

## The Death Penalty in Post-Mao China

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The People's Republic of China has come under strong international criticism recently over its use of the death penalty.<sup>1</sup> Capital punishment had a long history in China as a permanent fixture of the criminal justice system well before the establishment of the People's Republic in 1949. Today the death penalty is an integral part of the legal system and is meted out for a wide range of offences.

The topic reveals much about the attitude of China's leaders and the ordinary Chinese citizen towards the problems of crimes and dissent and the mixed blessings of the much heralded economic reforms of the post-Mao era. The ready use of capital punishment by the courts demonstrates the seriousness with which these issues are viewed. Most Chinese have a deep-rooted fear of lawlessness and chaos. China's citizens desire a strong government that maintains law and order and promptly and forcefully metes out severe punishment to law breakers.<sup>2</sup> Most Chinese probably approve of the executions of violent criminals.

While capital punishment in post-1949 China has been examined by scholars, coverage of the subject has been limited.<sup>3</sup> How does China rationalize her use of the death penalty? Which crimes are capital? How many people have been executed in post-Mao China?

1. Foreign governments, including those of the United States and the United Kingdom criticized China's use of capital punishment in 1989. Human rights groups such as Amnesty International have long expressed grave concern about the widespread use of the death penalty in post-Mao China. See, for example, Amnesty International, *The Death Penalty: Amnesty International Report* (London: Amnesty International Publications, 1979), pp. 72–78; Amnesty International, *China: Violations of Human Rights: Prisoners of Conscience and the Death Penalty in the People's Republic of China* (London: Amnesty International Publications, 1984), p. 1; and Amnesty International, *When the State Kills . . . the Death Penalty: a Human Rights Issue* (New York: Amnesty International Publications, 1989), pp. 121–23.

2. The results of a national survey conducted in early 1989 showed that personal safety (i.e. the threat of crime) is a serious worry for urban dwellers. Only inflation ranks higher on their list of top concerns. *Xinhua*, 10 May 1989 cited in Foreign Broadcast Information Service, *Daily Report: China* (hereafter *FBIS-CHI*) 16 May 1989, pp. 61–62.

3. Among the works dealing with the death penalty in the People's Republic are Jerome Alan Cohen, *The Criminal Process in the People's Republic of China, 1949–1963: An Introduction* (Cambridge, MA: Harvard University Press, 1968); Amnesty International, *China: Violations of Human Rights*; Stephen B. Davis, "The death penalty and legal reform in the PRC," *Journal of Chinese Law*, Vol. 1, No. 2 (1987), pp. 303–334; Andrew Scobell, "Strung up or shot down?: The death penalty in Hong Kong and China and implications for post-1997," *Case Western Reserve Journal of International Law*, Vol. 20, No. 1 (1988), pp. 147–167.

This research note will examine these questions and consider use of the death penalty in post-Mao China in a broader perspective.

*The Death Penalty in Chinese Tradition and Communist Theory*

The death penalty is one of pre-revolutionary China's "Five Punishments" (*wu xing*) that date from antiquity.<sup>4</sup> The penal codes of successive dynasties of imperial China contained numerous statutes stipulating harsh and precise punishments for hundreds of different offences. By the Yuan dynasty, there were three officially prescribed methods of execution: decapitation, strangulation and "death by slicing."<sup>5</sup>

Beyond the harshness and rigidity of these comprehensive penal codes, there existed a surprising degree of compassion and flexibility. While the Legalists advocated strict adherence to the letter of the law and strongly emphasized the deterrent value of punishment, this was tempered by the Confucianists who stressed the inherent goodness of man and his capacity for moral rehabilitation.<sup>6</sup> Thus, although Chinese dynastic legal system stressed the principle of "letting the punishment fit the crime," elements of "Confucian humanitarianism" were also present.<sup>7</sup> These humanitarian aspects were particularly evident in the administration of procedures concerning capital punishment. The death penalty was applied selectively and even then there were loopholes for the condemned through amnesties, clemencies, allowance for mitigating circumstances, and exceptions to uphold Confucian precepts of morality.<sup>8</sup>

Marx and Engels viewed the death penalty as a means of feudal and capitalist oppression, while Lenin saw it as an indispensable tool. Lenin stressed that the crucial question was against which class the death penalty would be used and he believed that no self-respecting revolutionary government should be without it.<sup>9</sup> While justifying the application of the death penalty by communist governments, China has criticized its application by "capitalist" and/or "racist" governments. In 1988, for example, a spokesman from the Ministry of Foreign Affairs in Beijing criticized the death sentences imposed on

4. Derk Bodde and Clarence Morris, *Law in Imperial China: Exemplified by 190 Ch'ing Dynasty Cases* (Philadelphia: University of Pennsylvania Press, 1967), pp. 76–77.

5. For the number of capital offences in different dynasties, see *ibid.* pp. 102–105. For methods of execution, see *ibid.* pp. 91–95.

6. *Ibid.* pp. 99–100, 495–500.

7. *Ibid.* pp. 495–500, also 41–43, 101–102.

8. *Ibid.* pp. 41–42, 45–48, 82–83, 130–143, and 533–540. See also the excerpt entitled "Seek to preserve life," from the "Tso-chih yao-yan" ("Precepts for Local Administrative Officials") by the celebrated Qing magistrate Wang Hui-tsu, translated in Sybille Van Der Sprenkel, *Legal Institutions in Manchu China: A Sociological Analysis* (London: University of London, Athlone Press, 1962), p. 140.

9. Wuhan daxue falü bianzhu (Wuhan University Law Department) (ed.), *Faxue zhishi shouce* (*Handbook of Legal Studies*) (Zhongzhou: Guji Chubanshe, 1986), pp. 216–17.

six blacks in South Africa as “unjust” (*bugongzheng*) and urged that the men be set free.<sup>10</sup>

Most communist states continue to use the death penalty thereby creating somewhat of a contradiction in communist legal codes which emphasize reform and re-education for criminals. In the Soviet Union, for example, after the Revolution capital punishment was first abolished, but has been reintroduced three times since then.<sup>11</sup> Although the Soviet government is formally committed to abolishing the death penalty, there are currently 18 capital offences on the books. Soviet authorities stress that capital punishment is not a regular feature of their legal system – a point that is reinforced by the fact that the regulations pertaining to it are kept distinctly separate from other punishment available under Soviet law.<sup>12</sup>

In Mao's China the death penalty was viewed as a short-term necessity. A 1957 Chinese legal textbook explained: “We are retaining the death penalty while in the process of gradually abolishing it, and we are reducing the scope of the application of the death penalty to a minimum.”<sup>13</sup> Maoists viewed the goals in punishing criminals as being three-fold: to “punish and reform” the criminal (“special prevention”), and to deter and educate both would-be criminals as well as the rest of the Chinese people (“general prevention”).<sup>14</sup> Mao saw capital punishment mainly as a tool to be used against counter-revolutionaries and stressed it be used cautiously in a limited number of cases.<sup>15</sup>

Capital punishment seems to have found a more permanent place in post-Mao China and is currently employed to counter a wide range of illegal activity. Deng Xiaoping told the Standing Committee of the Communist Party Political Bureau in January 1986: “The death penalty cannot be abolished, and some criminals must be sentenced to death.”<sup>16</sup> He said that some habitual criminals who “refuse” to repent “must be executed, but of course we have to be

10. “Woguo waijiaobu fayanren shuo: Nanfei dangju panjue bugongzheng, liuge wugu heiren gai shifang” (“Our foreign ministry spokesman says: The South African authorities' sentence is unjust, six innocent blacks should be set free”), *Renmin ribao-haiwaiban* (People's Daily-overseas edition), 26 November 1988, p. 1.

11. Amnesty International, *The Death Penalty*, pp. 130–39; and Amnesty International, “USSR: The death penalty debate,” November 1987 (AI Index 46/40/87).

12. See Leon Lipson, “Execution: Hallmark of ‘Socialist Legality,’” *Problems of Communism*, Vol. 11, No. 5 (1962), p. 23; and Amnesty International, “USSR: The death penalty debate,” pp. 1–2.

13. Teaching and Research Office for Criminal Law of the Central Political-Legal Cadre's School, (ed.), “Zhonghua Renmin Gongheguo xingfa zongze jiangyi” (“Lectures on the general principles of criminal law of the People's Republic of China”), translated in Cohen, *The Criminal Process*, p. 538.

14. *Ibid.* p. 81.

15. “Strike surely, accurately and relentlessly in suppressing counter-revolutionaries,” *Selected Works of Mao Tse-tung*, Vol. 5 (Beijing: Foreign Languages Press, 1977), pp. 53–56.

16. “Talk at a Meeting of the Standing Committee of the Political Bureau of the Central Committee (17 January 1986),” in Deng Xiaoping, *Fundamental Issues in Present-Day China* (Beijing: Foreign Languages Press, 1987), p. 137.

very careful in such matters.”<sup>17</sup> A 1984 article in *Renmin ribao* (*People's Daily*) observed that “foreign bourgeois ‘humanitarians’” claimed that China’s use of the death penalty was “inhumane.” Was it “humane,” asked the newspaper to let murderers “continue to kill good people?”<sup>18</sup>

Execution is an “indispensable means” through which to educate the masses, Deng said.<sup>19</sup> Yet the term “education” fails to capture adequately the full meaning of Deng’s remark: a more appropriate term is “general prevention” which includes the element of deterrence.<sup>20</sup> Deng accused the courts of being “too soft on criminals,” and he called for greater use of the death penalty against corrupt officials who cost the state large financial losses. Deng also called for the death penalty to be imposed on recidivists, managers of brothels, and those who prey on “people’s superstitions,” or who “organize reactionary secret societies.”<sup>21</sup>

While the emphasis is on noble aims and the humaneness of Chinese law,<sup>22</sup> a constant underlying theme that runs through Maoist and Dengist rationales is justification on the grounds of retribution—to appease the masses. Mao called for the perpetrators of the most serious crimes to be executed “so as to assuage the people’s anger.”<sup>23</sup> A 1957 handbook for cadres engaged in legal work states the death penalty should be employed in cases that have greatly “aroused” the anger of the masses—when “death alone can satisfy the people’s anger.”<sup>24</sup> A 1981 newspaper article reasoned that those who commit “heinous crimes” must be executed in order to appease the “people’s anger.”<sup>25</sup> A short 1984 article for foreign consumption argued that if “hardened criminals” were not executed, then the masses would be “outraged.”<sup>26</sup> In 1988 a member of one of China’s small “democratic parties” pressed the government to make an example of senior officials found guilty of illegal acts. The elderly intellectual urged the government to grasp the “fine traditions” from China’s feudal past,

17. *Ibid.* p. 138.

18. *Renmin ribao*, 18 January 1984 translated in *FBIS-CHI*, 23 January 1984, p. K7. However, there is at least acknowledgement that capital punishment is the subject of “heated debate” in the world at large. Wuhan University Law Department, *Handbook of Legal Studies*, p. 217.

19. Deng Xiaoping, “Talk at a Meeting,” pp. 137–38.

20. See *Renmin ribao*, 25 June 1981, translated in *FBIS-CHI*, 30 June 1981, p. K23.

21. Deng Xiaoping, “Talk at a meeting,” pp. 137–38.

22. See a statement by the Minister of Public Security that appeared in *Renmin ribao*, 28 September 1959 translated in Cohen, *The Criminal Process*, p. 539. For a more recent example, see an article in *Renmin ribao*, 25 June 1981 translated in *FBIS-CHI*, 30 June 1981, pp. K21–K25.

23. See Mao, “Strike surely, accurately and relentlessly,” p. 56; and “Combat bureaucracy, commandism and violations of the law and of discipline,” in *Selected Works of Mao Tse-tung*, Vol. 5, p. 86.

24. “Lectures,” in Cohen, *The Criminal Process*, pp. 538, 535.

25. *Beijing ribao* (*Beijing Daily*), 19 July 1981 translated in *FBIS-CHI*, 29 July 1981, p. R2.

26. “Crime and Justice,” *China Reconstructs*, August 1984, p. 39.

specifically the view that “it is sometimes necessary to decapitate somebody in order to vent the people’s anger.”<sup>27</sup>

Further, there is widespread support among the Chinese people for the death penalty and no vocal group has spoken in opposition to capital punishment.<sup>28</sup> Although no opinion polls have surveyed mainland opinion on the subject, similar surveys in Hong Kong have found overwhelming public support for the death penalty, especially for violent criminals.<sup>29</sup>

### *The Death Penalty in Law*

There was no comprehensive criminal code in China prior to 1979. The Second Session of the Fifth National People’s Congress (NPC) in July of that year passed the “Criminal Law” (CL) and “Criminal Procedure Law” (CPL). Both codes became effective 1 January 1980.<sup>30</sup> The death penalty has been codified within these two legal codes. As one legal scholar has observed, however, the use of the death penalty in many ways runs counter to the “spirit and goals of the current legal development in China.”<sup>31</sup>

At present there are 48 capital crimes in China: 21 crimes are listed in the Criminal Law of 1979, while 27 have been added as a result of subsequent legislation.<sup>32</sup> Fourteen are counter-revolutionary crimes – defined as acts aimed at “overthrowing the political power of the dictatorship of the proletariat and the socialist system” – and are punishable by death if they are “especially odious” (*tebie elie*) or “especially serious” (*tebie yanzhong*) (CL Art. 103). These crimes, set out in the 1979 Criminal Law, include plotting to “subvert the government or dismember the state” (Art. 92), organizing an “armed mass rebellion” (Art. 95), hijacking and stealing “state records” (Art. 100).

Among crimes “endangering public security” that carry the death

27. The actual method of execution stipulated by the Criminal Code of 1979 is by shooting (Article 45). *Wen Wei Po* (Hong Kong), 4 April 1988 translated in Foreign Broadcast Information Service (*FBIS-CHI*), 12 April 1988, p. 39. On retribution as a justification for the death penalty, see also Davis, “The death penalty,” pp. 327–28.

28. R. Randle Edwards, “Civil and Social Rights: Theory and Practice in Chinese Law Today,” in Edwards, Louis Henkin and Andrew J. Nathan, *Human Rights in Contemporary China* (New York: Columbia University Press, 1986), p. 54. However, some Chinese jurists have suggested restricting the use of the death penalty. See “Criminal law called to revise,” *Beijing Review*, 24–30 April 1989, p. 11.

29. See Scobell, “Strung up or shot down?” pp. 165–66.

30. These two codes appear conveniently in both Chinese and English in *The Criminal Law and the Criminal Procedure Law of China* (Beijing: Foreign Languages Press, 1984) (hereafter cited as *The Criminal Law*). This volume also includes subsequent amendments to both codes.

31. These goals include “fairness and predictability,” “regularized adjudication” and protection against “erroneous judgements.” The scholar concluded that reform of the death penalty – whether it be improved “procedural safeguards,” increased restrictions on its use, or its complete abolition – would be more compatible with the legal climate in post-Mao China. Davis, “The death penalty,” pp. 304–305, 330.

32. For a complete listing of capital crimes as of 1987, see Scobell, “Strung up or shot down?” pp. 150–54.

penalty are setting fires and breaching dykes (Art. 106). Two crimes against the person are capital offences: “intentional murder” (*guyi sharen*) (Art. 132), and rape, if the victim is younger than 14 or if the case is “serious” (*yanzhong*) (Art. 139).

Seven capital crimes were added in 1983 by the Standing Committee of the NPC. These include: gang fighting, pimping, abducting for the purposes of trafficking in human beings, and passing on “criminal methods.”<sup>33</sup> In May 1989 revealing “state secrets” became a capital offence—and the definition of what constitutes a state secret is extremely broad.<sup>34</sup>

In the past decade China’s leaders have often expressed grave concern about corruption and have launched repeated campaigns against economic crime. Ren Jianxin, the president of the Supreme People’s Court (SPC), reported to the NPC in March 1989 that economic crimes were “rampant” in China.<sup>35</sup> A decade ago Deng Xiaoping warned that crimes such as “corruption, embezzlement, speculation and profiteering” were on the increase.<sup>36</sup> While “especially serious” corruption involving state personnel was the only economic crime designated as a capital offence in the criminal code implemented that year (Art. 155), others have been added since.

There is no precise definition of what constitutes an “economic crime” either in Chinese law, or in the literature on the subject, thereby giving the authorities much latitude in dealing with cases labelled as such.<sup>37</sup> There is general agreement, however, that the definition includes infractions such as bribery, embezzlement and usually involves economic losses to the state.<sup>38</sup> Economic infractions include not only crimes normally considered as corruption, but also the theft of state property, smuggling and tax evasion.<sup>39</sup> A 1982 amendment to the criminal law decreed the death penalty for “serious” cases of smuggling, speculation, habitual theft or swindling,

33. “Decision on the severe punishment of criminal elements who seriously endanger public security,” in *The Criminal Law*, pp. 241–45.

34. The law apparently applies literally just to the act of making information public – not giving the information to a foreign government – about virtually any sphere of activity in China. See *Xinhua*, 5 and 6 September 1988, both cited in *FBIS-CHI*, 6 September 1988, pp. 31–33.

35. *Renmin ribao*, 9 April 1989, translated in *FBIS-CHI*, 2 May 1989, p. 84.

36. “Uphold the Four Cardinal Principles,” in *Selected Works of Deng Xiaoping (1975–1982)* (Beijing: Foreign Languages Press, 1984), p. 176.

37. Deborah E. Townsend, “The concept of law in Post-Mao China: A case study of economic crime,” *Stanford Journal of International Law*, Vol. 24, No. 1 (1987), pp. 239–242. The prevalence of vague wording in China’s penal code generally is a major criticism of western legal scholars. See, for example, Shao-chuan Leng and Hungdah Chiu, *Criminal Justice in Post-Mao China: Analysis and Documents* (Albany: State University of New York, 1985), p. 130.

38. See “Act of the PRC for punishment of corruption,” promulgated in April 1952, translated in Cohen, *The Criminal Process*, pp. 308–311; “Decision of the CCP Central Committee and the State Council on dealing blows at serious criminal activities in the economic field,” translated in *FBIS-CHI*, 14 April 1982, pp. K1–K9; and *Hong Kong Standard* (Hong Kong), 6 October 1986, p. 8. I am indebted to Professor Shao-chuan Leng of the University of Virginia for bringing this last article to my attention.

39. “Act of the PRC for Punishment of Corruption,” in Cohen, *The Criminal Process*, pp. 308–311.



drug-trafficking, bribery, and the theft or illegal export of “precious cultural relics.”<sup>40</sup> A 1982 *Renmin ribao* editorial reflected the seriousness with which Beijing viewed the situation:

The government and the Party have always advocated using capital punishment as little as possible but the shocking incidence of economic crimes has reached such proportions that they must be seriously punished. A small minority of extremely serious criminals must be punished by means of the ultimate penalty in order to serve as a warning to others.”<sup>41</sup>

Deng himself addressed the problem a month later in a speech to the Political Bureau. He said the authorities must take “prompt, strict and stern measures,” including use of the “ultimate penalty” in the case of “particularly grave” crimes, to break the “ill wind” of official corruption.<sup>42</sup>

The scope of the death penalty was further broadened by the Standing Committee of the Sixth NPC in January 1988 to include three more offences. Those caught smuggling drugs, precious metals, rare animals or their products, or goods worth more than 500,000 RMB can be executed. Defending contraband with arms was also made a capital crime.<sup>43</sup> Embezzlers, thieves and swindlers or receivers of bribes of 50,000 RMB or more can now be sentenced to death and those who offer bribes can receive life imprisonment.<sup>44</sup>

The death penalty can also be meted out to members of the armed forces who commit such crimes as passing military secrets to the enemy or to foreigners, spreading rumours that undermine military morale, desertion, or robbing and harming civilians.<sup>45</sup>

### *The Death Penalty in Practice*

According to Article 28 of the 1979 Criminal Procedure Law, the burden of proof lies with the defendant who must prove his innocence, lack of criminal responsibility, or guilt for a lesser crime. The chances of gaining an acquittal are “exceedingly low”—in no more than 2.2 per cent of the cases surveyed by one group of scholars have defendants succeeded in having the charges against them dismissed.<sup>46</sup>

40. “Decision of the Standing Committee of the National People’s Congress regarding the severe punishment of criminals who seriously undermine the economy,” cited in *The Criminal Law*, pp. 229–240.

41. *Renmin ribao*, 10 March 1982, translated in Amnesty International, *China: Violations of Human Rights*, p. 57.

42. “Combat economic crime,” in *Selected Works of Deng Xiaoping*, p. 381.

43. *Xinhua*, 21 January 1988, in *FBIS-CHI*, 22 January 1988, p. 9.

44. “Supplementary regulations on punishment for crimes of corruption and bribery,” translated in *FBIS-CHI*, 2 February 1988, pp. 14–16.

45. “Provisional regulations of the PRC on punishing servicemen who commit offenses against their duties,” passed by the Standing Committee of the NPC in June 1981, translated in Amnesty International, *China: Violations of Human Rights*, p. 57.

46. John F. Copper, Franz Michael and Yuan-li Wu, *Human Rights in Post-Mao China* (Boulder: Westview Press, 1985), p. 109 and p. 111, Table 5.

Those accused of capital offences face a daunting task to avoid conviction and summary execution, though they can expect a less hostile environment than they would have just a decade ago. Unlike the situation in Mao's time when class background was an important element in determining an individual's treatment, in Deng's China "the law is equally applicable to all citizens" (CPL Art. 4). The defendant also now has the right to have a lawyer or layman represent him or her (CPL Arts. 26 and 27). However, defence lawyers are supposed to put the interests of the "socialist cause and the people" before those of their clients,<sup>47</sup> and usually "play a passive role in court proceedings."<sup>48</sup> Lawyers represented eight persons charged with rioting in Beijing in June 1989, but legal representation proved little help as all but one were convicted, sentenced to death and executed.<sup>49</sup>

The accused also has the right to appeal a ruling (CPL Art. 129). Although the process of appeal is now institutionalized in the post-Mao legal system and is increasingly used by defendants, instances of overturned convictions or sentence reductions are rare. Of almost 7,500 appeals heard by the Beijing Intermediate Court, for example, the defendant was acquitted in only 21 of the cases.<sup>50</sup> According to Amnesty International, only one condemned man has successfully appealed his case all the way to the SPC since the law took effect in 1980. Interestingly, this case involved a government official: embezzlement by a cadre.<sup>51</sup>

Contrary to the letter of the law, courts of the second instance have sometimes increased the sentences of defendants (CPL Art. 127). In one 1984 case, for example, a defendant appealed the life sentence he had received for murdering his lover's husband. Instead of simply rejecting the appeal, the High People's Court of Yunnan Province decided that the punishment had not been severe enough and imposed the death sentence instead.<sup>52</sup> Under the 1982 constitution, the state president has the power to pardon convicted criminals,<sup>53</sup> but Amnesty International can find no instance where the president has ever exercised this power.<sup>54</sup> In September 1983 the Standing Committee of the NPC shortened the appeal period for inmates on death row

47. "Provisional Act on Lawyers of the People's Republic of China" passed by the Standing Committee of the Fifth NPC in August 1980, translated in Leng and Chiu, *Criminal Justice in Post-Mao China*, p. 272.

48. Leng and Chiu, *Criminal Justice in Post-Mao China*, p. 95.

49. *Xinhua*, 24 June 1989, cited in *FBIS-CHI*, 26 June 1989, p. 44. One defendant reportedly escaped execution because his lawyer successfully argued that his client was mentally retarded. See Amnesty International, *Preliminary Findings on Killings of Unarmed Civilians, Arbitrary Arrests and Summary Executions since June 3, 1989* (New York: Amnesty International Publications, August 1989), p. 45.

50. Margaret Y.K. Woo, "The right to a criminal appeal in the People's Republic of China," *Yale Journal of International Law*, Vol. 14, No. 1 (1989), pp. 134–36, and note 126.

51. Amnesty International, *China: Violations of Human Rights*, pp. 66–67.

52. Cited in Margaret Woo, "The Right to a Criminal Appeal," p. 138.

53. Article 80 cited in *Fifth Session of the Fifth National People's Congress, November–December 1982* (Beijing: Foreign Languages Press, 1983), p. 41.

54. Amnesty International, *China: Violations of Human Rights*, p. 71.



from the 10 days specified in Article 131 of the Criminal Procedure Law to only three days.<sup>55</sup>

Capital crimes are tried in intermediate courts by a panel of one judge and two people's assessors; in cases of protest or appeal, between three and five judges sit (CPL Arts. 15 and 105). The verdict should be pronounced within six weeks of the start of the trial (Art. 125). In June 1981, the Standing Committee of the NPC amended Article 13 of the Criminal Procedure Law to permit the SPC to defer its power of approval of death sentences to the high people's court of the province, autonomous region or municipality "when necessary."<sup>56</sup>

All criminal cases, particularly those involving severe punishment such as the death penalty, appear to have concluded within a matter of months. Researchers have found that in most instances of capital crimes, the period from arrest to conviction and sentencing is six months or less, and in many cases 90 days or less.<sup>57</sup> At times Chinese justice has been extremely swift and secretive. In 1983 two men were executed less than a week after they were apprehended. They were tried, convicted and sentenced, had their sentences approved by the provincial high people's court, and were executed, all within a six-day period.<sup>58</sup> In another case, a Hong Kong man was convicted of masterminding a Guangzhou robbery in November 1985 and was executed the following May. Despite repeated inquiries, his wife was never notified of the dates of his trial or about the status of his case. She only learned of his execution on the television news after the fact.<sup>59</sup>

Further, it appears that Beijing may have issued provinces and municipalities quotas for arrests and executions. A directive to this effect is rumoured to have been issued by either the CCP Central Committee or by Deng Xiaoping himself during the anti-crime campaign of late 1983.<sup>60</sup>

In at least one case, death penalty regulations were imposed retroactively. Four men were convicted of robbing a Guangdong store in 1983. The crime was committed in July, but the legislation under which they were sentenced to death had only become law two days prior to their execution in September.<sup>61</sup>

Condemned criminals also receive degrading treatment prior to

55. "Decision of the Standing Committee of the National People's Congress regarding the procedure for rapidly adjudicating cases involving criminal elements who seriously endanger public security," cited in *The Criminal Law*, pp. 246–47.

56. "Decision of the Standing Committee of the National People's Congress regarding the question of approval of cases involving death sentences," in *The Criminal Law*, pp. 217–19.

57. Copper, Michael and Wu, *Human Rights in Post-Mao China*, pp. 109–113, see in particular Table 6.

58. See Amnesty International, *China: Violations of Human Rights*, p. 69.

59. *South China Morning Post* (Hong Kong), 28 May 1986, p. 10.

60. Davis, "The death penalty," p. 319; Leng and Chiu, *The Criminal Justice in Post-Mao China*, p. 137; Radio October Storm (clandestine broadcast), 12 January 1984, cited in *FBIS-CHI*, 20 January 1984, pp. K18–K19.

61. Amnesty International, *China: Violations of Human Rights*, p. 61.

execution: they are often paraded through their former neighbourhoods in open lorries, eyes downcast, with large signs displayed on their upper torsos listing their names, crimes and capital sentences.<sup>62</sup> According to Article 155 of the Criminal Procedure Law and Article 45 of the Criminal Law, death sentences may be pronounced at mass rallies, but the actual execution by shooting is not to be made into a public spectacle. Public executions have taken place however, and some have even been shown on television.<sup>63</sup>

*The Suspended Death Sentence.* A distinctive aspect of China's death penalty regulations is the "death sentence suspended for two years" (*sixing huanqi ernian zhixing*) (CL Art. 43). This punishment dates back hundreds of years and seems to be uniquely Chinese.<sup>64</sup> The suspended death sentence appears to be equivalent to a life sentence in prison. It emphasizes the seriousness of the crime while demonstrating the mercy of the court. Rarely—if ever—does an execution seem to be carried out at the end of the two year assessment period.<sup>65</sup> The death sentence suspended for two years is used quite extensively and it may be as widely used as the immediate death sentence.<sup>66</sup> One survey of Chinese court documents over a six-month period revealed comparable numbers: 198 executions and 214 suspended death sentences.<sup>67</sup>

Only adults 18 years and older can be legally executed, but if the crime is "particularly grave," 16 and 17 year-olds can receive suspended death sentences (CL Art. 44). A convicted criminal can receive a suspended death sentence pending an assessment of the prisoner's progress over a two-year period. A collegiate panel can

62. For an eyewitness account, see *South China Morning Post* (Hong Kong), 19 July 1987, p. 9. This humiliation of the condemned is also noted by Amnesty International. See *Amnesty International Report 1987* (London: Amnesty International Publications, 1987), pp. 227–28.

63. For examples, see *Washington Post*, 21 January 1984, pp. A1, A20; *South China Morning Post*, 19 July 1987, p. 9; and Amnesty International, *China: Violations of Human Rights*, pp. 73–74. The executions of three Shanghai men in June 1989 were also reportedly carried out in public. See *New York Times* 22 June 1989, pp. A1, A10.

64. See, for example, Bodde and Morris, *Law in Imperial China*, p. 138.

65. Scobell, "Strung up or shot down?" p. 159. The warden of the Shanghai Municipal Prison told a group of visiting American legal scholars in 1981 that no prisoners in the institution with suspended death sentences had ever been executed. See Leng and Chiu, *Criminal Justice in Post-Mao China*, p. 157, note 23. This was apparently the case in Mao's day and, interestingly, also true during the Qing dynasty. See a 1959 statement by Minister of Public Security Luo Ruiqing, and Edgar Snow, *The Other Side of the River*, both excerpted in Cohen, *The Criminal Process*, p. 539. On the Qing dynasty, see Bodde and Morris, *Law in Imperial China*, p. 138. For a discussion of the significance of the suspended death sentence, see *Renmin ribao*, 4 January 1980, translated in *FBIS-CHI*, 21 June 1980, pp. L11–L12.

66. See "Notes from the editors: On capital punishment," *Beijing Review*, 7 November 1983, p. 4; Leng and Chiu, *Criminal Justice in Post-Mao China*, p. 132; Amnesty International, *China: Violations of Human Rights*, pp. 64–65. The suspended or deferred death sentence was also widely used in Qing China. See Bodde and Morris, *Law in Imperial China*, p. 138 and Wang Hui-tsu, "Seek to preserve life," cited in Van Der Sprenkel, *Legal Institutions in Manchu China*, p. 140.

67. Leng and Chiu, *Criminal Justice in Post-Mao China*, p. 132.

reduce the sentence to life imprisonment if it believes that the prisoner has “truly repented” (*queyou huigai*). The prisoner can also get his sentence reduced to 15 or 20 years in prison if he demonstrates “meritorious service” (*ligong*). Before an execution can take place there must be “verified evidence” (*chazheng shushi*) that the prisoner has “resisted reform in an odious manner” (*kongju gaizo qingjie elie*) (CL Art. 46), and the SPC must give its approval (CPL Art. 153).

Perhaps the best known recipients of the suspended death sentence are two members of the Gang of Four. Mao’s wife Jiang Qing and vice-premier Zhang Chunqiao, along with eight others, were convicted of plotting to “subvert the government and overthrow the people’s democratic dictatorship,” and were held directly accountable for the murders of more than 30 persons identified by name, and implicated in the deaths of thousands of others.<sup>68</sup> Jiang and Zhang received death sentences “with a two-year reprieve” and permanently deprived of their “political rights.”<sup>69</sup> Two years later both had their sentences commuted.<sup>70</sup>

### *The Results*

Use of the death penalty in China appears to have risen significantly since the death of Mao in 1976. Although Beijing does not issue statistics on the number of death sentences or actual executions,<sup>71</sup> this writer conservatively estimates that between 10,000 and 20,000 people have been executed in China in the past ten years.<sup>72</sup> Moreover, use of capital punishment seems to have escalated dramatically throughout this period. The number of annual executions may have tripled between 1978 and 1986. While there were at least 2,900 executions between 1978 and 1982, from 1982 to 1986 there were at least 7,000—and perhaps as many as 14,000—executions.<sup>73</sup> Amnesty International believes that the number of executions carried out

68. *A Great Trial in Chinese History: The Trial of the Lin Biao and Jiang Qing Counter-revolutionary Cliques*, Nov. 1980–Jan. 1981 (Beijing: New World Press, 1981), pp. 205–219, quotation on p. 219.

69. *Ibid.* p. 233.

70. Work report given in June 1983 by SPC President Jiang Hua and cited in *FBIS–CHI*, 27 June 1983, pp. K2–K3.

71. The government merely lumps condemned criminals together with all criminals sentenced to five or more years in prison. For discussion on this matter, see Townsend, “The concept of law in Post-Mao China,” pp. 248–49.

72. This estimate is derived from figures obtained from the following sources. See SPC work report, which gives the number of death sentences appealed to the court over a five year period, cited by *Xinhua* and translated in *FBIS–CHI*, 27 June 1983, p. K7. The U.S. Department of State, *Country Reports on Human Rights Practices for 1986*, joint committee print, report submitted to the Committee on Foreign Relations of the U.S. Senate and the Committee on Foreign Affairs of the U.S. House of Representatives, 100th Congress, 1st session (Washington, DC: U.S. Government Printing Office, 1987), p. 684.

73. *Ibid.* (The first figure is from the SPC work report and the others are from the U.S. Department of State.)

between 1983 and 1987 could be “as high as 30,000.”<sup>74</sup> During a three-month period in 1983, the human rights group documented 600 executions but believed that actual number to be “far higher.”<sup>75</sup>

While the number of verified executions are numerous and careful estimates of total executions are high, there is a danger of exaggeration and hyperbole. Caution should be exercised when considering allegations of even higher numbers of executions taking place. Thus, rumours of many judicial executions taking place in secret during 1989 should be regarded with scepticism.<sup>76</sup> Not publicizing such killings would largely defeat the primary reason for executions: deterrent value. Certainly it appears that dozens of “extrajudicial” executions were carried out by martial law enforcement troops in June 1989 in Beijing.<sup>77</sup> While Deng insisted that some people involved in disturbances should be executed, he reportedly stressed that the death penalty should be used only in the most serious cases.<sup>78</sup> One can cite no more than some 40 “legal” executions of persons for activities directly related to the 1989 protests and all of these individuals were convicted of violent offences.<sup>79</sup>

The number executed over the past ten years is the highest since the wave of executions during the early years of the People’s Republic when hundreds of thousands of “enemies of the people” are estimated to have been summarily executed.<sup>80</sup> This excludes the chaotic decade of the Cultural Revolution (1966–76) in which as many as 50,000 are estimated to have died annually as a direct result of rampant violence and persecution.<sup>81</sup> However, these people were not found guilty of

74. Amnesty International, *When the State Kills*, pp. 122–23.

75. Amnesty International, *China: Violations of Human Rights*, pp. 54–55.

76. On these rumours, see *Ming Pao* (Hong Kong), 15 June 1989 translated in *FBIS–CHI*, 15 June 1989, p. 16; *New York Times* 17 July 1989, p. A3; and Amnesty International, *Preliminary Findings*, p. 46.

77. For a definition of “extrajudicial execution,” see Amnesty International, *Preliminary Findings*, p. 7.

78. *Wen Hui Po* (Hong Kong), 28 June 1989, translated in *FBIS–CHI*, 28 June 1989, pp. 11–12.

79. Typical are two workers and an unemployed man who were convicted of setting nine railway carriages aflame and preventing firemen from battling the blaze on 6 June 1989 in Shanghai. *New York Times*, 22 June 1989, pp. A1, A10. Most convicted of violent acts have been given prison terms. Of 27 people found guilty of rioting and looting in Changsha, Hunan Province on 22 April 1989, for example, all but one were sentenced to prison terms. The exception was a worker given a suspended death sentence for attacking a policeman. See Hunan provincial service, 22 June 1989, translated in *FBIS–CHI*, 23 June 1989, p. 28.

80. Zhou Enlai told Edgar Snow that 830,000 people were “destroyed” in the year up until 1954. See Snow, *The Other Side of the River*, excerpted in Cohen, *The Criminal Process*, pp. 543–44. According to an unofficial version of Mao’s 1957 speech “Problems relating to the correct handling of contradictions among the people,” some 700,000 “class enemies were executed.” See Roderick MacFarquhar, Timothy Cheek and Eugene Wu (eds.), *The Secret Speeches of Chairman Mao: From the Hundred Flowers to the Great Leap Forward* (Cambridge, MA: Council on East Asian Studies, Harvard University Press, 1989), p. 142.

81. Harry Harding estimates that 500,000 persons died during the Cultural Revolution. See his “The Chinese State in Crisis,” in Roderick MacFarquhar and John K. Fairbank (eds.), *The Cambridge History of Modern China*, Vol. 15: *Revolutions within the Chinese Revolution, 1966–1979* (Cambridge University Press, forthcoming).

capital crimes through any semblance of proper legal procedure. Rather, this estimate encompasses the victims of vigilante justice, mob violence and civil war-like conditions – not to mention suicides, and deaths from torture and physical abuse by Red Guards. From the mid 1950s until the mid 1960s estimates on the number of executions range from one hundred to several thousand annually – far lower than the estimates from the Deng era.<sup>82</sup>

The PRC government may be the most efficient and effective Chinese government in centuries at implementing capital punishment within an institutionalized legal framework. While the death penalty had long been a part of the criminal justice system in dynastic China, its use, at least in Qing times, appears to have been less frequent than might be assumed. Recent preliminary research indicates that only a small proportion of those sentenced to death were ever executed. Of the thousand or more sentenced to death in 26 different years during the Qing dynasty, only a few hundred defendants, or no more than “one-third of all pending cases,” were actually executed. Most sentences were commuted not by “explicit” state action, but rather by “imperial inaction.”<sup>83</sup> Executions during the Republican period were commonplace, but many were carried out without any legal formalities. In this chaotic and violent period, many accused criminals were simply seized by troops or police and executed without “any formal legal procedure.”<sup>84</sup>

*Who is executed?* Most death sentences in post-Mao China are meted out to violent criminals. The U.S. Department of State estimates that the “great majority” of persons executed in China have been convicted on “serious nonpolitical crimes.”<sup>85</sup> The President of the SPC stated in 1988 that more than 90 per cent of death sentences and life sentences were handed out to those convicted of violent crimes.<sup>86</sup> Rapists and murderers comprised the majority of those executed in 1978 and 1979.<sup>87</sup> Data collected on more than 250 executions carried

82. See Shao-chuan Leng, *Justice in Communist China: A Survey of the Judicial System of the Chinese People's Republic* (Dobbs Ferry, New York: Oceana Publications, 1967), pp. 166–167; and Davis, “The death penalty,” p. 310, especially Note 41.

83. These recent findings support similar conclusions reached in earlier studies that lacked the wealth of statistical data. See Li Zhongqing, Yan Xiaojian and Zhang Meizhi, “New sources on violence and capital punishment in late imperial China: An introduction and preliminary analysis” (a paper presented to the China Colloquium, at the Henry M. Jackson School of International Studies of the University of Washington in Seattle on 11 May 1989), pp. 13, 14, Table 7. For some earlier assessments, see Bodde and Morris, *Law in Imperial China*, pp. 141–42; and Wang Hui-tsu, “Seek to preserve life,” in Van Der Sprenkel, *Legal Institutions in Manchu China*, p. 140.

84. Franz Michael, “The Role of Law in Traditional, Nationalist and Communist China,” *China Quarterly*, No. 9 (1962), p. 134.

85. U.S. Department of State, *Country Reports on Human Rights Practices for 1985*, joint committee print 99th Congress, 2nd session (Washington, DC: Government Printing Office, 1986), p. 738.

86. “Anti-crime drive brings results,” *Beijing Review*, 18–24 April 1988, p. 11.

87. Leng and Chiu, *Criminal Justice in Post-Mao China*, p. 137.

out in China in mid 1983 reveals that some 80 per cent of those executed were violent criminals.<sup>88</sup>

Few dissidents convicted of “counter-revolutionary” crimes are executed in China and virtually all those that are executed appear to be those involved in violence or the threat of violence. Most are people who have been executed for serious “political crimes” such as the theft of firearms and explosives, hijacking, and allegedly spying for the Soviet Union or Taiwan.<sup>89</sup> According to one study, only 7.8 per cent of cases involving political crimes have culminated in the execution of the culprit.<sup>90</sup> Deng Xiaoping has long maintained that dangerous counter-revolutionaries still exist in the People’s Republic.<sup>91</sup> However, Chinese officials have usually stressed that counter-revolutionaries comprise less than 2 per cent of the population,<sup>92</sup> and available statistics indicate that political crimes account for less than 13 per cent of all crime.<sup>93</sup> The most prominent serious counter-revolutionaries tried for capital crimes in post-Mao China, the two members of the Gang of Four, both merely received suspended death sentences (*de facto* life imprisonment).

While economic offences comprise as much as one half of all crime in China,<sup>94</sup> researchers have found that economic criminals comprise less than 10 per cent of all executions.<sup>95</sup> One study found that less than 8 per cent of convicted economic criminals were given the most severe penalties (death sentence, suspended death sentence or life imprisonment).<sup>96</sup> According to statistics supplied by the Procurator General of the Supreme People’s Procuratorate, only 1.25 per cent of those convicted of corruption and bribe-taking in 1988 were sentenced to death. Liu Fuzhi told the NPC in March 1989 that only 74 of 5,911 offenders sentenced were given “punishment greater than life imprisonment.”<sup>97</sup> However, this proportion may soon rise. Deng clearly believes that corruption today is far worse than it was 30 years ago. He claimed the executions of two Party officials in 1952 had had a dramatic deterrent effect on crime. While the executions of two Party

88. “Recent wave of executions in Red China,” *Inside China Mainland*, (November 1983), pp. 11–14.

89. Leng and Chiu, *Criminal Justice in Post-Mao China*, p. 146.

90. Copper, Michael and Wu, *Human Rights in Post-Mao China*, Appendix, Table 8 on p. 115.

91. “Uphold the Four Cardinal Principles,” *Selected Works of Deng Xiaoping*, p. 176.

92. Agence France Presse (Hong Kong), 9 November 1986, cited in *FBIS-CHI*, 10 November 1986, p. K1. Of course, given China’s large population, this amounts to some 20 million “counter-revolutionaries.”

93. Copper, Michael and Wu, *Human Rights in Post-Mao China*, Appendix, Tables 1 and 2 on pp. 106–107. The President of the SPC claimed political offences constitute less than 1% of total crime. See *FBIS-CHI*, 27 June 1983, p. K3.

94. *Ibid.*

95. *Ibid.*, Table 8, p. 115; and “Recent wave of executions in Red China,” pp. 11–14.

96. Copper, Michael and Wu, *Human Rights in Post-Mao China*, Table 4, p. 110.

97. *Renmin ribao*, 9 April 1989, translated in *FBIS-CHI*, 2 May 1989, p. 75. Presumably the figure includes some death sentences suspended for two years.



officials may have been an adequate deterrent in 1952, more would be necessary to improve the crime situation now.<sup>98</sup>

According to Article 4 of the Criminal Procedure Law, all are equal before the law and no one can expect any “special privilege.” However, two groups in Chinese society are conspicuous in death penalty statistics: one for its under-representation and the other for its over-representation. Members of the CCP are less likely to be executed than ordinary citizens, while young people comprise the vast majority of those executed. Generally, senior officials and their families appear to receive special treatment under the criminal justice system, despite the fact that they comprise a disproportionate number of criminal cases.<sup>99</sup> One Chinese intellectual asked how a legal system could issue a two-year prison term to a provincial governor who cost the state huge financial losses when a common criminal received life imprisonment for stealing watermelons.<sup>100</sup>

This unequal treatment also seems to extend, in an inverse manner, to the lower rungs of society. A glaring example of this is the treatment by the courts of two individuals convicted of economic crimes as reported in separate articles in the same issue of an April 1988 Beijing newspaper.<sup>101</sup> Du Fukui, a driver for a department store and a member of the CCP since 1949, received a one year suspended prison term for flagrant corruption. Through his excellent personal connections, Du had been able to obtain colour television sets, expensive cameras and refrigerators for friends and acquaintances. He even arranged for a military unit to build him a spacious home using state construction materials. Meanwhile, Zhou Zhenhua, a debt-ridden, small-time entrepreneur who was not a Party member, was executed after he was convicted of dismantling railway tracks and selling the materials for scrap.

The major scapegoat in the most notorious economic crime in post-Mao China, a Senior Party cadre, was given only life imprisonment. In May 1986 Li Taosen, a member of the Standing Committee of the regional CCP Central Committee on Hainan Island, was convicted of speculation. In “particularly serious” circumstances this offence is a capital offence according to a 1982 amendment to the 1979 Criminal Code.<sup>102</sup> Certainly the case was serious: Lin was convicted of re-selling

98. Deng Xiaoping, “Talk at a meeting,” p. 138; and Deng Xiaoping, “Combat economic crime,” p. 380.

99. While Party members make up less than 4% of the total population, they account for as much as 30% of criminal cases. See Copper, Michael and Wu, *Human Rights in Post-Mao China*, p. 117; and Appendix, Table 8, pp. 115–16.

100. *Wen Wei Po* (Hong Kong), 4 April 1988 translated in *FBIS—CHI*, 12 April 1988, p. 39.

101. Quoted in *South China Morning Post* (Hong Kong), 1 May 1988; cited in *FBIS—CHI*, 4 May 1988, pp. 34–35.

102. “Regarding the severe punishment of those criminals who seriously undermine the economy,” *The Criminal Law*, pp. 230, 234–35.

31 imported motor vehicles worth several million RMB and pocketing a tidy sum of money in the transaction.<sup>103</sup> As the most flagrant and highly publicized example of economic crime uncovered in the decade of reform, this case would have been an ideal opportunity for the government to demonstrate its firm resolve to deal as severely with Party officials as it would with the common people.

One study found that of 1,869 criminal cases compiled for the period 1978–83 in which the CCP affiliation of the defendant was known, non-Party members “consistently” received more severe sentences than did Party members. While CCP members constituted some 31 per cent of the law-breakers in the statistical pool (587 of 1,869) they accounted for only 3.2 per cent of the total number of death sentences meted out (6 of 187).<sup>104</sup> Some prominent figures have been executed and such cases are given enormous publicity. The case of a grandson of Marshal Zhu De in 1983 for rape and other offences received such attention.<sup>105</sup>

Many of those executed are under the age of 30.<sup>106</sup> The preponderance of young criminals is also reflected in the serious incidence of juvenile delinquency, which is of grave concern to the Chinese authorities. SPC President Ren Jianxin reported in July 1988 that persons below the age of twenty-five now account for half of all criminal cases in China.<sup>107</sup>

While most condemned criminals in post-Mao China have been convicted of what would be considered extremely serious crimes in other countries, some have been found guilty of petty crimes. In 1987, a purse-snatcher was sentenced to death for the theft of a handbag belonging to a Taiwan tourist. One of his two accomplices received a life sentence while the other was only given a three-year suspended sentence because he turned himself in and showed remorse for his crime.<sup>108</sup> Persons have also been executed for such crimes as

103. The racket was also extensive and involved numerous organizations on Hainan – including kindergartens and medical clinics. See *Zhongguo tongxunshi* (China News Service), 28 May 1986, translated in *FBIS-CHI*, 30 May 1986, p. W7; and Harry Harding, *China's Second Revolution: Reform After Mao* (Washington, DC: The Brookings Institution, 1987), p. 150.

104. If suspended death sentences are included, the percentage of CCP members remains almost the same (3.8%–9 of 235). See Copper, Michael and Wu, *Human Rights in Post-Mao China*, Appendix, pp. 113–17 and Table 8 on pp. 115–16.

105. See Leng and Chiu, *Criminal Justice in Post-Mao China*, p. 108; and Hsin Pao (Hong Kong), 30 November 1983, translated in *FBIS-CHI*, 1 December 1983, pp. W3–W4.

106. Leng and Chiu, *Criminal Justice in Post-Mao China*, pp. 141–42; and Amnesty International, *China: Violations of Human Rights*, pp. 59–61.

107. “Crackdown on crime stressed,” *Beijing Review*, 8–14 August 1988, pp. 6–7. See also “Young delinquents cause concern,” *ibid.*, 11 May 1988, pp. 8–9.

108. “Taibao Luo Peiliang Taiyuan zaoyu jishi” (“The true account of Taiwan compatriot Luo Peiliang’s Taiyuan encounter”), *Renmin ribao-haiwaiban* (People’s Daily – overseas edition), 11 December 1987, p. 4.

trafficking in forged residence permits,<sup>109</sup> holding “dancing and sex parties,”<sup>110</sup> running a brothel, and showing pornographic films.<sup>111</sup>

### Conclusion

Chinese officials continue to claim periodically either that the crackdowns on crime since 1983 have resulted in a substantial drop in the crime rate, or that crime is being held in check. Some officials even insisted that crime is down by one-third.<sup>112</sup> However, other figures indicate that economic crime at least is rising.<sup>113</sup> The number of economic criminals may increase as Chinese authorities renew efforts to combat corruption. Such campaigns are likely to have only limited success and economic crimes will proliferate as long as Beijing continues to stress economic modernization.

It probably matters little whether the actual crime situation is improving or not, or whether official statistics show the crime rate to be rising or falling: anti-crime campaigns will undoubtedly continue and use of capital punishment will remain an integral part of them. If the crime situation worsens, the authorities will simply clampdown more harshly and with renewed vigor. If matters seem to be improving, the authorities will insist that their stern approach to law and order is working and, hence, should continue.

While countries around the world are gradually abolishing the death penalty or restricting its use to only the most heinous crimes such as treason and war crimes, China demonstrates no such inclination.<sup>114</sup> China is also going against a discernable trend in the communist world to restrict the use of the death penalty. Nicaragua abolished the death penalty in 1979, East Germany followed suit in 1987 and the Soviet Union appears to be moving slowly in this direction.<sup>115</sup>

Beijing’s institutionalized application of the death penalty in post-Mao China approaches a scale not seen in an established communist

109. Public notice of execution in Kunming, Yunnan Province, October 1983. These notices are important sources of information about executions. They give details of the defendant and his or her crime. A large scarlet slash across the notice indicates that the defendant has been executed. See *Far Eastern Economic Review*, 16 February 1984, pp. 13–14.

110. *Amnesty International Report 1986*, pp. 218–19.

111. *Amnesty International Report 1988* (London: Amnesty International Publications, 1988), p. 156.

112. For claims of a drop in crime see: Agence France Presse (Hong Kong), 9 November 1986, in *FBIS-CHI*, 10 November 1986, pp. K1–K2; Davis, “Death penalty and legal reform,” p. 325, note 140. For a less optimistic assessment, see the report of the President of the SPC in *Xinhua*, 2 April 1988, translated in *FBIS-CHI*, 4 April 1988, p. 17.

113. “Crackdown on crime stressed,” *Beijing Review*, 8–14 August 1988, pp. 6–7.

114. Amnesty International, *When the State Kills*, Appendices 15 and 16, pp. 259–263.

115. *Ibid.*, Appendix 16, pp. 263, and relevant country reports. On the USSR, see *Amnesty International 1989* (New York: Amnesty International Publications, 1989), pp. 238–39.

regime in decades.<sup>116</sup> China will for the foreseeable future continue to be mentioned in the same breath as the governments of South Africa and Iran,<sup>117</sup> and remain unique among communist governments, in its deliberate and vigorous application of the death penalty.

116. Stalin's purges of the 1930s in the Soviet Union, however, resulted in an even greater death toll. One scholar has estimated that at least 500,000 "legal" executions occurred during Stalin's rule and at least an equal number are believed to have been shot after being sent to labour camps. See Robert Conquest, *The Great Terror: Stalin's Purges of the Thirties* (New York: Macmillan, 1968), Appendix A, pp. 527–29.

117. Amnesty International has recorded hundreds of legal executions in both countries during the 1980s. Amnesty International, *When the State Kills*, Appendix 17, p. 263 and country sections.