

11 APR. 2005

PEOPLE'S REPUBLIC OF CHINA

HUMAN RIGHTS DEFENDERS AT RISK

- UPDATE -

Introduction

Since the publication of Amnesty International's report, *People's Republic of China: Human Rights Defenders at Risk* (ASA 17/045/2004) in December 2004, the number of human rights defenders who are arbitrarily detained or imprisoned in China has continued to rise. This paper should be read in conjunction with the previous report. It adds new cases to illustrate Amnesty International's continuing concerns about activists who have been harassed, intimidated, threatened or detained for engaging in peaceful human rights activities on behalf of others.

The following cases are not an exhaustive list of human rights defenders detained in China. They are highlighted to represent the broad range of activists detained and imprisoned for their work towards protecting a variety of civil, political, economic, social and cultural rights.

Detention of activists campaigning against impunity for the 1989 Tiananmen crackdown

In late 2004 and early 2005, several rights activists and dissidents were reportedly detained or placed under surveillance in their homes. The reasons for these detentions appeared to be to prevent them from engaging in public activities deemed sensitive by the authorities, including publicising the impunity surrounding the 1989 Tiananmen crackdown and mourning the death of former premier and general secretary of the Chinese Communist Party (CCP), Zhao Ziyang.

For example:

- Shi Tao, a 36-year-old writer, poet and journalist was detained on 24 November 2004 at his home in Taiyuan, Shanxi province and later charged with "illegally divulging state secrets abroad". The charges appeared to relate to the text of a central government order, barring media organizations in China from marking the 15th anniversary of the Tiananmen crackdown, which Shi Tao was accused of posting on an overseas website. Shi Tao, who until recently worked for the Contemporary Trade News (*Dangdai Shang Bao*) has published numerous essays and political commentaries drawing attention to numerous social problems in China. He is currently detained in Changsha, Hunan province.
- On 23 February 2005, Guo Guoting, the defence lawyer for Shi Tao reportedly had his offices searched and his computer and licence to practice law seized by

police. Guo Guoting, who has also defended the rights of other activists, has been warned by the police that his lawyer's licence could possibly be withdrawn for one year. Guo Guoting reportedly considers that this action by the authorities is an attempt to prevent him from defending Shi Tao, whose trial is due to take place on 7 March 2005.¹

- Ding Zilin,² one of the leaders of the Tiananmen Mothers who has campaigned tirelessly for an independent inquiry into the 1989 pro-democracy demonstrations, was reportedly placed under a form of house arrest in Beijing on 27 January 2005 after she had requested permission to pay her respects to Zhao Ziyang. It is not known if she is still under house arrest.

Zhao Ziyang died on 17 January 2005 and hundreds of petitioners gathered to mourn his death. Many had petitioned the authorities to attend his funeral, but in an apparent effort to prevent high-profile activists from attending, restrictions were placed on several human rights defenders, including Ding Zilin, forcing them to stay at home.

Ding Zilin's house arrest may also have been prompted by a public letter that she and her husband, Jiang Peikun, wrote to President Hu Jintao and Premier Wen Jiabao on 13 December 2004 appealing for the release of two well-known activists, Liu Xiaobo and Yu Jie, who had been detained the same day. The two were released the following day, but reportedly continue to remain under surveillance in their homes. Another activist, Zhang Zuhua, was detained and released at the same time. All three had signed a letter in May 2004 urging the authorities to apologise for the crackdown in Tiananmen Square in June 1989.

"We are deeply confused by the authorities' detention of Liu and Yu. We wish to ask the authorities, could it be that your detention of Liu and Yu is to make all intellectuals in China shut their mouths and keep silent? Could it be that after 25 years of reform and opening up you wish to create a voiceless China again?! We would dearly like to hear the true reasons why the authorities detained Liu and Yu!" (From the 13 December 2004 letter by Ding Zilin and Jiang Peikun).

On 28 February 2005, Ding Zilin and more than 100 family members of people killed or injured during the 1989 crackdown against pro-democracy demonstrators

¹ See 'Lawyer for several journalists and cyberdissidents harassed and facing a professional ban', *Reporters Without Borders*, 1 March 2005.

² See AI's report, *People's Republic of China: Human rights defenders at risk* (ASA 17/045/2004) December 2004, pages 19 and 40.

sent an open letter to the National People's Congress (NPC) reiterating calls for a reassessment of the 1989 protests and called for the rehabilitation of former party secretary Zhao Ziyang. The letter also referred to the recent deteriorating human rights situation in China and that at least ten families had been placed under house arrest or were monitored during the period following Zhao Ziyang's death.³

- Hu Jia,⁴ an HIV/AIDS activist, was reportedly detained by around 12 state security police officers on 23 January 2005 after he had visited Zhao Ziyang's residence in Beijing to mourn his death. He was released the next day, but police were sent to stand guard outside his home, preventing him from leaving. He is believed to remain under strict surveillance. Hu Jia has been placed under forms of house arrest several times in the past in connection with his activism on behalf of those with HIV/AIDS and those who were killed or injured in the events of 4 June 1989.
- Zhang Lin, a pro-democracy and labour rights activist, was detained on 29 January 2005 in Bengbu, Anhui province shortly after the death of Zhao Ziyang. He is reportedly being held on charges of "endangering state security", apparently in connection with articles which he posted on various overseas websites about Zhao Ziyang.⁵ He had also signed, along with other activists, a petition calling for a memorial for Zhao Ziyang. Zhang Lin has been detained and imprisoned on numerous occasions in the past in connection with his peaceful activities in support of greater democracy and human rights.
- Xu Zhengqing, a housing rights activist from Shanghai, was detained on 29 January 2005 after travelling to Beijing to attend the memorial for Zhao Ziyang. Twenty-one others were reportedly detained at the same time. After being searched in a Beijing police station, the group were forced onto a train back to Shanghai. Before departure, Xu Zhengqing was reportedly severely beaten by several police officers from Shanghai after he asked why it was a crime to mourn Zhao Ziyang. All except Xu were released shortly after their arrival in Shanghai. Xu Zhengqing was kept in police custody and on 31 January 2005 his wife was notified that he had been formally charged with "suspicion of creating a disturbance in a public place and transport depot."⁶

³ "Tiananmen Families Renew Calls for Redress as EU Considers Lifting Arms Embargo", *Human Rights in China*, 28 February 2005.

⁴ See ASA 17/045/2004, page 22.

⁵ See "Authorities keep cyber-dissident Zhang Lin in detention", *Reporters Without Borders*, 16 February 2005.

⁶ For further information, see "Zhao Mourner Charged", *Human Rights in China*, 31 January 2005.

Xu Zhengqing had been petitioning the authorities for some time in connection with an urban redevelopment project in Shanghai which had displaced hundreds of people. It remains unclear when his trial is due to take place.

- Dr Jiang Yanyong,⁷ who wrote a letter in February 2004 to the NPC calling for a reappraisal of the pro-democracy demonstrations in Tiananmen Square, reportedly remains under a form of house arrest. He continues to be prevented from meeting the press, leaving his home, receiving visitors and expressing his views on sensitive issues. He is believed to be held under the “Two Regulations” (*shuanggui*) system – an extrajudicial form of detention, used against Chinese Communist Party (CCP) members who are deemed to have broken internal party rules. Dr Jiang Yanyong had witnessed events on the night of 3-4 June 1989 and had also exposed the initial cover-up of the Severe Acute Respiratory Syndrome (SARS) epidemic in 2003.

Detention of housing and land rights activists

*“If the government wants to take land, it can take it more or less at will. Farmers often not only haven’t benefited from the process of urbanization, they are losing out because of it”.*⁸

The requisition of farmland in rural areas continues to fuel a wave of protests resulting in thousands of petitions and legal disputes about compensation. These tend to be weighted heavily in favour of the government and developers. Meanwhile construction projects in urban areas continue to give rise to tensions between developers or local officials and those evicted from their homes. Activists working for the protection of housing and land rights of both urban and rural residents continue to be detained and some have been put on trial. For example:

- Gao Lading, a farmer who had spearheaded a two-year campaign against land seizures in Sanchawan village, Shaanxi Province, was sentenced to 15 years’ imprisonment in January 2005 by the Yulin Intermediate People’s Court. He was convicted of engaging in “illegal gatherings” and “disturbing public order” in connection with his activities on behalf of local farmers whose land had reportedly been seized by local officials with little compensation.

Since early 2003 up to 500 villagers had protested against the official seizure of 1,600 acres land for development in the area. The protests included sit-ins and the blocking of construction work as well as petitions to the central authorities in

⁷ See ASA 17/045/2004, page 8.

⁸ Professor Qin Hui, a history professor at Qinghua University, Beijing and a leading authority on rural China, quoted in “Farmers being moved aside by China’s real estate boom”, *New York Times (NYT)*, 8 December 2004.

Beijing, which were reportedly sent back for investigation to the same local officials who had been accused of seizing the land. The protests culminated in a five-month occupation of the CCP offices in the village, which was reportedly brought to a violent end in early October 2004 by police firing rubber bullets and tear gas.⁹ Twenty-seven people were arrested, including Gao Lading. Some farmers, including women, were reportedly beaten and attacked with cattle prods. Gao Lading's 26 co-defendants were sentenced to a variety of prison terms; the majority were sentenced to up to three years' imprisonment.

- Li Boguang, the director of the Qimin Research Centre in Beijing and a freelance writer and journalist was reportedly detained in Fu'an, Fujian Province on 14 December 2004. The reasons for his arrest are unclear but appear to be in connection with his activities in support of farmers' rights.

Li Boguang, a graduate in philosophy, politics and law, had helped farmers in many parts of China to exercise their right to seek compensation for confiscated farmland. Earlier in 2004 he reportedly published an article examining the impact of corruption on the lives of farmers. He also helped farmers in Fu'an petition the central government in a dispute over land.

In an article posted on the Internet in October 2004, Li Boguang warned that farmers in Fujian and other areas had been ordered to report on his whereabouts and that he had been threatened with arrest should he return to Fu'an. He was arrested in Fu'an two months later. Fu'an police reportedly searched his home in Beijing, confiscating computers and documents. It is unclear whether he has been charged with any crime.

- Ye Guozhu,¹⁰ a housing rights activist in Beijing, was sentenced to four years' imprisonment by the Beijing Intermediate People's Court on 18 December 2004 because his actions "seriously interfered with the work and order of the state organs and public order". He had been detained in August 2004 after applying for permission to hold a mass protest against forced evictions in Beijing. He and his family were reportedly forcibly evicted from their home in 2003 to make way for construction work in connection with the Beijing 2008 Olympics.

The detention of Shi Tao, Zhang Lin and Ye Guozhu were among several cases highlighted in a petition by 106 Chinese activists to the United Nations Commission on Human Rights which is meeting in Geneva from 14 March–22 April 2005. The petition, which was sent to the UN on 23 February 2005, highlights the deteriorating human rights

⁹ See *NYT*, 8 December 2004, op cit.

¹⁰ See ASA 17/045/2004, page 12.

situation in China. It cites several cases of individuals who have been detained in China over recent months and appeals to the UN and the international community to put pressure on the Chinese authorities to improve human rights.¹¹

Reforms to the Petition System

Many activists and others with individual grievances continue to use China's petitioning system in an attempt to obtain a solution to their problems. Yet this system remains inadequate to deal effectively with complaints. According to a prominent Chinese academic, Professor Yu Jianrong of the Chinese Academy of Social Sciences (CASS) who recently conducted a survey of petitioners, only two in every 1,000 petitions even receive a reply slip, let alone redress for their complaint.¹²

*"What we ultimately want is a rule by the law and not the cult of honest officials and resolutions scribbled on our petitions by superiors," Yu Jianrong.*¹³

A failure to receive a response at one administrative level often means that petitioners are forced to re-submit their complaint to increasingly higher levels of the bureaucracy. Over recent years, tens of thousands of people have travelled to Beijing to present their petitions at the highest level of government. The authorities increasingly appear to be viewing such activities as a threat to "public order" or "social stability" and many petitioners have been detained and beaten by the police as a result.

In an apparent attempt to address weaknesses inherent in the petitioning system, China's State Council recently promulgated revised "Regulations on People's Complaints and Visits".¹⁴ These are due to come into force on 1 May 2005 and update "Rules for Petitioning", promulgated by the State Council in October 1995. According to reports in the official media, the revised rules are intended to "better protect the interests of petitioners."¹⁵

The regulations reportedly provide for a "responsibility system" for administrative departments handling petitions, rules aimed at "unblocking local and national channels for petitioning" and "rules of conduct" for public petitioners.¹⁶ The new rules also reportedly warn officials not to retaliate against people who file petitions. One aim of the

¹¹ The other cases highlighted are: Zheng Mingfang, Lin Xinsu, Lin Mu, Liu Xiaobo, Yu Jie, Zhang Zuhua, Li Guotao, Dai Xuewu, Yang Qinheng, Zhao Xin, Qin Yongmin, Liu Xianbin and He Depu. To read the petition in Chinese, see <http://peacehall.com/news/gb/party/2005/02/200502240648.shtml>

¹² "Court may be shielded from petitions", *South China Morning Post*, 8 January 2005

¹³ "Petition system in danger even as public unrest grows", *IPS/GIN*, 9 November 2004

¹⁴ http://www.chinacourt.org/flwk/show1.php?file_id=99030

¹⁵ "Chinese Communist paper hails release of petition regulations", *Renmin Ribao website*, 18 January 2005.

¹⁶ *Ibid.*

regulations appears to be to encourage officials at the local level to spend more time dealing with petitions, thereby preventing petitioners from travelling to Beijing.

It remains to be seen whether the reforms will lead to more timely handling of complaints and greater protection of petitioners' rights. However, it is likely that resolution of grievances will continue to be compromised by the inherent lack of independence of the system and the risk that officials may side with powerful vested interests, including political or business concerns.

New Religious Affairs Regulations

Activists engaged in publicising violations of the right to freedom of religion in China continue to be at risk of arbitrary detention and imprisonment. Many were looking towards China's new *Religious Affairs Regulations*, announced on 30 November 2004, to establish broader protection for freedom of religion in China. Since the publication of Amnesty International's report on human rights defenders in China last year, the implications of the new regulations has become clearer. Scrutiny of the provisions shows that they have been drafted less to protect than to regulate religious activities in China.

According to official commentaries, the new regulations, which came into force on 1 March 2005, provide a comprehensive system to control the affairs of all religious believers in China to "safeguard national unity, harmony between the national minorities and social stability."¹⁷ During a discussion of the regulations in January this year, Jia Qinglin, member of the Political Bureau Standing Committee noted that the implementation of these regulations was "a turning point to further enhance the ability and level of managing religious affairs in accordance with law."¹⁸

The regulations leave unchanged all the provisions used in the past to harass, detain or imprison members of so-called "heretical organizations." They also contain numerous loopholes and undefined terms, leaving them open to broad and arbitrary interpretation. Those deemed to be engaged in religious activities which are not sanctioned by the party or state will therefore continue to be at high risk of arbitrary detention and other human rights abuses.

Many provisions in the new regulations are broadly defined raising fears of arbitrary implementation. For example according to Article 3, the state "protects normal religious activities". This echoes equivalent provisions on "freedom of religious belief" in China's Constitution. However, like the Constitution, "normal" is left undefined, allowing for broad interpretation and giving the authorities free rein to suppress any religious activities deemed to pose a threat to the existing order.

¹⁷ Ibid. Article 3.

¹⁸ "Chinese consultative body chair attends religious affairs study class", *Xinhua*, 26 January 2005.

The regulations continue to reinforce the overriding importance of state control over religious views or practice. New provisions, for example, continue to censor religious content in publications and penalize members of unofficial religious groups. Article 43 of the regulations provides that the Religious Affairs Department “.. ban venues for religious activities that are established without authorization, venues that continue to engage in religious activities after deregistration or religious schools that are established without authorization.”

It may be significant that the regulations make no reference to the five officially recognised religions in China, possibly providing the space for other religious denominations to be allowed to register officially.¹⁹ However, these new regulations will do nothing to guarantee protection for those who wish - or are forced - to practice their religion outside official controls. They remain at risk of being branded “religious extremists” or accused of involvement in “illegal religious activities” or “heretical organizations.” Those who publicise human rights violations against such groups or individuals will also remain at risk of arbitrary detention and other abuses.

- The regulations will therefore make little difference to Liu Fenggang, Xu Yonghai and Zhang Shengqi, three Christian activists whose cases were highlighted in Amnesty International report of December 2004.²⁰ Amnesty International has learnt that Zhang Shengqi was released at the end of his sentence on 7 February 2005. However, Liu Fenggang is now reportedly in poor health suffering from heart problems. He is due for release on 4 February 2007 and Xu Yonghai is due for release on 30 January 2006. Both are imprisoned at Xijiao Prison in Hangzhou, Zhejiang Province.

¹⁹ See “Reins tight on religious affairs”, Nicolas Becquelin, *The Standard*, <http://www.thestandard.com.hk/stdn/std/Focus/GB18Dh01.html>.

²⁰ The three were detained in October and November 2003 and charged with “collecting and leaking state secrets to foreign organizations” for disseminating and publicising reports about the destruction of churches and the ill-treatment of fellow Christians in Zhejiang Province. They were sentenced to terms of imprisonment ranging from one to three years. (See ASA 17/045/2004, pages 17 and 34).