

URGENT ACTION

TORTURE FEARS FOR ACTIVIST SENTENCED TO DEATH

Veteran activist Xu Youchen has testified at his appeal that police had tortured him to obtain the evidence used to convict and sentence him to death in December 2016. In addition to unfair trial concerns, there are fears that he is still at risk of torture and other ill-treatment.

Xu Youchen presented a 55-page testimony to the Henan Provincial Higher People's Court at his appeal on 18 May 2017, stating how he was tortured by police during his detention in 2014. A request by his defense lawyer to get a copy of the CCTV footage at the scene of the murder as well as from law enforcement, to check whether Xu Youchen had been tortured during the interrogations, was rejected by the court at the first trial as well as by the Henan Provincial Higher People's Court. According to Xu Youchen, he signed the self-incriminating statement drafted by the police, "confessing" that he had bought the knife to attack a policeman for revenge, after he had been severely beaten and force-fed drugs.

On 17 July 2014, Xu Youchen and his wife were escorted back from Beijing by the authorities to their hometown of Jiaozuo city by van after peacefully petitioning government authorities about a contract dispute. A policeman, who died later that night, was stabbed when a struggle broke out as Xu Youchen resisted being forcibly removed from the van. In December 2016, Xu Youchen was convicted of intentional homicide and sentenced to death.

The Henan Provincial Higher People's Court concluded the appeal hearing in only four hours before submitting the case to the adjudication committee, composed of judges and administrators of the court to review important and sensitive cases. The head of the procuratorate is able to attend the closed door adjudication committee meetings, however no representation from the defense is permitted. The judgement from the appeal is still pending.

Xu Youchen's defense lawyer visited him at the detention centre in February 2017 and found that he was shackled at his hands and feet at all times.

Please write immediately in Chinese, English or your own language, urging authorities to:

- Grant Xu Youchen a retrial in proceedings that fully comply with international standards for a fair trial and without recourse to the death penalty;
- Ensure that any statement made as a result of torture or other ill-treatment is excluded from evidence and all proceedings fully comply with international fair trial standards;
- Ensure that Xu Youchen is protected from torture and other ill-treatment while in detention, and that an independent and impartial investigation into claims he was tortured during police interrogation is started.

PLEASE SEND APPEALS BEFORE 7 JULY 2017 TO:

Chief Procurator of Henan Provincial
People's Procuratorate
Cai Ning Jianchazhang
Henan Provincial People's Procuratorate
Zhengbian Lu Dong Duan
Zhengzhou Shi 450000
Henan Sheng
People's Republic of China
Tel: +86 371 6595 2000 (Chinese only)
Salutation: Dear Chief Procurator

Director of Sanmenxia City Detention
Centre
Sanmenxia Shi Kanshouso Suozhang
Sanmenxia City Detention Centre
Huixing Jiedao Huaishuwa Cun
Sanmenxia shi 472000
Henan Sheng
People's Republic of China
Salutation: Dear Director

And copies to:
President of the Supreme People's Court
Zhou Qiang Yuanzhang
Supreme People's Court
27 Dongjiaomin Xiang
Beijingshi 100745
People's Republic of China
Fax: +86 10 652 92345

Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

Please check with your section office if sending appeals after the above date. This is the first update of UA 3/17. Further information:

www.amnesty.org/en/documents/asa17/5434/2017/en/

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ADDITIONAL INFORMATION

The petitioning system in China allows individuals to seek redress for grievances by directly submitting complaints to government authorities. Xu Youchen and his wife, Zhang Xiaoyu, are veteran petitioners who have been arbitrarily detained by the Chinese authorities in “black jails”, unrecognized and unofficial detention facilities, many times. They were also sent to Re-education through Labour camps, an abolished system used to arbitrarily detain and punish people without judicial process. Although the government dropped Zhang Xiaoyu’s charge on 4 June 2015 regarding the death of the policeman and released her, she was detained again in August 2015 for the petition made in 2014 and was sentenced to imprisonment of three years and six months for “picking quarrels and provoking trouble” on 22 December 2016, the same day Xu Youchen was convicted and sentenced to death.

A new in-depth investigation published by Amnesty International in April, China’s Deadly Secrets, shows that despite claims by China that it is making progress towards transparency in the criminal justice system, Chinese authorities enforce an elaborate secrecy system to obfuscate the extent of executions. This investigation found hundreds of executions in public media reports missing from a national online court database, China Judgements Online, which had been heralded as a major advance in judicial transparency. This new national public database, while a positive first step, does little to lift the veil of state-enforced secrecy over the application of the death penalty in the country.

In 2009 Amnesty International stopped publishing its estimated figures on executions in China, as data on the use of the death penalty is classified as a state secret. Instead, the organization has continuously challenged the Chinese authorities to prove their claims that they are achieving their goal of reducing the application of the death penalty by publishing the figures themselves.

Amendments to the Criminal Law in 2015, which came into effect in November, reduced the number of crimes punishable by death from 55 to 46. State media indicated that although the nine crimes were rarely used and would have little impact in reducing the number of executions, their deletion was in line with the government’s policy of “kill fewer, kill more cautiously”. However, the revised provisions still failed to bring the Criminal Law in line with requirements under international law and standards on the use of the death penalty, which require its use to be restricted to “the most serious crimes” only.

Amnesty International opposes the death penalty unconditionally, in all cases without exception, regardless of the nature or circumstances of the crime, the guilt, innocence or other characteristics of the individual, or the method used by the state to carry out the execution. The organization has long held that the death penalty violates the right to life, as recognized in the Universal Declaration of Human Rights, and is the ultimate cruel, inhuman and degrading punishment.

As of today, 104 countries have abolished the death penalty for all crimes and 141 in total are abolitionist in law or practice.

Torture and other ill-treatment remain endemic in all places of detention in China, even though China ratified the UN Convention against Torture in 1988. Amnesty International receives regular reports of deaths in custody, many allegedly caused by torture, in a variety of state institutions, including prisons and police detention centres.

Name: Xu Youchen

Gender m/f: m

Further information on UA: 3/17 Index: ASA 17/6364/2017 Issue Date: 26 May 2017