

【蘇案發回更審第一次開庭 採訪通知】

落實刑訴新制 推動司改列車

— 蘇案發回更審第一次開庭場外記者會 —

廣受社會矚目的蘇建和等三人再審案，雖在今（九十二）年一月十三日經高等法院判決無罪，但因高等檢察署檢察官提起上訴，最高法院於今年八月八日撤銷原再審判決、發回更審，並於今日（十月二十七日）在高等法院第一法庭首度開庭審理。

長期關注本案的民間團體（民間司法改革基金會、台灣人權促進會、人本教育基金會）特別邀請各大學法律系教授組成「專業法庭觀察團」，由法界學者專家就本案審理品質及院、檢、辯三方的表現，是否符合刑訴新制精神等，予以觀察、記錄與監督。藉由本次記者會及共同聲明（將於現場公布），為蘇建和、劉秉郎、莊林勳這三位已遭受司法折磨十餘年、身心俱疲的青年打氣，並對於台灣的司法寄予深切的期望。

聲援團體再度重申，再審發回更審雖令人無奈，但仍衷心期盼發回的更一審，能秉持「無罪推定原則」及「嚴格證據法則」等刑訴新制精神，認真、公正、客觀的審理本案，讓本案除成為刑訴新制的試金石外，並為提昇司法品質、實踐個案正義，作一歷史見證。

記者會內容

時間：2003 年 10 月 27 日（週一）下午 1：50

地點：台灣高等法院門口（台北市博愛路 127 號）

出席人員：辯護律師團代表 許文彬律師

法庭觀察團代表 魏千峰律師

聲援團體代表

流程：

1：50—1：55 主持人說明記者會訴求

1：55—2：00 「落實刑訴新制，推動司改列車」行動劇

2：00—2：10 聲援團體共同聲明（台權會會長魏千峰律師）

新聞聯絡人

吳佳臻（台灣人權促進會辦公室主任） 2363-9787

林靜萍（司法改革基金會執行長） 2523-1178

謝淑美（人本教育基金會執行秘書） 2367-0151

台灣人權促進會・民間司法改革基金會・人本教育基金會 共同主辦

司法改革的關鍵時刻

— 蘇案更審作為檢視刑訴新制的試金石 —

廣受社會矚目的蘇建和等三人再審案，雖在今（九十二）年一月十三日經高等法院判決無罪，但因高等檢察署檢察官提起上訴，最高法院於今年八月八日撤銷原再審判決、發回更審，並於今日（十月二十七日）在高等法院第一法庭首度開庭審理。

最高法院撤銷原再審判決的理由中，仍以被告間相互矛盾的自白為主要依據，忽略本案缺乏三人涉案之證據及有利人證。在刑訴新制於今年九月一日正式上路之後，我們深切企盼法庭持著司法公正、客觀的精神，不任意對外放話、影響社會視聽，造成被告與受害者家屬間的對立，在案件審理過程秉持「無罪推定原則」及「嚴格證據法則」等刑訴新制精神，伸張司法正義，杜絕冤獄，保障人權。

為此，長期關注本案的國際特赦組織倫敦總部（Amnesty International）特於今日發表公開聲明，要求台灣當局審慎處理本案中呈現的各種瑕疵，並重申反對死刑之立場，期待當局秉持台灣刑訴新制的精神，落實國際人權標準並實踐司法保障人權的具體功能。

國內關注本案的民間團體（民間司法改革基金會、台灣人權促進會、人本教育基金會）特別邀請蔡墩銘教授擔任召集人，由各大學法律系教授組成「專業法庭觀察團」，以法界學者的專業立場就本案審理品質及院、檢、辯三方的表現，是否符合刑訴新制精神等，予以觀察、記錄與監督。

最後，聲援團體再度重申，再審發回更審雖令人無奈，但我們仍衷心期盼發回的更一審，能秉持刑訴新制精神，認真、公正、客觀的審理本案，讓本案除成為刑訴新制的試金石外，並為提昇司法品質、實踐個案正義，作一歷史見證。

蘇建和案再審發回更審「專業法庭觀察團」成員（依姓氏筆畫排序）

召集人：蔡墩銘（台大法律系教授）

何賴傑教授（政大法律系）、吳志光教授（輔大法律系）、吳豪人教授（輔大法律系）、
李念祖教授（東吳法律系）、李茂生教授（台大法律系）、陳宜倩教授（世新性別研究所）、
劉靜怡教授（中央產經所）、詹文凱教授（世新法律系）、鄭有為（中央產經所）、
魏千峰教授（東吳法律系）…陸續增加中

* 附件：國際特赦組織（AI）聲明稿中英文各一份。

國際特赦組織

公開聲明

AI Index: ASA 38/002/2003 (Public)

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27 October 2003

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台灣：蘇案審判—司法誤審

今天，蘇建和、劉秉郎、莊林勳將再度回到法庭，針對同一件兇殺案進行第十次審判。國際特赦組織指出，蘇案暴露出台灣司法制度的種種缺失，屬於不公審判的案件。被告三人幾乎是完全根據他們的自白而遭到起訴，這些自白內容據說是出自於刑求。因此在本案進行任何刑事審判之前，必須針對三人是否遭到刑求進行完整且公平公開的調查。

蘇建和等三人於二〇〇三年一月獲台灣高等法院宣判無罪，但卻在同年八月遭最高法院駁回無罪審判，將本案發回高等法院重新審理。在蘇建和等三人今年一月上訴成功之前，他們在死牢中已經度過七年以上的歲月；如果他們於本次更審被判有罪，三人將再度面臨死刑威脅。雖然在歷經十二年的調查、九次分別於地方法院、高等法院及最高法院的審判之後，最高法院仍於今年八月發回更審理由中指出，許多與本案相關的問題「仍有爭議空間」。

案發現場發現許多的具體物證，包括血液及指紋，但是沒有任何一項物證與蘇建和、劉秉郎或莊林勳有關；而三人的自白在關鍵處也有著明顯差異，例如案發時間、作案工具及作案動機。

刑求的爭議及顯然缺乏的物證，加上調查過程中許多違法行為，包括非法羈押及非法搜索，由於本案涉及不公調查與審判，因而格外受到重視。

國際特赦組織要求台灣當局，考慮三人因為多年死囚生涯造成的嚴重情緒失調，以及本年一月間終於自高等法院重獲自由之後，卻要再度面對法庭的震驚。高等法院也應該盡可能謹慎且有效率地審理這次的更審。

因其為極端殘酷且不人道的處罰方式，國際特赦組織反對所有的死刑判決或執行，並要求台灣當局對所有死刑判決進行減刑。國際特赦組織同時要提醒台灣當局，陳水扁總統最近剛提出將廢除死刑的承諾。

自一九九〇年代早期以來，台灣的司法制度已有許多的進步，而那時也正是本案發生非法調查及可能刑求的時刻。新修訂的刑事訴訟法已經上路，刑訴新制當中更加強力反對採用刑求取得的證據。國際特赦組織認為，蘇案呈現出司法改革的不完全，而台灣的司法制度仍有瑕疵。國際特赦組織呼籲台灣當局，具體實踐對於落實國際人權標準的允諾，完整地調查本案涉及刑求的部分。對於本案迅速且公正的審理，將能明白地與過去作區隔，這也是台灣奠定穩固的司法基礎及法治社會的象徵；持續懸而未決，道義上與法律上都無法被接受。

Public Document

For more information please call Amnesty International's press office in London, UK, on +44 20 7413 5566

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AMNESTY INTERNATIONAL

Public Statement

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Taiwan: Trial of the Hsichih Trio -- Miscarriage of justice

Today, Liu Bing-lang, Su Chien-ho and Chuang Lin-hsun, commonly known as the Hsichih Trio, will return to court for their tenth trial in the same murder case. According to Amnesty International, this case is a miscarriage of justice which has exposed flaws in the Taiwanese justice system. The case against the three is based almost entirely on their confessions - confessions that were allegedly extracted through torture. A full and impartial investigation of these allegations must take place before any criminal trial can proceed.

The three men were acquitted by the Taiwanese High Court in January 2003, but in August 2003 the Supreme Court overturned that verdict, and ordered the case to be returned to the High Court yet again. The three men had already spent more than seven years on death row, before their successful appeal in January 2003. If found guilty in this new trial, they will again face the death penalty, even though after twelve years of investigation and nine trials in the District, High and Supreme Courts, the Supreme Court's August 2003 judgment commented that "there is much room for debate" on many issues related to the case.

A large amount of physical evidence, including blood and finger prints, was found at the scene of the crime, but none of it has ever been linked to Liu Bing-lang, Su Chien-ho or Chuang Lin-hsun. The confessions of the three differ on key points such as the timing of the offence, the kind of murder weapons used, and the motive for the crime.

The allegations of torture and apparent lack of material evidence, coupled with extensive irregularities in the investigative process, including unlawful detentions and an illegal search, give grave cause for concern that there has been a miscarriage of justice in this case.

Amnesty International urges the Taiwanese authorities to consider the men's severe emotional distress, caused by many years on death row, and the shock of returning to court yet again after finally winning their freedom at the High Court in January. The High Court should handle the new trial as sensitively and efficiently as possible.

Amnesty International opposes the use of the death penalty in all cases, as the ultimate cruel and inhuman punishment, and asks the Taiwanese authorities to commute all death sentences. Amnesty International also reminds the Taiwanese authorities of President Chen Shui-bian's recent promise to abolish the death penalty.

Taiwan's justice system has seen many improvements since the early 1990s, when the

investigative irregularities and alleged torture of this case took place. New legislation, with stronger safeguards against the use of evidence obtained through torture, has been put in place. Amnesty International believes though, that this case demonstrates that the reforms are incomplete, and flaws remain in the Taiwanese justice system. Amnesty International calls on the Taiwanese authorities to demonstrate their commitment to international human rights standards, and fully investigate allegations of torture. A speedy and impartial resolution to this case will clearly demonstrate a break with the past, and signal the firm establishment of justice and the rule of law on the island of Taiwan. Continued prevarication is morally and legally unacceptable.

Background

On the night of 23-24 March 1991 Yeh In-lan and her husband Wu Ming-han were stabbed to death at their home in the town of Hsichih. Five months later, on 13 August 1991, police traced a fingerprint left at the scene of the crime to a marine named Wang Wen-hsiao. Wang Wen-hsiao was taken into custody on 13 August 1991, and confessed to the police immediately. More than 36 hours after he had been taken into custody Wang Wen-hsiao added new information to his confession, and implicated his brother, Wang Wen-chung, and his brother's three classmates, whom he could not name. Wang Wen-chung was detained soon after, by police without an arrest warrant, and was allegedly tortured. He named his three classmates as Liu Bing-lang, Su Chien-ho and Chuang Lin-hsun. Wang Wen-chung served two years in prison for his alleged role as an accomplice in the crime. After his release he retracted his evidence and stated publicly that the police had forced him to implicate his classmates. Wang Wen-hsiao was executed for his part in the murders on 11 January 1992.

The Hsichih trio have described their alleged torture in great detail. "(Police) put a thick yellow book against my chest and hammered me on the chest", Liu Bing-Lan has said, "and they then hung me upside down and started pouring water and urine into my mouth."

Liu Bing-lan, Su Chien-ho and Chuang Lin-hsun all describe being beaten and having water or urine forced into their mouths. Su Chien-ho and Chuan Lin-hsun also claim to have been subjected to electric shocks to their genitals, and in Su Chien-ho's case police allegedly smeared a concentrated chemical on the wounds on his genitals caused by the electric shocks.

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