1978

Some Impressions and Reflections on Observing Legal Proceedings in the People's Republic of China

Christina B. Whitman  
*University of Michigan Law School, cwhitman@umich.edu*

Sallyanne Payton  
*University of Michigan Law School, spayton@umich.edu*

Available at: [https://repository.law.umich.edu/articles/1640](https://repository.law.umich.edu/articles/1640)

---

Follow this and additional works at: [https://repository.law.umich.edu/articles](https://repository.law.umich.edu/articles)  
Part of the [Comparative and Foreign Law Commons](https://repository.law.umich.edu/articles/compare), [Courts Commons](https://repository.law.umich.edu/articles/courts), [Criminal Procedure Commons](https://repository.law.umich.edu/articles/crim), and the [Law Enforcement and Corrections Commons](https://repository.law.umich.edu/articles/lafe)

---

Recommended Citation  

---

This Article is brought to you for free and open access by the Faculty Scholarship at University of Michigan Law School Scholarship Repository. It has been accepted for inclusion in Articles by an authorized administrator of University of Michigan Law School Scholarship Repository. For more information, please contact mlaw.repository@umich.edu.
Some Impressions and Reflections on Observing Legal Proceedings in the People's Republic of China

by Sallyanne Payton
Associate Professor of Law
The University of Michigan

and Christina L. Whitman
Assistant Professor of Law
The University of Michigan

"Through the use of force one causes men's mouths to submit; through reasoning one causes their minds to submit."
Very few foreign visitors have been allowed an opportunity to observe legal proceedings in the People's Republic of China. We were included in the first American group ever favored with a professional exchange legal tour. During the month of May 1977, we spent three weeks in China with a group of Black American judges and lawyers, headed by the Hon. George C. Crockett, Jr., Judge of the Recorder's Court of Detroit. Since we ourselves would be skeptical of the claim of a visitor to the United States who purported to have "studied" the American legal process during the course of a three-week visit, we make no claim to authority in these observations of the Chinese legal process. We offer our perceptions for whatever contribution they may make to the sparse Western knowledge of social control in the People's Republic.

Because of the composition of our group (Black Americans are considered Third World people for Chinese international political purposes) and the high esteem in which the Chinese hold Judge Crockett (a U-M law graduate), we were invited to observe legal proceedings and institutions previously barred to American visitors. The most memorable events of the trip were our visits to a criminal trial in Peking and a labor reform farm outside of Nanking. So far as we have been able to determine, we were the first Americans ever to have witnessed a criminal trial and may have been the first foreigners ever to have visited a labor reform farm. We also saw a divorce mediation proceeding in Nanking and toured the Shanghai prison. Throughout the trip we had opportunities to discuss what we had seen with judges of the local and national courts, with lay mediators, law professors, and law students. Everyone with whom we came into contact was cordial and forthcoming, an attitude that we attribute to the new relaxation in Chinese-American relations following the overthrow of the "Gang of Four."

We were invited to observe a criminal trial conducted by the Peking People's Intermediate Court only a few days after our arrival in the People's Republic. We had already become familiar with the flat, spreading city crossed by wide boulevards. At virtually all hours these boulevards carry a flood of bicyclists. Motorized traffic is minimal; the few trucks and jeeps belong to factories, communes or government bureaus. All passenger automobiles are chauffered and, we were told, either belong to government units or are available for hire to particularly favored individual citizens. Apart from traffic lights and policemen at a few major intersections, traffic priorities seem to be established by skill in maneuvering and liberal use of the horn. Peking streets are no place for an amateur. We were surprised, therefore, to find that the defendant in the trial we were to see stood accused of a crime that we thought we had left behind in the West: he had stolen a jeep and gone joyriding.

The trial was held in one of the virtually identical meeting rooms that we were to find everywhere in China—an open, white room decorated with large color pictures of the late Chairman Mao Tse-tung and current Chairman Hua Kuo-feng, and slogans written in Chairman Mao's calligraphy. This particular room was located in the defendant's place of work, the Peking People's Fine Arts Press. Most trials in China are held "on the spot" in the defendant's residence or factory, to ensure the participation of those who live and work with the defendant and know him best.

A Chinese trial, unlike our own, is not a forum for determining the defendant's guilt or innocence. No fact-finding occurs in the courtroom. An investigation of the facts has already been made, and the court has both the results of that investigation and a confession by the defendant in hand when the trial begins. The initial investigation is made by the public security office (comparable to our police station) before the case is referred to the court. After the court receives the case, the judge "confirms the evidence" by making a second investigation that to some extent duplicates the one already made. She discusses the case with witnesses and participants in the alleged crime, with the defendant's family, friends, and co-workers, and with the supervising Revolutionary Committee at the defendant's workplace. The defendant has the right to call his own witnesses to talk to the judge. The investigation is wide-ranging because the judge is interested not only in the circumstances of the offense itself but also in why the defendant erred. These investigations place a heavy burden on court personnel. Our Chinese hosts were shocked at the weekly caseloads carried by the American trial judges in our group; they could not understand how the judges could conduct so many investigations in so short a time.

At some point in the investigation most defendants confess to the crime with which they are charged. We were told that these confessions are not "coerced" because no pressure is placed on the accused to confess unless extrinsic evidence indicates that he has committed the crime. Once such evidence has been found, however, the pressure to confess is considered a positive force, for it "demonstrates the power of the Party's policy" and "shows the defendant a way out" of the trap in which he has found himself. Our hosts also admitted that, without such pressure, few defendants would admit to their crimes.

Our hosts insisted that the defendant's confession does not necessarily end the investigation. If the security office or the court is not certain that it has come to a true understanding of the case it will continue to probe. The judges of the Peking Municipal Court indicated a willingness to investigate and re-investigate as long as necessary to reach total agreement on exactly what happened. Reaching a consensus of this sort is regarded as more important than the "efficient" processing of cases.

All of the fact-finding, then, is concluded before the trial takes place. The trial serves other, primarily educational, purposes. The theory is that the defendant is educated through "mass criticism" by his residence and work-mates who participate in the trial. These observers—"the masses"—themselves gain an increased awareness of criminal sanctions and the functioning of the legal system. Finally, the masses participate in determining the penalty to be imposed. The court's consultation with the people on the question of penalty is called "following the mass line."

The one concrete decision that is made in the course of the trial is the severity of the sanction to be imposed on the defendant. The judges will have discussed the sanction with the defendant's associates for some time before the trial, but the actual decision does not take place until the trial itself.

The defendant who had the misfortune of being an example to our group of "foreign visitors" and a similar Japanese group was a 22-year-old press worker. On an evening in November 1976, the defendant had gone with
other workers from the Fine Arts Press to see a movie. He noticed a jeep left in front of a hotel by members of a visiting commune. Having stolen an "ignition" device at some earlier time, he now started up the jeep and took off down the main boulevard of Peking at some 60 m.p.h. Of course he had never learned how to drive, and his adventure soon ended in the expected fashion: turning a corner, he crashed into an elderly woman cyclist, leaving her uninjured but damaging her bike. The jeep hit a telephone pole and a wall, and would go no further. The defendant tried to run away, but he was captured by some passing motorists and was taken immediately to the local Public Security Office.

A professional judge and two lay assessors presided over the trial. The assessors, who assisted the judge in the pre-trial investigation and who have equal voices in deciding on the sanction, were both from defendant's factory. One was a cadre in charge of political work, and the other was a worker. The defendant was represented by two counselor-advocates—a fellow worker and a deputy workshop director, also from the factory. Two procurators, or prosecuting attorneys, from the Peking Municipal Public Security Bureau presented the "government's case."

Although the fact-finding had been completed, the results of the court's investigation were presented at length at the trial. Initially, the defendant was questioned by the judge. He was asked the familiar questions—his name, address, and occupation—but he was also asked for such data as his educational level, his birthplace, his family and personal background (in this case, worker-peasant), and the names, ages, and occupations of the members of his family. A statement of the facts of the alleged crime was read by a procurator, and the defendant was asked to make a public confession. His confession was very brief, and apparently unsatisfactory, for the judge "cross-examined" him at some length. She made him repeat the more shameful aspects of his story with more detail: "Did you say anything [when you got out of the car]?

"I denounced the woman comrade and asked her, 'Where did you learn to ride a bike?'"

"... Did the car start [when you got back in to escape]?

"No.

"Why not?

"It had hit the wall."

After the defendant confessed publicly, the rest of the evidence was introduced. The assessors read written depositions from the owner of the stolen jeep and from the men who had captured the defendant at the scene of the accident. None of these persons appeared at the trial, but the defendant was given an opportunity to challenge their accounts. The only witness actually present in the courtroom was the elderly victim. She was questioned at some length by the procurator and, again, the defendant was asked to confirm or deny what she had said. He disputed none of the testimony.

The defendant's recital of the facts of the incident was the least significant part of his public confession. After the presentation of the evidence he was asked to confess again—this time concerning the reason why he had committed the crime. His response was not surprising to our Western ears. The young man had simply wanted to see what it was like to drive a car. Besides, he didn't think that he would get caught. But he placed these motivations in a political context: he had been corrupted and wooed by bourgeois ideas; he had sought comfort and joy because he was not satisfied with what he had; he had been influenced by anarchism and had overlooked the study of the works of Mao, Marx, and Lenin. His crime was not "accidental" but was part of a general pattern of laxity in study and work. It represented an improper ideological point of view, rather than just a whim on an autumn night.

After confessing, the defendant was told to turn and face the audience of his peers. He stood with his head bowed, his hands behind his back, while one by one the "masses" rose to offer him criticism, to probe the root causes of his crime. Many spoke, both old and young, and they all, like the defendant, blamed the crime on the defendant's deficient political consciousness. The speakers pointed out that the crime had occurred in the nation's capital, where it had jeopardized the lives of the Central Committee and foreign visitors. Furthermore, it took place in November of 1976, a time when the rest of the country, especially the youth, were criticizing the bourgeois anarchism of the Gang of Four: the defendant, in contrast, was perpetuating this anarchism. Most significant was the defendant's condescending attitude towards his elders and others who had tried to encourage him towards better habits in work and study. The speakers, all co-workers of the defendant from the Fine Arts Press, appeared to express real resentment and animosity towards him. They obviously saw the crime as only the latest, if the most serious, infraction by an obstinate and proud young man.

The defendant was led from the courtroom before the second part of the trial, the purpose of which was to discuss an appropriate punishment. The procurators and the advocates had earlier played their only forensic role by presenting the arguments for and against a severe sanction. The procurator had stressed that defendant's crime was planned and deliberate, and that it posed a serious danger to those on the streets of the capital. The advocates had agreed, but had pointed out that little damage had actually been done. They also emphasized that the defendant was a first offender, that he had made a full confession at a relatively early point in the investigation, and that he was of good class origin. Their crowning argument was that he had been influenced by the teachings of the Gang of Four, an influence that would no longer have the power to sway susceptible youths.

Now, in this second stage of the trial, the judge asked the observers—the "masses"—for their opinion. She rose and came from behind the table where she had been sitting. She transformed herself from a stern authority figure into a smiling and skillful leader of a group discussion. Again several people spoke. Their suggestions ranged from three years' imprisonment to one year of supervised work in the factory under the guidance of the "masses." The judge made sure that everyone who wanted to speak had his or her chance,
and finally summarized the views of the group—return to the factory with two years' supervision.

The decision, however, was not yet final. The judge called a recess, during which she consulted with the two lay assessors. Since the conference room upstairs was also the room in which foreign visitors were briefed and given refreshments, we witnessed the decision process. Against the cacophony of conversations in English, Chinese, and Japanese, the panel agreed that two years of supervision in the factory would be appropriate. Their decision was cleared with the chief of the criminal division of the Intermediate Court and with the Revolutionary Committee of the defendant's factory, all of whom had also been present at the trial. All agreed. We were later told by the judge that if approval had not been forthcoming, discussions among the masses, the court, and the officials would have continued indefinitely until a consensus was reached. In this case, the presence of foreign guests undoubtedly imposed some time limitations, but we were given the impression that in deciding on the sanction, as in making the pre-trial investigation, reaching a consensus was more important than judicial efficiency.

Court resumed downstairs, with the defendant and the masses present for the announcement of the verdict. After the verdict was rendered, the judge concluded with a lecture. She enumerated the lessons to be learned from the trial: (1) A good class background and a life in post-Liberation China will not make a good citizen in the absence of diligent political study; (2) the Gang of Four sabotaged the Revolution by branding the disciplined as "slavish lambs" and poisoning the minds of easily misled youth; and (3) the masses, armed with Mao's thought, can be relied upon to fight crime and protect the social order of the capital, as they did here by catching the defendant "on the spot" of the crime. The defendant was led away by two Public Security Bureau men in white tunics; the court filed out.

The sentence imposed on the defendant bears some resemblance to what we call probation, although supervision is the responsibility of a committee of security workers from his place of work, rather than a professional court employee. This committee will make a monthly report on defendant's behavior and will organize people in his family and neighborhood, as well as in the factory, to watch the defendant and to set him straight if he shows signs of going astray. He is under closer surveillance than other citizens, but suffers no decrease in salary nor other restrictions because of his status.

The entire trial process, we were told, had been telescoped for us. Ordinarily, there would be several mass criticism meetings before the court and the people agree upon a final disposition. Yet we had the impression that a real decision had been made in the course of the morning. The disagreement among the observers concerning the length of the sentence did not seem to be feigned for our benefit. And the anger and frustration of the defendant's co-workers communicated an emotional involvement in the case that we could understand.

The trial, with direct participation of the defendant's peers, and the sanction, which again draws upon the people to bring the erring defendant back into their community, appeared to be a very effective means of reforming social deviants. We were told that most minor criminal matters are handled locally by the revolutionary committees without requiring any court involvement at all, and that recidivism is relatively rare.

This effectiveness is purchased at a price that we in the United States are unwilling to pay—a willingness to use great peer pressure to extract conformity. And it presumes a social consensus about the way a good citizen should think as well as behave that simply does not exist here.

Had the defendant in the Peking criminal trial been considered too difficult to be supervised and reformed by his co-workers, he would most probably have been sent to a labor reform farm. Our Chinese hosts were adamant in insisting that the term is "farm," not "camp," a conscious effort to distinguish them from Soviet detention facilities.

The labor reform farm that we visited was in Kiangsu Province, about 150 kilometers outside of Nanking. It had been established in 1951. This farm, set in lovely groomed countryside, housed 2500 prisoners. We were told that 80 percent had been convicted of regular criminal offenses, and that 20 percent were "counter-revolutionaries." The average age of the inmates was 30 years; the youngest was 25 or 26 years old. Most had been convicted of speculation, rape or corruption (which seems to mean embezzlement in our terms). They were serving terms of from three to 10 years. We were told that the inmates had come from all levels of society and that virtually all were illiterate, although some might have had a low cultural level. There were no persons from ethnic minority groups at this farm.

The farm is economically self-supporting. We were told that it has 8000 mou of cultivated land (a mou is between 1/3 and 1/6 of an acre depending on the province), on which the inmates produce rice, tea and other agricultural products. They also operate a ball bearing factory. We were served a sumptuous lunch derived entirely, we were told, from the produce of the farm. The inmates' ordinary schedule is eight hours of labor and two hours of study per day, one day in 10 for rest.

The farm operates with 200 staff people. Security is provided by a unit of the People's Liberation Army. The director of the farm disclaimed knowing how many PLA soldiers were in the unit. He emphasized that security was ensured by the very isolation of the farm: prisoners' heads are shaved, and they would be noticed and returned by peasants in the surrounding countryside were they to attempt to escape. As he put it: "We supervise the criminals not by walls but by the power of our policies."

The theory of reform is that criminal behavior is caused by reactionary world outlook. The farm officials further indicated three specific objectives in their work: first, criminals must confess their crimes and obey the law (including farm rules); second, they must be educated in the general socialist system and understand the trend of history through studying the classic works of Marxism-Leninism and the Thought of Chairman Mao; third, they must be taught specifically the pitfalls of despising labor and have their laziness drilled out of them. The prisoners live and study in groups, and must elect a group leader and a deputy group leader. Within their units they are required to practice criticism and self-criticism; however, in response to specific questions, we were told that a living unit is not responsible for the behavior of its individual members, that an individual is responsible for his own reformation. Corporal punishment is not used; the officials told us that they "respect the personalities" of the prisoners.

The technique of reform is to combine punishment with leniency. Thus, the prisoner is praised for repentence. The officials talked of "mobilizing the criminal with enthusiasm for his transformation." If the officials think they have seen a real transformation, they may recommend to the court that the sentence be reduced or the prisoner be released early.

On the other hand, the penalty for recalcitrance may be high. The officials talked of "isolating the small group
of diehards." We were told that a prisoner who is not making appropriate progress would first be warned. His progress might be placed in confinement. Finally, the farm of imprisonment.

The youthful offender, and recidivism. The average age imposed.

If the court were asked to modify a suspended death sentence, it would conduct a hearing at the farm itself. In most cases the sentence served is the one originally imposed.

The prison, which has been used primarily for sleeping, eight hours each day. Eight additional hours, we were told, are segregated according to sex and according to the severity of their sentence. Those serving life sentences or sentenced to death are kept separate from the others.

superior leadership of the provincial Public Security Bureau, and had no contact with his counterparts at other institutions.

Criminals whose offenses are more serious are neither returned to their home environments nor sent to labor reform farms where they engage in factory and agricultural work in a rural environment. Instead, they are placed in jails, such as the Shanghai Municipal Prison, which we visited in mid-May. Life in the prison in certainly harsh, but again education and rehabilitation are given much more emphasis than in our institutions.

The Shanghai Prison was built by the British in the early years of the twentieth century (1906-1925). It is a mammoth black compound of large brick buildings, a bleak reminder of the powerful foreign enclaves in chaotic pre-Liberation China. The prison, which has been used by both the British and the Kuomintang to house prisoners, contained 2,753 prisoners (200 of them women) at the time of our visit. They were serving sentences ranging from three years to life, and a few were under suspended death sentences. (Offenders sentenced to capital punishment in China typically receive a two-year suspended sentence. If they convince the authorities that they have taken significant steps towards reform in that time, their sentences are reduced.) The prisoners ranged in age from 18 to 60-70 years. They are segregated according to sex and according to the severity of their sentence. Those serving life sentences or sentenced to death are kept separate from the others.

Living conditions in the Shanghai Prison are very poor by our standards. The cells are small, no larger than 6 feet by 8-9 feet; each cell houses three people. Our hosts pointed out that in pre-Liberation times each cell housed at least five or six prisoners. The furnishings in the cells are simple: a large, low wooden platform covers most of the floor, and a box housing the prisoners' sleeping quilts stands in the middle. Washcloths are hung on the cell bars. Between each two cells, is a small bookshelf holding the basic works of Mao, Marx and Lenin.

The prisoners were dressed in worn clothing and all the men had shaved heads, but they looked healthy. Medical care is not taken for granted in China, and this institution, like many others we visited, is proud of its Chinese and Western medical facilities. Prisoners receive day-to-day care from other inmates trained in medicine and stationed on each floor. The prison also contains a hospital unit, which includes a radiology laboratory, an herbal medicine laboratory, and two operating theatres, which are used three or four times each week. The entire complex was spotlessly clean but dark and unattractive to Western eyes. (One of the more sensible decisions made by the Chinese is that, in a land of scarce resources and burgeoning needs, it is not important to paint the walls of public buildings every few years.)

Although the physical living conditions of a Chinese prison are much inferior to ours, more care is taken to provide for a productive and varied prison life. Relative ly little time is spent in the cramped cells. They are used primarily for sleeping, eight hours each day. Eight additional hours, we were told, are spent in the prison factories; two hours more, in study; and the rest of the time, in recreational activities. "Recreational activities" seem to vary. We passed a spirited game of basketball in a
superior leadership of the provincial Public Security Bureau, and had no contact with his counterparts at other institutions.

Criminals whose offenses are more serious are neither returned to their home environments nor sent to labor reform farms where they engage in factory and agricultural work in a rural environment. Instead, they are placed in jails, such as the Shanghai Municipal Prison, which we visited in mid-May. Life in the prison is certainly harsh, but again education and rehabilitation are given much more emphasis than in our institutions. The Shanghai Prison was built by the British in the early years of the twentieth century (1900-1925). It is a mammoth black complex of large brick buildings, a bleak reminder of the powerful foreign enclaves in chaotic pre-Liberation China. The prison, which has been used by both the British and the Kuomintang to house prisoners, contained 2,753 prisoners (200 of them women) at the time of our visit. They were serving sentences ranging from three years to life, and a few were under suspended death sentences. (Offenders sentenced to capital punishment in China typically receive a two-year suspended sentence. If they convince the authorities that they have taken significant steps towards reform in that time, their sentences are reduced.) The prisoners ranged in age from 18 to 80-70 years. They are segregated according to sex and according to the severity of their sentence. Those serving life sentences or sentenced to death are kept separate from the others.

Living conditions in the Shanghai Prison are very poor by our standards. The cells are small, no larger than 6 feet by 4-8 feet; each cell houses three people. Our hosts pointed out that in pre-Liberation times each cell housed at least five or six prisoners. The furnishings in the cells are simple: a large, low wooden platform covers most of the floor, and a box housing the prisoners' sleeping quilts stands in the middle. Washcloths are hung on the cell bars. Between each two cells, is a small bookshelf holding the basic works of Mao, Marx and Lenin.

The prisoners were dressed in worn clothing and all the men had shaved heads, but they looked healthy. Medical care is not taken for granted in China, and this institution, like many others we visited, is proud of its Chinese and Western medical facilities. Prisoners receive day-to-day care from other inmates trained in medicine and stationed on each floor. The prison also contains a hospital unit, which includes a radiology laboratory, an herbal medicine laboratory, and two operating theatres, which are used three or four times each week. The entire complex was spotlessly clean but dark and unattractive to Western eyes. (One of the more sensible decisions made by the Chinese is that, in a land of scarce resources and burgeoning needs, it is not important to paint the halls of public buildings every few years.)

Although the physical living conditions of a Chinese prison are much inferior to ours, more care is taken to provide for a productive and varied prison life. Relative-ly little time is spent in the cramped cells. They are used primarily for sleeping, eight hours each day. Eight additional hours, we were told, are spent in the prison factories; two hours more, in study; and the rest of the time, in recreational activities. "Recreational activities" seem to vary. We passed a spirited game of basketball in a

"We supervise the criminals not by walls but by the power of our policies."
The most powerful sanction is the ability of the prison officials, with the cooperation of the court that convicted and sentenced the prisoner, to increase and decrease his sentence in response to his behavior. Each prisoner is given a fixed sentence, but good behavior can lead to early release while the sentence of an intractable prisoner may be extended indefinitely. There are other sanctions for bad behavior—first a warning, and then “confinement.” We were told, however, that there is no corporal punishment. Flogging and cursing of prisoners by guards are strictly forbidden.

The official concern for the rehabilitation of a prisoner does not end with his release. The revolutionary committee of the prison works with the committee of the work unit to which the released prisoner is assigned to place him in a job, a residential unit, and a small group where his political education will continue.

The most remarkable aspect of prison life in China is the belief in society’s ability to change the habits and thoughts of the inmates and the real effort, made with extraordinary investments of manpower, to effectuate that change. But, again, the cost—in terms of individual privacy, autonomy, and freedom of belief—is very high.

We now regress in time, back to Nanking, and switch to the civil side of the Chinese legal system. While in Nanking, we were taken to a divorce mediation session. The wife, whom we shall call Mrs. Lu, had requested that she be divorced from her husband, Mr. Chin (Chinese women retain their own names upon marriage). Mrs. Lu is a worker in the Nanking handkerchief factory; Mr. Chin is a worker in the Nanking People’s Printing Press. Mrs. Lu had complained that Mr. Chin preferred his son by their marriage to her two children by her previous marriage; that he drank and smoked too much; and that he was not democratic in the management of the family finances. These are not grounds for divorce in China; what we witnessed was the intervention of the community, even the judicial system, in resolving a marital dispute.

Mrs. Lu’s first husband had died of liver cancer in 1965, leaving her with two small children. Her neighbors introduced her to Mr. Chin, who had never before been married. Their marriage in 1967 was registered with the Neighborhood Committee. At first they got along well; Mr. Chin was a model stepfather and husband. He played with and fed the children; he took them to school; he took Mrs. Lu’s mother to the hospital for her acupuncture treatments when she became ill. After their son was born, however, his attitude changed: he preferred his own child, neglected her two older sons, and began to engage in the behavior of which she finally complained.

By 1976, Mrs. Lu sought the intervention of the authorities. She first went to the court in September 1976. The court referred the complaint back to her neighborhood conciliation committee, which made repeated unsuccessful efforts to bring about an agreement. The conciliation committee told them that a divorce would be harmful to both of them, and to the children. The judge who presided over the session that we witnessed had herself participated in these conciliation sessions, going to the residence and the factories where both parties were employed. The judge explained to everyone that this meeting was being held “to speed up the period for the parties to give up their incorrect ideas.” She said that the parties’ thinking had changed during the conciliation period, but that as of the opening of the meeting there was still some distance between them.

The meeting was held in a very plain conference room of a building near the residence of the parties. Approximately 30 people were present, representatives of the neighborhood and factory conciliation committees, plus one representative of the workers from the handkerchief factory, plus one representative of the workers from the printing press, plus one from the neighborhood, plus two from the factories and the neighbors. The judge opened the proceedings with a recitation of the facts as outlined above. She welcomed the representatives of the factory committees to join the meeting, and said that she hoped that they would take part and speak freely. She then addressed the parties: “This proceeding shows that the Party and the people’s government have concern for you and for family life. Be strict with yourself, lenient towards others. Modestly listen as well as talk.” In contrast to the judge in the Peking criminal case, who was an authority figure throughout at least the first part of the trial, this civil judge played the part of social worker/counselor. Within the first few minutes she had elicited from Mrs. Lu the information that she no longer wished a divorce, because of her own age (39) and the welfare of the children, and that she would like for Mr. Chin to behave better towards the children and the finances and to drink less (we do not know how much is too much in China).

However, the issue in the case was personal ideology, which had to be explored. In conversation with the judge, Mr. Chin admitted that the root of the problem was his individualistic ideology, which was inconsistent with promoting production. In particular, his mistake lay in regarding his child as his own property. Children are the successors of the country, not the private property of their parents. Divorce wounds the children and is therefore bad for grasping revolution and promoting production. Moreover, their family dispute had taken up the time of other workers from their factories. The judge agreed.

Now the representatives from the factories spoke. A woman from the handkerchief factory pointed out that both Mrs. Lu and Mr. Chin were of worker background, the class that had been suppressed in the old society but had become master in the new. They both had a deep love for Chairman Mao and Chairman Hua. They had married freely, liberated from the old custom of matchmaking. She opposed the divorce, echoing the observation that divorce would be bad for the children, who are the successors to the country. Parents no longer have to depend on their children for support in their old age; parents have a duty to educate their children to be proper successors and to prevent revisionism.

Several other representatives from the factories and the neighborhood spoke in praise of the new social order, equal rights for women, solving contradictions among the people, and family stability. No one thought the parties should divorce. Mrs. Lu and Mr. Chin agreed that they should not divorce. The court agreed that they should not divorce, and told us why. The foundation of the marriage was knowing and loving one another. In the beginning, they helped one another. The children got along well. Contradictions of the sort that led to this proceeding are normal. Public opinion is the opinion of the masses. In this case, the masses (meaning the workers from the factories and the neighbors) do not think that a divorce is proper. Contradictions within this marriage can be solved by criticism and self-criticism. The three points alleged by Mrs. Lu in her complaint are not fundamental contradictions justifying divorce.

The court then produced a conciliation agreement that had been prepared previously. In it, Mrs. Lu agreed to resume family life and to withdraw her complaint. Mr. Chin agreed to treat the children equally, to make them his responsibility. Both agreed to help the domestic economy through discussion. Mr. Chin agreed to drink
and smoke less. They both agreed that if new contradictions emerged they would be handled in the spirit of unity-criticism-unity.

A woman worker from the handkerchief factory now thanked the judge for showing that the court serves the people. She said that Mrs. Lu and Mr. Chin should thank their Party and their government, and show gratitude to their comrades. All of the people who participated in this conciliation have a deep proletarian confidence, are grasping the key link and promoting production. They are all studying Volume Five of Chairman Mao's work. A new high tide of learning from Taching (an oil field that serves as a model for industry) is emerging. Unite in the family first, then efforts can be concentrated on the job. A male worker from the printing press also thanked the court and hoped that the parties would accept her advice and suggestions.

Life in the prison is designed to carry out the government's policy of "reform through labor." That means a heavy emphasis on production. Most of the men work in the printing and knitwear factories contained in the prison complex, while a few do small-scale manual labor in cellblock areas (for example, assembling watches). The women produce rubber sheeting goods in their cellblock. The pace in the prison factories is more frenetic than any we had seen elsewhere in China. The workers gave all their attention to their work, not even stopping to glance at the Western visitors. In other respects, however, the factories are like others we had visited. We saw the same blackboard essays in colored chalk criticizing the Gang of Four and praising the teachings of Chairman Mao and Chairman Hua. There are also quota charts showing each worker's progress. In addition, lined paper with themes written by individual prisoners on their transformation under the guidance of Chairman Mao are posted throughout the work and study areas. Guards are everywhere, but they are relaxed and inconspicuous.

Ideological education is another key component of "reform through labor." In all segments of Chinese society political study is primarily carried out through small groups organized to study the works of Mao, Marx, and Lenin. The prison is no exception, and we observed group discussions in the women's unit and in the hospital ward. The prisoners are also brought together to listen to political broadcasts. And the prison adopts a policy of "going out and inviting in"—taking the prisoners to visit factories and agricultural communes, and inviting workers, peasants, and soldiers into the prison to give lectures.

All this education has a price. A Chinese prisoner, unlike his American counterpart, cannot simply keep his mouth shut and serve his time. Some improvement in attitude is necessary before he will be released. Echoing what we had learned at the labor reform farm, our hosts told us that each prisoner must be "active in labor," "prove that he is law-abiding," and, most importantly, "bow his head and admit his guilt." The prison officials admitted that there were a few "diehards who will never shed tears before they see their coffins," but most prisoners are not so resistant.

Mr. Chin now sincerely thanked the party, and Chairman Mao and Chairman Hua, pointing out that if the dispute had occurred in the old society it could not have been resolved among the people. He complimented the judge on following the teachings of Chairman Mao. Both parties agreed to resolve any future contradictions in the spirit of today's meeting. The judge then complimented everyone on helping to resolve this dispute. She said that the court supports and helps the masses, relies on the masses, and with the efforts of all, achieves good results. Everyone applauded and smiled.

After the meeting, we talked with this judge, who told us that she herself would supervise the implementation of the conciliation agreement. If Mrs. Lu is not satisfied, she may once again ask for the help of the court.

The background of this judge is, we think, characteristic. She graduated from junior middle school in 1950, immediately following Liberation, and became a legal cadre. She has attended the legal institute (a sort of abbreviated law school) in Kiangsu Province twice for six months each time. We asked her what she studied there; she replied that they studied the classic works of Marxism-Leninism and the Thought of Chairman Mao, plus the written law, but the judges mainly learn from practice. She informed us that the Supreme Court sends its cadres (administrative personnel) to the provinces to make sure that correct policies are being carried out, appeals being rare in the Chinese legal system.

Candor compels the admission that there was not much drama in this divorce proceeding. The outcome was foregone, as, indeed, it had been from the moment when Mrs. Lu filed her complaint with the court. We suspected that the presence of foreign visitors had a good deal more effect on the timing and the outcome than had been the case in the Peking criminal trial. However, we found the proceeding interesting as an illustration of the tension between the ideal of equal rights for women within the marital relationship, on the one hand, and the social and political importance of family stability, on the other. The government was not willing to grant dissolution of the marriage; but it was willing to invest considerable effort to bring the parties to a mutually acceptable compromise. How well these compromises work in practice, however, we cannot tell: as the meeting broke up, Mrs. Lu looked unmistakably glum and Mr. Chin looked slightly smug.