

People's Republic of China

Abolishing "Re-education through Labour"

Appeal cases

Introduction

The system of "Re-education through Labour" (RTL) has been used since the mid-1950s in China as a form of administrative detention. People receiving terms of RTL have no right of access to a lawyer and there is no hearing for them to defend themselves. "Sentencing" or assignment to a term of RTL is usually decided by the police alone, without judicial supervision or review. Under the current system, people can be detained in a RTL facility for up to three years, which can be extended by a further year when "necessary".

RTL is separate from the criminal justice system in China. The decision whether to send a person to an RTL facility or to prosecute them through the courts is based on a subjective assessment by police of whether an act amounts to "illegal behaviour" and is therefore liable to RTL, or a more serious "crime", liable to prosecution through the courts. RTL was once described in an official legal newspaper as punishment for actions which fall "somewhere between crime and error".¹

Sweeping discretionary police powers to impose detention are regularly abused in a variety of ways. For instance: police reportedly avoid pressing formal criminal charges if they think there is not enough evidence to secure a conviction of suspects but send them to RTL instead²; some people found innocent of a crime and acquitted by the courts have reportedly been immediately detained by police and sent to RTL; although a person can in theory appeal against a decision to send them to RTL, it is common for their period of detention to be extended, often because appealing against a decision "shows a poor attitude to reform".³ Those who appeal may also be putting themselves at risk of beatings or other forms of torture or ill-treatment, since this may be taken as a sign that they refuse to recant their "crimes".

Furthermore, the vague language defining the types of behaviour liable to punishment by RTL gives the authorities broad discretion to detain those engaged in peaceful acts of

¹ See: "Law reform and human rights", Amnesty International, AI Index: ASA 17/014/1997, March 1997, available at www.amnesty.org.

² See: "Reform of China's re-education through labour system", Liu Renwen, available at www.brookings.edu 25 January 2005; and "Tentative proposals for the reform of China's system of RTL" [*zhongguo laodong jiaoyang zhidu gaige chuyi*], Qu Xuewu, available at www.iolaw.org.cn (in Chinese), undated.

³ "Critics take shine off boot-camp reforms", *South China Morning Post*, available at www.scmp.com, 21 March 2005.

protest or dissent. This keeps sensitive cases out of the courts, thereby helping to prevent adverse publicity.

Based on the principle of legality and standards against unfair trials and arbitrary detention under international human rights law, Amnesty International has consistently called for the abolition of RTL in China. In addition, there are regular reports of torture and other cruel, inhuman or degrading treatment taking place in RTL facilities. Torture remains widespread in all forms of detention in China.

RTL is currently the subject of legal debate in China. Long awaited legislation to reform this and other forms of administrative detention imposed without charge or trial is expected by late 2005 or early 2006. Amnesty International urges the Chinese authorities to ensure that these reforms are in line with international human rights laws and standards, in particular the International Covenant on Civil and Political Rights (ICCPR) which the Chinese government has signed but has yet to ratify.

The following appeal cases of women subjected to RTL illustrate patterns of human rights violations which have frequently been reported within the RTL system.

Mao Hengfeng

毛恒凤



Mao Hengfeng outside Shanghai petition office with her three daughters. © www.secretchina.com

Mao Hengfeng is currently held in a "Re-education through Labour" (RTL) facility in Shanghai. She was sent there by the Shanghai Municipal Public Security Bureau for 18 months in April 2004 having petitioned the authorities for many years over her right to work, a coerced abortion in 1990, and other basic rights. Mao was detained after she travelled to Beijing to petition state authorities at the time of the annual meeting of the National People's Congress in March 2004, where her petitioning was considered to have "disturbed social order". Her welfare allowances were discontinued when she was sent to the RTL in April 2004, leaving her family in severe financial difficulties.

Mao Hengfeng's original 18 month sentence was extended by three months in late December 2004. She was reportedly only notified of the extension orally, and the precise reasons for the extension are not known. However it is thought that Mao's refusal to acknowledge any "wrongdoing" may have contributed to the extension of her sentence. Mao Hengfeng was also reportedly told that if she "behaves better" in the RTL, the extension would be rescinded.

Mao Hengfeng has reportedly been subjected to torture and ill-treatment in the RTL facility. In October 2004, she was suspended from a ceiling and severely beaten. On 10 November 2004 the police at the facility reportedly bound her wrists and ankles with leather straps and then pulled her limbs in different directions demanding she acknowledge her "wrongdoing". This was continued for two days during which she was also denied food and left her with injuries on her wrists and ankles.

According to Wu Xuwei, Mao Hengfeng's husband, when Mao Hengfeng appeared at a court hearing on 19 November 2004 appealing the decision to discontinue her social allowance payments, "there were blood-blisters and huge swellings around her wrists and ankles".⁴ She lost the appeal.

In addition, police at the facility are alleged to have assigned two other inmates to constantly monitor Mao Hengfeng, and have reportedly told her that family visits and telephone privileges will be reduced if she continues to refuse to "confess". She has reportedly been held in solitary confinement for short periods and strapped down to her bed

⁴ "Shanghai Labor Camp Mother in Court with Bruises", *Radio Free Asia*, 22 November 2004.

for hours on end. Sources close to her have also reported that she has been force-fed with an unidentified substance that is turning her mouth black.

Amnesty International fears she is at risk of further abuse.

Background

Mao Hengfeng, a mother of twins, was reportedly dismissed from her job in 1988 because she became pregnant for a second time with a third child, in contravention of China's family planning regulations. Mao Hengfeng refused to have an abortion, and was subsequently detained in a psychiatric hospital, where she was forcibly injected with various drugs. She nevertheless continued the pregnancy, giving birth to a pre-term third daughter on 28 February 1989. She was then notified on 20 March 1989 that she had been dismissed from her job for missing 16 days of work. This was the period when she was giving birth and recuperating, as well as recovering from her ordeal in the psychiatric institute.

Mao Hengfeng appealed against her dismissal under China's Labour Law, and was ordered to be reinstated to her job by the Shanghai Municipal Labour Arbitration Committee. However, the soap factory where she worked disputed the ruling, and appealed to Shanghai Yangpu District Court. Mao was seven months pregnant with her fourth child at the time of the appeal hearing, when the judge reportedly told her that if she terminated this third pregnancy, he would rule in her favour.

Concerned over the welfare of her existing family, Mao terminated her pregnancy against her wishes, but still the court ruled against her apparently because she had taken 16 days of "unauthorized leave" from work, and also for her original violation of family planning policies.

During her years of petitioning the authorities, Mao Hengfeng had been detained on numerous occasions by police – including in psychiatric facilities – usually prior to major public events in order to stop her from petitioning. During her current term in RTL, many people have openly shown support for her. In October 2004 (prior to her appeal against the decision to discontinue her welfare allowance), a crowd reportedly gathered outside the RTL facility calling out her name. Hearing the shouts, Mao Hengfeng went to her cell window and waved to acknowledge her supporters, but was pulled away by officials. It is possible that this incident led to further abusive treatment in November 2004.

The police have also reportedly detained people who have either attempted to petition or to instigate appeal procedures on Mao's behalf. In the run-up to China's National People's Congress meeting in March 2005, a five-man surveillance team was reportedly ordered to monitor Mao Hengfeng's husband Wu Xuwei, and to block his door at night with a bench. Chen Xiaoming, who has assisted Mao Hengfeng to petition the authorities, was detained and interrogated for several hours on 25 February 2005 when he was on his way to an appointment at the US Consulate in Shanghai to discuss Mao Hengfeng's case. Mao Hengfeng's daughters have reportedly also been detained and interrogated by police, even though they were under 16 years old at the time.

As well as actively petitioning authorities to seek redress for herself, Mao Hengfeng has also acted to safeguard the rights of others. For instance, she is known to have actively supported other people seeking redress over alleged forced evictions in Shanghai, and is reportedly regarded by the authorities there as one of Shanghai's most persistent and experienced petitioners.

Amnesty International considers Mao Hengfeng to be a prisoner of conscience and human rights defender and is calling for her immediate and unconditional release. Amnesty International is also deeply concerned by reports that she has been repeatedly subjected to torture or ill-treatment.

Please send appeals to the Chinese authorities:

- urging the immediate and unconditional release of Mao Hengfeng, allowing her to continue her lawful petitioning and other peaceful human rights activities without interference;
- expressing concern at allegations that she has been subjected to torture and ill-treatment in detention, and urging the authorities to conduct a full and independent investigation into these allegations with a view to bringing those responsible to justice;
- urging the authorities to guarantee that she will not be subjected to further torture or ill-treatment while she remains in custody and that she has full and regular access to her family, legal representation and medical treatment;
- calling on the authorities to abolish "Re-education through Labour" – a form of arbitrary detention imposed without charge or trial – ensuring that any alternative measures introduced comply fully with international human rights standards.

Send your appeals to:

Director of the Shanghai Bureau of Public Security

WU Zhiming Juzhang
Shanghaishi Gong'anju
185 Fuzhoulu, Huangpuqu
Shanghaishi 200002
People's Republic of China
Email: gaj02@shanghai.gov.cn or shgajxfb@sh.china110.com
Salutation: Dear Director

Director of the Shanghai Bureau of Justice

MIAO Xiaobao Juzhang
Shanghaishi Sifaju
225 Wuxinglu
Shanghaishi 200030
People's Republic of China
Email: contact_us@eastday.com or webmaster@justice.gov.cn or jjjianjiancha@eastday.com
Fax: +86 21 64743029
Salutation: Dear Director

Minister of Justice of the People's Republic
of China

ZHANG Fusen Buzhang
Ministry of Justice
10 Chaoyangmen Nandajie
Chaoyangqu
Beijingshi 100020
People's Republic of China
Email: minister@legalinfo.gov.cn
Fax: +86 10 65292345
(c/o Ministry of Communications)
Salutation: Dear Minister

Prime Minister of the People's Republic of
China

WEN Jiabao Guojia Zongli
The State Council
9 Xihuangcheng Genbeijie
Beijingshi 100032
People's Republic of China
Salutation: Your Excellency

Send copies to:

Secretary of the Shanghai Municipal Party
Committee

CHEN Liangyu Shuji
Zhonggong Shanghaishi Weiyuanhui
30 Fuzhoulu
Shanghaishi 200002
People's Republic of China
Salutation: Dear Secretary

and to the Chinese diplomatic
representatives accredited to your country.

Gao Rongrong

高蓉蓉



Gao Rongrong prior to her detention. © Private



Gao Rongrong ten days after she was hospitalized in May 2004. © Private

Gao Rongrong a 37-year-old *Falun Gong* practitioner from Shenyang city, Liaoning Province, reportedly died in custody on 16 June 2005 at the China Medical University Hospital.

Gao Rongrong was initially sent to Longshan "Re-education through Labour" (RTL) facility in Shenyang on 8 July 2003, soon after her detention by police for "disturbing social order" on 22 June.

According to reports, on 7 May 2004 Gao Rongrong was discovered reading *Falun Gong* material inside Longshan RTL facility, and subjected to seven hours of torture at the hands of officials demanding to know where she had acquired the material. This prolonged torture allegedly involved using electric-shock batons on Gao Rongrong's face and neck and reportedly caused her severe blistering and difficulties with her eyesight.

Gao Rongrong reportedly attempted to escape by jumping through the window of the first-floor room where she was being held, breaking several bones in her foot, leg and pelvis. She was hospitalized for these injuries, and reportedly continued to suffer further physical and psychological abuse in the hospital.

According to some sources, officials at the hospital where Gao Rongrong was treated and officials from Longshan RTL facility claimed that the injuries to Gao Rongrong's face and neck – on both the left and right sides – were sustained when she jumped from the first-floor window on 7 May 2004. Unofficial sources maintain that

these injuries were sustained through torture as described above.

On 5 October 2004, Gao Rongrong was smuggled out of the hospital by a group of acquaintances. She was re-apprehended by police on 6 March 2005 along with Feng Gang, Wang Juan (f), Liu Qingming and Sun Shiyou, the people who reportedly helped her to escape.

Gao Rongrong's whereabouts after her recapture were not disclosed until 12 June 2005 when her family was informed that she was being held at Masanjia Hospital. According to Gao's family who visited her at that hospital, she was little more than "skin and bones", had lost consciousness and was hooked up to a respirator. Gao was then transferred to China

Medical University Hospital where she died four days later. Her family was reportedly being pressured to cremate her body quickly which would undermine any possibility of full, independent investigation of the cause of her death and any evidence of torture and ill-treatment.

There is no further information available on the current whereabouts or status of Wang Juan or Liu Qingming. Feng Gang has reportedly been detained, and later hospitalized after he underwent a 13 day hunger strike to protest against his detention. Sun Shiyou has reportedly been tortured by the authorities, including by electric shocks to his genitals.

Background

Gao Rongrong was dismissed from her position as an accountant in the finance department of an art college in Shenyang in 1999, reportedly because of her adherence to *Falun Gong*, as well as for distributing materials about *Falun Gong* to her colleagues. Her detention in 2003 is believed to have been linked to petitioning the authorities to end the crackdown on *Falun Gong*, and for distributing materials publicizing abuse suffered by other *Falun Gong* practitioners in detention.

The *Falun Gong* spiritual movement was banned in China in July 1999 as a “heretical organization” and a “threat to social and political stability”. Since then, thousands of *Falun Gong* practitioners have reportedly been imprisoned, assigned to RTL, or forcibly institutionalized in psychiatric hospitals in which they are at high risk of torture and ill-treatment, in particular if they refuse to renounce their beliefs.

Overseas *Falun Gong* organizations claim that over 1,800 practitioners in China have died either in custody or shortly after they have been released, largely as a result of injuries sustained as a result of torture and ill-treatment while in custody. Amnesty International has been unable to independently verify these statistics and cases but remains concerned about the widespread use of arbitrary detention and reported torture and ill-treatment against *Falun Gong* practitioners.

Please send appeals to the Chinese authorities:

- calling on the authorities to launch a full, independent and impartial investigation into the death of Gao Rongrong including allegations that she was tortured in Longshan “Re-education through Labour” facility and again after her recapture in March 2005, with a view to bringing those found responsible to justice;
- calling on the authorities to launch a full, independent and impartial investigation into allegations that Sun Shiyu has been tortured after his capture in March 2005, with a view to bringing those found responsible to justice;
- calling on the authorities to clarify the current whereabouts and status of Wang Juan and Liu Qingming, and provide immediate guarantees for their safety;
- urging the authorities to ensure Feng Gang, Wang Juan, Liu Qingming and Sun Shiyu have full and regular access to their families, legal representation and medical treatment while they remain in detention;
- urging the authorities to release Feng Gang, Wang Juan, Liu Qingming and Sun Shiyu immediately and unconditionally unless they are charged with a recognisably criminal offence;
- calling on the authorities to abolish “Re-education through Labour” – a form of arbitrary detention imposed without charge or trial – ensuring that any alternative measures introduced comply fully with international human rights standards.

Send your appeals to:

Director of the Liaoning Provincial
Department of Public Security
LI Wenxi Tingzhang
Liaoningsheng Gong'anting
2 Qishan Zhonglu
Huangguqu
Shenyangshi 110032
Liaoningsheng
People's Republic of China
Salutation: Dear Director

Director of the Liaoning Provincial
Department of Justice
LI Chengyi Tingzhang
Liaoningsheng Sifating
Chongshan Donglu 38 Jia,
Shenyangshi 110032
Liaoningsheng
People's Republic of China
Salutation: Dear Director

Minister of Justice of the People's Republic of China

ZHANG Fusen Buzhang
Ministry of Justice
10 Chaoyangmen Nandajie
Chaoyangqu
Beijingshi 100020
People's Republic of China
Email: minister@legalinfo.gov.cn
Fax: +86 10 65292345
(c/o Ministry of Communications)
Salutation: Dear Minister

Prime Minister of the People's Republic of China

WEN Jiabao Guojia Zongli
The State Council
9 Xihuangcheng Genbeijie
Beijingshi 100032
People's Republic of China
Salutation: Your Excellency

Send copies to:

Secretary of the Liaoning Provincial Party Committee

Li Keqiang Shuji
Zhonggong Liaoningsheng Weiyuanhui
45 Nandajie, Hepinglu
Shenyangshi 110006
Liaoningsheng, People's Republic of China
Email: lnsrd@pub.sy.ln.cn
Salutation: Dear Secretary

and to the Chinese diplomatic
representatives accredited to your country.