

AMNESTY INTERNATIONAL

Public Statement

AI Index: ASA 17/035/2005 (Public)
News Service No: 266
5 October 2005

People's Republic of China: Re-instatement of Supreme Court review of death sentences – a step towards abolition?

In the run-up to the World Day against the Death Penalty on 10 October 2005, Amnesty International urges China to accelerate reforms aimed at reducing the use of the death penalty with a view to abolishing the death penalty as soon as possible.

On 27 September 2005, the Deputy Director of the Supreme People's Court (SPC), Wan E'xiang, announced that the SPC was establishing three branch courts to conduct reviews of death sentences. Unnamed officials were quoted as saying that this would cut the number of executions by 30 per cent. Chinese legal reformists have made similar claims, although admit that in the absence of full national statistics on the death penalty -- which continue to be classified a 'state secret' -- this is little more than an estimate.

In apparent acknowledgment of political interference in the trial process at lower levels, Wan E'xiang stated that '[this reform] will ensure the death penalty process is truly neutral from administrative departments and prevent the intervention of other powers.'

Amnesty International welcomes the re-instatement of SPC review of death sentences in the hope that this will indeed reduce the number of those sentenced to death and provide a greater safeguard against unfair trials. However, the organization notes that ensuring SPC review of capital trials does not necessarily mean that such trials will meet international human rights standards.

For example, in December 2003, Liu Yong, a wealthy entrepreneur was executed after the SPC upheld his conviction for involvement in violent criminal gang activities and corruption despite concerns that the police may have tortured him into making a confession. A lower court had commuted his death sentence as a result of these allegations, but the SPC later ruled that these grounds were not sufficient to exempt Liu Yong from execution. He was killed by lethal injection in a mobile execution chamber near the courthouse.

Amnesty International also stresses that re-introducing SPC review may have the adverse effect of further entrenching the death penalty system in China. There is also a risk that recruiting judicial personnel from lower levels will take valuable resources away from local courts, thereby reducing the quality of decision-making at that level. As a genuine step towards abolition, it must also be accompanied by other measures, including full transparency on the use of the death penalty nationwide and a reduction in the number of crimes punishable by the death penalty.

National statistics on the numbers of those sentenced to death and executed remain classified as a 'state secret'. In his report to the Commission on Human Rights this year, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions stated that 'such secrecy is incompatible with human rights

standards in many respects. It undermines many of the safeguards which might operate to prevent errors or abuses and to ensure fair and just proceedings at all stages.' He added that 'secrecy prevents any informed public debated about capital punishment within the relevant society'. Amnesty International also notes that transparency is essential in order to be able to assess whether the new SPC review process will indeed lead to a reduction in the use of the death penalty as predicted.

The death penalty remains applicable to around 68 crimes in China. They include non-violent offences, such as committing tax fraud, embezzling state property and accepting a bribe. Chinese legal academics opposed to the death penalty have recommended reducing the scope by, for example, eliminating the punishment for economic offences, but these calls have so far gone unheeded.

Several cases of miscarriages of justice highlighted in the Chinese press over recent months have given rise to considerable public disquiet about unfair trials in China. They include the case of Nie Shubin, a labourer who was executed as a murderer and rapist in 1995. Reports suggested at the time that he had confessed to the crimes under torture. In March this year, a detainee arrested in connection with another case, reportedly confessed to Nie Shubin's crimes voluntarily, apparently describing the crime scene precisely.

In order to safeguard the right to life, Amnesty International is urging the Chinese authorities to introduce a moratorium on executions pending full abolition of the death penalty in law as this would serve as the best safeguard against executing the innocent convicted after unfair trials.

China remains the world leader in its use of the death penalty. According to Amnesty International estimates, over 3,000 people were executed and 6,000 people sentenced to death last year alone. The true figures are believed to be much higher. In March 2004, a senior member of the National People's Congress announced that China executes around 10,000 people per year.

Organ transplants

A series of reports over recent years have suggested that organs are regularly extracted from executed prisoners in China to be sold for transplantation. In a recent example, the *Guardian* newspaper (London) reported on 13 September 2005 that an unnamed Chinese cosmetics company was using skin harvested from the corpses of executed prisoners to develop beauty products for sale overseas. Amnesty International is unable to corroborate this story, but remains deeply concerned about continuing reports of such practices, some of which suggest that as many as 90 per cent of organs used in transplants in China come from executed prisoners.

Procurement of human organs based on commercial trading and without meaningful free and informed consent is contrary to World Health Organization guidelines on human organ procurement and transplantation. The involvement of transplantation surgeons in such procedures breaches ethical guidance of the international Transplantation Society and the World Medical Association.

Amnesty International has long called on China to ban such practices. In June 2005, the Chinese Health Minister, Huang Jiefu, announced that China planned to issue regulations which would ban the trade in human organs and reinforce the principles of voluntary donation and free and informed consent.

To Amnesty International's knowledge, these regulations remain under discussion and have not yet been formally adopted. Given the cruel, inhuman and degrading nature of the death penalty, the organization considers that there will be few, if any, circumstances under which a prisoner facing imminent execution will be able to "voluntarily" give "free and informed consent" to having their organs extracted.

