authoritative online public opinion report. See Min Dahong 闽大洪, "Analysis on Chinese Internet Media and Internet Communication in 2010" (2010年的中国网络媒体与网络传播), *People's Daily Online*, available at <<http://media.people.com.cn/GB/40628/13573942.htm>> (accessed 29th September 2012).
 30. Ding Junjie and Zhang Shuting (eds), *Internet Opinion and Public Emergency: Classic Cases of Crisis Management* (Beijing: Central Party School Press, 2010), p. 281.
 31. The statistical data is based on the network public opinion index system and the I-Catch whole network dynamic analysis system, and as sample of 100 typical sites for the IRI network public opinion. The IRI is affiliated with the Communication University of China in Beijing (中国传媒大学网络舆情(口碑) IRI 研究所).
 32. "China Adjusts Law System after Torture Scandal", Xinhua News Agency, 30th May 2010, available at <http://www.chinadaily.com.cn/china/2010-05/30/content_9908896.htm> (accessed 1st October 2012).
 33. See, for example, "China Clarifies Evidence Law for Criminal Cases to Stem Miscarriages of Justice", Xinhua News Agency, 30th May 2010, available at <http://news.xinhuanet.com/english2010/china/2010-05/30/c_13323861.htm> (accessed 4th October 2012); Wang Jingqiong, "Wrongfully Jailed Man Compensated", *China Daily*, 14th May 2010, available at <http://www.chinadaily.com.cn/cndy/2010-05/14/content_9847576.htm> (accessed 4th October 2012).
 34. See more discussions on the role of Internet in Sun Zhigang's case at Guobin Yang, *The Power of the Internet in China: Citizen Activism Online* (New York: Columbia University Press, 2009), pp. 34-35; Yongnian Zheng, *Technological Empowerment: The Internet, State, and Society in China* (Stanford: Stanford University Press, 2008).
 35. Sean Aday, Henry Farrell, Marc Lynch, John Sides and Deen Freelon, *New Media and Conflict after the Arab Spring* (Washington D.C.: United States Institute of Peace, 2012), available at <<http://www.usip.org/publications/blogs-and-bulletins-new-media-and-conflict-after-the-arab-spring>>, p. 21.

