

PUBLIC

AI Index: ASA 17/45/00

30 November 2000

Further information on UA 204/00 (ASA 17/31/00, 10 July 2000) - Death penalty / Fear of execution / Torture / Unfair trial

PEOPLE'S REPUBLIC OF CHINA Zhuo Xiaojun (34), Hong Kong Citizen

Zhuo Xiaojun could be executed within days, if an appeal against his death sentence is rejected.

His appeal was heard yesterday by the Fujian Province High People's Court. The court's decision is expected within days; successful appeals are rare. If the appeal is rejected, the death sentence will have to be approved by the Supreme People's Court. Zhuo Xiaojun could then be executed within hours.

He has been detained since December 1989, when he was arrested after a fight outside his house in Changle County in which three people were stabbed, two of them fatally. The case against him consisted chiefly of a confession Zhuo claims was extracted under torture, and the evidence of one witness. Of more than 30 people present, only this witness - the uncle of the man who started the fight - initially testified that Zhuo stabbed anyone or even had a knife. He has substantially changed his testimony several times, and it has been undermined by forensic evidence. Zhuo himself has testified that he intervened to stop the fight. He was sentenced to death in September 1990.

The Fujian Province Higher People's Court overturned his conviction on appeal, in January 1992, ruling that the principal facts of the case were unclear and returning the case to the original court for a retrial. The retrial began a year later, but was then adjourned for seven years for "additional investigation". No other explanation was ever given for this extraordinary delay.

When the retrial finally reopened again in January this year, Zhuo was convicted of "intentional killing" after a trial that lasted only a few hours. No witnesses were called, and reportedly no new evidence was presented. After a half hour of deliberation, the judges again sentenced Zhuo to death.

For the first day and a half after he was arrested, Zhuo has testified that he was suspended from handcuffs attached to the bars of a door with his feet locked in 50kg shackles, and was kicked, beaten and attacked with electric batons whenever he failed to follow the "confession" script prepared by his interrogators. The procurator reportedly failed to record Zhuo's allegations of torture when he retracted his confession at their first meeting, even though procuratorate staff had seen Zhuo suspended from the door, and he showed them his wounds, the scars of which are reportedly still visible 10 years later. The confession is also reportedly contradicted by the forensic evidence and witness testimony. The fatal fight in the case reportedly only lasted minutes and Zhuo was not present when it started. Eventually there were nearly 30 people present, including local cadres and relatives of the victims, but none of the witnesses testified at the time to seeing Zhuo stabbing anyone or even carrying a knife. There were several separate fights in progress, some metres apart, and surrounded by onlookers, when Zhuo arrived. He was later accused of having, within minutes, stabbed all three victims a total of nine times. No murder weapon has ever been found.

In court Zhuo's lawyer presented witnesses' claims that the police had extracted false statements from them under torture or duress. Other witnesses, including judicial cadres, have insisted that the police record of their testimony is false. Records of key witness interrogations known to have taken place are missing from the case file. Zhuo's lawyer also highlighted major flaws in the police investigation. No other potential suspect was pursued. Only Zhuo's clothing was examined. The bloodstained clothing of the victims and other participants were never even collected.

Zhuo's family have never been allowed to visit him, but have been charged for medication for his hepatitis, bleeding stomach, and ulcerating skin. He is believed to be held with feet and hands shackled together at all times.

RECOMMENDED ACTION: Please send telegrams/telexes/faxes/express/airmail letters in English or Chinese or your own language:

- urging that Zhuo Xiaojun's appeal against his death sentence be upheld;
- expressing grave concern that Zhuo Xiaojun's conviction in January was based on evidence a court determined eight years ago was insufficient;
- expressing concern that the conduct of the entire case does not appear to comply with international standards for fair trial;
- urging that Zhuo Xiaojun's case be reviewed as a matter of urgency, taking into account compelling evidence that he was wrongly convicted;
- expressing grave concern that allegations that his confession was extracted under torture do not appear to have been investigated, and that the case against him includes confessions and witness statements allegedly extracted through torture or ill-treatment
- express grave concern at reports that Zhuo Xiaojun is being shackled in ways that amount to torture and ill-treatment.

APPEALS TO: (NB: Faxes in China are unreliable and may not work after office hours (GMT + 8)):

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Salutation: Your Excellency

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

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President of the Fujian Provincial High People's Court

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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 8 January 2001.