



Amnesty International briefing on human rights concerns in China

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Amnesty International
EU Office
Rue d'Arlon 39-41
B-1000 Brussels

Tel.: +32 2 502 14 99
Fax: +32 2 502 56 86
Email: amnesty-eu@aieu.be

In the lead up to the EU-China Summit that will take place on 9 September 2006 in Helsinki, Amnesty International presents in this briefing an update on the main human rights concerns in China. They are the continuing use of the death penalty and abusive forms of administrative detention, the arbitrary detention, imprisonment, torture and harassment of human rights defenders, including journalists and lawyers, and the censorship of the Internet. Amnesty International considers that positive reforms in all of these areas are essential if China is to live up to its promises to improve human rights. Amnesty International urges the EU to take these concerns into consideration in its ongoing analysis of the human rights situation in China.

Use of the death penalty

The death penalty continues to be applicable to around 68 offences in Chinese criminal law, including non-violent crimes such as economic crimes (eg. tax fraud and embezzlement) and drug offences where the circumstances are "serious".

Death penalty prisoners continue to be handcuffed and shackled on death row in all parts of China, including Beijing. During his visit to China in November 2005, the UN Special Rapporteur on torture met with death penalty prisoners held at the Beijing Municipality Detention Centre while they awaited appeal. He noted that they were 'handcuffed and shackled with leg-irons weighing approximately three kilograms, 24 hours per day and in all circumstance. Prison officials reportedly defended this practice as a necessary measure to prevent them from fleeing and to prevent suicide. The Special Rapporteur on torture observed that 'the continuous handcuffing and shackling of death row prisoners constitutes an imposition of additional punishment without justification, leading to severe suffering, and amounting to torture.' He recommended that the practice be abolished.

Prisoners are executed by shooting, usually to the back of the head, and increasingly lethal injection. Since lethal injection was introduced in 1996, dozens of mobile execution vans have been produced and mobilised for the purpose. The exact ratio of executions by shooting and by lethal injection is unclear, but some Chinese legal academics estimate that lethal injection may now account for as many as 40% of all executions.

Amnesty International is further alarmed that the use of lethal injection may facilitate the extraction of organs from executed prisoners. At an International Conference on Liver Transplants in July 2005, the Vice-Minister of Health, Huang Jiefu reportedly acknowledged that the majority of organs used for transplant in China come from executed prisoners.

Organ transplants have become a highly profitable business, particularly since the commercialisation of health care in China. There are serious concerns that the potential to profit from such transactions combined with apparently widespread corruption among police, courts and hospitals may lead to abusive practices. It may also provide an economic incentive to retain the death penalty.

On 28 March 2006, the Chinese Ministry of Health released new regulations on organ transplants which took effect on 1 July 2006. They ban the buying and selling of organs and stress that organs may only be removed with the written consent of the donor. However, medical experts have criticized them for not addressing the crux of the problem. For example, Professor Chen Zhonghua, a transplantation specialist who reportedly helped to draft the regulations, has stated that they only offer guidance on transplants from live donors and fail to address key issues such as the source of organs.

It remains unclear how well the new regulations will be enforced. International medical standards state that organ transplants may only take place 'voluntarily' and with the 'free and informed' consent of the donor. Amnesty International considers that those faced with the trauma and anguish of imminent execution are not in a position to provide such consent. In addition, the secrecy surrounding the application of the death penalty in China makes it impossible to independently verify whether such consent was given.

This lack of transparency about the process of execution is mirrored by official secrecy over the exact number of people sentenced to death and executed every year in China. The Chinese government refuses to publish full national statistics on death sentences and executions. Based on public reports available, Amnesty International estimated that at least 1,770 people were executed and 3,900 people were sentenced to death during 2005, although the true figures were believed to be much higher. In March 2004, Chinese legislator

Chen Zhonglin estimated the figure at around 10,000 executions per year. Earlier this year, Liu Renwen, a leading Chinese abolitionist and criminal law professor, estimated that around 8,000 people are executed per year based on information obtained from local officials and judges.

No one who is sentenced to death in China receives a fair trial in line with international human rights standards. Failings include: lack of prompt access to lawyers, lack of presumption of innocence, political interference in the judiciary and failure to exclude evidence extracted through torture. A number of cases recently reported in the Chinese press reveal that innocent people had been put to death in China due to the widespread use of torture by the police to extract confessions.

In October 2005, the Supreme People's Court (SPC) formally announced that it would soon resume its approval role for all death sentences passed in China – a role which it had previously delegated to lower courts for most cases. Chinese legal reformists have speculated that this will lead to a 20-30% reduction in the number of executions. Amnesty International hopes that this reform will result in better quality trials and a significant reduction in the number of those sentenced to death and executed.

However, the failure of the authorities to disclose full statistics will continue to make monitoring and analysis problematic. Amnesty International also notes that ensuring the Supreme People's Court review of capital trials does not necessarily mean that such trials will meet international human rights standards. The reform may also have the adverse effect of further entrenching the death penalty system in China.

"Re-education through Labour"

"Re-education through Labour" (RTL) remains on the statute book in China despite repeated calls from both inside and outside China for the system to be abolished.

Hundreds of thousands of people are believed to be held in RTL facilities across the country as a punishment for so-called minor offences which are not deemed serious enough to be punished under the Criminal Law. Periods of RTL, ranging from one to three years (extendable for a further year) are imposed by the police without charge, trial or judicial review. Chinese legal reformists have pointed out that these periods are much higher than minimum penalties under the formal Criminal Law and have raised serious concerns about the unchecked power of the police in imposing such punishments. Amnesty International is also concerned that those held in RTL facilities are at high risk of torture or ill-treatment, particularly if they refuse to acknowledge their 'offending' behaviour, recant their beliefs or resist 'reform'.

Attempts by the authorities to replace RTL with new legislation known as the "Illegal Behaviour Correction Law" (IBCL) have stalled. The law is reported to remain in draft stage within the legislative committee of the National People's Congress, although no draft has been made publicly available. In May 2006, Amnesty International published a memorandum to the Chinese authorities analysing the substance of the new law and assessing it against international human rights standards, including the International Covenant on Civil and Political Rights (ICCPR) which China has signed and declared an intention to ratify in the near future. The organization concluded that while the law contains some improvements compared with RTL, it still falls short of international standards in several crucial respects, in particular the failure to transfer responsibility for imposing punishments from the police to an independent court or tribunal. Amnesty International recommended that the authorities abandon attempts to introduce a new law, and instead bring all offences punishable with deprivation of liberty within the scope of the Criminal Law.

There has been no evidence of any further moves towards reforming or abolishing RTL over recent months. The rise of the Falun Gong spiritual movement in China and the mass detentions of Falun Gong practitioners which ensued after it was banned in 1999 has often been cited as a key reason why the authorities may be reluctant to abolish RTL.

In August 2003, an abusive form of administrative detention, "Custody and Repatriation" (*shourong qiansong*) was abolished in the wake of a public outcry over the brutal murder of migrant worker, Sun Zhigang, in police custody in Guangzhou. This system was used to target vagrants and others without fixed abode in the cities. Amnesty International welcomed this reform, noting that, like RTL, "Custody and Repatriation" could be imposed at the whim of the police without reference to the courts. The organization is deeply concerned at apparent attempts by the Beijing authorities to use RTL as a substitute for "Custody and Repatriation" under the guise of cleaning up the city for the Olympics in 2008.

Amnesty International is also concerned about the continued existence of two other forms of punitive administrative detention imposed by the police in China: 'Custody and Education' (*shourong jiaoyu*), used to punish alleged prostitutes and their clients with between six months and two years' administrative detention, and 'Enforced Drug Rehabilitation' (*qiangzhi jiedu*), which enables the police to impose between three and six months' detention for alleged drug addicts.

In line with the declared intentions to ratify the ICCPR, the organization urges the authorities to abolish all forms of punitive administrative detention imposed without charge, trial or judicial review without further delay.

Arbitrary detention, torture and harassment of human rights defenders

Chinese human rights defenders continue to face severe obstacles in their attempts to draw attention to ongoing abuses, some of which are directly related to the Olympics and the host city, Beijing. The authorities have taken no measures to reform or abolish articles of the Criminal Law which are frequently used to detain and imprison human rights defenders and others in violation of their rights to freedom of expression, association and assembly.

Grassroots human rights activists, including defence lawyers, legal advisors as well as journalists and other reporters of human rights violations play an essential role in China, as in all countries, of drawing attention to ongoing abuses and winning redress for the victims. Attempts to prevent or impede the peaceful activities of human rights defenders run counter to the UN Declaration on Human Rights Defenders and promises made by the Chinese authorities that human rights will improve as result of Beijing being hosting the Olympics.

Amnesty International has raised serious concerns over the imprisonment of **Ye Guozhu** after he sought permission to organise a demonstration in Beijing with other alleged victims of forced evictions due to construction in preparation for the Olympic Games. Ye Guozhu continues to serve his four-year sentence in Chaobai prison after being convicted of 'picking quarrels and stirring up trouble' by the No.2 Beijing Municipal Intermediate Court on 18 December 2004. Amnesty International considers Ye Guozhu to be a prisoner of conscience, detained solely in violation of his rights to expression, association and assembly, and continues to urge the Chinese authorities to release him immediately and unconditionally.

It has recently emerged that Ye Guozhu has been tortured in detention. According to reliable reports received by Amnesty International, he was suspended from the ceiling by the arms and beaten repeatedly by police in Dongcheng district detention centre, Beijing, before he was imprisoned, causing him serious back pain. He was also reportedly tortured while being held in a different prison, Qingyuan prison, for four months in the second half of 2005, apparently because he refused to admit his 'guilt'. This included beatings with electro-shock batons, being forced to sit upright all day on a hard chair for extended periods, and being forced to wear hand-cuffs and fetters which caused swelling around his ankles. His treatment appears to have improved in Chaobai prison, but he suffers from pre-existing medical complaints, including high blood pressure, heart problems and cerebral thrombosis. He also reportedly suffers pain in his back and ankles as a result of his previous treatment. The prison authorities are reportedly only providing him with basic medicine for high blood pressure, leaving his other ailments and injuries untreated.

Other activists have also been subjected to forced evictions as a result of Olympics-related construction in Beijing. **Qi Zhiyong**, who had to have a leg amputated as a result of being shot by security forces during the 1989 Tiananmen crackdown, set up a small shop in Beijing to eke out a living after being forced to resign from his company due to his disability. However, he has been forced to move this shop several times as a result of construction apparently related to the Olympics. Earlier this year, the authorities revoked his trading license and detained him for 51 days after he participated in a 'hunger-strike' protest in February 2006 to draw attention to recent beatings of other Chinese activists and the lawyers that sought to defend them. Qi's wife was also dismissed from her job, apparently as a result of her husband's campaigning activities. With an eight-year old daughter to support and faced with high medical bills to treat the lingering effects of his injury, Qi Zhiyong and his wife find it hard to make ends meet.

Those seeking to obtain justice for victims of alleged forced evictions in other cities have also been detained and harassed. Defence lawyer **Zheng Enchong**, who had built up a reputation defending those forced out of their homes as a result of construction in Shanghai continues to suffer harassment and intimidation, even after his release from prison on 5 June 2006. He was detained on four separate occasions by the police in

June and July about issues relating to his work as a lawyer, including information they discovered on his computer about alleged forced evictions. He has reportedly been warned by local police and officials that his safety may be in danger if he continues to work on such issues. His family have also been warned not to speak to the media about his situation.

Media freedom

The crackdown on individual journalists, newspapers and websites in China has continued over the last year, raising serious doubts about China's commitment to ensure 'complete media freedom' during the Beijing Olympics. These concerns were echoed recently by the Foreign Correspondents' Club of China (FCCC) which published a survey on 7 August 2006 showing that the police had detained foreign journalists on at least 38 occasions over the last two years, most of whom were covering stories relating to social issues such as environmental protests, land disputes and the plight of HIV/AIDS victims.

Many aspects of domestic Chinese law and policy conflict with international human rights standards, including rights to freedom of expression. Broad and vaguely defined 'state secrets' and 'subversion' charges in the Criminal Law continue to be used to arbitrarily detain and prosecute journalists, editors and Internet users. While foreign journalists are generally detained for short periods and may face expulsion, Chinese journalists and writers often face much harsher treatment for reporting on issues deemed sensitive by the authorities. For example:

Over the last year, the Chinese authorities have intensified their controls over media outlets, including newspapers, magazines and websites. One case which gave rise to considerable concern within and outside China was the temporary closure and sacking of the editors of 'Freezing Point' (*Bingdian*), a popular supplement to the China Youth Daily, after it carried an academic article criticizing the official interpretation of certain historical events, including the 1900 Boxer Rebellion. The paper was closed down for five weeks from 24 January 2006, resuming publication only after its editor Li Datong and deputy editor, Lu Yuegang had been dismissed.

Li Datong was among a group of 103 Chinese scholars, writers and lawyers who published an open letter in early August 2006 calling for an end to Internet censorship in China. This was sparked by the official closure of a popular website, *Century China*, which had hosted eight online forums for intellectual exchange, and had attracted many prominent Chinese intellectuals within and outside China.

The website was forced to close after it reportedly received a notice from the authorities on 25 July 2006 accusing it of 'illegally providing news information and violating Internet regulations.' One of these regulations, introduced on 25 September 2005 by the State Council and Ministry of Information Industry, specifically targets online news providers, urging them to "serve socialism and correctly guide public opinion."

Century China is just one of numerous websites which have reportedly been closed down over the last year. Other recent examples include: *China Consultation Net*, closed down in August 2006 after it conducted a public opinion survey on Communist Party election procedure; *Ewiki*, regarded as a mainland equivalent of the online encyclopedia, *Wikipedia*; and blogs by a Tibetan writer, *Woeser*, apparently after she published a picture of the Dalai Lama on one of them.

Amnesty International remains deeply concerned about the involvement of overseas Internet companies in China's Internet censorship regime. In July 2006, the organization published a report examining the role of Yahoo!, Microsoft and Google in Internet repression in China. All three companies have in different ways facilitated or participated in the practice of government censorship in China:

Microsoft closed down the blog of Zhao Jing, a Beijing-based researcher for the New York Times, on 30 December 2005 at the request of the Chinese government. Tests have shown that it also prohibits users of MSN Spaces in China from using certain terms such as 'human rights', 'Falun Gong' or 'Tibet independence' in their account name or blog title;

Google announced in January 2006 the launch of 'www.google.cn', a self-censoring search engine as an alternative to its existing search engine based outside China (www.google.com);

Yahoo! has voluntarily signed the Chinese government's 'Public Pledge on Self-discipline for the Chinese Internet Industry', thereby aligning itself with official efforts to censor the Internet. Yahoo! has also provided

information to the authorities, which has helped to secure the conviction of at least four Chinese Internet users on 'state secrets' or 'subversion' charges in violation of their rights to freedom of expression. One of them, Shi Tao (mentioned above) used his Yahoo! email account to send information overseas. Yahoo! provided account holder information to the authorities which was later used as evidence in his case, resulting in his ten-year sentence. More recently, it has come to light that Yahoo! provided information to the authorities that helped to secure the conviction of **Li Zhi**, who was sentenced to eight years in prison in 2003 for 'subversion' in connection with political articles that he posted on the Internet and his attempts (online) to join the banned China Democracy Party.
