

UN File

Urgent Appeal Regarding Dolma Kyab .

Working Group on Arbitrary Detention
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malware, virus.

I. IDENTITY

1. Family name: **Kyab (Ch: Gya)**
2. First name: **Dolma (Ch: Drolma)**
3. Sex: **Male**
4. Birth date or age (at the time of detention): **32 years old**
5. Nationality/Nationalities: **Chinese (Tibetan)**
6. (a) Identity document (if any):
- (b) Issued by:
- (c) On (date):
- (d) No.:
7. Profession and/or activity (if believed to be relevant to the arrest/detention):
Herdsman, married to Kunchong Wangmo who died in a self-immolation protest.
8. Address of usual residence: **Dzoerge (Ch: Ru'ergai) County in Ngaba Prefecture in Sichuan Province.**

II. Arrest

1. Date of arrest: **14 March 2013**

2. Place of arrest (as detailed as possible):

Dzoege (Ch: Ru'ergai) County in Ngaba (Ch: Aba) Tibetan and Qiang Autonomous Prefecture, Sichuan Province.

3. Forces who carried out the arrest or are believed to have carried it out:

Sichuan Province People's Armed Police

4. Did they show a warrant or other decision by a public authority? **No**

5. Authority who issued the warrant or decision:

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6. Relevant legislation applied (if known):

Dolma Kyab was charged with killing his wife.

III. Detention

1. Date of detention: **14 March 2013**

2. Duration of detention (if not known, probable duration): **5 months, sentenced to death on 15 August 2013**

3. Forces holding the detainee under custody:

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4. Places of detention (indicate any transfer and present place of detention):

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5. Authorities that ordered the detention:

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6. Reasons for the detention imputed by the authorities:

Dolma Kyab was arrested and convicted of murdering his wife.

7. Relevant legislation applied (if known):

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IV. Describe the circumstances of the arrest and/or the detention and indicate precise reasons why you consider the arrest or detention to be arbitrary

An arrest is arbitrary if it is not carried out in strict accordance with the law. Dolma Kyab's (Ch: Drolma Gya) arrest was based on a pretext of a domestic dispute causing him to murder his wife. Eyewitness accounts of Kunchok Wangmo's self-immolation describe it as a political protest and not an attempt to conceal a murder. There is no indication the police conducted an autopsy or any other investigation of Kunchok Wangmo's self-immolation beyond pressuring Dolma Kyab to say the death was the result of a domestic dispute and offering his parents-in-law US\$163,000 to support the story. Basing an arrest on a pretext unsupported by the evidence is not in strict accordance with the law. Therefore, Dolma Kyab's arrest was arbitrary.

After 5 months in detention and a perfunctory 3 hour trial the Ngaba(Ch: Aba) Intermediate People's Court found Dolma Kyab guilty by repeating the story found in State run media reports after his arrest. At his trial Dolma Kyab confessed by repeating this same story. It does not account for the eyewitnesses to Kunchok Wangmo's self-immolation or accounts that the police first pressured Dolma Kyab to say the self-immolation was caused by a domestic dispute. There is no indication that any corroborating evidence was presented at Dolma Kyab's trial, as required under Chinese Law (Criminal Procedure Law of the People Republic of China article 46).

Neither Dolma Kyab's confession nor conviction is supported by any corroborating evidence and is contradicted by eyewitness to Kunchok Wangmo's self-immolation. This raises questions about the use of torture to secure Dolma Kyab's confession and the impartiality and independence of Dolma Kyab's trial and conviction.

V. Indicate internal steps, including domestic remedies, taken especially with the legal and administrative authorities, particularly for the purpose of establishing the detention and, as appropriate, their results or the reasons why such steps or remedies were ineffective or why they were not taken

Dolma Kyab, through his attorney Su Haijun, is appealing his conviction to the Sichuan Provincial Higher People's Court. However, given the highly political nature of a case designed to discredit a self-immolation protest, the possibility that Dolma's confession was obtained through torture, and the lack of judicial impartiality and independence regarding Dolma Kyab's conviction the appeal is unlikely to adequately address Dolma Kyab's continued arbitrary detention.

VI. Full name and address of the person(s) submitting the information (telephone and fax number, if possible)

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Executive Director**

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Date: 20/8/13 Signature:





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