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**CHINA**  
**ACTION FOR WRITERS AND JOURNALISTS:**  
**APPEAL CASES**

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PHOTOGRAPHS /

## AN APPEAL FOR ACTION

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*“The right to freedom of opinion and expression...is both a civil right, in its capacity of protecting this sphere of life of the individual against undue infringements of the State, and a political right in its capacity of guaranteeing the participation of the individual in political life, including that of State institutions”* (Report of the UN Special Rapporteur on Freedom of Expression, 51st Session of the Commission on Human Rights, December 1995).

**Xi Yang**

Photograph box of Xi Yang, (C) D. Lee, HKJA

Xi Yang was sentenced to 12 years' imprisonment in 1994 for disclosing confidential information about the People's Bank of China. Following his trial, he was jailed at Beijing Prison No.2.

Xi Yang, a Chinese citizen and reporter for the Hong Kong newspaper *Ming Pao*, was detained by plainclothes officers of the Beijing municipal State Security Bureau on 27 September 1993. He was charged on 7 October 1993 with “spying and prying into state secrets on banking”.

Xi Yang was accused of having obtained confidential information about financial matters from Tian Ye, an employee of the People's Bank of China. According to official sources, this information concerned the bank's plans for modifications of interest rates and its policy on international gold transactions. Xi Yang was further accused of publishing this information in “a Hong Kong publication”, which “caused serious damage to the national economy”. Official sources have never described the nature and extent of the damages made to State interests, despite an unusually high number of articles about the case in the official press. Nor did they ever indicate which article(s) in “a Hong Kong publication” was incriminating. According to sources in Hong Kong, the accusations refer to an article published on 28 July 1993 in the *Ming Pao*, which mentioned the bank's re-organization and cited a Chinese official as making comments on a possible intervention on the international gold market and the unlikelihood of a raise in deposit interest rates in the near future. Most of this information had already been publicized or debated in Hong Kong.

Xi Yang was held incommunicado during the whole judicial process, apart from a 30-minute meeting with his father during which they were not allowed to talk about his case. In this and other respects, the judicial proceedings against him were grossly unfair.

In contravention of international standards for fair trial, Xi Yang was tried in secret, together with co-accused Tian Ye, on an unknown date. The verdict against them was passed on 28 March 1994 at a closed court hearing. This violates the provisions of Chinese law according to which the verdict should be announced in public “in all cases”. Xi Yang did not have a defense lawyer at his trial. A previous court hearing of the case took place on 24 January 1994, at which he had no legal representation either. On that occasion, the court sent the case back to the procuracy for “supplementary investigation”, which indicates that the evidence against him may have been inconsistent or insufficient to convict him.

Xi Yang was sentenced to 12 years' imprisonment plus deprivation of political rights for a further two years. He appealed against the verdict and pleaded not guilty, hiring two defense lawyers to represent him in the appeal. This raises doubts as to whether he freely chose to plead guilty at his trial as claimed by official sources, and was given the opportunity to hire a lawyer for it. His employer, the *Ming Pao*, had

engaged a lawyer for him after he was indicted, but was unable to find out whether Xi Yang was informed of this by the judicial authorities. Xi Yang's appeal was rejected and the original sentence upheld in April 1994.

According to unofficial sources, his lengthy sentence resulted from interventions by high level political authorities, in order to make an example of the case and prevent further leaks of information considered to be sensitive. **In light of all the information available about Xi Yang's case and of the sweeping provisions and scope for abuse of the state secrets legislation, Amnesty International considers that Xi Yang's prosecution was arbitrary and that this imprisonment has been motivated by political factors. AI believes he is a prisoner of conscience and should be immediately and unconditionally released.**

## WHAT YOU CAN DO:

1. Publicize the case of Xi Yang
2. Write letters of concerns and appeals for the immediate release of Xi Yang to the authorities below:

### **Minister, Ministry of State Security**

Jia Chunwang, Buzhang  
Guojia Anquan Bu  
14 Dong Changan Jie  
Beijing Shi  
Zhongguo 100741

### **Minister, Ministry of Justice**

Xiao Yang, Buzhang  
Sifa Bu  
11 Xianguang Li  
Sanyuangiao, Chaoyang Qu  
Beijing Shi  
Zhongguo 100016

Express concern that :

- state secrets are ill-defined in Chinese law and the vagueness of the legislation is open to misuse for political purposes;
- the judicial proceedings against Xi Yang, including prolonged incommunicado detention and trial *in camera*, were unfair, contravening international standards for fair trial process;
- the detailed information available about the case indicates that Xi Yang's prosecution was politically motivated, to make this an exemplary case to other journalists;
- the authorities have not demonstrated that the information he allegedly leaked posed a threat to a legitimate national security interest.

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## Wu Shishen and Ma Tao

Wu Shishen is currently serving a sentence of life imprisonment and deprivation of his political rights for life for “selling state secrets”. He is being held at Beijing Prison No.2. Ma Tao, who is believed to be Wu Shishen’s wife, was sentenced to six years’ imprisonment, with deprivation of political rights, for one year for allegedly assisting Wu Shishen. She is being held at Yanqing Prison in Beijing.

## Artwork by Lin Muchen

Wu Shishen, a sub-editor for the domestic news department of the *New China News Agency (Xinhua)*, was apprehended in Beijing in October 1992 and accused of giving an advance copy of an important speech by the Secretary General of the Chinese Communist Party (CCP), Jiang Zemin, to a Hong Kong journalist of the *Express*, Leung Waiman. Ma Tao was accused of having forwarded the text of the speech to Leung Waiman. Wu and Ma allegedly received the sum of 5000 yuan in Foreign Exchange Currency from Leung. *Xinhua* is the official Chinese news agency in China.

According to Hong Kong press reports, the harsh sentence given to Wu was as a result of direct pressure by CCP Secretary General Jiang Zemin whose speech was published in Hong Kong one week prior to the CCP congress as a result of this leak. The Hong Kong newspaper *South China Morning Post* stated that the judicial authorities had originally suggested a 10 year sentence for Wu but Jiang Zemin reportedly insisted on a heavier sentence. Wu Shishen and Ma Tao were tried in secret and sentenced on 30 August 1993. According to Chinese official sources, both had lawyers “to defend them in court” but they reportedly pleaded guilty.

The text of the speech in question dealt with issues of politics and policy, and not with issues which could be legitimately considered as matters of national security.

Since the trial was held in secret, there is no way of knowing whether the allegation that Wu Shishen accepted money in return for releasing a copy of the speech was substantiated in court. The money alleged to have changed hands was not that large an amount - about US \$700. While the allegation, if true, might justify a conviction on a charge of bribery or corruption, a life sentence, such as that imposed on Wu, would clearly be disproportionate.

On the basis of the available information, and given the arbitrary manner in which the state secrets legislation is applied in China, AI considers that Wu Shishen and Ma Tao are possible prisoners of conscience, their imprisonment motivated by political factors and as a result of an arbitrary restriction on their right to freedom of expression.

## **WHAT YOU CAN DO :**

1. Publicize the case of Wu Shishen and Ma Tao
2. Write letters of concerns and appeals to the Chinese authorities below:

### **Minister, Ministry of State Security**

Jia Chunwang, Buzhang  
Guojia Anquan Bu  
14 Dong Changan Jie  
Beijing Shi  
Zhongguo  
100741

### **Minister, Ministry of Justice**

Xiao Yang, Buzhang  
Sifa Bu  
11 Xianguang Li  
Sanyuangiao, Chaoyang Qu  
Beijing Shi  
Zhongguo  
100016

In your letters,

- ask the Chinese authorities for information which would substantiate the allegation that Wu Shishen and Ma Tao received money for releasing the text of the speech;
- call for an immediate review of the case by a judicial body offering the minimum guarantees of independence and impartiality;
- if sufficient grounds exist to implicate Wu Shishen and Ma Tao in selling confidential information, they should be charged with a recognizable criminal offence appropriate to those allegations and retried in a fair procedure that is in accordance with international standards. Any sentence resulting from such a retrial should be proportionate to the offence.

You should also express concern that:

- the extremely harsh sentence against Wu Shishen for his alleged offence is reported to have been the result of political interference at the highest level of the CCP;
- Wu Shishen and Ma Tao were convicted and sentenced after a trial which was not in accordance with international standards for a fair trial.
- the speech in question did not deal with matters which, under international standards, could be legitimately considered a matter of national security;
- “state secrets” are ill-defined in Chinese law and the vagueness of the legislation is open to misuse for political purposes and to suppress and punish the legitimate exercise of the right to freedom of expression.



## WHAT YOU CAN DO :

1. Publicize the case of Wu Shishen and Ma Tao as examples of the arbitrary way in which the law can be applied in China.
2. Write letters of concerns and appeals to the Chinese authorities below:

### **Minister, Ministry of State Security**

Jia Chunwang, Buzhang  
Guojia Anquan Bu  
14 Dong Changan Jie  
Beijing Shi  
Zhongguo  
100741

### **Minister, Ministry of Justice**

Xiao Yang, Buzhang  
Sifa Bu  
11 Xiaguang Li  
Sanyuangiao, Chaoyang Qu  
Beijing Shi  
Zhongguo  
100016

express concern that:

- the extremely harsh sentence against Wu Shishen for his alleged offence is reported to have been the result of political interference at the highest level of the CCP;
- Wu Shishen and Ma Tao were convicted and sentenced after a trial which was not in accordance with international standards for a fair trial. They should be granted a new fair and open trial, in accordance with these standards, or released;
- the authorities have failed to prove how the information disclosed had threatened the national security of the People's Republic of China;
- "state secrets" are ill-defined in Chinese law and the vagueness of the legislation is open to misuse for political purposes.

# AN APPEAL FOR ACTION

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## Bai Weiji and Zhao Lei

Photograph box of Bai Weiji and Zhao Lei

Bai Weiji and Zhao Lei, husband and wife in their thirties, are currently serving sentences of respectively 10 and 6 years imprisonment for “illegally providing state secrets to a foreigner”. Bai was apprehended from his home in Beijing on 5 May 1992. Nearly one year later, on 21 April 1993, Zhao Lei was also apprehended. The couple were tried *in camera* and sentenced on 20 May 1993 by the Beijing Intermediate People’s Court. The sentences were upheld by a higher court in July 1993.

Bai was accused of having obtained internal documents from Chinese friends and of giving them to Lena Sun, then Beijing correspondent for the *Washington Post*. On 17 May 1992, the police raided her office and confiscated what they said were secret documents. Lena Sun was briefly detained for interrogation. In a press article published later, Lena Sun acknowledged receiving documents from Bai but says the documents included only economic reports, foreign policy analyses and speeches by Chinese leaders, none of which could be considered as “state secrets”. The authorities have never provided any information to show that the alleged “secret” information concerned a legitimate matter of national security.

Bai, born on 9 October 1959, had known Lena Sun since 1977, when they were classmates at university in Beijing. After graduating in 1981 Bai worked at the General Office of the Chinese Communist Party (CCP) before becoming an employee of the Foreign Ministry’s Information Department where his main duties were to monitor the foreign press and prepare news summaries for ministry officials. In 1989, during the pro-democracy protests, he helped organise younger employees in the ministry to march to Tiananmen square. As a result Bai lost his job and his CCP membership in 1990.

Zhao Lei was accused of having translated some of the documents allegedly passed on to Lena Sun and her heavy sentence was passed on that basis only.

## **WHAT YOU CAN DO :**

1. Publicize the cases of Bei Weiji and Zhao Lei as examples of cases where China's "state secrets" laws are being used to repress fundamental freedoms.
2. Write letters and appeals to the Chinese authorities below:

### **Minister, Ministry of State Security**

Guojia Anquan Bu  
14 Dong Changan Jie  
Beijing Shi  
Zhongguo  
100741

### **Minister, Ministry of Justice**

Xiao Yang, Buzhang  
11 Xianguang Li  
Sanyuangiao, Chaoyang Qu  
Beijing Shi  
Zhongguo  
100016

ask for the immediate and unconditional release of Bai Weiji and Zhao Lei and express concern that:

- the authorities have never provided any evidence that the alleged "secret" information at issue in the case of Bai Weiji and Zhao Lei concerned a legitimate matter of national security.
- Bai Weiji and Zhao Lei are imprisoned for the peaceful exercise of their right to freedom of opinion and association.
- they were tried in secret and did not have a fair trial in accordance with international standards.

particular, that Bai Weiji was held incommunicado for over one year before he was brought to trial.