

PEOPLE'S REPUBLIC OF CHINA

@Appeal on behalf of Chinese Communist Party official Bao Tong and researcher Gao Shan

After more than three years of detention without trial, two prisoners of conscience in China have been given prison sentences in July and August 1992 for their alleged illegal activities during the 1989 pro-democracy movement in China. Both were tried in secret.

Bao Tong, a senior official of the Chinese Communist Party (CCP) and a close associate of the former CCP General Secretary Zhao Ziyang, was sentenced on 21 July 1992 to seven years' imprisonment and a further two years' deprivation of political rights. Bao Tong was charged with "leaking state secrets" and "counter-revolutionary propaganda and incitement". A full translation of the court verdict against Bao Tong is appended to this document.

After a related trial on 5 August 1992, Gao Shan, a researcher in the CCP Research Centre for the Reform of the Political Structure headed by Bao Tong, was sentenced to four years' imprisonment, also for "leaking state secrets".

The court verdicts against Bao Tong and Gao Shan

The charge that Bao Tong "leaked state secrets" is based solely, according to the court verdict, on a conversation between Bao Tong and Gao Shan on the evening of 17 May 1989. The verdict gives no indication of the nature of the "important state secret situation" which Bao Tong allegedly "leaked" to Gao Shan but it appears to be related to the declaration of martial law and Zhao Ziyang's resignation from the post of CCP Secretary General, both made public on 20 May.

The offence of "leaking state secrets" is punishable under Article 186 of the *Criminal Law of the People's Republic of China*, which provides that "state personnel who... disclose important state secrets, when the circumstances are serious, are to be sentenced to no more than seven years of fixed-term imprisonment". In the case of "persons who are not state personnel... consideration is to be given according to the circumstances to punishing them" in accordance with the above provision.

The *Law of the People's Republic of China on Guarding State Secrets*, adopted on 5 September 1988, defines state secrets as:

"matters which affect the security and interests of the state, knowledge of which is determined in accordance with law to be restricted to certain people for a definite time." (Article 2)

Article 8 of that law extends the definition of state secrets to "the affairs of political parties" when these "conform to the provisions of Article 2". Article 24 adds that "disclosing state secrets in the course of personal contacts or communications is not permitted".

Bao Tong was a ranking official of the ruling party but he had no government post. He has never been accused of seeking or obtaining information other than that to which he had access in his capacity as a CCP official. There is no indication in the verdict - and no report whatsoever from other sources - that the information which Bao Tong allegedly disclosed had been "determined in accordance with law to be restricted to certain people for a definite time".

The other charge against Bao Tong, "counter-revolutionary propaganda and incitement", is based on the accusation that he "indicated assent" to having a transcript of part of his private conversation with a senior official on 20 May 1989 made available to others. The verdict indicated that there was "conclusive, complete and sufficient" evidence to pronounce Bao Tong guilty, but it gave no indication of the nature of that evidence.

The charge that Gao Shan "leaked state secrets" appears to be related principally to his "spreading" the "state secret" allegedly disclosed by Bao Tong.

The verdict was upheld on appeal by the Beijing Municipal Higher People's Court on 6 August. Bao Tong was reportedly questioned and allowed to defend himself but the Higher People's Court dismissed his appeal and reiterated in almost identical terms the judgment of the Intermediate People's Court. Bao Tong may still attempt to have his case taken to the National People's Congress, China's legislative organ. However, appeals in China rarely succeed.

Amnesty International is concerned that the broad definition of state secrets in Chinese law, including the assimilation of the affairs of political parties to state secrets, opens the way to the imprisonment of prisoners of conscience. Amnesty International is also concerned that the trials Bao Tong and Gao Shan were closed to the public and not conducted in accordance with international standards for fair trial.

Amnesty International is also concerned that Bao Tong's health has deteriorated during his detention, that he is suffering from a stomach ailment and has a persistently low white blood count.

Bao Tong and Gao Shan: victims of political manoeuvres

Bao Tong and Gao Shan are two of the most senior CCP and government cadres sentenced to terms of imprisonment related to their alleged activities during the 1989 pro-democracy movement. Amnesty International regards them as prisoners of conscience. Their association with former CCP leader Zhao Ziyang was widely reported as being the reason for their lengthy detention without trial. The decision to sentence them to imprisonment rather than end their detention is widely reported to have been taken at a senior level by the leadership of the CCP and government.

The Chinese authorities have reportedly indicated that the trials of Bao Tong and Gao Shan were to be the "last" trials of detainees held since the 1989 Beijing massacre of unarmed demonstrators. However, similar claims have reportedly been made by officials on previous occasions, only to be followed by further trials.

Bao Tong

Amnesty International is reiterating its call on the Chinese government to release all prisoners of conscience, including Bao Tong and Gao Shan.

*Appendix: Text of the Verdict against Bao Tong***BEIJING MUNICIPAL INTERMEDIATE PEOPLE'S COURT CRIMINAL VERDICT**

(1992) Intermediate/Criminal No. 1582

Procurator: Li Lianjia, Procurator of the Sub-procuratorate of the Beijing Municipal People's Procuratorate.

Defendant: Bao Tong, 59 years old, male, native of Suzhou City, Jiangsu Province. Former director of CCP Central Committee Research Office on the Reform of the Political Structure. He was arrested [formally charged¹] on 15 January 1992 for the crime of leaking important state secrets and the crime of counter-revolutionary propaganda and agitation. He is now in custody.

Defender: Yang Dunxian, lawyer, Beijing Municipality Xuguang Legal Affairs Office.

Defender: Zhang Sizhi, lawyer, Beijing Municipality No 5 Legal Affairs Office.

On 29 June 1992 the Sub-procuratorate of the Beijing Municipal People's Procuratorate brought before this court an indictment against defendant Bao Tong for the crime of leaking important state secrets and the crime of counter-revolutionary propaganda and agitation. This court organized a collegial bench in accordance with law and on 21 July 1992 conducted proceedings to hear the case in closed court in accordance with law. The collegial bench heard the public procurator's statement in support of public prosecution; it interrogated the defendant, heard his deposition, his defence and final statement; heard the defenders' opinions in his defence; and verified the evidence directly related to the case. The following facts were ascertained:

1. At about 20:00 hours on 17 May 1989 at the CCP Central Committee Research Office on the Reform of the Political Structure, defendant Bao Tong called a meeting of over ten employees of the Research Office. He told the meeting that he would probably be unable to continue to work with them, that he would probably be investigated, etc. At about 22:00 hours, after Gao Shan (case to be dealt with separately), a cadre of the Research Office, learned about the contents of Bao Tong's speech, he questioned Bao Tong about an important state secret situation and Bao Tong leaked an important state secret to Gao Shan. In the morning of 19 May Gao Shan spread out the important state secret at a meeting called by Chen Yizi (now at large), the former director of the [State Council] Research Institute on the Reform of the Economic Structure, with the participation of some personnel from the Research Institute on the Reform of the Economic Structure, the Development Research Institute of the State Council Agricultural Research Office, the China International Trust and Investment Corporation Research Office for International Issues and the Beijing Society of Young Economists.

2. At about 10:00 hours on 20 May 1989, shortly after the State Council made public the order to implement martial law in some areas of Beijing, in a conversation with Chen Yizi, former director of the Research Institute on the Reform of the Economic Structure, at the CCP Central Committee Research Office on the Reform of the Political Structure, defendant Bao Tong attacked the government and attacked

¹Bao Tong was taken into custody in May 1989 and only formally charged ("arrested" [*daibu*] according to the PRC's legal terminology) on 15 January 1992.

the implementation of martial law in some areas of Beijing. Bao Tong indicated assent when Chen Yizi indicated that he would turn part of their conversation into material to be given away. When Chen Yizi returned to the Research Institute for the Reform of the Economic Structure he immediately called a meeting of the Institute's leading cadres at the Section and Bureau levels. At the meeting, Chen engaged in the spreading of the contents of his conversation with Bao Tong, and directed those present at the meeting to draft four leaflets, including one entitled *Urgent Appeal to Compatriots Across China*, attacking the government and inciting people to resist and sabotage the enforcement of martial law. A total of over 1,000 copies of the leaflets were printed and distributed at Beijing University.

The above facts are verified with written evidence and testimony from witnesses. The facts are clear, evidence is conclusive, complete and sufficient to decide the case.

This court holds that defendant Bao Tong leaked important state secrets during the period of grave turmoil in Beijing in 1989, that the circumstances are serious that his acts constitute the crime of leaking important state secrets; that defendant Bao Tong, in collusion with others, carried out counter-revolutionary propaganda and agitation, that his acts again constitute the crime of counter-revolutionary propaganda and agitation, that his crimes are serious and should all be punished in accordance with law. In order to consolidate the political power of the people's democratic dictatorship and the socialist system and to protect social order, in accordance with the provisions of the Criminal Law of the PRC, Article 186 Paragraph 1 and Articles 102, 64 and 52, the judgement is as follows:

Defendant Bao Tong committed the crime of leaking important state secrets, he shall be sentenced to four years of fixed-term imprisonment; he committed the crime of counter-revolutionary propaganda and agitation, he shall be sentenced to five years of fixed-term imprisonment and be deprived of his political rights for [a further] two years. It is decided that he shall serve seven years of fixed-term imprisonment (the sentence shall run from 28 May 1989 to 27 May 1996) and shall be deprived of political rights for [a further] two years.

Should this verdict be contested, an appeal petition, in duplicate, may be submitted to this tribunal, within 10 days from the day following receipt of this verdict, for the Beijing Municipality Higher People's Court [to hear an appeal²].

Chief Judge	Ding Fengchun
Judge	Zheng Weiyang
Acting Judge	Bai Xibin
[Seal of the Beijing Municipality Intermediate People's Court]	
	21 July 1992
Clerk	Xu Jiming

² Bao Tong appealed to the Beijing Higher People's Court, which on 6 August 1992 upheld the Intermediate Court's verdict.

The Beijing Intermediate People's Court's verdict against Bao Tong.