

Remedies for Wrongful Convictions in China

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Abstract

China promptly responded by public inquiries into wrongful conviction cases to remedy injustice and by a series of legal reforms to implement policy recommendations for better preventing future miscarriages of justice. This paper will examine several high-profile wrongful convictions in order to explore the remedies for convicting the innocent. Apart from the implementation of reform proposals on the resumption of the power to review death sentences, the exclusion of illegally obtained evidence and the presentation of expert evidence, further reforms are needed to protect the due process rights of the accused from being violated.

Keywords: Law; Legal; Criminal; Criminal procedures; Human rights

Introduction

In the latest revision to its *Criminal Procedure Law (2012 CPL)*, China advocated 'respecting and protecting human rights' in its criminal justice practice. Ironically, 'Human Rights Defenders issued its Annual Report on the Situation of Human Rights',¹ characterized mainly by extensive use of extralegal detention, widespread practice of torture and other flawed justice in China. The actual implementation of recent reforms has been watched by various human rights groups, which promotes China to explore how to establish an effective mechanism for sooner discovery or more adequate remedies of repeated wrongful convictions than ever. All of data or information on such reforms has been collected from official or academic sources. The diversity of official or academic idea on the same topic shows its respective perspectives.

This paper will start from the theoretical framework for research on the remedies for wrongful convictions in China, as a study on what the legislation says about this theme. Legal requirements for correcting wrongful convictions lay the foundation for comparing their difference with the actual implementation. It will further focus on case studies of notorious wrongful convictions that reveal how remedies are often tainted, so as to examine the actual effect of implementing current justice systems and the gap to be filled in, between legal requirements and their actual implementation. Case SHE Xianglin and Case ZHAO Zuohai provide good examples of China's criminal justice systems, whose exonerations brought response reforms. Finally, this article will conclude by examining which justice reforms would be most suitable for better remedying miscarriages of justice in contemporary China [1].

What the Legislation Says on Remedies for Wrongful Convictions

Wrongful convictions are not explicitly defined by China's basic laws, but they occur in cases involving errors in fact finding, the improper application of law or violations of criminal procedure. Articles 242 and 243 of the 2012 *Criminal Procedure Law (CPL)* specify a procedure for the retrial of cases where new evidence, the misinterpretation or unreliability of old evidence or an error of law is confirmed (Articles 204 and 205 of the 1996 *CPL*).

Under Article 242 of the 2012 *CPL*, the People's Courts (PC) can

¹Stanley Lubman, 'China's Criminal Procedure Law: Good, Bad and Ugly', CHINAREALTIMEREPORT, March 21, 2012.

re-open convictions after appeals have been exhausted on the ground that a petition presented by a party or his legal representative or his near relative conforms to any of the following conditions: 'there is new evidence to prove that the confirmation of the facts in the original judgment or order is definitely wrong', 'the evidence upon which the condemnation was made and punishment meted out is unreliable and insufficient, or the major pieces of evidence for supporting the facts of the case contradict each other', 'the application of law in making the original judgment or order is definitely incorrect', or 'the judges in trying the case committed acts of embezzlement, bribery, or malpractices for personal gain, or bended the law in making judgment'.² Article 242 reflects a desire on PRC official concern to correct definite errors of law or fact, but does not necessarily imply that the most accurate verdict possible will be reached even in theory, unlike 'continental justice systems'³, given that its judicial decisions merely questionable are allowed to stand.

Under Article 243 of the 2012 *CPL*, the president of a PC at any level, the Supreme People's Procuratorate and Supreme People's Court also could re-open them, respectively by means of referring to the judicial committee for handling, retrial itself or directing a lower PC to conduct a retrial, and presenting a protest to the PC at the same level, if finding some definite error 'in a legally effective judgment or order of

²Ibid. Article 242 states that: "If a petition presented by a party or his legal representative or his near relative conforms to any of the following conditions, the People's Court shall retry the case: (1) There is new evidence to prove that the confirmation of the facts in the original judgment or order is definitely wrong; (2) The evidence upon which the condemnation was made and punishment meted out is unreliable and insufficient, or the major pieces of evidence for supporting the facts of the case contradict each other; (3) The application of law in making the original judgment or order is definitely incorrect; or (4) The judges in trying the case committed acts of embezzlement, bribery, or malpractices for personal gain, or bended the law in making judgment."

³Kent Roach, "Wrongful Convictions: Adversarial and Inquisitorial Themes" (2010) 35 *North Carolina Journal of International Law and Commercial Regulation* 411.

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his court as to the determination of facts or application of law'.⁴ Hence, wrongful convictions could be regarded as cases where there were errors of fact, errors of law or violations of fundamental justice that have been identified or corrected through criminal proceedings [2].

Case studies of wrongful convictions in China

Both Chinese authorities and various media have taken some typical cases of wrongful convictions as lessons to be learned in criminal justice reforms. The details of such cases can reveal major flaws in Chinese justice system before or after reforms concerned.

The She Xianglin case

SHE Xianglin was convicted in 1994 of the murder of his wife, ZHANG Zaiyu, at the Yanmenkou Township of Jingshan County in Hubei Province of China. On 13 April, 2005, the Jingshan County court of Hubei Province quashed SHE's murder conviction after considering new evidence, and officially declared him factually innocent and eligible for release from prison during a retrial. Later, the personnel responsible for extorting SHE's confession by torture or for ignoring it were punished for his conviction.⁵

In August 2005, SHE's lawyer helped SHE obtain over RMB 456,900 (US\$71,779) in compensation for wrongs against him by local Intermediate People's Court (IPC) and financial aid for his family from the county government.⁶ SHE still seeks more, given that distress over appealing his case led to his mother's early death and that the poverty caused by his trial and imprisonment forced his daughter to leave school.⁷

The Zhao Zuohai Case: Mr. Zhao Zuohai, a 57 year farmer, was convicted of murder in 1999 for killing a fellow villager, Zhao Zhenshang, who had disappeared after they had had a fight in October 1997.⁸ On May 9, 2010, after the alleged 'victim' returned alive, Mr. Zhao was finally proven to be factually innocent and was judicially exonerated by the Henan Provincial HPC at a retrial where fresh factual evidence was considered, his wrongful death sentence was rescinded and he was acquitted. He was therefore released after 11 years of imprisonment.⁹

This miscarriage of justice, which put 'an innocent man behind bars for 11 years', was the subject of an inquiry by a disciplinary investigation team and supervision office of the HPC was responsible for the review of ZHAO's death sentence.¹⁰ Three judges involved in the wrongful conviction were reportedly subsequently suspended.¹¹ ZHAO

later received RMB 650,000 (US\$96,000) in compensation,¹² including extra financial aid.¹³ This compensation was obviously insufficient, given that his wife divorced him during his imprisonment and that his children were adopted by others without parents' care [3].

Policy recommendations based on She's or Zhao's wrongful conviction: Fundamental flaws have received a broad attention of major overseas media, Chinese authorities and scholars, promoting correction of and remedy for such convictions. Relevant observers, either from newspapers or from well-established NGOs, have reported a great deal of wrongful convictions occurred in China. As tragic stories of wrongful convictions play out in the headlines, China is actively in the midst of responsive transformation of its judicial sector or official adoption of new methods. Following SHE's exoneration, the critical media at home and abroad has pushed China to take on a series of judicial reform.

In summary, from the lessons of SHE's wrongful conviction, reform proposals have been recommended, mainly including: i) the Supreme People's Court's (SPC's) restoration of the power to final review of death sentences; ii) revision on the 1994 *State Compensation Law (SCL)*; iii) restricting the applicable scope of the death penalty; iv) restriction on the power to remand back cases for retrial; and v) enshrinement of a presumption of innocence. Among them, the former two proposals have been implemented pursuant to the 2006 *Organic Law of the People's Court* and the 2010 *SCL* as the first wave of reforms, followed with the third and fourth proposals included in the *Amendment VIII to the 1997CL* and the 2012 *CPL* as the second. But the first wave of justice reform has been frequently criticized for not solving the most obvious problems in SHE's wrongful conviction. Similarly, from the lessons of ZHAO's wrongful conviction, reform proposals have contained various measures on judicial supervision and restraint mechanisms to curb such convictions, particularly on coerced confession. Resolving around illegally obtained evidence, the principle of excluding illegal evidence, and the systems of recording, of complaints for exclusion of such evidence, have been adopted in and implemented by, the 2010 *Evidence Rules*. They were further codified as the first law in the 2012 *CPL*, as well as another proposal for lawyers' presence during interrogation in the law.

Unfortunately, the new law still remains shortfalls to be mended and its implementation may lead to ineffective prevention of illegally obtained evidence and wrongful convictions, as usual in China. An independent review mechanism was recommended to re-investigate the illegal conduct of personnel responsible for wrongful convictions after they have been found, but no such panel has been created.¹⁴ The adoption of the presumption of innocence and of a right to silence has likewise been recommended, but neither of them has been adopted.

Evaluation on Remedies for Injustice

The above case studies provide an example of major methods of overturning wrongful convictions provided by Chinese criminal justice systems. In both cases, new appeals were granted by courts in response to petitions that provided fresh evidence to prove 'the confirmation of the facts' in original judgments 'definitely wrong',¹⁵ even though

¹²See Xinhua, Senior judge suspended after wrongful conviction, China Daily, 19 May 2010, available at: www.chinadaily.com.cn/china/2010-05/19/content_9868838.htm.

¹³See Zhao Zuohai Gains RMB 120,000 Extra, SHANGHAIDAILY (May 19, 2010), http://www.china.org.cn/china/2010-05/19/content_20074842.htm.

¹⁴Liu Pinxin, causes and countermeasures of criminal wrongful convictions 155-156 (2009)

¹⁵1996 CPL Article 204

⁴Article 205 of the 1996CPL

⁵See Liu Zhihua, All Personnel Responsible for Handling the Misjudged Case of SHE Xianglin Killing Wife in Those Years Being in Suspended Investigation, XINHUA (Apr.4 2005), <http://news.163.com/05/0414/14/1HABLO2H0001122E.html>

⁶See Yan Lin & Mu Yu, SHE Xianglin Receiving RMB 460,000 in Reconciliation of His Compensation Case, CHINA COURT (Sep.2 2005), <http://old.chinacourt.org/public/detail.php?id=176068>

⁷See Liu Li, Wrongly jailed man freed after 11 years, CHINA DAILY (Apr.14, 2005), http://www.chinadaily.com.cn/english/doc/2005-04/14/content_434020.htm.

⁸See Misjudged Case of Zhao Zuohai Being Solved, the HPC Setting up 9 May as 'A Warning Day', DAHE (Jun. 3, 2010), <http://www.dahe.cn/xwzx/dhfd/jrfd/sgys/index.html>.

⁹See Misjudged case of Zhao Zuohai Being Solved, the HPC Setting up 9 May as 'A Warning Day', Henan Daily, Dahe Net, available at: <http://www.dahe.cn/xwzx/dhfd/jrfd/sgys/index.html>.

¹⁰Xinhua, Senior Judge Suspended after a Wrongful Conviction, CHINADAILY (May 19, 2010), www.chinadaily.com.cn/china/2010-05/19/content_9868838.htm

¹¹Three Judges Were Interdicted for Designating a Trainee Then to Defend for ZHAO Zuohai, SOUTHERNCITYNEWSPAPER (May 19, 2010), <http://news.hexun.com/2010-05-15/123708405.html>

ordinary rights to appeal had been exhausted. It is still necessary to critically evaluate remedies for the studied wrongful convictions, given that they both put innocent men behind bars. Study of these cases may reveal other problems with the Chinese criminal justice system and inspire legislators or the judiciaries to introduce rules on better or sooner rectifying such convictions.

The best information about the remedies for wrongful convictions in China tends to come from either critical or objective research reports by senior professors, some of whom work with the Chinese legislature or judiciary. Academic reports recommend how to remedy wrongful convictions after their occurrences and some of these recommendations have actually been adopted in theory, if not necessarily in practice. Generally, their recommendations actually appointed by the legislature or the judiciary have the greatest chance of being adopted by the NPC Standing Committee. These proposals contribute to promoting quick legislative action to deal with problems as they emerge as follows.

Passive judges

As Case SHE and Case ZHAO have indicated, trial judges who decide whether to admit or exclude evidence offered by the prosecution should have played a significant and crucial role in excluding unreliable evidence from the criminal process. In the past, trial judges had so much discretion that the PC deferred to them when deciding whether to accept a confession or not, even though they were both potentially under the pressure of the Committee's instructions. It was only after the *2010 Reform*, which responded to the judicial exoneration of Mr. ZHAO, that judges were able to take more active and independent initiative in determining the reliability of evidence at trial. In particular they have been able to focus on whether there was a factual basis for confession when deciding whether or not to exclude illegally obtained evidence. Apart from restricting the admissibility of evidence that is likely detrimental to criminal justice, judges made creative decisions in allowing the innocent to re-open cases and exonerated them even though their appeals have been exhausted [4].

As in the misjudged Case SHE, judicial passivity in allowing unreliable evidence and in refusing to exclude illegally obtained evidence at trial has caused the conviction of the innocent for murders that never happened. Despite numerous discrepancies in SHE's story (e.g., he claimed he had a weapon even though none was ever found), and a lack of DNA testing that to confirm whether the body was his wife's or not, the innocent Mr. SHE was still sentenced to death, even though the evidentiary requirements had clearly not been met. Following the procedure for first instance, the case was appealed to the Hubei Provincial HPC that made a criminal ruling of No.20 (1995) to revoke the original judgment and remand it for a retrial in the second instance. On 10 January, 1995, the HPC initiated the procedure for retrial of this case and then ruled that the original first-instance IPC should retry the case by law. At the retrial, which was prosecuted by the Jingshan County Prosecutorate, Basic People's Court (BPC) of Jingshan County sentenced SHE Xianglin to 15 years' imprisonment with a deprivation of political rights for five years for intentional murder on 15 June, 1998. In September, 1998, the Jingmen Municipal IPC dismissed the appeal from SHE and upheld the original judgment in the procedure for second instance in retrial, as the final ruling of Case SHE after several retrials. Then, Mr. SHE began to serve a fixed-term sentence in Shayang prison based on the wrongful conviction, until fresh evidence suddenly appeared that the alleged victim ZHANG, 'dead for the past 11 years', had returned home alive on 28 March, 2005. On 13 April 2005, Mr. SHE, clearly the victim of a miscarriage of justice was declared innocent and released after a final retrial.

Furthermore, the wrongful conviction of Mr. SHE appears to result directly from the HPC's remanding for retrial, despite deep flaws in the prosecution case. It was the HPC of Hubei Province that first arbitrarily abused its discretion in remanding Case SHE for a retrial to avoid its responsibilities for upholding justice while handling criminal appeals. The HPC deviated from designated requirements of revising original judgments after the facts are ascertained if facts are unclear or evidence therein is insufficient, with an exception of remanding back the case for retrial. The HPC intended that the former first-instance Court which originally tried the case should take on the responsibility of retrial in accordance with the procedures of first instance. Given the initiation of the retrial procedure by the HPC, the former first-instance Court which originally tried it should have taken on the responsibility of retrying the case, in accordance with the procedures of first instance. The legal responsibility of retrying the case was shifted to the lower court, contrary to the *1996CPL*, to increase trial efficiency and reduce the probability of retrial. These objectives were obtained at the expense of criminal justice. Without any legal bases, a case tried under the former procedure for second instance cannot be transferred to procuratorial organs in later retrial procedures in order to prevent a backflow of criminal proceedings. Doing so can lead to wrongful convictions. Moreover, such cases, carrying penalties such as life imprisonment or the death sentence belong to the category of those under the jurisdiction of the IPC in the first instance, rather than the County BPC, as per Article 20 of the *1996CPL*. These procedural problems were the primary factors that influenced Mr. SHE's appeal to be misjudged by the second-instance HPC and his wrongful conviction not to be overturned. He would not receive proper justice until his wife returned alive one decade later [5].

The policy known as 'Strike Hard', has also contributed to wrongful convictions in the past. The 'Strike Hard' policy, now no longer in operation, provided Chinese police and prosecutors with a great advantage of litigation efficiency, but this advantage came at the expense of justice. As indicated in the Conference on National Work of Social Order and Public Security, the basic principle of 'Strike Hard' stated that the clarity of *basic* facts or the reliability of *basic* evidence was sufficient to convict the accused in serious criminal cases.¹⁶ By contrast, Article 162 of the *1996CPL* states that reliable and sufficient evidence are required for a conviction, a higher standard than that required under 'Strike Hard'. Under the policy, the courts dealt with unclear or unreliable evidence by imposing the death penalty with a suspension of execution. The availability of this lesser sentence led prosecutors to seek convictions and judges to convict based on a lower standard of evidence, given that the new sentence allowed for the possibility of an appeal and for less severe consequences of a wrongful conviction [6]. The truth of such wrongful cases appears to be exposed from death sentences with 'a suspension of execution' rather than immediate execution, as a temporary expedient that prosecutors or courts may use in considering full of doubts remained. Capital cases which lacked other mitigating circumstances, were often concluded with death sentences with a suspension, implying that judges who were uncertain of the guilt of the accused were willing to convict the accused and apply the death penalty, given political pressures to convict and the possibility of an appeal should the judge be mistaken. Yang Songting, the presiding judge of Criminal Tribunal I at the IPC exonerating ZHAO, noted this tendency in his comment on the wrongful conviction that 'it is a difficult and doubtful case, and so should be left such room', even

¹⁶See Li Yuhua, 'Strike Hard' Being A Requirement of Penal Policies, JCRB (Apr. 14, 2001), <http://review.jcrb.com.cn/ournews/asp/readNews.asp?id=32320>

though ZHAO faced a death sentence based on uncertain evidence,¹⁷ when discussing case lessons and reform proposals in 2010.

Abuse of court jurisdiction

The misjudged Case SHE Xianglin, had bounced back and forth among the Procuratorates and courts at many levels many times before he was wrongfully convicted of murder at retrial. Specifically, the Procuratorate of Jingshan County developed a supplementary investigation into the case, transferred it to the former Procuratorate of Jingzhou District, a higher procuratorate, for prosecution in 1996, and then retook control of the case for further investigation again. Due to the adjustment of administrative divisions resulting from that administrative reform, the County Procuratorate submitted the case to the Jingmen Municipal Procuratorate for prosecution in November, which considered Mr. SHE's offences not to be punishable by death or life imprisonment. The Jingmen County Procuratorate then transferred his case back to the County Procuratorate for prosecution in December. Although Article 20 of the *1996CPL*, on jurisdiction principles, was applicable to the relevant cases in general, the transference of Case SHE from the Jingmen Municipal Procuratorate tends to contravene the legislature's intention for cases in retrial. As Articles 191 and 192 specify, the Procuratorate which originally tried the case should have formed a new collegial panel to conduct a retrial of Case SHE in accordance with the procedures of first instance [7]. The Jingmen Municipal Procuratorate's transference led the court which originally tried the case as well as any further appeal courts to refrain from exercising the power of retrial granted by the *1996CPL*. This transfer essentially violated legal procedures and led to injustice. Since then, it has been very difficult for retrials to correct cases like Case SHE through legal mechanisms and remedies. Instead more wrongful convictions tend to be imposed in criminal cases.

Insufficient compensation

Although China has adopted a policy of state compensation for victims of miscarriages of justice, the mechanism for compensation and the amounts offered to the wrongfully convicted are clearly inadequate. Like many American states and the UK, China enacted its *SCL*, which was revised in 2010 to implement state compensation for the wrongfully convicted under Article 14(6) of the *International Covenant on Civil and Political Rights*. Following a decision to compensate, the organs for compensatory obligation are supposed to pay and then apply for remuneration from the competent authority of state finance [8].

Unfortunately, the *2010 SCL* is quite restrictive and adopts the principle of limited responsibility, e.g., the applicable scope containing innocent persons who were wrongly sentenced to death and not their family members, with very low amount of compensation. The compensation committee of the courts heard the application from applicants or the victim disobeying the disposal of organs under compensatory obligations, of which the compact procedure involves secret hearing, lacks effective participation and goes against justice. In reality, sometimes the organ liable for compensation cannot afford to provide compensation up front and must turn to loans from financial institutions.

Even so, some awards of compensation did not follow the restrictions and out-of-court agreements could be resolved against the interest or intention of the compensated. For example, Mr. SHE received over RMB 456,900 in compensation for both wrongs

committed against him by law, as well as financial aid from the county government, on the basis of settlement agreements.¹⁸ Similarly, after signing the contract with the IPC "at 2 am when he was very confused", Mr. ZHAO obtained compensation, including the extra payment as financial aid and not mental distress.¹⁹ As in most payments for wrongs, those paid to the wrongfully convicted are not generous but very less in China, where the *SCL* likely reduces the disparity in diverse awards, but lead to fewer payments even in egregious wrong cases [9].

More Remedies but Less Injustice

As a response to such wrongful convictions, the PRC has taken some steps to remedy these causes since 2005, which could be divided into two waves of reforms: The first wave includes the actual resumption of the SPC's power to review death sentences with immediate execution from 2006 and implementation of the *2010 SCL* in an attempt to prevent misjudged capital cases.

The second wave mainly involves implementation of *Amendment VIII to the CL*, *2012 CPL* and *2010 Evidence Rules*, so as to mend the flaws remained in the first wave of reforms. In *Amendment VIII*, China reduces its application by abolishing it for 13 types of capital crimes and restricts the application of the death penalty to those 75 years old and above. One of *2010 evidence rules* adopts more strict standards in examining and judging such evidence to cautiously use the death penalty and prevent convicting the innocent. Most notably, a series of accused's rights, such as those seeking exclusion of illegally obtained evidence, mandatory recording of interrogations, access to legal counsel and to present expert witnesses with their attendance in court, has been introduced in the *2012 CPL*.

Meanwhile, there raises a question of whether or not more remedies would definitely contribute to less injustice in China. Much work, regrettably, remains to be done in both actual implementation and interpretation of laws. Particularly, there is still lacking legislation on the right to silence or presumption of innocence to ensure excluding illegally obtained evidence, flawed use of checks and balances and poor defense counsel in criminal processes.

It is also very necessary for China to establish an independent review commission undertaking error correction, compensation and systemic reform like the Criminal Case Review Committee in England. Although the defence must be strengthened in China through reforms that make the system more adversarial, the present system is so unreliable that the independent review commission must be able to use inquisitorial powers to determine the reliability of convictions while more thorough reforms of its criminal justice system remain to be implemented, in order to counteract the interference from local Political-Legal Committees. Hence, further reforms are needed for setting a safety net to prevent the innocent from wrongfully convicted, particularly those facing the death penalty.

In China's development of adversarial processes, specifically, the proposed commission would also accept moving forward the adversarial system. But continued weaknesses in this system require inquisitorial reforms that are certainly not foreign to it, so as to combine both strengths for best prevention of wrongful convictions. Competent defense representation is very required by the commission in its investigation and examination process to properly review and correct them at ideal. Also, the investigative commission should

¹⁷Shi Yu, Driven Miscarriages of Justice, May 19, 2010, Southern City Newspaper, available at: <http://gcontent.oeeee.com/1/e3/1e328ebc91246864/Blog/a84/0dd815.html>

¹⁸See Yan Lin & Mu Yu, SHE Xianglin Receiving RMB 460,000 in Reconciliation of His Compensation Case, CHINA COURT (Sep.2, 2005), <http://old.chinacourt.org/public/detail.php?id=176068>

¹⁹Ibid.

add inquisitorial features to adversarial representations and actively challenge suspect forms of evidence to determine the reliability of convictions for better prevention and remedies of wrongful convictions. This creative hybrid, combining both inquisitorial review and adversarial representation, would intend to engage in impartial compensation for wrongful convictions with adversarial and inquisitorial challenges to best prevent and remedy such convictions.

As the case studies demonstrate, the biggest implementation flaw is no recording of confessions or improper review of death sentences, respectively against legal requirements. The former flaw would be fixed through applying mandatory recording rules from 2013, pursuant to the 2012 CPL, and the latter problem could be solved if the proposed review body were given the responsibility of reviewing wrongful death sentences, along with the Supreme People's Court. During such a review, legal counsels of those facing the death penalty could make adversarial representations, but the review body should also act in an inquisitorial fashion, acting on its own initiative to determine whether the death sentence is appropriate. Inclusion of diverse actors' effective participation in the review process would help better rectify far more miscarriages of justice, because the review panel and defence counsel can actively discover more wrongful convictions for error correction or subsequent compensation [10].

Conclusion

China promptly responded by public inquiries into wrongful conviction cases to remedy injustice and by a series of legal reforms to implement policy recommendations for better preventing future miscarriages of justice. After examining several high-profile wrongful convictions and exploring the remedies for convicting the innocent, this paper concludes that further reforms are needed to protect the due process rights of the accused from being violated. At the very least, the relevant substantive justice reforms should include but not limit to the implementation of reform proposals on the resumption of the power to

review death sentences, the exclusion of illegally obtained evidence and the presentation of expert evidence as well.

In conclusion, criminal justice reform tailored to watertight safeguards against wrongful conviction is urgently needed in China's practice. Its independent review body combining inquisitorial and adversarial strengths would be the best way to remedy potential wrongful convictions and protect the accused's due process in near future. During or before its creation, an immediate moratorium on executions would also help reduce the catastrophic miscarriages of justice, apart from inclusion of mandatory defense representations into final review procedures for death sentences, in PRC's gradual abolition of the death penalty.

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