

EXTRA 54/98

Death penalty / Fear of imminent execution 11 August 1998PEOPLE'S REPUBLIC OF CHINA Luo Feng, 32 years old

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Luo Feng, a manager in the Beijing Xiwang Computer Company, was sentenced to death on 22 June 1998. Luo Feng was accused of embezzling a total of 3.9 million Yuan (US\$469,879) and accepting bribes of 29,000 Yuan (US \$3,494), as well as using company funds to 'play the stock market'. Once a death sentence is approved, execution may take place at any time.

According to court documents, Luo Feng was found guilty of embezzlement, even though the court found that the amounts of alleged monies involved were inaccurate and one charge was rejected. Luo Feng was sentenced to death for embezzlement and three years imprisonment for the alleged bribe taking.

In his defence Luo Feng's lawyer rejected the accusations on several counts. First that they were vague accusations not backed up by clear evidence. It was argued that at the time of the alleged crimes Luo Feng was not in the managerial position claimed and thus could not be seen as 'taking advantage of his position'. His defence stated that all company money was in order and that company personnel had agreed that no funds were missing. The defence added that the prosecution provided no evidence showing that receipts allegedly used in the embezzlement were forgeries. It was also stated that all money in Luo Feng's personal account in Hong Kong was for private use and did not contain embezzled money. Witnesses were provided to support his statement.

Although Amnesty International is not in a position to comment on the full facts of the trial it is striking that the defence arguments are so potent and wide ranging. Amnesty International has not seen evidence or proof of the allegations from the prosecution.

The death penalty is not a punishment that can be reversed. Its application in cases where there is strong doubt as to the guilt of the defendant is symptomatic of many cases in China where the death penalty is widely and sometimes indiscriminately used, often after summary and unfair trials.

In contrast to the death sentence applied to Luo Feng, the former head of the Beijing Communist Party, Chen Xitong, was sentenced on 31 July, to 16 years imprisonment for allegedly accepting 555,000 Yuan (US\$66,867) and spending 35.21 million Yuan (US \$42,421,687) of public funds.

Amnesty International is against the death penalty in all cases, however this difference in sentencing reveals a common trend for Communist Party members to receive lower sentences than others. The death penalty is generally applied to people of a lower socio-economic status. In some cases defendants have received heavy sentences, including the death penalty, primarily because they were sentenced during a 'crime crackdown'.

It is believed that Luo Feng is appealing against his sentence. Successful appeals are rare. Under the revised criminal law all death penalty cases should be approved by the Supreme People's Court in Beijing, however regulations may exist in some provinces where this authority is delegated to a provincial high court. Executions are carried out by lethal injection or by shooting.

**BACKGROUND INFORMATION**

The death penalty is used extensively in China. In 1997, Amnesty International has already recorded a total of 2,495 death sentences and 1,644 confirmed executions, though it believes these figures to be well below the actual number carried out.

The use of the death penalty continues to rise in China after a revision to the Criminal Code in March 1997 confirmed the increasing scope for its use, incorporating new crimes previously covered by regulations as well as re-defining others. In April 1996 the Chinese authorities began a national anti-crime crackdown known as 'Strike Hard'. Although the campaign appears to have been scaled down, local campaigns and crackdowns against certain crimes still occur. The crackdown resulted in 6,100 recorded death sentences the same year.

**RECOMMENDED ACTION: Please send telegrams/faxes/express and airmail letters either in English or Chinese or in your own language:**

- urging that the death sentence passed on Luo Feng be commuted;
- urging that the arbitrary and massive use of the death penalty in China be stopped;
- expressing opposition to the death penalty in all cases as the ultimate form of cruel and inhuman punishment and as a violation of the right to life as guaranteed in the Universal Declaration of Human Rights.

**APPEALS TO:**

**Mayor of Beijing Municipal People's Government**

**JIA Qinglin** Shizhang

Beijingshi Renmin Zhengfu

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People's Republic of China

**Telegram: Mayor, Beijing, China**

**Salutation: Dear Sir**

**President of Beijing Municipal High People's Court**

**QIN Zhengan** Yuanzhang

Beijingshi Gaoji Renmin Fayuan

215 Xiheyuan, Chongwenqu

Beijingshi 100051

People's Republic of China

**Telegram: President of the Municipal High People's Court, Beijing, China**

**Salutation: Dear President**

**President of the Supreme People's Court of the People's Republic of China**

**REN Jianxin** Yuanzhang

Zuigao Renmin Fayuan

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People's Republic of China

**Telegram: President of the Supreme People's Court, Beijing, China**

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**Salutation: Dear President**

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and to diplomatic representatives of the People's Republic of China accredited to your country

**PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 8 September 1998.**

**'Everyone has the right to life, liberty and security of person.'**