

# 中國密審民運人士楊建利

## On Trial: Human Rights Activist Yang Jianli

■ 文 / 李睿文 Text / Li Jui-wen

中國大陸旅美民運人士楊建利被中共當局指控涉及「非法入境」及「從事間諜活動」案，於今(二〇〇三)年八月四日在北京第二中級人民法院開庭審理。但是，楊建利的親人和美國駐中國大使館的人員，在當天卻都被禁止進入法院旁聽。

### 為關懷工人運動而身陷囹圄

楊建利係在一九八六年自中國赴美留學，先後獲得了加州大學柏克萊分校數學博士與哈佛大學政治學博士學位，並已取得美國永久居民的身份；他曾在波士頓成立「二十一世紀中國基金會」，這是一個以推動中國民主和法治為宗旨的政策研究機構，同時也為中國大陸的民主運動來籌集資金。楊建利因為在一九八九年返回北京參與「六四」天安門民主運動，因而被中共當局列入禁止回國的「黑名單」，通令駐外使領館不准延長他的中國護照效期。去(二〇〇二)年四月間，楊建利為了實地瞭解中國大陸東北遼寧和大慶等地發生的大規模工人示威運動，在多次申請回國遭到無端拒絕，返鄉無門的情形下，只好冒險使用友人的護照進入中國，四月底不幸在雲南昆明被公安拘捕。

### 國際社會關注本案發展

楊建利被捕後就一直遭到單獨監禁，徹底斷絕與外界的聯繫；中共當局不僅禁止家屬與律師前往探視，也遲遲未予依法起訴，外界全然不知楊建利的處境與現況。

Mainland Chinese, US-based dissident Yang Jianli, was accused by mainland authorities of "illegal entry" and "espionage," and was tried on August 4 this year at Beijing's No. 2 Intermediate People's Court. Yang's family and members of the US embassy in Beijing were barred from observing the proceedings.

### Imprisoned for his convictions

Yang Jianli, a US green card holder, first went to the United States in 1986, receiving first his doctorate in mathematics from UC Berkley followed by a second doctorate in political science



大陸民運人士楊建利。

*A human rights activist from mainland China, Yang Jianli.*

今年五月底，聯合國人權委員會為此做出裁定，認為中共當局拘捕楊建利違背了中國大陸的法律和國際法，因為楊建利沒有獲得公正審判和會見律師的機會。六月初，美國政府正式對中國大陸提出釋放楊建利的要求；六月二十五日美國參、眾兩院更先後通過決議，除了譴責中國政府對楊建利的逾期羈押，同時也呼籲中共當局立即無條件釋放楊建利。

在國際社會的強烈關切與壓力之下，楊建利終於在今年七月獲准與律師見面，隨後，並被正式提起公訴。

### 中共當局違法拘審海外民運人士

楊建利不幸的遭遇並不是偶發的個案，近年來，有不少海外華人先後被中共當局指控涉及「間諜罪」，較受矚目的案例，還包括李少民、高瞻與王炳章等人。中共當局動輒以「保衛國家利益」的名義，對這些所謂的「海外異議人士」強扣「間諜罪」的大帽；更有甚者，在審判過程中，完全無視現代法治國家所應遵守的程序正義與公平原則，刻意將這些「政權敵人」（異議人士）區別對待，逾期羈押、刑訊逼供、律師無法正常辯護和秘密審判等狀況，幾乎成了這類案例的共同特徵。在法律形同具文的情形下，不僅剝奪了當事人與家屬應有的權利，更製造了無數侵犯人權的冤獄。

以楊建利案為例，從二〇〇二年四月二十六日起，經過四百多個日子的羈押後，當事人才遭到正式起訴；然而，決定起訴到開庭的時間卻又不到一個月，效率之「神速」著實令人驚訝。根據中國《刑事訴訟法》有關偵查羈押的規定，對犯罪嫌疑人的審前羈押原則上不得超過兩個月，縱有特殊原因延長，上限也不得逾七個月；可是，楊建利卻遭逾期關押長達十五個月。此外，中共當局一直沒有依法向楊建利及其家人提供正式拘留或逮捕文件，也不允許楊建利獲得相關的法律援助，楊建利的辯護律師一直到開庭前才見到當事人，根本來不及閱讀大量的卷宗材料，也沒有充裕的時間思考辯護方案。

值得注意的是，中共當局藉楊建利案件涉及

from Harvard. In Boston, he founded the Foundation for China in the 21st Century, a research institute devoted to promoting the establishment of a democratic mainland government, as well as raising funds for the democracy movement. After his participation in the human rights demonstrations at Tiananmen Square in June of 1989, Yang was placed on a government blacklist preventing him from returning to China, and at the same time was forbidden to renew his PRC passport. In April of last year, in order to gain firsthand knowledge of the extensive worker demonstrations in the northeastern locales of Liaoning and Daqing, he repeatedly and unsuccessfully applied to return to the land of his birth. Perpetually confounded by mainland denial, he was left no option other than to borrow a friend's PRC passport and reenter China under a false identity. Unfortunately, he was caught and arrested by the authorities in Kunming, Yunnan Province.

### International Concern

After his arrest, Yang was held incommunicado. Not only did mainland authorities refuse to allow visits from family members and his attorney, but were slow to begin litigation, leaving the outside world completely unaware of his whereabouts and condition.

At the end of May, a committee of the UN Human Rights Commission ruled that by holding Yang for a prolonged period without formal charges and not allowing him to consult with an attorney, China had violated international law as well Chinese law. In early June, the US government formally petitioned China to release Yang, and on June 25 both houses of Congress passed a resolution both condemning Yang's long-term detainment and calling for his immediate release.

Under intense pressure from the international community, PRC authorities finally allowed Yang to see a lawyer in July. Not long afterward, formal charges were finally brought up against him.

### Unlawful detainment of overseas human rights activist

Yang's detainment is by no means an anomaly or an isolated incident. In recent years, a number of overseas Chinese have faced PRC charges of espionage, notably Li Shaomin, Gao Zhan, and Wang Bingzhang. The mainland has consistently leveled such charges against overseas dissidents, ostensibly in the name of protecting national interests. What's more, they have ignored principles-justice and fairness-that are the backbone of modern nations bound by law; in fact, the inequitable treatment of "political enemies" and "dissidents" as manifested by protracted confinements, forced confessions, secret trials, and lack of access to an attorney, has come to define these cases. This disregard for law not only deprives the accused of his/her rights, but has resulted in the wrongful imprisonment of countless individuals.

Taking Yang as an example, the PRC's formal indictment came only after more than 400 days had passed since his imprisonment on April 26, 2002. However, less than a month after Yang's arraignment, court proceedings were already underway, an exceptional display of "efficiency." The Criminal Procedure Codes states in regard to investigation and detainment, suspected criminals in principle are not to be detained for more than two months before

「國家機密」為由，不對外公開審理，拒絕任何人旁聽審訊過程。但是根據「法新社」獲得一份中共「國家安全局」簽發的處理意見顯示，對楊建利「間諜罪」的指控，主要乃依據當事人十多年前參與的活動。假設楊建利在過去違法竊取了中國大陸的國家機密，那麼，中共當局早應對他發出通緝並設法引渡回國受審，而非將他名列「黑名單」上限制予以入境。顯然，中共當局對楊建利羅織的罪名，在邏輯上是大有問題的。

### 中共當局「有法不依」，自毀國際形象

根據統計，僅一九九八年至二〇〇二年間，大陸檢察機關累計監督糾正「超期羈押」的次數高達三十餘萬人次。為此，大陸「最高人民檢察院」從今年五月開始對所謂「超期羈押」展開一系列的清查，並在七月對外宣稱，「現在已經沒有一個人被檢察機關超期羈押」。不過，令人納悶的是，楊建利似乎不在這次清查行動之列。由此可見，在具體的執行當中，良心犯或政治犯在中國大陸是無法與一般的刑事犯獲得同等待遇的。

中共政權一貫將法律視為人民民主專政的工具，特別強調司法機關鎮壓階級敵人的功能，加上對人權保障的觀念薄弱，在「黨權至上」的指導原則下，法律便成為一黨權力意志的表達；它的最高目的只是為了維護獨裁統治的基礎，根本毫無「司法正義」可言。檢視楊建利案便可以發現，在中國大陸，法律仍然只是一紙空文，因為，權力踐踏法律的現象仍然層出不窮。

去年中共在「十六大」時，首度強調司法制度必須保障在全社會實現公平和正義，讓世人刮目相看。但是，近期卻仍接二連三傳出民運異議人士遭到違法拘審重判的消息，這不啻是對中共政權「誠信」問題的一大諷刺！如果一個政府缺乏基本的人權觀念，甚至公然違背自己制訂的法律，那麼世人要如何建立對中國大陸法治的認同與信心呢？

如何處置楊建利，將檢驗「胡溫體制」如何對待異議人士，如何理解民主，是否推行政治改革，當然也和中、美關係息息相關。雖然本案迄今沒有正式做出判決，但是各界已對審理結果拭目以待。

being tried. And even in special cases, that time must not be extended beyond seven months. Yang, however, was jailed for a total of 15 months before the initiation of the trial proceedings. Moreover, PRC authorities failed to send a notice informing Yang's family of his detention, nor was he allowed any support from an attorney. Yang did not actually meet with his representing attorney until directly before the trial, leaving literally no time to mount an adequate defense.

It's worth noting how the PRC has called for a closed trial by claiming that the Yang Jianli case involves state secrets. However, according to a PRC government document obtained by Agence France-Presse, the charges of espionage revolve mostly around Yang's participation in the Tiananmen demonstrations over ten years ago. Supposing that Yang did steal government secrets in the past, why then did the authorities prevent his return to China by placing him on a government blacklist? It would have facilitated his arrest greatly had they called for his immediate extradition. Clearly, there is some faulty logic in the charges leveled against Yang Jianli.

### Ruining their image abroad

According to statistics, from 1998 to 2002 the mainland rectified over 300,000 individual cases involving detainment for an overly lengthy period. For this reason, the Supreme People's Procuratorate began a new series of investigations into prolonged imprisonments in May. In July, they announced that there were no longer any prisoners in confinement beyond the prescribed legal limit. Curiously enough, the report failed to make mention of Yang Jianli, making it apparent that when it comes to political crimes, the rules are completely different.

The PRC has always viewed law via the so-called "principle of democratic centralism," especially emphasizing its role in suppressing "class enemies." Add to that a rather tenuous grasp on the concept of individual rights and the result is that law is no more than a vehicle for the party to manifest its will and supremacy. Its overriding objective is to preserve the foundation of dictatorship, and as a result, there is little legal justice to speak of. Scrutinizing the Yang Jianli case reveals that in the PRC law boils down to empty words that scatter before party objectives.

The CCP's 16th Party Congress last year was the first time the PRC has ever addressed the issue achieving impartiality and justice in the judicial system, a fact which caused the outside world to view China with new eyes. Nevertheless, time and time again we are bombarded with stories of human rights activists and political dissidents who are illegally imprisoned and receive heavy sentences; this kind of behavior comes as quite ironic in light of recent PRC promises. If a government lacks a basic commitment to human rights, and even publicly defies its own laws, how then is the outside world expected to take it seriously?

Resolution of the Yang Jianli case ultimately will shed light on the orientation of the new PRC leadership including their treatment of political dissidents, their grasp of democratic principles, and whether or not they will push for political reforms. Of course, to some extent, these questions involve PRC-US relations. No verdict has yet been released in the Yang case, and the entire world waits with bated breath.