

TAIWAN (REPUBLIC OF CHINA)

Death sentences based on unfair conviction: three men face execution

Three men await execution in Taiwan although there are grave doubts surrounding their conviction. There is widespread concern that Su Chien-ho, Liu Bin-lang and Chuang Lin-hsun were convicted on the basis of confessions extracted under torture and that they are innocent. Members of the judiciary, lawmakers, legal scholars and journalists are among the many thousands of people who have appealed for the case to be reviewed. But three years after their conviction, the three men remain under sentence of death, waiting for the Minister of Justice to sign a warrant for their execution. This case has caused much unease in Taiwan and has led to renewed calls for reform of the criminal justice system.

Amnesty International is calling on the government to commute the death sentences imposed on Su Chien-ho, Liu Bin-lang and Chuang Lin-hsun and to order a thorough and independent investigation into the case. Amnesty International opposes the death penalty in all cases, as a violation of the right to life and the ultimate cruel, inhuman and degrading punishment.

This case highlights one of the main arguments against use of the death penalty in Taiwan - the fact that executions do not allow for errors of justice to be redressed. The execution of an innocent person can never be put right.

The death penalty in Taiwan

The death penalty is in force in Taiwan for a range of offences and is mandatory for 65 different offences. Executions have been used increasingly in recent years. Thirty-eight people were executed in 1997, 22 in 1996 and 16 in 1995. Human rights activists believe the increased use of the death penalty in 1997 was the government's response to a public outcry following several recent kidnap and murder cases. But scientific studies in other countries have consistently failed to find convincing evidence that the death penalty deters crime more effectively than other punishments.

Execution warrants are signed by the Minister of Justice and the prisoner is not informed in advance. Execution may be by shooting or by lethal injection - there are reported to have been no executions by lethal injection to date. Prisoners under sentence of death are generally held with their hands and feet continuously shackled.

The case of Su Chien-ho, Liu Bin-lang and Chuang Lin-hsun (known in Taiwan as the "Hsichih Trio")

The three men, then aged 18 and recent high school graduates, were arrested in August 1991 in Hsichih (in the north of Taiwan). They were accused of murdering a husband and wife, convicted on charges of murder, robbery and rape and sentenced to death. The three men claim to have been tortured and forced to make false confessions and there appears to have been no direct or physical evidence to convict them, other than their confessions. A

fourth man who implicated them in the alleged crime was also arrested, tried speedily by a military court and executed just five months later.

In spite of a protracted legal process in which the Supreme Court (Taiwan's highest court of appeal) twice returned the case to a lower court for reconsideration, the conviction was upheld in February 1995. In an unusual move, Taiwan's Prosecutor General made three special appeals to the Supreme Court to review the case, but each of his appeals was rejected. Four police officers suspected of torture have not been prosecuted.

It would appear that few people in judicial and government circles believe the three men to be guilty, and yet the government seems unable to take action to rectify the situation. Two successive Ministers of Justice have declined to sign execution orders, but the men remain in a precarious position. The stress of knowing that they may be executed any day has led to a deterioration of their physical and mental health. The Taiwan Association for Human Rights reports that Su Chien-ho is losing weight, Liu Bin-lang has become withdrawn and Chuang Lin-hsun has started to show signs of mild schizophrenia.

Arrest and interrogation

On 24 March 1991, in the early hours of the morning, a husband and wife were murdered in their home in the town of Hsichih, in the north of Taiwan. On the same evening Su Chien-ho and Liu Bin-lang went out for the evening with a friend called Wang Wen-chung and his brother Wang Wen-hsiao, both of whom were completing their

military service at the time. They spent the evening in Hsichih and Keelung before returning home in the early hours of the morning. Chuang Lin-shun spent the evening at home with his family.

Five months later, on 13 August 1991, Wang Wen-hsiao was arrested on the grounds that his fingerprint was found on an envelope at the scene of the murder. He was interrogated first by a military prosecutor and later by the Hsichih police. His various confessions to the murder are inconsistent but the later ones named his brother and his brother's three friends as accomplices.

Wang Wen-hsiao was tried speedily by a military court, found guilty and executed in January 1992. It is not known whether he was ill-treated during interrogation by the military prosecutor and the police. The military court proceedings of his trial were later reported by the authorities to have been lost. His brother, Wang Wen-chung, was also tried by a military court and sentenced to two years and eight months' imprisonment.

Su Chien-ho, Liu Bin-lang and Chuang Lin-hsun were arrested by the police on 15 August 1991. The police did not have arrest warrants, did not inform the men's families about the arrests and searched Chuang's home without a search warrant. During interrogation by the Hsichih police, the men claim to have been tortured and forced to confess to the murders. They were each told that the others had already confessed. None of the confessions they made were consistent with each other and all three later denied committing the murder.

Charge and trial; special appeals by the Prosecutor General

On 4 October 1991 Su Chien-ho, Liu Bin-lang and Chuang Lin-hsun were charged under the Act for the Control and Punishment of Banditry with robbery, murder and rape, a combination of offences which carries a mandatory death sentence. Their trial opened before Shilin District Court on 11 October 1991 and they were tried before a panel of three judges.

Taiwanese law does not allow conviction solely on the basis of confession, but confessions frequently constitute the major item of evidence in criminal cases in Taiwan. In this case, the court based its verdict almost exclusively on the coerced confessions. Corroborative evidence was almost completely lacking. There were no corroborating eye-witnesses and no direct physical evidence linking the co-defendants to the crime.

During the district court proceedings the judges reportedly refused to call some of the defence witnesses, including fellow prisoners who might have corroborated the men's

claims of torture and several other people who claim to have seen the three men elsewhere on the night of the murder. The coroner's testimony appeared to rule out any possibility that the female victim had been raped and forensic evidence from the scene of the crime was apparently not presented to the court. In spite of this, the men were found guilty on all charges and on 18 February 1992 they were sentenced to death.

After a lengthy and convoluted series of appeals to both the High Court and the Supreme Court, the Supreme Court on 13 February 1995 confirmed the original verdicts and the final sentence was rendered. All standard avenues of appeal have been exhausted and the three men could now be executed at any time.

In February, April and July 1995, Prosecutor General Chen Han, made three special appeals to the Supreme Court calling for the case to be reviewed. The main reasons for his appeals were the lack of evidence, inconsistencies in the various confessions, illegality in the arrest procedures, lack of evidence of rape and the testimony of Wang Wen-chung. The latter, who had been charged as an accomplice, was tried separately in a military court and sentenced to two years and eight months' imprisonment for conspiracy to commit robbery. After release, he completed his military service and was discharged in June 1996. After leaving the military, he spoke publicly about the case. He said he had been beaten and threatened during police interrogation and forced to make a confession which incriminated his three friends. He also claimed to have seen police officials torturing the three men by beating them with wooden swords and electric shock batons.

The three special appeals by the Prosecutor General were rejected by the Supreme Court and in August 1995 Shilin Prosecutor's Office decided not to charge the four police officers who had been accused of torturing the suspects.

Campaign for the three men

Thousands of people in Taiwan have appealed to President Lee Teng-hui for clemency. Appeals on behalf of the three have come from all sectors of society, including lawyers, businessmen, legal scholars, lawmakers, activists and journalists. In June 1996 a group of 58 organizations, led by the Taiwan Association for Human Rights, the Humanistic Education Foundation, the Green Party and the Judicial Reform Foundation, came together to form the "Campaign to save the innocent from execution". The campaign has organized letter-writing appeals, petitions, demonstrations and public events to raise awareness about the case. In 1995 and 1996 Amnesty International issued a series of Urgent Action appeals on behalf of the three men.

ACTION: WHAT YOU CAN DO

Send appeals to the President and Minister of Justice in Taiwan.

_ Expressing concern at the death sentences imposed on Su Chien-ho, Liu Bin-lang and Chuang Lin-hsun, in spite of strong evidence to suggest they are innocent.

_ Calling on President Lee Teng-hui to exercise his constitutional power to commute the death sentences imposed on the three men.

_ Calling on the Minister of Justice not to sign a warrant for the three men's execution and urging him to order a thorough and independent investigation into their conviction.

_ Expressing concern that 38 people were executed in Taiwan in 1997, a massive increase over previous years.

_ expressing Amnesty International's opposition to the death penalty in all cases and seeking its abolition in law.

Send appeals to:

President LEE Teng-hui
Office of the President, Chiehshou Hall
122 Chungking S. Road, Sec 1
Taipei
Taiwan, Republic of China
Fax: +886 22 3140 746
Salutation: Dear President

Mr LIAO Cheng-hao
Minister of Justice
130 Chungching S. Road, Sec 1
Taipei 10036
Taiwan, Republic of China
Fax +886 22 389 6759
Salutation: Dear Minister

Copies to:

Mr Jason HU
Minister of Foreign Affairs
2 Ketagalan Road, Sec 2
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Fax: +886 22 311 9574
Salutation: Dear Minister

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9th Floor, No 3, Lane 25, Sec 3
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