

[China web feature – launching 22 March 2004]

Executed “according to law”? The death penalty in China

The People’s Republic of China continues to carry out more judicial executions than the rest of the world combined. In addition, despite having the largest population in the world, China possibly executes a higher proportion of its population than any other country, except for Singapore, which has one of the smallest populations.

Law unto itself

Behind these facts lies a criminal justice system which cannot and does not guarantee a fair trial under international law to defendants. Often defendants are denied their right to legal representation until after they have been interrogated, and even then, access in practice is strictly limited. The period of pre-arrest or pre-trial detention is often arbitrary, lasting in one extreme case for 28 years. Torture by police in China is rife, but there is no provision under Chinese law to exclude from court ‘confessions’ or other ‘evidence’ extorted through torture. In practice, there is no presumption of innocence.

“What evidence do you have that you didn’t commit the murder?” A high court judge in Heilongjiang Province before passing a death sentence despite inadequate evidence. Beijing Youth Daily, 28 April 2002.

Political pressure and interference

Trials and the process of appeal are often summary. Furthermore, there is no independence of the judiciary in China. The ruling Chinese Communist Party influences the judicial process at every level of proceedings with courts in particular being monitored and run by Party bodies.

Political pressure on the judicial process is particularly acute during officially designated “strike hard” campaigns, where police, prosecutors and judges are under pressure to demonstrate speed and resolve at the expense of rigour and justice.

“Judges must effectively enhance the Party’s leadership in people’s court work.” Luo Gan, Director of the Central Committee for the Management of Public Security, *Xinhua*, 17 December 2003.



Death sentence is passed against a woman who was immediately executed with three other people on drugs charges. www.sina.com.cn 26 June 2003 (world anti-drugs day). © sina.com.cn

Death is cheap

Despite these obvious variances with international law and standards, China continues to execute huge numbers of people. Indeed, a recent decision to promote lethal injection as a means of execution nationwide was reported in some quarters in China as a “cost-effective” and more efficient alternative to execution by bullet, possibly facilitating even higher rates of execution. Mobile execution chambers are also being used extensively throughout China – converted buses in which convicts can be executed by lethal injection “immediately after sentence is passed”.

[Quote]

“All those present thought that drug injection is a very civilised and scientific method for carrying out death sentences.” www.people.com.cn 18 September 2001.

[Unquote]

Lethal injection does not overcome fundamental objections to the death penalty. A convicted prisoner – whether innocent or guilt as charged – still faces the impending threat of death at the hands of the State while being held in extremely harsh conditions. Promoting a “humane” way for the State to kill people is hardly the sign of a “civilized” society

[INSERT PHOTO OF DOLLS]



[caption]

A modelled execution scene created by a Chinese news agency. CNS 18 January 2003. © CNS.

Law disregarded

Not only does the Chinese government disregard international standards in its use of the death penalty, it also disregards its own domestic laws. Despite a prohibition on executing juveniles who commit a capital crime under the age of 18, China executed a man in January 2003 for a crime he committed when he was 16. Torture is prohibited under Chinese law, but still it is pandemic, and 'evidence' extracted through torture and other illegal means continues to be used to sentence people to death.

Dying for change

Amnesty International opposes capital punishment on the grounds that it constitutes the ultimate cruel, inhuman and degrading punishment, and violates the right to life. Its effectiveness as a unique deterrent to crime has never been proven. Indeed, China itself continues to witness rising levels of crime despite huge numbers of executions.

In view of the profound failings in China's criminal justice system, Amnesty International has called on the Chinese government to impose an immediate moratorium on use of the death penalty.

During this period of moratorium leading to outright abolition, the Chinese legislature must act to ensure that domestic laws and practices reflect China's obligations to the international community in the form of human rights treaties it has ratified, and move towards ratification of the International Covenant on Civil and Political Rights (ICCPR) with all speed.