

# URGENT ACTION

## EXECUTION RISK AFTER FORCED CONFESSION

**Fan Qihang, a Chinese man, is at risk of execution if the Supreme People's Court upholds his death sentence. He says his conviction is based on a confession extracted through torture.**

Fan Qihang was detained on 26 June 2009 amidst a local campaign to strike hard on organized crime. He says that he was repeatedly tortured in an unofficial place of detention and forced to confess to crimes he did not commit.

His family hired a lawyer to represent him but the lawyer was not allowed to meet with Fan Qihang until November 2009, when he had been transferred to a detention centre. The lawyer secretly videoed interviews with Fan Qihang, in which he details his torture, shows the wounds inflicted on his wrists, and says he had attempted suicide.

In the interview, Fan Qihang says that he was deprived of sleep, frequently beaten and kicked. On one occasion, the police officers shackled his hands behind his back and hung him from the iron bars in front of a window for five days, leaving scars on his wrists. On another occasion, they shackled his hands behind his back and then bent his body forwards to a 90 degree angle, attaching shackles to his legs. He was then forced to hold the position for ten days. If he fell down, the police officers would pull him up, sometimes using the shackles which would cut deep in to the flesh on his legs. In mid-July, his lawyer Zhu Mingyong submitted the video recordings to the SPC but has yet to receive any official response. He later made them public.

The Chongqing Municipal No.1 Intermediate People's Court tried Fan Qihang in January and found him guilty of various crimes including "forming, leading or taking active part in organizations in the nature of criminal syndicate", and "intentional homicide". None of the 187 witnesses lined up for the trial showed up on the day. On 10 February, he was sentenced to death. The Chongqing Municipal Higher People's Court upheld his death sentence on 31 May and now the Supreme People's Court (SPC) in Beijing is reviewing his case.

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

- calling on authorities not to execute Fan Qihang;
- urging the Supreme People's Court to remand the case for a retrial that meets international fair trial standards;
- calling on authorities to carry out an immediate and impartial investigation into Fan Qihang's allegation that he has been tortured, and bring those responsible to justice; and to guarantee that he will not be tortured or otherwise ill-treated;
- urging China's National People's Congress to introduce a legal procedure for clemency;
- calling for an immediate moratorium on executions with a view to abolishing the death penalty, as provided by UN General Assembly resolution 62/149, of 18 December 2007.

### PLEASE SEND APPEALS BEFORE 13 SEPTEMBER 2010 TO:

#### Supreme People's Court President

WANG Shengjun Yuanzhang  
Zuigao Renmin Fayuan  
27 Dongjiaomin Xiang  
Beijingshi 100745  
People's Republic of China  
**Fax: +86 10 65292345**  
**Salutation: Dear President**

#### National People's Congress Standing Committee Chairman

WU Bangguo Weiyuanzhang  
Quanguo Renda Changwu Weiyuanhui  
Bangongting, 23 Xijiaominxiang,  
Xichengqu  
Beijingshi 100805  
**Fax: +86 10 63097934**  
**Email: [icc@npc.gov.cn](mailto:icc@npc.gov.cn)**  
**Salutation: Dear Chairman**

#### **And copies to:**

President  
HU Jintao Guojia Zhuxi  
The State Council General Office  
2 Fuyoujie  
Xichengqu  
Beijingshi 100017  
People's Republic of China  
**Fax: +86 10 63070900**  
**Salutation: Your Excellency**

Also send copies to diplomatic representatives accredited to your country. Check with your section office if sending appeals after the above date.

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### ADDITIONAL INFORMATION

Fan Qihang was tried alongside 33 others, many of whom have alleged torture or other ill-treatment. His video testimony is available online at [http://events.scmp.com/news/content/tieshanping\\_interview.mp4](http://events.scmp.com/news/content/tieshanping_interview.mp4). In December 2009, Li Zhuang, who represented one of the 33, was sentenced to 18 months imprisonment on charges that he told his client to make false claims of torture, under Article 306 of China's Criminal Law which states that "if, in criminal proceedings, a defender or agent ad litem destroys or forges evidence, helps any of the parties destroy or forge evidence, or coerces the witness or entices him into changing his testimony in defiance of the facts or give false testimony, he shall be sentenced to fixed-term imprisonment".

The Chinese authorities commonly launch "strike hard" campaigns on crime ahead of major events, such as the National Day (1 October) or Lunar New Year (late January or early February). During the "strike hard" campaigns, police, prosecutors and judges are under pressure to demonstrate speed and resolve to meet quotas at the expense of procedural protections and justice.

The broad discretion given to the police by the Criminal Procedure Law (CPL) to detain suspects for long periods before trial increases opportunities for torture and other ill-treatment. During this time detainees' access to their families and legal representatives is restricted. Under the CPL, the police should tell detainees' families that they have been detained or arrested, and where they are held, within 24 hours, except where it "would hinder the investigation" (Articles 64 and 71). However, in practice communication with the family is frequently denied until detainees are brought to trial or sentenced.

Torture and other ill-treatment are endemic in places of detention in China. Amnesty International also receives regular reports of deaths in custody, many of them caused by torture, in a variety of state institutions, including prisons and police detention centres. The CPL does not explicitly prohibit the use of confessions obtained through torture or other ill-treatment as evidence before the courts. Explicit and effective prohibition is required by the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which China ratified in 1988.

New regulations effective 1 July 2010 and jointly issued by the SPC, Supreme People's Procuratorate, Ministry of Public Security, Ministry of State Security, and Ministry of Justice, aim to strengthen prohibitions against the use of illegal evidence in criminal cases, including coerced confessions and other evidence obtained through torture and other ill-treatment, by strengthening legal procedures regarding the collection, examination, verification and determination of legality of evidence.

The death penalty is applicable to approximately 68 offences in China, including non-violent ones. China executes more people every year than any other country in the world. Statistics on death penalty in China are classified as state secrets and individuals disclosing state secrets can be held criminally responsible. Amnesty International estimates that the numbers are in thousands.

In January 2007, the practice of having the Supreme People's Court (SPC) review all death sentences was restored; it had been suspended in 1982. All death sentences must now be reviewed by the SPC, which has the power to approve or remand cases for retrial. The Chinese authorities have reported a drop in executions since the SPC resumed this review. Nevertheless, the application of the death penalty remains shrouded in secrecy in China. Without access to such information it is impossible to make a full and informed analysis of death penalty developments in China, or to say if there has been a reduction in its use.

No one who is sentenced to death in China receives a fair trial in accordance with international human rights standards. Many have had confessions accepted without appropriate investigation of their allegations in court that these were extracted under torture. Many have had to prove themselves innocent, rather than be proven guilty; and have had limited access to legal counsel. China provides no clemency procedures for condemned prisoners after they have exhausted their appeals through the courts.

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