



INTERNATIONAL CAMPAIGN FOR TIBET

Translated court documents expose China's sham prosecution of Tibetan language rights advocate Tashi Wangchuk, raise fears about use of torture

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A Chinese court document reveals the reasons for the rejection of the appeal by Tibetan language rights advocate Tashi Wangchuk, imprisoned for five years after he appeared in a New York Times video about the importance of protecting the Tibetan language.

The document, translated into English below by the International Campaign for Tibet, states that Wangchuk “attacked the state’s policies” and does not deny that a confession may have been made under torture.

Four out of six pages of the document, dated July 30, 2018, were posted on social media last week, stating that Wangchuk, an entrepreneur from Yushu in Qinghai, “distorted the facts, attacking the state’s policies on ethnic minorities, making remarks that undermine ethnic unity and national unity.”

Wangchuk, 33, had appealed the decision by the Yushu Intermediate People’s Court on May 22, 2018 to [sentence him to five years’ imprisonment on charges of “incitement to separatism.”](#)

“Damaging the national image”

The court document affirms earlier indications that China’s sensitivity towards its international image was critical in this case, given the high global profile of the New York Times. The video by the Times shows Wangchuk’s journey to Beijing to petition the government to protect Tibetan language education.

The document states that “Wangchuk plays the role of interviewee in the video, publishing attacks on our country’s policies towards ethnic minorities, distorting the state of education and cultural development in Tibetan areas, slandering the government by saying it restricts the development of minority cultures and eliminates minority language and culture, undermining national unity, social stability in Tibetan areas, and national unity.

“After the video was uploaded, numerous websites and media outlets redistributed it, spread it, commented on it, and reported on it, damaging the national image.”

Wangchuk’s lawyers, who posted on social media on August 23, 2018 that the Qinghai Higher People’s Court had rejected the appeal, had argued that Wangchuk had no intention of attempting to

“split the country” and that he was simply seeking the implementation of China’s own laws and Constitution guaranteeing the protection of ‘ethnic minority’ languages. According to another source, prior to the trial, even one internal government department had suggested that the requirements for criminality had not been met, and that the verdict should be not guilty.

No denial of torture

The court document presents the case for the appeal that it ultimately rejects, saying that the defense “put forward that [Wangchuk] did not have the subjective intent of incitement to split the country, and that he was simply putting forth some criticism for the local government in terms of education, teaching methods, spreading and using the Tibetan language, and other aspects, for the purpose of protecting ethnic language and culture. Because citizens have basic human rights and the right to free speech, his behavior did not constitute a crime and he requested a second trial in which he could be acquitted. The defense put forward that this criminal had no subjective intent to commit a crime, and that the guilty judgment against Tashi Wangchuk infringes upon freedom of speech for citizens and the media’s right to monitor and report.”

The document confirms that Wangchuk’s lawyers raised concerns that a confession had been made under torture. Confessions obtained through torture, threats and illegal detention are supposed to be inadmissible in court, according to Chinese law, but torture is deeply-rooted in the system and is routinely used against Tibetan and other political prisoners, particularly when charges are connected to issues officially described as “damaging to national unity” or “splittist.”

The document states: “Wangchuk’s appeal put forward that the investigative organs forced a confession by torturing him, and therefore his statement should be put aside as illegally-obtained evidence.” The court sidesteps this accusation, without denying torture occurred, and goes on to make a confusing argument about how the defendant did not deny that he was the interviewee in the New York Times video, although no one claimed otherwise.

In the four pages of the document available and translated by ICT, no evidence is presented of anyone being “incited to split the country,” as the court claims that Wangchuk did, and no denial is made that Wangchuk was tortured.

Sympathy for self-immolators

According to another ICT source, Wangchuk’s feelings about Tibetan self-immolators as heard in the video may have been defined as a part of his ‘crime.’ The Chinese authorities have made systematic efforts to turn Tibetans against the more than 150 monks, nuns and laypeople who have set fire to themselves in an extreme act emerging from the anguish of oppression. However, they have largely failed in eradicating people’s sympathy toward the self-immolators. According to the same source, part of the reason for Wangchuk’s sentencing was because he had “expressed an understanding” of the self-immolators.

Wangchuk was arrested in January 2016, two months after the New York Times video appeared. However, he did not stand trial until January 2018, and no verdict was returned until May 22, when one of his two lawyers, Liang Xiaojun, announced the five-year sentence in a microblog. Including time served, Wangchuk’s sentence started on Jan. 29, 2016 and will conclude on Jan. 28, 2021.

Nail in the coffin of the rule of law

Matteo Mecacci, President of ICT, said: “This court document exposes the emptiness and falsehoods of the manufactured case against Tashi Wangchuk and is a further nail in the coffin of rule of law in China. Wangchuk was only trying to uphold China’s own legal provisions that are supposed to protect the ‘mother tongue’ of Tibetans and others.”

Wangchuk stood trial in January 2018, in the first known instance of an international news story being used in a criminal prosecution against a Tibetan. He is among a younger generation in Tibet who have prioritized protection of the Tibetan language, the bedrock of cultural and religious identity, framing their concerns in the context of Chinese law and regulations. In the New York Times video, Wangchuk is seen saying: “I want to try to use the People’s Republic of China’s laws to solve the problem.”

Governments and elected officials across the world have called for Wangchuk’s release. In February 2018, [six United Nations human rights experts condemned the “criminalization of linguistic and cultural rights advocacy”](#) and called for his release.

Below is ICT’s translation of the court document from Chinese into English:

Qinghai Province Higher People’s Court

Criminal Ruling

To the public prosecutor of the Qinghai Province Yulshul Prefecture People’s Procuratorate.

The appellant (the former defendant in the trial) is Tashi Wangchuk, male, Tibetan ethnicity, born in 1985 [LINE REDACTED] in Qinghai Province’s Trindu County, with an elementary school education, unemployed, with a household registration in Qinghai Province’s Yulshul Prefecture’s Trindu County #14 Xiazhuang Sishe, residing in Qinghai Province’s Yulshul City’s Jyekundo Town Dangdai Road #45 West Alley. He was criminally detained on January 29, 2016 on suspicion of the crime of incitement to split the country, and on March 4 of the same year he was arrested. He is currently detained in Qinghai Province’s Yulshul City Detention Center.

Defender Lin Qilei, a lawyer with Beijing’s Ruikai Law Firm.

Defender Liang Xiaojun, a lawyer with Beijing’s Daoheng Law Firm.

Qinghai Province’s Yulshul Tibetan Autonomous Prefecture Intermediate People’s Court heard the Qinghai Province Yulshul Tibetan Autonomous Prefecture People’s Procuratorate accuse Tashi Wangchuk of incitement to split the country. On May 6, 2018, Qinghai #27 Case #3 received a criminal judgment. Defendant Tashi Wangchuk did not accept the verdict, and filed an appeal. The court formed a collegiate bench in accordance with the law, and after going through the documents, arraigning the appellant, and listening to the views of the defense counsel, we are of the opinion that the facts of the case are clear. We have decided not to open the trial, and this ends the trial.

The original verdict found that at the end of 2014, the defendant Tashi Wangchuk was introduced to the New York Time’s Beijing bureau correspondent Huang XX, Li X, and others. In July 2015 Huang

XX, Li X, and four others came to Yulshul, and with the active participation of Tashi Wangchuk they shot footage at the racecourse, in Tashi Wangchuk's home, and other relevant shots. Later the aforementioned footage was used to create the "A Tibetan's Journey for Justice" video. Tashi Wangchuk plays the role of interviewee in the video, publishing attacks on our country's policies towards ethnic minorities, distorting the state of education and cultural development in Tibetan areas, slandering the government by saying it restricts the development of minority cultures and eliminates minority language and culture, undermining national unity, social stability in Tibetan areas, and national unity. After the video was uploaded, numerous websites and media outlets redistributed it, spread it, commented on it, and reported on it, damaging the national image.

The evidence identified above is:

1. After the arrest it was confirmed that after the video "A Tibetan's Journey for Justice" was released, public security organs investigated and confirmed that the subject of the video is Yulshul native Tashi Wangchuk, who was seized at home on January 27, 2016.
2. Identification records and photos confirm that the defendant Tashi Wangchuk's white Samsung NOTE3 phone contains video material related to "A Tibetan's Journey for Justice."
3. Identification records and video recordings confirm that Tashi Wangchuk appears in the 9 minute and 13 second "A Tibetan's Journey for Justice" video. He has confirmed that he appears in the video and that he said those words, which accurately expressed his meaning. When the video was played, Tashi Wangchuk and his defenders made no objections.
4. The "A Tibetan's Journey for Justice" video contains the New York Times logo and the "Times Video" signature, and the people in the video, the language used, the text, etc- **[PAGES 3 & 4 OF THE DOCUMENT ARE NOT AVAILABLE]**

Tashi Wangchuk's appeal put forward that the investigative organs forced a confession by torturing him, and therefore his statement should be put aside as illegally-obtained evidence. After investigation, during the first trial the appellant and his defenders initiated the application for discharging illegally-obtained evidence, but during the first trial when the public prosecutor proposed playing an audio recording of the interrogation in court to prove the legality of the evidence, the appellant and his defenders raised no objections to the source, objectivity, and authenticity of the audio recording, and so there was no need to play the video. In addition, the verdict was based on the video evidence, and the audio-visual content of the video was clear. The appellant recognizes that he is the interviewee in the video, and that the remarks he made in the video accurately express his meaning. The investigative organ's questions to the appellant were about the origin and process of the video, and they had no substantial impact on the contents of the video. Therefore, the grounds for appeal cannot be established.

Tashi Wangchuk's appeal put forward that he did not have the subjective intent of incitement to split the country, and that he was simply putting forth some criticism for the local government in terms of education, teaching methods, spreading and using the Tibetan language, and other aspects, for the purpose of protecting ethnic language and culture. Because citizens have basic human rights and the right to free speech, his behavior did not constitute a crime and he requested a second trial in which he could be acquitted. The defense put forward that this criminal had no subjective intent to commit a crime, and that the guilty judgment against Tashi Wangchuk infringes upon freedom of speech for citizens and the media's right to monitor and report. After investigation, citizens can raise criticism and suggestions against any state agency or its staff, but they must not fabricate or distort the facts.

Tashi Wangchuk, as a person with full criminal responsibility, distorted the facts in a foreign media interview, attacking the state's policies on ethnic minorities, making remarks that undermine ethnic unity and national unity. His behavior violated the legal bottom line of citizen's freedom of speech, and was clearly subjective and deliberate. His reasons for appeal and the defense's opinion cannot be established. The defense put forward that an acquittal for Tashi Wangchuk would help the international community understand our country's ethnic and religious policies and laws. After investigation, Tashi Wangchuk is a Chinese citizen, and his behavior should be judged by Chinese law. He fabricated and distorted the facts, attacking the state's policies on ethnic minorities, making remarks that undermine ethnic unity and national unity, which constitutes a crime according to the laws of our country. He should bear the corresponding criminal responsibility, so this defense also cannot be established.

The Court finds that the appellant, Tashi Wangchuk, actively participated in the video shoot, and made comments that undermine ethnic unity and national unity in a media interview. With the subjective intent to incite the splitting of the country, objectively implementing the behavior of incitement to split the country, his actions constitute the crime of incitement to split the country. The appellant's grounds for appeal and the defense's opinion are not accepted. The facts in the original verdict are clear, and the evidence is clear and ample, the conviction is accurate, the sentencing is appropriate, and the law has been correctly applied. The proceedings are legal. In accordance with the "People's Republic of China Criminal Procedure Law Article 225, Section 1, Item 1, the ruling is as follows:

The appeal is dismissed, and the original judgment is maintained.

This ruling is final.

Presiding Judge

Wang Xinling

Judge

Wang Liansheng

Judge

Zhou Wei

2018/7/30

Clerk

Zhang Gaojun