
amnesty international

PEOPLE'S REPUBLIC OF CHINA

The plight of Zhang Shanguang and others - "A legal system in tatters"

18 October 2001

AI Index: ASA 17/033/2001

Action Ref:

Distr: ReI CO/GR/SC

Attached is the text of a petition letter written by Zhang Shanguang, a prisoner of conscience currently detained in Hunan No.1 prison. The letter details the torture and inhumane working conditions in Hunan No.1 prison and was smuggled out of China. Other sources have reported that Zhang has been beaten and placed in solitary confinement for writing the following petition and asking his fellow inmates to sign it. Those who signed it were also reportedly beaten.

Zhang Shanguang is believed to have tuberculosis, contracted while imprisoned in 1989 for seven years after his involvement in the pro democracy demonstrations in May and June of that year. It is reported that despite being ill, he is being forced to do heavy physical work in fetters. Reports also suggest that he has been denied medical attention and been made to undertake the hardest type of physical work in the prison. ¹

Copyright:China Labour Bulletin

Amnesty International calls for the release of Zhang Shanguang as a prisoner of conscience and urges the Chinese authorities to properly investigate his health and to ensure that he receives whatever treatment is recommended by competent doctors. ²

¹ For more information please see *MEDICAL LETTER WRITING ACTION*, Zhang Shanguang

AI Index: ASA 17/37/00

² Zhang was detained on 21 July 1998, and formally arrested on 28 August 1998, accused of "illegally supplying intelligence to hostile organizations and people in external territory". One of charges against him was based on an interview Zhang gave to the US-funded Radio Free Asia when he spoke, among other things, about peasant demonstrations in Hunan Province.

Zhang was the founder of the local 'Shu Pu Association to Protect the Rights and Interests of Laid-off workers' and it is believed that his arrest was partly in connection with his plans to register his organization. On 27 December 1998 Zhang was convicted and sentenced to 10 years' imprisonment, plus five years' deprivation of political rights. The trial took two hours and 20 minutes and took place behind closed doors.

Torture in China is widespread and endemic and every year many people are tortured to death. Others survive the torture but continue to suffer the long-term effects of the physical and mental traumas they have endured.

Torture in detention

Torture has been reported in the full range of state institutions, from police stations, detention centres and prisons to administrative “re-education through labour” camps and enforced drug rehabilitation centres.

Torture during interrogation is perpetrated against all types of detainees, including high profile cases and is also common in prisons and labour camps where prisoners are serving criminal or “administrative” sentences. Forced labour and “acknowledgment of guilt” are central to penal policy in China, generating an environment where prisoners are often abused. Particularly harsh treatment is inflicted on common criminal prisoners and political prisoners who are deemed to be “resisting reform”, by failing to meet production targets, complaining, staging hunger strikes or attempting to escape.

Prison guards often delegate disciplinary duties to selected prisoners, referred to as “cell bosses” or “monitors”, who are routinely responsible for abusing other prisoners, often at the direction of the guards. Former prisoners report that guards use “cell bosses” to discipline, beat and torture their fellow prisoners. Reflecting persistent official denial and indifference, China’s representatives asserted to the UN Committee against Torture during their 1996 hearing that “cell bosses” did not exist in China. Since 1997, few prosecutions for “cell bosses” alleged to have tortured other prisoners are known to have taken place. The victims of the torture were all tortured to death.

Torture occurs in all types of detention places in China and against detainees held under criminal legislation and administrative regulations. Administrative detention is generally imposed on people up to three years and allows the police and other government agencies wide powers to detain people on their own authority, without charge, trial or any type of judicial review, and generally without the oversight of existing supervisory bodies. The limited safeguards for criminal suspects and defendants introduced in the revised Criminal Procedure Law and outlined below do not apply to people detained administratively. As testimony and reports monitored by Amnesty International show, they are just as vulnerable to torture and ill-treatment as those held under criminal legislation.

Medical personnel and torture

The right of detainees to be examined by a doctor and, when necessary, to receive medical treatment is a safeguard against torture or ill-treatment and an integral part of the authorities duty to ensure respect for human dignity. Principle 24 of the UN Body of Principles³ states that a proper medical examination shall be offered to detainees or prisoners as promptly as possible after admission to a place of detention, and thereafter medical care and treatment shall be provided whenever necessary, free of charge.

Chinese law and prison and detention centre regulations appear to cover medical attention for detainees and prisoners quite comprehensively. However none of the provisions establish prisoners’ rights and concrete entitlements to medical attention. Reports also indicate that the provisions on paper are far from watertight in practice. In several cases known to Amnesty International, medical staff called into interrogations by police officers have assessed that badly beaten victims are fit enough for the interrogation to continue. Several of the victims subsequently died of their injuries. In cases where the interrogators were finally prosecuted,

³ Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. Adopted by General Assembly resolution 43/173 of 9 December 1988

there is no indication that the medical staff complicit in the torture were investigated or punished in any way.

Punishment of torture

Chinese law punishes torture and ill-treatment as a crime in some specific circumstances only. Many perpetrators acting in an official capacity, such as part-time, contracted or seconded security staff, are specifically excluded from prosecution for crimes of torture. In practice, even those who can be pursued for criminal responsibility under the law often escape prosecution or receive only light punishments.

While in some instances - often high profile ones - cases of alleged torture are investigated fully and the perpetrators punished and compensation (albeit limited) is offered to the victims, in many occasions, allegations of torture are not investigated properly and the alleged torturers are not punished. Such reaction to allegations may be seen as official indifference or official complicity in torture and ill-treatment. It calls into question the government's sincerity in the fight against torture. All citizens deserve and must be provided with protection against torture.

Additional concerns - harsh working conditions, overwork, lack of medical care, use of fetters

While Amnesty International takes no stand on the issue of prison labour it remains concerned about any abuses of human rights that may result from harsh working conditions or prisoners being made to work while ill. Amnesty International is concerned that overwork and poor working conditions remain quite common in China.

Amnesty International has also documented many cases of people who have been denied adequate medical care while in prison - often for diseases or ailments which have been brought about by poor prison conditions. Many prisoners contract tuberculosis and neither the conditions nor the medical care in prisons is adequate to treat and cure them. If a prisoner contracts TB while in prison, he/she is at serious risk; other prisoners and prison staff are also at risk of contracting the disease.

The reported use of fetters on a prisoner is incompatible with human rights standards. The Standard Minimum Rules for the Treatment of Prisoners state that implements such as fetters "shall never be applied as punishment" and that "chains or irons shall not be used as restraints" (Rule33). The use of fetters on a sick prisoner forced to carry out physical labour is a particularly aggravated abuse. AI is urging an immediate end to the use of fetters.

Additional issues include excessive use of solitary confinement, the lack of adequate food and other conditions in prison as well as access to family visits and access to legal representation.

For other cases of torture and for more details of torture in China please refer to Amnesty International publication; *Torture growing scourge in China - Time for Action* (ASA 17/004/2001)

- ◆ Please send your letters to the Chinese Embassy in your country. Please ensure that the letters are written in English and that they are released from subjectively confinement and given adequate and immediate medical attention;
- ◆ that the torture and harrassment of detainees in China is stopped immediately and that measures are taken to ensure their working conditions do not constitute in themselves cruel, inhuman or degrading treatment;
- ◆ that an impartial and independant investigation is undertaken into the conditions and treatment of prisoners in Hunan No.1 Prison;
- ◆ that China, as a party to the Convention Against torture, ensures that "all acts of torture are offences in its criminal law" including any "attempt to commit torture" or "act by any person which constitutes complicity or participation in torture" and that China also ensures that all punishments for these crimes reflect their "grave nature" (Article 1 and 4 of the Convention);
- ◆ that international standards of medical care for prisoners be granted to all detainees;
- ◆ that organisations like the International Committee of the Red Cross be given free unconditional access to prisons to monitor conditions.

Send your letters to:

Premier of the People's Republic of China

ZHU Rongji Zongli

Guowuyuan

9 Xihuangchenggenbeijie

Beijingshi 100032

People's Republic of China

Telexes: 210070 FMPC CN or 22478 MFERT CN

Telegram: Premier Zhu Rongji, Beijing, China

Salutation: Your Excellency

Director of the Legislation Department of the Ministry of Justice of the People's Republic of China

LAN Quanpu Sizhang

Sifabu, Faguisi

11 Xianguangli

Sanyuanqiao, Chaoyangqu

Beijingshi 100016

People's Republic of China

Telegram: Director of the Legislation Department of the Ministry of Justice, Beijing, China.

Governor of the Hunan Provincial Government

Zhang Yunchuan

Hunansheng Renmin Zhengfu

7 Wuyizhonglu

Changshashi 410011

Hunansheng

People's Republic of China

Please send copies of the letter to diplomatic representatives of China accredited to your country and to:

Chinese Medical Association

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What happened to our legal rights?⁴

A Prisoner's Petition 15/3/2001

Considering the trials and hardships that the Chinese people have been through in its five thousand years long history, it should be a country with a high level of civilisation. Especially under the leadership of the most advanced political party in the country, the Chinese Communist Party, it ought indeed to be a brilliant era. All over the country, democracy and the legal system have been developed, and all the people can enjoy the sweet fruits of this modern, civilised, eastern land of happiness. However, in Red Mountain Prison⁵, on Dongting Hugu Island in Hunan Province, we are several thousand prisoners who have been forsaken by modern civilisation. It seems as this place is left in the dark ages from several thousand years ago when there was no civilisation and no legal system. The prison guards are like god, they are the law, they can turn right and wrong upside down, they can make white into black, and they can say that a prostitute is a virtuous girl. Everywhere there is exploitation, oppression, brutality and violence. The prisoners are trampled on like pigs and sheep, and everywhere they are in the midst of extreme misery. Our party and our government have used the progressive achievements of human society to write the law bit by bit. But as for the rights and protection of us prisoners who may be criminal, but who are not completely devoid of humanity, in the hand of the prison guards they are like cheap toilet paper shred to pieces and trampled on so as to make one cry. Please take a look at the facts:

1. Subjecting the prisoners to indignities: The Constitution stipulates: "The human dignity of the people is inviolable." The Prison Law stipulates: "The human dignity of criminals shall not be humiliated, prison guards must not humiliate the human dignity of the prisoners." However, in Hunan Red Mountain Prison, the prisoners are locked up in cages like animals, with no respect for human dignity whatsoever. The prison guards slap the prisoners in the face and force them to squat down. It is commonplace for them to hurl insults at the prisoners, calling them things like "rascals" and "smelly (reform-through-labour) prisoners". They also frequently tie the prisoners up with thick ropes and force them onto a stage, just like the self-criticism sessions during the Cultural Revolution. During work hours, prison guards will sometimes turn to a prisoner's back, and under the pretext of accusing him of not working hard enough, he will pull his earlobes hard or beat him on the chest with a stick. Under these circumstances, the human dignity of the prisoners is like fallen leaves in the autumn wind.

2. Abusing "admonishing examples" to exert corporal punishment and maltreat the prisoners: The Prison Law stipulates: "The prison police must not use corporal punishment or maltreat the prisoners. They are not allowed to use "admonishing examples" unless a prisoner attempts to escape, is violent, or engages in dangerous behaviour during escort and it is thus necessary to take safeguarding measures." The Regulations Regarding the Police's Use of Admonishing Examples stipulates: "When using "admonishing examples", the police must not hurt people

⁴Translated from the Chinese by a translator for Amnesty International. The use of (?) Denotes a word that the translator is not sure of the exact translation. The translator has made every effort to be accurate but mistakes/vagaries may remain

⁵ Known as Hunan No.1 Prison

physically.” But in Hunan Red Mountain prison, the prison guards frequently handcuff prisoners to basketball hoops, windows, or brick columns, often with both hands tied over the head and with the feet, or only the toes, barely touching the ground. Some prisoners were handcuffed like this for over 30 days and grew extremely emaciated, some were not able to eat or drink, they couldn’t even go to the toilet, and their feet would swell. Other who were handcuffed for such a long time couldn’t take it anymore, and were forced to climb up tall chimneys to commit suicide (?). Ropes are also used as an “admonishing example”, whereby prison guards tie prisoners together like dead pigs, tying them so hard that their skin goes pulpy. Many prisoners have scars from the ropes that will never heal. In the prison’s solitary confinement there are no mosquito nets or mosquitocide in the summer. Prisoners squat in a dark, stuffy, unventilated room. During the day they are submitted to self-criticism or they have to work. In the evening there are plenty of bites from bacterious mosquitos. Some prisoners who are in confinement or who are so ill that they cannot work, even the rice that the government supplies them with is embezzled. In every cup there is only two liang of rice, and they are not even given the extremely limited amount of meat doled out every week. The maltreatment and corporal punishment of the prisoners has reached an extreme extent!!

3. Beating the prisoners. The Prison Law stipulates: “Prisoners’ personal safety is inviolable, and the prison police must not beat the prisoners.” But in Hunan Red Mountain prison, it is a common to see prison guards beat the prisoners. They kick and box them, throw them to the floor, trample on them with their boots, beat them with electric batons after having handcuffed them, or they use whatever to hit them on the head or the chest. There is no room for resistance for the prisoners, they are beaten till they are full of scars, their body becomes deformed, they spit and shit blood, their teeth fall out, they turn into lunatics, they faint half-dead, they jump off a building to commit suicide. . . . Even an oppressive feudal official would seem inferior (only 3/10 as bad) to such cruel methods, it makes people shiver all over and keep quiet out of fear.

4. Overload of work: The Constitution stipulates: “Citizens have the right to rest.” The Labour Law stipulates: “The state should implement a labour system whereby prisoners do not work more than 8 hours per day and 44 hours per week. In 1995 the State Council stipulated: “The state should implement a five-day working week. The Prison Law stipulates: “The prison guards should arrange the working hours of the prisoners with reference to the relevant national stipulations. However, in Hunan Red Mountain prison, virtually any right the prisoners have to rest has been robbed. Not only do they not get to rest on Sunday, but every day they are forced to work for 12-13 hours, or even 15-16 hours. Sometimes the prisoners work throughout the night, so that when they get off work they don’t even have time to close their eyes before the bell sounds to wake them up for breakfast and then for work again. In the workshops it is common to see prisoners who are so tired that they spit blood or go into a coma. Tuberculosis is spreading amongst them. Working under conditions that seriously undermines the physical and mental health, the prisoners are so scared that they turn pale at the mere mention of something terrible. Many prisoners would rather spend a long time in solitary confinement, they would rather not reduce their sentence by one day, they can’t stand such torment.??? In ancient China, there were stories about oppressive tyrannies, but the people of ancient times had a choice, whereas today’s prisoners don’t. Their only choice is to take orders and meekly submit themselves to oppression. Otherwise, there will be corporal punishment, abuse, and beating awaiting you like tiger opening its blood mouth, eyeing its prey.

5. Food of poor quality: The Prison Law stipulates: “The living expenses of the criminals is listed in the state budget, according to the budget for things settled in kind ??? In Hunan Red Mountain Prison: According to the

state budget for things settled in kind ???, the living expenses of a prisoner is more than 100 yuan per month. But what is actually given to the prisoner is far from this sum. The rice they get is often cheap, coarse and stale, the vegetables are dirty (zanqie butan ???), and out of three meals in a day two will consist of soup, but not of the Zhongnanhai variety (white gourd, pumpkin, kelp), but rather it is made of pickled vegetables, turnips that scrape the stomach, and very rarely will there be an oily froth. Nominally the prisoners should be served meat two or three times a week, but most of the time there will only be five or six pieces of meat, which is not even enough to feed a kitten. The sallow and emaciated prisoners often stare blankly (and angrily ???) at the plate, not knowing whether they themselves are humans or pigs.

6. *The plight of ill prisoners is even more wretched: In Hunan Red Mountain prison, if one of us prisoners fall ill, whether we are so in pain that we are calling out for our parents, whether we eat or not, there will be no one tending to us, and there is no way we'll be able to rest. The prison guards motto is "If you're ill you are in the hospital, and if you're not in the hospital you should work." Unless a prisoner is so ill that he is at the verge of dying, it is extremely unlikely that he will be taken to hospital. After a prisoner has fallen ill, what often happens is that after a rough check-up they can't diagnose any illness, or if he is not so ill as to be dying, then its just to continue getting up early in the morning to work. If he won't work he'll be handcuffed and locked up, or taken to the workshop and accompanied everywhere he goes, and at every meal he'll be given just two liang worth of rice. Amongst the prisoners there are those who are so ill that they are spitting blood, they can't finish their workload, and they are dragged to the "disciplining office" and subjected to cruel torture. Those who can't stand it feel that they might as well jump off a building to commit suicide. Some who have been working under sharp lights for long hours suffer from serious atrophy of the eyes, but they are accused of pretending and being a "precious fool". Only when it gets to the stage when he can barely see would they leave him alone. Another prisoner would vomit everything he ate, and he got so skinny as a skeleton. Only when he was at the stage where he would die within days was he lucky enough to go and lie down in the hospital. Someone else who had been suffering from tuberculosis and had been treated for three months came out of hospital, and although he was still taking medication he was dragged to the workshop to work. . . . These are miserable conditions that I have heard about and seen. The prisoners cannot but feel bitterly disappointed and extremely scared, fearing that maybe one day it will be themselves who will contract some serious illness.*

7. *Economic exploitation and plundering: The Prison law stipulates: "The prison should reward prisoners who work in accordance with the regulations." But in Hunan Red Mountain Prison, the prisoners are working under a forced labour system, with no compensations whatsoever all year. The prisoners have nothing, every month they get five kuai from the government as pocket money, but it is only enough to buy a bag of washing powder. Although it is pitifully little, they are still supposed to pay for lots of things with it. If they don't have toothpaste, toothbrush, towel, or a cup, all they can do is to pool it together from here and there. The State Council makes repeated injunctions that prisons are not allowed to charge fees randomly, but in Hunan Red Mountain prison they keep concocting various pretexts to plunder the money that the prisoners families have worked hard for. When a prisoner first arrives he has to pay a prison administration fee, an education fee, and a physical examination fee. If he wants to send off material to reduce his sentence, then he has to pay a fee for the material used. If he gets medical help from outside the prison he has to pay a guarantor fee. When family members come to visit they have to pay a reception fee. Some prisoners have had to pay a fee towards the work they missed when they had visitors. If your family donates the money they have saved by living frugally, what you'll get in return is a good type of work in the production process. Paying to be in prison, now that's a fantastic story!!*

8. *No use complaining and reporting to the authorities: The constitution stipulates: "Citizens have the right to report to the relevant national authorities on any kind of neglect of duties on the part of state bodies or national employees. The relevant state bodies are responsible for finding out the truth about the citizen's charges, and nobody has the right to prosecute those filing complaints." The Prison Law stipulates: "Prisoners' right to make complaints and report to the authorities should not be encroached upon, and the prison should immediately pass on the reports of the prisoners and not detain them. But in Hunan Red Mountain prison, many prisoners' legal rights are seriously encroached upon by the criminal behaviour of the prison guards. After having filed complaints and charges to the relevant state authorities, they never hear back, there are never any news, and the problems are never solved. There is no knowing whether it is because the reports have been held back or whether it is because the relevant state authorities do not care. The criminal prison guards carry on their usual unscrupulous behaviour, and the prisoners who have made charges are intimidated, maltreated and beaten. Even their own legal books are taken from them. According to the law, the people's procuratorate should have a public procurator even for those in prison, the supervision of the prison should be administered according to the law, ... but they turn a blind eye and a deaf ear to the criminal behaviour of the prison guards. Furthermore, they are complicit in the attack of the prison guards on the prisoners who complain to the authorities. In fact, the current channels and methods of supervision are only a useless facade that in vain consumes the efforts of the people.*

Although the above does not convey all the misery we experience, it suffices to clarify how inhuman and lawless our "reform environment" is. When our parents, our wives and children, our brothers and sister realise what's going on, when they understand our miserable condition in which we live like slaves, and where people don't resemble people and ghosts don't resemble ghosts, how will their spirits tremble, how will they grieve and shed blood! It is true that most of us are criminals who should be punished, but we are not like meat and fish that can be chopped and hacked at will. All we can do is to accept the punishment that the law stipulates, and under the influence of human civilisation we can hope to correct our errors and make a fresh start, to discard of evil and pursue what is good. We long to correct our mistakes, to one day be able to return to society as law-abiding and disciplined citizens, and to be like all other free people in the world, leisurely enjoying the warm life under the beams of the sun. But the evil behaviour of the prison guards has undoubtedly become our examples and our models, and they are already contorting our souls that originally were only flawed. They can influence us towards the evil abyss of cruelty, graft, advocate violence, contempt for the law, acting only for profit, so far removed from contemporary civilisation, causing us to forever sink into the sea of bitterness in which it is difficult to repent and be saved. Although we do have good police besides us, but with illegal criminals facing them everywhere they are like small straw in the storm, without the power to save this desperate situation, all they can do is to shake their heads and sigh.

Numerous people with integrity have gone through long-lasting struggles and cried out. What we hope for today is to establish prisoner's rights by law. This is one of the connotations of an advanced culture in a human society. The Communist Party, representing the advanced culture of Chinese society, cannot simply neglect the way in which prisoners' legal rights have been trampled on and robbed. And we don't want to lose our last faith in the government. Therefore, in order that prisoners' legal rights are not reduced to nice words, we plead that the government agree to the following requests:

1. *Look into the legal administrative, penal, and civil responsibilities towards prison guards who subject the prisoners to indignities, corporal punishment, maltreatment, and beatings. Illegal “prisons within prisons” and “severe control troops” should be abrogated.*
2. *Other than in special circumstances, the prisoners should not be made to work more than eight hours per day, and they should be allowed to rest on Sunday. Taking away the prisoners’ right to rest amounts to punishing them by maltreatment. The prisoners who work should be given rewards and those who produce beyond the production target should be given a bonus.*
3. *The prison should not allow prisoners to look after other prisoners, and the so-called “prisoners committees” must be banned. The prisoners should only receive disciplinary actions like warnings, records of demerit, and solitary confinement. As for reducing a sentence or getting parole, the principle of equality between humans and equal treatment for all should be adhered to in line with the law in order to prevent some prisoners from being privileged ahead of others by resorting to methods like bribery.*
4. *The management of the mess should be changed so as to guarantee that the living expenses that the government gives each prisoner actually reaches them.*
5. *As for prisoners who are ill and in need of effective and timely treatment, the conditions in the prison are limited. If it is not possible to diagnose and cure the prisoners, they should be sent outside for diagnosis and cure, or even, in accordance with the law, be sent abroad for medical treatment. Prisoners with contagious diseases like hepatitis and tuberculosis should not be locked up together with other prisoners.*
6. *The relevant state organs should investigate the complaints and reports to the authorities made by the prisoners, and notify the prisoners of the results of the investigation. If the prisoners encroach upon the legal rights of the prison guards, they have the right to have their story reported in the news media, and they have the right to have their case tried in the court either by themselves or by a lawyer, and the court must accept and hear the case.*
7. *Permit prisoners’ relatives who enjoy the constitutional right to freedom of association to set up social groups that are only restrained by the law and not by official charges. Enforce the law through supervision of the prison, so that the prisoners’ legal rights will be completely guaranteed.*
8. *If any of the prisoners who have signed this petition are persecuted, then their case should be investigated according to the law.*

A legal system in tatters, a lost civilisation, a country that doesn't resemble a country, and people who don't resemble people. The Chinese people are in danger. We look ahead and wait for modern civilisation to shine upon the prison with its high walls and iron grids. Only if there is civilised and orderly management of the prison in accordance with the law can we criminal souls be saved. The light of human civilisation - we open our human chests for you and welcome you devotedly, and ask you to quickly arrive here with thunder and lightening.

NB: Whilst collecting prisoners signatures for this petition, it was discovered by the prison guards and taken away. The prisoners who had signed, including myself, were beaten and threatened. Because of this, even though the petition expresses the voice of a great many prisoners, in order to avoid that the prison guards step up persecution against prisoners who have no way out, signatures are no longer collected.

Yours sincerely.

This document is sent to China and CHIRAN Coordinators for action by groups. It is sent to Sections for information only. Check with the East Asia Sub-Regional Team if sending appeals after December 2001

Number of words: 5106

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