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CHINA

JOURNALIST GAO YU JAILED FOR SIX YEARS AFTER A SECRET TRIAL

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Amnesty International is calling for the release of Gao Yu, a 50 year-old well-known journalist in China, who was sentenced on 10 November 1994 to six years' imprisonment on charges of "disclosing important state secrets". She was sentenced after an unfair trial during which she had no legal representation. Neither Gao Yu's husband nor her lawyers were notified in advance of her trial, as required by Chinese law. They only heard about it after it had taken place.

Gao Yu was arrested by Beijing State Security officials on 2 October 1993, two days before she was due to leave China to take up a fellowship at Columbia University in New York. Eleven days later, she was charged with "leaking state secrets to persons accross the border". Her arrest was part of a move by the Chinese authorities to stem the increasing flow of politically sensitive information reaching the foreign media from China. Several Chinese journalists and other people were jailed during the past year on charges of "leaking state secrets"¹, raising concern that China's

¹ See *People's Republic of China: Journalists Detained in 1993*, ASA 17/42/93, issued by Amnesty International on 23 November 1993.

state secrets law was being used to repress freedom of expression and association.

Gao Yu is the former deputy editor-in-chief of the now-defunct pro-reform newspaper *Economics Weekly*, which was banned during the crackdown on the 1989 pro-democracy protests. She was jailed for nearly 15 months after the June 1989 crackdown and released without being charged in August 1990. Unable to find employment after her release, she worked as a freelance journalist, writing articles for Hong Kong magazines, including the *Mirror Monthly*, whose publisher is a member of a political consultative body in China.

According to various sources, on 11 November 1994, an official from the Beijing State Security Bureau Detention Center, where Gao Yu is being held, informed her husband of her trial and sentencing. A court official later told Gao Yu's lawyers, who work for law firms in Beijing and Shijiazhuang, that they had not been notified of the trial because the court had been "unable to find them". Neither Gao Yu's husband nor her lawyers were told the exact date of the trial or given details about it.

According to the court verdict against her, a copy of which has been obtained by Amnesty International, Gao Yu was sentenced under Article 186 of the Criminal Law for "disclosing important state secrets". She was accused of obtaining "state secrets" from a friend, Gao Chao, and of publishing this information in articles she wrote for a Hong Kong magazine during the first four months of 1993. The verdict does not name the magazine nor does it give further information on the articles written by Gao Yu. Gao Chao, who worked for the general office of the Chinese Communist Party Central Committee (CCPCC), is also reported to have been detained; according to the court verdict, his case is "being dealt with separately".

The court verdict says that the "state secrets" published by Gao Yu concerned structural reforms and other matters within state bodies and came from two classified documents which Gao Chao had shown her. One of these was a speech by a CCPCC leader and the other a report from the

CCPCC Organisational Department concerning structural reforms and the administrative management (civil service) system, the court verdict says. According to reports in the Hong Kong press, Gao Yu had published two articles referring to such matters in the March and April 1993 issues of the Hong Kong *Mirror Monthly*.

While this information may have been confidential, there is no indication in the court verdict that it concerned matters of national security. The court, however, concluded that Gao Yu's actions had violated state security laws and regulations and amounted to "disclosing important state secrets", which is punishable under the Criminal Law..

In this respect, Amnesty International is concerned that the legal provisions concerning state secrets are being used to repress freedom of expression and publication and to prevent public debate of a wide range of issues which have little to do with national security. The broad definition given to "state secrets" in China encompasses matters which would be the subject of public debate and scrutiny in many other countries, going far beyond what is needed to protect national security.

Amnesty International is also concerned that Gao Yu's sentence was passed after a series of grossly unfair judicial proceedings, which in itself cast strong doubts about the validity of the evidence against her. Prior to her recent trial, Gao Yu was known to have been first brought to trial in April 1994. The court verdict against her reveals that her case had in fact been heard in court twice before and that, each time, the court had found that the prosecution evidence against her was insufficient.

Gao Yu's first trial was held in April 1994, in camera, though in that instance her lawyers were present. Following that hearing, the Beijing Intermediate People's Court ruled in May 1994 that the prosecution evidence against Gao Yu "still needed to be verified" - which means that the evidence was insufficient to convict her. However, instead of

² See Hong Kong's *South China Morning Post*, 17 November 1994.

acquitting Gao Yu, the court returned her case to the Beijing procuracy "for supplementary investigation and verification" - in other words to allow the procuracy to gather further evidence against her.

The procuracy then resubmitted the case for trial to the court in early June 1994 and a second court hearing took place, probably in late June or July 1994. It is not known whether Gao Yu's lawyers were present in court on that occasion. The court again found the evidence against Gao Yu insufficient and on 19 July 1994 it returned once more the case to the Beijing procuracy for "further investigation".

This procedure appears to be legal under Article 123 of the Chinese Criminal Procedure Law, which empowers the courts, during a trial, to return a case to the procuracy for "supplementary investigation" if they find "the evidence to be incomplete". This procedure, which contributes to the unfairness of trials in China, has been used in other political cases, notably those of 14 political dissidents detained in Beijing since mid-1992 whose trial is still pending³.

In the light of all the information available about Gao Yu's case and the pattern of repression in China, Amnesty International believes that Gao Yu is a prisoner of conscience jailed solely for the peaceful exercise of her right to freedom of expression, in violation of international human rights standards. Amnesty International is also concerned about other aspects of her case, including her detention incommunicado for many months after her arrest; reports that she is in poor health, apparently suffering from a heart condition, and is not receiving appropriate medical treatment in prison; and the blatant unfairness with which her case was handled during the series of court hearings of her case.

³ See Amnesty International's report *China - Dissidents Detained Since 1992: Political Trials and Administrative Sentences*, issued in January 1994 (ASA 17/05/94), and Urgent Action of 15 July 1994 (ASA 17/25/94).

Amnesty International is calling on the Chinese authorities to release Gao Yu immediately and unconditionally, in accordance with international standards.

Please send telegrams/telexes/express and airmail letters either in English or in your own language, expressing concern that

♦ *Gao Yu, a journalist detained in Beijing, was recently sentenced to six year's imprisonment for the peaceful exercise of her right to freedom of expression, after a secret trial from which her lawyers and family were excluded, in violation of international standards.*

♦ *Also express concern that she is reported to be in poor health and is not receiving appropriate medical treatment in prison.*

♦ *Urge the authorities to release her immediately and unconditionally, in accordance with international human rights standards.*

Please send appeals to:

Premier of the PRC

LI Peng Zongli

Guowuyuan

9 Xihuangchenggenbeijie

Beijingshi 100032

People's Republic of China

Telexes: 210070 FMPRC CN or

22478 MFERT

CN

Faxes: + 86 1 512 5810

Telegram: Premier Li Peng,

Beijing, China

Salutation: Your Excellency

Minister of Justice of the

People's Republic of China

XIAO Yang Buzhang

Sifabu

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Beijingshi 100016

People's Republic of China

Telexes: 210070 FMPRC CN or

22478 MFERT CN (Please

forward to Xiao Yang

Buzhang)

Faxes: + 861 467 7351

Telegram: Minister of Justice

Xiao Yang, Beijing, China

Salutation: Your Excellency

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