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CHINA

Death penalty continues to expand in 1995

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In the first six months of 1995, Amnesty International recorded 1865 death sentences and 1313 executions in China. Amnesty International believes that these figures, based on a limited number of reports, are far below the actual number of death sentences passed and executions carried out during that period. Although some death sentences and executions are publicised, the Chinese authorities do not publish statistics about the death penalty - these are treated as "state secrets".

Amnesty International recently issued a report *China: Death penalty log: January to June 1995*, published in December 1995 (ASA17/94/95) which gives a chronological listing of accounts of death sentences and executions in China monitored by Amnesty International for the period January to June 1995. It is based on reports from various sources, including from the official Chinese media. Amnesty International is not in a position to assess the accuracy of each report. Its findings also bring up the total death sentences recorded for the whole of 1994 up to 2783 and recorded executions to 2050.

Amnesty International opposes the death penalty unconditionally, on the grounds that it constitutes the ultimate form of cruel, inhuman and degrading punishment and is a violation of the right to life as proclaimed in the Universal Declaration of Human Rights and other international human rights instruments.

Amnesty International is concerned about many aspects of the use of the death penalty in China, including the lack of safeguards to avoid miscarriages of justice. The procedures for trial in death penalty cases are often summary. Once convicted and sentenced to death, the defendant has the right to appeal to a higher court. In practice this right is often either ignored or waived by the defendant who is executed after the first court decision is confirmed. If an appeal is made a higher court receives the case files together with a submission by the defendant or lawyer (the appeal process does not include another court hearing). The condemned prisoner is usually told of the failure of his appeal only hours or immediately before his execution. In violation of UN standards, Chinese law does not allow those sentenced to death to seek pardon or commutation of the sentence.

Further expansion in the scope of the death penalty

68 offences are punishable with the death sentence in China, including many non violent crimes, such as bribery and illegal share speculation. Other non-violent offences punishable by death include 'grave' cases of embezzlement, theft, arson, smuggling, spreading superstition, hooliganism, pimping, gang fighting as well as 'giving away military secrets' and some 'counter revolutionary' offences.

In May 1995, discussions began over the expansion of the death penalty to include illegal financial manipulation. The Decision on Punishing Criminals Charged for Disrupting Financial Order was adopted on 30 June 1995 by the National People's Congress. It increases the maximum penalty for this crime from life imprisonment to death. The offences punishable by death would include counterfeiting, cheating people of their deposits, defrauding banks by forging documents or making bogus insurance claims ¹. With the growth of the financial sector in China and its increasing importance to the economy of China such crimes have risen dramatically. According to a Chinese National People's Congress official, in some localities more than half the major crime cases were connected with financial irregularities ²The 22 article Decision targets offenders in seven major categories - however according to an official with the Legal Affairs Commission of the National People's Congress Standing Committee the new law will first be targeted at those involved in producing fake money. The other major area is directed at those who fraudulently open bank accounts or forge bank documents. Also included will be people charged with faking accidents to claim insurance ³. Foreign investors were warned by Hong Kong analysts that this extension of the death penalty could also apply to them as it could include all people related to the alleged crime.

It was reported that in November 1995 a new law was published which increased the maximum penalty for serious value-added-tax (VAT) fraud from life imprisonment to a death sentence. The severity of the case is reported to be determined by the amount of money involved.⁴

A spokesman from the Chinese National Environmental Protection Agency reported on a new law which was 'soon' to be passed. The new law would make the crime of 'Jeopardising the environment' punishable by death. It was stated that 'Those units or individuals who cause serious pollution will be sentenced to imprisonment or even death'. ⁵

Executions in China are usually carried out by a shot in back of the head. In the past six months there has been some debate in China over the possible adoption of lethal injections replacing bullets in carrying out executions. One jurist is reported to have said that "with lethal injections we

¹South China Morning Post 6.5.95

²China Daily 5.5.95

³China Daily 5.5.95

⁴Reuters 1.11.95

⁵South China Morning Post 19.11.95

still insist on the severe punishment of those who have committed atrocious crimes, and we also embody the socialist humanitarian spirit" ⁶

Economic and non-violent crimes

The death penalty continues to be used for economic crimes. For the first six months of this year Amnesty International has recorded 74 death sentences imposed for economic crimes including corruption. In Sichuan province for example, eight people were sentenced to death for corruption in the first six months of 1995 ⁷ Those sentenced to death include a former executive of a listed company in Shanghai who was sentenced in May 1995 to the death penalty, six people in Shenzhen who were executed in February for the buying and selling of fake invoices in Shanghai's largest stock market corruption case for two years.

Officials claimed to have solved 18,700 cases of corruption in January and February 1995 ⁸. In 1994, official sources in Guangxi said that nearly 20 per cent of all the region's economic crimes were committed by state officials ⁹. In Guangdong province for example 1,034 people were investigated for corruption in the first six months of 1995 ¹⁰. In Shanghai alone there were over 30,000 economic cases handled by the courts in 1994.

In the first months of 1995 the Chinese authorities have been clamping down on the use of fake receipts which are often used for tax evasion. The government has been passing severe sentences to people engaged in this activity including the death penalty. For example, in February four people were executed and another 14 given sentences ranging from two years' to life imprisonment for selling fake receipts in the special economic zone of Shenzhen ¹¹.

There has been a large number of cases where people have been sentenced to death for the **illegal trafficking** of women and children. This occurs primarily in the poor rural areas which often have a shortage of resident women. According to incomplete official figures in 1993 and 1994, the police solved 33,143 cases of abduction and arrested almost 50,000 suspected traders in human beings ¹². Other sources give the number of women rescued in 1993 and 1994 as 40,000 ¹³. In Sichuan province five people were sentenced to death for their involvement in the largest case of baby trade since 1949. In the light of concern over the trade in human beings, there has been discussions in China about the introduction of penalties for those who buy brides and children as well as the existing penalties for those involved in the selling of women and children.

⁶South China Morning Post 18.1.95

⁷South China Morning Post 10.8.95

⁸Foreign Broadcast Information Service 19.9.95

⁹Foreign Broadcast Information Service 7.3.95 (China news Agency 22.2.95)

¹⁰Foreign Broadcast Information Service 14.7.95

¹¹South China Morning Post 14.2.95

¹²Foreign Broadcast Information Service 5.4.95 (Peoples Daily 30.3.95)

¹³China Rights Forum, Fall 1995 p25

This year there have been several major crackdowns on the trafficking in women and children. Police in Guangxi province carried out such a campaign and arrested over 40 traders ¹⁴. In Inner Mongolia a special investigation into this crime led to the sentencing of 12 people and the release of almost 40 abducted women ¹⁵. In the first six months of 1995 there were up to 84 cases of people sentenced to death for this offence.

A large number of people continued to be sentenced to death for **drug offences**.

¹⁴Foreign Broadcast Information Service 7.3.95 (China Xinhua news Agency 16.2.95)

¹⁵Foreign Broadcast Information Service 9.2.95 (Inner Mongolian daily 22.1.95)

There were a total of 468 death sentences for drugs offences in the first half of 1995. The anti-drugs crackdown in Guangdong province is under the direct command of the Secretary of the Guangdong provincial committee of the Chinese Communist Party and the provincial governor¹⁶. This belies the notion that law and party are separate independent entities (as indeed does the existence of the 'crackdowns' themselves which are often a result of party directives and agendas).

On and around the International Anti Drugs Day, 26 June, over 100 people were executed for drugs offences. On 23 June 1995 in Kunming city, Yunnan province, 22 people involved in at least two separate cases, were executed. Since 1992, Kunming has launched six major offences against the drug trade. From the first of January to 15 February this year, Yunnan province proclaimed a 'war on drugs', one result of which was the execution of 16 people for drugs related offences. 15 new drug rehabilitation centres were built in Guangzhou city alone by August this year to cope with the drug problem¹⁷.

A growing number of people have also been sentenced to death for **car robbery and theft** from cars (official reports state that the number of car thefts have risen at an annual rate of 50 per cent¹⁸). The police launched a national crackdown on car thieves which lasted from March until May 1995. In Wuhan city, Hubei province, central China, the 10 March 1995 was reported to be "a day to celebrate" as the city 'struck hard' against car thieves and car robbers in Wuhan. In a public sentencing rally three car thieves were given the death penalty, three received life imprisonment and nine others received lesser terms of imprisonment for stealing from cars. According to information contained in the report, the defendants did not seem to have used violence against persons¹⁹. In Wuxi city, Jiangsu province in January 1995, Wu Hongyuan, aged 20, was executed for repeated theft of motorbikes²⁰.

In addition there were several reported cases of police and other security officials being given death sentences for the **torture and abuse of prisoners** and others in their custody. Procuratorial organs throughout China investigated 329 cases of illegalities involving security officials in the first five months of 1995²¹. In addition there were 27 judges and 185 prison wardens found guilty of abuse of power.

Anti-crime crackdowns and rallies

Public 'sentencing' rallies continue to play a part in the application of the death penalty in China. The first six months of this year has seen reported numbers of those attending such rallies to exceed 700,000. A recent trend has been the use of new technology to 'link up' courts and cities and hold simultaneous sentencing rallies, sometimes broadcast simultaneously on television.

¹⁶Foreign Broadcast Information Service 11.8.95

¹⁷Summary of World 15.8.95

¹⁸Foreign Broadcast Information service 5.5.95

¹⁹Wuhan Evening News 11.3.95

²⁰Jiangsu Legal News 11.3.95

²¹Summary of World Broadcasts **10.8.95**

Official reports said that crime in China rose over 15.5 per cent in 1994 compared to 1993 ²². In January 1995 Communist party leader Jiang Zemin and Premier Li Peng made a joint public appeal for police to intensify their 'war' against crime ²³. The continued use of such crackdowns gives rise to many concerns about the arbitrary use of the death penalty and the interpretation and use of the law in China. During an anti-crime crackdown in 1994 in Jiangsu province, for example, death sentences and suspended death sentences rose by 48.2 per cent and 24.2 per cent respectively over 1993 ²⁴.

Many anti-crime crackdowns occur in the months preceding Chinese New Year in January and February. In Qingdao city, Shandong province one such crackdown lasted three months and involved 4,300 cases ²⁵. Many provinces and regions hold sporadic crackdowns concentrating on the type of crimes which are perceived as a serious problem at a particular time. There is also a pattern of localised anti-crime campaigns which mobilise a large number of personnel over a very short time, concentrating usually on one or two types of crime targeted during the campaign. In Guiyang city for example, 4,000 public security and judicial cadres were involved in a campaign, which started on 20 March 1995 and lasted 15 days, against 'serious crimes' which resulted in the 'cracking' of 200 cases and the arrest of 138 people ²⁶. One local campaign in Guangdong province beginning on 19 December 1994 aimed to 'improve social order' led to the arrest of over 11,000 people.

The use of these campaigns and the intensity of the drive against targeted crimes often leads to an temporary increase in the application of the death penalty for certain crimes. Major examples include the 1995 crackdown on car thieves and the annual crackdown against drug trafficking detailed above which resulted in the periodic rise in the numbers of executions.

Amnesty International's concerns about the use of the death penalty in China are long standing and have been described in detail in a number of documents, including *China - Victims in their thousands : the death penalty in 1992*, published in July 1993 (AI Index : ASA 17/09/93), and *China : The use of organs from executed prisoners*, published in March 1995 (AI Index : ASA 17/01/95) and *The death Penalty: no solution to illicit drugs*, published October 1995 (AI Index: ACT 51/02/95).

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²²Reuters 13.2.95

²³South China Morning Post 14.2.95

²⁴Xinhua Daily Telegraph 21.2.95

²⁵Foreign Broadcast Information Service 29.6.95 (China News Agency 19.20.95)

²⁶Foreign Broadcast Information Service 5.4.95