

PEOPLE'S REPUBLIC OF CHINA (PRC) Zhuo Xiaojun (34) Hong Kong Citizen

Zhuo Xiaojun was sentenced to death after being convicted of "intentional killing" by Fuzhou City Intermediate People's Court on 14 January 2000, in a blatantly unfair trial. He has appealed to Fujian Province Higher People's Court.

Zhuo has been detained since 26 December 1989, when he was caught up in a fight outside his home in Changle County during which three people were wounded, two fatally. He was initially sentenced to death by the same intermediate court on 7 September 1990 which invoked summary procedures during a Strike Hard Anti-Crime campaign. In the preceding months, the court had returned the case to the investigators several times stating there was insufficient evidence to proceed with a trial. On appeal, on 23 January 1992, Fujian Province Higher People's Court decided that the principal facts of the case were unclear, and overturned the conviction, returning the case to the original court for a retrial. This began on the 15 January 1993, but was adjourned without judgement for seven years whilst the court, procuratorate or public security bureau all claimed to be undertaking "supplementary investigation". No other explanation was ever given for this extraordinary delay. The latest trial on 14 January 2000 lasted only a few hours. No witnesses were called and no new evidence was reportedly presented. Still, after a half hour adjournment for deliberation, the judges again sentenced Zhuo to death.

Court documents reveal that a confession, which Zhuo testifies was extracted through torture, is central to the prosecution's case. When first apprehended, Zhuo was held for four days before the police carried out the required legal procedures. For the first 33 hours, Zhuo testifies he was suspended from handcuffs attached to the bars of a door with his feet locked in 50kg shackles, and was kicked, beaten and attacked with electric batons whenever he failed to follow the "confession" script prepared by his interrogators. The procurator reportedly failed to record Zhuo's allegations of torture when he retracted his confession at their first meeting, even though procuratorate staff had seen Zhuo suspended from the door, and he showed them his wounds, the scars of which reportedly remain visible 10 years later. The confession is also reportedly contradicted by the forensic evidence and witness testimony.

The fatal fight reportedly lasted only a few minutes and Zhuo was not present when it started. Four local workers employed by Zhuo's family began fighting with their neighbors during the re-measurement of a recently repaired perimeter wall which the neighbors complained now encroached on their land. There were nearly 30 people present in the narrow alley including local cadres and relatives of the victims. None of the witnesses testified at the time to seeing Zhuo stabbing anyone or even carrying a knife. Zhuo testified that he had only attempted to stop the fight. The victims were each fighting in separate groups metres apart, and surrounded by other people when Zhuo arrived. He was later accused of having, within minutes, stabbed all three victims a total of nine times, eight in the chest. No murder weapon has ever been found.

The one person who later claimed to have witnessed Zhuo committing the stabbing was the uncle of the initiator of the fight, who fled the scene with the other three workers involved, who have never returned to Changle county. Several

times this witness has substantially changed his testimony which has also been undermined by forensic evidence.

Zhuo's lawyer presented to the court witnesses' claims that the police had tortured, threatened or coerced them into signing pre-prepared false statements. Others, including judicial cadres, insist that the police record of their testimony is false. Records of key witness interrogations known to have taken place are missing from the case file. Zhuo's lawyer also highlighted major flaws in the police investigation. No other potential suspect was pursued. Only Zhuo's clothing was examined. The blood stained clothing of the victims and other participants were never even collected.

Zhuo's family have never been permitted to visit him in detention. Since 1992 the Detention Centre in Fuzhou City where Zhuo is held has reportedly asked them to pay for medication for his hepatitis, bleeding stomach, and ulcerating skin. During his latest trial, Zhuo also appeared unable to see clearly. For the 16 months between Zhuo's initial death sentence and successful appeal in January 1992 he was reportedly held in Changle County Detention Centre with hands and feet all shackled together at all times. He is currently believed to be held in similar conditions.

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

- express grave concern that Zhuo Xiaojun has been sentenced to death once more on evidence a court determined eight years ago was insufficient;
- express concern that the conduct of the case, both the latest trial and the proceedings over the past decade do not appear to comply with international standards for fair trial;
- urge that Zhuo Xiaojun's case be reviewed as a matter of urgency, taking into account compelling evidence that he has been wrongly convicted;
- express grave concern that allegations of torture do not appear to have been investigated, and confessions and witness statements allegedly extracted through torture or ill-treatment have not been excluded from the case;
- express grave concern at reports that Zhou Xiaojun is being held in conditions which amount to torture and ill-treatment, and is in poor health.

APPEALS TO: (NB: Faxes in China are unreliable and may not work after office hours (GMT + 8)):

Premier of the People's Republic of China

ZHU Rongji Zongli

Guowuyuan

9 Xihuangchenggenbeijie

Beijingshi 100032

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Telexes: 210070 FMPC CN or 22478 MFERT CN

Telegram: Premier Zhu Rongji, Beijing, China

Faxes: + 8610 6 520 5316/467 7046 (c/o Ministry of Justice)

Salutation: Your Excellency

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

XIAO Yang Yuanzhang

Zuigao Renmin Fayuan

27 Dongjiao Min Xiang

Beijingshi 100726

People's Republic of China

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

Salutation: Dear President

Faxes: + 86106 512 5012

President of the Fujian Provincial High People's Court

Chen Xun Yuanzhang

Fujiansheng Gaoji Renmin Fayuan

Fuzhoushi

Fujiansheng

People's Republic of China

Telegram: President of the Provincial High People's Court, Fuzhou, Fujian Province, China

Salutation: Dear President

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 21 August 2000.