

(Translated from Chinese)

Receipt is hereby acknowledged of the letter regarding the case of unlawful procession and demonstration by eight persons including Mr. Sangye Bum, dated 12 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 4/2013). The Chinese Government has carefully investigated the matter referred to in the letter, and wishes to make the following reply.

The Gonghe County People's Procurator in Qinghai province brought charges of unlawful procession and demonstration against eight people, including Mr. Sangye Bum, in the Gonghe County People's Court. The case was tried in accordance with the law in that Court, which determined that Mr. Sangye Bum and his co-defendants, having failed to apply to the public security authorities for permission beforehand, had collectively premeditated and planned the assembly of more than 200 students, who after successively taking part in book-burnings, processions and sit-down demonstrations, regathered at the entrance of their school and refused to disperse and re-enter the school. As officers of the armed police and special police were in the process of driving the students back into the school, Jampa Tsering and some of the other students threw pieces of coal at the security personnel, resulting in injuries to some of the students.

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 Gonghe County People's Court ruled that Sangye Bum and his co-defendants had organized the procession and demonstration without applying to the public security authorities for permission, had defied orders to disperse, and had seriously damaged social order; their actions violated the provisions of article 296 of the Criminal Law of the People's Republic of China and constituted the crimes of unlawful procession and demonstration. In view of the fact that the eight defendants had all voluntarily confessed to their crimes, the Court exercised leniency in their punishment, respectively sentencing Mr. Sangye Bum to 4 years in prison, Messrs. Kunsang Bum, Lhaten and Jampa Tsering to 3 years and 6 months in prison, Messrs. Wangyal Tsering and Choekyong Kyap to 3 years and 3 months in prison, and Messrs. Tsering Tashi and Dola to 3 years in prison. 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, and fully respected the litigation rights of the defendants.

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



No. GJ/40/2013

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 4/2013】 dated 12 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

17 JUL 2013

Recipients : SPD
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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”特别报告员关于桑杰本等八人非法游行、示威案的来函[UA G/SO 218/2 G/SO 214(67-17)Assembly&Association(2010-1) G/SO 214 (107-9) CHN 4/2013]收悉。中国政府对来函所涉情况作了认真调查，现答复如下：

青海省共和县人民检察院指控被告人桑杰本等八人犯非法游行、示威罪，向共和县人民法院提起公诉。共和县人民法院依法公开开庭审理查明，桑杰本等八名被告人经共同预谋、策划，于2012年11月26日早晨，在事先未向公安机关申请许可的情况下，聚集200余名学生，先后进行了焚书、游行、静坐示威等活动，后返至校门口聚集，拒不解散进校。在执勤武警、特警驱赶学生进校的过程中，先巴才让等部分学生手持煤块甩打、攻击执勤人员，造成部分学生受伤。

《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。共和县人民法院认定，桑杰本等八名被告人事先未向公安机关申请许可而组织游行、示威，拒不服从解散命令，严重破坏了社会秩序，其行为均已违反《中华人民

《中华人民共和国刑法》第二百九十六条的规定，构成非法游行、示威罪。鉴于八人均自愿认罪，法院依法酌情从轻处罚，分别判处桑杰本有期徒刑四年，更桑本、达旦、先巴才让有期徒刑三年零六个月，项杰让才、切将杰有期徒刑三年零三个月，才让扎西、多拉有期徒刑三年。一审宣判后，八名被告人均未上诉，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，充分保障了各被告人的诉讼权利。

中国政府谨请将上述内容全文载入联合国有关文件中。