

EXTERNAL

AI Index: ASA 20/39/97

23 July 1997

**Further information on Extra 57/97 ASA 20/21/97, 22 April 1997 and follow-up:
ASA 20/26/97, 28 May 1997 - Imminent Extradition/Fear of torture**

INDIA/BHUTAN Rongthong Kunley Dorji (58), Bhutanese national

Amnesty International continues to be concerned that Rongthong Kunley Dorji, a Bhutanese national, currently detained at Tihar jail, Delhi, could be at risk of serious human rights violations such as torture and ill-treatment if extradited to Bhutan. The organization's concerns are heightened by reports that four people associated with Rongthong Kunley Dorji have been tortured in Bhutan.

Rongthong Kunley Dorji is currently spending his fourth month in detention. On 2 June 1997, he was transferred from the Lampur Sewa Sadan detention centre to Central Jail, Tihar, in New Delhi when the magistrate ruled that there was enough evidence for his provisional arrest as a "fugitive criminal" under the newly amended Section 34/B of the Indian Extradition Act, 1962. In early July, a formal extradition court was established under magistrate V K Bansal at New Delhi Magistrates' Court. Hearings are due to start on 26 July.

Rongthong Kunley Dorji is the founder of the Druk National Congress (DNC) and chairman of the United Front for Democracy in Bhutan, two political organizations set up in exile. He left Bhutan in 1991 and has since been living in Kathmandu, Nepal, where he was registered as a person seeking political asylum by the Ministry of Home Affairs. In addition, the United Nations High Commissioner for Refugees considers him a person of concern. On 18 April 1997, he was arrested in Delhi following a request for his extradition to Bhutan.

The fear that if returned to Bhutan Rongthong Kunley Dorji could face torture and ill-treatment is heightened by recent reports that four other members of the DNC were tortured by police shortly after their arrest in eastern Bhutan in early February 1997. The four, Taw Tshering, Tshampa Wangchuck, Tshampa Ngawang Tenzin and Chhipon Samten Lhendup, continue to be held at Tashi Yangtshi prison. According to a relative of one of them, they were held completely naked for one week in very low temperatures. Rongthong Kunley Dorji himself was tortured in 1991 by members of the Royal Bhutan Bodyguards after his arrest on charges of treason.

On 21 May 1997, the Indian Government published an extradition agreement which it had drafted with the Bhutanese Government in December 1996. Amnesty International is concerned that the Indian and Bhutanese Governments have agreed that this instrument will have retroactive application. In addition, the organization is concerned that the two governments have agreed a very broad definition of what constitutes an extraditable offence by including, for instance, "belonging to an organization engaging in activities declared to be unlawful..." and "aiding, abetting or promoting such unlawful activities or objectives of the organization or association". In this regard, Amnesty International fears that, given the content of the arrest warrant issued by the Bhutanese Government on 25 April -- which forms the basis on which Bhutan is seeking Rongthong Kunley Dorji's extradition from India -- the above-mentioned agreement may have been stipulated solely for the purpose of securing Rongthong Kunley Dorji's extradition.

India is a party to the International Covenant on Civil and Political Rights (ICCPR). On 24 and 25 July, the Human Rights Committee will be examining India's third periodic report under Article 40 of the ICCPR. Article 7 of the ICCPR states that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment....". This provision is a peremptory norm (*jus cogens*) of customary international law.

In addition, in its authoritative interpretation of Article 7, adopted at its forty-fourth session in 1992, the Human Rights Committee stated that "...States parties must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of their extradition, expulsion or refoulement....". In the light of the above, returning Rongthong Kunley Dorji to Bhutan would be a flagrant violation of the non-derogable prohibition of torture and ill-treatment. Amnesty International urges the Indian Government to uphold its treaty obligations under the ICCPR. In addition, the organization wishes to remind the Indian Government that although India has not ratified the 1951 United Nations Convention on Refugees and its 1967 Protocol, it is still bound by the principle of non-*refoulement*, which forbids states from sending a person to a country where he would be at risk of serious human rights violations.

Amnesty International is concerned that the charges against Rongthong Kunley Dorji may be politically motivated. They were apparently only framed after Rongthong Kunley Dorji had set up the DNC, nearly three years after he had left the country.

In May 1991, when Rongthong Kunley Dorji was arrested on charges of treason in connection with his support for the Nepali-speaking southern Bhutanese during demonstrations in 1990, he was tortured by members of the Royal Bhutan Bodyguards. The King of Bhutan, Jigme Singye Wangchuck, pardoned him on 5 July 1991. It was soon after this that Rongthong Kunley Dorji left the country.

FURTHER RECOMMENDED ACTION: Please send telegrams/telexes/faxes/express/airmail letters in English or in your own language:

- noting the continued detention of Rongthong Kunley Dorji, a Bhutanese national initially arrested in Delhi on 18 April, following a request for his extradition to Bhutan;
- noting the political character of the case against him, including the allegations by the Indian authorities that his political activities are a threat to Indo-Bhutan relations;
- noting reports that four members of DNC were tortured in Bhutan in police custody;
- expressing concern that if returned to Bhutan, Rongthong Kunley Dorji may be subjected to torture or cruel, inhuman or degrading treatment;
- urging the Indian Government to uphold its treaty obligations under the ICCPR;
- urging the Indian authorities to abide by the internationally recognized principle of non-*refoulement*;
- urging that Rongthong Kunley Dorji not be returned to Bhutan.

APPEALS TO:

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COPIES TO:

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and to diplomatic representatives of India accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat,
or your section office, if sending appeals after 3 September 1997.