

(Translated from Chinese)

Receipt is hereby acknowledged of the letter regarding a case connected with Tibet, dated 24 June 2013 and addressed jointly by the United Nations Human Rights Council's Chair-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, and the Special Rapporteur on the situation of human rights defenders (UA G/SO 218/2 G/SO 214 (67-17) Assembly and Association (2010-1) G/SO 214 (107-9) CHN 5/2013). The Chinese Government has carefully investigated the matter referred to in the letter, but has concluded that there is no case corresponding to that described in the letter concerning a Mr. Dorje Wangchuk as a defendant, and wishes instead to provide the details of a similar case of unlawful procession and demonstration involving three persons including Mr. Dorje [Angxiu]* as follows.

The Tongren County People's Procurator in Qinghai province brought charges of unlawful assembly, procession, and demonstration against Messrs. [Wanna Duocang], Dorje [Angxiu] and [REDACTED] in Tongren County People's Court. The case was tried in accordance with the law in that Court, which determined that the three defendants, having failed to apply to the public security authorities for permission beforehand, had premeditatedly organized, planned and incited over a thousand students to engage in unlawful processions and demonstrations on 9 November 2012; these students also refused orders to disperse, causing serious harm to the orderly working of the school and to the social order in general.

Article 35 of the Constitution of the People's Republic of China provides that citizens of the People's Republic have freedom of speech, of the press, of assembly, of association, of procession and of demonstration. At the same time, article 7 of the Law of the People's Republic of China on Assemblies, Processions and Demonstrations provides that for the holding of an assembly, a procession or a demonstration, application must be made to and permission obtained from the competent authorities in accordance with the provisions of that Law. The Tongren County People's Court ruled that the three co-defendants were responsible for the unlawful procession and demonstration activities, and that their actions constituted the crimes of unlawful procession and demonstration, although the prosecution's charge of unlawful assembly was thrown out on grounds of insufficient evidence. In view of the fact that the three defendants had voluntarily confessed to and displayed remorse regarding their crimes, and that defendant [REDACTED] was a minor, the Court exercised leniency in their punishment in accordance with the law, respectively sentencing defendants [Wanna Duocang] and Dorje [Angxiu] to 4 years' imprisonment and sentencing defendant [REDACTED] to 1 year's imprisonment with a two-year suspension of the sentence. At the conclusion of the trial of first instance, none of the eight defendants lodged an appeal, and the verdict of the first-instance trial is now in effect.

The People's Court tried this case in strict accordance with the provisions of the Criminal Law and the Criminal Procedure Law; the three defendants all engaged defence attorneys who took part in the trial proceedings, and none raised objections to the substance of the criminal charges as set forth in the trial documents. They confessed their crimes in open court, and each of their defenders also presented arguments in their defence.

* Translator's note: Where standard romanized transcriptions of Tibetan names are unavailable, romanized transcriptions of the Chinese versions of those names as they appear in the text have been substituted, and are enclosed in square brackets [].

The Chinese Government respectfully requests that the foregoing be reproduced in its entirety in the relevant United Nations documents.



No. GJ/43/2013

The Permanent Mission of the People's Republic of China to the United Nations Office at Geneva and other International Organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the letter 【UA G/SO 218/2 G/SO 214(67-17) Assembly & Association (2010-1) G/SO 214(107-9) CHN 5/2013】 dated 24 June 2013, has the honor to transmit herewith the attached reply by the Chinese Government.

The Permanent Mission of the People's Republic of China to the United Nations Office at Geneva and other International Organizations in Switzerland avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.



Office of the High Commissioner for Human Rights
Geneva

OHCHR REGISTRY

07 AUG 2013

Recipients: *SFB*
S. Vidome (Encl.)
Fax copy registered on
02.08.2013

联合国人权理事会任意拘留工作组主席、言论自由特别报告员、和平集会和结社特别报告员、“人权卫士”特别报告员关于涉藏个案的来函【UA G/SO 218/2 G/SO 214(67-17) Assembly & Association (2010-1) G/SO 214(107-9) CHN 5/2013】收悉。中国政府对来函所涉情况作了认真调查，经了解，没有符合来函所提及的案情且被告人为旺秋多杰的案件，现提供案情相似的多杰昂秀等三人非法游行、示威案情如下：

青海省同仁县人民检察院指控被告人万玛尕藏、多杰昂秀、[REDACTED]犯非法集会、游行、示威罪，向同仁县人民法院提起公诉。同仁县人民法院经依法开庭审理查明，被告人万玛尕藏、多杰昂秀、[REDACTED]在事先未报请公安机关批准情况下，组织、策划、煽动千余名学生于2012年11月9日进行非法游行、示威活动，又拒不服从解散命令，给学校工作秩序和社会公共秩序造成严重破坏。

《中华人民共和国宪法》第二十五条规定，中华人民共和国公民有言论、出版、集会、结社、游行、示威的自由。同时，《中华人民共和国集会游行示威法》第七条规定，举行集会、游行、示威，必须依照本法规定向主管机关提出申请并获得许可。同仁县人民法院认定，三名被告人系非法游行示威活动的负责人，其行为已构成非法游行、示威罪，公诉机关指控其非法集会缺乏证据证实，不予认定。鉴于三人能主动认罪、悔罪，且被告人[REDACTED]系未成年人，法院依

法酌情从轻处罚，判处被告人万玛尕藏、多杰昂秀有期徒刑四年，判处被告人南卡加有期徒刑一年，缓期两年执行。一审宣判后，三名被告人均未上诉，现一审判决已经生效。

人民法院严格依照刑法和刑事诉讼法的规定审理了本案，三名被告人均委托了辩护律师参与诉讼，庭审中各被告人对起诉书中指控的犯罪事实未提出异议，当庭表示认罪，各辩护人也发表了相关辩护意见。

中国政府谨请将上述内容全文载入联合国相关文件中。