

Mao Zedong has been dead nearly 35 years but the influence of his doctrine is still felt today, writes **Jerome A. Cohen**

Maoist thought police

Almost 35 years after Mao Zedong's (毛澤東) death, China-watchers still debate his influence. Does his distinctive adaptation of Marxist-Leninist ideology continue to guide the policies, politics and practices of an increasingly powerful party-state that now confronts challenges the chairman never had to face? Some maintain that Maoism long ago lost its ability to affect official conduct and today serves mainly to project an image of communist continuity amid profound national transformations.

Other observers see, at least in certain aspects of government, the persisting relevance of Maoist thought, especially since 2007, when the 17th party congress launched an effort to recreate the "red culture" of the party's revolutionary pre-"Liberation" past.

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regulations and interpretations promulgated since 1979. Beijing's increasingly expert legal officials, like law reformers in other countries, seek the right balance between protecting basic rights of all suspects and ensuring punishment of the guilty, and some legislative progress continues even in the present conservative political environment.

Nevertheless, foreign observers, not to mention China's able criminal defence lawyers and legal scholars, daily encounter cases where "politics takes command" over law, not only among police and prosecutors but also among judges and justice officials. Indeed, this politicisation of criminal justice follows the public instructions of China's highest leaders.

The legacy of "Mao Zedong Thought", enshrined in the constitution, is evident in the insistence of President and party General Secretary Hu Jintao (胡錦濤), party Political and Legal Affairs Commission chief Zhou Yongkang (周永康) and Supreme

People's Court President Wang Shengjun (王勝俊) on the primacy of party over law, in practice as well as theory.

The December 23 detention and brutalisation by Beijing police of law professor Teng Biao (滕彪) and a fellow human rights defender explicitly illustrates the impact of Maoist thought on police practice. In a horrifying report posted online the day after his ordeal, Teng describes how, after trying to persuade his captors that they had no legal authority to interrogate, detain and beat him, the police station atmosphere suddenly became more threatening when an officer named Xu Ping learned that Teng had just visited the mother of a house-church Christian and legal scholar under house arrest elsewhere. Xu shouted: "Oh, that's how it is! In that case, this just became a contradiction between the enemy and us! ... In that case we don't have to talk about law at all! And you ... won't get out of here again. You traitors, you dogs! Counter-revolutionaries! ... You keep insulting the party. We will treat you just like an enemy!"

Teng, who teaches at China University of Political Science and Law, one of the country's leading law schools, realised the seriousness of an accusation placing him among "the enemy". He knew this referred to Mao's famous 1957 speech, "On the Correct Handling of Contradictions Among the People", which instructed officials, when dealing with alleged offenders, to distinguish between two types of social contradictions: those "between the enemy and us" and those "among the people". The former were to be handled with the unremitting severity of dictatorship.

Teng, attempting to turn repression into research, asked Xu: "How do you treat your enemies?" Xu answered: "Like Falun Gong." When Teng added, "And how do you treat Falun Gong?", Xu responded: "You'll find out by and by." This sent a shiver through Teng, since, in addition to the thousands of Falun Gong worshipers who have been formally sentenced, many others have been illegally tortured, killed or "disappeared" while in police custody. At that point, Teng reports thinking to himself: "This little police officer is younger than 30; how is he so well-versed in the Maoist doctrine of the 'contradiction between the enemy and us'?"

The fact is that Mao's amorphous doctrine, which originated in the pre-1949 revolutionary struggle to suppress "reactionaries" and establish the "people's democratic dictatorship", continues to serve as a crude rationalisation for whatever repression party leaders deem desirable. Many Chinese legal officials and scholars unsuccessfully sought to clarify



the criteria for distinguishing the "enemy" from the "people". Mao himself admitted that it was easy to confuse the two and that many good people had been mistakenly liquidated as "counter-revolutionaries". Indeed, as Teng's recent experience reminds us, there have only been two certainties: the party decides who is the "enemy", and anyone so identified loses the protections of the law.

In tense times, even law professors have had to accommodate the chairman's rhetoric, as I can personally testify. In February 1992, after the Voice of America broadcast excerpts of a talk I had just given to the Beijing Foreign Correspondents' Club noting that Chinese courts were instruments of suppression, five Beijing law school deans were ordered to lie in wait

in my hotel lobby "to register a solemn protest". They asked how I, "a friend of China", could make such a claim. I told them I had merely been quoting speeches made by Ren Jianxin, then president of the Supreme People's Court and head of the party's Political and Legal Affairs Commission, in the months after the 1989 Tiananmen slaughter. "Oh," they said, "Ren was only telling the courts to suppress counter-revolutionaries, not the 'people'!"

As long as Mao's pernicious doctrine persists, no Chinese citizen can be safe.

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