

PUBLIC

AI Index: ASA 17/055/2004

19 October 2004

Further Information on UA 216/04 (ASA 17/033/2004, 7 July 2004) –Imminent execution / Unfair trial

PEOPLE'S REPUBLIC OF CHINA	Ishwori Kumar Shrestha (m), aged 27] Nepalese citizens
	Rabi Dahal (m), aged 38]

The two Nepalese men named above received a retrial on 13 October. Although in itself a retrial is highly unusual in the Chinese justice system, and is almost certainly a reflection of the international pressure surrounding this case, it resulted in Rabi Dahal's death sentence being confirmed. His appeal hearing may take place in the next few weeks; if it fails, he is likely to be executed shortly afterwards.

However, Ishwori Kumar Shrestha's death sentence was suspended for two years, meaning that if he does not re-offend during this time, his sentence will most likely be commuted to life in prison.

Ishwori Kumar Shrestha and Rabi Dahal were originally sentenced to death on charges of drug-smuggling by a court in the Tibet Autonomous Region (TAR) in May 2004.

No further information has been made public about the circumstances of the retrial, including whether the two men had full access to legal representation or interpreters. In a report on the case by the state-owned media in Nepal, the Chinese authorities are quoted as stating they had rejected a campaign by human rights activists to spare the lives of two Nepalese.

BACKGROUND INFORMATION

Rabi Dahal and Ishwori Kumar Shrestha, who regularly travelled to China on business, were detained on 30 May 2003 in Khasa, TAR, after Chinese police found two sacks containing 29.85kg of heroin in their possession. The quantity of drugs involved led China's official media to describe the case as the "largest drugs case" in the history of the TAR.

Both men were reportedly tried and sentenced in May 2004. The men's families had not heard from them for over four months, and only learned of the sentences through the Nepalese media.

A host of failings in the Chinese criminal justice system jeopardize the lives of people suspected of capital crimes. There is no presumption of innocence; political pressure to pass heavy sentences intrudes into the judicial process; "confessions" extracted under torture can be used as evidence in court; and lawyers need not be present at the initial police interrogation. This creates a high potential for miscarriages of justice.

Amnesty International believes that there should be an immediate moratorium on the use of the death penalty in China. The organization is opposed to the death penalty in all circumstances, as the ultimate cruel and inhuman punishment.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language:

- welcoming the decision by the Chinese authorities to authorise a retrial of Rabi Dahal and Ishwori Kumar Shrestha, but expressing concern that it still resulted in both men being sentenced to death;
- calling on the authorities to stay the execution of Rabi Dahal immediately, and to commute the death sentences of both men;
- urging the authorities to publicly clarify whether the men had full access to lawyers, interpreters and other facilities necessary to guarantee their right to a fair trial;
- insisting that the men are permitted to communicate with their families;
- calling for an immediate moratorium on the death penalty in China.

APPEALS TO:

Chairman of the Tibet Autonomous Regional People's Government

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People's Republic of China

Email: e-editor@tibetinfo.com (Subject: "Please forward to Chairman Jampa Phuntsog")

Salutation: Dear Chairman

Premier of the People's Republic of China

Premier **Wen Jiabao**

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Salutation: Your Excellency

President of the Tibet Autonomous Regional High People's Court

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People's Republic of China

Salutation: Dear President

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and to diplomatic representatives of People's Republic of China accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 30 November 2004.