

People's Republic of China

The Olympics countdown - three years of human rights reform?

"...Olympism seeks to create a way of life based on the joy found in effort, the educational value of good example and respect for universal fundamental ethical principles."

Olympic Charter, Fundamental Principles, paragraph 2

In three years, on 8 August 2008, the Olympic Games will begin in Beijing. Amnesty International is calling on the Chinese authorities to make good on their promise to improve the human rights situation in their country if China were chosen to host the 2008 Games. In April, 2001, Liu Jingmin, Vice President of the Beijing 2008 Olympic Games Bid Committee stated "(b)y allowing Beijing to host the Games you will help the development of human rights." Liu Qi, mayor of Beijing also pledged that by hosting the games, social progress and economic development in China would move forward, as would China's human rights situation. Officials of the International Olympic Committee (IOC) have also made clear their expectation that human rights in China should improve as a result of Beijing being chosen to host the Games. The revision of China's constitution in March 2004 to include the clause "the state respects and safeguards human rights" suggests an intent on the part of Chinese authorities to take seriously the task of improving human rights in China.

Despite these promises, serious violations of human rights continue in China. These include violations of human rights experienced by Chinese citizens that are linked to China's preparation for the Games, such as the imprisonment of individuals who have sent open letters to the IOC calling for improvements in China's human rights, the forcible eviction of thousands of Beijing residents from their homes, many illegally, in the city's preparation for the Games, and intensified suppression of groups that the authorities fear may embarrass the nation during the Games, to name a few. International human rights organizations still have extremely limited access to China to carry out research and other related human rights activities.

The Chinese authorities should honour the pledges they made to improve human rights in their country if awarded the bid. International human rights standards, as well as the spirit of Olympism for which "safeguarding the dignity of the individual is a fundamental requirement", demand no less.

Amnesty International is today setting out, as a component of a broader agenda of concerns relating to China's human rights record, a set of realistic, practical, steps that are within the authorities' ability to implement in the three years remaining before the 2008 Games that would bring government practice closer in line with international human rights standards and the ideals of the Olympic Charter. Amnesty International will be monitoring and reporting on progress in these areas over the next three years.

Abolition of the death penalty and reform of the judicial system

Amnesty International believes that China's continued use of the death penalty negates the 'preservation of human dignity' that Beijing as the Olympic host city has committed to uphold. This undermining of the spirit which the Olympic Games seek to promote is sadly illustrated by the government's decision to put out to open tender, under the banner "New Beijing, New Olympics: The Opportunity for China and the World", an execution chamber where those sentenced to death by the Beijing High People's Court would be killed by lethal injection. Amnesty International opposes the death penalty in all cases as a violation of the right to life and as the ultimate cruel, inhuman, and degrading punishment.

The extensive use of the death penalty is particularly disturbing in light of systemic flaws in China's judicial system, including the absence of an independent and impartial judiciary and frequent direct interference from external political actors, widespread use of torture in the pursuit of forced confessions, severe problems with access to justice particularly in rural areas, as well as extensive corruption among judges and other legal personnel, fuelled in part by the lack of transparency in judicial proceedings. Recent revelations regarding miscarriages of justice in death penalty cases give a further sense of urgency to the need for judicial reforms.

A partial list of judicial reforms which Amnesty International considers essential for China to take in the next three years in order to move towards a more transparent and equitable judicial system – some of which have been announced by the Chinese authorities but have yet to be implemented – includes the following:

Pending the final abolition of the death penalty, Supreme Court final review of all death sentences should be re-introduced, the range and types of crimes punishable by the death penalty should be reduced, including elimination of the death sentence for non-violent crimes, and national statistics on death sentences and executions should be made public. Particularly in light of systemic problems in China's judicial system – which are recognized by the government and scholars alike – a moratorium should be imposed on all executions.

Measures to bring independence to the judiciary should begin with the abolition of the system of Political and Legal Commissions which institutionalizes the supremacy of Chinese Communist Party policy over the law. The system of court presidents and court adjudication committees, which further undercuts the autonomy of judges, also needs reform. Existing systems of evaluating judicial performance, such as the system of case closure rates, tend in practice to distort judicial responsibility *vis-à-vis* defendants and to fuel corruption, and are thus in need of reform. A commitment of even greater resources – for the training and compensation of judges, is also required to attract and train qualified judicial personnel.

Greater transparency in judicial proceedings would significantly assist in rooting out corruption and miscarriages of justice that are endemic in China today. Further strengthening of the legal aid system – which has experienced significant improvements in recent years – should be a priority. This is particularly important in rural areas where residents' lack of access to the justice system remains a serious problem.

Significant steps should be taken towards the abolition of all remaining forms of arbitrary detention, including China's system of "Re-education through Labour" (RTL), which permits individuals to be incarcerated up to four years without charge, with no access to a lawyer, with no trial or hearing at which to defend themselves, and without judicial review. RTL contravenes various international human rights standards including the Universal Declaration of Human Rights (UDHR), the UN Body of Principles for the Protection of All Persons under any form of Detention or Imprisonment, and the International Covenant on Civil and Political Rights (ICCPR). In particular, RTL contravenes Article 9 of the ICCPR which prohibits arbitrary detention, and Articles 8 (3) (a) and (b) which prohibit forced or compulsory labour unless imposed as a punishment for a crime by a competent court.

Freedom of expression

The ICCPR, which China has signed and declared an intention to ratify, states in Article 19 that everyone shall have the right to freedom of expression, which shall include freedom to seek, receive and impart information and ideas of all kinds. This right is recognized in Article 35 of China's constitution which states that citizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration. Wang Wei, the Secretary General of the Beijing 2008 Olympic Games Bid Committee, acknowledged these universally recognized freedoms when he promised full freedom to the media to report on the Olympics if China won the bid.

As host of the Olympic Games Beijing should not only make good on its promise to allow freedom of the press during the Games but must work towards making this a freedom enjoyed on a permanent basis within China.

Regretfully the Chinese authorities have in practice restricted the ability of Chinese citizens to fully enjoy freedom of expression, of the press, and of information, and have launched a succession of campaigns against individuals and groups who seek to express opinions through the media, resulting in long sentences for individuals for nothing more than having peacefully exercised these rights.

To demonstrate commitment to upholding these rights as enshrined in its constitution and in international treaties Amnesty International considers the following measures as essential, although not comprehensive, steps the Chinese authorities need to take in the lead-up to the 2008 Olympics:

The Chinese authorities should release all prisoners of conscience. Among numerous others, this would include **Huang Jinqiu**, writer and journalist, who was detained in September 2003 and later sentenced to 12 years imprisonment on charges of "subversion". Prior to his arrest, Huang regularly contributed essays to the Boxun.com website, and in January 2003 announced online his plans to establish a China Patriotic Democracy Party.

Chinese laws need to be redrafted to eliminate vaguely defined public order and national security offences. Contrary to international standards, the lack of precision in current

provisions creates uncertainty about what conduct is prohibited. Meanwhile these vague provisions can and have been used to criminalize peaceful exercise of freedom of expression and association. Regular prosecutions under vaguely defined crimes such as divulging state secrets or inciting subversion, often resulting in lengthy prison sentences of ten-plus years, have also had the effect of encouraging a system of self-censorship among China's internet users and other media organizations, which further denies Chinese citizens full enjoyment of these rights.

The complex and opaque system of control, surveillance and censorship that the Chinese authorities have developed in practice inhibits the full realization of freedom of expression and of the press.

A preliminary measure to reform this structure of political control would be the elimination of the requirement that all media organizations – including print, publishing, and internet service providers – have a government sponsor to obtain a license. In practice, this measure has been used as a channel of political control over the press through the use of intimidation and the threat of license revocation.

The vast and increasingly sophisticated system of internet censorship the Chinese authorities have developed has similarly served in practice to inhibit full freedom of expression and information that the internet promises. This includes such programs as the “Golden Shield”, through which the Chinese government has intensified its technical capacity to monitor the internet and to conduct surveillance of the activities of individual internet users. The blockage of internet sites that focus on democracy, human rights, and other topics deemed unacceptable to the leadership and the filtering of sites and based on keywords such as “democracy”, “human rights”, and “freedom” is a restriction of the universally recognized rights to freedom of information and expression and cannot be justified under international standards.

An essential step that the Chinese government should take to dismantle this system of censorship is to remove the requirement that domestic and foreign internet companies sign a pledge of self-censorship and that internet cafes verify the identities of their patrons before allowing them internet access.

Freedom of association

Freedom of association – the freedom to form associations with like-minded citizens – is a right recognized in the UDHR and enshrined in the ICCPR. It is also a right recognized in China's constitution.

Regretfully, however, government authorities have in practice also placed serious restrictions on the ability of Chinese citizens to enjoy this right. Numerous groups, including workers, religious groups, and democracy activists have been prevented from forming and participating in peaceful associations of like-minded individuals and their members have often been subject to harsh campaigns of suppression resulting in lengthy prison sentences. Chinese workers are prevented from forming and joining labour unions of their choice.

A growing number of labour rights activists have been imprisoned for simply exercising universally recognized rights to peaceful assembly and should be released. For example, **Yao Fuxin** and **Xiao Yunliang**, were sentenced to seven and four years' imprisonment respectively in May 2003 after being convicted for "subversion" for their involvement in organizing protests in Liaoyang city in Liaoning Province in northeast China in which workers took to the streets demanding back pay and lost benefits and protested against corruption and mismanagement at their factories. This was after workers had spent four years seeking redress for their grievances. The deprivation of liberty of Yao Fuxin was deemed by the United Nations Working Group on Arbitrary Detention to be arbitrary and to have contravened articles of international human rights covenants and declarations, including those protecting the freedom of opinion and expression and the right of peaceful assembly.

The Chinese government should also strengthen its protection of the freedom of association in the lead-up to the 2008 Olympics by removing its reservation against Article 8.1 (a) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) relating to the right to form or join trade unions of one's choice, a reservation taken ostensibly because it was not deemed 'necessary' in light of existing promises for these rights in Chinese law. The Chinese government should also ratify Conventions 87 and 98 of the ILO on freedom of association, the right to organize, and the right to collective bargaining.

Freedom from forced eviction

While the Chinese authorities promote the Beijing Olympics as a showcase of the country's social and economic progress and as symbol of China's greater international recognition, activities in preparation for the Games have regrettably undermined core social and economic rights recognized in the ICESCR, which China has ratified.

According to officials from the Beijing Olympic project's construction headquarters 6000 families have been affected by preparations for the Games, although Amnesty International believes the actual number to be much higher. Many of these have been evicted without full procedural protection or due process and without adequate compensation. In addition, individuals have been arrested and imprisoned simply for peacefully protesting evictions from their homes. **Ye Guozhu**, for instance, was detained in 2004 and sentenced to four years imprisonment for having protested the razing of his home and two restaurants he owned. In 2004 Ye Guozhu had sought permission to organize a demonstration with other petitioners against the forced evictions, action that was labelled "disturbing social order".

Forced evictions – those carried out without appropriate legal protection – are a violation of human rights including the right to adequate housing established in the ICESCR. Amnesty International calls on the Chinese government to stop any forced eviction of individuals from their homes carried out without full procedural protection, due process, government provision of adequate alternative accommodation for those unable to provide for themselves, and adequate compensation for any property affected. The organization further calls on the Chinese government to provide adequate compensation to those individuals who have already been evicted from their homes.

Justice for the victims of the 1989 Tiananmen crackdown.

Beijing's international reputation remains deeply tarnished by the actions of the armed forces when they fired on unarmed demonstrators in and around Tiananmen Square in June 1989. Dozens of people are believed to remain in prison in connection with the protests, and others continue to be imprisoned for publicising information related to the crackdown or simply calling for an inquiry and an end to impunity for official actions at the time. Professor Ding Zilin, whose 17-year-old son, Jiang Jielian was shot dead in Beijing in 1989 and who established the "Tiananmen Mothers" group to campaign for justice, continues to be subjected to regular harassment, including lengthy periods of surveillance or "house arrest" at her home in Beijing. Ding Zilin has said she fears massive construction in preparation for the 2008 Olympics would make it "extremely difficult to find even one more trace" of those killed by the armed forces in 1989.

Among the dozens imprisoned for publicizing information related to the 1989 crackdown is **Shi Tao**, a 36-year old writer, poet and journalist who was sentenced in April 2005 to 10 years imprisonment on charges of "illegally divulging state secrets abroad". The basis of this charge was reported to be his posting to overseas medial contacts the contents of a government order barring media organizations in China from marking the 15th anniversary of the Tiananmen crackdown.

The Chinese authorities should respond positively to calls by domestic and international human rights activists to conduct a full, public inquiry into the events of 3-4 June 1989 with a view to bringing the perpetrators of unlawful killings and other human rights violations to justice and providing compensation for the victims or their families. The authorities should release all those who remain in prison in connection with the crackdown on the pro-democracy movement in 1989 as well as those who have been detained or imprisoned more recently in connection with their peaceful activities in calling for an inquiry into the crackdown.

While Amnesty International has broader human rights concerns in China, the organization will be monitoring the Chinese government's progress closely in these particular areas over the next three years given their direct connection with its hosting of the Olympics and the lives of citizens residing in the capital city.

Amnesty International will be urging the IOC and the wider Olympic movement to work with the organization's worldwide membership and in solidarity with human rights activists within China to press for concrete and positive human rights reform in China before August 2008.