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China's courts continue to silence critics of party policies

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Jerome A. Cohen says by giving human rights lawyer Pu Zhiqiang a seemingly mild suspended sentence, China shows it's mindful of its own image, but it isn't softening its stance against dissent

The recent criminal conviction and sentencing of China's well-known civil liberties lawyer Pu Zhiqiang (浦志强) was widely reported abroad, if not at home. Yet much remains to be said about its significance.

Those of us who know Mr Pu, of course, breathed a sigh of relief at news of his [suspended three-year prison sentence](#) [1]. This was as mild an outcome as could have been expected. Pu was ably defended by veteran human rights lawyer Mo Shaoping (莫少平) and his colleagues to the extent that China's system of political justice permits. But there was no prospect of acquittal, even though Pu steadfastly resisted huge pressures to confess to the vague charges of "inciting ethnic hatred" and "picking quarrels and provoking troubles".

Pu's case is the most recent confirmation that in practice, despite some improvements in general legislation and judicial policies, political defendants in China continue to confront unfair trials. His lawyers had little access to him and their meetings with him were reportedly monitored. The trial was surely not "public". Conviction was preordained, and, in the tense negotiation that apparently occurred after trial and before sentencing, Pu, in order to win his release, had to sacrifice his right to appeal against accusations that he had long rejected.

Can Pu's sentence really be considered "mild"? After all, he had been denied China's equivalent of bail, despite serious health problems, and had already endured pre-trial punishment for 19 months. Chinese detention conditions often lead suspects to plead guilty simply to hasten their transfer to the usually better-regulated conditions of prison that follow final sentencing. Moreover, as a consequence of conviction, Pu will lose his licence to practise law. This severely constricts his income. It also eliminates both his courtroom contributions to human rights and, as his most famous client, the dissident artist Ai Weiwei (艾未未), has pointed out, the political "platform from which he has given voice to the voiceless".



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[2]The ambiguous probation imposed by his sentence places Pu under a “Sword of Damocles”. It threatens to revoke his suspended sentence and summarily dispatch him to three years of prison if, during the next three years, he again exercises the right to criticise, a right enshrined in China’s constitution. He will be monitored around the clock by police “minders”, electronic eavesdropping and surveillance cameras, and restricted in his travel and contacts.

This was the fate that initially befell Gao Zhisheng (高智晟), who, a decade ago, was China’s most famous human rights lawyer. He received an apparently lenient sentence following his first criminal conviction in 2006 – three years in prison, suspended for five years. At the very end of the five-year period, however, Gao was forcibly returned to a vengeful full term of imprisonment. This formerly dynamic figure – once selected as one of China’s finest lawyers – eventually emerged a broken man. He is still under house arrest, forbidden to join his long-suffering family, which secretly fled to America.

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[***READ MORE: Chinese rights lawyer Gao Zhisheng speaks out on his torture with an electric baton \[3\]***](#)

As Gao’s case illustrates, many human rights activists have received harsher punishments than Pu. Astonishingly, the moderate commentator on the repression of China’s Uygur minority in the Xinjiang (新疆) region, Professor Ilham Tohti, received [***a life sentence***](#) [4] for his proposals to resolve one of China’s most sensitive challenges. Public intellectual Liu Xiaobo (劉曉波) [***continues to serve his 11-year***](#) [5] sentence long after being awarded the Nobel Peace Prize. Xu Zhiyong (許志永), an innovative law scholar, received [***“only” a four-year sentence***](#) [6] for leading an independent non-governmental organisation, the “New Citizens Movement”, in a vain effort to vindicate constitutionally-guaranteed political rights.



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Pu and Gao are – or were – principally practising lawyers. Yet their alleged offences were not focused on their “day jobs” as legal professionals defending other human rights activists. They, like the now famous “Female Five” activists who were criminally detained last spring because of their public protests against

An activist in Hong Kong celebrates the 60th birthday this month of discrimination against imprisoned human rights activist and Nobel Peace Prize laureate Liu Xiaobo. Photo: EPA
for broader attempts to improve China's governance by engaging in freedoms of speech, assembly and association.

The breadth and imprecision of China's criminal law offer many repressive options to the party political-legal committees that direct the courts as well as the police, prosecution, Ministry of Justice and legal profession. One of Pu's crimes – "picking quarrels and provoking troubles" – is a current, all-purpose favourite. But charging him with "inciting ethnic hatred" surprised some observers. It was obviously designed to deter all Chinese from openly criticising the party's suppression of ethnic minorities.

How long will the party leadership impose rule over law rather than rule of law? The relatively "mild" outcome of Pu's case suggests that informed elite opinion, at home as well as abroad, may have played a role in moderating Pu's punishment. Perhaps the high tide of Xi Jinping's (习近平) recent shocking assault on human rights lawyers and activists has passed. It is more likely, however, that the attack will continue, but in less dramatic form, in order to reduce its substantial damage to the government's quest for "soft power".

Sadly, the party's frequent pledges to provide equal justice for all continue to ring hollow.

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[1] <http://www.scmp.com/news/china/policies-politics/article/1893795/chinese-rights-lawyer-pu-zhiqiang-convicted-be-released>

[2]

http://www.scmp.com/sites/default/files/styles/980w/public/images/methode/2015/12/29/edf4927e-ae03-11e5-86ff-b7a34a11666b_image_hires.jpg?itok=o_qhDMTb

[3] <http://www.scmp.com/news/china/policies-politics/article/1860858/unbowed-unbent-unbroken-chinese-rights-lawyer-relives>

[4] <http://www.scmp.com/article/1598567/ilham-toht-sentenced-life-prison-pushing-uygur-independence?page=all>

[5] <http://www.scmp.com/news/china/article/1509672/chinese-princelings-push-release-jailed-nobel-laureate-liu-xiaobo>

[6] <http://www.scmp.com/news/china/article/1414045/jailing-activist-xu-zhiyong-breaks-reform-promise>

[7] <http://www.scmp.com/news/china/policies-politics/article/1840611/heavy-hands-vs-power-words-china-cracks-down-fast?page=all>