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China: Six months on - New law fails to protect rights

Set-backs to China's new criminal procedure law, which came into effect on 1 January 2013, are legalizing violations of human rights, and the limited improvements to the law are not being respected, Amnesty International said in a [new briefing](#) released today.

"It is frustrating that after so many years in the making, the legal changes that took place in the beginning of the year are now legalizing some of the worst practices on the part of police and local authorities," said Corinna-Barbara Francis, Amnesty International's China Researcher.

Under the new law the police are allowed to detain individuals, and to hold some in secret locations for up to six months, without telling family members why or where they are being held.

On 1 June, Du Bin, whose recent film uncovered torture and other ill-treatment in Masanjia, one of China's most notorious re-education through labour camps, was detained by Beijing police. He was held in custody for more than two weeks. After his release on bail on 8 July, he confirmed that despite providing the police with all relevant contact information, his family had not been told where he was being held or even that he had been detained.

The new law also continues to make it easy for police to use vaguely defined "serious crimes", such as "endangering state security" or "terrorism", to deprive criminal suspects of their rights, including the right to timely access to one's lawyer. In practice, these crimes continue to be used to punish individuals simply for exercising their freedom of expression and other rights.

One example is women's rights defender Liu Ping who was detained by police in Xinyu (Jiangxi province) on 27 April on suspicion of "inciting subversion of state power" in connection with her human rights activities. Despite her impending trial due to begin on 18 July police have continued to refuse her access to her lawyer, with the excuse that her case allegedly involves "state security".

While the new law allows suspects access to lawyers earlier in proceedings than before, and strengthens the ban on the use of illegally obtained evidence, authorities have ignored outright the existing and improved safeguards in the law.

"Since 1 January, we have yet to see enforcers of the law respect these positive measures, especially when it comes to politically "sensitive" human rights defenders and other activists," said Francis. "The improvements in the law are meaningless if police and local courts fail to implement them in practice. Unfortunately, the will to do this seems lacking."

The last six months have seen too many examples of police keeping detainees in custody longer than allowed by law and refusing them access to their lawyers and their families.

Even one of the most positive aspects of the law – the strengthening of the ban on the use of illegally obtained evidence, including forced confessions, in court – seems to have been largely ignored. Lawyers,

who are now permitted by the law to raise the problem of illegal evidence, have even been punished for trying to do so.

On 4 April 2013, Lawyer Wang Quanzhang questioned the legality of evidence which he alleged had been obtained through torture during the trial of a practitioner of the spiritual discipline of Falungong in the Jingjiang City People's court, Jiangsu province.

The court judge, however, not only refused Wang's application to exclude the evidence, but ordered him be detained, claiming he had disturbed the order of the court.

“Rather than allow Wang to apply to exclude the evidence, as is his right under the new law, he was instead given 10 days of administrative detention as punishment in a complete travesty of justice,” said Francis. “It appears it was only widespread protests within China's growing online community that resulted in Wang Quanzhang's release, after only 48 hours of detention.”

These are just some examples of the ways that setbacks to the law, as detailed in Amnesty International's Briefing on [*China's 2013 Criminal Procedure Law: In line with international standards?*](#), have facilitated human rights violations in the everyday application of the law.

“There is much Chinese authorities can and must do to bring domestic law in line with international human rights standards. Unfortunately, they need to go back to the drawing board to further amend the law, trying to get it right the next time,” said Francis.