

People's Republic of China The Olympics countdown – one year left to fulfil human rights promises

Introduction – rights in the balance

With just one year to go before the Olympics take place in Beijing, many in China and abroad are beginning to look ahead to assess the likely legacy of the Games for human rights in China. In this update, Amnesty International summarizes recent developments on four key human rights issues the organization is monitoring ahead of August 2008 and assesses how far these meet promises made by Chinese officials to improve human rights in the run-up to the Olympics.

While positive steps have been made in some limited areas, namely reform of the death penalty system and greater reporting freedom for foreign journalists in China, Amnesty International remains concerned that these are overshadowed by other negative developments – in particular the growing crackdown on Chinese human rights activists and journalists as well as the continued use of ‘Re-education through Labour’ (RTL) and other forms of detention without trial. Official statements suggest that the Olympics are being used to justify such repression in the name of ‘harmony’ or ‘social stability’ rather than acting as a catalyst for reform. Global experience shows that the best way to ensure social stability is to ensure the protection of fundamental human rights based on the rule of law.

Many in China and around the world have high expectations for human rights progress in relation to the Olympic Games. However, the image of the Olympics continues to be being tarnished by ongoing reports of the ‘house arrest’, torture or unfair trial of Chinese activists and the extension of systems for detention without trial in Beijing as part of the city’s ‘clean-up’ ahead of August 2008.

If the authorities fail to take significant action to reform such practices, reports of abuses are likely to increase as the Olympics approach with adverse publicity potentially affecting not only China, but other stakeholders in the Olympic movement, including the International Olympic Committee (IOC) and the corporate sponsors of the Games. Amnesty International remains hopeful that prompt action can still be taken to create a more favourable human rights environment for the Beijing Olympics in August 2008 and beyond.

Lack of transparency mars death penalty reforms

Since the publication of the last Amnesty International update,¹ the Chinese authorities have made statements which appear to reflect the need for greater transparency on the death penalty.

¹ “People’s Republic of China: The Olympics Countdown - repression of activists overshadows death penalty and media reforms” April 2007 (AI Index: ASA 17/015/2007).
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However, these continue to fall short of requests to the Chinese authorities from Amnesty International, Chinese legal academics and other observers to publish full national statistics on the application of the death penalty in China.

On 8 June 2007, Chinese state media reported that there had been a reduction in the number of people sentenced to death and executed over the first five months of the year, compared to previous years. Citing death penalty statistics from Beijing No.1 and No.2 Intermediate People's Courts, Ni Shouming, a spokesman for the Supreme People's Court (SPC) suggested that the number of death sentences had dropped 10% compared with the same period last year. He added that this was the result of both the SPC and lower-level courts being more careful when imposing the death penalty.²

Amnesty International welcomes this apparent drop in execution numbers, but maintains that the best way to enable full and informed analysis of death penalty developments in China, not only by court officials but also by Chinese legal academics and others, would be to make the full data public. This would be a significant step forward towards informing the Chinese public about the true nature of the death penalty in China, enabling them to come to more considered opinions or conclusions about the death penalty in general. This is particularly important as the Chinese authorities have regularly cited 'public opinion' as a justification for retaining the death penalty or in defence of a slow, incremental approach towards abolition.

Greater transparency and public accountability is essential not only in the field of statistics but also over procedure in individual death penalty cases. In the last update, Amnesty International highlighted concerns over lack of transparency for the SPC review process. On 28 June 2007, Chinese state media reported the first execution in Beijing following the restoration of SPC review.³ Tao Jianhua was executed by the Beijing No.2 Intermediate People's Court for murder after his sentence had been approved by the SPC. While some reports provided information about the SPC review process in general, they did not include specific procedural details about Tao Jianhua's case, including whether he or his lawyer were able to make representations to the SPC review panel. While Chinese legal commentary suggests that defendants' lawyers are allowed to make representations during the review, it remains unclear whether or not this is happening in practice.⁴

In apparent recognition of the need for greater transparency at lower levels, the SPC issued a legal notice on 14 June 2007 stressing that first-instance death penalty cases must be held in open court and that courts should move towards ensuring public trials for appeal hearings in

² "Fewer executions after legal reform", *China Daily*, 8 June 2007.

³ See for example "First death penalty prisoner executed in Beijing following restoration of SPC review" (北京首名经最高法院复核的死刑犯昨被执行死刑), *China Youth Daily* (中国青年报), 28 June 2007 and "This year's first death penalty prisoner executed this morning" (今年首个死刑犯上午伏法) *Legal Evening News* (法制晚报) 27 June 2007.

⁴ See ASA 17/015/2007, p.6. Under international human rights standards, people charged with crimes punishable by death are entitled to the strictest observance of all fair trial standards. This includes the adequate assistance of counsel at every stage of the judicial proceedings.

criminal cases more generally.⁵ The notice also called for more in-court announcements and wider publication of judgments. This followed an SPC ruling last year that all second-instance hearings of death penalty cases (ie appeals) should be held in open court from 1 July 2006 in a stated attempt to improve protection of human rights and safeguard against miscarriage of justice.

In the last update Amnesty International highlighted concerns that second instance death penalty hearings may still be held *in camera* in many parts of China despite this ruling. Such concerns were underscored on 23 June 2007, when Chinese state media quoted an unnamed local court source who stated that understaffing often made it impossible to try death penalty cases in open court sessions.⁶ He added that '[i]f second instance trials are not heard openly, the public do not feel convinced -- the process is not transparent, the rights and interests of the accused are not fully protected, and judicial errors could occur.'⁷ The article stated that China's courts were due to hire 1,900 more staff for second instance death penalty cases.

Lack of transparency also remains a key concern for the families of those sentenced to death and executed:

- **Nie Shubin's** family continue to fight for compensation for his wrongful execution in 1995 after he was convicted of the rape and murder of a local woman. He had reportedly been tortured by the police into making a false confession and in early 2005, a suspect detained in connection with another case confessed to the same crime, apparently describing the crime scene in detail. Nie's family were given no information about his situation following his trial and to date have still not been given a copy of the verdict in his case. His family claim that they were denied access to him after his arrest and that his father only discovered that he had been executed when he went to visit him in prison to take him some food. His father has reportedly attempted suicide out of grief at the loss of his son. His mother adds: 'I just have one son, all my hopes rested on him. They've destroyed my future [...] Without my son, my family and I can't go on.'⁸
- Similarly, the family of **Wu Zhenjiang**, a 24-year-old student convicted of intentional injury and executed in January 2005, claim they were unable to meet with him following his first-instance trial.⁹ Since then, his mother, Meng Zhaoping (not her real name) has petitioned the authorities to discover more information about his case, in particular what happened to his body, which was cremated shortly after his execution and never returned to the family. She suspects that his organs were taken from his body without consent for

⁵ See "Capital cases made more transparent", *China Daily*, 15 June 2007. The right to a public hearing or trial is set out in Article 10 and 11 of the Universal Declaration of Human Rights (UDHR) and article 14.1 of the International Covenant on Civil and Political Rights (ICCPR). Article 9.3 (b) of the Declaration on Human Rights Defenders sets out the right to attend public hearings "so as to form an opinion on their compliance with national law and applicable international obligations and commitments".

⁶ "China's courts recruit more staff for death penalty reviews", *Xinhua*, 23 June 2007.

⁷ Ibid.

⁸ Nie Shubin's mother, Nie Shuie, as interviewed by *Sky News*, October 2006 – video of interview available at: http://news.sky.com/skynews/video/videoplayer/0,,31200-p21983_waghorn,00.html

⁹ "A mother's fight for truth delves into murky world of prisoners' organs for transplant", *Associated Press (AP)*, 20 April 2007.

transplantation purposes, but has no firm evidence to support these beliefs. Wu Zhenjiang was sentenced to death in Xi'an city, Shaanxi province, for knifing another man to death in a brawl outside an Internet cafe. This apparently developed after he refused entry to a group of men who did not want to pay to use the computers. Wu had secured a part-time job at the cafe to fund his studies and send money home to his family in Kuitun city, Xinjiang Uighur Autonomous Region, northwest China.

Addressing the broad scope of capital crimes

Death sentences and executions continue to be imposed for some 68 offences in China, including non-violent crimes such as economic and drug-related offences:

- On 5 July 2007, Chinese state media reported that Zhang Ning, the former chief accountant of the railway bureau in Lanzhou city, Gansu province had been sentenced to death after being convicted for soliciting bribes and squandering billions of public funds in failed investments.¹⁰ Originally sentenced to death in May 2006, his case was upheld on appeal in December 2006, but has yet to be reviewed by the SPC.
- On 10 July 2007, Zheng Xiaoyu, the former director of the State Food and Drug Administration was executed after he was convicted of accepting bribes. His conviction was based on his role in approving medicines, apparently resulting in the sale of fake or tainted products which were later blamed for the deaths of several people across China. Some Chinese commentators questioned his execution, noting that others who had been convicted of corruption offences involving higher sums of money had only been given suspended death sentences. However, a lengthy report published by the official Chinese news agency, *Xinhua*, explained that Zheng Xiaoyu 'committed especially serious crimes and did extremely great harm to society'.¹¹ The report added that his execution indicated 'China's determination to use the rule of law to punish and prevent crimes of corruption and bribery' and showed that 'even high-ranking cadres with great power are punished without mercy'.

On Anti-Drugs Day (26 June 2007)¹², the Anti-Death Penalty Asia Network (ADPAN), of which Amnesty International is a member, issued a statement expressing concern about the high number of executions for drug-related offences in several Asia-Pacific countries, including China.¹³ During the previous two weeks - typically a peak period for death sentences and executions in China - Amnesty International had recorded 47 death sentences and 14 executions

¹⁰ "China Railway Rogue Trader Gets Death for Fraud", *Reuters*, 5 July 2007

¹¹ "Chinese scholars on why ex-drug chief was sentenced to death without reprieve", *Xinhua*, 12 July 2007.

¹² Officially, 'International Day against Drug Abuse and Illicit Trafficking'

¹³ See "Asia-Pacific: Death sentences for drug-related crimes rise in region," 26 June 2007, available at http://asiapacific.amnesty.org/apro/aproweb.nsf/pages/adpan_a-p_anti-drug_ASA010032007. ADPAN is an independent informal network with over 34 members made up of individuals and organizations mainly from the Asia-Pacific Region. Members are committed to working for the abolition of the death penalty within the Asia-Pacific Region. The network is not linked to any political party or religion and is independent of all governments.

for drug-related offences, although the true figures were believed to be much higher. On the eve of Anti-Drugs Day, SPC judge Gao Guijun announced that the court had ‘strictly examined death penalty cases involving drug trafficking’ and that ‘our approval of the death penalty regarding drug trafficking could stand the test of history’.¹⁴ SPC spokesman Ni Shouming added that the court would ‘show no leniency in handing down heavy penalties to the kingpins of drug-trafficking gangs and those who participate in cross-border drugs crimes.’¹⁵

- In June 2007, Yuan Yanjie, a 23 year-old woman from Henan province was reportedly sentenced to death by Baoding Intermediate People’s Court, Hebei province for transporting 484.2 grams of heroin from Myanmar to China. She had reportedly hidden the drugs in her high-heeled sandals, and had been rewarded with RMB15,000 (approx. US\$1,900). Two male accomplices, who allegedly received, packaged and sold the drugs, received suspended death sentences.¹⁶

On 4 July 2007, Ni Shouming and SPC vice-president Zhang Jun announced that within the year, the SPC would introduce ‘unified guidelines’ on the death penalty to tackle ‘judicial injustice’ resulting from different criteria being used across the country for sentencing people to death, particularly for economic and drug-related offences.¹⁷ As an example, they explained that a drug trafficker in Yunnan province could be given a death sentence if the case involved 300 grams of drugs or more, while in neighbouring Guizhou province, just 150 grams could incur the death penalty.¹⁸ The guidelines would apparently cover four categories of crime – murder, robbery, drug-related offences and intentional injury.

Amnesty International welcomes SPC efforts towards addressing the arbitrary, unfair and subjective way that the death penalty has been applied in China. However, the organization maintains that the most reliable and effective way to solve this problem would be to abolish the death penalty altogether. International standards require that in countries which retain the death penalty, death sentences may only be imposed for the most serious crimes. The UN Special Rapporteur on extrajudicial, summary or arbitrary executions has also stated that the death penalty should be eliminated for non-violent crimes, including economic and drug-related offences.¹⁹

¹⁴ “China approves death penalty for seven drug traffickers”, *Xinhua*, 25 June 2007.

¹⁵ *Ibid.*

¹⁶ “Masseuse seduced by profit into transporting drugs to China in her high-heeled shoes gets the death penalty” (缅甸穿回“毒品”高跟鞋 逐利按摩女被判死刑), *Yanzhao Dushibao* (燕赵都市报) 22 June 2007, available at: <http://www.yzdsb.com.cn/20070622/ca761309.htm>. Suspended death sentences are usually commuted to life imprisonment.

¹⁷ “Supreme People’s Court tackles ‘judicial injustice’”, *China Daily*, 5 July 2007.

¹⁸ *Ibid.*

¹⁹ This interpretation of Article 6(2) of the ICCPR on the right to life has been upheld by successive Special Rapporteurs for over a decade. See ASA 17/015/2007 op cit. p.6
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Police use of the Olympics as a pretext to extend detention without trial

Chinese legal reformists, UN human rights experts including the Special Rapporteur on torture and the Working Group on Arbitrary Detention, and international human rights organizations like Amnesty International have long raised concerns about China's continued use of 'Re-education through Labour' (RTL) and other forms of detention without trial. The substantial reform or abolition of RTL in particular has been on the legislative agenda of the National People's Congress for many years.

Amnesty International remains deeply concerned that the authorities have used the Olympic Games as a pretext to extend the use of two forms of detention without trial: 'Re-education through Labour' and 'Enforced Drug Rehabilitation' (EDR).²⁰ Unless the Chinese authorities take prompt action to substantially reform or abolish these abusive systems, they will continue to damage China's international standing on human rights issues and tarnish the human rights legacy of the Beijing Olympics.

In a previous update published in September 2006, Amnesty International highlighted moves by the Beijing city authorities to mandate the use of RTL to detain offenders who had engaged more than twice in various types of petty crime in the run-up to the Olympics, including unlawful advertising, taxi-driving, vagrancy and begging. On 28 June 2007, the official Chinese media reported that unauthorized 'medical agents' would also be sent for RTL upon a third offence²¹ as part of a broader 'strike hard' campaign by the Beijing police to crack down on such practices.²² Amnesty International recognizes the right and duty of the authorities to prevent and punish crime, but this must be done in line with international human rights standards, including the right to due process and a fair trial.

In June 2007, Chinese state media reported calls from the Minister of Public Security Zhou Yongkang for reinforced anti-drug efforts aimed at 'strengthening achievements in fighting heroin and curbing the spread of new drugs such as ecstasy and ice'.²³ The report added that the number of drug users in China had increased by 35 per cent between 2000 and 2005, reaching 1.16 million people, but had been reduced to 720,400 by August 2006, partly as a result of 'compulsory rehabilitation measures'. Such statistics are likely to be unreliable, particularly given the harsh, punitive nature of measures taken against known drug-users in China which is likely to result in under-reporting with addicts driven underground for fear of detention. Nevertheless,

²⁰ See previous Olympics Countdown reports ASA 17/046/2006 (p.8-9) on extension of RTL, and ASA 17/015/2007 (p.11-12) on extension of EDR in Beijing under the pretext of 'cleaning up the city' in the run-up to the Olympics.

²¹ With the commercialization of China's health system, such agents, known informally as 'yituo' (医托, 'medical agent') or 'haofanzi' (号贩子, 'ticket touts'), have increasingly been hired by hospitals to bring in new patients or to sell tickets to patients enabling them to jump the queue for medical treatment.

²² "Special action by Beijing public security and health officials to strike hard against 'ticket touts' and 'medical agents' bears fruit" (北京市公安、卫生部门严厉打击“号贩子”、“医托”专项执法行动取得明显效果”) Beijing City Public Security Bureau website, 29 June 2007, available at <http://www.mps.gov.cn/cenweb/brj/Cenweb/jsp/common/article.jsp?infoid=ABC00000000000039350>

²³ "China to intensify drug-war", *Xinhua*, 14 June 2007.

such statements reinforce Amnesty International's concern that detention without trial under harsh conditions for "enforced drug rehabilitation" (EDR) continues to be used as a key 'weapon' in China's 'war on drugs', including in Beijing where the police have already proposed extending detention terms from six months to one year in an attempt to 'compel drug users to give up their addictions before the Olympics'.²⁴

Amnesty International reminds the Chinese authorities that unchecked police powers to impose detention as a punishment without charge, trial or judicial review, is in flagrant violation of international fair trial standards, including provisions of the International Covenant on Civil and Political Rights (ICCPR) which China has signed and declared an intention to ratify in the near future.

Small signs of progress amid intensified media crackdown

On 4 July 2007, it was reported that the Beijing Organizing Committee of the Olympic Games (BOCOG) was in the first stage of media accreditation for the Olympics, having received accreditation forms from over 100 National Olympic Committees.²⁵ The report added that there will be 5,600 print journalists and photographers as well as 16,000 broadcast journalists accredited for the Games.²⁶ It is likely that many of these journalists will be interested in covering stories related to human rights or social issues in China as well as sport.

China's most significant step forward for media freedom to date, trumpeted widely by the official press, was the introduction of new regulations from 1 January 2007 aimed at increasing the freedom of foreign journalists to cover news stories in China in the run-up to and during the Olympics. However, the regulations were introduced against a background of increased official controls over the distribution of foreign news within China and a renewed crackdown on domestic journalism, including print, broadcast and online media.²⁷ With just one year to go, Amnesty International reminds the Chinese authorities of official promises to ensure 'complete media freedom' for the Olympic Games. If this is to be upheld, it must mean equal opportunities for both foreign and domestic journalists to cover issues of legitimate public inquiry without discrimination and in line with fundamental human rights to freedom of expression and information.

In the last update, Amnesty International highlighted the case of Lan Chengzhang, a reporter who was beaten to death by thugs allegedly hired by the owner of a mine – the subject of Lan Chengzhang's investigations.²⁸ Following the intervention of senior officials, reportedly including President Hu Jintao, local authorities in Shanxi province launched a criminal investigation, which resulted in the conviction and life imprisonment of the mine owner on 29

²⁴ See quote from Fu Zhenghua, Deputy Director of the Beijing Public Security Bureau, in ASA 17/015/2007 op cit, p.11.

²⁵ "Beijing Olympics committee in first stage of media accreditation," *Xinhua*, 4 July 2007.

²⁶ Further details about the accreditation process is available on the BOCOG website:

<http://en.beijing2008.cn/media/mediaservices/accreditation/>

²⁷ For a fuller analysis of these regulations and background on their introduction, see ASA 17/015/2007 pp.18-19.

²⁸ See ASA 17/015/2007 p.20.

June 2007 for ordering the attack. At around the same time, however, a Beijing-based newspaper which covered the Lan Chengzhang case, *Democracy and Legal Times* (民主与法制时报) was reportedly forced to simultaneously dismiss eight of its staff.²⁹ Another Chinese journalist reported that officials had ordered websites not to post any *Democracy and Legal Times* reports in a prominent position. The reasons for the crackdown on the paper, a well-established and influential legal weekly, are unclear but other journalists fear it is connected with its reporting on sensitive issues, possibly including the Lan Chengzhang case and its recent coverage of alleged court corruption in Shenyang, Liaoning province.

Many subscribers were surprised and disturbed by the enforced closure of *China Development Brief* (CDB, 中国发展简报) by a joint delegation of Beijing officials on 4 July 2007. Read widely by Chinese civil society groups and international aid donors, the publication had been established in 1995 as an independent publication reporting on topics related to development and civil society in China. Its editor and founder, Nick Young, a UK citizen, stated that he had been accused of conducting ‘unauthorized surveys’ in contravention of the 1983 Statistics Law.³⁰ In the same month, the authorities reportedly took measures to restrict distribution of another civil society publication, *Minjian* (民间) a Chinese-language quarterly published by Zhongshan University in Guangzhou city, Guangdong province.³¹ On 17 July 2007, the official newspaper *China Daily* printed a report warning that the number of overseas organizations and individuals conducting ‘illegal surveys’ in China is increasing, ‘threatening to reveal State secrets and jeopardizing national security.’³² The report focused on the potential war-time use of geographical data on China by other countries and did not make a specific reference to measures taken against CDB, *Minjian* or similar publications.

Further attempts at Internet control

Internet censorship remains pervasive in China with few signs that the authorities are prepared to relax policies of surveillance and control, thereby upholding freedom of expression and information online. Websites which have been closed down over recent weeks include a literary forum run by poet Lu Yang called *Forum for Contemporary Chinese Poetry* (中国当代诗歌论坛). The site was reportedly removed from its host server in line with instructions from the Shanghai Information Bureau on 11 July 2007. When asked by a journalist from Radio Free Asia which information had to be censored, an employee of the server reportedly stated that ‘all

²⁹ See “Unprecedented purge at newspaper that ‘covered what the others did not dare report’”, *Reporters Without Borders*, 13 July 2007 and original reporting by overseas Chinese-language website *Boxun* at: <http://www.peacehall.com/news/gb/china/2007/07/200707081709.shtml> and *Radio Free Asia* (RFA) at: <http://www.peacehall.com/news/gb/china/2007/07/200707100118.shtml>

³⁰ “Personal Press Statement by Nick Young, Founding Editor of China Development Brief”, 11 July 2007.

³¹ “China: government has another civil society publication in its sights”, *Reporters Without Borders*, 17 July 2007.

³² “Number of foreign illegal surveys on the rise”, *China Daily*, 17 July 2007. It should be noted that existing state secrets legislation encompasses matters which would be the subject of public debates in other countries and goes far beyond what is needed to protect national security. See “State Secrets : China’s Legal Labyrinth,” *Human Rights in China*, 11 June 2007 at

<http://hrichina.org/public/contents/article?revision%5fid=41506&item%5fid=41421>

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articles relating to politics, the Falun Gong movement or those critical of the Party that are longer than two pages are deleted. In general, that's how it happens. If the news posted is more frightening, we then close the forum.'³³

On 6 July 2007, it was reported that local authorities in Xiamen, southeast China planned to introduce new regulations aimed at forcing Internet users to register under their real names on tens of thousands of websites registered in the city.³⁴ This was prompted by a recent online campaign by local residents to organise a peaceful protest involving thousands of people against a toxic chemical plant due to be built close to the city.³⁵ Residents reportedly used the Internet and SMS text messaging to alert friends elsewhere in China about the plans, calling on the authorities to abandon the project due to alleged environmental and health risks.³⁶

These city-level measures in Xiamen appeared to contradict central level policies on real-name registration. In late May 2007, the Internet Society of China released a draft Voluntary Blogging Service Code of Conduct stating that the central authorities would 'encourage' (rather than 'enforce') real-name registration for those operating web-logs (bloggers).³⁷ This appeared to be a retreat from previous proposals by the Ministry of Information Industry to make such registration compulsory in line with an official order from President Hu Jintao earlier this year to better regulate the Internet and 'purify the online environment'.³⁸ Chinese bloggers reportedly welcomed this move as a victory for online freedom, while others in the industry suggested that the move was prompted more by the practical difficulties in enforcing real-name registration.³⁹

Dozens of journalists and writers remain behind bars in China for reporting on issues deemed politically sensitive. They include **Shi Tao**, who continues to serve a 10-year sentence for sending an email summarizing a Chinese Central Propaganda Department communiqué on how journalists should handle the 15th anniversary of the crackdown on the 1989 pro-democracy movement. On 4 June 2007, Shi Tao's mother, Gao Qinsheng, accepted the 2007 Golden Pen of Freedom, the annual press freedom prize from the World Association of Newspapers (WAN), on her son's behalf. In an emotional speech she expressed sincere thanks to WAN for the award and for not forgetting Shi Tao. She added:

*'In China Shi Tao is considered to be a criminal, but today WAN, made up of over 100 newspaper organizations, awards him the Golden Pen of Freedom. It is not only an honour but also a huge comfort to Shi Tao. It proves that my son is indeed innocent. He has only done what a courageous journalist should do. That is why he has got the support and the sympathy from his colleagues all over the world who uphold justice...'*⁴⁰

³³ See "China: Cyber police shut down 'suspect' literary website, block access to another", *Reporters Without Borders*, 16 July 2007.

³⁴ "China city tightens Internet control after protest" *Reuters*, 6 July 2007

³⁵ "Uneasy calm after protests in Xiamen", *South China Morning Post (SCMP)*, 4 June 2007.

³⁶ "Chinese city cracks down on web postings," *Associated Press (AP)* 7 July 2007.

³⁷ "China's bloggers set for rare censorship reprieve", *AFP*, 23 May 2007

³⁸ See ASA 17/015/2007 op cit. p.21

³⁹ "Bloggers rejoice over retreat on real names," *SCMP*, 24 May 2007

⁴⁰ Footage of Gao Qinsheng's acceptance speech is available on the YouTube website at:

<http://www.youtube.com/watch?v=JlbnSSvGYns>.

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During a press conference in Hong Kong later the same month, Gao Qinsheng vowed to continue with legal efforts to try to hold the Internet company Yahoo! to account for its sharing of Shi Tao's account user information with the Chinese authorities which helped to secure his conviction.⁴¹ This included appealing against a March 2007 ruling by Hong Kong's Privacy Commission, which said that the company had not violated personal data laws in this case.⁴²

A Chinese police document which has recently become available suggests that Yahoo! was at least aware of the general nature of the 'crime', before it decided to hand over Shi Tao's account user information. The April 2004 police notice to Yahoo! states that the police were seeking evidence in a suspected case of "illegally providing state secrets to foreign entities."⁴³ This appears to contradict recent assertions by Yahoo! that the company had no information about the nature of the investigation at the time.⁴⁴

Censorship of the crackdown on the 1989 pro-democracy movement

On 7 June 2007, it was reported that three editors from the Chengdu Evening News (成都晚报) in Sichuan province had been dismissed after the paper published an advertisement which highlighted the ongoing struggle for justice by the families of those killed in the 1989 Tiananmen crackdown.⁴⁵ The small advertisement, which stated simply: 'Paying tribute to the strong mothers of 4 June victims', apparently managed to slip past censors after a young clerk at the newspaper accepted it for publication because she was unaware of the 1989 crackdown and did not realise the significance of the date. The fate of the man who placed the advertisement is unclear.

On 1 June 2007, Amnesty International issued a public statement highlighting ongoing official censorship of any public debate about the 1989 crackdown – an issue which remains erased from magazines, newspapers, school text-books and Internet sites in China.⁴⁶ Amnesty International called on the Chinese authorities to ensure greater respect for freedom of expression and information by lifting the official ban on reporting about the events of 4 June 1989. The organization also reiterated its calls on the authorities to publicly account for and release all those who remain in prison as a result of the crackdown.

Similar concerns over media freedom had been raised by the Beijing-based 'Tiananmen Mothers' group which sent an open letter to the National People's Congress in March 2007 calling on the authorities to, among other things, lift a publishing ban on three books that discuss

⁴¹ "Mother of jailed journalist pleads for backing to secure his release," *SCMP*, 11 June 2007.

⁴² For further information about legal proceedings against Yahoo! in Hong Kong, see ASA 17/015/2007, p.22.

⁴³ See "Police document sheds additional light on Shi Tao case", *Duihua Foundation*, 25 July 2007.

⁴⁴ Ibid. Duihua refers specifically to testimony given by Yahoo! senior vice president and general counsel Michael Callahan before two US congressional subcommittees in February 2006: "When Yahoo! China in Beijing was required to provide information about the user, who we later learned was Shi Tao, we had no information about the nature of the investigation."

⁴⁵ "China newspaper editors sacked over Tiananmen ad", *Reuters*, 7 June 2007.

⁴⁶ See Amnesty International public statement: *China: Tiananmen anniversary – looking forward means facing up to the past*, 1 June 2007 (ASA 17/033/2007).

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the events of 4 June 1989.⁴⁷ While this has so far gone unheeded, the Chinese authorities apparently relaxed policies of surveillance and control this year to allow some families of the victims of the crackdown to mourn their loved ones in public. The founder of the 'Tiananmen Mothers', Ding Zilin, her husband and two other members of victims' families were reportedly allowed to light candles in front of pictures of their children in a short memorial ceremony on Chang'an Avenue, west of Tiananmen Square, at a spot where Ding Zilin's 17-year-old son was believed to have been shot dead by soldiers.

Other members of the 'Tiananmen Mothers' group were able to continue their annual tradition of mourning their children at Beijing Wan'an Cemetery, noting that there appeared to be less police surveillance this year. Prior to the anniversary, around 20 members of the 'Tiananmen Mothers' had also been able to hold an informal seminar in Beijing to discuss their concerns. This was apparently the first time the group had been allowed to organise such a meeting.

Amnesty International welcomes the apparent relaxation of policy that these developments represent, but urges the authorities to broaden this approach by allowing full public debate about the events surrounding 4 June 1989 as an important step towards securing justice for the victims of the crackdown and their families. Amnesty International also remains deeply concerned about controls and restrictions that continue to be placed on other activists in Beijing in the run-up to the anniversary (see section on human rights defenders below).

Crackdown on human rights defenders continues

While the Chinese authorities have shown growing levels of tolerance for some forms of rights activism which are not perceived to threaten the status quo,⁴⁸ activists who report more widely on violations, challenge policies which are deemed to be politically sensitive or try to rally others to their cause are facing heightened levels of abuse.

A number of Chinese activists are increasingly using China's staging of the Olympics to highlight their human rights concerns. For example, in early June, over 2,000 villagers in Fujin city, Heilongjiang province wrote an open letter claiming that the local city authorities had forcibly expropriated their land for development without providing adequate compensation. They used the slogan: 'We don't want the Olympics; we want human rights', adding that as long as they have no land or means of subsistence it does not matter how many gold medals China wins at the Games.⁴⁹ Similarly, over recent weeks more than 800 housing rights activists in Shanghai have signed up to a petition entitled: 'Shanghai people want human rights, not the Olympics' citing concerns about a growing crackdown on petitioners and activists as the Olympic Games approach.⁵⁰

⁴⁷ Ibid.

⁴⁸ See ASA 17/015/2007 pp.13-14.,

⁴⁹ "China Human Rights Briefing," *Chinese Human Rights Defenders*, June 2007.

⁵⁰ Copy of petition on file with Amnesty International.
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Many have expressed fears that abuses against activists in other parts of China appear to be rising, partly because so much attention is focused on Beijing in the run-up to the Olympics. One recent case of particular concern was the death of Shanghai activist, Chen Xiaoming, shortly after being released from prison on medical parole. Chen, who suffered from a pre-existing chronic illness, was reportedly stripped naked, physically abused and held at an unknown secret location for eight months while in police custody and denied access to his family while he was in prison. His family found him emaciated, vomiting blood and barely conscious after he was hospitalized in June 2007. He died of a massive haemorrhage on 1 July 2007.⁵¹

A leading figure among Shanghai petitioners, Chen Xiaoming had been sentenced to two years in prison in January 2007 for ‘disturbing court order’ in connection with his presence at a hearing for another petitioner. He was one of seven Chinese activists honoured with the 2006 Housing Rights Defender Award by the Centre on Housing Rights and Evictions based in Geneva. Amnesty International urges the Chinese authorities to conduct a full, immediate and impartial investigation into the circumstances of his death with a view to bringing all those responsible for acts of torture or ill-treatment to justice in line with international human rights standards.

Several human rights defenders based in Beijing have continued to experience arbitrary detention and surveillance by the police over recent months, particularly in the run-up to the anniversary of the 4 June 1989 crackdown on the pro-democracy movement. For example:

- On 18 May 2007 rights activist **Hu Jia** was summoned for police questioning as he and his wife **Zeng Jinyan** were preparing to go on a trip to Europe. According to the couple, during the six-hour interrogation the police said that they were under suspicion of ‘endangering national security’ and banned them from leaving the country, stressing that they remained under surveillance. Hu Jia later stated that the ban was aimed at preventing the couple from alerting ‘influential people’ overseas to human rights violations in China in the run-up to the Olympic Games, citing a police threat that ‘anyone who ruined the Olympics would be ground up by the state mechanism’.⁵² On 20 May 2007, Hu Jia was threatened and beaten by police standing guard outside his apartment when he tried to leave to buy food. On 11 June 2007, Zeng Jinyan was intercepted by customs officials at Beijing airport, who confiscated her passport, preventing her from travelling to Europe where she had planned to participate in international human rights training in Geneva and engage with civil society groups in other European countries. The couple believe that these restrictions are linked to a film that they produced entitled *Prisoners in Freedom City* (自由城的囚徒) about their lives under ‘house arrest’ in Beijing. Since the end of June, the couple have reportedly been allowed to leave their home on occasions, but are always followed by plain clothes police.
- **Qi Zhiyong**, disabled activist and campaigner for justice for victims of the crackdown on the 1989 pro-democracy movement, was held under tight police surveillance at his home

⁵¹ For further information, see “Petitioner Chen Xiaoming Dies under Belated Medical Parole”, *Human Rights in China*, 12 July 2007.

⁵² “Aids activist, wife barred from trip” *SCMP*, 19 May 2007. See also “China accuses AIDS activists of endangering security”, *Reuters*, 18 May 2007.

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in Changping county, Beijing from 30 May until 6 June 2007 and denied any communication with the outside world.⁵³

- Lawyer **Pu Zhiqiang**, whose blogs were closed down in March 2007, was detained by the police for questioning for three hours on 3 June 2007 and accompanied by police throughout the whole of the next day to prevent him from visiting Tiananmen Square to commemorate the victims of the 1989 crackdown.⁵⁴

Lawyers and legal advisors who engage in robust defence work or other activism on behalf of victims of human rights violations remain a key target for abuse. This often extends to other family members, particularly if forms of ‘house arrest’ are imposed or if relatives seek to highlight ongoing abuses:

- Defence lawyer and rights activist, **Gao Zhisheng** continues to be held under tight police surveillance in his home after being convicted of ‘inciting subversion’ in December 2006. He was taken away from his home by police to an unknown location on 24 June 2007 and brought home again on 4 July. This came in the wake of mounting pressure on the Chinese authorities to allow Gao Zhisheng to travel to the USA to receive the ‘Courageous Advocacy Award’ from the American Board of Trial Advocates (ABOTA) at an award ceremony on 30 June 2007.⁵⁵
- Blind legal advisor **Chen Guangcheng** continues to serve a prison sentence in Linyi prison, Shandong province in connection with his attempts to hold local authorities to account for a campaign of forced abortions and sterilizations which affected thousands of local women. Amnesty International continues to call for his immediate and unconditional release. On 21 June 2007, the organization issued an urgent appeal after receiving reports that Chen Guangcheng had been severely kicked and beaten by fellow inmates on the orders of prison guards on 16 June after he refused to have his head shaved.⁵⁶ He later told his wife, **Yuan Weijing**, that he thought one of his ribs may have been broken and that he planned to begin a hunger strike to protest against his treatment. The prison authorities refused a request from his family to give him medical attention, including an x-ray to check for broken bones. Despite tight police surveillance, Yuan Weijing managed to evade the local authorities to travel to Beijing in early July to meet her husband’s lawyers and appeal for greater efforts to secure Chen Guangcheng’s release. In media interviews, she referred to her husband’s optimism even after his imprisonment, saying that he had refused to have his head shaved because that is a symbol of being a criminal in China and he knows he is innocent.⁵⁷

⁵³ See previous Olympics Countdown reports ASA 17/046/2006 and ASA 17/015/2007 for further information about Qi Zhiyong.

⁵⁴ See ASA 17/015/2007, p.21 about closure of several of Pu Zhiqiang’s blogs.

⁵⁵ At around the same time, it was announced that Gao Zhisheng was also one of three winners of the Austrian Bruno Kreisky prize for human rights.

⁵⁶ See Amnesty International: “China: Torture/Medical concern/Prisoner of conscience, Chen Guangcheng”, UA 158/07, 21 June 2007 (ASA 17/022/2007).

⁵⁷ “Activist’s wife tells of terror during escape to Beijing,” *SCMP*, 6 July 2007.

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- Housing rights activist, **Ye Guozhu**, continues to serve a ten-month period of ‘discipline’ in Qingyuan prison in connection with his ongoing attempts to appeal against his conviction. He had been sentenced to four years in prison after he tried to organize a demonstration against alleged forced evictions in Beijing in connection with preparations for the Olympics. Amnesty International remains seriously concerned for his safety, particularly following reports that he was beaten by guards with electro-shock batons towards the end of last year.⁵⁸

‘One World, One Dream’⁵⁹ – a positive human rights legacy?

With one year to go before the Olympics, Amnesty International is deeply concerned that the negative human rights developments as highlighted above continue to compromise or overshadow more positive moves represented by recent reforms to the death penalty system or the introduction of new regulations for the operations of foreign journalists in China. In particular, the continued imprisonment of numerous human rights activists and journalists as prisoners of conscience and the use of police surveillance or ‘house arrest’ to curtail the peaceful and legitimate activities of others continues to stain the Chinese government’s reputation on human rights both at home and abroad. Without swift action to address such abuses, the human rights legacy of the Olympics will be jeopardised.

Amnesty International notes that concern for the legacy and reputation of the Olympics is increasingly being expressed by Beijing officials directly. On 12 June 2007, BOCOG Vice-president Jiang Xiaoyu reportedly promised ‘prompt action [...] so that the reputation of the Olympic Games will be protected’ in reaction to a report published by PlayFair 2008 detailing exploitation of Chinese workers making Olympics merchandise, including the use of child labour in some cases.⁶⁰ In a more positive context, Sun Weijia, BOCOG’s Director of Media Operations, recently made the following statement in connection with the concept of ‘media service’ during and after the Olympic Games:

*‘We hope that the concept of media service can be widely accepted after the Olympic Games because it is part of what we call Olympic Legacy [...] Not just for sport events, other big events, say, Shanghai World Expo in 2010, can also benefit from it.’*⁶¹

Amnesty International urges the authorities to ensure that concerns expressed for the legacy of the Olympics extend towards ensuring ‘complete media freedom’ and other significant human rights reform in the run-up to August 2008. With this in mind, Amnesty International makes the following recommendations for action over the next twelve months:

⁵⁸ For further information, see ASA 17/015/2007 p.14.

⁵⁹ Official slogan for the 2008 Olympic Games.

⁶⁰ “Games organiser to act on reports of labour abuses”, *SCMP*, 12 June 2007. PlayFair 2008 is an international coalition of trade unions and labour groups. Their report is available here: http://www.playfair2008.org/docs/playfair_2008-report.pdf

⁶¹ “Chinese official on media service for Beijing Olympics”, *Xinhua*, 6 July 2007.

Recommendations to the Chinese Government:

- Amnesty International reiterates its calls for the immediate and unconditional release of all prisoners of conscience, including the activists, journalists and Internet users highlighted in this and previous Olympics Countdown reports: Bu Dongwei, Ye Guozhu, Chen Guangcheng, Shi Tao, Yang Tongyan and Huang Jinqiu.
- In addition, the authorities are urged to cease arbitrary detention, intimidation or harassment of activists who are not formally detained or imprisoned, but kept under tight police surveillance, often as prisoners in their own homes, including Gao Zhisheng, Zheng Enchong, Hu Jia, Zeng Jinyan, Qi Zhiyong and Yuan Weijing. All such activists should be free to communicate with journalists or highlight issues of legitimate concern without penalty or harassment.
- Amnesty International urges the authorities to strengthen reforms to the death penalty system by introducing greater transparency, both by ensuring that families and lawyers of those sentenced to death are given access to them as well as administrative and procedural information about their cases, and by publishing data on the application of the death penalty nationwide. Following recent official statements that death sentences and executions have declined with the introduction of SPC review, the organization urges the authorities to publish full national statistics on the application of the death penalty for 2007, 2008 and beyond.
- In line with official statements that China's end goal is complete abolition of the death penalty, Amnesty International reiterates its call on the Chinese authorities to remove non-violent crimes, including economic and drug-related offences, from the scope of the death penalty pending full abolition of the death penalty in law.
- In order to address abuses of the right to fair trial and bring detention practice into line with the ICCPR which China has declared an intention to ratify in the near future, Amnesty International calls on the authorities to abolish RTL, EDR and 'Custody and Education', ensuring that decisions on detention are no longer exclusively in the hands of the police. In the meantime, the authorities should take urgent measures to ensure that the Beijing police do not resort to such forms of detention without trial as a method of 'cleaning-up' the city in the build-up to and during the Olympics.
- Amnesty International urges the authorities to ensure that the greater reporting freedom afforded to foreign journalists is extended equally to the domestic media. The authorities should cease the unwarranted censorship of broadcast, print and online media in China and take urgent measures to prevent the arbitrary detention, harassment or unfair dismissal of reporters and journalists in violation of their rights to freedom of expression.

Recommendations to the IOC

The IOC also has a responsibility to promote a positive legacy of the Olympic Games to host cities and host countries.⁶² Amnesty International considers that serious human rights violations constitute an affront to core principles in the Olympic Charter relating to the 'preservation of human dignity' and 'respect for universal fundamental ethical principles'. A positive legacy must therefore be built on respect for human rights and the rule of law.⁶³

The IOC sent two letters to Amnesty International, copied to BOCOG, following the publication of the last Olympics Countdown report in April 2007. One letter stated that the IOC has read and noted key points as it relates to the Beijing Games, finds the research very helpful and appreciates being made aware of the findings. The IOC added that 'the IOC remains committed to doing everything possible within our role as the organization promoting the Olympic Movement to help China succeed as it continues to go through rapid change. Despite challenges, we believe that the Beijing Olympic Games are a unique opportunity to open China up to the world.'

In a second letter responding to a specific request for further information from Amnesty International, the IOC clarified the status and availability of the Bid Book and the Olympic Action Plan, two documents which have been produced by BOGOC in the run-up to the Olympics. The IOC also clarified that it had no information on a tender for a lethal execution chamber attached to the Beijing High People's Court which was reportedly proposed as an Olympic construction project, adding that it had no oversight on tenders for infrastructure which are not related to the Games.⁶⁴

Amnesty International appreciates these responses from the IOC, but remains deeply concerned about the apparent reluctance of the IOC to take a more proactive stance on human rights issues in the run-up to the Olympics. Indeed, the IOC's initial resolve to 'take action' to ensure that human rights concerns are addressed appears to have weakened as the Olympic Games approach.⁶⁵

Two human rights organizations, the International Federation for Human Rights (FIDH) and the World Organization against Torture (OMCT) recently issued a statement of concern over recent remarks by Hein Verbruggen, Chair of the IOC's Coordination Commission, that the Beijing Olympics 'were being used as a platform for groups with political and social agendas

⁶² The Olympic Charter, Chapter 2 The International Olympic Committee, Mission and Role of the IOC, no.14.

⁶³ The Olympic Charter, Fundamental Principles of Olympism, Articles 1 and 2. Full text available at: http://multimedia.olympic.org/pdf/en_report_122.pdf

⁶⁴ Amnesty International had previously raised concerns about this proposed project, see for example, *People's Republic of China: The Olympics countdown - three years of human rights reform?* August 2005 (ASA 17/021/20045).

⁶⁵ For example, in April 2002, IOC President Jacques Rogge said that the IOC had 'urged the Chinese government to improve, as soon as possible, their record in human rights' and that 'if either security, logistics or human rights are not acted upon to our satisfaction then we will act'. More recently, however, IOC representatives have stated that it is 'unrealistic' to expect the IOC to put pressure on governments (see ASA 17/015/2007, p.2).

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which is often regrettable'.⁶⁶ He reportedly added that 'BOCOG must take steps to negate these agendas'.⁶⁷ It is unclear which groups were being referred to, or what 'negate these agendas' means, but given that this may be interpreted by the Chinese authorities as a tacit endorsement of repression, Amnesty International supports the request from FIDH and OMCT that the IOC clarify that 'the situation of human rights defenders in China cannot be imperilled in the name of the Games'.⁶⁸

Amnesty International considers that any 'social agenda' concerned with increasing the protection of fundamental human rights must be seen as an essential aspect of the Fundamental Principles of Olympism with respect to 'human dignity' and 'universal fundamental ethical principles' as outlined above. In addition, as their promises on human rights indicate, numerous Chinese officials already appear to consider human rights reform to be on the 'political agenda' in the run-up to the Beijing Olympics. As a key stakeholder in safeguarding the legacy of the Olympic Games, Amnesty International continues to urge the IOC to raise the human rights concerns and recommendations highlighted in this report directly with the Chinese authorities with a view to ensuring that significant progress in human rights reform takes place before the Olympics take place and lasts as an enduring legacy of the Games for the people of China.

While Amnesty International has broader human rights concerns in China as the 2008 Olympics approach, the organization will be monitoring the Chinese government's performance particularly closely in areas with a direct link to preparations for the Olympics, to core principles in the Olympic Charter and to promises of human rights improvements made by Chinese officials at the awarding of the 2008 Olympics to China in 2001. These 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 urges the International Olympic Committee (IOC) and the wider Olympic movement to work with the organization's worldwide membership and in solidarity with human rights activists within China to press the Chinese government to deliver positive concrete and lasting human rights reforms before August 2008.

⁶⁶ "Open Letter to Mr. Hein Verbruggen, Chairman of the International Olympic Committee's Coordination Commission" by FIDH and OMCT, available at: http://www.fidh.org/article.php3?id_article=4481 See also "Olympics: Rights groups slam top IOC official's stance on Beijing," *Reuters*, 13 July 2007.

⁶⁷ "Olympics: Political activists told to lay off Beijing Games by IOC" *AFP*, 5 July 2007.

⁶⁸ *Ibid.*