

EXTERNAL

AI Index: ASA 20/26/97

28 May 1997

Further information on EXTRA 57/97 (ASA 20/21/97, 22 April 1997) - Imminent Extradition/Fear of torture

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

After more than a month of court proceedings in New Delhi, Rongthong Kunley Dorji remains at the Lampur Sewa Sadan detention centre near New Delhi under a restriction order issued by the Foreigners Regional Registration Office (FRRO). Amnesty International remains concerned that he may be extradited to Bhutan where he could be at risk of torture or ill-treatment.

On 26 May, the High Court ruled that Rongthong Kunley Dorji's detention was "not unjustified", thereby dismissing the *habeas corpus* petition filed on his behalf. The ruling came after representatives of the government of India showed a document to the judges which they referred to as "a secret document". Earlier, on 14 May, the High Court had directed the FRRO to consider the request of Rongthong Kunley Dorji to be released on bond with or without sureties. However, the FRRO rejected the application subsequently made for his release on bond (see also below). Rongthong Kunley Dorji is currently held on an extended restriction order valid until 5 June.

Concurrently with the proceedings before the High Court, a court chaired by an Additional Chief Metropolitan Magistrate, has been hearing a petition brought by the Ministry of External Affairs and the Ministry of Home Affairs under Section 34B of the Indian Extradition Act. This asked for the issuing of a "provisional warrant for the arrest of [a] fugitive criminal" on receipt of an urgent request from a foreign state. Apparently, when on 26 May the magistrate was shown the "secret document" presumed to be the same one shown to the High Court judges, she commented: "Does this come under the extradition offences?"

The arguments have now been heard and the judge is set to deliver her judgement on 2 June on whether or not to issue a provisional warrant.

In another development, it has been reported that the High Court of Bhutan issued a new warrant for the arrest of Rongthong Kunley Dorji on 25 April 1997. Contrary to the warrant of 20 December 1996 on the basis of which the original extradition request was made, the new warrant no longer includes charges under the National Security Act relating to "anti-national" activities. The new warrant was presented to the Additional Chief Metropolitan Magistrate's court on 24 May.

Amnesty International is concerned that this may have been done in order to circumvent the provisions of the Indian Extradition Act, 1962. These provisions exclude extradition of people on the basis of offences "of political character", when the alleged "fugitive criminal" proves that the warrant for his surrender has in fact been made with a view to try and punish him for an offence of a political character or if the magistrate is satisfied that "the warrant for his surrender has, in fact, been made with a view to try or punish him for an offence of a political character".

Amnesty International is also concerned by several statements in the order of 21 May 1997 by the FRRO setting out why Rongthong Kunley Dorji was not released on personal bond and why the restrictions imposed on him were extended. The order states that the Ministries of External and Home Affairs have provided information to the FRRO that the activities of Rongthong Kunley Dorji as chairman

of the United Front for Democracy in Bhutan "on Indian soil would affect in an adverse manner the close and friendly relations that exist between India and Bhutan..." It further states that Rongthong Kunley Dorji's "activities are undesirable in the Indian domestic security context" and that this "is based on the secret reports of various intelligence agencies."

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;
- expressing concern that if returned to Bhutan, Rongthong Kunley Dorji may be subjected to torture or cruel, inhuman or degrading treatment;
- 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:

Mr I K Gujral
Prime Minister and Minister of External Affairs
Office of the Prime Minister
South Block
New Delhi 110 001
India

Faxes: * 91 11 301 9817
Telegrams: Prime Minister, New Delhi, India
Salutation: Dear Prime Minister

Mr Indrajit Gupta
Minister of Home Affairs
Ministry of Home Affairs
North Block
New Delhi 110 001
India

Faxes: * 91 11 301 5750
Telegrams: Home Minister, New Delhi, India
Salutation: Dear Minister

COPIES TO:

Mr J S Verma
Chief Justice of the Supreme Court of India
Supreme Court
Tilak Marg
New Delhi 110 001
India

Faxes: * 91 11 338 3792

Mr Ashok Desai
Attorney General of India
Attorney General's Department
Supreme Court of India

Tilak Marg
New Delhi 110 001
Faxes: * 91 11 338 3792

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 25 June 1997.