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Open Letter to the President of the People's Republic of China

His Excellency Jiang Zemin
Office of the President
Beijing
People's Republic of China

27 September 1999

Your Excellency,

On the occasion of the 50th anniversary of the foundation of the People's Republic of China on 1 October, I am writing to you on behalf of Amnesty International to express our concerns about recent human rights developments in China and our hopes for the future.

While the 50th anniversary will be a time for celebrations in China, we hope that it will also be the occasion for the government to review the legacy of the past and deepen the process of reform in order to ensure that the rights of all people in China are respected in future.

China has gone through 50 years marked by political upheavals and remarkable social and economic changes, and is now playing an increasingly important role in the world. At this juncture, we believe that the Chinese leadership must decide whether China in the next 50 years will be ruled by law and justice and respect its citizens' human rights, or whether it will remain known as a country where serious human rights violations occur on a daily basis and state officials routinely ignore the law and abuse their power.

Amnesty International was encouraged by signs in recent years that China was moving towards greater recognition of international human rights standards. We welcomed the signing by China of two key international human rights treaties in 1997 and 1998 and the revisions made in recent years to legislation governing the rights of criminal suspects. This generated hope that China was entering a new era where basic rights would begin to be entrenched in practice.

The past few months, however, have seen a major leap backwards, with the most serious and wide-ranging crackdown on peaceful dissent carried out by the authorities since 1989. At the same time, despite growing references to "rule by law" in official statements, there is no evidence that effective measures have been taken to stop entrenched practices in the law enforcement and justice system, which violate Chinese law and lead to human rights violations.

In this context, the international community will find it hard to take seriously the government's assurances that it is moving towards greater observance of international human rights standards.

In November 1998, just over one month after China signed the International Covenant on Civil and Political rights, the authorities arrested three key dissidents who had attempted to form and register an alternative political party, the China Democratic Party (CDP). They were put on trial within

a month with a speed rarely seen in recent years and sentenced to harsh prison terms for “subversion” after unfair trial proceedings.

Since then, other members of the CDP and a broad range of people who merely exercised peacefully their rights to freedom of expression, association or religion have been arbitrarily detained. Some have been sentenced to long prison terms for “subversion” under the “national security” provisions introduced in the Criminal Law in 1997. Others have been assigned without formal charge or trial to terms of up to three years’ detention in “re-education through labour” camps.

Among the latest victims of the crackdown are followers of the Falun Gong, a spiritual movement banned by the government in July 1999. Thousands of its followers were arbitrarily detained and put under pressure to renounce their beliefs and denounce the group. While many of those initially detained were held for short periods, some were reportedly tortured or ill-treated in detention and arrests have continued since then. Hundreds, possibly many more, of the group’s followers remain in detention. According to recent reports, some are now being prosecuted, including editors and bookstore owners reportedly charged with printing or selling books about the Falun Gong which are now described as “illegal publications”. Members of Christian groups have also been arrested in several provinces in recent months and some were reportedly sentenced to long prison terms.

Others arbitrarily detained since the end of last year include people who have raised a new range of issues, such as labour rights, the environment and corruption. Some had established groups like the “China Labour Monitor” or the “Corrupt Behaviour Observers”, often to pursue objectives which your government has proclaimed to be national priorities. Others simply circulated information or organised public discussion about a wide range of social problems.

It is hard to see how any of these activities threatened national security or “social stability”. Amnesty International believes that criminalizing such activities and imprisoning such individuals is not only an injustice, but that it potentially undermines the wider reform agenda and confidence in legal institutions. It is as corrosive of “stability” and “development” as are all forms of corruption.

The past decade has seen significant legal development in China, not least the introduction of opportunities for citizens to seek some redress against abuse by the state through laws on administrative litigation and review, and state compensation. The 1996 revisions to the Criminal Procedure Law also introduced limited but significant improvements to protection for criminal suspects, including greater access to legal representation, notification of relatives, and public trial. These protections, however, have regularly been denied to political detainees and others who are arbitrarily detained at the whim of state officials.

In one recent case, for example, Liu Xianbin, a leading member of the CDP in Sichuan province, was unable to find a defence lawyer for his trial after the authorities put pressure on lawyers hired by his family to withdraw from the case. Detained in July 1999, he was tried in August 1999 and sentenced to 13 years’ imprisonment for “subversion”. In another example, in late July 1999 the Beijing Municipal Bureau of Justice issued instructions to all lawyers’ firms in the municipality not to accept Falun Gong cases without first reporting the requests and seeking the Bureau’s approval.

Double standards in the application of the law also affect many ordinary Chinese. Illegal detention and torture of criminal suspects are common. Police often intimidate and humiliate people in custody, beat, kick and use electric shocks on detainees, hang them by the arms, shackle them in painful positions and deprive them of food and sleep. Cases of deaths in custody as a result of torture are reported every year.

Prisoners serving sentences in prisons or labour camps are also frequently subjected to torture or ill-treatment by guards, or other inmates instructed or encouraged to do so by prison officials. The case of Zhang Lin , a pro-democracy advocate from Anhui, is just one example. Arbitrarily detained in

a labour-reeducation camp in Guangdong province since late 1998, Zhang Lin was reported in August 1999 to have been repeatedly beaten and tortured for protesting against his conditions of detention, including being forced to work 14 hours a day. There is no indication so far that his complaints are being investigated or that measures have been taken to protect him against any further ill-treatment.

While torture is prohibited by Chinese law, few of the perpetrators are punished. Many police, prison and labour camps officials show utter contempt for the human rights of detainees and for the law, knowing full well that they are unlikely to be punished. Superior officers, prosecutors, judges and other officials often cover up cases of torture and ignore the complaints made by the victims.

One recent example is the case of Zulikar Memet, a Uighur national tried on political charges in July 1999 in the Xinjiang Uighur Autonomous Region (XUAR). He reportedly told the court during his trial that his “confession” had been extracted from him under torture and also showed them the signs of the torture he had suffered. The court, however, ignored his complaint and sentenced him to death. His current fate is unknown.

“Rule by law”, which has featured prominently in government’s statements in recent years, will be fatally undermined in practice if “equality before the law” - a right set out in China’s Constitution - is not respected and state officials are free to ignore, distort or manipulate the law and legal process.

Amnesty International is also concerned that many of the new laws enacted in the last decade include provisions which have enhanced the authorities’ capacity to prosecute perceived enemies - notably the legislation on national security and state secrets. In addition, the system of “re-education through labour”, which provides for up to three years’ detention without charge or trial, has been retained, despite domestic criticism. These provisions are frequently used in political cases.

In 1997, the Chinese government won international plaudits when the overtly political “counter-revolutionary crimes” were removed from the Criminal Law. The government has however rejected all calls to demonstrate the practical significance of this move by reviewing the cases of all remaining “counter-revolutionary” prisoners, which include most of those still imprisoned for participating in the 1989 pro-democracy movement.

When challenged, officials now explain that the change from “counter-revolutionary” to “national security” crimes in the law was in name only. The United Nations Working Group on Arbitrary Detention, which visited China in 1998, has determined that the new “crimes against national security”, instead of bringing Chinese law more in line with international standards, have significantly expanded the potential for imprisoning people who exercise peacefully fundamental human rights. Amnesty International believes that this legislation, as well as that providing for administrative detention, should be urgently reviewed.

Another challenge for China in the next 50 years will be its handling of ethnic minorities, many of whom aspire to greater autonomy or independence and want respect for their social, economic, cultural and religious rights. At present, the Chinese Government’s stated policies on the protection and development of minorities masks a record of discrimination and brutal suppression.

In the Tibet and Xinjiang autonomous regions, nationalist opponents and suspected sympathisers continue to be the target of harsh repression. Political suspects are routinely denied all their legal rights. They are often held for months without charge, denied access to lawyers, tortured and summarily tried in secret, while their family are denied information about their whereabouts and legal status.

Thousands of Uighur political prisoners are believed to be imprisoned in the XUAR. Since 1996, hundreds of political prisoners accused of subversion or terrorism have been executed after

summary trials in the region. Among recent cases of concern is that of Rebiya Kadeer, a well known Uighur businesswoman from Urumqi who was a delegate from her region at the UN Fourth World Conference on Women in Beijing in 1995. She was detained on 11 August 1999 while on her way to meet a group of American visitors and charged on 2 September with “illegally offering state secrets across the border”. She is not known to have been involved in any political activities or to have had access to information which could legitimately be described as “state secrets”. Her passport was confiscated in 1997 after her husband - a resident in the USA since 1996 - started publicly criticizing China for its treatment of the Uighurs. Rebiya Kadeer is believed to be arbitrarily detained in retaliation for her husband’s activities abroad.

In the Tibet Autonomous Region (TAR), hundreds of Tibetan political prisoners remain imprisoned. Many of them are monks and nuns jailed for peacefully expressing their views. As in the XUAR, many political prisoners in the TAR are held in harsh conditions of detention and often subjected to torture or cruel, inhuman and degrading treatment. Ngawang Jinpa, a 31-year-old Tibetan monk who had been imprisoned in Lhasa since 1996, died on 20 May 1999, two months after he was released from prison “on parole for medical treatment”. Arrested for taking part in a protest at Ganden monastery in May 1996, he was repeatedly tortured in prison and suffered brain damage as a result. By the time he was released on medical parole, he was in such a critical condition that no amount of treatment could save him.

The death penalty continues to be used extensively and more people are executed every year in China than in the rest of the world put together. While Amnesty International welcomed some changes made to the law in 1997 - notably the removal of the death penalty as a punishment for minors under the age of 18 - the organisation remains concerned that over 60 crimes can be punished by death in China, including many non-violent offences.

According to incomplete records gathered by Amnesty International, in 1998 at least 2,600 people were sentenced to death and at least 1,500 were confirmed to have been executed. From 1990 till the end of 1998, Amnesty International recorded over 25,400 death sentences and over 16,600 executions, an average of at least 2,800 death sentences and 1,850 confirmed executions every year in China. These figures are believed to be far below the real numbers.

Many death sentences are imposed following trial proceedings which can only be described as summary. Appeals are rarely successful and, while the number of confirmed executions recorded by Amnesty International represents in average about 66% of death sentences, the actual execution rate is believed to be around 90% .

Miscarriages of justice are reported every year in China. They include cases of people sentenced to death for crimes they did not commit, who had confessed to the charges under torture. Some of these cases are discovered before the victims are executed, but others are not.

China has undergone profound social and economic changes in the past 20 years, but civil and political freedoms remain severely curbed. Continuing restrictions on basic rights will only reinforce alienation and destabilising social division, stunt China’s development and hinder its engagement with the global community.

Amnesty International believes that entrenching basic rights for all will be the best guarantee of China’s future stability and development, enabling the energies and aspirations of all Chinese people to be fully harnessed.

On this historic occasion, we are calling on the government to take steps without delay to stop arbitrary detention, torture and executions and to take radical action to reform the law enforcement and justice system in China, showing the international community a real commitment to implement meaningful human rights reforms in China.

Yours faithfully,

Pierre Sane,
Secretary General

