

Freedom of the Chinese Press vs. Keeping State Secrets

In Light of the SARS Crisis: An Analysis

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Abstract: The SARS crisis prompts people to consider why the Chinese media would confront a dilemma between protecting the public welfare and keeping state secrets. It was inevitable that the Chinese media would fail to report SARS early in the epidemic because, without permission from the departments of the Party and government, the media cannot report significant issues. The laws and regulations that govern an identical situation – the incidence of plagues – prevents the media from reporting. The Law on Keeping Secrets makes it difficult for the media to report on their own. The freedom of reporting lacks the protection it deserves. Two approaches can broaden the freedom of reporting: one is to minimize administrative interference so as to achieve the stage in which no bans and prohibitions are permitted under the law, i.e., “the stage of freedom”; the other is to establish the principle that public welfare can be raised as defense against charges of revealing secrets.

Key Words: SARS Media Press Freedom State Secrets

In the first half year of 2003, the SARS (generally called “atypical pneumonia” or “atypical” for short in China) crisis in China had been storming the whole nation and shocking the whole world. Because the transmission of information was blocked or semi-blocked, the epidemic – which could have been regional – became nationwide, Asia-wide, and even world-wide. More than 100 countries restricted tourism to China. This case proves that in an era of hi-tech and globalization, nothing can block the transmission of information and the effect of trying to do so is negative. The Chinese media is expected to shoulder the mission of being responsible for the Chinese people, as well as the people of the world – just like the way they widely and adequately reported the SARS plague after the Communist Party of China (CPC) handled the plague in a decisive manner on April 20.

The SARS crisis has left the people with diverse reflections. Among the issues, some deserve a further consideration: Why didn't the Chinese media respond to SARS in time? Why, during the course of public health emergencies, will the Chinese media face a dilemma between protecting the public welfare and keeping state secrets? How will China cope with the relationship between freedom of the press and keeping state secrets? This article attempts to analyze these issues and concludes that, undoubtedly, these problems cannot be solved thoroughly under the current

framework of law and political systems in China.

An Overview of SARS Crisis in China

To better comprehend and analyze the SARS crisis of SARS, it is necessary to review the outbreak and development of SARS in China.

Early on November 16, 2002, the first case which was later certified as SARS emerged in Foshan, Guangdong. On December 15, Huang Xinchu and Guo Duchun, who came from Zhijing County, Heyuan City, were sent to the People's Hospital of Heyuan because of the same symptoms. As their illness developed, they were transferred to the hospitals in Guangzhou and Shenzhen, respectively. After that, 7 medical staff were infected. Shortly after the New Year's Day, in a hospital in Guangzhou where the patient from Heyuan was treated, 8 people who had contact with the patient were infected, including 5 medical staff. Not until January 21 did the Public Health Department of Guangdong deliver an investigatory report to the hospitals in the form of document introducing this unknown epidemic disease. On February 4, the No 2 Hospital Attached to Zhongshan University released a report on the super contagious quality of SARS.

During the Spring Festival of 2003, SARS broke out in Guangzhou. The explosion of this highly spreading virus had already led to the infection of a group of medical staff while the government and the media kept silent. On the first day of the Spring Festival (February 1st), the people in southern China rushed to fish-curing vinegar and banlangen (a Chinese herb medicine), which were said to be a good way to keep away the disease.

According to the Southern Daily, Guangdong authorities reported the outbreak of SARS to CPC (Party Central Committee?) on February 7. Two days later, the National Hygiene Department designated Ma Xiaowei, vice minister of the Hygiene Department, to inspect the situation in Guangdong with a group of hygiene. Just at the time, the virus spread madly and, when it reached a peak, 900 people had been stricken, 45 percent of whom were doctors and professional medical staff.

The first patient in Northern China was infected in February while on a business trip in Guangdong and then returned to Shanxi Province to seek treatment. The patient was transferred to a hospital in Beijing, which caused the explosion of the plague in Beijing and Tianjing. Chinese Youth Daily cited a Peking doctor as saying, "if we were offered the experiences and lessons on treating atypical pneumonia from Guangdong, this kind of situation could be avoided."

On March 16, China submitted its first data to the scientists of the World Health Organization (WHO). The data kindled a hope, for it made the scientists believe that SARS was fading by itself gradually. Besides, Kong Quan, the spokesman of the

Foreign Affairs Department, declared that the spread of the disease “had already been soundly put under control.” Hence the Chinese media also claimed that the WHO highly commended China’s adopting effective measures to control atypical pneumonia. On March 19, Zhang Wenkang, minister of the Hygiene Department said, the atypical pneumonia in Guangdong had been controlled thoroughly. On March 23, the WHO experts arrived in Beijing. Three days later, Chinese government admitted for the first time that the virus had gone beyond Guangdong and 8 people in Beijing were infected. On April 3, Minister Zhang Wenkang hosted a press conference, exclaiming that China was safe, that SARS was under control, and that there were only 12 cases in Beijing.

On April 4, a 72-year-old retired military doctor Jiang Yanyong revealed that the Hygiene Minister was lying. In his letter, he shed light on the fact that, in the 309 Hospital alone, 60 SARS patients were receiving treatment and through April 3, 6 patients had died. Times Weekly published Jiang’s open letter on its own web site. Many articles from western media were translated into Chinese and transmitted all over the country via e-mail.

On April 17, general secretary Hu Jintao said in a Political Bureau conference that no one has the right to conceal the real situation of SARS. On April 20, the minister of Hygiene Department Zhang Wenkang and the mayor of Beijing City Meng Xuenong resigned. On the same day, Gao Qiang, the vice minister of Hygiene Department, published a report on the plague situation in Beijing. The new figure, 339 cases, was 10 times the figure offered officially 5 days before. In addition to that, 402 suspicious cases were found.

On April 23, the Ministry of Finance announced that the country planned to set aside 200 million RMB dollars as a fund for preventing and treating atypical pneumonia. On April 26, Prime Minister Wen Jiabao authorized the formation of the National Command Post for Preventing and Treating Atypical Pneumonia. He also demanded the coordination of the forces of every field to fight against SARS and win the war against SARS. The national Personnel Department and the Supervision Department declared that any civil servants and any institutional clerks who refused to carry out the Party and the government’s arrangements and requirements for preventing and treating atypical pneumonia would be kicked out without a second consideration.

Since the last ten days of April, the whole of China was mobilized to fight against atypical pneumonia. On June 24, the WHO officials pointed out that the information supplied by China was neither transparent nor adequate. But because the Chinese government’s formal promises from the middle of April on preventing and treating SARS were firm and forceful, the various measures against SARS were quite effective and the information offered was transparent and timely. The “public-preventing-and- public-controlling” strategy had a solid civilian foundation.

On the same day, the WHO decided that the tourist warning on Beijing was canceled and that Beijing was erased from the list of the SARS epidemic areas. Vice Minister of Hygiene Gao Qiang said it symbolized that the whole mainland of China was free of the tourist restriction and was deleted from the list of SARS infected areas. The normal social life and economical order would resume soon.

It Was Inevitable that the Chinese Media Would Fail to Report the SARS Crisis in the Early Days of the Outbreak

The Chinese media was practically silent for 5 months after the first case appeared and 2 months after the SARS epidemic became wide spread. Although it is true that we had no idea about what the disease was then, the primary reason was that it was impossible for the media to do anything under the general press system in China. The characteristics of that system include the following: Nothing in any media-related laws or regulations is designed to protect press freedom. Nor do the media have a right to independently report the outbreak of plagues so as to protect public welfare. And any report on important events or incidents must first be reviewed and approved by Party committees at all levels of the CPC or their propaganda departments; the standard for that review is whether the reporting is beneficial to stability and whether it is beneficial to the Party and the state.

1. Without permission from the Party and government, the media cannot report significant events.

In many of its documents, the CPC emphasizes that the media is the mouthpiece of the Party and government. In a country with only one party in power, the greatest concern is whether the political situation is stable. In the Party's eyes, nothing can be achieved if the domestic situation is unstable. Deng Xiaoping once said, "Our Party's newspapers and magazines should act as the ideological center to keep the country steady and united. Periodicals, radio broadcasting and TV broadcasting should all aim to promote and consolidate stability and union."

In many regions, the local officials have their own worries. They worry that if the media let something serious come to light in the areas under their jurisdiction, it would affect the CPC's impression as to their administrative performance, and hence undermine their political prospects.

When SARS started spreading, the Hygiene Department of Guangdong did not inform the public about it; they only delivered an internal notice to the hospitals that an unknown epidemic disease was newly found, that the patients should be kept apart, and that medical staff should take adequate precautions.

The media did report the plague when the public became alarmed, but they all tried to minimize the situation. In Heyuan City, where the earliest cases emerged, the

local newspaper published the statement of the local Hygiene Bureau on January 3rd that “there is no epidemic disease spreading in Heyuan..., the symptoms like coughing and fever are caused by the relatively cold weather.” This was the first report of Chinese media on SARS. In the last ten days of January, 2003, in Zhongshan City, one of the cities that had been infected, a newspaper published a news brief obtained from the provincial government, “the virus has existed in Guangzhou for over a month, but the epidemic disease had already been brought under effective treatment and sound control. The public need not panic.”

On February 7, a department of the Central Government which is in charge of propaganda issued a document instructing the media on its reporting about atypical pneumonia. It said that all reporting on atypical pneumonia should be identical in facts and figures and overall slant, stressing the point that the disease had been brought under control. Following that document, the Provincial Committee of Guangdong soon ordered that the media there were forbidden to report freely on the plague situation.

Thanks to communication through telephone and mobile phone short messages, the public in Guangdong knew something about SARS situation. One short message read, “A lethal flu has emerged in Guangzhou.” This message was transmitted about 40 million times that day, 41 million times the second day, and 45 millions times the third day.

On February 11, the leaders of the Provincial Committee of Guangdong made a statement that “the peak of the outbreak of atypical pneumonia has passed, the situation now has been controlled in the first stage,” and they required the media to “guide public opinion with an authoritative voice and try by all means to minimize social panic.” The epidemic “should never affect the daily work, daily life and social order, while [the Government is] taking active measures to prevent and treat the disease.” Accordingly, the Hygiene Department of Guangdong hosted its first press conference that day. They claimed that from December 16th to February 9th, 305 people were infected and 5 died. A week later, the media in Guangdong reported on SARS in great detail; the 21st Century Global Report put out eight special pages on the subject. On February 23, the Propaganda Department of Guangdong decided that too much criticism will undermine “stability,” and the media reports were then banned again. The prohibition lasted over a month, which left SARS adequate time to spread widely. It quickly approached many cities, including Beijing. Even though the plague was spreading, in the first ten days of March, in order to ensure a smooth opening of the National People’s Congress Conference (NPCC) and the Chinese People’s Political Consultative Conference (CPPCC), China banned “negative” reports on the spread of SARS.

During the period of the two meetings in early March, two reporters from the Southern Metropolis Daily interviewed the minister of Hygiene Department and

Doctor Zhong Nanshan, who were attending the meetings in Beijing. The reporters mentioned that atypical pneumonia in Guangdong had not been controlled yet, and later they cited the minister's remarks to urge a broadening of the public's right to know. According to the well-informed circles, after reading the news, a certain leader of the Provincial Committee of Guangdong immediately ordered disciplinary action against the Southern Press Group to which the Southern Metropolis Daily belongs. The two reporters who were covering the Beijing meetings were called back, and the other newspapers attached to the group were sternly dealt with.

As the virus infected more and more people, on March 9, the Hygiene Department called the heads of the hospitals in Beijing to a conference and, informing them of the information on SARS, emphasized that no one was permitted to offer the information to the media.

However, they failed to ban the discussions about the plague entirely. At the National People's Congress Conference, 30 representatives from Guangdong proposed to set up a national network to prevent the plague.

On April 2, China Daily, the Chinese official English newspaper published an article which said that, when atypical pneumonia first broke out, the Guangdong authorities hadn't timely informed the public of the truth. As a result, various rumors deepened the local people's worry about the plague due to the absence of the authority's voice. Because most Chinese people can't read English, this news went largely unnoticed.

We should be aware that the market economy is making the competition among Chinese media much more fierce, and they are willing to report this kind of news. Nevertheless, as the mouthpiece of the Party and the government, when reporting is forbidden by formal decree, they can achieve nothing. It is said that someone from the propaganda management institute of Guangdong once said that "what scares us is not the plague, but the media," and that it was the media, with their exaggerated and shocking reports, that led Hong Kong into the current chaos.

2. The laws and regulations requiring identical reporting about epidemic diseases prevents the media from reporting.

Since China adopted the "Reform and Openness Policy," Chinese journalists have been advocating a special law on journalism, aiming to protect freedom of the press. However, for over 20 years, a press law remained just beyond the horizon. Even though we can find a few journalism-related items in several Chinese laws, most of them restrict, rather than broaden, the freedom of press. Many provisions order information be published identically, and the media is forbidden to report them freely.

The 23rd provision of the Law on Preventing and Treating Epidemic Diseases

requires that, “the hygiene administrative departments of the State Council should truly and timely inform and publish the incidence of plagues, or empower the governments of the provinces, autonomous regions and municipalities directly under the Central Government to inform and publish the incidence of plagues in their own administrative regions truly and timely.” It indicates that only the Hygiene Departments at the level of the Central Government and the provincial governments have the right to do so.

Thereafter, the Hygiene Department delivered a notice on granting permission to publish articles about plagues. It provided specifically that “any unit or individual without the approval of the Hygiene Department are forbidden to inform, publish or cite any information on the situation of epidemic diseases.” This meant that the media could not report any news on plagues if the news were not reviewed and approved by the Hygiene Department.

The Chinese way of publishing news in lock step can also be found in many other fields. For instance, the 22nd item of the Law of Meteorology provides that “the state adopts the system of publishing public meteorological forecast and the warning of disastrous weather identically.” And in the Regulations of Nuclear Incidents at Nuclear Plants in Time of Emergencies (1993, administrative regulation), the 28th item provides that “any news on nuclear incidents should be published in one step by the units authorized by the State Council.” The 14th item of the Management Regulations of Earthquake Forecast disciplined that “the media should follow the regulations to publish or broadcast predictions of earthquakes and the content should be identical with that published by the State Council, or the governments of the province, autonomous region, municipality directly under the Central Government.”

Significant news on national political life is specially required to be published in one version. In 1987, in a document entitled “Opinions on Several Issues about Improving News Reporting,” the Propaganda Department of the CPC and some other departments restated that Xinhua News Agency is *the* institution for the Party and the state to publish news, and that one of its major functions is to publish significant news on the Party and the government, accurately, timely, and in one step. This mainly refers to the following: (1) the significant policies and decisions of the Party and the government; (2) important documents; (3) the news on important meetings; (4) the important activities of the leaders of CPC; (5) remarks on domestic and international events and issues given by CPC leaders when they meet or talk with foreign guests; (6) the appointment and recall of VIPs; (7) the death of leaders, and so on. The document explains that “to have an identical approach in reporting those important issues is bound to avoid the outside guesses, suspicions and rumors or even chaos caused by different reports and different focus in reporting.”

Under such legal regulations, restrictions and orders, the media themselves have little possibility to report freely. As far as the SARS crisis was concerned, the Chinese

public could only get some uncertain information via rumors and gossip, because Chinese media were not given the freedom to report it and the leader of the Hygiene Department meant to hide it. Only when the CPC leadership required that “no one should hide the situation of the plague” did the media begin to report the truth in detail.

3. The Law on Keeping Secrets made it difficult for the media to report SARS on their own.

In China, we have no law on freedom of information. But we do have a law on keeping secrets, i.e., the Law of Keeping State Secrets of the PRC. The law on keeping secrets grants the media little freedom, and sometimes it puts the media in jeopardy.

The 8th item of the Law on Keeping Secrets provides that state secrets include “1. the secret matters involving the important decision-making in national affairs; 2. the secret matters in the construction of the state defense and armed forces’ activities; 3. the secret matters in diplomatic activities and diplomacy-related activities, as well as the secrets [of other states] we promised to keep; 4. the secret affairs in national economic and social development; 5. the secret affairs in science and technology; 6. the activities to preserve state security and the secrets in investigating criminal crimes; 7. Other state secrets certified by the departments in charge of keeping state secrets.”

From these requirements we can find that (1) the range of state secrets is wide, and (2) with regard to a certain specific information, it is hard for the media to distinguish secrets from non-secrets. Therefore, on June 12, 1992, the State Secret-keeping Bureau, the Propaganda Working Group of CPC, the Press Publishing Office, and the Department of Broadcasting & Movies & Television jointly published Regulations On Keeping Secrets in Press Publishing, in which was proposed a system that combined both self-inspection and submitting-supervising (submitting the news to the higher authority for inspecting before publishing). “When the units and individuals being interviewed supply the interviewers with information that involves the state secrets, publication should be approved in advance according to the procedures provided by the related regulations. Authorities are also expected to inform the interviewers that the affairs which the interviewees had claimed to be state secrets cannot be reported or published in public.

We can predict from the above that once the institutions of the Party and government decided that a certain disease was a state secret – even though that contradicted the requirement to “inform and publish the situation of plagues timely and truly” from the Law on Preventing and Treating Epidemic Disease – there would be no opportunity for the media to report about it, because, according to the related regulations, the media should first “submit their report for inspection.”

The Freedom of Press Lacks the Protection It Deserves

1. Even those who are not in charge of secrets but leaks state secrets are responsible without exception.

Chinese Criminal Law provides that, “the person who leaks state secrets, deliberately or unpremeditatedly, with a serious consequence, should take criminal responsibility according to the 186th item of Criminal Law. The person who violates legal regulations to leak state secrets, but has not reached the degree of criminal penalty, should be given an administrative punishment according to the situation.”

“The person who leaks state secrets” mentioned here can refer to those who are in charge of state secrets or those who are not; thus, it is possible for an average citizen to commit the crime of leaking state secrets. New Daily reported on June 28, 2003, that the State Security Bureau of Chongqing City announced to the media for the first time that, following great efforts to investigate, on June 27, an important case of illegally trafficking in state secrets had been revealed successfully. The suspected criminal, Huang Kesi, was arrested and brought to justice. From March 1998 to March 2003, Huang Kesi had obtained more than 200 copies of secret documents and internal materials. He sold nearly 30 copies on which were marked “state secret” to a middleman in Fujian, from whom these copies were acquired in Hong Kong by an intelligence agency of another country.

Chinese media are all state-owned, and most of them are official newspapers of the institutions of the Party and government which have more exposure to state secrets than the average citizens. As a consequence, they are more likely to be restricted by the law. In 1981, the CPC decided to oust Hua Guofeng (the former chairman of China) and planned to “decide on the verdict” at the Sixth Plenary Session of the Eleventh Central Committee. But before it was “discussed” at the conference, the agenda and the documents had been obtained by international media. Through investigation, it was found that Li Guangyi, an editor of Chinese Finance and Trade News, leaked the secret. Thereafter, he was sentenced to 5 years’ imprisonment.

Reporters from Hong Kong and abroad are not the keepers of state secrets, but if they acquire secrets illegally, they will also be punished. In 1993, when China forcefully rectified the financial order, vice premier Zhu Rongji revealed some unannounced policies at a conference. After it appeared in Ming News in Hong Kong the second day, reporter Xi Yang was sentenced to 12 years’ imprisonment because of “the crime of stealing state secrets.” In 1980s, reporters from Reuters and Kyodo were excluded by Chinese government because they had reported Chinese state secrets.

Unlike other countries which punish only those who leak state secrets, China also

punishes the journalists who receive the information. To the journalists, that is the sword of Damocles hanging over their heads. To be free of the sword, they'd better keep a distance far from secrets. But by so doing, they fail to protect the people's right to know.

2. There is no principle or custom that "public benefit can be raised as a defense against being charged."

As mentioned above, the media did not report the fact that shortly after the New Year's Day, eight people who had contact with a SARS patient were infected in a hospital in Guangzhou. And until the 21st of January, when the Hygiene Department of Guangdong had already informed the hospitals, in form of a document, that the disease was an unknown disease, the media remained silent. Only after the epidemic disease had spread for three to four months, and CPC dismissed the minister of the Hygiene Department who had concealed the situation, did the media begin to report on large scale.

The reason for the media's failure is this unanswered question: when the media reveal problems important to the public welfare, without permission from the government, will they be immune from punishment? Up to this point in China, we cannot obtain a guarantee of immunity from either the administrative system or the legal system.

The philosophy of law tells us that, "if the revelation of secret material will serve a public benefit, then it should lose its protected status, and the courts will not prevent it from being publicized."(4)

During the course of perfecting the draft bill of the 23rd provision of the Basic Law of Hong Kong Special Administrative Region, the principle of public benefit was mentioned. On July, 2003, when this draft bill encountered some difficulties in being passed by the law-making body of Hong Kong, Dong Jianhua (Tung Chee-hwa) (the Chief Executive of Hong Kong Special Administrative Region) said that the government of the Special Administrative Region decided to make three modifications in the Draft Bill of Regulations (Legislative Provisions) on State Security. One of the three would "add public benefit as a defense against being charged with illegally revealing official secrets, in order to protect the public figures and, especially, for the benefit of the media." This means that if the media reveal official secrets for the sake of the public welfare, they will probably be immune from punishment. Even though the vote on the draft bill was and continues to be put off endlessly, the principle of public benefit advocated by the government of the Special Administrative Region is still advisable.

If the media on the mainland of China are allowed to raise public benefit as a defense against being charged in a legal proceeding related to the media's keeping

state secrets, then the freedom of reporting will be greatly enhanced. And it will hardly be possible to conceal such plain facts as the spread of an epidemic disease.

3. *There is no provision on protecting the source of news in Chinese law.*

Chinese media are all ranked within the political hierarchy, and they never criticize the departments of the Party and government at the same level, not to mention criticizing departments at a higher level. When they publish reports to criticize and inspect the departments of the Party and government at a lower level, Chinese journalists are aware of the need to protect the source of news so as to prevent the source from being threatened or some other revenge taken. But they will surely reveal the source of the news if it is demanded by the departments of the Party and government at the same or higher level. Nor will they conceal the source of news in court. The reason for all these is that Chinese media are all state-owned, and most are owned by the departments of the Party and government. Thus they have no choice but to reveal the source of their news. What's more, the media are not entitled by law or social custom to protect the source of their news.

But in America, the media have the right to protect the sources of news. Take a recent example. On July 6, 2003, in an article published in the *New York Times*, former Ambassador Wilson criticized the Bush Administration for distorting intelligence so as to "exaggerate the threat from Iraq." On July 24, syndicated columnist Robert Novak wrote an article which claimed that "two senior government officials" revealed to him that Wilson was sent to Niger because at wife's suggestion. The article also publicized the sensitive fact that Mrs. Wilson was working for the CIA, as well as the name she used when she was on a mission abroad.

Leaking the identity of a CIA agent was a serious breach of regulations and state secrets. But what interests us is that, instead of looking to Robert Novak, the column writer, the Justice Department focused its criminal investigation on the State and Defense Departments, demanding they provide various materials including phone records. This is because American journalists and media have the right to protect the sources of news. Just as Novak said, "As a professional reporter with a working experience of 46 years, I will not leak out the resource from whom I obtained my secrets."

The reporters in China can not protect the sources of news, and once a report goes wrong, not only the reporter, but also the source of the news will be caught up in trouble. This is another element which makes the freedom for Chinese media so narrow.

Conclusion: Two Approaches Can Broaden the Freedom of Reporting of Chinese Media.

China is a developing country, so it needs to mobilize any possible resources to promote economic development, including restricting the freedom of press properly as well as maintain a wider range of state secrets than the developed countries do. And this is acceptable to the people. The freedom of press can only be broadened step by step. Therefore, under the current situation, it is impossible to promote and realize the freedom of press by reforming the basic system of the media industry, for example, to reform the ownership of media, or to let non-state-owned media appear. Nor is it beneficial to the development of economy and society to do so. It is also impossible to protect people's right to know by protecting the sources of news under the framework of all state-owned media.

The relatively realistic object for Chinese journalistic reform is to strive for a law-based rules for journalism. But for various reasons, mainly concern that law-based rules will undermine the Party's leadership over media, the law on journalism has not been produced even now. But after all, rule by law is a target to be achieved in China. Under the suggestion of the Communist Party of China (CPC), the NPC passed the Amended Bill of Constitution in 1999. It provides that "the People's Republic of China applies rules based on law and constructs a country ruled by law." Therefore, journalism should not be an exception. To apply rules based on law towards journalism, it is logical and practical to carry out and stick to the following two principles:

1. To decrease administrative interferences and gradually achieve the stage that no prohibitions are imposed except according to law – that is the stage of freedom. At present, the Party and government realize its management over media by delivering propaganda directives to media frequently; thus it is much stricter than laws and regulations. For instance, according to the regulations of the Law on Epidemic Disease, the situation of plagues should be published without delay. But to be in accordance with the directions of the Party and government, such reports may be omitted or altered to make a situation seem better than it is.

To apply a rule based on law would mean that the interference from the departments of the Party and government would be minimized and the media can reach the stage, step by step, that they can report freely on anything that is not prohibited by law. Here we use the term "minimize" and "step by step," because some interference from the departments of the Party and government will always exist – it is our national condition and it is beneficial to the state and people when dealing with some very important issues. But if the law provided the rules, everyone should act accordingly, and no interference would be acceptable.

2. To set up the principle that "public benefit can be raised as a defense against being charged." Even if a certain department in power forcefully ordered the media not to report something, the media should be able to report it, so long as their reason is closely related to the public welfare. For example, the Law on Preventing and

Treating Epidemic Disease clearly provides that the government should “inform and publish the situation of plagues truly and timely.” Still, officials like Zhang Wenkang concealed it and lied to the public. In this situation, the media should be able to report the truth. If the media are investigated afterwards, they can raise public welfare as a defense against being charged.

At present, if Chinese media can realize the above, the degree of the freedom of press will be increased dramatically, and it will exert a greater positive effect on the development of Chinese economy and the development of Chinese democracy and politics.

Notes:

Thanks to Professor Eric Easton of the University of Baltimore School of Law for editing my English translation.

(1) According to the report on June 25, Xinhua News Agency.

(2) Den Xiaoping, Current Situation and Our Tasks, January, 1980.

(3) All of the legislative provisions are cited from chinalawlib.com.

(4) According to the report on July 5, Xinhua News Agency.

(5) A New Dissertation On the Law of Communication, by Liang Xianwei & Cheng Wenming, page 213.

(6) Information Times, Oct, 12, 2003.