



# Sex vs. Power

Criminalizing “sexual bribery” is still a tough nut to crack By Yin Pumin

**O**n July 8, former Minister of Railways Liu Zhijun was given a suspended death sentence after being convicted of corruption and abuse of power. The prosecutor’s statement also pointed to his “improper lifestyle,” which in China usually suggests leading a life of debauchery.

In January, Yi Junqing, former Director of the Central Compilation and Translation Bureau of the Communist Party of China Central Committee, was also sacked from his post for the same reason.

It is believed that his downfall was related to an online essay by his alleged mistress. The woman detailed their alleged affair in a 100,000-character article, making Yi a high-ranking official sacked for nothing more than a sex scandal.

In recent years, there have often been mistresses behind corrupt officials. In many cases, tip-offs from mistresses have led to official corruption investigations. A report released by the Crisis Management Research Center at Beijing-based Renmin University of China in January showed that as much as 95 percent of corrupt officials caught in 2012 had mistresses.

In May, Liu Tienan, former Vice Minister of the National Development and Reform Commission, was sacked after his former mistress provided a journalist with vital information about his corrupt practices, including accepting bribes, faking his master’s degrees and leading an “improper lifestyle.”

China is a nation that values officials’ virtues. “Proper lifestyle,” a euphemism that means one is not tarnished by an affair, is a basic qualification in the selection of government officials at all levels.

“Any love affairs of government officials are

easily associated with their powerful positions. In that case, they should be disciplined not only by social norms and laws, but also strict administrative orders and punishment from the Party,” said Xu Xianglin, a professor at the School of Government of Peking University.

Yun Jie, a scholar with the Institute of Political Science of the Chinese Academy of Social Sciences (CASS), said that the administrative punishments for these kinds of violations should be strengthened and that the law should be specific when regulating such issues, in order to crack down on these affairs, which damage the reputation of the government, as well as the Party.

## Nude deals

In recent years, “officials’ nude pictures” and “mistress anti-corruption” have become common search terms on the Internet. With more efforts taken by disciplinary authorities, more cases concerning “sex-power trade” have emerged in public.

In fact, the phenomenon of trading power for sex is not new among government officials. Early in the late 1990s, Hu Changqing, former Vice Governor of Jiangxi Province, was accused of using his position to provide benefits for his “friends,” in exchange for sexual favors.

“According to my experience in dealing with cases of duty-related crimes, few corrupt officials lead clean lifestyles,” said Yi Shenghua, Director of the Department of Criminal of Beijing-based Yingke Law Firm. Yi has specialized in corruption cases for 10 years.

Luo Meng, Deputy Director of the Anti-Corruption Bureau of Beijing’s Haidian District

Procuratorate, also admitted that what can be casually called “sexual bribery” exists in most corruption cases involving high-ranking officials, though there is no such charge in China’s Criminal Law. “The aim of sexual bribery is to trade power for sex, which is an infraction concerning civil servants’ integrity,” Luo said.

“Sexual bribery is not just an issue that relates to top officials. Attention should also be paid to the problem when it affects the primary-level officials,” said Yang Lin, Director of the Anti-Corruption Bureau of Beijing’s Changping District Procuratorate. “Crimes involving mistresses have expanded from ministerial-level officials to lower-level officials in recent years.”

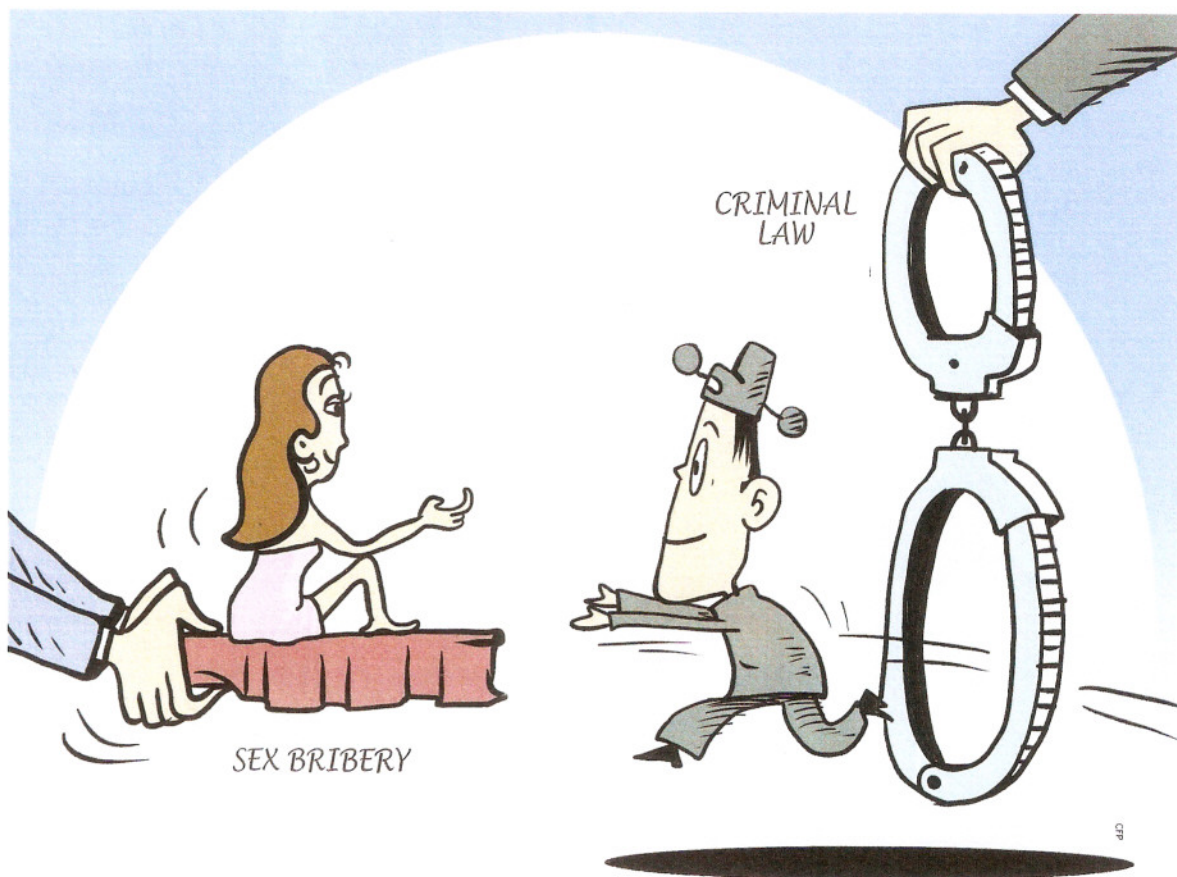
Since 2008, the district procuratorate has investigated and prosecuted 29 middle- and junior-level officials committing duty-related crimes, among which six officials were confirmed to have mistresses.

For example, a middle-level official with a municipal administration of Beijing spent 1.25 million yuan (\$203,915) on an apartment and car for his mistress and accepted bribes worth nearly 2 million yuan (\$326,264).

Zhu Lijia, a professor at the Chinese Academy of Governance in Beijing, has long advocated including sexual bribery as an offence in the laws governing corruption. He believes the damage caused by sexual bribery is not less than that caused by financial corruption.

However, in reality sexual bribery is often neglected during the trials of corrupt officials, due to a lack of an accurate legal definition.

According to the Criminal Law of China, the charge of bribery is concerned purely with financial



reward. That means officials found to have accepted bribes of a sexual nature are dealt with by disciplinary authorities instead of a criminal court.

In the case of Liu Zhijun, the Beijing No.2 Intermediate Court said that the former minister exploited his position to provide help to 11 people, including Ding Yuxin, Board Chairwoman of the Boyou Investment Management Corp., and her relatives, to gain promotion and win lucrative contracts, all of which resulted in financial gain.

Although Internet whistle-blowers claimed Ding, in return, provided Liu with women, the allegations were not confirmed by the court.

"It's the right time to regard the provision of sexual services as a form of bribery and the definition of corruption should be widened to include this as soon as possible," said Yang Xiaojun, a legal expert with the Chinese Academy of Governance.

Ren Jianming, Director of the Clean Governance Research and Education Center at Beihang University in Beijing, also supported calls to widen the definition of bribery with the aim of better identifying related crimes.

## Legislation dilemma

Liu with the Haidian District Procuratorate suggested directly including sexual bribery into the Criminal Law. "Whether it's a lovers' relationship or trading relationship, we should regard it as bribery," he said.

According to Luo, the principal obstacle is that the current Criminal Law of China limits its definition of corruption to issues of property and financial benefits. "This creates difficulty in measuring punishment in the 'sex-power trade' because it is hard to measure the 'trade' as a tangible property," Luo said.

Yi pointed out that the major challenge is to distinguish between a purely sexual transaction instigated for the benefit of the person involved or for a third party and an illicit affair based on genuine affection.

"It is hard to obtain evidence of sexual bribery," he said. "Corruption through money involves a financial transaction, but sexual bribery doesn't. It's a 'trade' between the official and the woman, which means it's not easy to expose unless the two have a fall out and the woman decides to go public."

Sexual bribery also touches on morality. "Sometimes a person's actions can only be criticized from a moral standpoint and will not result in serious punishment," Yi said.

Zuo Jianwei, a professor at the Law School of Beijing Normal University, agrees that it is hard to identify sexual relationships in China. "Besides, there is no unified standard to define sexual bribery so that everyone can have their own judgments on the relationships," Zuo said.

Besides, Yi thinks that because of moral concerns, it is also a big challenge for those judicial officers to further investigate sexual bribery cases. "The situation requires judicial officers to have high-level professional qualities and abilities. Under the current situation, it's still an impossible mission at primary-level judicial organs," Yi said.

Liu Renwen, Director of the Criminal Law Department of CASS' Institute of Law, suggested enlarging the extent of corrupt behavior in current law by conforming to international treaties.

In 2005, China ratified the United Nations Convention against Corruption. The convention defines a bribe as an "improper benefit," and lists eight crimes of corruption, including accepting sexual favors.

Liu prefers to introduce the definition of "improper benefit" into the Criminal Law to cover traditional bribery as well as intangible exchanges including sexual bribery.

In addition to criminalization of sexual bribery, Zhu thinks that the key to cracking down on sexual bribery also lies in a stringent supervision. He suggested the Party should impose harsher punishments on those discovered to have accepted sexual bribes. ■