

# People's Republic of China

## Miscarriage of Justice?

### The trial of Tenzin Deleg Rinpoche and related arrests

*Tenzin Deleg Rinpoche, a religious and community leader in Kardze, (Chinese: Ganzi), Tibetan Autonomous Prefecture, Sichuan Province, was charged in connection with several bombings in Sichuan and was given a suspended death sentence on 2 December 2002. There are concerns that Tenzin Deleg Rinpoche has been punished solely because of his peaceful religious and community work with Tibetan communities in Sichuan, not because of his alleged involvement in the bombings. Several people connected to Tenzin Deleg Rinpoche have also been implicated in the case. On 26 January 2003, Lobsang Dhondup, a former attendant of Tenzin Deleg Rinpoche, was executed for his alleged role in the bombings.*

*After four recent releases, at least three people are still being held in connection with the case. The true figure may be much higher: one source indicates that as many as 80 people may have been detained. There are serious concerns for the health of at least one of the detainees: Tashi Phuntsok, who is suffering from tuberculosis.*

#### Tenzin Deleg Rinpoche: Unfair Trial and Fear of Torture in Detention



Tenzin Deleg Rinpoche  
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Tenzin Deleg Rinpoche (also known as Ngawang Tashi or A An Zha Xi, in Chinese Characters 阿安扎西) was arrested on 7 April 2002, following a bombing incident in Chengdu, the capital of Sichuan Province, which took place on 3 April 2002. According to official reports, “separatist” leaflets calling for Tibetan independence were found at the scene of the explosion. He was arrested, together with four other monks, during a police raid on Jamyang Choekhorling monastery in Kardze. He was tried on 29 November 2002 and sentenced to death with a two-year suspension of execution on 2 December 2002. His conviction was upheld on 26 January 2003. Officials in China claim that suspended death sentences

are usually commuted to life imprisonment after the two year suspension period.<sup>1</sup>

There are serious concerns about Tenzin Deleg Rinpoche's treatment whilst in detention awaiting trial. Tenzin Deleg Rinpoche was reportedly held incommunicado for eight months at Dartsedo (Chinese: Kangding) Detention Centre, from his arrest on 7 April 2002, until his trial on 29 November 2002. Amnesty International has received unconfirmed reports that he was tortured or ill-treated in detention by being shackled by hand and foot and suspended from above. He reportedly conducted a hunger strike for several days in January 2003 to protest at his treatment.

On 29 November 2002 Tenzin Deleg Rinpoche was convicted of "causing explosions" and "inciting separatism" at the Intermediate People's Court in Kardze.<sup>2</sup> Reports indicate that he did not receive a fair trial. On 2 December 2002 Tenzin Deleg Rinpoche was sentenced to death, with a two year suspension for "causing explosions". He was also sentenced to 14 years' imprisonment for the charge of "inciting separatism".

It is unclear whether Tenzin Deleg Rinpoche had full access to adequate legal advice throughout the trial process. According to official Chinese sources, Tenzin Deleg Rinpoche was assigned two lawyers, Chen Shichang and Yu Jianbo, who defended him at his first trial, on 29 November 2002 at Kardze Intermediate People's Court, and at his appeal, on 26 January 2003, at Sichuan Higher People's Court.<sup>3</sup> However unofficial sources indicate that no defense counsel was present at the sentencing, also at Kardze Intermediate People's Court, on 2 December 2002. One relative told a foreign journalist, four days after the sentencing on 2 December 2002, that "no lawyers were allowed (at the sentence hearing) since the accused were labelled 'reactionary and anti government'".<sup>4</sup>

In December 2002 Tenzin Deleg Rinpoche's brother attempted to employ two prominent Beijing lawyers to defend Tenzin Deleg Rinpoche at his appeal, which took place on 26 January 2003. On 29 December however, a judge of the Sichuan High People's Court telephoned the two lawyers, Zhang Sizhi and Li Huigeng, and told them that local Sichuan lawyers would be representing Tenzin Deleg Rinpoche. It is unclear whether Tenzin Deleg Rinpoche was consulted about this change, and there are fears that Tenzin Deleg Rinpoche was denied the right to choose his own counsel. It is also not clear whether Tenzin Deleg Rinpoche did have access to local

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<sup>1</sup> Figures have never been provided to corroborate this assertion, as death penalty statistics remain a state secret in China

<sup>2</sup> Xinhua, "Two Tibetans sentenced to death in SW China", 26 January 2003

<sup>3</sup> *ibid.*

<sup>4</sup> Radio Free Asia, "Tibetans were denied lawyers in bomb trial – Chinese Judge Says Men Confessed to Bombings", 6 December 2002

lawyers, as stated in official Chinese reports, when he first had access to those lawyers, and whether he had any legal representation at his sentencing. In this context there are concerns that Tenzin Deleg Rinpoche was denied access to competent and effective defense counsel, in violation of international fair trial standards.

The authorities restricted access to Tenzin Deleg Rinpoche's trial, and only two members of his family were allowed to attend. This was apparently because his alleged crimes were related to "state secrets". The Chinese authorities have failed to explain publicly why the case is considered to be connected to "state secrets", and the evidence used to convict him remains unclear. Tenzin Deleg Rinpoche was not convicted of any crime relating to state secrets.

According to the Chinese authorities, Tenzin Deleg Rinpoche confessed that he had organized the bombings. The Director of the Ganzi Tibetan Autonomous Prefecture (TAP) judiciary asserted that Tenzin Deleg Rinpoche "accepted his responsibility in five of the six explosions".<sup>5</sup> However in January 2003, it was reported that Tenzin Deleg Rinpoche had secretly recorded the following statement on an audio tape:

"I am completely innocent...I have always said we should not raise our hand at others. It is sinful...I have neither distributed letters or pamphlets nor planted bombs secretly. I have never even thought of such things, and I have no intention to hurt others"<sup>6</sup>

Unofficial sources indicate that Tenzin Deleg Rinpoche also asserted his innocence at his sentencing on 2 December 2002. He reportedly stood up and shouted that his trial was unfair and the charges against him were untrue, before being gagged with a brush and forced out of court.

Tenzin Deleg Rinpoche had come under suspicion from the local authorities for several years prior to his arrest. The authorities reportedly attempted to arrest him in 1998, when he tried to establish monasteries without official approval, and again in 2000. He also attracted the attention of the authorities by leading a popular protest against excessive logging by local timber companies. Given this context, there are serious concerns that he may have been targeted by the authorities for his peaceful religious and community activities, rather than any violent offences.

Tenzin Deleg Rinpoche was reportedly moved to a secret location after his sentence was upheld on 26 January 2003 by the Sichuan High People's Court. His

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<sup>5</sup> Radio Free Asia, "Tibetans Were Denied Lawyers in Bomb Trial – Chinese Judge Says Men Confessed to Bombings" 6 December, 2002

<sup>6</sup> Radio Free Asia, "Tibetan Monk Protests Innocence in Smuggled Audiotape" January 21, 2003

current location remains unknown and Amnesty International is concerned that he is at risk of being subjected to further torture or ill-treatment.

### **Lobsang Dhondup: Execution Following Unfair Trial**

Tenzin Deleg Rinpoche's former attendant Lobsang Dhondup (in Chinese: Luo Sang Deng Zhu, Chinese characters:洛让邓珠) was detained, according to official sources, while "fleeing the scene" of the explosion, on 3 April 2002. The official Chinese press reported that Lobsang Dhondup was responsible for a series of explosions between January 2001 and April 2002, which killed one person and injured 12 others.<sup>7</sup>

Lobsang Dhondup was sentenced to death on 2 December 2002 for the crime of "causing explosions" by Kardze Intermediate People's Court.<sup>8</sup> His sentence was upheld by Sichuan High People's Court on 26 January 2003, and he was executed soon after. Amnesty International is concerned that he was executed after an unfair trial. He appears to have been held for several months incommunicado, he was not given full and adequate legal representation and his trial was held in secret. According to the Chinese authorities, the trial was secret because it involved "state secrets", but the authorities have not produced any evidence to substantiate these claims, and Lobsang Dhondup was not convicted of a state secrets related crime. If Lobsang Dhondup had been sentenced to death for a crime related to state secrets, then he would have been entitled to an appeal at the Supreme People's Court, China's highest court of appeal. The case was never considered by the Supreme People's Court,<sup>9</sup> in spite of the fact that several senior Chinese officials had assured representatives of the U.S.; E.U.; and other governments that the Supreme People's Court would review the death sentence, and that the process would be 'lengthy'.<sup>10</sup>

Reports indicate that Lobsang Dhondup's relatives only learnt the news of his death from a public leaflet issued five days after his execution. On or around 17

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<sup>7</sup> China Daily 27 February 2003

<sup>8</sup> He was also sentenced to 12 years of imprisonment for "inciting separatism", and three years for "illegally possessing fire arms and ammunition".

<sup>9</sup> The Peoples Republic of China Criminal Law stipulates that all death sentences should be reviewed by the Supreme People's Court. Two interpretations, issued by the Supreme People's Court in 1983 and 1997, have weakened this principle somewhat. The interpretations allow High People's Courts to act as the final court of appeal for death penalty cases resulting from most convictions. (One of the exceptions is any conviction relating to state secrets. Even under the 1997 interpretation, the Supreme People's Court must approve all death sentences handed down for convictions relating to state secrets). Some Chinese legal scholars have argued that the Supreme People's Court interpretations are unconstitutional, because they were approved by a lower authority than the laws that they are meant to overrule. According to this logic, all death penalty cases should be considered by the Supreme People's Court.

<sup>10</sup> Congressional Executive Committee on China, *'The Execution of Lobsang Dondrub and the Case Against Tenzin Deleg. The Law, the Courts and the Debate on Legality'*

February 2003, officials reportedly gave his relatives a box containing what were said to be his ashes. They had not been consulted about the cremation.

### **Tashi Phuntsok: Serious Concerns for Health and Legal Status Unknown**

Tashi Phuntsok, aged 39, was a monk at Jamyang Choekhorling monastery. He was arrested on or around 21 April 2002 while he was in Nyagchuka hospital in Nyagchuka (Yajiang) County, undergoing treatment for tuberculosis. He is serving a seven year sentence at an unknown location, though the charges against him are unclear. In August 2003, several unofficial sources indicated that Tashi Phuntsok was about to be released, or had already been released. However Tashi Phuntsok has not returned to Jamyang Choekhorling monastery, and reports suggest that he remains in detention in Dartsedo. Amnesty International is gravely concerned for his safety. It is not known if he is receiving adequate medical care in prison.

### **Tserang Dondrup: Alleged Torture and Ill-treatment**

Two men were reportedly arrested around 7 May 2002 in connection with Tenzin Deleg Rinpoche's case. One was later released, but the other, local village chief Tserang Dondrup (also known as Jortse, aged around 65), was tried in Nyagchuka County and sentenced to five years' imprisonment. Tserang Dondrup was a village head in Othok, the site of Tenzin Deleg's main monastery. Tserang Dondrup was reportedly charged with "separatist activities" and sentenced to five years in prison. The basis for this charge is not known, but it appears to be in connection with his helping to raise funds for Tenzin Deleg's legal defence. He is reported to have lost most movement and flexibility in his legs after his arrest, possibly as a result of torture or ill-treatment. Prisoners are generally moved from detention centres to prisons following their conviction and sentencing, and unofficial sources indicate that Tserang Dondrup was assigned to a prison, but the prison authorities refused to take him because they did not want to take responsibility for him in his state of ill-health. Tserang Dondrup reportedly remained at Nyagchuka Detention Centre until his early release on 11 July 2003.<sup>11</sup> Reports indicate that, at his release, Tserang Dondrup could not see or walk, and had lost movement in his hands. He was also suffering from speech difficulties, and was unable to make himself understood by others. Amnesty International is concerned that Tserang Dondrup's deteriorating condition may be the result of torture and ill-treatment.

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<sup>11</sup> Human Rights Watch, Tibetans Lost in Chinese Legal System: Activist Released, But Others Still Held, 15 July 2003

### **Taphel and Didi: Detention without Charge or Trial**

Taphel (also known as Tabo), a Tibetan businessman, who is from Lithang in Kardze Prefecture, was arrested on 12 February 2003. His detention appears to be linked to that of Didi, another Tibetan businessman, who was detained on 14 February 2003. Didi is a close relative of Tenzin Deleg Rinpoche, and had represented the family at Tenzin Deleg Rinpoche's first trial. Didi and Taphel may have been detained because they were suspected of talking to foreign journalists about the case of Tenzin Deleg Rinpoche. The local authorities had reportedly banned members of the family and other local people from speaking about the case to journalists. Several foreign journalists are known to have contacted people from the area, but it is not clear whether Didi and Taphel were among those who were interviewed. Didi was released in April 2003, but Taphel remains in detention.

### **Choetsom and Passang: Possible "Disappearances"**

Choetsom, (aged 19) and Passang (aged about 19) are also believed to be monks at Jamyang Choekhorling monastery. Choetsom and Passang were present on 7 April 2002, when police raided Jamyang Choekhorling monastery and arrested Tenzin Deleg Rinpoche and four other monks. Choetsom and Passang were reportedly interrogated and beaten by the police during the raid. They went missing the day after, and have not been seen since. It is unclear whether they are in hiding or in detention. The Chinese authorities have not confirmed or denied their detention and Amnesty International remains concerned for their safety.

### **Tsultrim Dargye, Aka Dargye and Tamdrin Tsering: Post-Release Restrictions**

Tsultrim Dargye, Aka Dargye and Tamdrin Tsering were also monks at Jamyang Choekhorling monastery. They were arrested during the raid on 7 April 2002, and there are reports that Tamdring Tsering was severely beaten by the authorities at this time. Tsultrim Dargye, Aka Dargye and Tamdrin Tsering were all released on 6 April 2003, after serving one-year terms of "Re-education Through Labour".<sup>12</sup> The authorities have not made public the reasons for their detention. The three monks have reportedly returned to the Jamyang Choekhorling monastery, but sources indicate they have not been allowed to perform any rituals since their return. This is a serious cause for concern, because the monks depend on performing rituals for their livelihood. It is not clear when, or if, the monks will be able to resume their normal lives.

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<sup>12</sup> "Re-education Through Labour" is a form of administrative detention imposed without charge, trial, or judicial review. Amnesty International has long called for the abolition of "re-education through labour", since it violates international fair trial standards.

### **Climate of Fear in the Kardze (Ganzi) Region**

Amnesty International is concerned that many others may have been arrested in connection with the case of Tenzin Deleg Rinpoche. Lochoe Drime, a monk who has since fled to Nepal, alleges that about 80 people have been arrested in connection with the case.<sup>13</sup> It is not possible to verify this claim because the people of Kardze have been warned not to speak to journalists, and reports indicate that some individuals may have been punished for this “crime”. Chinese writer Wang Lixiong reported that he heard the following threat made to a village head in Nyagchuka: “Whoever says a word to help A’an Zhaxi (Tenzin Deleg Rinpoche) will be treated as a criminal in the same case.”<sup>14</sup> Another source said: “people have been warned against displaying Rinpoche’s photo and told not to talk about him – and told they will be arrested if they do. Everyone in the area is worried and concerned.”<sup>15</sup>

### **Recommendations**

Amnesty International fears that the detention of Tenzin Deleg Rinpoche and his associates and the execution of Lobsang Dhondup are serious miscarriages of justice. The trials of Tenzin Deleg Rinpoche, Lobsang Dhondup and Tserang Dondrup were held in secret, and there were severe irregularities in trial procedures. All the other detainees have apparently been held without charge or trial, in violation of international human rights standards. There have been several reports of torture in connection with the case, so the fact that several of the prisoners continue to be held incommunicado at unknown locations is a grave cause for concern. Amnesty International fears the detainees may be at risk of further torture and ill-treatment.

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<sup>13</sup> Radio Free Asia, “Disciples of Condemned Monk Call for Leniency, 80 Tibetans Reportedly Detained”, 30 May 2003

<sup>14</sup> Tibet Information Network, “News Update”, 6 December 2002

<sup>15</sup> Radio Free Asia, “Chinese Police Detain Tibetans for Discussing Death Sentences in Bombing Case”, 11 March 2003

Please send express and airmail letters, faxes and emails in English, Chinese or in your own language:

- Urging the Chinese authorities to clarify the names, whereabouts and legal status of all those detained in connection with this case and provide immediate guarantees for their safety;
- Calling on the authorities to ensure they have full access to their relatives, lawyers of their choice, and any medical treatment they may require;
- Calling on the authorities to conduct an immediate review of the case of Tenzin Deleg Rinpoche, and conduct a retrial in line with international fair trial standards;
- Expressing serious concern at the execution of Lobsang Dhondup after an apparently unfair trial. Call on the authorities to disclose the evidence used to convict him and explain the connection with “state secrets” that led to his trial being held in secret;
- Calling on the authorities to make public the details of Tashi Phuntsok’s trial and conviction;
- Calling on the authorities to release Tashi Phuntsok immediately if he has not been charged with a recognizably criminal offence;
- Calling on the authorities to release Taphel immediately if he is not charged with a recognizably criminal offence;
- Calling on the authorities to carry out an immediate and impartial investigation into all allegations of torture or ill-treatment;
- Expressing opposition to the imposition of the death penalty in all cases as the ultimate cruel, inhuman and degrading treatment and violation of the right to life;
- Expressing concern that relatives of the detainees, and other Tibetan residents of the Kardze (Ganzi) region, have reportedly been threatened and prevented from discussing the case publicly, and urging the authorities to ensure that they are not subject to further intimidation or other human rights violations.

Email and Fax addresses in China are unreliable. If lines are busy, please keep trying, and follow up all fax and email communications with a letter.

**Appeals to:**

Governor of the Sichuan Provincial People's Government

**ZHANG Zhongwei** Shengzhang

Sichuansheng Renmin Zhengfu

Duyuanjie

Chengdushi

Sichuansheng

People's Republic of China

**Telegram: Provincial Governor, Chengdu, China**

**Fax: + 86 28 8435 6784 / 8435 6789 (c/o Foreign Affairs office of Sichuan Government)**

**E-mail: sichuan@sc.gov.cn**

**Salutation : Dear Governor**

Minister of Justice of the People's Republic of China

**ZHANG Fusen** Buzhang

Sifabu

10 Chaoyangmen Nandajie, Chaoyangqu

Beijingshi 100020

People's Republic of China

**Telegram: Justice Minister, Beijing, China**

**Fax: +86 10 6529 2345 (c/o Ministry of Communications)**

**Email: minister@legalinfo.gov.cn**

**Salutation: Dear Minister**

President of the Sichuan Provincial High People's Court

**LI Shaoping** Yuanzhang

Sichuansheng Gaoji Renmin Fayuan

Chengdushi

Sichuansheng

People's Republic of China

**Salutation: Dear President**

**Copies to:**

***Diplomatic representatives of the People's Republic of China in your country***

Appendix. Chinese Characters

Please use the Chinese characters for Tenzin Deleg Rinpoche and Lobsang Dhondrup when writing to the Chinese authorities.

**阿安扎西** A'an Zhaxi – Tenzin Deleg Rinpoche

**洛让邓珠** Luosang Dengzhu – Lobsang Dhondrup

