

State Coercion, Deterrence, and the Death Penalty in the PRC

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'The Hu Changqing case is an extremely serious case of economic crime that created an extremely bad impact on society because he was a senior cadre. A criminal who has committed such very serious crime must be put to death in order to uphold national law and satisfy popular indignation and in order to rectify Party work ethics and fight against corruption; no less penalty will suffice.'¹

On 14 June the Urumqi City Intermediate People's Court held a public rally to announce sentences for thirteen people charged of a wide range of crimes, including splittism, illegal dealing and transport of arms, murder and robbery, five of who were sentenced to death. A few hundred people of different nationalities were reported to have attended the public trial and to have 'applauded the people's court for severely punishing the criminals.' After the trial, the five men were taken to an execution ground and executed.²

Introduction

The death penalty figures quite prominently in PRC policies and practices of social control and state coercion. Since the early 1980s there has been an expansion in both the types of crimes carrying the death penalty and in the number of death sentences handed down each year. The death penalty is now used for a wide variety of crimes, not only violent crimes but economic crimes as well. After the revision of the Criminal Law in 1996 a total of 68 different crimes carry the death penalty in 'serious circumstances.'³ The application of the death penalty for non-violent crimes such as economic crimes pose a problem for China as it is in the process of ratifying the International Covenant on Civil and Political Rights.⁴ Since the early 1990s there has however been a growing debate among Chinese legal scholars about the scope and use of the death penalty.⁵ Some scholars argue for a reduction in the scope of the death penalty, and in particular oppose the use of the death penalty for economic crimes. But in view of the great importance the death penalty has come to play in the fight against

¹ 'Yifa zhiguo, yanzheng fubai' [Govern the country according to law, severely punish corruption] 9 March 2000, *Renmin ribao*.

² See a Xinhua news report, 14 June 2000, BBC Summary of World Broadcasts (SWB).

³ Different scholars have given somewhat different numbers. I follow Hu Yunteng on this point, see his *Cun yu fei. Sixing jiben lilun yanjiu* [Retention or abolition. A study of the basic theories regarding the death penalty] Beijing: Zhongguo jiancha chubanshe, 2000, pp. 199-207. There also exist different opinions on whether the revision of the criminal law led to a reduction in capital crimes or not. Hu Yunteng argues that on the eve of the revision of the criminal law in 1996 there were ca 80 capital crimes in China. It is difficult to say that there has been any significant reduction of the number of capital crimes as in many cases criminal categories have been combined or divided in new ways. One big change is however that theft no longer carries the death penalty, except in cases of theft of huge amounts from financial institutions and theft of cultural relics.

⁴ For a careful discussion on conflicts between international law and the use of the death penalty in China, see Hu Yunteng (2000), pp. 276-287. See also Zhang Wen and Liu Yanhong, 'Gongmin quanli yu zhengzhi quanli guoji gongyue dui Zhongguo sixing lifa de yingxiang' [The influence of the International Covenant on Civil and Political Rights on the death penalty legislation in China] *Zhongguo qingnian zhengzhi xueyuan bao* Nos. 1 and 2, 2000.

⁵ For a summary of these debates, see my paper 'The Chinese Debate on the Death Penalty,' presented at the annual meeting of the European Association of Chinese Studies, held in Turino, August 2000. For a Chinese summary of these debates, see Hu Yunteng (2000).

corruption and other economic crimes of late those wanting to reduce its scope are up against strong forces.

The Chinese authorities and official spokespersons use different arguments when defending the use and application of the death penalty in China.⁶ They first of all argue that China uses the death penalty in a very restrictive way and only for the most serious crimes. One of the main arguments is that the death penalty has a deterrent effect. It should however be noted that no serious studies have been undertaken on this issue in China, and that the lack of statistics prevents any meaningful discussion on this point.⁷ It is also generally argued that China at its present level of economic development and in view of the rapid rise in crime cannot yet afford to abolish the death penalty.⁸ From the way the death penalty is applied in China it becomes obvious that the main reason for its retention is that the Chinese leadership sees it as an indispensable tool in order to guarantee social stability, deter crime and preserve its own power. The legitimacy of the party is at stake here. Like so many other regimes, the Chinese regime feels that at a time of rapid social changes and increasing crime rates it needs to reassure its citizens that it is being 'tough on crime.' A kind of populism, in other words, is at work as it is often claimed that the 'masses' demand the death penalty.⁹ As for the question whether most Chinese people really are in favour of the death penalty or not this is difficult if not impossible to say as no open public surveys are done on this sensitive topic.¹⁰ It is obvious,

⁶ For more official statements on the death penalty, see 'Death penalty put to very limited use' 17 September, 1997, *South China Morning Post* (SCMP). Other more official views can be found in the papers presented at the EU-China human rights dialogue in October 1998, see Manfred Nowak and Xin Chunying, *EU-China Human Rights Dialogue. Proceedings of the Second EU-China Legal Expert Seminar Held in Beijing on 19 and 20 October 1998*, Wien: Verlag Österreich, 2000. For the official view I also draw upon my observations at the EU-China expert meeting held in Lisboa on 8 and 9 May 2000. Papers from this seminar haven't yet been published. This was the second time that the death penalty was up for discussion in these expert meetings but the death penalty has also been discussed during the political meetings in the EU-China human rights dialogue.

⁷ One has to realise that although there might not be any scientific grounds for believing that the death penalty has any deterrent effects, people could still believe that it has. It is this subjective belief that lies behind the continuing use of the death penalty in many countries, including China. The death penalty and mass sentencing rallies are thus openly used as a tool to deter people from committing crime but whether it works or not is a different question. For a general discussion on deterrence and the death penalty, see Roger Hood *The Death Penalty. A World-wide Perspective* Oxford: Clarendon Press, 1996. It could of course very well be the case that it is the specific circumstances surrounding the application of the death penalty in the US that serves to undermine the validity of the deterrence argument; most studies on the topic are based on the US. China could very well be a special case since the likelihood that one will be sentenced to death for a capital crime seems to be much higher in China than in the US. However, the assumption of the deterrent effect in addition rests on some other preconditions that do not seem to be met in China. The first is that criminal offenders really risk being caught and arrested. The weakness of legal enforcement and level of corruption in China is well known, and those who commit crimes are sometimes convinced, and proven correct, that they will not be caught or that they are able to bribe themselves out of the situation if in trouble. The second precondition would be that one is aware of the criminality of ones acts and their likely sanctions. This is not always the case in China due to a lack of legal knowledge among broad segments of the general public. The concept of *famang*, legal illiterates, is fairly common in Chinese legal discussions on crime. In this context we also have to bear in mind the fact of the recent (re-)building of the legal system in China and the consequences of many years of rule by political dictates rather than laws.

⁸ Economic development figures prominently in the discourse although it is never clearly spelt out when and under what circumstances economic development could lead to abolition in China. But this argument functions as a weapon that it can use to criticise the US. The US is thus criticised for not having abolished the death penalty although its level of economic development would enable it to do so.

⁹ That the people demanded the death penalty was also cited as one reason for why the revision of the criminal law in 1996 didn't lead to a reduction in the number of capital crimes which many legal scholars had advocated. See 'Public demands death penalty stays' 28 December, 1996, *Hong Kong Standard*.

¹⁰ Only one public survey on the matter has been conducted in China as far as I know. The survey was done in 1995 by Hu Yunteng, a scholar and death penalty specialist at CASS. Hu surveyed a total of 5,006 people. Only

however, that the main argument for keeping the death penalty is not the views of the people but the Party's need to safeguard its own rule.¹¹ This becomes obvious when one looks at how the death penalty is used against alleged separatists and other perceived enemies of the state.

In its fight against crime China has since the early 1980s come to rely heavily on the use of anti-crime campaigns in which the death penalty plays an important and prominent role. The first so-called strike-hard campaign was launched in 1983 but has since become a more or less permanent feature of the Chinese legal system.¹² Anti-crime campaigns either target crime in generally or a specific kind of criminal activity, and can be either nation wide in scope or more regional in character. The campaigns are characterised by mass arrests, swift and harsh sentencing, mass rallies, extensive propaganda work, and widespread use of the death penalty. During a campaign there will be extensive reporting in the media on the arrest and sentencing of the criminals targeted. And in this context there will be a special focus on cases where death sentences have been handed down, as the use of the 'ultimate penalty' reveals the strength and determination of the state's will to crack down on crime and criminals. Although we cannot unequivocally conclude that there is an absolute rise in the number of death

0.78 per cent advocated that the death penalty should be abolished and 3.04 per cent felt that it was used too much. 22.47 per cent believed that the death penalty was used too little, 31.48 percent believed that it was used in appropriate numbers, whereas 42.22 per cent believed that it was not used excessively. Although this survey is too limited it is interesting to compare it with surveys done in the West. Women in China for example seem to be more in favour of the death penalty than men, whereas the situation in Sweden is quite the opposite. (Hu argues that women feel more vulnerable in the face of violence and that this would be behind their position. In Sweden young men are the most likely to fall victim of violence, as well as are the perpetrators of violence, and this has sometimes been put forward as a reason for why young men are more positive to the death penalty.) Another interesting feature is that people with low level of education (illiterates and those with primary education) are more critical of the death penalty than are those with higher education. As for level of income, poor people seem to be more critical than those with higher incomes, with the only exception being those with the highest incomes. It is possible that those who are the most likely to be sentenced to death also are the most critical of it; surveys in the US and Russia points in the same direction. Finally, we know from public surveys elsewhere that the results very much depend on the questions asked and if any alternatives to the death penalty are given. Public surveys undertaken immediately after a violent crime generally tend to produce much higher percentage in favour of the death penalty, even in countries that don't have the death penalty. After the trial of Chen Xitong several people voiced the view that he should have been sentenced to death, but such views should not necessarily be interpreted as support of the death penalty per se but as anger over official corruption. For the public reaction, see 'Corrupt boss left off lightly, say Beijingers' and AFP 'Death many times over' 1 August 1998, SCMP. At the recent session of the NPC some deputies reportedly voiced the view that the death penalty is not necessarily the best solution to solving the problem of corruption. They argued that it was better to try to eliminate the root cause to corruption and that moral education was needed as much as laws, referring to President Jiang Zemin's suggestion earlier in the year that 'rule according to law' need to be complemented with 'rule by morals.' See Xinhua 'Anti-corruption campaign remains hot topic among Chinese' 13 March 2001, *China Daily*. These delegates might of course very well have spoken more out of concern for their own and their colleagues' lives, rather than out of opposition to the death penalty per se. The article only focused on death penalty in corruption cases and did not discuss its effectiveness for other types of crimes. Although many have expressed support of the death sentence handed down to Cheng Kejie others have criticised this. One cadre, a member of the Politburo Standing Committee, even appealed to Jiang Zemin and Zhu Rongji to spare Cheng Kejie. Reported in Willy Wo-lap Lam, 'Clemency for top officials rejected' 22 September 2000, SCMP.

¹¹ It is a bit ironic to say the least that the will of the people is referred to in this issue and not in many others. It should also be pointed out that abolition of the death penalty in Europe in most cases was due to the political will of political leaders and not an outcome of a major decision. In some cases it actually took place against the will of the majority. One example of this is the case of France where the decision to abolish the death penalty was made by Francois Mitterand after he had been appointed president, see *The Death Penalty. Abolition in Europe* Strasbourg: Council of Europe Publishing, 1999.

¹² On this campaign, see Harold M. Tanner, *Strike Hard. Anti-Crime Campaigns and Chinese Criminal Justice, 1979-1985* Ithaca, New York: East Asia Program Cornell University, 1999, and Murray Scot Tanner, 'State Coercion and the Balance of Awe: The 1983-1986 'Stern Blows' Anti-Crime Campaign' *The China Journal* Issue 44, July 2000, pp. 93-125.

sentences during campaigns, or during all campaigns, due to lack of official statistics, campaigns are at least generally accompanied by an increase in the number of death sentences reported in the media.

This paper attempts to look at the media reporting on death sentences in China both with respect to the number of death sentences reported and their composition as well as how the reporting is done and presented. The paper is thus more a study of the propaganda work surrounding campaigns and the handing down of death sentences than a study of the death penalty itself and its legal stipulations.¹³ It looks at developments throughout the 1990s but focuses on some of the campaigns that took place last year.

The year 2000 doesn't seem to have been a particularly unique year in China when it comes to campaigns, crimes, or death sentences.¹⁴ During the year the courts reportedly handled 5.35 million cases and punished 640,000 persons, up by 6.21 per cent over 1999. But how many of these were sentenced to death and for which crimes we have no way of knowing. Some of the campaigns last year had been running for some time whereas others were restarted or completely new ones. In some cases the choice of which crime to target was based on a real and absolute increase of that particular crime, or else it reflected the general public's concerns and the Party's attempt to respond to them. The Party's willingness to take people's concerns serious is of course linked to its own struggle to keep in power and need to strengthen its credibility among people. The launching of legal campaigns has as much if not more to do with political considerations than with an increase in crime rates per se and any objective legal realities.¹⁵

One of the campaigns from last year that will be discussed is the campaign against abduction of women and children that was launched as a four-month long campaign in April last year. There has been a growing concern about the problem of trafficking in women and children since the early 1980s, which has resulted in changes of the criminal law that has made trafficking in women and children a capital offence in particularly serious circumstances. Trafficking in women and children was targeted already in the strike-hard campaign in the 1980s, and in 1995 Chinese authorities again launched a major crack down on human trafficking which resulted in an increase in the number of death sentences handed down that

¹³ There exist several good overviews of legal stipulations regarding the death penalty in China, see Stephen B. Davis, 'The Death Penalty and Legal Reform in the PRC,' *Journal of Chinese Law*. Vol. 1, No. 3, 1987, pp. 303-334; Andrew Scobell, 'The Death Penalty in Post-Mao China' *China Quarterly* No. 123, September, 1990, pp. 503-520; Michael Palmer, 'The People's Republic of China' in P. Hodgkinson and A. Rutherford (eds.) *Capital Punishment – Global Issues and Prospects*, Winchester, 1996, pp. 105-141; C. Howie, 'Chinese Critiques of the Ultimate Penalty,' *China Rights Forum* Fall 1996; and Jeremy T. Monthly, 'Internal Perspectives on Chinese Human Rights Reform: The Death Penalty in the PRC' *Texas International Law Journal* Vol. 33:189, 1998, pp. 189-226.

¹⁴ For a summary of the different campaigns and judicial work during 2000, see news reports on the two work reports of the Supreme People's Court and the Supreme People's Procuratorate, respectively, delivered at the NPC annual session held on 5-15 March 2001. The full work reports are not available as the time of this writing. Strike-hard campaigns were said to have targeted trafficking in women and children, smuggling, making counterfeit currency, export tax fraud and the production and sale of counterfeit products. In some regions the focus of the anti-crime campaigns would sometimes differ. Guangdong province thus reported that its main campaigns had targeted criminal gangs, abduction of women and children, and pornography and drugs. See report in *Zhongguo jiancha ribao*, 14 February 2001. I have used the internet edition of this newspaper which can be found at www.jcrb.com.cn

¹⁵ For a discussion of the political considerations behind campaigns with respect to the 1983 strike-hard campaign, see Tanner (2000).

year. Last year's campaign was given ample coverage in the media and played quite openly on people's emotions when one compares it with the other campaigns during the year.

The second campaign that will be discussed quite briefly is the campaign against counterfeiting currency that also was launched in April. Counterfeiting currency became a capital crime in XX and has become a rather widespread problem in China. Few death sentences have been reported during previous years, but last year saw a big jump in the number of death sentences reported in the media as a result of the campaign. Although this crime is not one that move people to the same extent, or in the same way, as for example abduction of women and children or even corruption do, the media has highlighted a number of cases during the year.

The death penalty cases to receive the most attention during the year have probably been those meted out to corrupt officials. An unprecedented number of death sentences have been handed down to high-ranking officials and these have been played up in the media and in the Party's propaganda work. The campaign against corruption has been going on for quite some years now but went into high gear last year. It should be noted that although much attention in the media of late has been given to death sentences for white-collar crimes, this kind of crime normally represents but a small fraction of the total number of death sentences reported each year. Last year is probably no exception to that rule. The main difference is that more senior cadres have been sentenced to death than during previous years. During previous years it was only relatively low-level cadres and officials who were sentenced to death whereas people such as Chen Xitong have been treated more leniently. Chen was sentenced in 1998 and received 16 years for alleged corruption of a scale that could easily have rendered him the death penalty; he has reportedly already been released on medical bail.¹⁶ Last year, however, both the former deputy governor of Jiangxi province, Hu Changqing, and the former vice-chairman of the NPC Standing Committee, Cheng Kejie, were sentenced to death for corruption, the highest ranking officials to be sentenced to death since the founding of the PRC. Death sentences in corruption cases have been used in the Party's propaganda work, which reveals their coercive and educational value in state policies.

The campaign targeting criminal gangs that was launched on 11 December is actually a rerun and continuation of some earlier campaigns. Criminal gangs were targeted during both the 1983 and 1996 strike-hard campaigns and have also later been targeted in more local campaigns. The only new thing about this campaign is the explicit linking between it and the campaign against corruption. Not surprisingly, the crack down on criminal gangs seems to be more vociferous in character and there are more reports of mass sentencing rallies than for the other campaigns. There also seems to be more leeway for police and other legal organs to ignore and speed up legal procedures in the handling of these cases. In the corruption cases reported there has been much emphasis on the legalities of the arrests, investigations and trials in question. Those accused have for example had access to lawyers whereas one suspects that members of criminal gangs don't have the same possibilities. Here it should of course be pointed out that corruption cases, especially those involving high officials, are carefully orchestrated events on the part of the Party. It is still politics more than laws that decide who is being charged with corruption and what the sentence will be.

Apart from crimes specifically targeted by these campaigns, the death penalty was also widely used for a number of other crimes during the year. Like during most other years, it seems as if

¹⁶ See Willy Wo-Lap Lam, 'Heavyweights grapple with corruption' 23 February 2000, SCMP.

murder, robbery and murder, robbery, and drug-related crimes make up the majority of death penalty cases. For no other offence is the timing and arranging of trials, mass rallies, and executions so date sensitive as in the case of drug-related crimes. Almost all of the media reporting, if not the actual trials and executions, take place around 26 June, the International Anti-Drug Day. The PRC's reliance on the death penalty as a tool of state coercion is also particularly evident when it comes to the sentencing of so-called separatists, mainly in Xinjiang. It is very common that the authorities in these cases also organise mass sentencing rallies as a warning to others.

Death Penalty Statistics and the Media

Statistics on death sentences and executions is considered to be a state secret in China and information on death penalty cases is therefore scattered and incomplete. As the Chinese authorities put it: 'Strict control must be maintained over the scope of distribution of all-year aggregate statistical material relating to individual provinces, autonomous regions and directly-administered municipalities, especially in the case of statistical material on death penalty cases.'¹⁷ Although representatives of the Supreme People's Court (SPC) on occasion has denied that it has information on the total number of death sentences handed down by the courts in China, central records of the total number most certainly do exist.¹⁸ There are thus regulations to the effect that courts shall submit reports to the SPC on the number of death sentences imposed and approved. 'All High People's Courts should on or before the fifth day of each month report to the Supreme People's Court the number of death penalties approved and executions carried out by them during the previous month, in order to facilitate the completion of overall [national] statistics for submission to senior levels.'¹⁹ While no open and aggregate statistics is published some information on death sentences and executions can be gathered from various legal sources, case studies, yearbooks, legal journals and the general media. The media thus publish reports on a selected number of death penalty cases for educational and deterrence purposes.

Based upon information reported in the Chinese media and other sources Amnesty International publish an annual death penalty log for China, the most thorough information

¹⁷ Supreme People's Court, 'Guanyu Renmin fayuan sifa tongji gongzuo de ruogan guiding 'Various regulations concerning judicial statistical work of the People's Courts' 21 November 1985. Reprinted in *Zhonghua renmin gonghe guo falü guifan xing jieshi jicheng, 1949-1989* (ZHFL) Changchun: Jilin renmin chubanshe, 1994, p. 1515.

¹⁸ During a Swedish official human rights delegation to China in November-December last year the SPC told the delegations' members that they didn't have any complete information on the number of death sentences imposed in China. The reason cited was that the SPC for some cases had rescinded the power to approve of death penalty sentences to lower level courts and therefore didn't know the total numbers imposed in various provinces. Here is should be noted that whereas the 1980 Criminal Procedure Law (CPL) gave the SPC the power and duty to approve of all death sentences, this power was in some cases delegated to the Provincial High People's Courts in the early 1980s. And although the revised CPL now stipulates that this power rests with the SPC there have been no revisions of the Organic Law of the People's Court to that effect. Furthermore, there exist stipulations that still gives the High People's Courts the power to approve of death sentences for a great many crimes, for example murder and robbery, and in some provinces also for drug-related crimes. But as the 1981 notice quoted in the text above reveals, even in cases where the High People's Courts have the power to approve of death sentences they are still under the obligation to report these sentences to the SPC. In other words, it is most certainly within the power of the SPC to compile national statistics on the number of death sentences imposed and they most certainly also do so, but don't want to share that information with foreigners.

¹⁹ Supreme People's Court, 'Guanyu zhixing Quanguo renmin daibiao dahui changwu weiyuanhui 'Guanyu sixing anjian kezhu wen de guiding' de ji xiang tongzhi' [Notification on several points concerning the implementation of the NPC Standing Committee's 'Decision on the question of approval of death penalty cases] 11 June 1981, reprinted in ZHFK (1994). See also SPC, 'Notification concerning the unified reporting of death penalty case materials' April 9, 1984.

currently available.²⁰ It should be noted that since not all death sentences are reported in the media the figures reported by Amnesty probably represents only a fraction of the real number. The lack of official statistics makes it difficult to estimate both how many death sentences are imposed each year, their geographical spread as well as the distribution of death sentences among different types of capital crimes. We thus don't know which type of crime makes up the majority of the death penalty cases in the country and whether the situation varies over the years. Chinese authorities have on several occasions claimed that violent crimes such as murder constitute the biggest category for which death sentenced are meted out, but it is difficult to assess such a claim when no statistics is provided. The figures compiled by Amnesty reveal that while it is true that murder is the largest group during most years that is not always the case, or in any event it doesn't make it into the news. In many cases people are furthermore convicted of several crimes, for example both of robbery and murder.

We have no information on which province executes the most people and for which crimes. But there are some scattered information, however, that reveals that there exist quite big differences between provinces.²¹ There are also differences with respect to the types of crimes committed and the composition of death sentences. Drug-related crimes for example make up a great part of all crimes investigated and handled by the courts in Yunnan.²² Between 1992 and 1998 more than 16,000 drug-related cases were tried at courts at various levels in Yunnan, and 7,370 people were sentenced to death or life imprisonment.²³ Drug cases account for more than one third of all cases tried annually, and 40 per cent of the life imprisonment and death sentences in the province fall on people sentenced for drug-related crimes. From January to May 2000, Yunnan handled 1,076 drug cases, sentenced 734 people to life in prison or death, and gave prison terms of up to five years to 525 people.²⁴ The majority of all death sentences in the country for drug-related crimes seem to be meted out in Yunnan.²⁵ In 1991 Amnesty International recorded a total of 367 death sentences for drug offences in China, of which a majority were handed down in Southwest and South China.²⁶ 252 were

²⁰ Amnesty has provided information on the use of the death penalty in China since the publication of its first report on China in 1978, and since 1992 publish annual death penalty logs listing all individual cases known to the organisation.

²¹ Amnesty International's information for 1999 based on news report however shows that there are most death sentences reported from Sichuan, almost 400 were reported that year, followed by Guangong, 200, Beijing, a little over 150, and Xinjiang, ca 150 reported death sentences. See ASA 17/005/2001.

²² According to article 347 of the revised criminal law that came into effect on 1 October 1997, the death penalty can be imposed on the following categories of drug offences. Those smuggling, trafficking in, transporting and manufacturing more than 50 grams heroin or more than 1,000 grams of opium; ringleaders smuggling, trafficking, transporting or manufacturing drugs; those shielding with arms the smuggling, trafficking, transporting or manufacturing of drugs; those violently resisting inspection, detention and arrest; and those involved in international drug trafficking.

²³ See Wu Jiachun, 'First court set up to deal with drug cases' *China Daily* 19 January 1999.

²⁴ Xinhua report, June 26 2000, translated in BBC SWB. Compare these figures with the annual figures for the whole country in 2000. The police reportedly cracked more than 96,189 drug cases during the year, 48.7 per cent more than in 1999, and 36,157 people were prosecuted. See *Zhongguo jiancha ribao* 10 February 2001.

²⁵ Guangdong and Guangxi are also particularly hard hit by drug problems and drug-related crime. But drug trafficking is also a growing problem in big cities such as Beijing and Shanghai. The majority of those sentenced to death for drug trafficking in these cities also seem to come from other provinces, in many cases those in the South and the Southwest. It is thus claimed that in Beijing 94.3 per cent of those captured for drug trafficking there come from other parts of the country. See 'Drug menace on the increase' 3 March 2001, SCMP. Information from the No 1 Shanghai Intermediate People's Court reveals that of six people sentenced to death for drug offences in 1999 five were non-Shanghai residents. My information comes from a reading of court verdicts published on its homepage, see www.a-court.gov.cn For more information on drug abuse and drug crimes, see the white paper released by the Information Office of the State Council on 26 June 2001 entitled 'Narcotics Control in China.'

²⁶ See Amnesty International, *The Death Penalty: No Solution to Illicit Drugs* October 1995, ACT 51/02/95.

imposed in Yunnan and 66 in Guangdong. Of the 1,890 people sentenced to death in 1992 almost half, that is 920, were sentenced for drug-related offences. In Yunnan alone 277 people were sentenced to death for drug offences between January and June 1992.²⁷ This was more than the total number for 1991 when 252 people had been sentenced to death for drug offences in Yunnan.

There is most definitely a gap between reported and actual numbers of death penalty cases in China but it is difficult to say how big the gap is. Differences over the years with respect to the number and composition of death sentences reported in the media could be a result of many different factors and therefore open to conflicting interpretations. In some cases a rise in the reported number of death sentences imposed for one particular type of crime could reflect a rise of the specific crime in question and a concomitant and real increase in the number of death sentences imposed on that crime. (But a rise in crime would not necessarily be followed by a rise in the number of death sentences imposed for that particular crime.) In other cases the rise in death sentences reported would have more to do with the occurrence of special campaigns targeting that particular crime which could or could not reflect an absolute increase in the number of death sentences for that crime. A change in the composition of death sentences might also be due to the impact of campaigns on both the actual passing of death sentences and on the reporting in the media as such. Let us say that in the media the number of death sentences reported for crime X one year is less than those reported during previous years and that death sentences imposed for crime Y now exceed X. How should this be interpreted? It is not necessarily the case that the number of death sentences for Y actually is higher than for X, or even that the number of death sentences for Y is higher than during previous years. It could just be the case that the authorities found it more useful to report on death sentences for Y than X that particular year or that a campaign targeting Y was taking place.

In other words, when the Chinese authorities want to be seen as tough on one particular crime death sentences for that crime will receive more attention in the media. What this orchestrated and controlled reporting reveals is that the death penalty is being used as a tool of state coercion. This selective reporting is intended to educate and deter people from committing crimes or a particular crime.²⁸ Special campaigns naturally get a lot of attention in the media

²⁷ See Amnesty International ASA 17/09/93.

²⁸ Here it should be acknowledged, however, that the media these days are freer and many journalists eager to engage in muck raking journalism, with the result that the media don't always speak with one voice anymore. There have, for example, during the past few years appeared articles on cases of miscarriages of justice in death penalty cases. For a case in Hebei where three men three times were sentenced to death and three times had their sentences overturned by the Provincial High People's Court but still remained in prison while the prosecution worked on the case, see *Nanfang zhoumo* 10 August, 2000. While these articles don't go so far as to question the death penalty on the grounds that innocent people risk being executed – there have been no reports of innocent people already executed – the harrowing cases in these articles differ from other media reporting on death penalty cases. There are also quite a few articles in the legal press that question both the scope and the use of the death penalty. However, another, not so positive development, is the emergence of a more sensationalistic type of news reporting which in graphic detail dwells on cases of murder and other violent crimes, and which portrays those sentenced to death as evil and deserving of their punishment. In other cases it is difficult to pinpoint the reasons behind publications on violent crimes. Last year a book was published in China that contained interviews with twenty death row inmates and told their stories and the background to their crimes. The book almost exclusively takes up death penalty cases that are crimes of passion, and were the culprits ordinary people led astray on the spur of the moment or out of passion. Among those sentenced to death we find the jilted boyfriend, the abandoned woman, the straying husband, and others like them, people who are far from the hardened criminals depicted in some news reporting. Although one wonders about the author's motives, perhaps he was simply trying to capitalise on a market in which books on sex and violence sell well, the book does provide a more sympathetic picture of convicted criminals than is usually the case. The author furthermore

as do selected cases, including death penalty cases, which are held up to educate people. Media reporting can also be quite date sensitive. There are more reporting on death sentences and executions prior to sensitive events, anniversaries or national holidays. Each year around June 26, the International Anti-Drug Day, for example, death sentences for drug offences are widely reported in the media in order to warn people about the serious consequences of drug use and drug trafficking.

We should in addition be aware of the fact that different media in China have different audiences, so that there also are some differences both in how these news are being reported and how much. There will thus exist differences depending on whether the audience is the general Chinese public or the legal profession, and whether the news are intended for domestic or foreign consumption. When the authorities in the early 1980s realised the adverse effect publication on death sentences could have on its foreign relations, a notice went out calling on the media to be more restrictive in its reporting on such sentences and not provide so many graphic details of the executions.²⁹ This notice explicitly referred to Amnesty International, the only Western organisation systematically addressing the death penalty in China. Knowing that a Western audience takes offence of a too inflammatory reporting, the language in China Daily and Xinhua on death penalty cases is more toned down than that found in some Chinese language newspapers. When death sentences are reported in the Chinese media for a Chinese audience, the language can be quite self-righteous and inflammatory. Those sentenced are described as evil and their punishment as proper and right. The following description from a legal daily describing the execution of a woman is not uncommon. 'On a dazzlingly bright spring morning in March, at an execution ground in the southern suburbs of Wuhan. After identities were verified, a row of cave-black gun barrels took aim at those criminal heads. A crisp crack of gunfire signalled the end of the brief but evil life of thirty-something Li Ximei.'³⁰

There are also less reporting on death penalty cases in China Daily when compared with other Chinese newspapers. (This is not so surprising given the fact that the threat of the death penalty is more directed at Chinese citizens than at foreigners.) Last year China Daily reported on 49 death sentences and executions.³¹ 13 of which were for pirating, 11 for counterfeiting money, 14 for corruption and embezzlement, 5 for abduction and kidnapping of children and women, 15 for drug crimes, and 2 for killings by policemen while on duty. This selection reflects the campaigns that were running last year, but one cannot help thinking that they were also carefully chosen as to 'please' foreigners. Pirating has become something of a problem in the South China Sea, and there has been a feeling that the Chinese authorities have not done much about it, that, as a matter of fact, pirating has been taken place with the good memory of some officials.³² Trafficking in children and women and drug-related crimes are crimes that greatly concern many people in the West, and reports of death sentences in this context, it could have been speculated by the newspaper, might not necessarily overly upset Westerners. Death sentences meted out to corrupt officials and 'dregs' within the police might

must have some really good relations with the judicial departments to be able to make these interviews; he himself works in one legal department, unclear which. See Su Shining, *Caifang siqiu* [Interviews with death row inmates] Beijing: Zhongguo qingnian chubanshe, 2000.

²⁹ See "Avoid Giving Amnesty International Pretexts," originally published in *Xuanchuan Dongtai*, No. 8, 1983, and translated in *Chinese Law and Government*. Winter 1991-92, Vol. 24, No. 4, p. 51.

³⁰ Hebei Legal News 29 April 1999, quoted in ASA/17/49/00.

³¹ I have recorded a total of 319 death sentences for last year but my selection of Chinese newspapers is quite limited.

³² See comments in AP '13 pirates sentenced to death' 22 December 1999, SCMP.

also please foreigners and convince them that the Party doesn't protect its own people.³³ There were reports of death sentences and executions from many provinces but interestingly enough no cases from Tibet or Xinjiang.

The Death Penalty in the 1980s and 1990s: Numbers and Types of Crimes

Throughout the 1980s there was both an expansion in the number of crimes carrying the death penalty and in the total number of death sentences imposed each year. During the strike-hard campaign of 1983 tens of thousands of people were sentenced to death and executed.³⁴ In 1988 Amnesty recorded a total of 180 death sentences and in 1989 370.³⁵ Of the 370 death sentences imposed in 1989 ca 48 were meted out in connection with the quelling of the student demonstrations that year.³⁶ In Hebei province the number of death sentences and terms of life-imprisonment in 1989 meted out increased by 24.8 per cent over 1988.³⁷ While in Henan province the number of people executed between January and July 1989 increased 47.28 per cent over the same period the previous year.³⁸

The number of death sentences meted out annually in China has varied considerably throughout the 1990s.³⁹ For 1990 Amnesty recorded a total of 960 death sentences, the highest figure since 1983. The marked increase occurred in the context of a campaign to 'sternly crack down' on serious crime that was launched in May of that year and continued into the next year. In 1991, 1,650 death sentences were recorded by Amnesty. And in 1992, at least 1,891 people were sentenced to death and 648 given suspended death sentences.⁴⁰ More than 920 death sentences were passed for drug-related offences that year, i.e. half of the total number reported by Amnesty. In 1993 at least 2,564 people were sentenced to death in China.⁴¹ In August that year the authorities launched a nation wide anti-corruption campaign. President Jiang Zemin argued that corruption would not stop unless 'a number of arrests and executions, in conformity with the law and irrespective (of persons) whether in higher echelons or not.'⁴² In 1994 2,496 people were sentenced to death whereas the figure for 1995

³³ There has however been a certain uneasiness within the Party on how the on-going anti-corruption struggle is made use of by the West. The following comments made by Wei Jianxian at the 5th Plenum of the Central Disciplinary Inspection Commission held on 25 December 2000 are instructive in this respect. 'The hostile forces of the West are using every stratagem to conduct westernization and separatist operations against China and one important method is to intentionally slander China's anti-corruption struggle, creating rumours to confuse the public, smearing our party, saying that the ranks of cadres are wholly without merit, and attacking the CCP as being unable to resolve its own corruption problems, and so forth. Their objective is a vain attempt to shake the confidence that the cadres and the people have in the anti-corruption struggle being led by our party, and their confidence in the socialist system and the leadership of the CCP. If we were to fight corruption the way they advocate, what we would be working to eliminate would not be corruption, but the leadership of the CCP.' Xinhua news report, translated in BBC SWB, 3 January 2001.

³⁴ For a discussion of various estimates, see Tanner (1999).

³⁵ See Amnesty International ASA17/17/91.

³⁶ See ASA 17/21/90.

³⁷ Mentioned by the president of the Hebei Provincial High People's Court in April 1990, quoted in Amnesty International ASA17/17/91, p. 4.

³⁸ Reported by the Henan Provincial High People's Court in the *1989 People's Court Yearbook*, quoted in Human Rights Watch/Asia, *China. Organ Procurement and Judicial Execution in China*, August 1994, p. 18.

³⁹ Apart from the 1983 strike-hard campaign, Amnesty recorded few death sentences during the last years of the 1980s but has recorded much higher numbers during most years in the 1990s. These higher figures, rather than reflecting an increase in death sentences per se, could however also very well be a result of the fact that Amnesty now has better access to different newspapers and other media reports in China and thus know more. They could also be a result of more reporting in the Chinese media.

⁴⁰ See Amnesty International ASA 17/09/93.

⁴¹ Amnesty International ASA 17/15/94.

⁴² Quoted in Amnesty International ASA 17/02/94.

was 3,612 people.⁴³ A campaign in Jiangsu province in 1994 was reported to have resulted in a rise of the number of death sentences and suspended death sentences by 48.2 and 24.2 per cent respectively over 1993.⁴⁴ In 1995 the death penalty was expanded to also include illegal financial manipulation such as counterfeiting, defrauding banks by forging documents, and serious VAT fraud. At least 200 people were sentenced to death for economic crimes such as bribery, corruption, and embezzlement during 1995. And more than 40 death sentences were imposed for tax related offences such as fraudulent VAT return. At least 618 people around the country were sentenced to death for drug-related crimes. During the year several campaigns and crackdowns were carried out both on a nation wide and on a regional scale. These campaigns were accompanied by a rise in the number of death sentences meted out. In 1995, the Chinese authorities for example cracked down upon trafficking in women and children, a crack down which was accompanied with a rise in death sentences. During the year at least 89 people were thus sentenced to death for illegal trafficking of children and women.

The nation wide strike hard campaign launched on 28 April 1996 led to a big increase in reported death sentences and executions during that year.⁴⁵ Amnesty recorded a total of 6,100 death sentences and 424 death sentences with a two-year reprieve.⁴⁶ This was the highest number recorded since 1983. Like during 1983, in 1996 the legal process was speeded up and in several cases people were executed barely a week after the alleged crime was committed.⁴⁷ Such haste makes it almost inevitable that many cases of miscarriages of justice took place during the campaign. During the year there were almost daily reports on executions in the state media. In 1996 534 death sentences were handed down for drug-related offences. 42 people in Tibet and 160 in Xinjiang were given the death penalty on charges of separatism. This increase in reported death sentences for separatism possibly reflected the fact that separatism was one of the targets during the campaign. During the year Amnesty also recorded 58 death sentences for corruption and embezzlement and 19 suspended death sentences for the same offences. 30 people were sentenced to death for fraud, tax offences and counterfeiting or smuggling money.

Chinese authorities claim that revision of the criminal law, which went into effect on 1 October 1997, resulted in a reduction in the number of death sentences handed down.⁴⁸ But since no statistics has been presented on the authorities part, it is impossible to verify this claim. The new law did however stipulate that theft no longer would carry the death penalty, except in cases of theft of particularly large sums from financial institutions and serious theft of cultural relics.⁴⁹ Before 1997 theft of 20-30,000 yuan and above could be punished by death in particularly serious circumstances.

In 1997 Amnesty reported a total of 3,152 death sentences.⁵⁰ The biggest individual category of crimes punished with death that year was drug-related offences, at least 662 people were sentenced to death for that crime. It could perhaps be explained by the fact that drug

⁴³ Amnesty International ASA 17/64/96. A previous figure for 1994 given by Amnesty was 2,783 death sentences.

⁴⁴ Reported by Xinhua on February 21, 1995 and quoted by Amnesty International ASA 17/104/95.

⁴⁵ See ASA 17/72/96 and ASA 17/38/97.

⁴⁶ See ASA 17/35/97.

⁴⁷ See Amnesty International ASA 17/72/96.

⁴⁸ ASA 17/57/99, p. 1.

⁴⁹ A decision by the NPC Standing Committee in 1991 had made looting ancient cultural relics punishable by sentences ranging from 10 years' imprisonment to death.

⁵⁰ See ASA 17/32/98.

trafficking was one of the crimes targeted in the anti-crime campaign which continued during the year. But as mentioned earlier, the increase in reported death sentences might not necessarily reflect a real increase in death sentences for that crime or that this actually was the largest category of death penalty cases that year. Other crimes targeted in 1997 were corruption, value added tax fraud and separatism in Xinjiang. Murder was the second biggest category of death penalty sentences reported that year, followed by robbery. The media reported that ca 50 people were executed for separatism in Xinjiang. There were quite few reported death sentences for economic crimes during the year.

In 1998, Amnesty recorded a total of 2,701 death sentences, less than during the three previous years but higher than the early 1990s.⁵¹ But whether this really signified a drop in the actual number of death sentences or only more limited reporting in the media is difficult to assess. It seems as if the reporting was less specific in 1998 compared with earlier years. Often no exact numbers, names or details of the crimes were given in the news items on death sentences and executions. In 1998 murder constituted the largest group of crimes punished with the death penalty, accounting for more than 500 of the death sentences.⁵² More than 300 death sentences were recorded on charges of robbery and murder. 461 of those sentenced to death were punished for drug offences. Corruption and other white-collar economic crimes accounted for ca 100 death penalty cases. The first cases of death sentences for counterfeiting money were reported that year. In December 7 people were sentenced to death on charges of counterfeiting money and drug offences. 32 people were sentenced to death during the year for abducting and selling women and children. In Xinjiang approximately 30 Uighurs were sentenced to death for alleged separatism and other charges. In his annual work report presented to the NPC in 1999, the president of the SPC, Xiao Yang, said that most of those executed during the previous year had been convicted of murder, robbery or drug-related crimes, without providing any figures.⁵³ Xiao Yang's remarks fits well with the news reports recorded by Amnesty.

For 1999 Amnesty reports a total of 2,088 death sentences, the lowest number since 1992.⁵⁴ The majority of the death sentences were imposed for murder (ca 500), murder and robbery, armed robbery and robbery alone. At least 390 people were sentenced to death for drug offences, 300 of who were sentenced or executed around June 26. At least 38, possibly 92, people were sentenced to death for separatism and subversive acts against the country during the year, all of them in Xinjiang. Economic crimes accounted for ca 90 of the total number of death sentences, of which crimes such as corruption and embezzlement accounted for ca 60. 21 people were sentenced to death for abducting and selling children and women. 10 of them were sentenced in December in Shanxi at a rally attended by 10,000 people.⁵⁵ This could have been an act in preparation of the nation wide campaign against trafficking in women and children that was launched in April the following year. During the year two cases of death

⁵¹ See ASA 17/28/98 and ASA 17/56/99.

⁵² It would be interesting to try to relate the number of death sentences to the total number of sentences meted out for a particular crime but unfortunately we don't always have enough information to do this. It was however reported in the CASS White Paper on social issues that there were 21,000 murder cases in 1998. See Reuters, 'Nine blasts a day in crime wave.' February 11, 1999, SCMP.

⁵³ Xiao Yang also reported that the people's courts had concluded 480,000 criminal cases during 1998, up 9.03 per cent over the previous year, and sentenced 530,000 people, up 30.76 per cent. The courts handled 18,468 cases of economic crimes and sentenced 15,670 people. 4,834 cases were related to financial crimes, four times more than in the previous year. Some 1,468 cases of fraud were dealt with, which was twice as many as the previous year. See Sun Shangwu, 'Top judge elaborates courts' focus of work.' March 11, 1999, *China Daily*.

⁵⁴ See ASA 17/49/00.

⁵⁵ Reported in *Legal Daily* December 12, 1999.

sentences for counterfeiting currency were reported.⁵⁶ At least 10 people were sentenced to death for theft of cultural relics in 1999. In preparation of the 50th anniversary of the PRC, the authorities stepped up and strengthened its anti-crime measures during the year in order to guarantee social stability. It seems as if there were especially many death sentences and executions reported in the media before 1 October in 1999 (see below).

I have recorded a total of 319 death sentences for 2000, but this figure is based on a reading of fewer sources than that which Amnesty bases its death penalty log upon.⁵⁷ (Amnesty's death penalty log for 2000 will unfortunately not be ready until the end of this year.) As during most other years it seems as if the majority of death sentences are handed down for murder, robbery, and drug offences. There were a total of 90 death sentences and executions reported for drug offences, of which the majority as always took place around 26 June. 41 people were sentenced to death for corruption, embezzlement, fraud and other white-collar economic crimes. It seems as if there has been more attention to this type of crime in the media this year but I might be wrong. At least 13 people were reportedly sentenced to death for counterfeiting currency last year, and such sentences have also been played up in case collections and other publications put out by legal departments.⁵⁸ It is beyond doubt that last year's campaign resulted in more reports of death sentences for this crime and in all likelihood also more death sentences in absolute terms. As for death sentences and executions handed down for abducting and selling of women and children, I have recorded 26 death sentences and executions plus an additional three in February. In the latter case the arrests had taken place the year before during the campaign. It naturally often takes some time from the arrest until the trial and announcement of the verdict. This reveals that although the legal process is often speeded up during campaigns this is not always the case; whether this also means that legal safeguards are guaranteed is however another question.

On 16 October the Central Commission of Political Science and Law announced that 515 people had been executed nation wide between early September and October 15.⁵⁹ If this figure is correct and reliable, and also assuming that the number of executions during this period wasn't abnormally high, which it could have been as there often is an increase in executions prior to National Day, that would put the annual figure to ca 4,100 executed per year.

Campaigns and the Death Penalty

The importance of campaigns in the Chinese legal system reflects the Chinese authorities inability to cope with new problems that have emerged as a consequence of China's social

⁵⁶ Here it should be noted that we have information from 2000 on several more cases that were reportedly investigated and tried during 1999, but which were not made public until the year after or when the SPC had upheld the rulings. Once again a note of warning is due, Amnesty's statistics and the media reports tell us more about the propaganda surrounding legal work and death penalty than reveals much about the actual number of death sentences handed down each year.

⁵⁷ Please note that the figures for 2000 are based on my reading of Xinhua news reports, *Renmin ribao*, *Zhongguo jiancha ribao*, *Renmin fayuan bao*, *China Daily*, *South China Morning Post*, *BBC SWB*, and foreign news agencies such as AFP and AP. I have thus access to far less sources than Amnesty International. I have no reason to believe that the number of death sentences in 2000 would be any lower than for previous years.

⁵⁸ See for example the *Falii gongbu* published by the SPC. They can be found at www.rmfiyb.com It should be noted that in several of these cases the trial of first instance took place already in 1999 whereas it was only in 2000 that the SPC approved of the sentence and the execution was carried out. This (intentional?) delay of final judgements and media reports until the campaign has begun is rather common for other campaigns as well.

⁵⁹ This is mentioned in the U.S. Department of State *Country Reports on Human Rights Practices 2000*, released in February 2001, see www.state.gov I have however been unable to trace the original source and the report is a little unclear on whether this piece of news was released and pertain to last year or to 1999.

and economic changes, and a preference for relying on draconian methods that disregard due process of law and other legal niceties. Campaigns in the legal field these days however relies to some extent at least on laws and legal procedures, although often neglecting certain criminal procedures, speeding up the legal process and meting out harsher punishments than normally would be the case. Campaigns can be either nation-wide or more regional in scale. Within the parameters of a nation-wide campaign regions can also launch their own campaigns that have a special focus on local problems. Campaigns can be broad and general in scope, in other words attacking crime in general, or else focus on a special category of crime. Different campaigns can be running at the same time, referring both to their geographical spread and to their targets. It is sometimes difficult to tell where one campaign begins and another ends, or to distinguish between different campaigns. It is also quite common that campaigns tend to be extended. The 1996 anti-crime campaign against major crimes of violence and criminal gangs thus began as a three months long campaign but was subsequently broadened and prolonged. Campaigns can also be restarted or a new campaign on the same type of crime can be launched some years later.

Campaigns are a way for the authorities to try to gather support of and shore up belief in the ability of the government and the police to tackle crime and guarantee social order. Many of the news reports describe these campaigns as a *minxin gongcheng*, a project reflecting the common aspirations of the whole people. Anti-crime campaigns and harsh punishments are routinely justified as necessary in order to satisfy the masses. This particularly refers to crimes that the general public are especially concerned about, in recent years for example corruption, and abduction and sale of children and women. Other crimes targeted during campaigns, such as separatism and to a certain extent also corruption and drug-related crime, more reflects the authorities own fear of loosing control over the country. There are thus two forces at play here. On the one hand there is a certain amount of populism since the authorities tough position on crime and execution of corrupt officials are aimed at satisfying the general populace. This is important to the regime as it is suffering from low levels of confidence among the people, but whether they are succeeding is a different story. People are well aware of the fact that it is only smaller fishes that are being caught and get the harshest punishments. The other side of the story is the Party's own fear of losing control. This fear makes it prone to use the death penalty, the ultimate tool of repression, against those it regards as enemies of the state. Although so-called separatists, for now at least, don't pose any serious or immediate threats to the regime, executions in Xinjiang and co-operation with the new Central Asian countries over separatism are seen as vital.

During campaigns legal procedures are speeded up which in many cases puts legal safeguards at risk, with especially serious consequences in death penalty cases. What is striking is also the fact that during anti-crime campaigns more people are likely to be sentenced to death than during 'normal' times or, in case of local campaigns, in other parts of the country. There have even been occasions where people originally sentenced to terms of imprisonment have been retried during a campaign and then been sentenced to death instead.⁶⁰

The most notorious campaigns in the reform period were the so-called strike-hard campaigns of 1983 and 1996. The anti-crime campaign that began in 1996 continued throughout 1997 and into 1998 against selected crimes, including drug trafficking, corruption and value added tax fraud and 'separatism' in Xinjiang. Many provinces also carried out their own regional campaigns. In 1999, a particularly sensitive year due to several important anniversaries, the

⁶⁰ See an example from Ningxia, reported in Ningxia Daily, July 31, 1997, and quoted in ASA 17/38/97.

Central Committee of CCP announced that the anti-crime campaign was to accelerate with a eye to guarantee social stability. A meeting on national security arranged by the Political Science and Law Committee and the Comprehensive Public Security Management Committee in early February that year called attention to violent crimes such as gang crimes and other crimes ‘that may cause a sense of insecurity.’⁶¹ Legal scholars and even the police itself have however offered strong critique of the reliance on campaigns to curb the rising crime rate. Despite harsh punishments, including the frequent use of the death penalty, during these campaigns, crime continues to rise and some Chinese scholars therefore also question the deterrent effect of the death penalty.

Mass Sentencing Rallies and the Death Penalty

Campaigns are characterised by the use of public mass sentencing rallies involving hundreds or even thousands of people, but rallies also take place during more ‘normal’ circumstances as a routine feature of legal work. Shandong province thus reported a total of 318 open trials and mass sentencing rallies for 1999 with an attendance of some 870,000 people.⁶² While the criminal procedure law outlaws public executions it does not prohibit public trials and mass rallies. The purpose of mass sentencing rallies is to educate people and deter them from committing crimes. It is a massive and striking display of state power. Mass rallies and televised trials are particularly common during campaigns in order to spread information about the campaign and crack down, as well as instil fear and imprint in people the authorities’ harsh and uncompromising attitude towards crime. Although there are sentencing rallies where none of the defendants have been handed a death sentence, the majority of the mass rallies reported in the media, especially during campaigns, seem to involve at least some death sentences.

Mass sentencing rallies are generally held after the formal trial itself and when the sentence has been approved by the higher instance, in death penalty cases either the High People’s Courts or the Supreme People’s Court. The accusations against the prisoner and his/her sentence are read out but the prisoner is not allowed to defend himself/herself. But there are also cases when the actual trial has been open to a selected audience. The Chinese authorities also make ample use of new techniques and trials are sometimes shown on television. The two-day court hearing of Hu Changqing’s case that took place at the Nanchang Intermediate People’s Court was attended by more than 1,000 citizens and journalists, while judicial personnel could follow the proceedings on a closed-circuit television.

Mass sentencing rallies usually take place in a sport stadium or on an open area in order to accommodate the hundreds or even tens of thousands of people invited, or rather ordered to attend the rally. On 14 June last year the Urumqi City Intermediate People’s Court for example held a public rally at which five people were sentenced to death on charges of splittism and dealing in arms, etc. A few hundred people of different nationalities were reported to have attended the public trial and ‘applauded the people’s court for severely punishing the criminals.’ After the trial, the five men were taken to the execution ground and executed.⁶³ One wonders how voluntary the presence of these different nationalities at the rally could have been.

In it is not necessarily only people involved in the same case who are brought together at a mass rally, in many cases people involved in different criminal cases but tried for the same

⁶¹ Guo Nei, ‘State to intensify anti-crime fight.’ 6 February 1999 *China Daily*.

⁶² See 2000 *Zhongguo falü nianjian* p. 845.

⁶³ See Xinhua news report, 14 June 2000, translated in BBC SWB.

type of crime, for example drug offences, are herded together at these mass rallies. On 26 June the Kunming Intermediate People's Court thus held 'a meeting to deal a blow to drug-related crimes' at which five people were sentenced to death. The verdicts were announced at an open meeting and afterwards the five were escorted to the execution ground and executed.⁶⁴ In other cases several anti-drug rallies were held around the country, for example in Guangxi and in Fujian, where thousands of kilos of narcotics were burned in the open. This public burning and destruction of narcotics shall of course conjuncture up memories of Lin Zexu's destruction of opium in the late 1830s.

During campaigns it is common that those sentenced for the particular offence targeted in the campaign are brought together and their sentences announced at a rally. In particularly important cases or campaigns political leaders or legal officials are also present at the rally and give speeches. This was the case with the public rally held in Chengdu on 27 February this year.⁶⁵ The rally was organised by the provincial government of Sichuan province and the Chengdu municipal government as part of the province's campaign to 'crack down on underworld societies and eliminate evil forces.' It was attended by more than 10,000 people of all walks of life and held at the Provincial Sport Stadium. At the rally the head of the municipal public security announced the arrest of 100 suspects from 27 different criminal gangs, and the chief judge of the Chengdu Intermediate People's Court announced the sentences of 9 members of a criminal gang, including 4 death sentences.

People sentenced to death are usually taken to the execution ground immediately after the sentencing rally. Parades on trucks, which were frequent during the 1983 strike-hard campaign, are less frequently used today. An anti-drug rally held in front of the Chengdu railway station in 1998 however ended with nine people sentenced to death being paraded on a truck on their way to execution.⁶⁶ Although public executions are forbidden, Amnesty International has recorded an occasional public execution over the past few years. In 1998, for example, 11 Uighurs were executed in public after a sentencing rally held in the village of Jelilyuzi, outside of Yining.⁶⁷

The Timing of Death Sentences and Executions

Trials at which death sentences are handed down and even more so executions are particularly frequent prior to major events, important anniversaries and national holidays. In any event there are at least more reports in the media on these occasions in order to ensure 'social stability' as the wording goes. Important dates normally include the Chinese New Year, International Anti-Drugs Day on June 26, and October 1, China's National Day. Before the Chinese New Year and October 1, several people are usually sentenced to death and executed in order to warn people not to endanger the social order. 1999 was a particularly sensitive year given the many important anniversaries that year, in particular the 50th anniversary of the founding of the PRC. There thus seems to have been more reports of death sentences and executions in the media prior to 1 October than usually is the case. It was thus reported that on 23 September 1999 eight people were sentenced to death by the Changsha Intermediate People's Court following a public sentencing rally attended by more than 1,000 people. One week earlier 26 executions were carried out in Chongqing, while Guangdong province was

⁶⁴ See Xinhua 26 June 2000, translated in BBC SWB.

⁶⁵ Reported in *Fazhi ribao*, 28 February, 2001.

⁶⁶ Reported in Sichuan Countryside Daily, June 24, 1998, cited in ASA 17/57/99, p. 4.

⁶⁷ See ASA 17/57/99, p. 5.

said to have planned to execute 238 criminals before October 1 and to hold 57 public rallies to announce sentences for 818 convicted criminals.⁶⁸

Death sentences and executions for drug offences are particularly date-sensitive. It is striking to note that the majority of drug-related death sentences and executions always occur around June 26, the International Anti-Drug Day. In 1999 300 of 390 death sentences or executions reported took place then, and in 2000 the media reported 82 death sentences and executions around that date. This indicates both that trials and, to a greater extent, executions are put on hold in anticipation of these events.

The timing of trials and executions in particularly important cases seems to be carefully considered and orchestrated by legal and political authorities. The annual session of the NPC is thus a good occasion to bring important cases to trial. It is no coincidence, given the concern among NPC delegates about corruption and the rise in crime, that the past two years have seen sentencings and executions of corrupt officials while the NPC is in session. Hu Changqing was thus executed last year while the NPC was in session.

State Coercion and its Victims

The victims of the death penalty in China come from all walks of life and from different social and economic groups, but it would seem as if those from disadvantaged groups of people are over-represented which wouldn't come as a surprise as that is the case the world over.

There exist however no studies on the age and social and economic background of those sentenced to death in China. Information on death sentences in the state media provides little or no information at all on the background of those convicted. By looking at the nature of crimes committed, studies on crime and case collections published by legal departments it is however possible to present some tentative conclusions on this issue. It thus seems as if the death penalty is imposed disproportionately on poor people in China like in so many other retentionist countries. Many of those sentenced to death are also quite young.⁶⁹ There are some sources that indicate that in the early 1990s more than 50 per cent of those executed were between 18 and 25 years of age.⁷⁰ In the discussions leading up to the revision of the criminal law in 1996, the PSB even suggested that the age limit for death sentences should be raised to 20 instead of 18, arguing that young people were easier to remould into law-abiding citizens.⁷¹

In recent years the rise in crime in urban areas has often been attributed to the floating population. There are some statistics that suggest that in cities such as Shanghai, Beijing and Guangzhou members of the floating population are responsible for 60 per cent or more of the crimes committed. In some districts the number is even higher. There exist quite extensive and detailed statistics on the types of crimes attributed to the floating population but less on

⁶⁸ See AP 'Rush to sentence offenders' September 25, 1999, SCMP; AFP 'Hundreds will be executed in purge' September 27, 1999, SCMP; and Chow Chun-Yan '8 put to death in execution drive.' September 28, 1999, SCMP.

⁶⁹ On juvenile crime in general, see Børge Bakken 'Crime, Juvenile Delinquency and Deterrence Policy in China' *The Australian Journal of Chinese Affairs* No. 30 (July 1993), pp. 29-58.

⁷⁰ Wang Minghu writing in *Faxue pinglun* in 1994 as quoted in Palmer (1996), p. 128.

⁷¹ Zhao Bingzhi ed. *Xin xingfa quanshu* [The Complete Work on the New Criminal Law], Beijing: Zhonghuo renmin gongan daxue chubanshe, 1997, p. 88.

the actual sentencing of them.⁷² They are said to be responsible for the majority of petty theft and robberies committed in these areas but also for more violent crimes such as murder. The great majority of those sentenced to death in China in recent years have been sentenced for murder, robbery and drug offences, but it is impossible to know how many of them belong to the floating population. Some works seem to indicate that the floating population could be over-represented in death penalty cases. Of the 44 death sentences handed down in Huaihai City, Hunan, between 1994 and September 1997, for example, 30 were handed down to members of the floating population.⁷³ These numbers can probably vary quite considerably from year to year. In 1992 members of the floating population constituted 8 per cent of all those sentenced to death in Shanghai, a figure that jumped to 50.7 per cent in 1993.⁷⁴ Of a total of 20 death sentences handed down for intentional homicide, robbery and drug offences by the No 1 Shanghai Intermediate People's Court in 1999, 14 of those sentenced to death didn't have a household registration in Shanghai.⁷⁵ The great majority of them were also either illiterate or had only a primary school education, and were classified as either peasants or unemployed. According to the Beijing City Drug Prevention Commission, it is mainly people from outside Beijing who are responsible for drug trafficking in the city, some 94.3 per cent of those captured for this offence were said to come from other parts of the country.⁷⁶ Those guilty of trafficking in women and children also seem to be mostly poor peasants.

It is quite striking that crimes such as theft and robbery often are punished with death even when the sums involved are quite small, whereas the minimum sum at which the death penalty can be imposed for crimes such as corruption, embezzlement and fraud is set much higher.⁷⁷ The latter crimes generally involve people with a high economic and political status who have taken advantage of their position and power to commit crimes. Those involved in petty theft and robbery, on the other hand, are poor and uneducated people from the lower strata of the population. It also seems as if white-collar crimes such as corruption and fraud more frequently are punished by a two-year suspended death sentence than other capital crimes. In 1998 a former mayor and deputy Party secretary who had taken bribes of US \$ 50,000 as well as gambling and the rape of four women was sentenced to a suspended death sentence, whereas an unemployed man was sentenced to death for theft at the value of US \$ 14,457.⁷⁸

⁷² For a good overview, see Ma Guo'an *Zhongguo de liudong renkou yu fazui* [Migration and crime in China] Beijing: Zhongguo fangzheng chubanshe, 2000.

⁷³ See Xia Hua, 'Huaihai shi liudong renkou fazui wenti' [The problem of crime of the floating population in Huaihai city] *Fanzui yu gaizao yanjiu* No. 1, 1998, p. 9.

⁷⁴ Figures given in Ma Guo'an (2000), p. 82.

⁷⁵ The No 1 Shanghai Intermediate People's Court has published a number of court verdicts on the web but I'm not at all sure if those published represent all cases handled by the court or only a selection of cases. See www.a-court.gov.cn

⁷⁶ Reported in 'Drug menace on the increase', 3 March 2001, SCMP.

⁷⁷ I'm not completely up-to-date on this issue. But as far as I can tell article 383 of the CL now stipulates that an individual who embezzles 100,000 yuan shall be sentenced to not less than 10 years imprisonment, and if the circumstances are especially serious he might be sentenced to death. In cases involving bribes worth over 500,000 yuan, and in particular when the suspect is an official above county level, the Supreme People's Procuratorate will oversee the investigation and charging of the suspect. On 16 September 1999, the SPP published a judicial explanation concerning corruption, bribery and dereliction of duty. According to the new explanations, officials whose negligence causes more than 300,000 yuan in economic losses will be accused of dereliction; the previous sum was set at 100,000 yuan. Officials who cause indirect economic losses of 1 million yuan will also be investigated. Officials whose abuse of power results in more than one death, more than two severe injuries or more than five minor injuries will also be prosecuted. Before the line was drawn at one death, two heavy injuries and five minor injuries. On this latter point, see Shao Zongwei, 'Corruption, rights violations targeted.' 17 September 1999, China Daily.

⁷⁸ Example given in ASA 17/28/98.

One problem for people of a low socio-economic status is of course that they lack the backing of powerful friends who can help them and save them from being caught and punished. They also have difficulties to get a good lawyer or a lawyer at all. We know very little about the use of lawyers in death penalty cases in China. According to article 34 of the new criminal procedure law, the court will appoint a lawyer for defendants who are accused of a crime that could result in the death penalty but cannot afford to pay a lawyer.⁷⁹ Criminal cases like these are however low-paid and unattractive to many lawyers, who in addition are being assigned to them rather than freely choose to take on them.⁸⁰ We know from the US that the low quality and lack of experience of lawyers has seriously affected the outcome of many death penalty cases. China suffers both from a lack of lawyers, not to speak of experienced lawyers, and, when appointed, lawyers in addition have great difficulties to even get access to their clients.⁸¹ Lawyers have traditionally had a low status in the Chinese legal system and do not stand so many chances to get their clients acquitted. The acquittal rate in China is very low, in 1995 it was less than 1 per cent. Very few people are thus pronounced innocent once they have been arrested. There exist no studies of mitigating arguments used in death penalty cases and their effectiveness. A cursory reading of media reports and SPC case materials however gives the impression that confessions and informing on other suspects or, in corruption cases, handing over ill-gotten money, in some cases have rendered the accused a suspended death sentence or life in prison instead of a death sentence. Appeals in death penalty cases do not seem to be very successful and stand much chance. It is obvious that the outcome in many death penalty cases is more or less given because the sentencing of a case or special type of crime is influenced by the general political and legal environment. During anti-crime campaigns a legal defence stand little chance to affect the outcome of the trial. In such adverse circumstances it is highly unlikely that even the most skilful lawyer would be able to save his client or influence the outcome of the trial. Cheng Kejie reportedly had appointed one of Beijing's top ten lawyers but this didn't help him much. It seems likely that the emphasis on legal procedures in his case was more for show and that the outcome was decided long before the trial took place. Other more political forces are at play and trumps legal procedures and the abilities of the legal defence.

⁷⁹ A lawyer appointed by the court should be assigned 'no later than 10 days' before the trial, which means that he or she has little time to meet with the client and prepare the defence.

⁸⁰ Legal aid is still in its infancy in China. According to interviews with Chinese lawyers, law firms are expected to handle a certain number of criminal cases per year at a nominal fee or for free, presumably including death penalty cases. In view of all the problems pertaining to legal assistance in China, it is a bit ironic to say the least to read the Chinese critique of the death penalty in the US. The Chinese authorities among other things criticise the fact that people sentenced to death in the US have to rely on public defenders. The death penalty system in the US is described as extremely arbitrary and targeted against poor people. The fact that mentally retarded persons and juveniles have been sentenced to death is also deplored. (China has ratified the Convention on the Rights of the Child, which the US has not, and domestic law stipulates that young people below the age of 18 shall not be sentenced to death. While we have no reports of death sentences and executions of juveniles in China except for a few cases where the age of the defendants have been unclear, it is quite likely that mentally retarded people have been sentenced to death. There furthermore exist no legal stipulations that explicitly forbid this, on top of which mental care is very undeveloped in China.) The Chinese critique also draws attention to cases of miscarriages of justice in death penalty cases in the US. In this context the study presented by scholars at Columbia University last year, according to which 68 per cent of all death penalty cases had been erroneously judged, is also cited. I suspect that miscarriages of justice are even more common in China than they are in the US. For the Chinese critique of the US, see for example 'US Human Rights Record in 2000' published by the Information Office of China's State Council on 27 February 2001.

⁸¹ Although the new CPL stipulates earlier access to lawyers in the legal process there are great difficulties of legal enforcement of this. The NPC Standing Committee last year addressed this particular problem in its study of the implementation of the CPL.

The death penalty is also frequently used against ethnic minorities and so-called separatists.⁸² Separatism in Tibet and Xinjiang is cracked down upon harshly. There are many cases of executions reported in Xinjiang in particular. In 1996 42 people in Tibet and 160 in Xinjiang were given the death penalty on charges of separatism; that year separatism was one of the crimes especially targeted in the anti-crime campaign. In 1997 ca 50 people were executed for separatism in Xinjiang and in 1998 some 30 people. In 1999 at least 38, possibly 92, people were sentenced to death for separatism in Xinjiang. During last year the media reported at least 11 death sentences for separatism in Xinjiang.⁸³

Anti-Crime Campaigns in 2000

Last year saw several different anti-crime campaigns that sometimes overlapped in time. These campaigns targeted very different crimes so that the propaganda work surrounding them therefore also sometimes was configured in different ways.

In April 2000, China launched a six-month campaign to crackdown on the production and trafficking of counterfeit currencies.⁸⁴ The production of counterfeit banknotes has become a serious problem in China and most retail outlets use ultraviolet scanners to identify fake money. Counterfeiting is seen as harmful to the economic development of the country. The criminal law (article 170) stipulates a term of imprisonment of at least ten years, life or death for bosses of forgery gangs and those caught dealing in large amounts of money or involved in other especially serious circumstances. The majority of counterfeit notes are printed in Fujian and Guangdong, but there is also smuggling of counterfeit money going on from Taiwan and Hong Kong to the mainland. This campaign has therefore been concentrated to the coastal areas in Southeast China. All death sentences that I have seen reported during the year have been handed down in Guangdong. There have been few reported death sentences for counterfeiting during previous years. In 1999, for example, only two death sentences and one suspended death sentence were reported in the media. But last year at least 13 such cases were reported in the Chinese media.⁸⁵ As always we have to be careful when interpreting these figures. Is there really an increase in the number of death sentences in absolute numbers or in relative numbers over previous years, or is it just the case that death sentences for this crime has received more attention in the media during the campaign?

⁸² I have not even attempted to try to look at differences between minority areas and other parts of China when it comes to death penalty cases. It would be interesting to compare death penalty figures between different provinces and minority areas and relate their numbers to crime rates in general. It would also be important to try and see whether there are any differences in judgements in death penalty cases for the same types of crimes. Such differences, if they exist, can of course also be due to lack of qualified judges and lawyers in poorer areas.

⁸³ I haven't had access to any newspapers in Xinjiang and it is very likely that these types of reports are kept rather local. It is important to frighten people there by reporting on these death sentences but reports elsewhere are not that important, and could even have a counterproductive effect.

⁸⁴ See generally Shao Zongwei, 'Forgers executed after crackdown' 11 August 2000 China Daily.

⁸⁵ Here it should be noted that two of the cases reported in the media in 1999 were also reported in the media in 2000 when the Guangdong High People's Court upheld the ruling of the first instance. In some other cases I have recorded for 2000 the ruling of the first instance had also been handed down already in 1999. But it was only in 2000, after the SPC approved of the ruling and the execution was carried out, that these death sentences and executions were reported in the media. One man was sentenced before the campaign began and seven others during the campaign. In fact, of the cases I have seen reported in 2000, and where these details have been provided, none of the people sentenced to death were arrested during the campaign itself but much earlier. This tells us not so much about the actual results of the campaign but how the media and propaganda departments select cases to report and, possibly, how trials and even more so executions are scheduled to take place during campaigns. Those who are arrested during the campaign will only be brought to trial at a later date. Some counterfeit cases can be found in the collection of rulings (*caipan wenshu*) on the *Renmin fayuan bao* homepage at www.rmfb.com See the legal announcements nos 20, 21, and 181, 2000, and no 5, 2001.

The first reports of death sentences and executions for counterfeiting in the media known to me came on 5 July.⁸⁶ The biggest case reported during the year was a case involving 12 people, seven of who were sentenced to death by the Shanwei Intermediate People's Court on 22 September.⁸⁷ Those sentenced had printed money to a value of 6.4 million yuan and were arrested in December 1999, and January and March 2000, respectively, i.e. before the campaign began. The defendants appealed but the Guangdong High People's Court upheld the ruling on 20 December. On 6 January 2001 the SPC reviewed and approved of the sentences, and two days later the executions were carried out. On 8 January a public mass rally attended by close to 10,000 people was held during which the sentences were announced, and after the rally the men sentenced to death were led away and immediately executed. The trial and the execution were not only reported quite extensively in the news media but also discussed in the popular television program 'Today's Law,' broadcast on CCTV. The program discussed the case on one of its shows in October, and on 5 March followed up with news of the SPC's ruling and the executions.⁸⁸

While it is too early in the day to say something about either the result of the campaign or the total number of death sentences reported in the media, some general information on the campaign has been reported in the media. Statistics from the Ministry of Public Security thus indicate that in the first month of the campaign alone police uncovered 1,800 cases of counterfeiting.⁸⁹ The police in Guangdong province for its part reported that it had cracked 802 cases of counterfeiting currency and revealed eight underground factories during the campaign.⁹⁰

In April a four-month long campaign to crack down on abduction and trafficking of women and children also began. This crime has become a major concern in China in recent years. Trafficking in women and children is an age-old problem in China but the effects of the one-child policy and the traditional preference for boys over girls are making themselves increasingly felt in society. Boys are kidnapped and sold to families without children or desperate to have a son. Children are also sold for labour purposes although the exact extent of this problem is not known. Young girls and women are sold into prostitution or into forced marriages. In many areas of China there is a lack of young marriageable women due to a serious imbalance in the sex ratio. Most of the abducted women come from poor provinces such as Yunnan, Guangxi and Sichuan, and are sold to rich provinces such as Jiangsu, Zhejiang, and Guangdong, but also into poorer areas where there is a lack of women such as Shanxi, Inner Mongolia, and other provinces. Some Chinese women are trafficked to other countries in Asia but also to countries in the West such as the US, Australia and Canada. There are also women being trafficked into China from Burma, Laos, Vietnam and North Korea.

⁸⁶ See Xinhua news report 5 July, 2000, transcribed and translated in BBC SWB.

⁸⁷ Extensive information on the case can be found in legal announcement no 5, 2001, at www.rmfb.com

⁸⁸ See 'Jinri shuo fa' 5 March, 2001. The script of the program is found on the web page of *Zhongguo jiancha ribao*. In early December I saw on the news reports on another case where two men had been sentenced to death and one to a suspended death sentence, sentences that had been approved by the Guangdong High People's Court. I didn't have time to write down the names of the defendants so I'm not sure whether this could have been the same case reported in July or another case.

⁸⁹ See Shao Zongwei, 'Forgers executed after crackdown' 11 August 2000, China Daily.

⁹⁰ See report in *Zhongguo jiancha ribao*, 14 February 2001.

With a growing problem of trafficking in women and children since the early 1980s there has also followed harsher punishments for these offences.⁹¹ According to article 141 of the 1979 criminal law, those who abducted and sold people were to be sentenced to not more than five years, or when the circumstances were serious to not less than five years. But a decision adopted by the Standing Committee of the NPC in 1983 increased the maximum punishment to death for ringleaders of groups that abducted and sold people and for those who abducted and sold people in especially serious circumstances. This was followed by some specific explanations on the crime of human trafficking in 1984. During the 1983 strike-hard campaign the crime of trafficking in women and children was one of the crimes targeted. But while the campaign led to several arrests and executions it didn't put a stop to the crime. In the second half of 1985 an increase in abduction and trafficking in women and children was reported from many provinces.⁹² And in the first half of 1986 the PSB reported a twofold increase of that crime nation wide compared with the previous year. This resulted in a new crack down being announced on 27 November that year. In September 1991, the standing committee then adopted a Decision on the Strict Punishment of Criminals who Abduct, Sell and Kidnap Women and Children that provided more detailed stipulations regarding the crime. It was now stipulated that a death sentence could be imposed on those leading a group that abducts and trades women and children, those abducting and selling three or more women and children, those raping an abducted woman, those inducing or forcing women into prostitution, those selling abducted women to others for prostitution, those selling women and children outside the territory, and those using force, threats or narcotics on women and children in order to sell them to others. These provisions were more or less kept in the revised criminal law adopted in 1996 (article 240), which also added the specific crime of stealing a baby or infant for the purpose of selling the victim. The minimum punishment for all these crimes is set at 10 years and where the circumstances are especially serious a death sentence can be meted out. The Law on the Protection of Women's Rights and Interests adopted in 1992 also addressed the issued of trafficking in women. Despite the harsh punishments meted out and extensive educational and propaganda work over the years, trafficking in women and children continue on a wide-scale in China. Although the official policy is that this crime shall be punished sternly, including with death, some legal scholars nevertheless argue against imposing the death penalty for this crime.⁹³

In 1994 at least 16 people were sentenced to death for selling women and children.⁹⁴ The following year the Chinese authorities launched a new crack down on trafficking in women and children that resulted in a marked increase in the number of death sentences reported. During 1995 at least 89 people were sentenced to death for illegal trafficking of children and women, and there were also many reports of mass sentencing rallies in various parts of the country.⁹⁵ In 1996 when the anti-crime campaign shifted the media attention to many other crimes instead, there were nevertheless reports of at least 57 death sentences in the media. In 1997 this figure had dropped to only six cases, but whether this also reflected a decrease in this type of crime is difficult to say. The Chinese authorities have in any event later argued

⁹¹ For a general discussion of this crime, the reasons behind it and legal stipulations, see Chu Kuizhi, *Liu hai zhili lun* [On bringing the six evils under control] Beijing: Zhongguo jiancha chubanshe, 1996, pp. 146-218.

⁹² For information on these figures and of the resulting crack down in 1986, see Zui gao renmin fayuan, Zui gao jianchuyuan, Gongan bu, Minzheng bu, Sifa bu, Quan guo fulian, '*Guanyu jianjue daji guaimai funü, ertong fanzui huodong de tongzhi*' [A notice on the stern crack down on the criminal activities of abducting and selling women and children] 27 November, 1986. Reprinted in ZHFL (1994), pp. 327-329.

⁹³ See for example Zhang Wen and Liu Yanhong (2000), No. 2, p. 68.

⁹⁴ This figure is calculated on the basis of Amnesty International's death penalty log for 1994, ASA 17/33/94 and ASA 17/17/95.

⁹⁵ Amnesty International ASA 17/104/95.

that since 1997 there has been an increase in the number of abductions. In 1998 AI reported 39 death sentences for abduction of women and children. The biggest case involved 50 people who were found guilty of kidnapping 110 women and two children. Seven people were sentenced to death in a trial held in September by the Fujian High People's Court.⁹⁶ Beginning in June 1999, 16 provinces, including Hebei, Shandong, Henan, and Shanxi, engaged in a campaign to rescue abducted women and children. The police reportedly cracked 920 cases, arrested 2,039 suspects and rescued 934 women and children.⁹⁷ I have no information on how many were sentenced for this crime around the country or what their sentences were. The SPC work report do however say that of those sentenced for abduction 77 per cent received harsh punishments, supposedly meaning 10 years and above.⁹⁸ In 1999 at least 21 people were sentenced to death for abducting and selling children and women. There were also reports of several mass rallies during the year. On 27 May the Shandong Province High People's Court held a press conference to announce the sentences in a case of abduction and sale of children; two men were sentenced to death and one of them was executed following the press conference. Six people were executed in Taiyuan, Shanxi, on 4 December following a public trial attended by 10,000 people. The men on trial had tricked 65 women at job markets in Yunnan, Guizhou and Sichuan provinces and sold them for between 3,000 yuan and 6,000 yuan as wives for farmers in Loushan and Jingle counties in Shanxi.⁹⁹ This could very well have been an act in preparation of the nation wide campaign against trafficking in women and children that was launched the following year, or a test case to assess the level of people's indignation over these crimes.

Last year's nation wide campaign was announced on 20 March. According to Bai Jingfu, vice-minister of public security, abductions of women and children had greatly increased since 1997, a reason for launching the campaign. 7, 257 such cases were reported to police organs in 1999, 11.4 per cent more than in 1998.¹⁰⁰ And a total of 6,802 women and 1,662 children were reported to have been abducted or missing.¹⁰¹ During the campaign, the public security ministry set up a nation wide DNA database with detailed information on criminals, suspects and abducted people, earlier in March it had set up a special hotline on abduction. A notice that outlined the campaign was issued on 20 March by the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, the Ministry of Civil Affairs, the Ministry of Justice, and the All China Women's Federation.¹⁰² The reasons given for the campaign was that there had been a rise in the kidnapping and selling of women and children of late. This was said to infringe upon the rights and interests of women and children, and to break up families and thereby threaten the stability of society. It was repeatedly emphasised throughout the campaign that human trafficking was not only a crime that hurt women and children but also constituted a threat to social stability. It was also described as an offence that no socialist society should allow to exist. The notice outlined in general terms the responsibilities of the different departments concerned and gave guidelines for their work.

⁹⁶ The case was reported in the Legal Daily. It was also reported abroad, see 'Seven condemned in biggest slave trade case' 9 September 1998, SCMP.

⁹⁷ This is reported in the section on police work in *2000 Zhongguo falü nianjian* p. 183.

⁹⁸ *Ibid* p. 29.

⁹⁹ The case was reported in Legal Daily December 12, 1999, see ASA 17/49/00.

¹⁰⁰ See Xinhua news report, 20 March 2000, translated in BBC SWB. The same figures were given in *2000 Zhongguo falü nianjian* p. 1217.

¹⁰¹ See Jia Hepeng, 'Fighting trafficking of children.' China Daily, 1 April, 2000.

¹⁰² See Zui gao renmin fayuan, Zui gao renmin jianchayuan, Gongan bu, Minzheng bu, Sifa bu, Zhonghua quan guo funü lianhehui, 'Guanyu daji guaimai funü ertong fanzui you guan wenti de tongzhi.' [A notice regarding the issue of cracking down upon the crime of kidnapping and selling women and children.] General Notice No 26, 2000, March 20, reprinted in *Xingshi shenpan cankao* [Reference to criminal trial], No. 3, 2000, pp. 78-83,

The legal departments were admonished to solve cases in accordance to the law. The police should be swift in their arrests, not permit illegal methods and torture of suspects, hand over the cases to the procuratorate within the time limits stipulated by the CPL, etc. Lenient punishments were promised to those criminals who confessed their crimes and turned themselves in to the police. Much stress during the campaign has been put on propaganda work. The different departments were thus to set up special offices to deal with this crime and use radio, television, newspapers and even the web to publish their work. In remote and poor areas that didn't have access to television propaganda work was instead to take the form of holding meetings and distributing pamphlets. The departments concerned were recommended to publish specially selected cases of the crackdown of these criminals and successful stories where women and children had been rescued and united with their families. Midway in the campaign, on 26 May, a televised meeting with Luo Gan, secretary of the Central Political Science and Law Committee, and Jia Chunwang, Minister of Public Security was held, at which the results thus far were summed up.

Already on 29 March, on the eve of the campaign, there was a report in the media, the first to my knowledge that year, of a crack down on a case of abduction of women.¹⁰³ It is rather common that a case is highlighted in the media before the campaign actually begins in order to prepare the public for it. The case involved a gang responsible for having abducted and sold 17 women and 35 children in Yunnan province over the past three years. It was reported that the police had arrested two members of the gang as they tried to sell abducted boys in Guizhou in early March. The gang bought women and children for 200-500 yuan each and sold them for 5,000-8,500 each in Guangdong, Fujian, Jiangsu and Anhui.

The campaign has been very visible in the media during the year. There have been several articles focusing not only on the crime and the criminals but also on the fate of these children and women. The reporting has been quite emotional at times. Some articles have also dealt with the problematic issue of what happens to these women once they have been rescued. In many cases they have already been raped, forced to prostitute themselves, sold into marriage, and sometimes even given birth to children. How will they be reintegrated into their family and society when their past experiences makes them ostracised? The notice issued on 20 March only dealt with these problems in very general terms and supposedly this work would fall on the shoulders of the ACWF.¹⁰⁴ The state media tended to focus more on the rescuing itself and the happy ending of families being united, than on any remaining and lingering problems. But in an interesting article entitled 'Have they really been saved?' *Nanfang zhoubao* on 21 April discussed the more problematic issue of what happens to women who have worked as prostitutes or been forced into marriage when they return to their poor home villages. The article even suggested that some of the women seemed not all that happy and grateful at having been rescued, but would rather have stayed where they were despite everything. It also raised the problematic issue of what would happen to the children who had been born in these forced marriages. The article also addressed the fact that in some cases women who had themselves been sold into prostitution later had become active participants in gangs luring other women into prostitution; perhaps somewhat surprisingly the masterminds behind this type of crime are not always men. Another interesting feature of the article is that it expressed some uneasiness about the propaganda blitz these young women were exposed to during the campaign when journalists were throwing themselves over them in order to get

¹⁰³ See Xinhua news report 29 March 2000, translated in BBC SWB.

¹⁰⁴ I would assume that the organisation's own newspaper, *Zhongguo funü bao*, would have carried many articles on the topic of abduction during the campaign but I haven't had time to look at it thus far.

interviews.¹⁰⁵ This campaign and the media reporting around it indeed reveal that the police, Party propaganda departments and journalists are working closely together when selecting cases and publishing stories in the media. In many cases groups of journalists have been invited by the police to visit sites and areas where trafficking is particularly problematic, and interviews with suitable victims and heroic policemen have also been arranged.¹⁰⁶

Another slightly different approach than the standard one found in the media on the problem of abduction and trafficking of children was taken in the popular television program ‘*Shihua shishuo*’, Honest Talk, in one of its shows in late April.¹⁰⁷ The program not only recounted the horrors of those families whose children had been abducted, but also gave those families who had bought a child the opportunity to tell their story. The buying of children is a criminal offence but the program didn’t vilify these buyers but instead expressed some understanding of the pain of childlessness. A couple who had bought a child was for example shown as caring deeply for the boy.

This campaign could more easily than the other campaigns play on people’s emotions, such as a general sympathy for the children and women who had been abducted and sold, and fears of having one’s own child abducted. But as during other campaigns this one also focused on the criminals and their punishments. In April and May the first reports came in from various parts of the country on arrests of human traffickers as the police were eager to show some results. In one such report a captured trafficker was quoted as full of remorse having said that ‘to shoot me ten times over would not be considered excessive.’¹⁰⁸ The first report of a death sentence during the campaign came already on 14 April, two weeks into the campaign.¹⁰⁹ A peasant from Guizhou was sentenced to death by a local court in Jiangsu for having kidnapped and raped five women in Guizhou and then sold them in Anhui and Jiangsu. The alleged crimes had taken place between March 1998 and June 1999, and he had been arrested in June 1999. Then on 26 April, the SPC reported the executions of four men in different cases in Yunnan, Shanxi and Jiangsu.¹¹⁰ And on 10 May it reported the execution of another four men.¹¹¹ What is interesting is that there were executions so early in the campaign. In cases where the alleged crimes are mentioned at all we can see that they in many cases had been committed before 1998, and although it doesn’t necessarily follow that the arrests also took place around the time of the latest criminal act, it is very likely in most cases. In other words, before the campaign even had started some work behind the scenes had been going on, and the police and the legal departments had already prepared some cases to show off to the

¹⁰⁵ In the particular case reported on in the article the police was said to have tried to shelter the girls but the journalist who wrote this article was herself/himself in any event allowed to accompany the girls when they were brought home. From other reports it also becomes obvious that the police have arranged for journalists to meet with the girls and women in question.

¹⁰⁶ The five articles carried by *Renmin ribao* on 10 May 2000 give a particularly clear example of this joint effort on the part of the various departments. Although the newspaper had carried some individual articles on the campaign before that date it was the first time so much space was devoted to it. A total of five articles were published that day.

¹⁰⁷ I watched the show in Beijing but cannot quite recall which Sunday it was.

¹⁰⁸ Quoted in ‘Nei menggu da guai di yi an’ [The first case of cracking down on abduction in Inner Mongolia] 10 May 2000, *Renmin ribao*.

¹⁰⁹ The case was reported by the Ministry of Public Security, see Xinhua news agency, 14 April, 2000, translated in BBC SWB.

¹¹⁰ See Xinhua news report, 26 April, 2000, translated in BBC SWB, and ‘Death for selling children’ 27 April, 2000, SCMP.

¹¹¹ See *Renmin ribao* 11 May, 2000. Then on 30 May the SPC announced the execution of a five more men in different cases in several provinces. The executions were in other words scheduled to take place on the same day for maximum effect. See report in See *Renmin ribao* 31 May, 2000.

public. It might even be the case that the trials and executions had been put on hold in anticipation of the campaign. (I have no idea when the decision to launch the campaign was made.) The rapid executions could of course in some cases have been due to the fact that the legal process had been speeded up.

I have recorded at least 26 death sentences and executions during last year, including four executions that took place in mid-January and where the first level rulings must have been meted out the previous year. Then in February this year another three people were sentenced to death for this crime; according to the news report the case had been cracked during last year. Since I base myself on a far more limited selection of sources than does Amnesty International, it is highly likely that the number of death sentences reported in the media last year as a consequence of the campaign will surpass those reported during previous years. Whether or not they will be as high as in 1995 is difficult to know, and, to repeat myself, we have no way of knowing the absolute numbers or whether, which is very likely, more death sentences were handed down last year due to the campaign.

The campaign has been heralded as a great success. It was reported that as a result of the campaign more than 110,000 women and 13,000 children nation wide had been saved and returned to their families. Compare this figure with the total of 934 for 1999. Hunan province reported that police there between April and July cracked 3,264 abduction cases, and rescued 20,996 abducted women and 2,762 children.¹¹² While Guangdong province reported that they had rescued 4,930 women and 1,074 children.¹¹³ By the end of June, the Shanghai police reported that it had arrested 70 criminals who had been engaged in kidnapping and selling of women and children, and that they had rescued 51 women and 68 children.¹¹⁴ Guangxi province reported that courts in the province last year had handled 1,497 cases where women and children had been hurt, an increase of 22,50 per cent over 1999, and sentenced 2,083 people.¹¹⁵ (There was no mentioning of how many of these cases pertained to abduction and trafficking in women and children.) Figures from the SPC's work report, as reported in *Renmin gongan bao*, reveal that a total of 11,048 people were sentenced for trafficking in women and children in the country during 2000, but not details of their sentences were given.¹¹⁶

To mark the end of the campaign an award ceremony was held in September.¹¹⁷ On 14 September, the Ministry of Public Security held a national teleconference to sum up the experiences of the campaign and commend public security organs for their struggle in cracking down on the abduction and sale of children and women. Fifteen provincial public security organs, including Jiangsu's Public Security Department, and 50 grass-roots public security organs, including the Chaoyang branch of the Beijing Municipality's Public Security Bureau, were commended. In his speech, Minister of Public Security Jia Chunwang pointed out that the struggle against human trafficking was far from over. 'Although we have achieved outstanding results and reached the projected objectives in this special struggle, the struggle to crack down on the abduction and sale of women and children is far from over. Public security organs at all levels must earnestly sum up the experience of the strike at the abduction and sale of women and children and establish as soon as possible a new daily work

¹¹² See *Hunan ribao*, November 23, translated in BBC SWB.

¹¹³ See report in *Zhongguo jiancha ribao*, 14 February 2001.

¹¹⁴ See *Zhongguo xinwen she*, 24 June 2000, translated in BBC SWB.

¹¹⁵ Reported in *Renmin fayuan bao*, 27 February, 2001.

¹¹⁶ Figures provided in *Renmin gongan bao* 12 March, 2001, article reprinted in *Renmin fayuan bao*.

¹¹⁷ See Guo Nei, 'Campaign cracks down on human trafficking.' 16 September 2000, *China Daily*.

plan on cracking down on the crime. They should continue to work closely with relevant departments, arouse public interest, comprehensively deal with criminal activities of abducting and selling women and children, and continue to raise the efficiency and level of the struggle...'¹¹⁸

An anti-corruption campaign has been going on in China for some years now. Opinion polls reveal that corruption is high on the list of the public's concerns. The CCP also admits that corruption, bribery, embezzlement, and smuggling, have become endemic in society and within its own ranks, and that the fight against corruption is a struggle of life and death for the Party. If it loses the struggle against corruption it might lose both the people and the land, in this respect there are some hard lessons to be learned from Chinese history. 'Corruption has claimed far more dynasties in Chinese history than foreign aggression. While foreign aggression might serve to rally the whole nation, this endemic epidemic might eat away at the credibility of the authorities slowly and silently.'¹¹⁹ Corruption has therefore been a hot topic at the NPC's annual meetings during the last few years. Last year the fight against corruption figured prominently in both the speech of Xiao Yang, the president of the SPC, and in the work report of Zhu Rongji, with Zhu stressing that corrupt officials must be brought to justice.¹²⁰ Xiao Yang reported in his work report that 15,748 people were convicted on corruption-related charges in 1999, including two officials at provincial (ministerial) level, 65 cadres at prefectural (departmental) level, and 367 cadres at county (division) level.¹²¹ In 1999, Party disciplinary and supervisory departments across China in addition punished 132,447 officials. Punishment was meted out in 4,092 cases at county level, 327 at prefecture level and 17 at provincial level. This was less than in 1998, when the numbers were 158,000, 5,357, 410 and 12 respectively. We don't know the actual numbers of death sentences handed down for corruption, but Amnesty recorded a total of ca 100 death sentences for white-collar economic crimes, including corruption and embezzlement, for 1998. In 1999 economic crimes accounted for ca 90 of the 2,088 death sentences reported by Amnesty. Of these 90 circa 60 were for corruption and embezzlement.

Last year several high officials were brought to trial and sentenced to death. During previous years death sentences have only been meted out to lower-level officials, whereas higher-level officials have been protected from such a fate. One example is the case of Chen Xitong who in 1998 was sentenced to 16 years for a crime that could easily have rendered him the death penalty. High officials who receive harsh punishments have generally either been caught up in a power struggle with the dominant faction in the Party, as was the case with Chen Xitong, or lack powerful backing in Beijing, as was the case with Cheng Kejie. This state of affair must surely undermine people's belief in the Party's anti-corruption drive and it also reveals the arbitrariness of the use of the death penalty in corruption cases. Although some within the political leadership have been adamant that the death penalty shall be meted to more senior officials as well, others want to protect themselves and their peers. One cadre, a member of the Politburo Standing Committee, reportedly appealed to Jiang Zemin and Zhu Rongji to spare Cheng Kejie, but Jiang and Zhu were not persuaded.¹²² How to treat corrupt officials is definitely no easy question for the Party as it finds itself in a situation where it is 'damned if it does and damned if it doesn't.' In 1999 there were reportedly some dissatisfaction with the

¹¹⁸ See Xinhua news agency, 14 September 2000, BBC SWB.

¹¹⁹ Xi Mi, 'War against corruption key to security' 14 March 2000, China Daily.

¹²⁰ See Zhu Rongji's report 'Nation moves boldly forward' 6 March 2000, China Daily.

¹²¹ See work report in *Zhongguo falü nianjian 2000* Beijing: Falü chubanshe, 2000, English translation provided in BBC SWB on 19 March 2001.

¹²² Willy Wo-lap Lam, 'Clemency for top officials rejected' 22 September 2000, SCMP.

sentencing in the huge Zhanjiang smuggling case in which some 80 people were tried and sentenced, including four who were sentenced to death, as the local party secretary Chen Tongqing was spared the death penalty. According to some sources Chen was originally to have received a death sentence but due to lobbying on his behalf from powerful patrons he instead received a suspended death sentence.¹²³ Some analysts see the treatment and harsh punishment meted out against Hu Changqing and Cheng Kejie last year as a response to those who criticised the lenient treatment of Chen Tongqing.

Last year saw unprecedented death sentences being handed down to a former deputy governor and a former vice-chairman of the Standing Committee of the NPC. Hu Changqing, former deputy governor of Jiangxi Province, was executed while the NPC was in session last year. He was sentenced to death for bribery in February accused of having pocketed more than 5 million yuan in bribes between 1995 and 1998. The most senior official to be executed last year was Cheng Kejie, former vice-chairman of the NPC's Standing Committee. Chen was dismissed from his post on 25 April and arrested the day after when the Supreme People's Procuratorate began investigating his case. (In cases involving bribes worth over 500,000 yuan, and in particular when the suspect is an official above county level, the Supreme People's Procuratorate will oversee the investigation and charging of the suspect. If cadres at the level of vice-minister or vice-governor are implicated in a corruption scandal, investigation can in addition only go ahead after permission from the Party's Central Commission for Disciplinary Inspection and the politburo.) Open hearings on his case were held on July 13-14 at the No 1 Intermediate People's Court of Beijing and a verdict was announced on 31 July. After the Beijing High People's Court and the SPC had upheld the ruling in his case he was executed on 14 September. The executions of Hu and Chen were said to be 'testimony that in socialist China no one is above the law.' It was also claimed that in cases of severe corruption such as these 'only the death penalty would be sufficient to uphold national law, satisfy popular indignation, rectify Party work ethics and fight against corruption.'

Corruption cases got ample media coverage during the year and in some cases trials were open to the public or else shown in some detail on television. But since corruption among high level officials is a particularly sensitive issue, these trials and the degree to which they are publicised are carefully orchestrated and planned for maximum effect. Important trials are generally proceeded and followed by carefully prepared reports in the media detailing the nature of the crime in question, and explaining the reasons behind and correctness of the ruling. This has been very evident in how the cases of Hu Changqing and Cheng Kejie have been presented and discussed in the media. In other cases, such as the Xiamen case, information has not been so forthcoming. In this case there was initially a news blackout until the first trials were held in November. More than 200 people have been implicated in the many cases that have been tried at several courts in Fujian in several rounds. In the first round of trials in November eleven people were sentenced to death, and in the next round of trials in February another four people were sentenced to death.

The state's propaganda on corruption cases and death sentences handed down are aiming both at the general public and at party-member cadres. Newspaper reports and news items on television naturally reach a quite broad audience and have a wide impact. The cases of Hu and Cheng have been held up to the general public as examples that show that high-level officials and senior Party members are not exempted from harsh punishments and that the Party is

¹²³ This is reported in Willy Wo-Lap Lam, 'Heavyweights grapple with corruption' 23 February 2000, SCMP.

serious about its anti-corruption campaign. This is an attempt to strengthen people's belief in the Party and its policies. In the case of party-member cadres these two cases are instead intended to serve as negative examples and a warning to those who are corrupt. During the year the Central Commission for Discipline Inspection has thus been running a 'warning education (*jingshi jiaoyu*)' in which these two negative examples and the threat of being sentenced to death have played an important role.

Hu's and Cheng's cases were given ample media coverage and glimpses from their trials were shown on prime-time television. In the case of Hu Changqing, more than 1,000 citizens and journalists were also allowed to attend the two-day court hearing. In both cases the handing down of a death sentence was defended as just and necessary. It is obvious that the major reason for these death sentences is not to be found in the seriousness of the crime itself but that they are believed to frighten others and 'satisfy the masses.' This becomes clear when reading the comments in the People's Daily on these two cases. In an article entitled 'Govern the country according to law, severely punish corruption' published on 9 March, Hu's sentence was commented upon in the following way. 'A criminal who has committed such very serious crime must be put to death in order to uphold national law and satisfy popular indignation and in order to rectify Party work ethics and fight against corruption; no less penalty will suffice.' While an article on Cheng Kejie's case published on 15 August entitled 'The alarm bell rings long for severe punishment of corruption' describe his death sentence as a way to bolster people's confidence in the party. 'The execution of Cheng Kejie shows that the party and state are further intensifying the punishment of corruption in accordance with the law, and is a major victory for justice and the rule of law. This is bound to further strengthen the confidence of the party members and cadres and the masses in the struggle against corruption.' The wider political ramifications of these cases were also made explicit in the wordings of Cheng's verdict announced on 31 July. 'The amount of bribes Cheng took was extremely huge...[T]he crime he committed in the capacity of a senior leading official has seriously violated the normal working order of government institutions, tarnished the clean and honest image of government functionaries, discredited the fine reputation of government officials, and thus should be harshly dealt with in accordance with the law.'

These two death sentences were meant to constitute a warning to other officials and were made into showcases in the Party's propaganda work. The very title of the article describing Cheng Kejie's case reveals this: 'The alarm bell rings long for severe punishment of corruption.' The article on Hu's case also reveals that his case was meant as warning to other corrupt officials. 'The severe punishment of Hu Changqing according to law is an alert for the leading cadres, a warning to those who refuse to come to their senses, and an encouragement and stimulus for the masses. It tells people that in socialist China there are no privileged citizens in the face of the law and no privileged citizens in the face of party discipline. No matter how high your position or how great your power, you cannot evade sanctions of the law if you violate the law.'

Many other corruption cases were also discussed in great detail with a special focus on the legality of the cases. China's different TV-stations have in recent years begun to broadcast a number of popular programs focussing on legal issues. This is a part of the general effort to promote legal education and strengthen people's awareness and support of new laws and legal campaigns. One of the most popular program is 'Today's Law' shown on CCTV. The program has been running since 1999. Other programs such as 'Focus' and 'Honest talk' also take up and discuss issues pertaining to law and crime. On 3 March this year 'Today's Law', in the general spirit of summing up major events in 2000, thus focused on one recent

corruption case.¹²⁴ It selected the case of Xiao Zuoxin, former mayor of Fuyang city, Anhui, and his wife Zhou Jimei, who were convicted for accepting bribes of 1,1 million yuan and HK \$ 50 000 in cash. On 29 November last year the Hefei Intermediate People's Court sentenced Xiao to life and his wife to a suspended death sentence. The Hefei Procuratorate was not satisfied with the outcome of the trial but lodged a protest to the Anhui High People's Court, protesting that Zhou's sentence was too light. (I don't know the result of this protest.) In the program the crime of husband and wife was described in great detail. There were interviews with both Xiao himself and those involved in the legal proceedings, and a professor of law from Beijing University was called in to explain the legal issues surrounding the crime and the sentence.

The frequent exposure of high-profile corruption cases in the media, including those involving high officials, reveals that the authorities want to be seen as being tough on corruption. This propaganda work has also resulted in special conferences and exhibitions on corruption and its consequences. The Beijing Municipal Committee of Political Science and Law thus arranged a special exhibition on economic crimes that ran from August 12 to September 20 at the city's exhibition hall.¹²⁵ The exhibition included an overview of Beijing's crack down on economic crimes and a description of 70 typical cases of recent years, including that of Cheng Kejie, etc. Videotapes of court hearings were also broadcast during the exhibition to the benefit of the visitors.

The message that corruption is to be dealt with severely was also spread and popularised through art and film during last year. The most striking example of this was the production and show of the film 'A life and death choice,' which cadres have been ordered to see as part of their political education. The film is based on a novel by Zhang Ping and was produced by the Shanghai Film Studio. It tells the story of Li Gaocheng, mayor of Haizhou City and a communist party member, who begins an investigation of economic crimes revolving around the Zhongyang textile plant. The plant is on the brink of bankruptcy despite having being granted extra funding, and the workers are complaining of irregularities during the restructuring of the plant. It turns out that the whole leadership of the factory is corrupt and has diverted money to set up other companies and more dubious establishments, such as a club that also functions as a brothel. To his great dismay Li discovers that his old colleagues and friends at the plant, and even his own wife, are involved in these corrupt activities. Despite this discovery Li makes the difficult 'choice of life and death' to carry out the fight against corruption as a good and responsible CCP member and cadre. Although the film is no artistic masterpiece, it manages to describe quite well the complex web of corruption, nepotism and *guanxi* that exist in today's Chinese society.¹²⁶ The message of the film is that the party and the state will perish if corruption is not dealt with. The fight against corruption, as the title of the film also suggests and as the CCP itself has acknowledged, is a life and death struggle for the Party. The central line of the film is the main character's vow that he 'would rather [be] ruined than watch corruption destroy my party and the country.' In the end the hero manages to crack the crime and bring the corrupt cadres to justice. The main culprit

¹²⁴ See Jinri shuo fa, 3 March, 2001. A full transcript of the program can be found on the homepage of *Zhongguo jiancha ribao*.

¹²⁵ See Xinhua, August 10, 00, BBC SWB.

¹²⁶ A touching and interesting detail of the film is that Li Gaocheng and his wife have a daughter who suffers from Downs Syndrome. The wife, who in the end is sentenced to three years, defends her accepting of gifts by arguing that she had to think about her daughter's future. The fate and treatment of handicapped children in China is well known and the mother's concern very real. One unintended result of the film, which has been seen by tens of millions of people, could hopefully be to improve the lot of and attitude towards handicapped children in China.

is sentenced to death and the others receive terms of imprisonment of various lengths. The stern attitude towards corruption is reflected in the words of another upright cadre that those who ‘deserve to be killed should be killed.’ The message of the film is clear: those who are corrupt will be dealt with sternly and the death penalty can be expected in the most serious cases.

Most of the viewers have seen the film through their work units and cadres and officials have been ordered to see it. In August, the Central Commission for Discipline Inspection, the Central Organisation Department, the Central Propaganda Department, and the State Administration of Radio, Film and Television thus issued a joint circular to promote the film among cadres and party members.¹²⁷ Discipline inspection commissions and the organisation and propaganda departments at all levels were ordered to organise shows of the film to party members and cadres, especially party and government leadership groups and leading cadres at and above county-level. After seeing the film, the grassroots party branches were requested to organise discussions on specific topics to enable party members and cadres ‘to fully understand the great significance of the action of the central authorities in ruling the party in strict fashion and launching the struggle against corruption.’ The administrative departments in charge of radio, film, television and culture were ‘urged to do a good job in publicising, distributing, and showing the film.’

Traditional art forms have also been employed in the struggle against corruption. A Beijing Opera entitled ‘Fighting against a corrupt imperial member’ has been shown in several provinces, including Zhejiang and Jiangsu.¹²⁸ The opera tells the story of Liu Tongxun, minister of the Board of Punishment in the Qianlong period. He has the courage to sentence Gao Heng, the brother of Emperor Qianlong’s mother, to death for embezzlement and insist on the execution to be carried out even though it’s a member of the imperial family who is implicated. The emperor later decides to revise the law and remove criminal absolution for imperial members. This story shall of course make one draw a parallel between the imperial family and the CCP, and the Party’s policy of not hesitating to execute its own members.

So what have then the results been of last year’s anti-corruption campaign? It was reported that a total of 1,199 bribery cases were investigated from January to November, compared with 837 in 1998 and 984 in 1999.¹²⁹ And towards the end of November, Party discipline inspection committees nation wide had disciplined a total of 136,161 officials, of which 4,146 were cadres at county level, 331 were cadres at prefectural level, and 21 were cadres at the provincial (ministerial) level or higher.¹³⁰ Procuratorial offices had filled 42,933 cases for investigation, including corruption, bribery and dereliction of duty, and there had been hearings on 15,724 cases involving corruption, bribes, and misuse of public funds. According to the work report of the SPC, 17,931 people were sentenced for corruption and bribery, of which 3 were cadres at the provincial (ministerial) level, 52 were cadres at the prefectural

¹²⁷ The document is entitled, ‘Demand for seriously organising viewing of the film ‘life and death choice’’ Xinhua news agency domestic service, 18 August 2000, translated by BBC SWB.

¹²⁸ The opera is mentioned in a Xinhua news report released on October 5, 2000, translated in BBC SWB.

¹²⁹ See ‘Anti-corruption campaign keeps its momentum’ 29 December 2000, China Daily.

¹³⁰ See Wei Jianxing’s work report entitled ‘Intensify efforts of tackling root cause and make earnest efforts to achieve new results in anti-corruption struggle’ presented at the 5th plenary session of the Central Commission for Discipline Inspection, 25 December 2000.

level and 350 were cadres at the county level.¹³¹ From the news reports I have at my disposal I have noted at least 36 death sentences for corruption and embezzlement.¹³²

Finally, some words on a campaign against criminal gangs or so-called underworld organisations (*hei shehui*) that was launched on 11 December last year but had been running for some time before that in various provinces.¹³³ The campaign is described as a special struggle to ‘strike at underworld organisations and eliminate evil forces (*da hei chu e*).’ The decision to launch the two-year (?) long crack down on criminal gangs and gangsters was announced by Jia Chunwang, Minister of Public Security, during a national video and teleconference on 11 December. Representatives of the various legal organs, such as the Supreme People’s Court, Supreme People’s Procuratorate, the Ministry of Justice, the CCP’s Legal Affairs Committee, as well as the CCP’s Propaganda Department took part at the meeting.¹³⁴ The launching of the campaign was accompanied by a notice issued by the concerned departments that outlined the main contents of the policy, and by a legal interpretation of the relevant articles in the criminal law issued by the SPC.¹³⁵

Criminal gangs are accused of being responsible for many different offences such as robbery, kidnapping, trafficking in narcotics, and smuggling that threaten the social order and economic development. A rise in this type of crime was used to justify the crack down, as was a concern with their links to criminal organisations outside of the country. From 1991 to 1995, police is said to have cracked down upon more than 70 groups with a total membership of 2.6 million. They were responsible for 1.9 million crimes, 39 per cent of all recorded crime.¹³⁶ A campaign against gang crimes was launched already in 1992 and they were also major targets during the 1996 anti-crime campaign and in many provinces during 1999.

At the teleconference Luo Gan commented on these earlier efforts to eradicate gangs and the failure to completely eliminate the problem. ‘For many years public security forces have taken underworld societies and other evil forces as the major targets of its many anti-crime campaigns. They have also managed to destroy some gangs and safeguard social stability. But for some reasons these evil forces have extended their power in some areas during the past few years.’¹³⁷ Gang crimes are felt to constitute a special challenge to the regime due to their powerful connections and widespread network.¹³⁸ The fight against criminal gangs is therefore seen as being closely related to the fight against corruption. Gangs are reported to have been

¹³¹ This is information from the work report, reported in *Renmin gongan bao* 12 March 2001, published in *Renmin fayuan bao*. At the time of this writing I have been unable to see the original reports myself.

¹³² In some cases the death sentences had been passed in 1999 but were then upheld by the SPC in 2000 after which the executions were carried out.

¹³³ There have been reports that the campaign began in December 1999 in Heilongjiang and in the last half of 1999 in Shandong. Whereas it was reported from Guangdong that in 1999 conducted a campaign between June and November that year. Then beginning in April and continuing during five months last year, Guangdong province was involved in a ‘two crack downs and one elimination’ campaign targeting criminal gangs, abduction of women and children, and pornography and drugs. During this period it cracked down on 209 criminal gangs. See report in *Zhongguo jiancha ribao*, 14 February 2001.

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¹³⁵ ‘Guanyu kaizhan ‘da hei chu e’ zhuan xian douzheng you guan went de tongzhi’ and ‘Zui gao renmin fayuan guanyu shenli hei shehui zingzhi zuzhi fanzui de anjian juti yingyong falü ruogan wenti de jieshi.’

¹³⁶ See Jasper Becker, ‘Police turn up the heat as criminal gangs take root’ 20 December 2000, SCMP.

¹³⁷ See *Renmin ribao*, 12 December 2000.

¹³⁸ For a description of ‘underworld societies’ see Xinhua report, ‘Experts discuss the basis for why it is necessary to link the ‘campaign to strike at underworld societies and eliminate evil forces’ with the campaign against corruption in order to thoroughly eliminate the evil power of underworld societies.’ Reprinted in *Zhongguo jianch ribao* 11 January 2001.

able to recruit both police officers and other officials to function as their ‘protective umbrellas’ (*baohusan*). The different legal organs and party organisations have been admonished to uncover these benefactors and punish them.

During this campaign the police and courts have been granted extensive powers and do not have to go through normal legal procedures when arresting suspects. The police for example have the right to investigate and punish gang members even if there is no direct evidence of their individual crimes. Luo Gan admonished the police to swiftly crack some big cases and arrest the leaders of these criminal gangs. There have also been several reports in the media describing trials as swift and meting out harsh sentences. This emphasis on swift and harsh punishments, although the phrase ‘in accordance with the law’ is usually attached, undermines provisions regarding the rights of the suspects stipulated in the revised CPL. The criminal law article 294 stipulates the crime of leading or taking part in an underworld-like organisation (*hei shehui zingzhi de zuzhi*) that organise criminal activities and use threats and violence. This can be punished by not less than three years but no more than 10 years. Those who in addition commit other criminal actions are punished in accordance with provisions for these crimes in the criminal law. People can thus only be sentenced to death if they in addition to being involved with a criminal gang also are guilty of some other criminal activities such as murder or robbery, etc.

There had been several reports in the media already before the campaign began about the growing menace of triads and criminal gangs, and in this context there had also been reports of executions and mass sentencing rallies. Five triad members were for example executed in Guangdong in late 1999 and early 2000. In a speech to the Guangdong People’s Congress on 21 January, Chen Shaoji, Director of Guangdong’s Public Security Department, described these executions as a deliberate warning and an effective way to deter violent crimes.¹³⁹ And at a public trial on 18 to 20 October the Kunming Intermediate People’s Court sentenced seven members of a criminal gang to death for crimes such as murder, robbery, robbery of guns and ammunitions, etc.¹⁴⁰ The crimes were committed between April 1997 and May 1998. On 17 November, a public sentencing rally was then held at which more than 20,000 people were present, after which the men were led away and executed. All provinces are engaged in this campaign and during the past few months reports have been flooding in from all over the country of police cracking down on gang crimes and arresting hundreds of people. In Sichuan alone it was reported that by mid-March 1,747 people had been arrested and 450 sentenced in connection with the campaign.¹⁴¹ Like during many other campaigns cases are reported in the media in the early stage of the campaign to illustrate the severity of the crimes as well as the police’s hard work in cracking down on this problem, to be followed by news of the trials and sentences.

Some cases have received ample coverage in the media and are being held up as especially good examples on what the authorities want to accomplish with the campaign. This time it has been to reveal the close connection between criminal gangs and some corrupt officials. In late January the Shenyang PSB thus reported that it had cracked down upon and arrested 45 members of a criminal gang.¹⁴² The main leaders of the gang had actually been arrested already in July last year but news of this case only seems to have been released in January.

¹³⁹ See Josephine Ma, ‘Guangdong triad executions intended to deliver a warning’ January 24, 2000, SCMP.

¹⁴⁰ See Xinhua, 25 October 2000, and Xinhua, 17 November 2000, BBC SWB.

¹⁴¹ See report in *Renmin gongan bao* 15 March, 2001, reprinted in *Zhongguo jiancha ribao*.

¹⁴² Xinhua report, ‘The big brother of a Shenyang underworld society has been caught’, *Zhongguo jiancha ribao* 31 January, 2001.

The gang was responsible for numerous violent acts but what was more alarming was that its leader, Liu Yong, had managed to become a delegate to the Shenyang People's Congress and also had had corrupt dealings with many of the city's officials. Another case is that of Zhang Wei of Wenling.¹⁴³ Zhang Wei was arrested already in 1999 but only put to trial in Ningpo in December last year. The verdict against him was not announced until 12 March this year when it was announced that he and an accomplice had been sentenced to death. Zhang was accused of having set up a criminal organisation and engaged in a number of cases of murder, extortion, and kidnapping between 1995 and 1998. Like Liu Yong, Zhang had also bribed officials, including the mayor and the police director in Ningpo. The mayor was sentenced to life and the police director to 14 years in prison, while other members of Zhang's gang received sentences ranging from fixed-term to life imprisonment.

Several conferences and work meetings have been held around the country during which the campaign is discussed and results reported. On 15 February the Guangdong Provincial High People's Court and High People's Procuratorate thus pledged their determination to crack down on gang related crimes at a meeting.¹⁴⁴ There have also been several reports from Sichuan where gang crimes seem to be particularly serious or the police especially conscientious in their crack down. On 25 February the Sichuan government made an announcement on its crack down on gangs in the province. Gang members were called upon to surrender themselves before May in return for a more lenient treatment, whereas those who didn't could expect severe treatment. 'For those who voluntarily give themselves up and confess their crimes, the judiciary will consider light sentences or even exemption according to the law.'¹⁴⁵ At the same day the police reported that they had cracked down upon a 20-member gang in Chengdu involved in controlling gambling dens and collecting protection money from businesses between 1998 and 2000. Henan province for its part reported that the police there had cracked down upon 376 gangs and arrested 2,225 suspects between December and late January.¹⁴⁶ An article in the People's Daily published on 21 February summed up the campaign thus far, reporting on cases from around the country and claiming that the campaign had shown some good and early results.¹⁴⁷ The article reiterated the view that the most frightening thing about criminal gangs was neither their violent activities nor their tight organisations, but their close relations to different governmental and judicial organs, exemplifying with the notorious Wenling case.

To my knowledge the first reports of death sentences in connection with the campaign came in early February. In one case reported from Nanjing, a 25-member gang was put to trial in the city on 2 February. The leader was sentenced to death on charges of leading the group and being guilty of intentional homicide, whereas the rest of the members got sentences ranging from three years to life.¹⁴⁸ In another case six men were sentenced to death in Nanchang on charges of intentional murder, robbery and kidnapping.¹⁴⁹ It is not clear when the verdict of the first instance was pronounced, but the Jiangsu High People's Court upheld the first instance's ruling on 5 February after which the men were immediately executed.

¹⁴³ See Wen Chihua, 'The Godfathers' 26 February, 2001, SCMP and Daniel Kwan, 'Untouchable triads to be executed' 14 March, 2001, SCMP. For the sentence see also *Renmin fayuan bao* 13 March, 2001.

¹⁴⁴ See Zheng Caixiong, 'Guangdong to crack down on gang crime' February 16, 2001, China Daily.

¹⁴⁵ 'Alleged crime boss held in lead-up to crack-down' February 27, 2001, SCMP.

¹⁴⁶ Reported in *Renmin gongan bao* and reprinted in *Zhongguo jiancha ribao* 20 February, 2001.

¹⁴⁷ 'The Chinese police are sternly striking down upon secret and evil forces' *Renmin ribao*, 21 February, 2001.

¹⁴⁸ See report in *Zhongguo jiancha ribao*, 2 February, 2001.

¹⁴⁹ Reported in *Zhongguo jiancha ribao* 6 February, 2001.

There have been several reports in the media of trials that have been accompanied by public rallies after which those sentenced to death immediately have been taken to the execution ground and executed. On 27 February the provincial government of Sichuan province and the Chengdu municipal government held a public rally to 'crack down on criminal gangs and eliminate evil' at the Provincial Sport Stadium in Chengdu at which more than 10,000 people of all walks of life took part. At the rally the chief judge of the Chengdu Intermediate People's Court announced the sentences of 9 members of a criminal gang, including 4 death sentences.¹⁵⁰ An on 28 February, also in Sichuan, 9 people sentenced to death on various charges of organising a criminal gang, intentional murder, robbery, kidnappings, drug-related crime, etc. were executed after a public rally.¹⁵¹ On 1 March it was reported that Xuchang Intermediate People's Court, Henan, held a public trial at which 21 criminal gang members were sentenced.¹⁵² Those who had been sentenced to death, no numbers were given, were afterwards taken to the execution ground and executed. It was said that the trial procedure had been swift and the sentences harsh.

There have thus already been quite a few death sentences and executions reported in the media, and there also seems to be more mass sentencing rallies taking place in connection with this campaign than during some of the others. The reporting and the campaign itself reflect how seriously the government sees this type of crime but it also plays on people's resentment over criminal gangs who terrorise and bully ordinary law-abiding citizens.

Conclusion

It is beyond doubt that the death penalty is being used as a tool of state repression in China. The way the death penalty is used and referred to in state policy and legal campaigns clearly reveals its coercive nature and the state's reliance upon it. Although a great many crimes according to the books carry the death penalty in 'serious circumstances,' a very vague criteria by itself, its uses seems to vary quite considerably due to other considerations. The repressive qualities of the death penalty is revealed by the fact that it is used more frequently or at least more openly during campaigns targeting certain types of crimes, and thereby also certain groups of individuals, and during certain periods of the year. Its coercive nature is further revealed by the way the media reports on selected death penalty cases and how the state in addition organises public mass rallies at which people sentenced to death are 'displayed.' These public displays and media reporting no doubt have a brutalising effect on the Chinese society that can only be detrimental to the relationship between the state and its citizens. It is quite obvious too that the increasing use and reliance on the death penalty have not managed to curb crime, and that crimes such as corruption clearly require other methods in order to be brought under control.

¹⁵⁰ Reported in *Fazhi ribao*, 28 February 2001.

¹⁵¹ See report by Xinhua, reported in *Zhonguo jiancha ribao*, 1 March, 2001.

¹⁵² See report in *Renmin fayuanbao* 1 March 2001.