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# PEOPLE'S REPUBLIC OF CHINA

## @Continued Patterns of Human Rights Violations in China

Three years after the suppression of peaceful pro-democracy protests, which resulted in the massacre of hundreds of civilians in Beijing on 4 June 1989, human rights violations continue unabated in China. Thousands of political prisoners remain imprisoned, including prisoners of conscience held solely for the peaceful exercise of fundamental human rights. Unfair trials, torture, long-term detention without charge or trial and summary executions continue. There has been no change to the laws under which such human rights violations are perpetrated, nor any attempt to introduce fundamental safeguards to prevent certain violations, such as the use of torture to extract confessions, from occurring.

### **I. ARBITRARY DETENTION AND IMPRISONMENT**

Arrests of dissidents and of people accused of forming opposition groups or of carrying out "subversion" for political or religious reasons have been routinely carried out in China since the early 1950s. Though the number of political prisoners has decreased substantially since the late 1970s, arrests of dissidents have continued and the legislation providing for their imprisonment remains in force.

Since 1989, thousands of people were detained throughout China for their involvement in unapproved political or religious activities. Many of them were detained for taking part in the 1989 pro-democracy protests. Estimates of the number of arrests carried out nationwide following the protests range from 10,000 to over 30,000. Hundreds were known to be still detained or imprisoned in early 1992, but the fate of the majority remains unknown. The authorities have made public partial figures for releases and trials, but they have not disclosed the number who were detained nationwide, nor how many have been tried and sentenced to prison terms, or executed, or assigned without trial to detention camps throughout the country. According to official sources, 950 people detained in connection with the 1989 protests were released in 1990 and early 1991, while another 787 people had been tried in Beijing by April 1991. A few other individual releases were confirmed by official sources later in 1991, as well as the verdicts passed against 11 dissidents tried in Beijing in early 1992. However, the authorities have not accounted for the thousands of other people who were detained.

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Arrests for political or religious activities have continued during the past year. Those arrested included pro-democracy activists, members of ethnic or religious groups and others held for the peaceful exercise of fundamental human rights. For instance, Hu Hai, a peasant from Liuzhuang township in Henan province, was arrested in May 1991 and sentenced to three years' imprisonment for taking part in peasants' petitions against taxes imposed by the local authorities; two peasants were arrested in Jiangxi province in late 1991 for having campaigned against the Communist Party rule in local villages; and five taxi drivers were arrested in October 1991 in Urumqi, in the Xinjiang Autonomous Region, and sentenced without trial to terms of between one and three years of forced labour for demonstrating against deductions on their fares made by the city government.

Official control over religious practice intensified in 1991 as new regulations and official directives restricting religious freedom were issued at national and local level. The crackdown on independent church groups which started in 1989 increased during the past year. Many Roman Catholic priests, bishops and lay leaders were arrested in north China, particularly in Hebei province where scores of Catholics were detained in "political study seminars", placed in police custody or sentenced without trial to terms of "re-education through labour". Wide-scale arrests of Protestant "house-church" members were also reported in several provinces during the second half of 1991, as well as numerous incidents in which religious services were disrupted and Christians harassed, detained for interrogation or fined by police. One such incident occurred in mid-September 1991 in Wenzhou, Zhejiang province, when police armed with pistols and electric batons reportedly surrounded 2,000 Christians attending a baptismal service, and violently beat several preachers before taking them away to a detention centre. Though the preachers were released soon after, several of them were said to be in poor condition. Among others who were arrested in late 1991, at least 20 Christians held in Henan and Liaoning provinces were reported to have been sentenced to terms of three years of "re-education through labour" for their involvement in peaceful religious activities.

Many prisoners of conscience arrested at various periods since the late 1970s also remain in prison. They include people serving long terms of imprisonment for their involvement in the democracy movements of the late 1970s and late 1980s, advocates of Tibet's independence and people arrested for their involvement in unapproved religious activities.

The arbitrary detention or imprisonment of people who seek peacefully to exercise their fundamental human rights is facilitated by a number of provisions in Chinese Law, and also by practices which, though contrary to the law, have nevertheless become the norm. It is common, for instance, for people to be detained by police for months without

charge, in breach of the procedures for arrest and detention set forth in China's Criminal Procedure Law (CPL). According to the CPL, criminal suspects may be detained by police for up to 10 days before they are formally arrested (charged) or released. The law also provides that, following arrest, investigation may last up to four and a half months before a decision is taken to either prosecute or grant release to a detainee. In practice, these time limits are frequently ignored. Hundreds of dissidents were detained without charge for more than a year following their arrest in 1989 or 1990. Many are known to have been illegally detained for months under administrative regulations before they were eventually charged under the Criminal Law.

### **1. Arbitrary imprisonment under the Criminal Law**

The Criminal Law of the People's Republic of China contains a section on "crimes of counter-revolution", which defines such crimes as all acts "committed with the goal of overthrowing the political power of the dictatorship of the proletariat and the socialist system". It provides punishments ranging from deprivation of political rights to the death penalty for 12 different "counter-revolutionary" offences. The provisions in this section of the Criminal Law which are most commonly used to jail prisoners of conscience are Article 98, which provides punishments for organising or taking part in a "counter-revolutionary group", and Article 102 which prohibits "counter-revolutionary propaganda and agitation". Other articles of the Criminal Law have also been frequently used to try and convict prisoners of conscience.

Among prisoners of conscience serving long terms of imprisonment after being tried on "counter-revolutionary" charges is Zhang Jie, a 24 year-old unemployed worker who was sentenced to 18 years' imprisonment for making public speeches in Qingdao, Shandong province, in early June 1989. At his trial in October 1989, Zhang Jie was accused of having presided over a memorial meeting of several thousand people, held on 5 June 1989 in front of Qingdao city's government building, to pay respect to people killed by the army in Beijing on 4 June 1989. He was further accused of having "disturbed traffic and social order" by making "counter-revolutionary speeches" in several places in Qingdao on 7 June, in protest at the crackdown on pro-democracy protesters. Zhang Jie was given a combined sentence of 18 years' imprisonment for "carrying out counter-revolutionary propaganda and agitation" and "disturbing traffic".

Tang Yuanjuan, an assistant engineer at a car factory in Changchun, Jilin province, was sentenced to 20 years' imprisonment in November 1990 on charges of "organising and leading a counter-revolutionary group" and "carrying out counter-revolutionary propaganda and agitation". Many other prisoners of conscience arrested in the past few years have been sentenced to long prison terms on such charges.

## **2. Arbitrary detention under administrative regulations**

The arbitrary detention of dissidents is also facilitated by the use of laws and regulations which provide for various forms of administrative detention.

One form of administrative detention, known as "shelter and investigation" (shourong shencha), gives police the authority to detain people for long periods without charge merely on suspicion that they may have committed crimes. According to known regulations, the period of detention for "shelter and investigation" should not exceed three months, but this time-limit is often exceeded in practice. "Shelter and investigation" is imposed by the police without any judicial supervision or review. It is often used by police illegally as a means of avoiding procedures prescribed by the Criminal Procedure Law. It denies detainees all safeguards provided in national legislation and international law, and violates the provisions against arbitrary arrest and detention in China's Constitution and law. The legitimacy of "shelter and investigation" has been questioned within China in recent years and some Chinese jurists have denounced it as a major source of human rights violations.

Despite such criticism, it seems that the scope of application of "shelter and investigation" has been expanded since 1989. The information available to Amnesty International indicates that within the past three years it has been used systematically to detain arbitrarily hundreds of political or religious dissidents for months without charge. One example is given below.

Zhang Weiming, a 51 year-old Catholic intellectual from Baoding, Hebei province, has been held for over a year without charge for "shelter and investigation" following his arrest in Baoding in December 1990. His arrest was part of a crackdown on Catholics loyal to the Vatican carried out in Hebei province at that period. He was first held in two boarding houses in Baoding for a few months, then moved to a detention centre. Neither Zhang Weiming nor his family were told the exact reasons for his detention. For over a year he was held incommunicado and denied any contact or communication with his family. His family was not officially informed where he was being held. Eventually, in January 1992, Zhang Weiming was sentenced without trial to two years of "re-education through labour" and moved to a labour camp in Shijiazhuang.

Many of those detained for "shelter and investigation" are eventually sentenced to a term of "re-education through labour" - another form of administrative detention frequently used to detain dissidents. "Re-education through labour" (laodong jiaoyang) was formally introduced by legislation adopted in 1957, which was updated with new regulations in 1979 and 1982. It provides for the detention without charge or trial for

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up to four years of people considered to have "anti-socialist views" or to be "hooligans" who have committed offences "too minor" to be prosecuted under the Criminal Law. Detention orders for those subjected to "re-education through labour" are issued outside the judicial process by administrative committees composed of representatives from local government agencies, including the Public Security (police) who in practice determine who should be subjected to this punishment. Those sentenced to "re-education through labour" usually carry out the sentence in forced labour camps or prisons where they are held in conditions which differ little from those of prisoners convicted by a court. According to Chinese official sources, some 50,000 people are assigned each year to "re-education through labour" and the total number of those thus held in 1991 was officially said to be 160,000.

Hundreds of people detained since June 1989 in connection with pro-democracy protests are reported to have been sent to labour "re-education" camps. This punishment has also been imposed on other categories of dissidents, including Tibetans, Catholics and Protestants.

A case in point is that of Xu Guoxing, a 36 year-old Protestant preacher from Shanghai, who is serving three years of "re-education through labour" in a labour camp of Jiangsu province. He was arrested on 6 November 1989 by the Shanghai municipal Public Security Bureau (PSB) because of his peaceful religious activities. He was accused of having founded in 1986 an independent religious group - the Holy Spirit Society - and of attempting to set up branches of the group in various areas near Shanghai. An order issued by the Shanghai PSB on 18 November 1989 assigned him to three years of "re-education through labour". The order stated that, though he had previously been held for three months of "shelter and investigation" between March and June 1989, after being released he "continued to carry out his illegal activities" and "seriously interfered with and damaged the regular order of religious activities". The order specified that his sentence would run from 6 November 1989 to 5 November 1992. Xu Guoxing was sent to carry out the sentence in a labour camp, known as the Da Feng farm, in northern Jiangsu province, where he is reported to be still held.

## **II.HUMAN RIGHTS VIOLATIONS IN ETHNIC MINORITY REGIONS**

### **1.Tibet**

Thousands of Tibetan nationalists have been detained in the Tibet Autonomous Region since demonstrations in favour of Tibet's independence started in September 1987. During a wave of arrests which followed the imposition of martial law in Lhasa in early March 1989, more than 1,000 people are believed to have been detained, though official sources have acknowledged only 400 arrests. The authorities stated in April 1991 that 1,025 people had been arrested during pro-independence demonstrations in Tibet since September 1987, of whom 807 had been released and 218 had been sentenced to either criminal or administrative punishments. The exact number who remain imprisoned for political reasons throughout Tibet in 1992 is not known, but over 200 are reported to be still held, most of them in the Tibetan capital, Lhasa.

Dozens of Tibetan prisoners of conscience are known to have been tried and sentenced to prison terms, but others are held without charge or trial, many of them assigned to administrative detention for up to three years. According to Chinese official sources, 97 Tibetans have been assigned to "re-education through labour" in connection with pro-independence demonstrations since September 1987, though according to unofficial sources the number is higher. They include many young nuns and monks who were arrested for peacefully demonstrating or shouting slogans. Some juvenile prisoners, arrested for peaceful political activities, are reported to have been imprisoned together with adult prisoners; they include a 14 year old boy who was reported in 1990 to be held at Drapchi prison in Lhasa.

Tibetans suspected of opposing government policies have continued to be arrested during the past year. They included five monks from a monastery in Toelung Dechen near Lhasa who were reportedly detained on 17 March 1991 while attempting to unfurl a Tibetan nationalist flag at the start of a demonstration in central Lhasa. They were allegedly beaten by Public Security officers at the time of arrest. They are reported to have been sentenced to prison terms ranging from 3 to 6 years and to be held in Drapchi prison in Lhasa.

Others arrested in previous years were tried in 1991 under procedures which fall far short of international standards for fair trial. They include Tseten Norgyal, a clerk in a guesthouse in Lhasa, and Thupten Tsering, a technician, who were convicted of "carrying out counter-revolutionary propaganda and agitation" at their trial in February 1991. They were accused of having printed and distributed leaflets advocating Tibetan

independence and were reportedly sentenced, respectively, to four and five years' imprisonment.

Amnesty International has continued to receive many reports of torture and ill-treatment of Tibetan political detainees, as well as reports of deaths of detainees or former detainees apparently as a result of ill-treatment or lack of medical care in detention. Some of the allegations received have been described in detail in documents published by the organization in recent months<sup>1</sup>, but some cases are also cited in this document (see Section IV, Torture and Ill-Treatment of Prisoners).

These human rights violations have occurred in the context of continuing political tension in Tibet and strict police and political control over the population. Since the lifting of martial law in Lhasa on 1 May 1990, public assemblies, demonstrations and parades which are deemed to "endanger national unity or social stability" have been prohibited. Buddhist monks and nuns suspected of political activities have continued to be detained or expelled from their monasteries and convents. Some of those expelled have reportedly been restricted to their villages of origin, where they are not permitted to carry out monastic activities.

## **2.Xinjiang**

There have also been reports of arrests of members of Muslim ethnic groups in the Xinjiang Autonomous Region, in western China, where discontent over government policies on birth control, religion and political issues has resulted in sporadic unrest since 1988. Official sources have attributed the unrest to clandestine groups seeking regional independence. Large-scale arrests were reportedly carried out following violent clashes between police and civilians in Baren township, near Kashgar, in April 1990. The clashes, officially described as a "counter-revolutionary riot" provoked by "separatists", occurred when police reportedly attempted to stop several hundred Muslims of the Kirghiz ethnic group marching towards a mosque. Official reports published later in 1990 stated that, prior to the "riot", "counter-revolutionary" leaflets and posters advocating the independence of "Eastern Turkestan" had appeared throughout Xinjiang and that places for religious activities had been used to conduct "splittist" activities. Official sources also reported that "all counter-revolutionary elements" who had taken part in the "rebellion" had been arrested, but they gave no further details of the arrests.

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<sup>1</sup> See Amnesty International's People's Republic of China: Recent Reports on Political Prisoners and Prisoners of Conscience in Tibet (ASA 17/62/91, October 1991), People's Republic of China: Amnesty International's Concerns in Tibet (ASA 17/02/91, January 1992) and People's Republic of China: Repression in Tibet 1987-1992 (ASA 17/19/92, May 1992).  
AI Index: ASA 17/32/92 Amnesty International May 1992



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Due to strict official controls, little specific information has surfaced about those detained, though unofficial sources indicate that the number of those detained was in the thousands.

One case reported in 1991 was that of a man named Namadi Abudoumadi (Namat Abdumat) who, together with another man, was accused of having circulated leaflets opposing the Chinese Communist Party and family planning, and of attempting to set fire to a local family planning office in Hetian, southwest Xinjiang, in late March 1990. He was sentenced in April 1991 to 15 years' imprisonment on charges of "counter-revolutionary propaganda and agitation" and "counter-revolutionary arson". There is no independent information as to whether the accusations were well-founded.

Since mid-1990, the authorities in Xinjiang have imposed restrictions on religious activities and many mosques have been closed. In March 1992, the head of the Xinjiang regional government called for a crackdown on "separatists", accusing them of stepping up "sabotage and subversion", and said that the army, police and militia were being mobilised to deal with the threat.

### **3.Inner Mongolia**

People accused of "instigating ethnic divisions" were also arrested in 1991 in the Autonomous Region of Inner Mongolia. Huchin Togos, a 36 year-old teacher, and Wang Manglai, a 30 year-old Mongolian language specialist, were arrested in May 1991 for founding two cultural organisations in 1990. About 26 other people suspected of involvement with these organizations were reportedly summoned for interrogation and placed under house arrest in the Ih Ju and Bayan Nur leagues and in Hohhot. According to unofficial sources, the organisations founded by Huchin Togos and Wang Manglai had a membership composed mainly of university students and intellectuals and were aimed at researching and developing Mongolian culture through open letters and public activities. The authorities reportedly accused them of opposing the leadership of the Chinese Communist Party and instigating ethnic divisions "under the pretext" of researching ethnic culture. Huchin Togos and Wang Manglai were reported to be still detained in early 1992, though it is not known whether they have been charged or tried. The 26 other members of the group who were placed under house arrest have reportedly been subjected to repeated interrogation and intimidation by police since then.

In late July 1991, Ulaan Shuvuu (Ulan Chovo), a 37 year-old lecturer in history at the University of Inner Mongolia in Hohhot, was also arrested. According to unofficial sources, he was forced into a car by plain-clothes officers from the State Security Department near the local government offices in Hohhot on 28 July 1991. He

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has remained in custody since then. He is reported to have been accused of passing on to foreigners information about the arrests carried out in May 1991. He was still detained without trial in November 1991, but according to recent reports, he was subsequently tried in secret.

Amnesty International has also received information about other Mongols arrested for political reasons in recent years who may be prisoners of conscience.

### **III.UNFAIR TRIALS**

Since 1989, hundreds of people held on political grounds have been sentenced to terms of imprisonment after trials which fell far short of international standards for fair trial. During the same period, several thousand people convicted of ordinary criminal offences were executed during a series of anti-crime campaigns, many after summary trials. Amnesty International's concerns about the summary nature of proceedings in death penalty cases are described below (see Section V, p.15). Interference in the work of the judiciary by political authorities continued during the past year.

Amnesty International's concerns about unfair trial procedures in China are long-standing. It has described these concerns in various reports, including in China: The Massacre of June 1989 and Its Aftermath (ASA 17/09/90, April 1990). Amnesty International noted in this report that the trial procedures established in Chinese law do not meet the minimum standards for fair trial set out in international human rights instruments -- notably the right to have adequate time and facilities to prepare the defence, the right to be presumed innocent before being proved guilty in a court of law and the right to cross-examine prosecution witnesses and to call witnesses for the defence.

Furthermore, in practice, the verdict and the sentence are generally determined by those in authority before the trial hearing even takes place. Chinese jurists openly refer to this practice as "verdict first, trial second". Numerous articles in the official legal press have criticized this practice in recent years, as well as other practices which contravene Chinese law, such as the extreme limitations on the role of defence lawyers, the use of torture to induce "confessions" and the interference of political authorities in the judicial process. For instance, an article in a Chinese legal magazine noted in 1988:

"Lawyers ... suffer interference in their work from party and government organs, especially from the organs of judicial administration. For example, some Justice Bureaus have a regulation that if a lawyer wishes to present a defence of 'not guilty' in a criminal case, then he must first obtain authorization from the party organization of the Justice Bureau in question."

[Faxue (The Science of Law), No.2: 1988, Pages 43-45]

In political cases, the likelihood that defendants will receive a fair hearing is even more remote than in ordinary criminal cases. Most political trials are closed to the public with, at best, only the defendants' close relatives and selected members of their "work unit" allowed to attend. Pre-trial detention usually lasts several months. During that period, detainees have no access to a lawyer or their family, and it is common for the detaining authorities to subject them to constant pressure, and in some cases ill-treatment, in order to extract from them incriminating information and make them admit to the accusations against them. Defendants are often denied the right to choose their own lawyer and must either accept one

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appointed by the state or prepare their own defence.

These features applied in the trials of many political prisoners tried and sentenced in the past three years, many of which were closed to the public and were not reported by official sources. Even in well publicized cases, such as those of some 30 prominent pro-democracy activists who were tried in Beijing in early 1991, access to the court was strictly controlled by the authorities and the right to defence was severely limited. According to various sources, most of the defendants were represented by lawyers selected from a list compiled by the Ministry of Justice. The lawyers were reportedly required to submit their defence statements to the government for prior approval and told by government officials not to present "not guilty" pleas. Some were reportedly unable to call witnesses for the defence in court. Some of the defendants' relatives were not informed in advance of the trials. Foreign journalists, diplomats and independent observers were barred from the trials, apparently by virtue of an unpublished regulation of the Supreme People's Court which bars foreigners from attending political trials. Any such regulation would appear to contradict Article 111 of the Criminal Procedure Law, which provides that all cases are heard in public in the first instance, except those involving state secrets or the private lives of individuals.

The case of Tang Yuanjuan and four other employees of a car factory in Changchun, north-east China, illustrates how the outcome of political trials is decided in advance. Tang Yuanjuan, an assistant engineer at Changchun No 1 Car Manufacturing Factory, and four other employees of the factory, were arrested in June 1989 for having led two peaceful demonstrations by workers in Changchun in May and June 1989, and taking part in a small discussion group with a few factory workers over a period of years. Barely one month after their arrest, the official newspaper Changchun Daily

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reported that the Changchun municipality had "cracked" the case of a "counter-revolutionary group" led by Tang Yuanjuan, clearly indicating that the municipal authorities had already reached conclusions about the guilt of the detainees, some 16 months before they were tried.

Their trial, on 27 November 1990, was a mere formality. The defence lawyers tried to argue that the discussion group organised by the defendants could not be construed as a "counter-revolutionary group" according to the usual legal definition given to this term. The public prosecutor reportedly rejected this argument by replying that, from the time the case was "opened" (that is, filed for prosecution), it had been collectively analyzed and discussed by the police, procuracies and local courts, and furthermore had been "agreed upon" by the relevant leaders of the city and province, and that these officials could not all be wrong. After a brief adjournment at the end of the one-day trial, the Chief Judge announced the judgment and sentences, reading from a long document which had apparently been prepared in advance. Tang Yuanjuan was sentenced to 20 years' imprisonment and his four co-defendants to prison terms ranging from 2 to 13 years. Their appeal in 1991 against the judgement and sentences was rejected. They were sent to the Lingyuan labour camp in Liaoning province, where they and other political prisoners are reported to be held in harsh conditions.

In a more recent case, Qi Lin, a journalist from the Beijing Daily arrested in July 1991, was tried behind closed doors in Beijing and sentenced in April 1992 to four years' imprisonment on charges of "leaking state secrets". His trial was closed to the public and even his family was barred from attending it by virtue of a clause in Chinese law which provides that cases involving "state secrets" are not heard in public. Qi Lin was accused of revealing to a Taiwanese newspaper the result of an internal party investigation into the case of a prominent Chinese parliamentarian who was disciplined for his role during the 1989 protests. Amnesty International considers that Qi Lin has been sentenced after an unfair trial for peacefully exercising his right to freedom of expression. He is a diabetic and is reported to be in poor health.

On several occasions in recent years, Amnesty International informed the Chinese authorities of its wish to send international observers to attend political trials, but to date it has received no reply. Similar requests from other organisations, foreign press correspondents and diplomats in Beijing were also unsuccessful.

#### **IV.TORTURE AND ILL TREATMENT OF PRISONERS**

Though torture and ill-treatment of prisoners is prohibited by law in China, abuses against prisoners remain widespread. According to official Chinese sources, 407 cases of "torture to extract confessions" were "investigated by the procuracy" during 1991. No official figure was given for the number of cases where torture or ill-treatment occurred for reasons other than the extraction of "confessions". Indeed, ill-treatment inflicted on convicted prisoners is rarely mentioned by Chinese official sources. The incidence of torture and ill-treatment is widely reported by unofficial sources to be much higher than that officially recorded. Few convicted prisoners or untried detainees dare to file complaints about torture or ill-treatment for fear of further reprisals.

Incommunicado detention, arbitrary detention without charge for long periods, administrative detention imposed without judicial supervision, as well as the widespread practice of trying to obtain confessions from detainees before their case is prosecuted are the circumstances in which torture most often occurs. During pre-trial detention, detainees are held incommunicado, often for months, and subjected to intense pressure to make them admit to the charges. An article in the official newspaper, People's Public Security News, of 4 October 1991, noted that there were few safeguards to prevent torture during criminal investigations. It stated: "as soon as a suspect or accused person is subjected to criminal detention or arrest, he or she is completely isolated and in a helpless position, with absolutely no means of protecting his/her personal legal rights and interests". The article, which analyzed some fundamental causes of "torture to extract confessions" during pre-trial detention, also noted that there was no effective control or supervision over the police or procuracies when they exercised their power to interrogate suspects during criminal investigations.

The methods of torture most commonly reported include severe beatings, shocks with electric batons and the use of handcuffs, shackles or ropes in positions deliberately intended to inflict pain. Deprivation of sleep or food, exposure to cold and being made to adopt exhausting physical postures are also reported to be common during interrogation.

Amnesty International has continued to receive reports of torture and ill-treatment during the past year. The Chinese authorities have not answered the enquiries made by the organisation about such reports. Most of the allegations received by Amnesty International concerned people held on political grounds and little information is available to the organisation about the treatment of detainees accused of ordinary criminal offences. It fears, however, that the incidence of torture and ill-treatment may have increased during the anti-crime campaigns launched since May 1990. Official

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instructions for such campaigns place emphasis on the need to "rapidly" investigate and try serious offenders. Torture to extract confessions is known to have increased during campaigns against crime in the past, notably during one such campaign launched in 1983 (see Amnesty International, China: Torture and Ill-Treatment of Prisoners, ASA 17/07/87, September 1987).

The reports of torture and ill-treatment received by Amnesty International concerned both convicted prisoners and untried detainees held in various places of detention across the country. A few of these cases are described briefly below:

Sonam Dolkar, a 24 year-old woman from Lhasa, the Tibetan capital, reported after clandestinely leaving Tibet in late 1991 that she had been regularly tortured over a six-month period following her arrest in July 1990. Suspected of having taken part in pro-independence activities, she was held in the Seitru detention centre in Lhasa and allegedly given electric shocks on numerous occasions and beaten during interrogation. She was reportedly kept in manacles and leg shackles throughout her detention and held in isolation in a windowless cell where she had to sleep on the concrete floor. Due to torture and the conditions of her detention, she required hospitalization in early 1991 and later managed to escape.

Other cases reported from Tibet include those of convicted political prisoners held at Drapchi prison in Lhasa. A series of incidents involving beatings of prisoners reportedly took place at the prison in April 1991. The incidents followed a visit to the prison of a delegation of US diplomats, led by Ambassador James R. Lilley, in late March 1991. Two prisoners, Lobsang Tenzin and Tempa Wangdrak, were reportedly severely beaten after the visit for attempting to hand over a petition to the delegation. They were also placed in solitary confinement. Their treatment sparked protests by other political prisoners who were reportedly beaten by police on 20 April 1991. The consequent transfer of some prisoners to another prison sparked a further protest by political prisoners on 27 April 1991. As a result of the protest, 16 prisoners, most of them monks, were reportedly put in solitary confinement, some after severe beatings. One of them was Lobsang Tsondrue, an elderly monk aged about 76. He was reported to be still held in solitary confinement in August 1991 and to be in poor health due to severe beatings by prison authorities following the 27 April protest. He was reportedly seen by a fellow prisoner in June 1991 with blood stains on his face and clothes.

In north-east China, political prisoners held at the Lingyuan labour camp in Liaoning province were reported in late 1991 to have been frequently beaten with fists, electric batons and leather belts. The camp was said to hold some 30 political prisoners and several thousand ordinary criminal prisoners. Political prisoners in the camp were reportedly held in overcrowded cells, forced to work up to 14 hours a day and beaten

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if their work or "political attitude" did not meet the expected standards. At least six political dissidents imprisoned in connection with the 1989 pro-democracy movement were known to be held there in late 1991. According to reports, they were planning to stage a hunger strike in mid-November 1991 to protest at their treatment and conditions of detention. One of them, Liu Gang, a student leader during the 1989 protests, was reported to have had his arm broken by jail warders and to have been force-fed when he attempted to go on hunger-strike. There has been no news about the prisoners following their threatened hunger-strike as the authorities denied several of them their monthly prison visits by relatives.

Amnesty International has received many other allegations of ill-treatment of prisoners in various places of detention, as well as numerous reports of prisoners becoming ill in prison due to harsh conditions of detention and lack of medical care. It has also received reports about Tibetan prisoners who had died in custody, or within weeks of their release, apparently as a result of ill-treatment or lack of medical care in detention.<sup>2</sup>

Amnesty International has been concerned about reports of torture and ill-treatment of prisoners in China for many years. In September 1987, it published a report, China: Torture and Ill-Treatment of Prisoners (ASA 17/07/87), which cited cases of torture reported by both official and unofficial Chinese sources. It noted that abuses often occur because Chinese law does not include sufficient safeguards for prisoners', and because the few safeguards included in the law are not effectively implemented. This situation remains the same in 1992.

Chinese law does not grant detainees the right to see a lawyer, a judge or their family during pre-trial detention. Thus, detainees are held incommunicado, often for weeks or months, without being able to see a judicial authority or anyone from outside their prison. They are totally helpless if confronted by police officers determined to make them admit to "crimes". Some detainees are held under administrative regulations without their detention ever being officially acknowledged. This is particularly the case with people held in "shelter and investigation" centres (shourongsuo), where torture and ill-treatment of suspects is reported to be commonplace. According to some sources, in addition to regular detention centres, there are up to 6,000 "shelter and investigation" centres across the country. Conditions at these holding centres are widely reported to be grossly inadequate. In the Baoer Ju holding centre in Beijing, overcrowding is reported to be such that detainees can barely move in their cells, the food is said to be inedible, and hygienic conditions extremely poor. In the past few years, Chinese legal experts have expressed concern about the routine abuse of detainees which occur in some "shelter and investigation" centres<sup>3</sup>.

Another factor which may contribute to the persistence of torture despite its prohibition by law is the lack of public independent enquiries into reports and complaints of torture. Allegations of torture are investigated by the Chinese procuracies which work closely with the police to investigate criminal cases, and are also responsible for approving arrests and initiating prosecution. This duality of functions raises doubts as to whether torture allegations are impartially investigated. Furthermore, there is no public reporting over the procedures followed to investigate torture allegations and the findings of such investigations are not subjected to public scrutiny. In a number of cases over the past few years, the Chinese authorities have denied allegations that political detainees were tortured, stating that these

<sup>2</sup> See People's Republic of China: Amnesty International's Concerns in Tibet (ASA 17/02/92, January 1992).

<sup>3</sup> See "Research into the question of whether or not shelter and investigation should continue", Zhengfa Luntan (Journal of China's University of Politics and Law), No.1, 1989.

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allegations were investigated but failing to provide any information about the procedures followed to investigate them. This happened notably in regard to specific cases of alleged torture or ill-treatment of Tibetan political detainees which were raised with the Chinese authorities by the United Nations Special Rapporteur on Torture. The Chinese authorities responded by rejecting the allegations, saying that the cases had been investigated but giving no detail of the investigations in question.

Amnesty International considers that all reports and complaints of torture should be promptly investigated by independent and impartial bodies not involved in the process of arrest, detention or interrogation of detainees, and that their methods and findings should be made public.

### **V.THE DEATH PENALTY - DRAMATIC INCREASE IN EXECUTIONS AND SUMMARY TRIAL PROCEDURES**

Amnesty International has been concerned for many years about the use of the death penalty in China. Its concerns include the wide range of offences punishable by death, the high number of executions carried out, the summary nature of trial proceedings in death penalty cases, the discriminatory application of the death penalty, and the public humiliation of prisoners sentenced to death through "mass sentencing rallies" and parading through the streets before execution.



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The death penalty is widely used and carried out in China. The number of capital offences has been increased several times in the past decade. Over 40 offences are now punishable by death under Chinese law, including offences such as theft, smuggling, embezzlement and other economic crimes.

Amnesty International is particularly concerned by the alarming increase in the number of executions since 1990 and the near total lack of safeguards to prevent miscarriages of justice from occurring.

During 1990, Amnesty International documented more than 960 death sentences, including over 750 executions, which it believed was far below the real number. This nevertheless constituted the highest yearly total it had recorded since 1983, when an anti-crime campaign is reported to have resulted in some 10,000 executions in the space of a few months. The number of cases documented by Amnesty International during 1991 was even higher than that of the previous year: more than 1,600 death sentences, including over 1,000 executions. Amnesty International believes, again, that the actual number of death sentences and executions in 1991 was several times higher. The figures Amnesty International has recorded are largely based on selective reports in the official media and do not constitute comprehensive statistics. The Chinese authorities do not publish statistics on the number of death sentences and executions, as they are considered to be a "state secret". However, some death sentences and executions are publicized for the purpose of deterring crime. Estimates from unofficial sources for the number of executions in 1991 range from 5,000 to 20,000. The escalating use of the death penalty in China since 1989 is apparently continuing: in the month of January 1992, Amnesty International recorded 334 death sentences including over 200 executions.

This dramatic rise in the number of death sentences and executions has occurred in the context of successive anti-crime campaigns launched by the authorities since the 1989 crackdown on pro-democracy protesters. In May 1990, the authorities launched a campaign to "sternly crackdown" on serious crime which continued in 1991. Some of the death sentences pronounced after the start of the campaign were officially described as a means to ensure "social order" and "stability" prior to the Asian Games which took place in Beijing in late September 1990. In 1991, one of the most active of the national anti-crime campaigns was launched against the abuse and trafficking of drugs, and over 20 percent of the death sentences recorded by Amnesty International during the year were passed for drug offences. In November 1991, the official New China News Agency reported that the government was planning an even larger scale anti-drug campaign for the first half of 1992.

On several occasions during the past two years, government and Party authorities have issued instructions to the judicial organs to deal "severely" with serious offenders,

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including through the death penalty, and to handle the cases "swiftly". Amnesty International believes that political interference in the work of the judiciary, such as that occasioned by the anti-crime campaigns, critically hampers the independence of the judiciary. It is concerned that such interference results in a larger number of death sentences and executions for offences which at other time would be dealt with more leniently.

Amnesty International is also concerned that official emphasis on the speedy investigation and sentencing of death penalty cases has further weakened the already inadequate safeguards against unfair trials and resulted in miscarriages of justice and human rights violations, such as the use of torture to extract "confessions". Such miscarriages of justice are occasionally reported in the Chinese official media. For instance, an article in the official newspaper, People's Public Security News, of 6 September 1991, cited the case of an un-named young peasant who had been sentenced to death and executed for an alleged rape on the basis of a confession extracted from him under torture: the article said his innocence was established not long afterwards, when the real criminal was arrested.

Since 1983, offenders charged with offences punishable by death, such as murder, rape, robbery, causing explosion and "other activities that seriously endanger public security", have been tried under legislation which established summary procedures in death penalty cases. The 1983 "Decision of the National People's Congress Standing Committee Regarding the Procedure for Rapid Adjudication of Cases Involving Criminal Elements who Seriously Endanger Public Security" instituted in law the presumption of guilt. The Decision remains currently in force. It is ostensibly aimed at speeding up the procedures for investigation, trial and appeal in the cases of offenders accused of the offences listed above, "who should be sentenced to death". It provides that defendants can be brought to trial without being given a copy of the bill of prosecution in advance and without any advance notification to prepare their defence. It also reduces the time limit in which an appeal may be filed from 10 days to 3 days. As a result, many people have been tried and executed within a few days of being arrested.

Chinese legal experts have strongly criticized the 1983 legislation in recent years, pointing out that it can easily lead to miscarriages of justice. An article in the legal journal, Faxue (Jurisprudence), noted in October 1989 that the application of this legislation led in some circumstances to an infringement of the Criminal Procedure Law, and that it contributed to the "unhealthy trend" of "verdict first, trial second":

"One of the conditions laid down by the [1983] Decision is that it is suitable for 'criminals who should be sentenced to death'. This means that before the trial, as well as ascertaining the facts of the case and making the necessary investigations, the People's Court must also decide whether the defendant 'should be sentenced to death' and only then can it be decided whether it is right to use the Decision. This really means 'verdict first, trial second'. Because the death sentence has already been decided upon beforehand, this is a big limitation on the freedom of action of those conducting the trial and it makes it hard for them to give due weight to the defence and the rights of the defendant have no real force. In such circumstances, it is easy for there to be injustices and mistakes."

Amnesty International is also concerned at the use of the death penalty in the aftermath of the 1989 crackdown on pro-democracy protesters. It has recorded the names of more than 50 people sentenced to death since June 1989 for crimes allegedly committed during the protests, though the number of those secretly executed is believed to have been far higher. There were reports of numerous secret executions in Beijing after the 4 June 1989 crackdown. According to some sources, several hundred people were

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secretly executed in various places within or near the capital between June and August 1989. They allegedly included a group of people who had refused to leave Tiananmen Square in the early hours of 4 June 1989. The Chinese authorities have not disclosed how many people were sentenced to death or executed for offences committed during the 1989 protests.

At least one man was executed in 1991 for offences allegedly committed during the 1989 protests. A public notice posted outside the Beijing Intermediate People's Court on 14 March 1991 said that Han Weijun, 24, and four other criminals were executed that day. The official notice accused Han Weijun of "serious crimes". It said that, "when the counter-revolutionary rebellion was being suppressed on 4 June 1989", Han and others had set fire to a car and an armoured personnel carrier of the martial law troops which had been abandoned outside the gate of the People's University in Beijing. It is not known whether the four other persons executed on 14 March 1991 were accused of the same offence.

Another issue of concern to Amnesty International is the public display of prisoners sentenced to death at "mass sentencing rallies" or parades through the streets. Such rallies are aimed at announcing the sentences publicly and "educating the masses". During the past year, numerous death sentences were publicly announced at mass rallies where prisoners were displayed in front of large audiences and the sentences against them read out. On 26 June 1991, for instance, 70 people sentenced to death were displayed at public rallies held in various places in Yunnan province and executed immediately after. Another 35 prisoners were executed in Kunming, the provincial capital of Yunnan, on 26 October 1991 after being displayed at a mass sentencing rally held in a stadium before 40,000 spectators.

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Amnesty International considers that the public display of prisoners sentenced to death is a form of cruel and degrading treatment, prohibited by the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which China ratified in 1988.

### **VI. KILLINGS OF UNARMED DEMONSTRATORS**

No official enquiry has been held into the killings of at least a thousand civilians - most of them unarmed - by government troops who suppressed pro-democracy protests in Beijing in early June 1989.

Numerous reports available from unofficial sources, foreign media and eye-witnesses indicate that during the night of 3 to 4 June 1989 some of the troops who entered Beijing forced their way into the city centre by firing both randomly and intentionally into protesters and onlookers, killing and injuring many unarmed civilians. Furthermore, random shooting by soldiers continued during the following days, causing more casualties among civilians.

Amnesty International has drawn the following conclusions from the information it has received from many sources about the June 1989 killings:

- ◆ From mid-April 1989 until the military operations of 3 and 4 June 1989 in Beijing, the popular protest movement started by Beijing students was peaceful. There is no credible evidence that leaders of the protest movement at any point advocated violence or attempted to overthrow the government by violent means.
- ◆ During the night of 3 to 4 June, some troops opened fire either at random or deliberately at crowds whenever they met obstruction or a large group of people. No warning was given before troops opened fire. Conventional methods for the dispersal or control of crowds without resort to firearms or other lethal force were not used.
- ◆ The vast majority of civilians were unarmed. Some were killed in residential buildings due to random or intentional shooting by troops. Some were shot in the back among crowds of people running away from troops firing at them; some were crushed to death by military vehicles. Those killed included children and elderly people.

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◆After the army took control of central Beijing there were still, for several days, incidents during which troops opened fire on unarmed civilians without warning or provocation.

◆Many of the killings of unarmed civilians were extrajudicial executions: deliberate killings by government forces acting outside the limits of the law. Troops deliberately shot and killed individuals even when they posed no immediate threat of violence, in violation of international standards that lethal force should only be used when absolutely necessary and in direct proportion to the legitimate objective it is intended to achieve.

In Lhasa, the capital of the Tibet Autonomous Region, dozens of Tibetan demonstrators were killed by security forces during demonstrations in favour of Tibet's independence between 1987 and 1989. Though some of these killings occurred in the context of violent clashes between security forces and demonstrators, some were apparently unprovoked and carried out without warning, and others which occurred during violent clashes may have been extra-judicial executions.

Those killed without warning or provocation included two Tibetan monks leading a peaceful demonstration in Lhasa on 10 December 1988, who were shot at close range by the security forces. In March 1989, during violent unrest in Lhasa which lasted three days, troops of the People's Armed Police reportedly fired automatic weapons without warning at unarmed crowds of demonstrators. This reportedly occurred several times on each of the three days after long periods during which the security forces apparently let the protests escalate without intervening. During such periods, shops and offices were ransacked and set on fire by civilians. Official Chinese sources reported subsequently that 16 Tibetans and one police officer had died. Unofficial sources estimated that between 70 and 150 Tibetans had died. There has been no official enquiry into these killings.

The Chinese authorities have stated on many occasions that they consider human rights to be an internal matter. They have continued to reject appeals made by international organisations, including Amnesty International, about human rights violations in China as an interference into their internal affairs.