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People's Republic of China
Miscarriages of Justice
Selected Cases

22 March 2004 Summary AI Index: ASA 17/002/2004

This is a selection of appeal cases which accompany the report *People's Republic of China: Executed "according to law?": The Death penalty in China* (AI Index: ASA 17/003/2004). The report describes what someone suspected of committing a capital crime would go through under the Chinese criminal justice system, from detention through to execution, and points out that there is the potential for violation of human rights at every stage of the procedure leading to execution.

The individual cases described in this document are emblematic of the failings of the judicial system in China. They illustrate violations of human rights that have taken place in the judicial procedures leading to a death sentence, and reveal a widespread pattern of abuse and unfair trials.

As well as contravening international laws and standards on the death penalty, China's judiciary also executes people following legal procedures which contravene its own domestic laws. In addition to the use of torture to extort confessions despite its prohibition under Chinese law, suspects are often held in detention well beyond the limits prescribed by law, and are not guaranteed immediate access to legal representation. Obviously fabricated or falsified evidence against defendants is accepted in court, confessions extorted through torture is often used as evidence despite being outlawed; and a defendant in court is effectively required to prove their innocence rather than the prosecution being required to prove the defendant's guilt.

Amnesty International urges the Chinese authorities to ensure that procedures in capital cases conform to international human rights standards, and to this end urges the authorities to immediately ratify the International Covenant on Civil and Political Rights (ICCPR), and the Convention against Torture's optional protocol.

Amnesty International regards the individuals whose cases are described in this document as victims of miscarriages of justice[1] resulting from violations of human rights, and calls upon the Chinese authorities to review their cases in line with international standards of fair trials.

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[1] **Miscarriage of Justice:** "Some serious failure in the judicial process involving grave prejudice to the convicted person". Council of Europe, Explanatory report on Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms, 1985.

This report summarizes a 12-page document (5645 words): *People's Republic of China: Miscarriages of Justice – Selected Cases* issued by Amnesty International in March 2004. Anyone wishing further details or to take action on this issue should consult the full document. An extensive range of our materials on this and other subjects is available at http://www.amnesty.org and Amnesty International news releases can be received by email:

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Miscarriages of Justice Selected Cases

AI Index: ASA 17/002/2004

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 0DW, UNITED KINGDOM

Appeal Cases

CHEN GUOQING [陈国清],

YANG SHILIANG [杨士亮], HE GUOQIANG [何国强], ZHU YANQIANG [朱彦强].

"At the first interrogation, they used electric batons to give shocks to my face and neck. The second time, I was fastened to a "cross" fetter, my feet were cuffed and they put the telephone leads round my big toes and rang the telephone making me jump again and again. To stop the jumping, they put me on a stool and pressed the stool's legs on my feet. They rang the phone again and my legs involuntarily jumped. After this, my memory got worse, and my brain is poorer. No one could endure this[1]."

Issues: **Torture - Confessions extorted through Torture-**

Presumption of Innocence - Retrials for "insufficient or unclear evidence"

Residence: Touying Village, Dashimiao Town – Chengde, **Hebei Province**

Occupation: Farmers

Information:

- Four times sentenced to death for murder and robbery by the Chengde City Intermediate People's Court between 1996 and 2003;
- Three times the Hebei High Court overturned the original sentence (s), and sent the case back to the Intermediate Court for re-trial "on the grounds that the facts were not clear";
- All four defendants stated to the court that their confessions had been extracted under torture and that they were forced to confess to the charges made against them.
- Awaiting a final verdict pending an appeal against the fourth sentence.

Background

Between 1996 and 2003 Chen Guoqing, Yang Shiliang, He Guoqiang and Zhu Yanqiang, were sentenced to death four times by Chengde City Intermediate People's Court, although the court was ordered three times by the Hebei High People's Court to retry the case on the grounds of insufficient or unclear evidence gathered by the police during the pre-trial investigation.

The four men were arrested by police investigating the murder of two taxi drivers between July and August 1994 in Chengde city. According to official reports about the case, it appears that the police were particularly anxious to solve the murders and after two months without any progress, the police eventually detained Chen Guoqing following a tip-off that he was "in an unusual mood, and was gloomy and unhappy." Three other men, Yang Shiliang, He Guoqiang and Zhu Yanqiang were also detained over the following period. All four men confessed to the crimes during torture, and the investigating police officers were awarded with commendations.

Chen Guoqing was several times beaten unconscious, had his genitals struck with electric batons and had live telephone leads tied round his legs. The three other men were also tortured during interrogation. At Chen's first trial in 1996, he and his three fellow defendants bared their scars to the courtroom, saying that the wounds had been inflicted by police officers torturing them to extort their confessions. However, the judge reportedly brushed aside their complaints, saying "[...] that the four defendants confessed is on record. The facts are clear and there is sufficient evidence to convict." All four were sentenced to death for murder and robbery.

[1] Chen Guoqing's testimony to a reporter of the China Youth Daily, given in November 2000 after the fourth retrial - China Youth Daily, 27 December 2000.

After filing an appeal, the Hebei Province High People's Court sent the case of Chen Guoqing and his three co-defendants for retrial on 6 October 1996 on the grounds that more than 20 items of the prosecution's evidence needed clarification.

Chen and his three co-defendants were re-tried on 12 August 1997. Despite the doubts raised by Hebei Province High People's Court, Chengde City Intermediate People's Court re-sentenced all four men to death, on exactly the same charges and based on exactly the same "evidence". The court still refused to investigate the defendants' claims they had been tortured, and would not allow their alibis to be presented as evidence. Chen Guoqing said that he intended to tell a procuratorate official reviewing his case that he had been tortured. But when the official arrived, the police officers who had tortured him were also present and he didn't dare raise the subject.

Once again, the men appealed, and on 16 February 1998 the provincial high court ordered a third retrial on the grounds that "the facts are not clear", and yet again, at the third trial on 13 November 1998, all four men were found guilty and sentenced to death on the basis of the same evidence.

The provincial court ordered a fourth retrial following the co-defendants' subsequent appeal, which was held on 20 October 2000. Chen Guoqing and Yang Shiliang were yet again sentenced to death, while He Guoqiang was sentenced to death suspended for two years, and Zhu Yangqiang was sentenced to life in prison. Once again, all four men appealed.

Timeline: 1996-2004
Eight years on death row

Chen Guoqing [陈国清],
Yang Shiliang [杨士亮],
He Guoqiang [何国强],
Zhu Yanqiang [朱彦强].

Nov. 1994 - Feb 1996 – all detained on suspicion of murder
ca 1996 – all four sentenced to death, appeal
12 August 1997 – all four sentenced to death, appeal
13 October 1998 – all four sentenced to death, appeal
20 October 2000 – Chen and Yang sentenced to death; He sentenced to death suspended for two years; Zhu sentenced to life imprisonment, appeal
21 July 2003 – tried by the Hebei provincial court, awaiting final

Almost three years after filing their appeal, the four defendants' case was tried for the fourth time on 21 July 2003, this time by Hebei Province High People's Court sitting as the court of first instance, apparently in response to the authorities' exasperation that the intermediate-level court could not reach a sound verdict. During the public hearing, all four men were reportedly permitted to submit their alibis to the court, as well as present the wounds sustained during their torture to the court, and to state the names of the police officers who tortured them. One report claims this was the first time the co-defendants had physically been able to show their scars, having appeared in court on all previous occasions wearing handcuffs. Chen Guoqing is described in reports as now having difficulties in speaking or thinking coherently. The court had yet to deliver a final verdict at the time of this document's release.

Amnesty International is concerned that the four men have been wrongly detained and sentenced on the basis of confessions obtained through torture following unfair trials.

Amnesty International calls upon the authorities to:

- **Order a review of the cases of Chen Guoqing, Yang Shiliang, He Guoqiang and Zhu Yanqiang and urge that any testimony which appears to have been extorted through torture is excluded from the evidence, in line with China's obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;**
- **If found not guilty following a fair trial, to provide them with the means to sue for compensation, and any other appropriate form of reparation according to international human rights standards;**
- **Ensure that anyone charged with an offence is presumed innocent until proven guilty following a fair trial;**
- **To use their influence to ensure that a specific provision is included in the Criminal Procedure Law explicitly banning the use in court of testimony extorted through**

torture, in line with China's obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

RAISE THE CASES WITH THESE AUTHORITIES:

President of the Hebei Provincial High People's Court **LIU Ruichuan** Yuanzhang Hebeisheng Gaoji Renmin Fayuan 419 Yuhuaxilu, Shijiazhuangshi Hebeisheng 050051 People's Republic of China **Salutation: Dear President**	People's Republic of China 河北省 石家庄市 050051 裕华西路 419 号 河北省高级人民法院 中华人民共和国河北省高级人民法院院长刘瑞川
President of the Supreme People's Court of the People's Republic of China **XIAO Yang** Yuanzhang Zuigao Renmin Fayuan 27 Dongjiao Min Xiang Beijingshi 100726 People's Republic of China **Salutation: Dear President**	People's Republic of China 北京市 100726 东交民巷 27 号 最高人民法院 中华人民共和国最高人民法院院长肖扬
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 **Salutation: Your Excellency**	People's Republic of China 北京市 100020 朝阳区 朝阳门南大街 10 号 中华人民共和国司法部部长张福森
When you write to the authorities above, please send also a copy to:	
Secretary of the Hebei Provincial Party Committee **BAI Keming** Shuji Zhonggong Hebeisheng Weiyuanhui 10 Weiming Jie Shijiazhuangshi Hebeisheng 050052 People's Republic of China **Salutation: Dear Secretary**	People's Republic of China 河北省 石家庄市 050052 维明街 10 号 中共河北省委员会 中共河北省委员会书记白克明

A COPY OF YOUR APPEALS SHOULD BE SENT TO THE CHINESE EMBASSY IN YOUR COUNTRY

Appeal Cases

ZHAO FENRONG [赵粉绒]

"At the third trial, with her lawyers looking on encouragingly, Zhao Fenrong described how her confession was extorted through torture. "I didn't plant any poison. I only admitted to it after the police beat me so much I couldn't stand it any more!" She then produced a clump of hair and showed it to the judge, saying it was a clump of her own hair that had been pulled out by personnel working on her case. This made some police officers sitting in the public gallery look distinctly awkward."[2]

Issues: **Torture - Confessions extorted through Torture-**

Presumption of Innocence - Retrials for "lack of evidence"

Residence: Shuangcao Township, Danfeng County, **Shaanxi Province**

Occupation: Farmer

Information:

- Four times sentenced to death for alleged murder by the Shangluo City Intermediate People's Court between 1999 and 2002;
- Three times the Shaanxi High Court overturned the original sentence , and sent the case back to the Intermediate Court for re-trial "because of inconsistencies in the evidence";
- During three sessions of interrogation Zhao confessed under torture to poisoning the children, but recanted her confession during a fourth interrogation with different officials, and also in court.
- Awaiting a final decision on a retrial pending a petition against the fourth sentence.

Background

Zhao Fenrong, a woman from rural Shaanxi Province, was sentenced to death four times between 1999 and 2002. Three times the Shaanxi High Court ordered the Shangluo City Intermediate People's Court to retry the case because of inconsistencies in the evidence gathered by the prosecution.

Zhao was accused of murdering two children in her village in December 1998, after attempting suicide around the time the children died having eaten candy laced with rat poison. She had attempted suicide on several previous occasions, reportedly because of marital difficulties. Using her suicide as the basis for their suspicion, police started collecting evidence against her, including a statement from Zhao's 9-year-old daughter testifying to her mother's "strange mood" at the time of the events. The child's statement, which was used in court against Zhao, was taken by the police with no adult relative present – as required by law. The investigation failed to prove any connection between the rat poison in the dead children's stomach and the candy, nor any connection with Zhao and the candy.

During three sessions of interrogation, Zhao confessed under torture to poisoning the children, but recanted her confession during a fourth interrogation with different officials. She then confessed again when confronted by the interrogators from the first three sessions. She was sentenced to

[2] "A rural woman sentenced to death three times, Shaanxi sees another case of 'hold the execution'" [农村妇女三次被判死刑 陕西又见"枪下留人"案], Beijing Youth Daily [北京青年报], available (in Chinese) at: www.southcn.com dated 11 May 2003.

death in June 1999, and appealed.

In March 2000, the Shaanxi High People's Court sent the case for retrial at Shangluo City Intermediate People's Court on the basis of the inconsistencies in the evidence highlighted by her lawyers, and the statements from two of Zhao's cellmates confirming that she had been beaten: they had seen bruises and lacerations on her legs and back. However, the inconsistencies and the testimonies were apparently ignored by the court, and Zhao was sentenced to death for a second time. Zhao appealed again.

Despite her pending appeal, an order for Zhao's execution was drafted by the court without prior notification. She was saved at the last minute after the lawyers filed an urgent petition upon discovering the order by chance. Zhao's stay of execution was reportedly received on 20 September 2000 by the detention centre where she was being held, on the evening before her execution. It is not clear why this happened but it appears to have been an administrative error.

Zhao was sent for trial a third time on 27 April 2001 by the high court repeating its call for clarification of inconsistencies in the evidence against her. However, once again, the court sentenced her to death, with the prosecution stating, "[...] only death will satisfy the indignation of the masses and comply with the nation's law".

Timeline: 1999-2004
Five years on death row

Zhao Fenrong [赵粉绒]

December 1998 – detained on suspicion of poisoning two children
2 June 1999 – sentenced to death, appeal leads to retrial
ca 27 March 2000 – sentenced to death, appeal leads to retrial
27 April 2001 – sentenced to death, appeals
December 2002 – sentenced to death suspended for two years
Currently in prison awaiting further appeal hearings

Zhao's latest appeal was heard by Shaanxi High People's Court in December 2002. None of the reports in the Chinese media offer an explanation as to why her appeal took 20 months to be heard. Despite evidence to the contrary, the High Court agreed with Shangluo Intermediate People's Court that "the facts are clear", and sentenced Zhao Fenrong to death, this time suspended for two years.

According to reports, in April 2003 her lawyers filed a petition to the Shaanxi High People's Court protesting against her conviction and urging the High People's Court to review the case.

Amnesty International is concerned that the Zhao Fenrong was sentenced on the basis of evidence based on confessions obtained through torture following four unfair trials.

Amnesty International calls upon the authorities to:

- **Order a review of the case of Zhao Fenrong on the grounds that she appears to have been convicted on the basis of insufficient evidence and of her forced confession, and urge that any testimony extorted through torture is excluded from the evidence, in line with China's obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;**
- **If found not guilty following a fair trial, to provide her with the means to sue for compensation, and any other appropriate form of reparation according to internationally agreed human rights standards;**
- **Ensure that anyone charged with an offence is presumed innocent until proven guilty following a fair trail;**
- **To use their influence to ensure that a specific provision is included in the Criminal Procedure Law explicitly banning the use in court of testimony extorted through torture, in line with China's obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.**

RAISE THE CASE WITH THESE AUTHORITIES:

President of the Shaanxi Provincial High People's Court **ZHAO Guohai** Yuanzhang Shaanxisheng Gaoji Renmin Fayuan, Xi'anshi, Shaanxisheng, People's Republic of China **Salutation: Dear President**	People's Republic of China 陕西省 西安市 710004 陕西省高级人民法院 陕西省高级人民法院院长赵郭海
President of the Supreme People's Court of the People's Republic of China **XIAO Yang** Yuanzhang Zuigao Renmin Fayuan 27 Dongjiao Min Xiang Beijingshi 100726 People's Republic of China **Salutation: Dear President**	People's Republic of China 北京市 100726 东交民巷 27 号 最高人民法院 中华人民共和国最高人民法院院长肖扬
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 **Salutation: Your Excellency**	People's Republic of China 北京市 100020 朝阳区 朝阳门南大街 10 号 中华人民共和国司法部部长张福森
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Secretary of the Shaanxi Provincial Party Committee **LI Jianguo** Shuji Zhonggong Shaanxisheng Weiyuanhui Xi'anshi Shaanxisheng People's Republic of China **Salutation: Dear Secretary**	People's Republic of China 陕西省 西安市 中共陕西省委员会 中共陕西省委员会书记李建国

A COPY OF YOUR APPEALS SHOULD BE SENT TO THE CHINESE EMBASSY IN YOUR COUNTRY

Appeal Cases

GONG SHENGLIANG [龚圣亮 / 龚胜亮]

"The members of the South China Christian Church wish to know whether the judgment of this case is by the government or by the judicial organ. If by the government, I resign myself to accepting the judgment. After all, the arm is no match for the thigh. We five people should feel honoured to die in the hand of the government of a country that claims to allow "religious freedom" and which calls itself "a great civilized country." But if it is a judgment by the judicial organ, we do not deem it fair and just, and will call into question the impartiality of the judicial organ." [3]

Issues: **Torture - Confessions extorted through Torture - Retrials for "insufficient evidence and unclear facts"- Independence of the judiciary**

Residence: Xuzhai village, Zaoyang City, **Hubei Province**

Occupation: Protestant pastor and leader of the un-registered "Huanan (South China) Church".

Information:

- Detained on charges of rape, causing deliberate injury, and "using a heretical organisation to undermine implementation of the law"; another 16 co-defendants were detained on similar charges.
- During their detention Gong and his co-defendants were subjected to torture. Ten women were physically and sexually abused to extort testimony that they had been raped by Gong Shengliang. Three female defendants later said that they were tortured by the police to make them confess to having had sexual relations with Gong.
- Gong and four other co-defendants were sentenced to death in a closed trial.
- The Provincial High Court ordered a retrial of the case on the grounds of insufficient evidence;
- Following the retrial, the "heretical organization" charges were dropped and Gong was sentenced to life imprisonment for rape and assault. All his co-defendants were handed lesser sentences, and four women were sent to labour camps.
- Reports continue to emerge that Gong Shengliang is regularly beaten in prison, and has been close to death on at least one occasion.

Background

Gong Shengliang, the leader of an un-registered church in Hubei Province, was sentenced to death on 29 December 2001 on charges of "rape", "causing deliberate injury", and "using a heretical organisation to undermine the implementation of the law". Four of his co-defendants were also sentenced to death, and 12 others were sentenced to prison terms ranging from two years to life, all on similar charges relating to their involvement with a "heretical religious organisation".

The charge of "using a heretical organisation to undermine the implementation of the law" relates to his religious activities as a leader of the banned Huanan Church, which is reported to have over 50,000 members. The "church" was banned by the authorities as a "heretical organisation" in April 2001.

Amnesty International fears that the evidence and charges brought against Gong were based on confessions obtained through torture in an attempt to stop his religious activities. Because the charges of rape involved the "personal privacy" of the alleged rape victims the trials were closed.

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[3] *Four letters from Pastor Gong Shengliang in his death-cell*, eds Gary Lane and Bob Fu, September 2002, available at: http://www.persecution.com/newsContent/Gong/pdf/Pastor_Gong_Letters.pdf

Three women whom Gong was alleged to have raped have produced written testimonies, claiming they were shackled, whipped, kicked and beaten on their chest with electric shock batons by the police in an attempt to force them to testify that they had been raped by Gong and to obtain evidence in their case against Gong.

According to letters written by Gong Shengliang, from February to April 2002 in his prison cell and smuggled out of China, the charges against him of rape were never raised in court by the prosecution, but he was still sentenced to death convicted of rape. It would appear that the court had previously decided his guilt on the charges of rape based on the women's testimonies extorted through torture. He was also found guilty of "causing deliberate injury", although no clear evidence of these allegations was reportedly produced in court.

In September 2002, Hubei Province High People's Court ordered a re-trial reportedly on the grounds that there was not enough evidence to convict, and that "the facts are not clear". All charges relating to "using a heretical organisation to undermine implementation of the law" were dropped at the re-trial. In October 2002, Gong's death sentence was commuted to life imprisonment for the charges of rape and assault, the four others sentenced to death received long prison terms.

Timeline: 2001- 2002
2 years on death row

Gong Shengliang [龚圣亮 / 龚胜亮]

29 December 2001 – sentenced to death, appeals
22 September 2002 – retrial is ordered
9 October 2002 – sentenced to life imprisonment
Currently- held in Hongshan prison, Hubei Province, and reported to be seriously ill following sustained and severe beatings.

It appears that the Chinese government may have responded to international concerns about the politicised nature of the "heretical organization" charges against Gong, and chose to prosecute him on less controversial charges instead. However, concerns remain that the 'evidence' used to prosecute and sentence Gong on charges of rape and causing deliberate injury were based on confessions obtained through torture.

Gong Shengliang was also reportedly tortured not only during his detention, but also at all other stages of his custody. Reports continue to appear that he is still regularly beaten and subjected to daily brainwashing sessions, has been close to death on at least one occasion, and that his access to medical treatment and family contact is severely limited by prison authorities. He is still reported to be held in solitary confinement in Hongshan prison, Hubei, where he was transferred in July 2003 from Jingzhou Prison. As a result of the beatings, he reportedly suffers from severe stomach and respiratory problems, possibly asthma, is deaf in his left ear, walks with great difficulty and is still passing blood in his urine and his stools.

Amnesty International is concerned that Gong Shengliang was sentenced on the basis of testimony obtained through torture, following two closed trials. Amnesty International is also concerned at reports that Gong Shengliang is seriously ill following beatings by prison officials.

Amnesty International calls upon the authorities to:

- **Order a full, independent and public inquiry into the circumstances surrounding the detention, trial and sentencing of Gong Shengliang on the grounds that he was convicted on the basis of confessions extorted through torture;**
- **Conduct an immediate review of his case to ensure that any testimony extorted through torture is excluded from the evidence against him, in line with China's obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;**
- **Order a full, independent and impartial investigation into the allegations that Gong Shengliang has been tortured, for the results to be made public and for those found responsible to be brought to justice;**

- **Take immediate measures to guarantee Gong Shengliang's safety, including by ending his solitary confinement, providing him with appropriate medical treatment and giving guarantees that he will not be subjected to further torture or ill-treatment;**
- **Provide him with access to his relatives and a lawyer of his choice;**
- **Order a full, independent and impartial investigation into all allegations that those detained in connection with this case have been tortured, for the results to be made public and for those found responsible to be brought to justice.**

RAISE THE CASE WITH THESE AUTHORITIES:

President of the Supreme People's Court of the People's Republic of China **XIAO Yang** Yuanzhang Zuigao Renmin Fayuan 27 Dongjiao Min Xiang Beijingshi 100726 People's Republic of China **Salutation: Dear President**	People's Republic of China 北京市 100726 东交民巷 27 号 最高人民法院 中华人民共和国最高人民法院院长肖扬
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 **Salutation: Your Excellency**	People's Republic of China 北京市 100020 朝阳区 朝阳门南大街 10 号 中华人民共和国司法部部长张福森
Governor of the Hubei Provincial People's Government **LUO Qingquan** Shengzhang Hubeisheng Renmin Zhengfu 1 Beihuanlu Shuiguohu Wuchangqu, Wuhanshi 430017 Hubeisheng People's Republic of China **Salutation: Dear Governor**	People's Republic of China 湖北省 武汉市 430017 武昌区 水果湖北环路 1 号 湖北省人民政府 湖北省人民政府省长罗清泉
Hong Shan Prison Wu Chang District Wuhan City, Hubei Province People's Republic of China	People's Republic of China 湖北省 武汉市 武昌区 洪山监狱
When you write to the authorities above, please send also a copy to	
Secretary of the Hubei Provincial Party Committee **YU Zhengsheng** Shuji Zhonggong Hubeisheng Weiyuanhui Wuhanshi Hubeisheng People's Republic of China **Salutation: Dear Secretary**	People's Republic of China 湖北省 武汉市 中共湖北省委员会 中共湖北省委员会书记俞正声

A COPY OF YOUR APPEALS SHOULD BE SENT TO THE CHINESE EMBASSY IN YOUR COUNTRY

Appeal Cases

TENZIN DELEG RINPOCHE [阿按扎西] and LOBSANG DHONDUP [罗让邓珠]

"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"[4]

Issues: **Torture - Confessions extorted through Torture - Presumption of Innocence- Legal Representation - Independence of the Judiciary - Flawed Appeal Process**

Residence: Kardze, (Chinese: Ganzi), Tibetan Autonomous Prefecture, **Sichuan Province**

Occupation: Tenzin Deleg Rinpoche, religious and community leader; Lobsang Dhondup, a former attendant of Tenzin Deleg Rinpoche.

Information:

- In April 2002, Lobsang Dhondup is detained at the scene of an explosion in central Chengdu, Sichuan Province accused of planting a bomb. A few days later Tenzin Deleg Rinpoche is detained at his monastery in Litang County, Sichuan Province in connection with the same bomb-blast.
- Tenzin Deleg Rinpoche is reportedly held *incommunicado* for eight months from the time of his arrest until the time of the trial. Both men are reportedly subjected to torture during the months of their detention.
- On 2 December 2002, Lobsang Dhondup is sentenced to death on charges of "attempting to split the nation", "causing explosions" and "illegal possession of firearms"; Tenzin Deleg Rinpoche is sentenced to death suspended for two years on charges of "attempting to split the nation" and "causing explosions". Tenzin Deleg Rinpoche appeals. It's not clear whether Lobsang Dhondup also appealed.
- On 26 January 2003, Sichuan Province High Court rejects Tenzin Deleg Rinpoche's appeal; Lobsang Dhondup is immediately executed.
- Tenzin Deleg Rinpoche continues to serve his suspended death sentence in prison in Sichuan.

Background

Lobsang Dhondup, an ethnic Tibetan from the traditionally Tibetan area of western Sichuan Province, was detained on 3 April 2002 in Chengdu, for allegedly detonating a bomb in the city's main square. He was also eventually charged with "causing explosions" on several other occasions since January 2001. Tenzin Deleg Rinpoche was detained on 7 April 2002 at his monastery in Litang County, Sichuan Province, on suspicion of some unspecified involvement in the 3 April 2002 explosion. Both men were also suspected of and charged with producing and distributing "splittist" leaflets advocating independence for Tibet, found at the scenes of the blasts; Lobsang Dhondup was additionally charged with "illegally possessing arms and ammunition".

Tenzin Deleg Rinpoche had angered the local authorities several years prior to his arrest for getting permission to establish monasteries directly from Beijing bypassing the local government. The authorities reportedly detained him in 1998 and 2000 for leading popular local protests against deforestation in the area by a local timber company. On both occasions he was released when locals risked signing petitions calling for his release. In 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.

[4] In January 2003, it was reported that Tenzin Deleg Rinpoche had secretly recorded a statement on an audio tape, which was smuggled out of China. (Radio Free Asia, "Tibetan Monk Protests Innocence in Smuggled Audiotape" January 21, 2003.) This quote is an extract from his testimony.

According to unofficial reports, both men were repeatedly tortured in detention and held *incommunicado* for eight months between detention and their eventual trial. Amnesty International has received unconfirmed reports that Tenzin Deleg Rinpoche was tortured in detention by being shackled by hand and foot and suspended from above. Lobsang Dhondup is thought to have been forced to implicate Tenzin Deleg Rinpoche under torture.

Official reports on the case claim both men "confessed" to the crimes. However, unofficial sources indicate that Tenzin Deleg Rinpoche 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. He also reportedly conducted a hunger strike for several days in January 2003 and secretly recorded an audio tape proclaiming his innocence and denouncing his treatment.

There are serious doubts about the fairness of the trials of both men, as the authority prevented any public scrutiny of the proceedings claiming the cases involved "state secrets", although it never explained how suspicion of involvement in the alleged crimes could touch upon "state secrets".

It is not known when lawyers were allowed access to the men. Official reports claim both were assigned lawyers by the procuratorate, but the presence of lawyers in court for sentencing at least has been denied by members of the men's families who attended the sentencing hearings. One relative of Tenzin Deleg Rinpoche 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'". Furthermore, Tenzin Deleg Rinpoche is known to have been denied access to lawyers of his choice, possibly due to a stipulation in the Criminal Procedure Law on the need to "seek approval" before gaining access to lawyers in cases involving "state secrets".

Timeline: 2002 -2004
Two years on death row

Tenzin Deleg Rinpoche [阿按扎西] and Lobsang Dhondup [罗让邓珠]

3 April 2002 – Lobsang Dhundup detained on suspicion of causing an explosion
7 April 2002 – Tenzin Deleg Rinpoche detained on suspicion of collusion
2 December 2002 – Lobsang Dhondup sentenced to death; Tenzin Deleg Rinpoche sentenced to death suspended for two years.
26 January 2003 – Tenzin Deleg Rinpoche's appeal rejected, Lobsang Dhondup executed.

There are also serious concerns that the death penalty review process was highly irregular under both Chinese and international law.

Official reports claim that Lobsang Dhondup did not appeal against his death sentence although initially a court official was quoted as saying that both men had appealed. His sentenced was never reviewed by the Supreme People's Court, in spite of the fact that the Criminal Procedure Law stipulates that all cases involving "state secrets" should be sent to the Supreme Court for review. There is a suspicion therefore that Lobsang Dhondup was denied his right to appeal to a higher tribunal in violation of Chinese and international law. When Tenzin Deleg Rinpoche's appeal was rejected by Sichuan Province High People's Court on 26 January 2003, the case files should then have been sent to the Supreme People's Court for review. However, they were not.

Lobsang Dhondup was executed within hours of Tenzin Deleg Rinpoche's appeal being rejected. 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 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. Tenzin Deleg Rinpoche's current location remains unclear and Amnesty International is concerned that he is at risk of being subjected to further torture or ill-treatment.

Amnesty International fears that the detention of Tenzin Deleg Rinpoche and the execution of Lobsang Dhondup are serious miscarriages of justice. The trials of Tenzin Deleg Rinpoche and Lobsang Dhondup were held in secret, the evidence for their conviction appears to have been obtained through torture and there were severe irregularities in trial procedures.

Please send appeals to the authorities:

- **Expressing serious concern at the execution of Lobsang Dhondup after an 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 conduct an immediate review of the case of Tenzin Deleg Rinpoche, and conduct a retrial in line with international fair trial standards;**
- **To order a full, independent and impartial investigation into the allegations that Tenzin Deleg Rinpoche has been tortured and ill-treated, for the results to be made public and for those found responsible to be brought to justice;**
- **To take immediate measures to guarantee Tenzin Deleg Rinpoche's safety, including by clarifying his whereabouts, ending his solitary confinement, providing him with appropriate medical treatment and giving guarantees that he will not be subjected to further torture or ill-treatment; and to provide him with access to his relatives and a lawyer of his choice.**

RAISE THE CASE WITH THESE AUTHORITIES:

President of the Supreme People's Court of the People's Republic of China **XIAO Yang** Yuanzhang Zuigao Renmin Fayuan 27 Dongjiao Min Xiang Beijingshi 100726 People's Republic of China **Salutation: Dear President**	People's Republic of China 北京市 100726 东交民巷 27 号 最高人民法院 中华人民共和国最高人民法院院长肖扬
Minister of Public Security of the People's Republic of China **ZHOU Yongkang** Buzhang Gong'anbu 14 Dongchanganjie Beijingshi 100741 People's Republic of China **Salutation: Your Excellency**	People's Republic of China 北京市 100741 东长安街 14 号 公安部 中华人民共和国公安部部长周永康
Governor of the Sichuan Provincial People's Government **ZHANG Zhongwei** Shengzhang Sichuansheng Renmin Zhengfu 30 Duyuanjie, Jinjiangqu, Chengdushi 610016 Sichuansheng People's Republic of China **Salutation: Dear Governor**	People's Republic of China 四川省 成都市 610016 锦江区 督院街 30 号 四川省人民政府 四川省人民政府省长张中伟
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 **Salutation: Your Excellency**	People's Republic of China 北京市 100020 朝阳区 朝阳门南大街 10 号 中华人民共和国司法部部长张福森
When you write to the authorities above, please send also a copy to	
Secretary of the Sichuan Provincial Party Committee **ZHANG Xuezhong** Shuji Zhonggong Sichuansheng Weiyuanhui Chengdushi, Sichuansheng People's Republic of China **Salutation: Dear Secretary**	People's Republic of China 四川省 成都市 中共四川省委员会 中共四川省委员会书记张学忠

A COPY OF YOUR APPEALS SHOULD BE SENT TO THE CHINESE EMBASSY IN YOUR COUNTRY