

EXTRA 48/99 Death penalty / Fear of imminent execution 25 March 1999

PEOPLE'S REPUBLIC OF CHINA (PRC) Li Yuhui, aged 46

On 23 March, Li Yuhui was sentenced to death by Shantou City Intermediate People's Court. It is not known if he will appeal against his sentence. Successful appeals are rare.

Li Yuhui, a Feng Shui (Chinese geomancy) practitioner, was arrested in Hubei Province, accused of murdering three women and two girls, by poison, in the Hong Kong Special Administrative Region (SAR) in July 1998. He was also found guilty of robbing them of HK \$1.2 million. The murders and robbery allegedly took place during a ceremony that was supposed to lengthen the women's lives. In his defence during the trial, Li Yuhui reportedly claimed that an unidentified Feng Shui master had asked him to prepare and administer a 'potion'. Li said he did not know it contained cyanide, and that he was only guilty of theft.

As with the trial and execution of Cheung Tze Keung (UA 17/35/98), the handling of the case has provoked great controversy in Hong Kong and has been criticized for undermining the guarantees of separate jurisdiction and judicial autonomy for the region, under the "one country, two systems" principle. Unlike mainland China, Hong Kong does not have the death penalty.

Under mainland Chinese Criminal Law, defendants can be tried in the mainland if their alleged crimes were planned, attempted, committed or had consequences there. In addition, PRC citizens can be tried in the mainland even if their alleged crimes occurred elsewhere. Under Hong Kong's mini constitution, the Basic Law, the laws in force in Hong Kong before it was returned to China in 1997, and not mainland China's Criminal Law, apply there. Hong Kong courts also have jurisdiction over all cases in the region.

There is continued debate and uncertainty in Hong Kong about these legal issues. Even if it is accepted that Hong Kong and the mainland have concurrent jurisdiction in Li Yuhui's case, it is worrying that the Hong Kong authorities did not seek to uphold the region's autonomy by requesting his return to Hong Kong. The Hong Kong authorities argue that this option is not open to them until they have a formal arrangement with the rest of China on handing back fugitive suspects.

BACKGROUND INFORMATION

The death penalty is used extensively in China. Based on public reports, Amnesty International has recorded 3,152 death sentences and 1,876 confirmed executions in China in 1997. These figures are believed to fall far short of the reality as only a fraction of death

sentences and executions carried out in China are publicly reported. Execution is by shooting or lethal injection. The use of the death penalty has increased considerably in China since the 1980s. A revision to the Criminal Code in March 1997 confirmed the increasing scope for its use, incorporating new crimes punishable by death which were previously covered by regulations, as well as redefining others.

RECOMMENDED ACTION: Please send telegrams/faxes/express and airmail letters either in English or Chinese or in your own language: Please send appeals to both the Chinese mainland authorities and to the Hong Kong authorities;

In China

- urging that the death sentence imposed on Li Yuhui be commuted;
- urging that the basis for holding the trial in the mainland is made clear, that the trial is examined to ensure that it was carried out according to international standards on fair trials, and that all appeal grounds are fully and impartially investigated;
- urging that the arbitrary and massive use of the death penalty in China be stopped and expressing opposition to the death penalty in all cases as the ultimate form of cruel and inhuman punishment and as a violation of the right to life as guaranteed in the Universal Declaration of Human Rights.

In Hong Kong

- calling on the authorities to urge the mainland authorities to commute the death sentence imposed on Li Yuhui;
- urging that the basis for holding the trial in the mainland is made clear, stating that the Hong Kong authorities should have asked for his return to Hong Kong for trial, and calling on the Hong Kong authorities to actively defend the separate jurisdiction and judicial autonomy of the Hong Kong SAR;
- calling on the Hong Kong authorities to ensure that any future agreement with mainland China on handing back fugitive suspects conforms fully with internationally recognised safeguards for suspects and conforms with the practice of many abolitionist territories by precluding the handing back of people who may face the death penalty;
- expressing opposition to the death penalty in all cases as the ultimate form of cruel and inhuman punishment and as a violation of the right to life as guaranteed in the Universal Declaration of Human Rights.

APPEALS TO:

MAI Chongkai Yuanzhang

President of Guangdong Provincial High People's Court

Guangdongsheng Gaoji Renmin Fayuan

26 Cangbian Lu

Guangzhoushi 510090

Guangdongsheng

People's Republic of China

Telegrams: President of the Provincial High People's Court, Guangzhou, Guangdong Province, China

Faxes: 8620 83330344

Salutation: Dear President

REN Jianxin Yuanzhang

President of Supreme People's Court of the People's Republic of China

Zuigao Renmin Fayuan

27 Dongjiao Min Xiang

Beijingshi 100726

People's Republic of China

Telegrams: President of the Supreme People's Court, Beijing, China

Faxes: + 86106 512 5012

Salutation: Dear President

Tung Chee Hua

Chief Executive of the Hong Kong SAR

S/F Main Wing

Central Government Offices

Lower Albert Road

Hong Kong SAR

Faxes: + 852 2509 0577

COPIES TO:

Xinhua News Agency

Faxes: + 86106 201 9332

and to diplomatic representatives of the People's Republic of China accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 25 April 1999.