

URGENT ACTION

REVIEW EVIDENCE AFTER TORTURE CLAIM

Nine men on trial in China's central Henan province are now known to have said they were tortured in order to make them confess. The court has dismissed their complaints due to lack of evidence.

The nine were among 25 men who had already been detained for some time when police formally arrested them in August 2007, during a national "strike hard" anti-crime campaign. They were charged in December 2008 with crimes including "forming and leading organizations of the nature of criminal syndicates" and "participating in organizations of the nature of criminal syndicates." According to a local press report, their lawyers argued that they were not members of a criminal gang or involved in organized crime.

The nine men, among them Wang Yuefeng, Wang Zhiqiang and Yu Long, each independently told their lawyers they had been tortured during interrogation. They said police officers had poured mustard sauce into their noses and given them electric shocks to the head, legs and genitals. Wang Yuefeng had been deprived of sleep for six days.

Each had his hands tied behind his back with a towel, by which he was repeatedly hung from the ceiling, some of them for 25 to 40 minutes each time. Wang Zhiqiang was beaten by police, who broke his right thumb. Yu Long, who was given electric shocks to his legs and feet, now has trouble walking. Wang Yuefang says during interrogation he was moved between unofficial places of detention, where he was tortured. All nine say they confessed to make the torture stop.

The men say the police forced them to wear helmets to prevent them from harming themselves. The trial took place from 11-14 August in the Shangqiu City Intermediate People's Court. A verdict is expected on 13 October.

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

- calling on the authorities to grant Wang Yuefeng, Wang Zhiqiang, Yu Long and their six co-defendants a retrial that meets international fair trial standards;
- calling on them to order an immediate and impartial investigation into the men's allegations that they were tortured, and bring those responsible to justice;
- urging the authorities to guarantee that the men will not be tortured or otherwise ill-treated;
- urging them to ensure the men receive any medical treatment they may require.

PLEASE SEND APPEALS BEFORE 12 NOVEMBER 2009 TO:

Director of the Henan Provincial
Department of Public Security

QIN Yuhai Tingzhang
Henansheng Gong'anting
9 Jinshuilu
Zhengzhoushi 450003
Henansheng
People's Republic of China
Salutation: Dear Director

Chief Procurator of the Henan
Provincial People's Procuratorate

LI Xuebin Jianchazhang
Henansheng Renmin Jianchayuan
Zhengbianlu Dongduan
Jichengzhen, Jinshuiqu
Zhengzhoushi 450004
Henansheng
People's Republic of China
Salutation: Dear Procurator

President, Supreme People's Court

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

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

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ADDITIONAL INFORMATION

The legal action in this case has been full of procedural irregularities. The police did not tell the men's families that they had been detained or why this had been done, though by law they have to do this. Nor did they tell the families where they were held, or that they had the right to legal counsel of their choice. The men's families hired lawyers to represent them, but when they tried to visit the men, they were turned away, on the grounds that the case involved state secrets. However, no state secrets charges were brought against the men.

The lawyers wrote to the National People's Congress and the Supreme People's Procuratorate in early 2009 to complain about the men's treatment. During the trial on 11-14 August, the Shangqiu City Intermediate People's Court announced that the Liangyuan District People's Procuratorate, in Shangqiu city, Henan province, had carried out an investigation into the torture allegations in May 2009. As part of the investigation, procuratorate staff had interviewed detention centre officials and examined the detention and interrogation records. However, the court dismissed the torture claims due to lack of evidence. The men were deemed healthy and the burn injuries to Yu Long's foot were attributed to spilled hot water.

In China, the Criminal Procedure Law (CPL) does not explicitly prohibit the use of confessions obtained through torture or other ill-treatment as evidence before the courts. This is required by the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which China ratified in 1988. Despite this, torture and other ill-treatment are endemic in all places of detention. 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 broad discretion given to the police by the 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.

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.

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