THREE APPROACHES TO COMBATING TORTURE IN CHINA
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TORTURE IN CHINA

Edited by

Chen Weidong
Taru Spronken

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Chen Weidong and Taru Spronken (eds.)

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Preface

This book focuses on three approaches to the prevention of torture in China. It is the culmination of over 40 months of close collaboration between Renmin University of China (RUC), The University of Maastricht (Netherlands), The Rights Practice (UK) and the Great Britain China Centre (GBCC). The collaboration took the form of a carefully-planned programme of seminars, training workshops, expert roundtable meetings, study visits, desk-based and field research. It was funded by the European Instrument for Democracy and Human Rights, the UK Foreign and Commonwealth Office, and the Foreign Ministry of the Embassy of the Kingdom of the Netherlands.

The programme\(^1\) began in 2009 and will end in June 2012. It is, to some extent, the continuation of an earlier EU-funded Action to combat torture in China which took place from 2006-2008. During that project, researchers from RUC collaborated with the University of Essex (UK) to publish a book on the weaknesses in the Chinese domestic legislative and regulatory framework for the prevention of torture, particularly as it applies to arrest, detention and interrogation; 50 senior police officers from across China were trained on international human rights standards; and the notion of independent monitoring of detention centres was introduced by means of a six month pilot ‘lay visitor scheme’. Project partners collaborated with a procuratorate in Liaoning, north east China, to devise a model to promote independent monitoring of a pre-trial detention centre. This involved 20 non officials or ‘lay visitors’ interviewing pre-trial suspects, assessing conditions, and filing reports which were submitted to the procuratorate.

This second EU-funded Action, Preventing Torture in the PRC, aimed to build on and further the achievements of the first Action. To this end, collaborative research has improved a number of EU experts’ understanding of China’s legal system, in particular the two new evidence rules and the management of detention centres. In turn, Chinese academics and legislative officials have a broader understanding of EU legal systems and in particular the Optional Protocol the UN Convention Against Torture. On the practical side, an intensive week-long police training workshop in Belgium showcased

\(^1\) The programme is called: Preventing Torture in the People’s Republic of China, EIDHR/2008/148-024.
EU best practice in interview skills to senior instructors from four of China’s leading police training academies. The training focussed on EU best practice, the intolerance to the use of any form of torture and ill-treatment, and the dangers of relying on confessions to solve crimes. The training was modified into a model for interviewing skills workshops. These were jointly delivered by Chinese and EU experts to over 60 Chinese police instructors and experts from 23 Chinese provinces at workshops in Gansu and Sichuan, in the west of China.

Due to government restrictions it was not possible to test the pilot lay visitor scheme in two further detention centres as originally planned. In spite of this, project partners trained a further 60 lay visitors from Zhejiang and Shaanxi provinces in the hope that those restrictions would be lifted. To some extent our hopes were realised: in October 2011, the Ministry of Public Security issued an official notice making it mandatory for ‘specially invited supervisors’ to monitor detention centres which we consider a very positive development. Also in 2011, as part of the project, a new pilot was launched – and is on-going – to test improved procedures for pre-trial suspects to lodge complaints at a pre-trial detention centre in Anhui province. Based on initial results from Anhui, if funding can be secured, we plan to modify and improve this pilot to test at two other detention centres in different provinces in China.

Overall, in spite of the challenges faced to meet our objectives, we are extremely encouraged by the progress that has been made, the commitments to undertake reforms and the efforts to further improve existing legal procedures to protect the rights of criminal suspects.

None of this could have happened without the hard work and help of a large number of people. It is not possible to thank everyone, but I would like to thank our friends at Renmin University whose efforts helped to open so many doors to enable the pilots, the training, and the workshops to happen, and for this, special thanks must go to Professor Chen Weidong and Dr. Cheng Lei. Not only have they written over half of this book, but under their direction a capable army of researchers from the Centre for Criminal Procedure and Reform at Renmin University of China have undertaken valuable research, written and produced informative reports. Professor Chen has also helped to facilitate relationships with various Chinese associate partners; from Chinese police training academies across China, to local and central government level officials at the Supreme People’s Procuratorate and Ministry of Public Security. Their involvement and willingness to engage is a very positive sign for the future development of the rule of law in China.

I would also like to thank the numerous European practitioners without whose help and generous support many of the project activities would not
have been possible. For their briefings and help during the European study visits I would like to thank the European Committee for the Prevention of Torture, the Association for the Prevention of Torture, the Danish Institute for Human Rights, Vivianne and Han Jahae Lückers; for the police training Luc Francois, Rudi Schellingen, their colleagues and all the Directors and staff at the Province of Limburg Police Training College (PLOT); for their briefings and work on complaints mechanisms and detention centre monitoring activities, I thank Nigel Newcomen, the UK Prison and Police Ombudsman and Ian Smith at the Independent Custody Visitor Association.

The translators He Jing and Stephanie Guz have worked tirelessly to communicate difficult legal concepts and terminology and deserve to be congratulated on an excellent job. Nicola Macbean and her colleagues at the Rights Practice have provided invaluable comments throughout the editing process. My gratitude also goes to Marina Jodogne and Joost Groenhuijsen from Maastricht University for editing the text of this book. Finally, I would like to thank all my friends at Maastricht University, in particular those who have co-authored, shaped and edited this book that is to say Gerard de Jonge, Miet Vanderhallen, and most of all, Taru Spronken who has been the driving force behind this book.

May 2012

Orlando Edwards
Great Britain-China Centre
Persoonlijke kopie van ()
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**BIOGRAPHIES**

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Gerard de Jonge is professor emeritus Detention law at Maastricht University, the Netherlands. Preceding his academic career he acted as a defence lawyer with special interest in prisoners' rights. As an expert in this field he was invited by the Council of Europe to contribute to the drafting of the European Prison Rules which contain minimum standards for the treatment of prisoners in all Member States of this Council.

*Cheng Lei*

Dr. Cheng Lei is associate professor of Law and Assistant Director at the Center for Criminal Justice and Reform at School of Renmin University of China (RUC). His research interests include criminal justice and judicial reform. He has worked on a number of research projects in China relating to the prevention of torture, criminal procedure code models, and sentencing reforms. He has published over 30 articles and several books on China's criminal justice reform. In 2011, he advised the Legislative Affairs Committee of the National People's Congress on revisions to the Criminal Procedure Law which was passed in March 2012. Lei Cheng is Deputy Secretary-General for the China Society of Criminal Procedure.

*Taru Spronken*

Taru Spronken is Professor of Criminal Law and Criminal Procedure at Maastricht University, the Netherlands. Both as a practicing lawyer and an academic she specialises in criminal procedure and human rights and she has published extensively on these topics. Her current research focuses on the implications of EU cooperation in criminal matters for procedural rights. Her research publications in this field include: *A place of greater safety* (2003); *Procedural Rights in criminal proceedings: Existing Level of Safeguards in the European Union* (2005); *Suspects in Europe* (2007); *EU Procedural Rights in Criminal Proceedings* (2009); *Effective Criminal Defence in Europe* (2010); *An EU-Wide Letter of Rights* (2011).
Biographies

*Miet Vanderhallen*

Miet Vanderhallen graduated in 1996 as a social worker and in 1999 as a criminologist. In 2007 she finished her doctoral thesis on ‘The working alliance in police interviewing’. Currently, she is professor psychology and law at Antwerp University in Belgium and an assistant professor criminology at Maastricht University, the Netherlands. Her main research interest is investigative interviewing. Besides, she is involved in advanced interview training at the National Police Investigation Academy and at the Regional Police Academy Limburg, Belgium where she coordinates and teaches ‘investigative interview skills in presence of a lawyer’. In line with this, she is involved in local interview supervision projects.

*Chen Weidong*

Professor Chen Weidong is the Director of the Center for Criminal Procedure and Reform at Renmin University Law School of China (RUC). His recent research interests include the management of detention centres, civil participation in criminal justice, reform of sentencing procedures, and empirical research methodology in relation to criminal justice. He has published over 200 articles and 10 books on Chinese criminal procedure and judicial reform. He is also Vice Chairman of the China Criminal Procedure Law Society and a Cheung Kong Scholar awardee. Chen Weidong is a recipient of a Chinese Governmental Stipend Expert award from the Chinese State Council, and a consultant for China’s Legislative Affairs Committee which he advised on revisions to China’s Criminal Procedure Law.

*Chai Yufeng*

Chai Yufeng is a Ph.D student at the Center for Criminal Procedure and Reform at Renmin University School of Law. His thesis is on the use of criminal evidence and the Chinese criminal procedure law. As a prominent member of Chen Weidong’s research team, Chai has written articles for several Chinese journals and also worked part-time for the Legislative Affairs Committee of the National People’s Congress on the revision of the Criminal Procedure Law in 2011.
# ABBREVIATIONS

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<td>Art.</td>
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<td>CAT</td>
<td>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment</td>
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<td>CCP</td>
<td>Code of Criminal Procedure</td>
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<td>CCPR</td>
<td>Center for Criminal Procedure and Reform</td>
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<td>Council of Europe</td>
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<td>Criminal Procedure Law</td>
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<td>Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment</td>
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<td>CRC</td>
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<td>DNA</td>
<td>Deoxyribonucleic acid</td>
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<td>ECHR</td>
<td>European Convention for the Protection of Human Rights and Fundamental Freedoms</td>
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<td>European Court of Human Rights</td>
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<td>EPR</td>
<td>European Prison Rules</td>
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<td>EU</td>
<td>European Union</td>
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<tr>
<td>HIV</td>
<td>Human Immunodeficiency Virus (causing AIDS)</td>
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<td>HR</td>
<td>Hoge Raad (Supreme Court in the Netherlands)</td>
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<td>ICC</td>
<td>International Criminal Court</td>
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<td>International Covenant on Civil and Political Rights</td>
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<td>ICTY</td>
<td>International Criminal Tribunal for the Former Yugoslavia</td>
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<td>Lawyers' Law</td>
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<td>Optional Protocol to the Convention Against Torture</td>
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<td>Standard Minimum Rules for the Treatment of Prisoners</td>
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<td>UNDU</td>
<td>UN Detention Unit</td>
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千里之行始于足下

A 1000 mile journey starts with one step...