

# PEOPLE'S REPUBLIC OF CHINA

## @Drugs and the Death Penalty in 1991

Amnesty International is very concerned about the continuing increase in death sentences and executions in China. The number of people sentenced to death and executed in 1990 rose to the highest yearly level since 1983. However, the organization has recorded even higher figures for 1991. According to Amnesty International's information, compiled on the basis of published data, there were more than 1,600 death sentences in 1991, 700 more than the previous year, and more than 1,000 executions, over 300 more than in 1990. It is probable that these figures drastically fall short of the actual number of death sentences, which according to Chinese officials is a "state secret". Unofficial sources suggest that up to 20,000 executions took place in 1991.

The rise in reported death sentences and executions during 1990 and 1991 has occurred in the context of successive anti-crime campaigns launched since the 1989 crackdown against pro-democracy protesters. Amnesty International believes that political interference in the work of the judiciary, such as that occasioned by the anti-crime campaigns, critically hampers the independence of the judiciary. The organization is concerned that such interference results in a large number of death sentences and executions for offences which at other times would be dealt with more leniently. One of the most active of the national campaigns launched in 1991 was against the abuse and trafficking of drugs and it is the background and results of this campaign that this document examines.

### **Anti-Drug Campaigns**

According to official figures there is a growing problem of drug abuse in China. When the People's Republic of China was established in 1950, massive nationwide anti-drug campaigns were launched which, by government accounts, succeeded within three years in "eradicating" opium from the country. The drug problem reportedly re-emerged in the mid-1980s and official statistics indicate there were at least 70,000 drug addicts by the end of 1989.

Many reported cases of drug abuse are in Gansu, Qinghai, Sichuan and Guizhou provinces, but most occur in the southern provinces of Yunnan and Guangdong, which are situated near the "Golden Triangle", the opium producing region where the borders of China, Thailand, Myanmar and Laos converge.

On 24 June 1991 a three-day conference was held in Beijing on drug control to mark the fourth International Drug Day and was attended by 200 delegates from all over China, as well as representatives from the United Nations Development Program and the World Health Organization. It was the first national forum on drug abuse in China since 1952. At the conference measures for preventing the spread of drug-related crimes and the need to strengthen international cooperation were discussed. Following the conference a nationwide

anti-drug campaign was launched aimed at eliminating drug trafficking and drug abuse within two to three years, an attempt to echo the target of the 1950s campaign. The campaign is being co-ordinated by the National Narcotic Control Commission (NNCC), headed by State Councillor, **Wang Fang**.

The government has declared "a people's war" on drugs and all public security bureau personnel have been ordered to "take tough action against traffickers". As part of the campaign, Yunnan and Guangdong provinces and a number of other key provinces and autonomous regions have established special anti-narcotic committees, comprising police and key industrial, commercial, customs and medical officials. According to **Yu Lie**, the Vice-minister of Public Security and the NNCC secretary general, a special unit of 1,300 police officers has been stationed in Yunnan province.

A course of action taken by the Guangdong provincial public security bureau during the present campaign has been the announcement of amnesty periods for drug offenders. In Guangzhou city, in Guangdong province, a circular was issued which declared an amnesty period from 20 June to 20 August 1991 during which time all those involved in drug-related activities who turned themselves over to the authorities would be treated "leniently". The circular went on to warn that severe punishment would be meted out to those who persisted in their illegal activities after the deadline. In Shenzhen city, also Guangdong province, a 46 day immunity from prosecution was offered to drug addicts in the beginning of August. The order went on to say that all addicts who came forward would not face prosecution, but would be subjected to medical treatment. The immunity did not cover "triad" members (those who belong to organized criminal gangs), but assured that those who did turn themselves in would be dealt with "leniently". Amnesty International does not have information on any persons who may have surrendered under these amnesties, or the specific terms of the punishments imposed on them.

### **Death Penalty Figures for Drug Offenders**

Despite periodic offers of amnesties, the Chinese government appears to have adopted a program of deterrence through the active use of the death penalty as one of the main means of dealing with drug offenders, particularly in Yunnan and Guangdong provinces. On the subject of drug abuse **Yang Ming**, director of the Education, Science, Culture and Public Health Committee of the Yunnan Provincial Congress and a member of the Standing Committee of the National People's Congress was quoted as saying "Deal with it through severity, that's our motto...two years ago we were a bit soft and didn't pay enough attention to this problem...now we are very serious. If we can sentence someone to death, we certainly will."<sup>1</sup> A December 1990 revision to the legislation controlling narcotics lowered the minimum criterion for imposing capital punishment and increased the number of drug-related offences punishable by the death penalty.

---

<sup>1</sup>Reuters 29 March 1991

Exact figures on the number of death sentences and executions are impossible to obtain, since these are classified as a "state secret", but newspaper reports indicate that death sentences are being commonly handed down to drug traffickers. The number of death sentences for drug offences recorded by Amnesty International from January to December 1991 is 367, although the actual figure is probably several times higher. Out of the total number of drug related death sentences, 252 were imposed in Yunnan and 66 in Guangdong province. Guangdong Higher Court president **Mai Chongkai**, in his work report to the Provincial People's Congress on 11 March 1991, stated that the number of drug traffickers executed in Guangdong province in 1990 had increased by more than 100% over the previous year.<sup>2</sup> According to information available to Amnesty International the total number of executions in Guangdong for 1991 exceeded those of 1990. *Xinhua*, the official Chinese news agency, reported in November 1991 that the government has planned an even larger scale anti-drug campaign for the first half of 1992. Amnesty International fears such a campaign will result in even higher levels of executions.

### **Mass Sentencing and Mass Executions**

Amnesty International's information shows a worrying trend, particularly in Yunnan province, for the mass sentencing and execution of drug offenders. Mass sentencing rallies are not public trials, but take place after trials are completed. They are formal gatherings at which the verdicts against prisoners are read out and the sentences against them are announced. Prisoners usually do not have an opportunity to present a defence, and in some cases the sentencing rallies occurred before the death sentences of all the prisoners displayed had been reviewed and approved by the provincial Higher People's Court.

Amnesty International received reports that at least 70 people were executed on 26 June 1991 for alleged drug-related offences after mass sentencing rallies held in Kunming, the capital of Yunnan province, and elsewhere in Yunnan. According to another report, 35 men and women accused of drug-related offences were executed on 26 October 1991 in Kunming. The official Chinese media reported that the 35 prisoners, aged from 22 to 52, were displayed in public at a mass sentencing rally held in a Kunming stadium before 40,000 spectators. The 35 prisoners were reportedly executed immediately after the mass sentencing rally. On 26 December 1991 in Shenzhen city, in Guangdong province, four men, including three Hong Kong citizens, convicted of drug-related offences, were among over 30 men sentenced to death and among thirteen executed immediately afterwards. The sentences were announced at a rally held in a sports stadium, reportedly attended by 30,000 people who were mostly middle and primary school students.

---

<sup>2</sup>*Ta Kung Pao* (Hong Kong) newspaper 12 March 1991

Amnesty International believes that such public humiliation of prisoners is a form of degrading treatment, prohibited by the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment, to which China became a party in 1988.

Mass executions appear to be used by the authorities in order to deter crime. **He Zhiqiang**, the Governor of Yunnan province, was quoted as saying that the mass execution of the 35 prisoners in Kunming would be a strong deterrent to drug dealers inside and outside of the country and that it showed the government's firm stand in the "anti-drug struggle"<sup>3</sup>. Despite these claims there is as yet no sign of a decline in drug-related offences.

Amnesty International does not believe the death penalty is an effective deterrent to crime. Although Amnesty International is not aware of any scientific studies on the deterrence aspect of the death penalty in China, past experience appears to indicate that campaigns against crime, including sentencing rallies and mass executions, do not deter other criminals. Reports concerning the city of Xuzhou, in Jiangsu province, show that after campaigns in December 1990 and January 1991, criminal activities subsided in February but picked up again in the following months<sup>4</sup>.

### **Unfair Trials**

Amnesty International is concerned that death sentences imposed by tribunals in China follow trials which fall short of minimum international standards for fair trials. Defendants in China do not always have access to lawyers, and when they are available the lawyers in practice have no more than one or two days to prepare a defence. Death sentences are often decided in advance of the trial by "adjudication committees" whose decision is seldom challenged by the courts. Chinese legal experts in recent years criticized the practice of pre-trial verdicts, but it is reported to still be widespread.

In March 1991 Yang Ming said "a major help in the fight against drugs was a ruling that death sentences no longer had to be reported to China's Supreme Court before execution"<sup>5</sup>. This refers to the 1983 decision adopted by the National People's Congress Standing Committee to accelerate the procedures for trial, appeal, review of sentence and execution. It also allowed the Supreme People's Court to delegate its power to approve the death sentence in certain cases to the High Courts. According to the China News Service, of the 21 drug traffickers executed in Yunnan province on 26 June 1991, 17 of them had their death sentences verified and approved by the Yunnan Provincial Higher People's Court. Amnesty International is concerned that official emphasis on the speedy investigation and

---

<sup>3</sup>South China Morning Post, (Hong Kong) newspaper 27 October 1991

<sup>4</sup>Renmin Ribao (People's Daily) 11 June 1991.

<sup>5</sup>Reuters 29 March 1991

sentencing of death penalty cases may have deprived defendants of the opportunity to obtain a fair trial and, in particular, restricted their rights to appeal. This is even more likely to be the case with drug-related offenders, because of the government's determination to stamp out drug abuse within two to three years.

### **Amnesty International's Concerns and Recommendations**

Amnesty International is opposed to the death penalty in all cases on the grounds that it constitutes a violation of the right to life and that it is the ultimate form of cruel, inhuman and degrading treatment.

The organization is concerned that successive campaigns against crime such as the anti-drug campaign result in a large number of death sentences and executions for offences which at other times would be dealt with more leniently. Amnesty International is also concerned that the deadline fixed for the goals of the anti-drug campaign is resulting in a dramatic weakening of legal and procedural safeguards against unfair trials in death penalty cases.

The United Nations has endorsed the goal of worldwide abolition of the death penalty. In moving towards this goal, it is essential that internationally agreed safeguards and restrictions be observed in all countries which have not yet abolished the death penalty. Amnesty International considers that several of these safeguards and restrictions are not observed in the People's Republic of China and calls on the government to adopt the following measures in line with international standards:

- ◆ to ensure that every prisoner accused of an offence punishable by death is afforded all facilities, including free access to a lawyer of his or her choice, for a fair trial before an independent, competent and impartial tribunal, and that the rights of the accused are protected at all stages of the judicial process;
- ◆ to ensure that everyone sentenced to death has the right to seek pardon or commutation of sentence;
- ◆ to ensure that people aged under 18 at the time of the offence are not sentenced to death or executed;
- ◆ to stop practices, including mass sentencing rallies, the parading of prisoners prior to execution, and the execution of prisoners in front of the general public which constitute a form of cruel, inhuman and degrading treatment;
- ◆ to ensure that the scope of the death penalty does not extend beyond the "most serious crimes" and to take steps towards total abolition of the death penalty, including the restriction of the number of offences punishable by death.

In addition to these safeguards and restrictions, Amnesty International would welcome the initiation of official studies into various aspects of the use of the death penalty in relation to official policy, its relation to crime rates, its discriminatory application to various segments of the population and the suitability of alternative punishments.