

YANG JIANLI CASE | JEROME COHEN AND JARED GENSER

What about human rights?

The Bush administration's boasts that US-China relations have never been better show how little weight it gives to China's lack of political freedoms and protections against arbitrary punishment. Washington's agenda for Beijing since the September 11 terrorist attacks has emphasised North Korea, China's burgeoning bilateral trade surplus and the increasingly serious Taiwan problem.

Yet, China persists in its quietly brutal suppression of freedoms of speech, publication, religion, association and labour organisation, in blatant violation of international standards, and its own constitutional and legislative norms. This week's visit to the US by Premier Wen Jiabao, who recently endorsed both respect for human rights and "better administration according to law", gives US political leaders, journalists and scholars a brief opportunity to inquire about the state of suppression in China.

At their meeting, President George W. Bush could do no better than to start by asking Mr Wen about the Yang Jianli case, which vividly illustrates the ruthless repression that underlies China's benign appearance and principles.

A Chinese citizen with permanent US residency, Yang is president of the Foundation for China in the 21st Century, a Boston-based policy institute that promotes democracy in

China. He first came to the US for graduate school and earned PhDs from both the University of California (Berkeley) and Harvard. Because of his democratic activism, for 13 years after the June 4, 1989, Tiananmen tragedy, the Chinese government prevented his return to his own country – even to Hong Kong – by refusing to renew his passport.

Over 19 months ago, Yang made a fateful decision to use a friend's passport to return home. Chinese authorities detained Yang on April 26 last year. Beijing could have handled the matter as a routine case of illegal entry – the maximum punishment for which is one year in prison – but instead charged him with "espionage" on behalf of Taiwan. Thus the Chinese government transformed his case into an international cause célèbre, an irritant in US-China relations and a subject of dispute among the Beijing leadership.

Both the investigation and trial stages of Yang's case reveal the bizarre actions of China's "law enforcement" agencies in political cases. For many months, the security police refused to issue a written notice required by law to confirm the fact, place and reasons for Yang's detention.

Without a copy of a detention notice, no Chinese lawyer was allowed to meet Yang to offer advice. In the first year of his detention, he was held in solitary confinement and

denied access to family, friends and all reading materials. Police interrogated him on more than 100 occasions. When the legal time limits for a probe of the illegal entry charge were about to be exceeded, the police resorted to a favourite technique: they started the clock over again claiming that they now had to investigate the new offence of "espionage".

Despite the lack of transparency, it became clear to the world that China was punishing Yang even before putting him on trial. This year, the US State Department called for Yang's immediate release, and resolutions demanding his release were unanimously adopted by the US House of Representatives and the Senate.

After this international outcry, the case moved toward trial and Yang was finally permitted access to counsel. In preparing for trial, the indefatigable lawyer Mo Shaoping found that the evidence consisted almost exclusively of statements extracted from Yang during his long incommunicado detention.

The prosecution characterised these statements as the "confession" of the accused, although Yang vigorously denied the charges in the three brief meetings he was allowed with counsel before trial. But, because the case supposedly involves "state secrets", Mr Mo was instructed not to reveal the evidence even to members of the Yang family who retained him. Yang was finally put on trial on August 4 in

Beijing. No member of the Yang family, the American Embassy, the press or the public was permitted to attend the one-day hearing. The trial was "closed" on the grounds that "state secrets" were involved. Since prosecution witnesses do not normally appear in court, their pre-trial statements were merely read out, giving the accused and his defence counsel no opportunity to exercise his right of cross-examination. But Yang and his lawyer challenged the charges in the limits allowed.

They must have done a good job. Despite the time limits of Chinese law and a commitment to the American Embassy that it would issue a verdict in a month, the court keeps Yang waiting for its decision. That he will eventually be convicted, however, is not in doubt. The conviction rate is close to 100 per cent for political cases that get to court in China. What seems to be dividing the leadership is the appropriate sentence and perhaps the rationale for conviction.

Thus the strange machinations of Chinese justice continue. Any comments, Mr Premier?

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