

# Newly revealed wrongful convictions in china

## Abstract

Following a series of justice reforms in China, more recent wrongful convictions occurred in the past decade have been newly revealed by the official media and judicially rectified by local courts. As a response, Chinese authorities have called for further reforms to improve effective mechanisms for preventing wrongful convictions and promote public confidence in its criminal justice system.<sup>1</sup> Even so, it is still necessary for its reformers to rationally examine such wrongful conviction cases, in order to explore whether the implementation of reform measures can meet the goal of better justice or not in practice and if not, how to achieve this aim by introducing new substantive reforms in near future.

Volume 6 Issue 6 - 2018

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**Received:** November 09, 2018 | **Published:** November 26, 2018

## Case report

### Case one

The 2006-wrongful-conviction of NIAN Bin occurred in Fujian Province. During investigation, local police successfully detected this case in less than two weeks by illegal means, in order to achieve more benefit from their speedy investigation. In fact, based on their evaluation mechanism then, the aim of police investigation is to control and deter crime. Only if any suspect like NIAN Bin confessed, it indicated that local police found true facts and right criminals of NIAN's case in the view of such police investigators. Clearly, legal procedures for protecting suspects' rights gave way to both the goal of crime control and rate of conviction in practice, as showed in this case. Although forced confession might be false, the police only focused on NIAN's confession and thus investigated poisoning as he told under the undue pressure from the police. If the police had not depended on his false and coerced confession, they should and also would identify the true fact of the assumed crime, as well as the potential causes of death happened to the victim in this murder case. But unfortunately, the police ignored or avoided the basic logic and legal means of investigating criminal cases. Confession had become the core of police investigation, which was followed by prosecutors and local courts. The three justice institutions' close cooperation on crime control directly led to NIAN's wrongful conviction. Until a final retrial of this case, police evidence on poisoning means or sources was questioned and overturned by the court in order to help judicially rectify the wrongful conviction.

### Case two

A similar case of Zhang Guangxiang happened in Guizhou Province. At first, local police cannot find any facts or evidence after the occurrence of a robbery case. This situation lasted four years. Suddenly, the police noticed that Zhang Guangxiang did not attend the victim's funeral even with a long-time good relation with the victim who subsequently died in the case. Thus, they picked Zhang Guangxiang as a major suspect. During a hasty investigation into Zhang Guangxiang, the police put him much pressure by means of torture. Finally, together with a lack of check on police evidence by prosecutors or judges, confession led to misidentifying evidence of

guilt and convicting an innocent. The innocent ZHANG Guangxiang was exonerated in 2014. His conviction resulted from several days' torture. In his view, his early confession can help stop further torture so that he had a chance to reveal facts in court. His 2009 conviction of robbery cannot be corrected by court based on a lack of evidence for his guilt until 2014. Until a retrial of 2014, the Guizhou Higher People's Court decided to exonerate him.

### Case three

Similar to the above two cases, new wrongful conviction cases also resulted from torture and false confessions. The reasons for coerced confession appeared that the tortured suspect had to tell some as the police instructed in order to prevent continued torture, rather than the expected true stories of a case. Again, the police, prosecutors and courts took their false and coerced confessions as evidence for guilt. For example, the Guizhou Higher People's Court did not check police evidence by any means, but just wrongly convicted the accused GAO Ruju who he denied all of his charges and revealed torture used for his confession, of robbery and of murder in 2005. As he said in trial, police investigators beat and torture him seriously. He could not stand such torture so as to swallow pins for killing himself and stopping police torture. That's why he finally confessed his guilt and signed names on the document as instructed by investigators. Although the innocent GAO Ruju was released from prison, but local court did not exonerate him by law and the local Procuratorate just withdrew its wrongful prosecution.<sup>2</sup>

### Case four

Another case is about the innocent YANG Botao's wrongful conviction. As Mr. YANG told the media, he was tortured to confess. The approach of police torture was brutal, which is against law and human rights. During his interrogations, police investigators forced him not to sleep in many consecutive days and nights, beat him seriously and humiliated him in a violent way. When he cannot stand serious torture, police investigators asked him to tell false criminal facts and then he had to follow them to confess against willingness. In fact, he never committed the crime he confessed. It was police torture that pushed him too much pressure and led him to provide with false confessions. But even without evidence on time or place for his assumed crime, local court still convicted him of murder. His

<sup>1</sup>See "Improving Mechanisms for Effectively Preventing and in Time Correcting Wrongful Convictions" [*Jianquan RMBjia cuo'an youxiao fangfan jishi jiuzheng jizhi*], CPPCC Newspapers [*renmin zhengxie bao*] (13 May 2015).

<sup>2</sup>"In Guizhou Province Two Men Being Sentenced to Death merely based on Confessions Ten Years Ago, Followed with Real Murderers' Appearance in June of This Year", South Weekends [*nanfang zhoubao*] (3 July 2014).

lawyer defended him against crime and argued that no testimony of witnesses means inadequate evidence. In 2013, the court asked local Procuratorate to withdraw prosecution rather than acquitted him by law. Finally, in 2014, he was released from prison after receiving a bail decision.<sup>3</sup>

### Case five

Police investigators tortured more innocent accused, including but not limited to CHEN Qinqin. His 2010-wrongful-conviction of murder derived from her false and coerced confession. After torture, her body was full of bruising, which was recorded by her detention center. But unfortunately, she cannot be acquitted or released from prison by court until a 2014 judgement, and the court even did not state anything about tortured confession or exclusion of torture.

### Case six

WANG Jiangfeng was another wrongly convict. His 2012-conviction of robbery resulted from torture and coerced confession. During interrogations, he confessed three times and identified his crime scene under pressure of police torture. Unfortunately, courts focused on his tortured confessions only, rather than evidence of his innocence. His and lawyers' criminal defense against robbery failed to work well in his trial. Local courts were so biased as to sentence him to death with a suspension of execution twice, and to life imprisonment as well from 2005 to 2009. After the Henan Higher People's Court remanded his robbery case back for retrial, he was finally exonerated by court in a new retrial of 2014.

## Conclusion

As demonstrated by the above case studies, the main pitfalls of Chinese justice reforms still exist. Based on lessons from how its laws or regulations were implemented, these cases have revealed the common causes of wrongful convictions in China. Reasons include tortured confession, ignorance of innocence or no acquittal in cases with doubts. Some of wrongful convictions involved murder leading to death, robbery or illegally trading firearms. Among murder cases, the high risk of wrongful convictions largely resulted from the police's long-term emphasis on detection rate and prosecutors or judges' focus on conviction rate, in order to meet such needs of the public to solve all of murder cases. Wrongful convictions in China further resulted from

a combination of ineffective defense and tortured confessions. The use of tortured confession in conviction actually promoted the expansion of torture in practice. Also, the police, prosecutors and courts often worked together to convict or sentence an innocent accused in order to control crime against justice, which made adequate defense actually ineffective. Judges usually gave the accused a lighter penalty, as a form of wrongful conviction, rather than exoneration of an innocent accused. Thus, substantive reforms are most needed to break the three justice institutions' close cooperation on crime control and to exclude any form of tortured confessions from use in conviction, in order to make the defense robust enough to defend justice for the accused.

Specifically, on the one hand, the defense party's rights protection should be further enhanced in law and in practice, in order to counteract the expansive power of the three justice institutions. First of all, the crime of falsifying evidence in criminal cases should be cancelled from the current *Criminal Law of the PRC*, in order to reduce lawyers' professional risk to the minimum in defending justice and encourage them to better protect the accused from any human rights abuses. Secondly, the three justice institutions should be punished without depriving the defense party of the right to access to lawyers or ignoring their opinions on factual innocence of the accused. Thirdly, neither of the above institutions can stop their defense at trial or in appeal by any means. On the other hand, the police should not undertake the duty to exclude illegally obtained evidence from use, but the duty to make an entire recording of interrogations and to prevent suspects from any undue pressure. Prosecutors should supervise the police's interrogations in order to prevent and reduce torture. Judges should be endowed with the power to exclude all forms of illegally obtained evidence from conviction or sentencing. They include direct or indirect evidence that the police collected by illegal means, so that neither derivative evidence could be used nor any form of torture might be tolerated even if tortured confession is not false in fact. Only with a new mechanism created to discourage the three justice institutions to cooperate with crime control and to encourage them to strictly check one another to correct errors, their close cooperation would be soon weakened.

## Acknowledgments

None

## Conflicts of interest

The author declares that there is no conflicts of interest.

<sup>3</sup>“In Henan Province No Further Development in the YANG Botao Case with His Sentences Having Been Remanded for Retrial Three Times”, South City News [*nanfang dushi bao*] (11 February 2015).