

URGENT ACTION

HIV/AIDS ACTIVIST AT RISK OF ILL-TREATMENT

HIV/AIDS activist Tian Xi was tried on 21 September in Henan Province, China. A verdict was expected on 15 November, instead his trial has been suspended for an unknown period. Tian Xi remains in custody and is at risk of ill-treatment. Poor nutrition and uncertain access to essential medication risk compromising his health.

Tian Xi's trial began on 21 September at Xincai County People's Court and lasted for three-and-a-half-hours. In court, he appeared pale and weak. Instead of a verdict, Tian Xi's lawyer Liang Xiaojun received a notice on 16 November which stated that his trial had been suspended in accordance with Article 181 of the Supreme People's Court's Interpretation of Certain Implementation Issues on the Criminal Procedure Law (SPC 1998 interpretation).

This article allows for suspension of a trial should the defendant or plaintiff become seriously ill, or other uncontrollable events make it impossible to proceed. The Court has not elaborated further on the reason for suspension in this case. Chinese law is unclear on whether a defendant in a suspended trial should be released on bail. Moreover, the SPC 1998 Interpretation sets no time limit for the suspension period and excludes it from the legal time limits set for running a trial. The defendant also cannot appeal against the decision to suspend a trial but has to wait until the court decides to resume. This is a legal loophole that Tian Xi's lawyer says leaves him detained in "limbo waiting for a judgement that may never come".

During a recent visit by his lawyer Tian Xi appeared weak but in good spirits. Inmates are fed with meat and vegetables only once a month. For now he is relying on personal supplies of medication.

PLEASE WRITE IMMEDIATELY in Chinese, English or your own language:

- urging the authorities to clarify Tian Xi's legal status
- calling on them to guarantee his right to fair trial in line with international standards, including right to a trial within a reasonable time or to release from detention and to protect him from torture and other ill-treatment
- calling on them to ensure that he has access to lawyers of his choice, his family, adequate nutrition and all medical care he may require
- urging the authorities to order an impartial investigation into allegations by Tian Xi and others that they contracted HIV/AIDS, hepatitis B and hepatitis C through blood transfusions conducted in state hospitals using blood from government-sanctioned blood collecting stations, and to review policies on compensation for those infected as a result of poor practice in blood collection.

PLEASE SEND APPEALS BEFORE 11 JANUARY 2010 TO:

Head of Xincai County People's
Government

Wang Jingfeng Xianzhang
Xincaixian Renmin Zhengfu
1 Zhengfujie
Xincaixian 463500
Henansheng,
People's Republic of China

**Salutation: Dear Head of Xincai
Government**

Director of the Xincai County
Department of Public Security

Bian Fenglu Juzhang
Xincaixian Gong'anju
Shenglijie, Guluzhen
Xincaixian463500
Henansheng
People's Republic of China

Salutation: Dear Director

And copies to:

Governor of the Henan Provincial
People's Government
GUO Gengmao Shengzhang
Henansheng Renmin Zhengfu
10 Wei'erlu, Jinshuiqu
Zhengzhoushi 450003
Henansheng
People's Republic of China
Fax: +86 371 65506097

Salutation: Dear Governor

Also send copies to diplomatic representatives accredited to your country. Please check with your section office if sending appeals after the above date. This is the first update of UA 190/10 (Index ASA 17/036/2010, 1 September 2010). Further information:

<http://www.amnesty.org/en/library/info/ASA17/036/2010/en>

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ADDITIONAL INFORMATION

Tian Xi was detained on 17 August, to stop him lobbying the authorities on behalf of people infected with HIV through official malpractice. Tian Xi himself contracted HIV, hepatitis B and hepatitis C through a blood transfusion in 1996 when he was nine years old.

According to internal local government documents found by other activists, the police decided to arrest Tian Xi early in March 2010 to prevent him from lobbying the hospital where he had contracted HIV for compensation for himself and others infected through blood transfusions there.

On 23 August, Tian Xi was charged with “intentionally damaging property” in reference to hospital cups and other materials that he pushed off a hospital Principal’s desk on 2 August when he went again to the hospital to speak about compensation. The Principal had refused to address his concerns and physically rebuffed him.

During his trial on 21 September, Tian Xi spoke emotionally stating that “I knew what would be the consequences of my behaviour but, for the poor victims of HIV/AIDS, I also knew that I needed to face the consequences. I am young person living with HIV/AIDS, I don’t want to spend my whole live petitioning in vain.”

Tian Xi’s parents attended the trial. His mother wore white - the colour for mourning, often worn at funerals - as a sign of protest against the trial. At the end of the hearing, the police escorted her out of the court room, however, she suffered a heart attack in the police car and had to be taken to hospital. After a rest, she was able to return home.

Plain-clothed police took away the video camera of another activist and independent film-maker who was filming the protestors and the police who had gathered outside the Court. A legal scholar who tried to attend the trial was beaten outside the Xincai County People’s Court.

Further information on UA: 190/10 Index: ASA 17/045/2010 Issue Date: 2 December 2010

