

Human Rights Situation in Tibet
Annual Report
2016



Tibetan Centre for Human Rights and Democracy

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EXECUTIVE SUMMARY

In 2016, the party-state of the People's Republic of China (PRC) continued its egregious human rights violations and abuses in Tibet by criminalizing basic human rights and fundamental freedoms, and engaging in arbitrary detention, torture, enforced disappearance, collective punishment and environmental destruction to name a few. New and existing repressive laws and regulations enabled the widespread and systematic violations of fundamental human rights of Tibetans. Despite the extremely deplorable situation in Tibet, the party-state made no effort to change its policy of repression, authoritarianism and state-sponsored violence.

2016 witnessed the introduction of draconian laws in the name of fighting terrorism, securing the internet, and protecting state security to further violate freedom of opinion and expression of Tibetans. Chinese authorities systematically exploited vague and over-broad legal definitions in the state security legal framework to carry out abusive, political prosecutions against peaceful expression of dissent and criticism or sharing information about events in Tibet with the world community. Local government directives spelt out criminal penalties for peaceful expressions of Tibetan nationalism and religious beliefs such as raising the banned Tibetan national flag or pictures of the Dalai Lama, and shouting slogans for freedom and human rights. The implementation of mass surveillance programs is forcing Tibetans to resort to unprecedented levels of self-censorship in and out of Tibet.

The right to freedom of religion and belief remained severely restricted through a combination of laws, policies and practices. The atheist party-state rejected legitimate calls for religious freedom and warned against “distorting China’s religious

situation in the name of ‘religious human rights’.” To further use law as a sword to curtail religious freedom, a revised draft of the 2005 Regulations on Religious Affairs was released and will be implemented in 2017. The PRC intensified measures to control and exploit the system of reincarnation, and discredit and delegitimize the person and position of the Tibetan spiritual leader and Nobel laureate His Holiness the Dalai Lama. Tibetans were arbitrarily arrested, tortured and imprisoned for holding peaceful protests calling for the Dalai Lama’s long life and swift return to Tibet. Others were handed draconian sentences for celebrating the birthday of the Dalai Lama. Tibetan Buddhist devotees were given threats of criminal punishment if they attended the Kalachakra religious teachings given by the Dalai Lama.

Thousands were recalled home and many more were stopped from going on pilgrimages or attend the Dalai Lama’s teachings. The right to freedom of movement including the right to obtain passports was routinely violated. The PRC treated the right to travel including the right to obtain a passport of Tibetans as a privilege granted by the government rather than a fundamental human right. The plethora of new and existing restrictions on passports and travel including restrictions on movement within Tibet has turned Tibet into a giant open prison.

For the greater part of 2016, the PRC conducted a large-scale demolition of the 20000-strong religious community of Larung Gar Tibetan Buddhist Institute. Thousands of Buddhist practitioners were forcibly removed and their dwellings dismantled to reduce the population to 5000. The shock of the demolition claimed lives of three known nuns who committed suicide. In

addition to displacement, the evicted practitioners were subjected to weeks and months of detention to undergo ‘patriotic education’ in police custody. To harness and impede future growth and popularity of the institute, new restrictions were imposed on the institute’s administrative and academic procedures including making political loyalty test a mandatory subject for admission. Despite worldwide condemnation and protests including calls from various government and civil society groups to halt the demolition operation, the PRC did not relent.

Similarly the PRC’s paramilitary troops engaged in brutal and ruthless attacks on Tibetans for exercising the right to freedom of peaceful assembly. Chinese authorities used excessive force to suppress and detain Tibetans protesting human rights violations and government repression. The PRC persisted in its practice of subjecting Tibetans to arbitrary arrests and detention, torture, extra judicial killings, and enforced disappearances. The rights of Tibetan detainees were routinely violated, thanks to the PRC’s flawed criminal justice system and emasculated judiciary. Tibetans were detained on vague, overbroad and politicized charges with no legal basis, and denied access to due legal process. Despite amendments to PRC’s criminal procedure law, the practice of torture and secret detention is the norm than exception.

The PRC’s ratification of the Paris climate change agreement is a positive step taken by the world’s largest producer and consumer of coal. But the agreement does not formulate binding emission reductions until 2030, which means that in the next 15 years greenhouse gas emissions will continue to rise, and the PRC will continue to increase its coal consumption. The PRC’s professed concerns for environmental protection, included in its 13th Five-Year-Plan (2016-2020), are overshadowed by the prioritization of economic growth as the ultimate objective. At the same time, accelerated economic development is threatening the fragile environment, livelihood and food security of millions of Tibetans. Expanding infrastructure is making resource extraction easier and more lucrative on the Tibetan plateau. Numerous mining sites and

hydro-dams are already becoming operational in Tibet, and more have been announced in the 13th FYP. Although PRC’s revised Environmental Protection Law (EPL) provides greater public participation in environmental affairs, it means little for Tibetans in Tibet where civil society is non-existent and environmental activists are routinely jailed on politicized charges. Likewise the revised Environmental Impact Assessment Law introduced in September 2016 does little to help protect environment in Tibet. Large-scale infrastructure and resource extraction projects are given the go-ahead without taking into consideration Tibet’s fragile ecosystem and basic needs of local Tibetans. More Tibetans are taking part in protests against mining, land grab and environmental pollution despite the risks of torture and imprisonment.

TCHRD’s Political Prisoners Desk has noted a decline in the number of average detention in the last two years (2015 and 2016) due to communication clampdown and use of collective punishment against those sharing information or maintaining contacts with outsiders. But the number was still high at 70. The average monthly breakdown for 2015 was approximately nine per month and in 2016, the number stood at 3.27 persons per month. Over the years, the PRC has introduced new policies and practices to censor and control information it wants to hide from the international community. In addition, its sheer avoidance of cooperation with international investigatory bodies, the stringent communication blockade, and the violation of privacy rights and censorship have made it harder to access complete information from inside Tibet. What this report portrays cannot be considered as a complete picture of Chinese human rights violations in Tibet. Accessing information from outside Tibet has become more difficult as well as ethically challenging due to the routine persecution and imprisonment of information sources in Tibet. Even if this report cannot fully represent the grave situation inside Tibet under Chinese occupation, it can surely be taken as an indicator of the great extent of human rights violations and repression faced by Tibetans inside Tibet.

FREEDOM OF OPINION AND EXPRESSION

In 2016, the government of the People's Republic of China (PRC) continued to violate the right to freedom of opinion and expression in Tibet. Draconian laws were passed and enforced in the name of fighting terrorism, securing the Internet, and protecting state security to further violate this fundamental and foundational right. PRC authorities systematically exploited vague and over-broad legal definitions in the state secrets legal framework to carry out abusive, political prosecutions against those peacefully expressing their views or sharing information from inside Tibet.

One of the strongest evidences of the violation of freedom of opinion and expression came from a government directive that spelt out criminal penalties for peaceful expressions of Tibetan identity and religious beliefs such as raising the banned Tibetan national flag or pictures of the Dalai Lama, and shouting slogans for freedom and human rights in Tibet. The PRC continued to target and prosecute writers, bloggers and peaceful protesters for allegedly committing the crimes of 'inciting separatism' or 'leaking state secrets'. By espousing an official policy of demonizing the Dalai Lama and his supporters as "separatists," the PRC engaged in a ruthless campaign to suppress Tibetan identity as well as dissident voices inside Tibet by characterizing any such expression as "splittist." Self-immolation and solo protests, which are symptomatic of fast shrinking space for free expression in Tibet, are considered as criminal. With the extension of a mass surveillance program, freedom of opinion and expression are subjected to further restrictions forcing Tibetans to resort to unprecedented levels of self-censorship.

Legal Standards

The right to freedom of opinion and expression are universally recognized under the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). Freedom of expression is a fundamental human right and a precondition to the enjoyment of all other rights. Where freedom of expression is suppressed, further human rights violations are likely to follow. Under Article 19 of the ICCPR, the right to freedom of opinion and expression comprises three different elements: (a) the right to hold opinions without interference; (b) the right to seek and receive information and the right of access to information; and (c) the right to impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of one's choice.¹ Thus, the interrelated rights to access and impart information are a key component of the right to freedom of expression. The right to freedom of opinion is absolute and may not be limited in any way.²

However, the freedom of expression is not absolute. The ICCPR recognizes that such rights "may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) for respect of the rights or reputations of others; (b) For the protection of national

1 Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Frank La Rue, UN Doc. A/HRC/14/23. 20 April 2010, *available at*: <http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.23.pdf>

2 Ibid.

security or of public order, or of public health or morals.”³Such restrictions and limitations must be interpreted in accordance with principles derived from international human rights law. Under Article 19, when imposing free speech restrictions, governments must balance the legitimate aim they seek to protect against the fundamental right to freedom of expression.⁴

Legal Standards on Freedom of Opinion and Expression

Universal Declaration of Human Rights	Chinese Constitution
<p>Article 19: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers".</p>  <p>International Covenant on Civil and Political Rights</p> <p>Article 19(i): "Everyone shall have the right to hold opinions without interference".</p> <p>Article 19(ii): "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice".</p> 	<p>Article 33: "All persons holding the nationality of the People's Republic of China are citizens of the People's Republic of China. All citizens of the People's Republic of China are equal before the law. Every citizen enjoys the rights and at the same time must perform the duties prescribed by the Constitution and the law".</p> <p>Article 35: "Citizens of People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration".</p> <p>Article 41: "Citizens of the People's Republic of China have the right to criticize and make suggestions to any state organ or functionary".</p> <p>Article 47: "Citizens of the People's Republic of China have the freedom to engage in scientific research, literary and artistic creation and other cultural pursuits".</p> 

Although the PRC has signed but not ratified the ICCPR, it is still required by international law to protect the right to freedom of opinion and expression because it is an international customary law, which is binding on all states. Customary international law is formed by widespread and consistent practice by states, and the belief that law requires such practice.⁵

3 International Covenant on Civil and Political Rights ("ICCPR"), Article 19(3), *available at*: <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

4 Toby Mendel, The Johannesburg Principles: Overview and Implementation, Article 19, at 3, 7 February 2003, *available at*: <https://www.article19.org/data/files/pdfs/publications/jo-burg-principles-overview.pdf>

5 International Human Rights Program, University of Toronto, Faculty of Law and Journalists for Human Rights (2015). 'Understanding the Right to Freedom

The Johannesburg Principles

The Johannesburg Principles on National Security, Freedom of Expression and Access to Information address the lack of clarity under international law regarding the scope of legitimate restrictions on freedom of expression and information on national security grounds.⁶ Adopted by experts on international law, national security, and human rights on 1 October 1995,⁷ the Johannesburg Principles recognize that governments justify the commission of serious violations of human rights as necessary to protect national security and sets out the obligations that are clearly aimed at curbing abuses of power. The Principles establish that laws restricting the right to freedom of expression and information must not be vague and narrowly drawn.⁸ Such laws must have the genuine purpose of protecting against legitimate national security interests.⁹ Similarly, access to information may only be restricted when a state can demonstrate that the restriction is necessary to protect legitimate national security concerns.¹⁰ In order for a state to criminalize expression on the basis of national security, the expression must be intended to incite imminent violence, and a direct and immediate connection must exist between the speech and the violence.¹¹ Therefore, freedom

of Expression', *available at*: http://ihrp.law.utoronto.ca/utfl_file/count/media/Understanding%20Freedom%20of%20Expression%20Primer%20ENG%20-%20web.pdf

6 The Johannesburg Principles on National Security, Freedom of Expression and Access to Information, Freedom of Expression and Access to Information, U.N. Doc. E/CN.4/1996/39 (1996). *University of Minnesota Human Rights Library*, *available at*: <http://hrlibrary.umn.edu/instreet/johannesburg.html>

7 *supra* note 4.

8 Johannesburg Principles, principle 1.1(a)

9 Johannesburg Principles, principle 1.2

10 Johannesburg Principles, principle 11

11 Johannesburg Principles, principle 6 ("Expression may be punished as a threat to national security only if a government can demonstrate that: (a) the expression is intended to incite imminent violence; (b) it is likely to incite such violence; and (c) there is a direct and immediate connection between the expression and the likelihood or occurrence of such event.").

of expression “can only be restricted in the most serious cases of a direct political or military threat to the entire nation.”¹²

Johannesburg Principles on National Security, Freedom of Expression and Access to Information

Principle 1.1 (a): “Any restriction on expression or information must be prescribed by law. The law must be accessible, unambiguous, drawn narrowly and with precision so as to enable individual to foresee whether a particular action is unlawful.”

Principle 1.2: “Protection of a legitimate national security interest, “Any restriction on expression or information that a government seeks to justify on grounds of national security must have the genuine purpose and demonstrable effect of protecting a legitimate national security interest”.

Principle 11: “General rule in access to information, “ Everyone has the right to obtain information from public authorities, including information relating to national security. No restriction on this right may be imposed on the ground of national security unless the government can demonstrate that the restriction is prescribed by law and is necessary in a democratic society to protect a legitimate national security interest”.

Principle 7: Protected Expression “ Peacefully advocating for non-violent change of government policies or the government itself, criticism of the nation or its agencies/officials and communication concerning human rights violations should never be the subject of free speech restrictions”.

Principle 15: General rule on disclosure of secret information, “ no person may be punished on national security grounds for disclosure of information if (1) the disclosure does not actually harm and is not likely to harm a legitimate national security interest, or (2) the public interest in knowing the information outweighs the harm from disclosure”.

Principle 20: “Those accused of security related crimes are entitled to all minimum guarantees against arbitrary detention and for the right to trial in an independent and impartial court”.

The Johannesburg Principles clearly state that peacefully advocating for non-violent change of government policies or the government itself, criticism of the nation or its agencies/officials, and communication concerning human rights violations should never be the subject of free speech restrictions.¹³ Moreover, punishment for disclosure of “secret” information is unlawful if the disclosure does not actually harm or is not likely to harm a legitimate national security interest, or if the public interest in knowing the information outweighs the harm from disclosure.¹⁴ Furthermore, those accused of security-related crimes are entitled to all minimum guarantees

against arbitrary detention and for the right to fair trial in an independent and impartial court.¹⁵

Chinese Law

In the PRC, Article 35 of the Chinese Constitution provides that citizens “enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration.”¹⁶ The PRC’s constitutional guarantees also include the right to criticize any state organ or functionary.¹⁷ According to the Regulations on the Administration of Publishing, “all levels of the People’s Government shall ensure that citizens are able to legally exercise their right to freedom of publication.”¹⁸ Article 33, which guarantees PRC citizens equal treatment before the law, also includes formal, explicit guarantees for human rights.

Despite the existence of these provisions, free speech guarantees under the Chinese Constitution are overpowered by other provisions imposing vague and over-broad affirmative duties on citizens. For example, Article 52 requires PRC citizens to safeguard “the unity of the country; Article 54 states that “it is the duty of citizens of the PRC to “to safeguard the security, honor and interests of the motherland;” and Article 53 obliges PRC citizens, organizations, and public organs to “keep state secrets.” The duties to “safeguard the unity of the country” and to “keep state secrets”¹⁹ are implemented in the PRC

¹⁵ Johannesburg Principles, principle 20

¹⁶ Constitution of the People’s Republic of China, Article 35, available at: http://www.npc.gov.cn/englishnpc/Constitution/node_2825.htm

¹⁷ Constitution of the People’s Republic of China, Article 41, available at: http://www.npc.gov.cn/englishnpc/Constitution/node_2825.htm

¹⁸ Regulations on the Administration of Publishing, (December 25, 2001), at Article 5, available at: <https://www.cecc.gov/resources/legal-provisions/regulation-on-the-administration-of-publishing-chinese-and-english-text>

¹⁹ Law of the People’s Republic of China on Guarding State Secrets [1989], *Congressional Executive Commission on China*, available at: <http://www.cecc.gov/resources/legal-provisions/1989-law-on-guarding-state-secrets-chinese-and-english-text>

¹² State Secrets: China’s Legal Labyrinth, 2007, *Human Rights in China*, available at: http://www.hrhchina.org/sites/default/files/PDFs/State-Secrets-Report/HRIC_StateSecrets-Report.pdf

¹³ Johannesburg Principles, principle 7

¹⁴ Johannesburg Principles, principle 15

through a vast network of laws and regulations pertaining to “endangering state security” (“ESS”) that essentially criminalize political activism and dissent. Under Articles 102-113 of the Criminal Law of the PRC, these crimes have profound impacts on the right to freedom of expression, the most fundamental of which is that pertaining to state secrets. Vague and all-encompassing definitions of the types of information that constitute “state secrets” severely undermine the freedom of expression and information. The complex “state secrets” framework criminalizes the possession and disclosure of huge categories of information, enabling the authorities to use the law as a sword to initiate arbitrary and abusive political prosecutions.

Following a revision to the 1989 Law on Guarding State Secrets in 2010, all public information networks (e.g., the Internet, the traditional media, hardware/software/service providers) have been brought under the purview of the law and allows for a broad definition of state secrets (“matters that concern state security and interests and, if leaked, would damage state security and interests in the areas of politics, economy, and national defense, among others”).²⁰ According to the Implementing Regulations of this law issued in 2014, the PRC government can retroactively classify information as “state secret” if the information harms the political or economic interests of the state in its dealings with foreign countries, endangers the state’s ability to consolidate and defend its power, and affects national unity, ethnic unity or social stability.²¹

The PRC authorities rely on a long list of crimes

20 The Right to Freedom of Expression: Restrictions on a Foundational Right, Global Trends in NGO Law, VOLUME 6, ISSUE 1, *International Centre for Not-For-Profit Law*, available at: <http://www.icnl.org/research/trends/trends6-1.pdf>

21 2014 Regulations on the Implementation of the People’s Republic of China on Guarding State Secrets; English translation available at: <http://chinalawtranslate.com/wp-content/uploads/2014/02/State-Secrets-Implementing-Regulations-with-Vocab2.pdf>

‘endangering state security’ to systematically label peaceful expression of opposition as a threat to national security. Articles 102 through 112 of the Chinese Criminal Law specify what types of behavior constitute a threat to national security.²² In particular, Article 105 criminalizes organizing, plotting, or carrying out subversion of the national regime, or using rumor mongering or defamation or other means to incite subversion of the national regime or the overthrow of the socialist system. Article 111 prohibits stealing, secretly collecting, purchasing, or illegally providing state secrets or intelligence to an organization, institution, or personnel outside the country.²³

The threat to freedom of expression has further increased since the introduction of the National Security Law in 2015.²⁴ The loose definition of “national security” is likely intentional and therefore open to interpretation, which means that it could be used to repress news coverage and freedom of expression. Article 77 lists seven things citizens must do to preserve national security, which include: “providing conditions to facilitate national security efforts”; and, “keeping state secrets they learn confidential.” The problems with the National Security Law all stem from its exceptionally broad definition of national security.

On 1 January 2016, the PRC’s counterterrorism law came into force. The PRC’s counterterrorism law relies on overly broad definitions to allow the government to do crackdown on peaceful expressions of religious and cultural identity. For

22 International Agreements and Domestic Legislation Affecting Freedom of Expression, *CECC*, available at: <https://www.cecc.gov/international-agreements-and-domestic-legislation-affecting-freedom-of-expression#criminallaw>

23 Silencing Critics by Exploiting National Security and State Secrets Laws, *CECC*, available at: <https://www.cecc.gov/silencing-critics-by-exploiting-national-security-and-state-secrets-laws>

24 China’s new National Security Law a serious setback to human rights in Tibet, TCHRD, 9 July 2015, available at <http://tchrd.org/chinas-new-national-security-law-a-serious-setback-to-human-rights-in-tibet/>

instance, Article 4 of the law includes specific provisions on “distorted religious doctrines as a form of terrorism.”²⁵ In addition to labeling the Dalai Lama and vague “outside forces” as terrorist, the law can also include protests and self-immolations as terrorist activity. Observers have noted that this law could be used as another tool to crush domestic dissent and justify crackdowns on Tibetans and Uyghurs.²⁶ The law also prohibits reporting about terrorist attacks, except by pre-approved media outlets and allows the control of communications in areas affected by terrorism. Further, the law requires telecommunication and internet providers to monitor communications.

Mass Surveillance Program

In November, Chinese authorities announced the extension of a mass surveillance program in Tibet Autonomous Region (TAR) that involved sending tens of thousands of Chinese Communist Party (CCP) and government cadres to monitor and surveil local Tibetans, organise anti Dalai Lama themed political indoctrination campaigns and entrench and expand the influence of the Party state in Tibet²⁷. At a conference held on 25 November in Lhasa, the TAR government announced the sixth batch of 22000 “village-based cadre teams” (Ch: *zhucungongzuodui*) to be stationed in 5467 villages and neighbourhood committees, including also the religious institutions in TAR. The program was first launched in late 2011 and continues to be implemented under the guise of rural poverty alleviation campaign known as “Benefit

the Masses” that has been described by human rights advocates as Orwellian.²⁸ The extension of the surveillance program, along with other major ‘*weiwen*’ (stability maintenance) initiatives that includes the Grid Management,²⁹ convenience police posts, stationing cadres in religious institutions and double-linked households has contributed to further clampdown on freedom of opinion and expression in Tibet. The ‘double-linked households’, according to the TAR party leadership, was aimed at “fighting against the 14th Dalai Lama, overseas Tibetans, and hostile foreign forces” and that the campaign would “stabilize the opinion and thoughts of the masses thus ensuring long-term stability”.³⁰

In recent years, many of those detained and prosecuted have been local community leaders, environmental activists, and villagers involved in social and cultural activities.³¹ Moreover, since 2013, lay and religious leaders of rural communities have received unusually heavy sentences for peaceful expressions of dissent.³² The offenses that received the longest sentences during this period included possessing or sending an image or text deemed sensitive by the government on one’s cellphone or computer, trying to assist victims of self-immolations, leading protests against mining or government construction projects, and organizing

25 Unofficial translation of Counter-Terrorism Law (2015), *China Law Translate*, available at: <http://www.chinalawtranslate.com/%E5%8F%8D%E6%81%90%E6%80%96%E4%B8%BB%E4%B9%89%E6%B3%95-%EF%BC%882015%E4%B9%89?lang=en>

26 James Leibold, *The Ethnic Face of Terror in China*, *La Trobe University*, 9 December 2015, available at: <http://www.latrobe.edu.au/news/announcements/2015/the-ethnic-face-of-terror-in-china>

27 China extends Tibet surveillance program for sixth year in a row, *TCHRD*, 30 Nov. 2016, available at: <http://tchrd.org/china-extends-tibet-surveillance-program-for-sixth-year-in-row/>

28 China: ‘Benefit the Masses’ Campaign Surveilling Tibetans, *Human Rights Watch*, 18 June 2013, available at: <https://www.hrw.org/news/2013/06/18/china-benefit-masses-campaign-surveilling-tibetans>

29 China: Alarming New Surveillance, Security in Tibet, 20 March 2013, *Human Rights Watch*, available at: <https://www.hrw.org/news/2013/03/20/china-alarming-new-surveillance-security-tibet>

30 Beatings, detention, threats after Tibetans reject China’s ‘Mass Line’ policy in Diru, *TCHRD*, 5 October 2013, available at: <http://tchrd.org/beatings-detention-threats-after-tibetans-reject-chinas-mass-line-policy-in-diru/>

31 Relentless: Detention and Prosecution of Tibetans Under China’s ‘Stability Maintenance’ Campaign, *Human Rights Watch*, May 2016, at pg. 2, available at: <https://www.hrw.org/report/2016/05/22/relentless-detention-and-prosecution-tibetans-under-chinas-stability-maintenance>

32 *Ibid.*, at pg. 4.

village opposition to unpopular decisions by local officials.³³ Human rights groups believe that the overwhelming majority of activities that led to detentions—such as taking part in nonviolent protests, shouting slogans, distributing images or messages on social media, or contesting a decision by local officials—appear to have been legitimate, peaceful forms of expression of opinion protected under international law.³⁴

In a December 2016 interview with TCHRD, a 26-yr old Tibetan man from Nyangra Township, Shetongmon (Ch: Xietongmen) County, Shigatse Prefecture (TAR) who fled to India said he felt free and fearless after coming into exile.³⁵ “I can now express freely about politics or about His Holiness the Dalai Lama. In Tibet, I couldn’t even discuss these things with my friends and peers; I couldn’t trust them because the Chinese authorities have planted informers. If we were caught discussing sensitive topics, we would get detained and sometimes imprisoned.”

Directive Criminalizes Freedom of Expression

In July, a local government directive distributed in 42 Tibetan monasteries across Ngaba (Ch: Aba) County in Ngaba Tibetan and Qiang Autonomous Prefecture, Sichuan Province, announced the criminalization of activities associated with the right to freedom of opinion, expression, information and assembly in Tibet.³⁶ The 80-page booklet, promoted as a ‘legal education’ textbook, announced criminal prosecutions against Tibetans who engage in the following acts: 1) displaying

Tibetan national flag and distribution of Tibetan political leaflets; 2) raising portraits of Dalai Lama and shouting slogans such as “long live the Dalai Lama” and “freedom for Tibet”; 3) self-immolating in public spaces; 4) inciting self-immolation; and 5) sharing pictures and videos about separatism with ‘foreign hostile forces’ via mobile messaging app. Those committing the first, second and fifth acts will be charged of ‘inciting separatism’, which carries the maximum penalty of 15 years.³⁷ The act of sharing pictures and videos about separatism, which usually refers to Dalai Lama or Tibetan freedom, will be penalized with multiple charges including ‘illegal sharing secrets’ and ‘inciting separatism.’ The maximum sentence that Article 398 of Chinese Criminal Law penalises a person who “intentionally or negligently divulges state secrets” with seven years’ sentence, but Article 111 provides a 10-year minimum sentence for unlawfully suppl[ying] State secrets” to an organization or individual outside of PRC.³⁸ The directive also announced that people who self-immolated would be charged of ‘endangering public security’ that carries a sentence of up to 10 years, or life imprisonment and death sentence in extreme cases.³⁹ The crimes endangering public security are acts that endanger the lives of the general public and damage public property and facilities. They are seen as the most dangerous form of crime among the ‘ordinary crimes’, that is crimes that are less severe than ‘endangering state security’.⁴⁰ Furthermore, those found ‘inciting self-immolation’ would be penalized with the charge of ‘intentional homicide’. It echoes a December 2012 ruling by the Chinese Supreme Court that announced the penalty of ‘intentional homicide’ for those accused of involvement in self-

33 Ibid., at pg. 4.

34 Ibid., at pg. 34.

35 Interviewee name withheld on request. Interview conducted in November 2016 by TCHRD staff Ms Tenzin Dawa in Dharamsala, India.

36 Chinese propaganda booklet criminalizes all forms of peaceful political expression in Tibet, *TCHRD*, 26 August 2016, *available at*: <http://tchrd.org/chinese-propaganda-booklet-confirms-absolute-criminalization-of-peaceful-expression-in-tibet/>

37 Chinese Criminal Law, Article 103, *available at*: <http://www.fmprc.gov.cn/ce/cgvienna/eng/dbtyw/jdwt/crimelaw/t209043.htm>

38 Chinese Courts Use “Secrets” Law To Sentence Tibetan Online Authors to Imprisonment, *CECC*, 21 January 2010, *available at*: <http://www.cecc.gov/publications/commission-analysis/chinese-courts-use-secrets-law-to-sentence-tibetan-online-authors>

39 Supra note 36.

40 Jianfu Chen, *Chinese Law: Context and Transformation: Revised and Expanded Edition* (2015). Brill, The Netherlands, Print.

immolation. Since then, a number of Tibetans have been charged of this crime under Article 232 of the Criminal Law and received sentences ranging from 10 years⁴¹ to a suspended death sentence.⁴²

The contents of the directive although divulging nothing new reinforce the fact that legitimate acts of freedom of opinion and expression are criminalized in Tibet. Tibetans are routinely charged of ‘inciting separatism’ and are subjected to secret detention, torture and sentenced when they display Tibetan national flags or pictures of the Dalai Lama. In the absence of any avenues for dissent and criticism, Tibetans are forced to resort to self-immolations and solo protests as a means to express their opposition and discontent against government injustices.

Monk sentenced to six years for sharing information about events in Tibet

On 9 November, Lobsang Sonam, a 23-yr old monk from Kirti Monastery was sentenced to six years for sharing information and images about events in Tibet with outsiders in Ngaba (Ch: Aba) County in Ngaba Tibetan and Qiang Autonomous Prefecture (TAP), Sichuan Province.¹

A native of nomadic camp no. 2 of Rongkharsar Township in Ngaba County, Lobsang Sonam was arbitrarily detained on 11 September 2015 by the County Public Security Bureau officers in Ngaba County town. He was detained incommunicado for about a year and two months. His family members were not informed about his whereabouts.

The monk was likely convicted for “leaking state secrets”, a charge commonly used to detain and imprison Tibetans who share information about government repression and human rights violations in Tibet. Imprisoning the monk therefore violates his right to privacy, freedom of expression, and information, rights that are protected in both Chinese and International Law.

Crackdown on Self-immolation Continues

In September, news of Tapeysurfaced that the monk was being moved to solitary confinement in Deyang Prison, located in Deyang City in Sichuan Province for a minor violation of prison rules⁴³. Until then, his whereabouts and condition had remained unknown since 2012 when he appeared in a Chinese government produced documentary that described the self-immolations from the Chinese government’s point of view.⁴⁴Tapey became the first Tibetan inside Tibet to commit self-immolation, a form of political protest that has claimed the lives of more than 100 Tibetans in and out of Tibet.⁴⁵ Following his self-immolation on 27 February 2009, he was left with severe burn

injuries and had to undergo surgery under the strict watch of Chinese security personnel. Details of his case remain unknown such as the duration of his sentence and the charges for which he was convicted. If the local directive issued in July is any indication, he was likely charged of ‘endangering public security’.

41 China sentences Tibetan monk to 10 yrs in prison, *TCHRD*, 18 July 2013, *available at*: <http://tchrd.org/china-sentences-tibetan-monk-to-10-yrs-in-prison/>

42 Tibetan man sentenced to death over wife’s self-immolation, *TCHRD*, 17 August 2013, *available at*: <http://tchrd.org/tibetan-man-sentenced-to-death-over-wifes-self-immolation/>

43 Self-immolated man asked to amputate his legs, *TCHRD*, 13 March 2009, *available at*: <http://tchrd.org/self-immolated-man-asked-to-amputate-his-legs/>

44 “CCTV’s Explanation for the Tibetan Self-Immolations” By Woesser, *High Peaks Pure Earth*, 18 July 2012, *available at*: <http://highpeakspureearth.com/2012/cctvs-explanation-for-the-tibetan-self-immolations-by-woesser/>

45 In 1998, ThubtenNgodup, a 50-yr old Tibetan refugee living in India died of self-immolation in New Delhi. A biography of ThubtenNgodup, *available at*: http://www.tibet.ca/en/library/wtn/archive/old?y=1998&m=4&p=29_4

Since 2009, a total of 154 known Tibetans in and out of Tibet from all walks of life have committed self-immolation to protest Chinese government repression and highlight the deteriorating human rights situation in Tibet. Self-immolation is symptomatic of extreme political repression and absence of any space to air grievances and seek redress. It is not an act of terror and is seen instead as self-inflicted pain that causes no damage to others.⁴⁶ When a self-immolation takes place in Tibet, monasteries and towns linked to self-immolation are locked down and put under heavy surveillance and monitoring will be rolled into these places, apparently to “protect the people” and secure “social order”.⁴⁷ Many Tibetans who assist in moving the body of the self-immolator, or holding prayer service as per the Tibetan tradition and those who console the families of the deceased are also unjustly detained and sometimes punished to long prison terms that also includes deprivation of political rights for years after release.

Despite extreme restrictions, 2016 witnessed three self-immolations in Tibet, in addition to the self-immolation of a Tibetan refugee youth in India. On 29 February, an 18-year old monk named Kalsang Wangdue of Mari Tsokha Aryaling Monastery died after setting himself on fire calling for Tibetan independence and long life of the Dalai Lama in Nyagrong (Ch: Xinlong) County, Kardze (Ch: Ganzi) Tibetan Autonomous Prefecture, Sichuan Province, in Tibet’s Kham Province. Following the monk’s self-immolation, local Chinese police ordered his family members to conceal the real cause of his death and to explain that the monk died due to a random fire that also razed his house. The family was put under surveillance and not allowed to meet fellow villagers.⁴⁸ Wangdue’s self-immolation occurred

46 Tsering Shakya, Transforming the language of protest, 8 April 2013, *available at*: <https://culanth.org/fieldsights/94-transforming-the-language-of-protest>

47 Carole McGranahan, self-immolation as protest in Tibet, 9 April 2012, *available at*: <https://culanth.org/fieldsights/93-self-immolation-as-protest-in-tibet>

48 Two Tibetans stage self-immolation protest in Tibet and India, *TCHRD*, 3 March 2016, *available at*: <http://tchrd.org/two-tibetan-youths-stage-self-immolation-protests-in-tibet-and-india/>

on the day when another Tibetan youth named Dorjee Tsering set himself ablaze in Dehradun, north India. The 16-yr old high school student born to Tibetan refugee parents in India later succumbed to burn injuries.⁴⁹ On 23 March, Sonam Tso, a 50-yr old mother of five, died of self-immolation at the circumambulation path around Sera Monastery in Akyi Township in Dzoegé (Chinese: Ru’ergai) County. Following Tso’s self-immolation, her family members and relatives including her husband were detained for interrogation.⁵⁰

On 8 December, two days before the Human Rights Day, a 31-yr old Tibetan man named Tashi Rabten died of self-immolation in Machu (Ch: Maqu) County in Kanlho (Ch: Gannan) Tibetan Autonomous Prefecture (TAP), Gansu Province, in the Tibetan Province of Amdo. The father of two staged his protest near the local vegetable market where his cousin Tsering Kyi⁵¹ had died of similar protest in 2012. Tashi died calling for Dalai Lama’s long life and for the Chinese government to allow Dalai Lama to return to Tibet. Using common crackdown tactics, local Chinese security personnel temporarily detained and intimidated Rabten’s family members and relatives including his wife and children.⁵² Four other Tibetans were also arrested for suspected involvement in taking pictures and videos of the self-immolation that became widely

[org/two-tibetan-youths-stage-self-immolation-protests-in-tibet-and-india/](http://tchrd.org/two-tibetan-youths-stage-self-immolation-protests-in-tibet-and-india/)

49 Ibid.

50 Chinese government destroys evidence of Tibetan woman’s self-immolation, *TCHRD*, 7 May 2016, *available at*: <http://tchrd.org/chinese-government-destroys-evidence-of-tibetan-womans-self-immolation/>

51 One Tibetan woman’s tragic path to self-immolation, *The Guardian*, 26 March 2012, *available at*: <https://www.theguardian.com/world/2012/mar/26/nomad-path-self-immolation>

52 Tibetan man dies of self-immolation protest, family members detained for demanding return of body, *TCHRD*, 9 December 2016, *available at*: <http://tchrd.org/tibetan-man-dies-of-self-immolation-protest-family-demand-police-to-return-body/>

available on social media.⁵³ The whereabouts of the four remain unknown. On 11 December, three days after Rabten's protest, a 25-yr old monk Jamyang Choephel was arbitrarily detained at around midnight by Chinese security personnel from his monastic quarter at Ngok Gyalmo Monastery in Ngok Phar-ngo Village in Gyalmogon (Ch: Jiamagong) Township of Tsoe (Ch: Hezuo) County, Kanlho TAP. The authorities gave no reasons for Choephel's detention and the monk is being held incommunicado at Machu County Detention Centre.⁵⁴

On 19 March, a Tibetan monk called Tritsen (Penname: *Tri Bhoetrak*) was released after serving two years in prison on charges of 'disrupting public order' and 'inciting separatism'.⁵⁵ He was detained on 11 March 2013, days after he wrote and distributed a book called "*Denpai Khalang*" (Eng: Breath of Truth) that contained essays on self-immolation in Gade (Ch: Gande) County in Golok Tibetan Autonomous Prefecture, Qinghai Province.⁵⁶ In particular, the book featured a biography of Lama Soeba, the abbot of Tongkyab Monastery who died of self-immolation on 8 January 2012. Following Tritsen's detention, Chinese authorities had launched a sweeping crackdown on the monastery that included witch-

hunting those who helped raise money for the book's publication.

On 3 October, two Tibetan singers Pema Trinley, 26, and Chakdor, 36, were released from Mianyang Prison after completing a four-year term for recording and distributing a music DVD titled 'Agony of unhealed wounds'.⁵⁷ The DVD contained songs about self-immolation, Dalai Lama, Panchen Lama, Kirti Rinpoche (exiled head of Kirti Monastery) and Lobsang Sangay (exiled Tibetan political leader). They are native of Meruma Town in Ngaba County. Two other Tibetans, musician Khenrap and lyricist Nyagdompo, who collaborated on the album, also went missing around same time.⁵⁸ Their whereabouts remain unknown. Chakdor is the brother of Choepa, a 24-yr old nomad who died of self-immolation on 10 August 2012 in Meruma.⁵⁹

Detention of solo protesters

Following the crackdown on self-immolation protests that also includes collective punishment of family and relatives of a self-immolator, a growing number of Tibetans are resorting to solo protest to exercise their right to freedom of opinion and expression. Solo protesters are individuals who have lawfully exercised their basic human rights to express their concerns without resorting to violence. But arbitrary application of Chinese laws criminalizes simple acts of freedom of expression, such as solo protest which usually involves a lone person carrying a photo of Dalai Lama or Tibetan national flag and shouting slogans for freedom

53 China detains four Tibetans linked to self-immolation videos, self-immolator's wife subjected to severe interrogation and intimidation, *TCHRD*, 14 December 2016, available at: <http://tchrd.org/china-detains-four-tibetans-linked-to-self-immolation-videos-self-immolators-wife-subjected-to-severe-interrogation-and-intimidation/>

54 Tibetan monk likely detained in connection with recent self-immolation, *TCHRD*, 26 December 2016, available at: <http://tchrd.org/tibetan-monk-likely-detained-in-connection-with-recent-self-immolation/>

55 Tibetan monk detained for writing book on self-immolation released after two years, *TCHRD*, 31 March 2016, available at: <http://tchrd.org/tibetan-monk-detained-for-writing-book-on-self-immolation-released-after-two-years/>

56 Monastery under siege as monks face expulsion while another detained for writing book on immolations, *TCHRD*, 19 March 2013, available at: <http://tchrd.org/monastery-under-siege-as-monks-face-expulsion-while-another-detained-for-writing-book-on-immolations/>

57 Two Tibetans imprisoned for singing songs about self-immolation released after 4 years, *TCHRD*, 6 October 2016, available at: <http://tchrd.org/two-tibetans-imprisoned-for-singing-songs-about-self-immolation-released-after-4-years-2/>

58 Two Tibetan singers secretly sentenced but whereabouts unknown, *TCHRD*, 13 June 2013, available at: <http://tchrd.org/two-tibetan-singers-secretly-sentenced-but-whereabouts-unknown/>

59 Young Tibetan nomad sets himself on fire, *TCHRD*, 11 August 2012, available at: <http://tchrd.org/young-tibetan-nomad-sets-himself-on-fire/>

and human rights in Tibet and Dalai Lama's long life and swift return to Tibet.

In 2016, Chinese authorities continued to subject peaceful solo protesters to beatings, arbitrary arrests and detention. Of the eight solo protesters documented by TCHRD Political Prisoners Database, majority belonged to the monastic community in Ngaba County.

- On 17 October, a Tibetan monk named **Lobsang Tsultrim** from Ngaba County was subjected to severe beatings by local police minutes after the monk staged a solo protest in front of the Ngaba County Tibetan Middle School. The monk staged his protest carrying a portrait of the Dalai Lama and shouting slogans such as “Long Live His Holiness the Dalai Lama!” and “Freedom for Tibet!”⁶⁰ He was later taken to an unknown hospital for treatment. His family and relatives were not informed about his whereabouts or condition. The United Nations Code of Conduct for the Law Enforcement⁶¹ requires law enforcement officials to protect peaceful protesters and refrain from using batons or similar impact equipment on people who are unthreatening and non-aggressive.
- On 3 March, Tibetan woman named **Mangga**, 33, was detained after she staged a solo protest carrying a photo of the Dalai Lama in Meruma Town in Ngaba County. Mangga's peaceful solo protest lasted for a few minutes before local security personnel took her away to an undisclosed location. The mother of one had been detained previously in 2008 when she openly

objected to the government order to fly Chinese flags in her for which she was detained and subjected to incommunicado detention for about eight months.⁶²

- On 2 May, a monk named **Lobsang Thupten** from Kirti Monastery was detained minutes after he staged his protest on the main street of Ngaba County Town holding a photo of the Dalai Lama. The video footage and photos of his protest, which became available on social media, show the young monk manhandled and dragged away by two traffic police officers. His current whereabouts and information remain unknown.⁶³
- On 7 June, another monk from Kirti Monastery named **Lobsang Tsering** staged a protest carrying the Dalai Lama's photo and raising slogans such as “May His Holiness live for 10,000 years” and “Freedom for Tibet” in Ngaba County Town. Local police immediately took him into custody as soon as they saw him. The monk's whereabouts remains unknown.⁶⁴

Four Tibetan monks who staged peaceful solo protests in separate incidents were convicted for ‘inciting separatism’.⁶⁵ The monks had held

60 China: hold accountable for excessive use of force against Tibetan protester, *TCHRD*, 21 October 2016, *available at*: <http://tchrd.org/china-hold-police-accountable-for-excessive-use-of-force-against-tibetan-protester/>

61 UN code of conduct for law enforcement officials, *available at*: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/LawEnforcementOfficials.aspx>

62 Tibetan mother secretly detained after staging peaceful protest amid increased repression and internet blockade, *TCHRD*, 3 March 2016, *available at*: <http://tchrd.org/tibetan-mother-secretly-detained-after-staging-peaceful-solo-protest-amid-increased-repression-and-internet-blockade/>

63 Tibetan protester carrying Dalai Lama portrait detained by Chinese traffic police, *TCHRD*, 3 May 2016, *available at*: <http://tchrd.org/tibetan-protester-carrying-dalai-lamas-portrait-detained-by-chinese-traffic-police/>

64 Lone Tibetan protester holding Dalai Lama portrait detained incommunicado, *TCHRD*, 8 June 2016, *available at*: <http://tchrd.org/lone-tibetan-protester-holding-dalai-lamas-portrait-detained-incommunicado/>

65 China sentences four Tibetan protesters for inciting separatism, *TCHRD*, 14 September 2016, *available at*: <http://tchrd.org/china-sentences-four-peaceful-tibetan-protesters-for-inciting-separatism/>

peaceful solo protests in 2015 in Ngaba County Town. They were each sentenced to three years' imprisonment. They were arbitrarily detained and held incommunicado for more than ten months and denied access to due legal process.

- **Lobsang**, 23, was detained on 10 September 2015 and on 19 July 2016 sentenced to three years at a secret trial held by the Maowun (Ch: Mao) County People's Court in Ngaba TAP. His family and relatives were not informed about the trial.
- **Adrak**, 21, was detained on 10 September 2015 and since then, his whereabouts remained unknown until on 4 August 2016 when his relatives found him locked at Mianyang Prison near Chengdu. The Maowun County People's Court had sentenced him to three years.
- **Jamphel Gyatso**, 22, was detained on 9 September 2015 and sentenced to three years on 1 August 2016. He was held incommunicado at Maowun County Detention Centre and after sentencing was likely moved to Deyang Prison, located in Huang Xu Town in Deyang City, Sichuan Province.
- **Lobsang Kelsang**, 20, was detained on 7 September 2015 and remained in secret detention until family members learned about his sentencing in September 2016. He had been held at Maowun County Detention Centre for months before his sentencing. He is now serving his sentence at Mianyang Prison.



Sonam Yarphe (above) a monk from Mangge Monastery in Sershul County was released on 21 December 2016 after serving two years sentence for staging a solo protest. He carried out the protest on 26 November 2014 holding aloft a handmade banner with a photo of the Dalai Lama and shouted slogans for Tibetan freedom and the return of the Dalai Lama.

Silencing the bloggers

With all types of media tightly controlled by PRC authorities in Tibet,⁶⁶ internet has become an important tool for a growing number of Tibetans to exercise freedom of opinion, expression and information. In recent years, online platforms such as social media have emerged as one of the most popular means through which Tibetan activists and bloggers have attempted to make their voices heard and counter Chinese government's propaganda on Tibet. Nonetheless, speaking out on government repression and human rights violations is a highly risky affair. Chinese authorities continue to impose an information blockade throughout Tibet and exercise a high degree of scrutiny and censorship on the flow of information throughout the region.⁶⁷

In 2016, Chinese authorities organized a handful of tours for a group of foreign journalists to Tibet. Similar to previous guided tours, government minders heavily controlled the journalists and

⁶⁶ Tibet is again rated "Not Free" in the 2016 Freedom in the World survey conducted by Freedom House. The full survey is *available at*: <https://freedomhouse.org/report/freedom-world/2016/tibet>

⁶⁷ Report: The Human Rights Situation in Tibet: 2013-2016, *Tibet Society (UK)*, 13 May 2016, *available at*: <http://www.tibetsociety.com/content/view/598>

their travel itineraries. Despite the token gesture of media access in the form of government-run junkets, Tibet remains one of the hardest places on earth to access for independent journalists, human rights missions and foreign diplomats. A 2015 survey on reporting conditions in Tibet conducted by the Foreign Correspondents Club of China (FCCC) revealed that although Chinese government granted limited access to several foreign journalists to visit Tibet in 2015, it still rejected almost three-quarters (49) of the reporters who sought permission.⁶⁸ Respondents to the survey, conducted in January 2016, listed “restrictions on access to Tibet, restriction of movement once in Tibet and sources’ fear of speaking freely as the three leading reasons they cannot do accurate and comprehensive reporting on Tibet.”⁶⁹

The restrictions placed on foreign journalists make it extremely difficult to report on the real situation in Tibet. In such a scenario, it is the local Tibetans who take it upon themselves to share information, which the Chinese government wants to hide from the world, thereby risking their lives and their families’. Since 2008, many Tibetans have been arbitrarily detained, tortured, and imprisoned for peacefully expressing their dissent or criticisms in writing. Many more have been targeted and persecuted for merely expressing their pride in their cultural and religious identity. On 16 February 2016, Drukar Gyalaka Druklo (pen name: Shokjang), a well-known blogger and activist was sentenced to three years’ imprisonment and two years’ deprivation of political rights on the charge of ‘inciting separatism’. According to the Chinese authorities, Shokjang’s crimes were (1) writing an online essay on the freedom of religious belief; (2) writing a blogpost recounting the event of 16 March 2015, when gun-wielding armed police

officers conducted a search at his hotel room; (3) sharing online an extract from the book, ‘The Line between Sky and Earth’; (4) sharing online a news item that the Chinese government was willing to negotiate with Dalai Lama on matters other than Tibetan independence; (5) sharing online a video footage of Chinese police beating ordinary Chinese people in the street; and (6) storing on his phone six books including Wang Lixiong’s ‘Sky Burial: The Fate of Tibet’.⁷⁰

Shokjang’s 12-page appeal letter against the sentencing, which he wrote in detention on 24 February, counters the charges against him. The letter makes a cogent and compelling argument against the charge of ‘inciting separatism’: “The term ‘instigatory’ is a mystery. If one talks about instigating separatism, I have not written even a word of separatism, much less instigated it. If I write about an incident in which I suffered harm, and that becomes an unfounded accusation against me, and I write an appeal to the court about the incident, that does not make me a separatist.”⁷¹ He further questions the flimsy evidences the court used to characterize his writings as separatist: “To put it straight, this was basically just a short piece that has nothing to do with a serious political allegation like ‘splitting the nation’. The Malho Intermediate People’s Court cited a fragment of what I wrote, ‘...this is not just trampling on the Tibetan people’s right to freedom of religious belief, but on the right of the Chinese people as a whole to religious freedom’, to accuse me of having a separatist attitude. If knowledgeable people were to examine this, would they not find it laughable? Not only did I not make even the slightest reference to separatism, my statement posits no distinction between the Chinese and

68 Foreign press in China say travel to Tibet remains restricted, *Committee to Protect Journalists*, 27 April 2016, available at: <https://cpj.org/blog/2016/04/foreign-press-in-china-say-travel-to-tibet-remains.php#more>

69 Ibid.A

70 Revoke discriminatory, unjust verdict against Tibetan writer Shokjang, *TCHRD*, 7 April 2016, available at: <http://tchrd.org/revoke-discriminatory-unjust-verdict-against-tibetan-writer-shokjang/>

71 Popular Tibetan blogger asserts his innocence in letter from prison, *International Campaign for Tibet*, 4 April 2016, available at: <https://www.savetibet.org/popular-tibetan-blogger-asserts-his-innocence-in-letter-from-prison/>

Tibetan peoples. Their talk of separatism does not establish what is being separated from what.”⁷²

Shokjang was detained on the evening of 16 March 2015 from a hotel room in Rebkong (Ch: Tongren) County, Malho (Ch: Huangnan) Tibetan Autonomous Prefecture, Qinghai Province. One of his blogposts, which became a cause for his imprisonment, contained details of his arbitrary detention: “I was in a hotel in Rebkong. Late at night, two people wearing police uniform and army uniform and carrying guns came inside saying they needed to search the place. When I asked them to show some documentary proof, they pointed their guns at me and loudly intimidated me. That was the first time I have experienced the terror of facing the barrel of a gun pointed at me. Such unspeakable, unimaginable intimidation embittered me towards the Rebkong security [forces]. Confronted with those, whether policemen or gangsters I knew not, I wrote that [account of events] in the hope of getting the protection of the security authorities and the public.”⁷³

Shokjang had been detained previously in April 2010 for his writings that were published in the literary journal *Shar Dung Ri* (‘Eastern Snow Mountain’), which was later banned. He is also a poet, lyricist, short story writer and essayist. He is the author of four books: ‘A Courageous Path’, ‘The Might of the Pen’, ‘For Liberty, I Have No Regrets’ and ‘Rangdrol’s Courage’.⁷⁴

In May, a 28-yr old Tibetan blogger named Lobsang Jamyang (penname: Lomik) was sentenced to seven years and six months on charges of “leaking state secrets” and “engaging in separatist activities” at a secret trial in Lunggu

(Ch: Wenchuan) County in Ngaba TAP.⁷⁵ Lomik was sentenced after more than a year of secret detention during which he was not allowed to meet with his family or provided access to due legal process. On 9 May, he was allowed for the first time since his detention to meet with his family for half an hour. During the meeting, he told his family that the charges were forced upon him without any evidence. The Lunggu County People’s Court passed the sentence although Lomik refused to accept the charges and continued to plead his innocence. Although Lomik was arrested in 2015, the investigating officers told him that he was guilty of committing the so-called crimes between 2009 and 2013. An article authored by a group of Tibetan writers on Lomik’s detention suggested that Lomik was likely detained for writing essays about the “suppression of freedom of expression, destruction of environment, 2008 Tibetan uprising, self-immolation protests” and for participating in panel discussions on issues affecting Tibetans.⁷⁶

In 2010, Lomik had written a book called ‘The Yellow Fog’ and contributed articles to popular Tibetan language websites in Tibet such as *Chomei*, *Sangdhor*, and *TsoNgon*. In recent years, he authored articles with titles such as ‘Story Shackled By Iron Chains’, ‘Weapons Target Writers of Ngaba’, and ‘Until I Die, I Will Express My Views’. Along with other Tibetan writers such as Shokjang, Lomik had participated in a number of panel discussions such as *Siling Zsa Nyimei Khabdha* (‘Xining Sunday Debate’) at the Qinghai Nationalities University. In Ngaba, he organized public debates on topics such as “Revisiting

72 Ibid.

73 Ibid.

74 TCHRD condemns arbitrary detention of Tibetan writer Shokjang, *TCHRD*, 24 April 2015, *available at*: <http://tchrd.org/tchrd-condemns-arbitrary-detention-of-tibetan-writer-shok-jang/>

75 Tibetan writer sentenced to 7.5 years after more than a year of secret detention, *TCHRD*, 9 May 2016, *available at*: <http://tchrd.org/tibetan-writer-sentenced-to-7-5-years-after-more-than-a-year-of-secret-detention/>

76 China detains yet another Tibetan writer for writing against repression, *TCHRD*, 21 April 2015, *available at*: <http://tchrd.org/china-detains-yet-another-tibetan-writer-detained-for-writing-against-repression/>



"At present, the actions of the Chinese government totally contradict its own laws, At present, we do not have freedom of expression. Not even a grain of it."

Excerpt from by Lomik's "A story shackled in chains"

*On 16 March 2008, Chinese paramilitary police shot live ammunition into a crowd of Tibetan protesters in Ngaba. Among those dead was Lhundup Tso, a 16 year-old female student. Since then, Tibetans in Ngaba have observed 16 March as an anniversary of the 2008 Uprising and a day of remembrance for those who died.

Dondrup Gyal,⁷⁷ and "Sunday Discussions". In his hometown of Meruma, he organized a public debate on the topic: "Denial of Free Expression."

3.16*

By Lomik

*If you were a Chinese
The soldiers carrying batons in the streets of Ngaba
Will not ask you to show your ID cards.
You won't be frisked like [they frisked] me
Restricting my freedom of movement
Even making it extremely difficult to stay in a
guesthouse
Frisking me over and again*

*If you were a Chinese
Even if you walk in the streets
Tibetan cadres won't spy on you
[Like they did] by gazing at my face
Constantly spying on my movement
As decreed by the government
And [thus] getting themselves
Rewarded with promotions.*

⁷⁷ Dondrup Gyal, also spelled as Dondrub Gyel, is widely regarded as the founder of modern Tibetan literature. A brief biography of Dhondup Gyal is available at <https://treasuryoflives.org/biographies/view/Dondrub-Gyel/7613>

Conclusion

Freedom of opinion and expression are part of the basic rights and fundamental freedoms universally protected in numerous treaties and agreements at the international and regional level. Chinese Constitution also provides the right to freedom speech as well as the right to criticize government officials. But these provisions are overpowered by the imposition of many affirmative duties on the citizens of the PRC to "safeguard the unity of the country" and to "keep state secrets". Tibetans are routinely subjected to arbitrary arrests and detention, torture, and disappearance on politicised charges of separatism and state secrets when they had peacefully expressed their opinions and criticized repressive government policies and practices. The extremely limited space for peaceful expression of dissent and criticism has worsened due to the introduction of new directives that reinforced criminalization of basic human rights. The extension of a mass surveillance program coupled with relentless campaigns to enforce compliance among local Tibetans in exchange for government handouts have contributed to the systematic and insidious violation of the right to freedom of opinion and expression in Tibet.

RIGHT TO PRIVACY

At its core, the right to privacy guarantees individuals a space free from outside interference or government intrusion.⁷⁸ Prior to the growth of digital technology, the private space was generally understood to include a person's family, home, correspondences, and the like.⁷⁹ As people spend more time online and communicate through digital technology, the understanding of what is included in an individual's sphere of privacy has become more complex. Following the Snowden leaks, the UN General Assembly passed a resolution reiterating that people had the same privacy rights online as they do offline.⁸⁰ This means that the right to privacy includes digital correspondence and the contents of one's phone and apps. Importantly, the growth of digital technology makes certain aspects of the right to privacy more accessible. For example, anonymous communication can be much easier online. Recognizing this, the UN Special Rapporteur on the right to freedom of expression explained that the right to privacy must include communications

that are private, secure, and anonymous.⁸¹

Legal Standards

Article 17 of the International Covenant on Civil and Political Rights (ICCPR) protects the right to privacy.⁸² The People's Republic of China (PRC) has signed but not ratified the ICCPR, which means that it is not legally bound by the covenant as such, but it must refrain from defeating its object and purpose. However, the PRC is still required by international law to protect the right to privacy because it has become part of customary international law, which is binding on all States.

The right to privacy is a qualified right. This means that it may be restricted under certain circumstances without being violated.⁸³ To ensure that the essence of the right to privacy is protected, it may only be restricted in narrow circumstances and only when local laws clearly provide for the

78 Frank La Rue, "Report of the Special rapporteur on the promotion and protection of the right to freedom of opinion and expression," *UN Human Rights Council*, UN Doc.A/HRC/23/40 (17 April 2013), para. 22, *available at*: <http://daccess-dds-ny.un.org/doc/uNdoc/gEN/g13/133/03/PdF/g1313303.pdf?openElement>.

79 UN Human Rights Committee (HRC), "CCPR General Comment No. 16: Article 17 (Right to Privacy), The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honour and Reputation," 8 Apr. 1988, *available at*: <http://www.refworld.org/docid/453883f922.html>.

80 "The Right to Privacy in the Digital Age," G.A. Res. 68.167, U.N. Doc. No.A/Res/68/167 21 Jan. 2014, para. 3, *available at*: http://www.un.org/ga/search/view_doc.asp?symbol=a/RES/68/167.

81 Frank La Rue, "Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression," *UN Human Rights Council*, UN Doc.A/HRC/23/40 (17 April 2013), para. 22, *available at*: <http://daccess-dds-ny.un.org/doc/uNdoc/gEN/g13/133/03/PdF/g1313303.pdf?openElement>.

82 UN General Assembly, "International Covenant on Civil and Political Rights," 16 Dec. 1966, United Nations, Treaty Series, vol. 999, p. 171, Art. 17.

83 Frank La Rue, "Report of the Special rapporteur on the promotion and protection of the right to freedom of opinion and expression," *UN Human Rights Council*, UN Doc.A/HRC/23/40 (17 April 2013), para. 21, *available at*: <http://daccess-dds-ny.un.org/doc/uNdoc/gEN/g13/133/03/PdF/g1313303.pdf?openElement>.

restriction.⁸⁴ For example, police officers may enter a person's private space to investigate a crime.

Although Chinese Constitution does not contain explicit provision on the right to privacy, Article 40 provides for both the freedom and privacy of communication. The article states: "The freedom and privacy of correspondence of citizens of the People's Republic of China are protected by law. No organization or individual may, on any ground, infringe upon the freedom and privacy of citizens' correspondence except in cases where, to meet the needs of state security or of investigation into criminal offences, public security or pro curatorial organs are permitted to censor correspondence in accordance with procedures prescribed by law." Article 35 recognises and protects freedom of expression stating that "[c]itizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession, and of demonstration." Moreover, Article 4 of China's Postal Law (1987) states that "[f]reedom and privacy of correspondence of citizens are protected by law." Other laws such as the General Principles of Civil Law (1986) also protects privacy in one form or the other.⁸⁵

However, a number of laws in PRC that restrict the right to privacy are so broad that it is impossible to know when the right to privacy is actually protected. The provisions protecting privacy are conditioned by the affirmative duties imposed on the citizens to

84 Frank La Rue, "Report of the Special rapporteur on the promotion and protection of the right to freedom of opinion and expression," *UN Human Rights Council*, UN Doc.A/HRC/23/40 (17 April 2013), paras. 19-23, available at: <http://daccess-dds-ny.un.org/doc/uNdoc/gEN/g13/133/03/PdF/g1313303.pdf?openElement>.

85 The Right to Privacy in China, Privacy International, and the Law and Technology Centre of the University of Hong Kong, UPR Stakeholder Submission to the 17th Session – China, March 2013, available at: https://www.privacyinternational.org/sites/default/files/ChinaUPR_2013.pdf

protect 'state security', 'public security' or 'state secrets'. Additionally, the Cyber Security Law, to be enforced in June 2017, employs similar tactics of using vague and overbroad language and requires internet companies and users alike not to endanger the broadly-defined 'state security' or 'public security'. In Tibet, blogs, instant-messaging services, discussion forums, and other internet outlets have long been monitored and censored. Therefore the new law only reinforces the existing restrictions. The concept of 'cyberspace sovereignty',⁸⁶ which is mentioned prominently

Four Types of Privacy



Information Privacy

Involves the establishment of rules governing the collection and handling of personal data

2. Bodily Privacy

Concerns the protection of people's physical selves against invasive procedures





3. Privacy of Communications

Covers the security and privacy of mail, telephones, email and other forms of communication

4. Territorial Privacy

Concerns the setting of limits on intrusion into the domestic and other environments such as the workplace or public space which includes searches, video surveillance and ID checks



An International Survey of Privacy Laws and Practice Available at: <http://glic.org/privacy/survey/intro.html>

in the new Cyber Security Law, smacks of similar tactics used in the past to deflect or reject international criticism against PRC's egregious human rights record. In the name of sovereignty, the PRC engages in and justifies human rights

86 Article 1 of the law states, "This law is formulated so as to ensure network security, to safeguard cyberspace sovereignty, national security and the societal public interest, to protect the lawful rights and interests of citizens, legal persons and other organizations, and to promote the healthy development of economic and social informatization."

violations including the right to privacy of its citizens within its borders.

Right to Privacy in Tibet

Chinese authorities routinely violate the right to privacy in a systematic manner in Tibet. Surveillance and monitoring of phone conversations, e-mails, text messages, and other online communications is the norm rather than the exception. Contents deemed sensitive are blocked and censored with alarming regularity. More social media contents are blocked in Tibet than any other place in the PRC.⁸⁷ In addition, users of internet, fixed line and mobile phone users in Tibet are required by law since 2011 to provide service operators with their real names.⁸⁸ All internet companies are held responsible for the content they host and are expected to establish entire departments devoted to surveillance and censorship of their platforms' users. Since 2012, Chinese authorities have issued new biometric ID cards to local Tibetans and all internet cafes have been installed with biometric card readers making it easier to control online activities.⁸⁹ All network and internet companies are required to follow Chinese laws and regulations in monitoring and censoring their users.

According to Mr Lobsang Gyatso Sither, digital security expert at Tibet Action Institute, Chinese government makes it obligatory for the companies to surveil and censor activities of their clients. "As such, each company has a team dedicated to

surveillance and censorship of correspondence on network communications", said Mr Sither.⁹⁰ "This high level of censorship and surveillance is forcing many in Tibet to resort to self-censorship. People tend to avoid talking about what they used to talk about earlier." The intense online surveillance has affected both Tibetans inside and outside Tibet with the rise of self-censorship among Tibetans in the online space. "If you don't share political stuff, you are ok" has become a common refrain used by many Tibetans communicating online.⁹¹ This situation has severely impacted the ability of Tibetans to share information and discuss about events and issues happening on both sides. It enables the Chinese authorities to perpetrate more repression and human rights violations and hide them from the world. For instance, in Diru (Ch: Biru) County, dubbed "politically unstable" by the Chinese government due to a series of peaceful protests against government repression, local authorities have imposed a strict ban since 2015 on communications with outsiders particularly targeting online communications such as WeChat.⁹² The ban remained active throughout 2015 and 2016 that also explains the drastic decline in information coming out of Diru during this period.⁹³ Diru residents have been warned against maintaining contacts with anyone outside of Tibet failing which they will be punished with six months' detention and two years' ban on harvesting caterpillar fungus, a crucial source of income for local Tibetans.⁹⁴

87 D. Bamman, B. O'Connor, and N. A. Smith, 'Censorship and deletion practices in Chinese social media' *First Monday*, Volume 17, Number 3 - 5 March 2012, available at: <http://www.uic.edu/htbin/cgiwrap/bin/ojs/index.php/fm/article/viewArticle/3943/3169>

88 Real names required for web, phone users in Tibet, *China Daily (USA)*, 19 June 2013, available at: http://usa.chinadaily.com.cn/china/2013-06/19/content_16638433.htm

89 TAR Propaganda Chief Stresses Protecting Official Secrets in Tibet, *TCHRD*, 27 July 2012, available at: <http://tchrd.org/tar-propaganda-chief-stresses-protecting-official-secrets-in-tibet/>

90 Interview conducted by Tenzin Phuntsok, Associate Researcher at TCHRD, on 24 November 2016 in Dharamsala, India. For more on Tibet Action Institute, visit <https://tibetaction.net/>

91 Ibid.

92 Private communication between TCHRD researcher Tenzin Dawa and a resident of Diru residing in India, who wishes to remain anonymous for fear of government reprisals against family members living in Shakchu (Ch: Xiaqu) Township in Nagchu County.

93 Compared to TCHRD's sustained reporting on repression in Diru in the past years, a handful of information was received in 2015 and 2016. See for instance: <http://tchrd.org/?s=diru>

94 Supra note 15.

Right to Privacy



Destruction of self-immolation evidence

News about Sonam Tso's self-immolation reached the outside world after 45 days

Tso's relative Tsultrim detained and his cell-phone confiscated

Authorities destroyed all images and information of self-immolation on the cell-phone

Sonam Tso

Some Keywords BLOCKED on WeChat Application in Tibet

"Tibetan Youth Congress"

"Free Tibet"

"Tibet Independence"

"Dalai Lama"

"Kalachakra"

Privacy Protection under International Law

Universal Declaration of Human Rights- Article 12

"No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks"

International Covenant on Civil and Political Rights- Article 17

17 (1). "No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honor and reputation.

17 (2). "Everyone has the right to the protection of the law against such interference or attacks."

Privacy Protection in PRC

PRC Constitution Article 40

"The freedom and privacy of correspondence of citizens of PRC are protected by law. No organization or individual may, on any ground, infringe upon the freedom and privacy of citizen's correspondence except in cases where, to meet the needs of state security or of investigation into criminal offenses, public security or pro-curatorial organs are permitted to censor correspondence, in accordance with procedures prescribed by law"

PRC's Postal Law(1987) Article 4

"Freedom and Privacy of correspondence of citizens are protected by law"

Online surveillance is just one facet of privacy violated by Chinese authorities in Tibet. In recent years, the physical and territorial privacy of local Tibetans have been increasingly and systematically violated by Chinese authorities in the name of security and development. Numerous mass surveillance programs have been implemented at least since late 2011 under the guise of maintaining stability and improving basic living conditions in Tibet. Many of these programs enable local authorities to act as thought police and to collect political information.⁹⁵ In November 2016, Chinese authorities announced the extension of one such program that involved sending tens of thousands of village based teams” (Ch: *zhucungongzuodui*) to monitor and surveil

95 China: ‘Benefit the Masses’ Campaign Surveilling Tibetans, *Human Rights Watch*, 18 June 2013, *available at*: <https://www.hrw.org/news/2013/06/18/china-benefit-masses-campaign-surveilling-tibetans>

rural Tibetans, organise anti-Dalai Lama themed political indoctrination campaigns, and entrench and expand the influence of the CCP in Tibet Autonomous Region (TAR).⁹⁶

The Assessment Report on the Implementation of the National Human Rights Action Plan of China⁹⁷ (2012-2015) released in June 2016 found no mention of initiatives taken to protect and promote the right to privacy.⁹⁸ Likewise, the new plan for the period 2016-2020 issued on 29 September was silent on the subject of privacy despite the fact that it has become one of the most important human rights issues in recent years.⁹⁹ Instead, the plan “resolved to strengthen the development of the Internet and cyberculture and internet connection capacity in rural administrative villages.” Although bringing internet connection to rural areas is a positive step, it would also enable the state censorship agencies and internet police to monitor and surveil more people. Moreover, increased internet connectivity has little meaning if people are unable to use the internet freely without fear of compromising their right to privacy. The plan also promises to improve services for netizens

96 China extends Tibet surveillance program for sixth year in row, *TCHRD*, 30 November 2016, *available at*: <http://tchrd.org/china-extends-tibet-surveillance-program-for-sixth-year-in-row/>

97 The Assessment Report on the Implementation of the National Human Rights Action Plan of China (2012-2015), *Xinhuanet*, 14 June 2016, *available at*: http://news.xinhuanet.com/english/china/2016-06/14/c_135435326_5.htm

98 Fourth Paragraph of Overall Implementation, Assessment Report on the Implementation of the National Human Rights Action Plan of China (2012-2015), *Xinhuanet*, 14 June, 2016, *available at*: http://news.xinhuanet.com/english/china/2016-06/14/c_135435326_2.htm

99 National Human Rights Action Plan of China (2016-2020), *Xinhuanet*, 29 September 2016, *available at*: http://news.xinhuanet.com/english/2016-09/29/c_135722183_5.htm

to express their opinions, and to place more emphasis on social sentiments and public opinions expressed online.¹⁰⁰ But without doing away with abusive policies and practices that violate right to privacy and freedom of expression, there is no way for citizens to express themselves without fear of retribution.

Monitoring WeChat

Privacy and WeChat in Tibet

- Lobsang Khedup, age 44**
Sentenced to 13 years
He created WeChat group chat to celebrate Dalai Lama's birthday
- Lodoe, age 41**
Sentenced to 9 years
He joined WeChat group chat for information on Dalai Lama's birthday
- Akya-kya, age 35**
Sentenced to 5 years
He joined WeChat group chat for information on Dalai Lama's birthday
- Lobsang Sonam, age 23**
Sentenced to 6 years
He shared information and images about events in Tibet
- Jinpa Gyatso, age 39**
Sentenced to 1 year and 6 months
He shared information and images about a self-immolation
- Kelsang Monlam, age 37**
Sentenced to 1 year and 6 months
He shared information and images about a self-immolation
- Gomar Choephel, age 47**
Sentenced to 2 years
He shared Dalai Lama's photos on social media

monthly active users and 100 millions are users outside the PRC. The popularity of the app creates an environment where content can go viral and reach millions, but it also allows the PRC to monitor the personal lives of a large percent of the populace. Content on WeChat ranges from private messages, to group messages, to completely public material. WeChat is hugely popular among Tibetans inside Tibet, which is one of the reasons why many Tibetans outside Tibet invariably turn to this chat application when contacting family and relatives in Tibet. At the same time, cases of Tibetans detained in connection with WeChat activities have increased in recent years. Despite efforts by digital security experts to introduce Tibetans to safer options, WeChat is still the dominant chat application among Tibetans.

Recent research on WeChat done by the Citizen Lab, a Canada-based digital security watchdog revealed that WeChat censors according to the region where an account is registered. Group chats are particularly targeted for censorship if the account is registered from PRC including Tibet, and often in such a way where the sender of a text isn't even aware a piece of text had been deleted.¹⁰¹ The report inferred that there is a high level of surveillance on WeChat based on reports of WeChat related persecutions in Tibetans and previous levels of surveillance on China-based apps such as Tom Skype, QQ and the high usage of WeChat. Group chats are monitored more due to its potential to reach a larger audience. WeChat allows up to 500 users to share a chat room. Major Tibet-related keywords censored on WeChat are "Free Tibet", "Tibet Independence",

WeChat is one of the most popular and most widely used social media apps with 806 million

¹⁰⁰ Part II Section 5, Rights of expression and supervision in the National Human Rights Action Plan of China (2016-2020), *Xinhuanet*, 29 September 2016, available at: http://news.xinhuanet.com/english/2016_09/29/c_135722183_7.htm

¹⁰¹ Lotus Ruan, Jeffrey Knockel, Jason Q. Ng, and Masashi Crete-Nishihata, *One App, Two Systems: How WeChat uses one censorship policy in China and another internationally*, *Citizen Lab*, 30 November 2016, available at: <https://citizenlab.org/2016/11/wechat-china-censorship-one-app-two-systems/>

“Tibetan Youth Congress” and “Dalai Lama”.

A testimony provided by a Tibetan monk from Lithang Monastery in Lithang County who escaped Tibet and arrived in India in November revealed that Chinese authorities closely monitor online activities. “One day some Chinese officials reached our monastery to warn me that I should stop being a part of a WeChat group and that the founder of the chat group had been arrested and if I didn’t stay off, I will meet the same fate.”¹⁰² The monk added, “Our phone SIM cards are registered with our biometric ID cards which in turn allows Chinese authorities to monitor our activities on WeChat.”

A Tibetan youth who fled Tibet to India in November recalled an incident in his hometown of Nyangra Township, Shetongmon (Ch: Xietongmen) County, Shigatse (Ch: Xigaze) Prefecture, TAR, in which a father and his son were detained in 2015 for sharing patriotic songs on WeChat. “They were detained for several days after the township authorities found out that they had shared songs of Sherten and Gebey on WeChat. They were later released upon payment of fines because they had some connections in the higher-ups. Without such connections, they could have been jailed for at least two years.”¹⁰³ Sherten and Gebey are popular Tibetan singers known for singing songs with strong patriotic flavor. In 2014, Gebey was arrested by Chinese security forces following a cultural awareness performance at a concert hall in Ngaba where he performed songs that spoke of the need to preserve Tibetan language and culture.¹⁰⁴

102 Testimony recorded by TCHRD researcher Tenzin Dawa on 8 December 2016 in Dharamsala, India.

103 Interview conducted by TCHRD researcher Tenzin Dawa in November 2016 in Dharamsala, India.

104 Chinese Authorities Release Tibetan Singer Who Sought Language Protection, *Radio Free Asia*, 17 June 2014, available at: <http://www.rfa.org/english/news/tibet/release-06172014154208.html>



TCHRD Political Prisoners’ Desk has documented the detention of 33 Tibetans in the last three years over the possession of pictures or information on their cellphones and sharing of incidents of self-immolations on WeChat

Out of them, 7 sentenced to between 3 and 13 years in 2016
One released on bail pending investigation in 2015

Status of remaining 25 unknown although likely sentenced on charges of ‘inciting separatism’ or ‘leaking state secrets’

In August 2016, two Tibetan monks were arbitrarily detained by armed security forces and remain disappeared to this day. Lobsang Sherab¹⁰⁵ and Gendun Dakpa¹⁰⁶, both monks from Thangkor Socktsang Monastery, were detained at around midnight from their monastic quarters on 24 August at Thangkor Town in Dzoegge County.¹⁰⁷ Both monks were detained on suspicion that they shared information with outsiders about peaceful protests staged by Tibetan nomads against government land seizures in Ka Bharma Village in Thangkor. The case of the monks reveal that Tibetans are subjected to disappearance and arbitrary detention on suspicion of sharing information about events that occurred in their

105 Chinese Police Detain a Second Tibetan Monk at Thangkor Socktsang Monastery, *Radio Free Asia*, 9 September 2016, available at: <http://www.rfa.org/english/news/tibet/second-09092016172606.html>

106 Tibetan Monk Vanishes in Police Custody After Being Detained, *Radio Free Asia*, 8 September 2016, available at: <http://www.rfa.org/english/news/tibet/vanishes-09082016172741.html>

107 China ‘disappears’ two monks in connection with protests against land grab, *TCHRD*, 25 October 2016, available at: <http://tchrd.org/china-disappears-two-monks-in-connection-with-protests-against-land-grab/>

area that have nothing to do with ‘state secrets’. The peaceful protests staged by Tibetan nomads against land grabbing lasted for over a year during which authorities detained and sentenced several Tibetans for merely exercising their right to freedom of expression and peaceful assembly.

In November, nine Tibetans were handed draconian sentences in connection with the 80th birthday celebration of the Tibetan spiritual leader Dalai Lama in Ngaba. Among them, Lobsang Khedup, 44, a monk from the local Kirti Monastery was sentenced to 13 years’ of imprisonment because he created a WeChat group chat to register names of local Tibetans wishing to offer prayers for the Tibetan spiritual leader’s 80th birthday. He was arbitrarily detained in December 2015 and remained incommunicado until his sentencing.¹⁰⁸ Two others, Lodoe, 41, and Akyakya, 35, were also sentenced to nine and five years respectively. They had joined a WeChat Group created by former Tibetan political prisoners in Ngaba to discuss and exchange information about the birthday celebration.¹⁰⁹ The same month, Chinese authorities sentenced a 23-yr old monk named Lobsang Sonam to six years for sharing information and images about events in Tibet with outsiders in Ngaba County. He was sentenced on 9 November by a Chinese court in Trochu (Ch: Heishui) County in Ngaba TAP after detained incommunicado for about a year and two months. His family members learned about his whereabouts only after he was sentenced.¹¹⁰

In February, another monk named Gomar Choephel, 47, was sentenced to two years imprisonment for “threatening social stability”

108 China jails Tibetans for celebrating Dalai Lama’s Birthday: Nine gets varying terms of 5-14 years, *TCHRD*, 07 December 2016, *available at*: <http://tchrd.org/china-jails-tibetans-for-celebrating-dalai-lamas-birthday-ten-tibetans-get-varying-terms-of-6-to-14-years/>

109 *ibid*

110 Tibetan Monk sentenced to 6 years in prison for sharing information online, *TCHRD*, 9 December 2016, *available at*: <http://tchrd.org/tibetan-monk-sentenced-to-6-years-in-prison-for-sharing-information-online/>

and “engaging in separatist activities” in Rebkong (Ch: Tongren) County, Malho (Ch: Huangnan) Tibetan Autonomous Prefecture, Qinghai Province in the Tibetan Province of Amdo. He had stored Dalai Lama’s photos on his phone and shared them online.¹¹¹ Choephel was arbitrarily detained from his monastery on 10 July 2015 and kept in secret detention for seven months before the sentencing.

In March, three Tibetans, two laymen and a laywoman, were detained for discussing the exile Tibetan election in a WeChat group chat in Matoes (Ch: Maduo) County in Golog (Ch: Guoluo) Tibetan Autonomous Prefecture, Qinghai Province in the Tibetan Province of Amdo. On 20 March, exile Tibetans elected a political leader (Tib: Sikyong) to head the Dharamsala, India-based government-in-exile known as the Central Tibetan Administration, which the Tibetans see as their legitimate government. The 20 March election was the second such election since the Dalai Lama devolved political power in 2011. Samdrup, Rongsher and Lhadon were taken into police custody without explanation in Chugo Desar village in Matoes County.¹¹²

In September, two Tibetan monks, Jinpa Gyatso, 39, and Kelsang Monlam, 37, were each sentenced to one year and a half for sharing information and images of a self-immolation protest in Sangchu (Ch: Xiahe) County in Kanlho (Ch: Gannan) Tibetan Autonomous Prefecture (TAP), Gansu Province in the Tibetan Province of Amdo. They had been arbitrarily detained separately on 4 June 2015 and held in prolonged incommunicado detention before their sentencing on 12 September.¹¹³ The monks were detained less than

111 Monk sentenced to two years for keeping and sharing Dalai Lama’s photos, *TCHRD*, 24 February 2016 *available at*: <http://tchrd.org/monk-sentenced-to-two-years-for-keeping-and-sharing-dalai-lamas-photos/>

112 China detains three for social media discussion of Tibetan exile election, *Radio Free Asia*, 01 July, 2016 *available at*: <http://www.rfa.org/english/news/tibet/chinese-arrest-three-04012016171702.html?searchterm=utf8:ustring=Rongsher>

113 Two Tibetan monks sent to prison for sharing

a week after Sangyal Tso, a mother of two, died of self-immolation protest on 27 May 2015 in Dokhog (Ch: Daogao) Township in Chone (Ch: Zhuoni) County, Kanlho (Ch: Gannan) Tibetan Autonomous Prefecture, Gansu Province, in the Tibetan Province of Amdo. In December, four Tibetans were detained in connection with Tashi Rabten's self-immolation video clips. Bhenkho, Tenpa, Dorjee and Tsezin Lhamo were detained incommunicado on the suspicion that they took photos and videos of Rabten's self-immolation on 8 December in Machu (Ch: Maqu) County, Kanlho Tibetan Autonomous Prefecture, Gansu Province, in the Tibetan Province of Amdo.¹¹⁴ The laywoman named Tsezin Lhamo was seen in one of the videos with her back towards the camera chanting prayers in the name of the Dalai Lama as she witnesses the self-immolation. Detention and imprisonment of Tibetans suspected of taking photos or videos of self-immolation is part of PRC's efforts to erase any evidence of self-immolation, in addition to other extreme measures such as collective punishment.¹¹⁵

Sometimes, local authorities manually destroy evidences of self-immolation by seizing personal cellphones and deleting banned contents. Soon after Sonam Tso's self-immolation in March, Chinese authorities detained Tso's relative Tsultrim for eight days during which they confiscated Tsultrim's phone and destroyed all images and information he had collected about the self-immolation.¹¹⁶ Tso, a 50 year-old mother of five,

information about self immolation, *TCHRD*, 19 September 2016, *available at*: <http://tchrd.org/two-tibetan-monks-sent-to-prison-for-sharing-information-about-self-immolation/>

114 China detains four Tibetans linked to self immolation videos, self immolator's wife subjected to severe interrogation and intimidation, *TCHRD*, 14 December 2016, *available at*: <http://tchrd.org/china-detains-four-tibetans-linked-to-self-immolation-videos-self-immolators-wife-subjected-to-severe-interrogation-and-intimidation/>

115 See *TCHRD's 2014 Annual Report on collective punishment and criminalization of self-immolation in Tibet*.

116 Chinese government destroys evidence of Tibetan woman's self-immolation, *TCHRD*, 07 May, 2016, *available at*: <http://tchrd.org/chinese-government-destroys-evidence->

died of self-immolation on 23 March but the news of her self-immolation reached the outside world in May due to PRC's information clampdown that usually follows self-immolation.

Conclusion

In his first report to the UN General Assembly in August 2016, the Special Rapporteur on the right to privacy, Joseph A. Cannataci, observed an increased tendency among governments to promote more invasive laws for surveillance, which allow for the thinly disguised permanent mass surveillance of citizens.¹¹⁷ The PRC is a one-party authoritarian state that employs extreme measures to systematically subject its citizens to surveillance and censorship. The PRC authorities use highly sophisticated technology to monitor all communications creating a chilling effect on freedom of expression in Tibet. The PRC's intrusive incursion into the right to privacy is forcing many Tibetans into self-censorship. Tibetans are forced to censor their thoughts, opinion, and speech fearing which they are subjected to draconian punishments. These Orwellian incursions of their privacy go beyond the online realm by also intruding upon one's domestic surroundings, workplace, schools, and institutions. Chinese Constitution and other laws do not provide strong legal protection to privacy rights. Moreover, the vague and overbroad legal provisions further perpetuate an abusive system that allows the authorities to target and persecute activists and dissidents for merely exercising the right to privacy, freedom of expression and freedom of access to information that enable a human being to develop his or her personality in the freest of manners.¹¹⁸

[of-tibetan-womans-self-immolation/](http://tchrd.org/tibetan-womans-self-immolation/)

117 UN General Assembly, Report of the Special Rapporteur on the right to privacy, Joseph A. Cannataci, 30 August 2016, A/71/368, *available at*: http://www.un.org/ga/search/view_doc.asp?symbol=A/71/368

118 Statement by Mr. Joseph A. Cannataci, SPECIAL RAPPORTEUR ON THE RIGHT TO PRIVACY, 31st session of the Human Rights Council Agenda Item 3, 9 March 2016, Geneva, *available at*: http://www.ohchr.org/Documents/Issues/Privacy/SRonprivacy_Statement_HRC_9March2016.pdf

FREEDOM OF RELIGION

In the People's Republic of China (PRC), religion is strictly controlled by the Chinese Communist Party (hereinafter, 'the party') through various government agencies such as the State Administration for Religious Affairs (SARA) and the Religious Affairs Bureau (RAB) and officially approved religious organisations such as Buddhist Association of China (BAC). Both SARA and RAB are controlled by the United Front Work Department (UFWD), which directly reports to the Central Committee of the party. While the UFWD sets broad policy directions for religious affairs, SARA is the national-level executive agency charged with religious regulation. The RABs, acting as enforcing agencies, exist at all levels of governments. In short, the party through its UFWD arm develops all religious policy and the job of the state regulatory bodies is to implement that policy.

The party follows a Marxist, atheist ideology in which religion is considered a superstitious and unscientific product of natural and social suppression, exploited and used in backward societies to suppress the lower class and preserve social inequalities. As such, Marxism stipulates that in a socialist society in which there is no class system, religion will naturally and inevitably disappear.¹ At the same time, the party 'respects

and protects the freedom of religious belief' of the general public but denies the same to its 89 million party members. The party's basic policy on religion bars any role for religion in the sphere of administrative and judicial matters of state, or in schools and public education. The party's patriotic religious organizations such as the BAC through its various activities and campaigns ensure that religious believers and persons follow the party's policy of 'freedom of religious belief' and 'continually raise their patriotic and Socialist consciousness'.

In 2016, freedom of religion did not improve in Tibet. The PRC continued to implement repressive policies and campaigns using the 'rule of law' rhetoric to further violate freedom of religion of Tibetans. Rather than improving the dire situation of religious freedom, the PRC authorities called for 'sinicization' of religions to counter the so-called subversive activities from hostile foreign forces.² The PRC's top political advisor Yu Zhengsheng asked Tibetan religious figures "to interpret religious doctrines in line with socialist core values, and help Tibetan Buddhism better adapt to the socialist society" and warned against "attempts to alter China's ideology and political system through the use of religion."³ Writing in the

1 MacInnis Donald E, The People's Republic of China: Document 19: the basic view point of the religious questions during out country's socialist period, *available at:* <https://www.religlaw.org/content/religlaw/>

documents/doc19relig1982.htm
2 Tibet religious urged to resist foreign influence, Global Times, 15 August 2016, available at: <http://www.globaltimes.cn/content/1000443.shtml>

3 Tibet religious urged to resist foreign influence

party journal *Study Times* in August, Wang Zuoan, head of SARA, criticized Western countries for “distorting China’s religious situation in the name of ‘religious human rights’.”⁴ In April, presiding over the Second National Work Conference on Religion, Chinese President Xi Jinping called on the party and government authorities to “guard against overseas infiltrations via religious means and prevent ideological infringement by extremists” and “guide those religious to love their country, protect the unification of their motherland and serve the overall interests of the Chinese nation.”⁵ Xi added that authorities should also “focus on religious issues on the Internet and disseminate the Party’s religious policies and theories online.”

In September, five months after the conference, the State Council published a draft of Regulations on Religious Affairs, a revision of the previous set of regulations that was introduced in 2005. The previous regulations imposed wide-ranging restrictions on the freedom of religion and the revised version, drafted by State Administration for Religious Affairs (SARA), further deepens these restrictions while incorporating much of what Xi emphasized in his speech at the April conference. Apart from increased scrutiny of imported religious materials (Article 46), new restrictions have been placed on religious news websites (Articles 47, 48) and religious schools that are to be regulated as any other religious institutions.⁶ Punitive measures are imposed, among others, on using religion for “spreading extremism”, “violating the principle of autonomy”, “inciting ethnic separatism or terrorist activity” (Article 63). The draft also announced criminal punishment for “illegal religious activities” and tightened controls

over “unauthorised religious pilgrimage abroad, or travel abroad for unauthorized religious training, events or conferences” (Article 67). Remarks made by Zhu Weiqun, head of the Ethnic and Religious Affairs Committee of the Chinese People’s Political Consultative Conference National Committee indicate that the new draft was necessitated by purported security concerns. “There have been new developments in the past few years, including the flow of religious believers from the western to the eastern provinces seeking job opportunities,” said Zhu. But these concerns also mask the suspicion and threat felt by Chinese authorities against the growing popularity of Tibetan Buddhism in the larger Chinese society.⁷ The same month, Sun Chunlan, a member of the political bureau of the party Central Committee and head of the party’s Central Committee UFWD, asked provincial-level officials in charge of religious affairs to be “more politically sensitive, and recognize and address religious issues on the basis of protecting the interests of the Party and state CPC official calls for better religious work” and asked them to learn from Xi’s speech at the April conference.⁸

In December, at a work conference on religion⁹ organised by TAR authorities in Lhasa, the TAR party secretary Wu Yingjie called for increased political indoctrination campaigns (‘patriotic education’) among Tibetan Buddhist followers particularly monks and nuns so that they “remember the party’s kindness, obey the party, and follow the party.” Wu specifically identified “guiding the mind with political education as the number one priority” for the party and government in its religious work. Wu, who became the party

4 Chinese official urges to ‘sinicize’ religion, fight foreign hostile forces, *Global Times*, 10 August 2016, available at: <http://www.globaltimes.cn/content/999476.shtml>

5 China Focus: Xi calls for improved religious work, *Xinhua*, 23 April, 2016, available at: http://news.xinhuanet.com/english/2016-04/23/c_135306131.htm

6 Thomas Dubois, How will China regulate religion? *East Asia Forum*, 21 September 2016, available at: <http://www.eastasiaforum.org/2016/09/21/how-will-china-regulate-religion/>

7 China’s Buddhist supervisory body announces explicit restrictions on Tibetan Buddhism, *TCHRD*, 13 December 2016, available at: <http://tchrd.org/chinas-buddhist-supervisory-body-announces-explicit-restrictions-on-tibetan-buddhism/>

8 CPC official calls for better religious work, *Xinhua*, 2 September 2016, available at: http://www.china.org.cn/china/Off_the_Wire/2016-09/01/content_39212757.htm

9 Tibet protects the religious order according to law, *China Tibet Online*, 30 December 2016, available at: <http://eng.tibet.cn/culture/news/1483064910139.shtml>

secretary in September, emphasized the firm objective of sinicisation and socialism as the driving forces of religious work. Wu's speech signaled that the PRC has no plans to end repressive laws and campaigns implemented since late 2011 during his predecessor Chen Quanguo's tenure. At a ceremony to confer awards to "harmonious model monasteries" and "patriotic and law abiding monks and nuns" at the conference, Wu said that the award winners represented the success of the party's religious work, demonstrating a "firm conviction in the struggle against separatists and Dalai clique" and in building harmonious society and protecting stability."¹⁰ He praised the work of the party and government cadres, public security officials stationed at various religious institutions, and felicitated the UFWD officials for protecting the development and stability of Tibet. In August, Wu had also underlined the priority of the political struggle against the Tibetan spiritual leader Dalai Lama in his inaugural speech as the TAR party secretary.¹¹

The aforementioned award ceremony was instituted in 2012 to further intensify control and surveillance of religious institutions in Tibet.¹² This rewards and punishments system, with its overriding emphasis on creating a pliant populace subservient to the party, has been used to target Tibetans loyal to the Dalai Lama and others who engage in criticism, opposition and dissent against Chinese authorities. At the first award ceremony in 2012, the then party secretary Chen Quanguo exhorted the monks and nuns to "effectively recognize the politics of the Dalai Clique's reactionary, religious hypocrisy, deceptive means"

10 TAR Religious Work Conference Held, *Tibet Daily*, 29 December 2016, *available at*: http://old.chinatibetnews.com/xzrb/html/2016-12/29/content_742988.htm

11 New Party Boss in Tibet Autonomous Region associated with hardline campaigns, anti-Dalai Lama struggle, *ICT*, 2 Sept 2016, *available at*: <https://www.savetibet.org/new-party-boss-in-tibet-autonomous-region-associated-with-hardline-campaigns-anti-dalai-lama-struggle/>

12 China to create law-abiding 'model monastery' in TAR, *TCHRD*, 1 November 2011, *available at*: <http://tchrd.org/china-to-create-law-abiding-model-monastery-in-tar/>

and separate themselves from separatist activities by 'draw[ing] a line with the Dalai Clique' and not participating in separatist activities to "disrupt social order".¹³ Policies introduced since late 2011 also require the monastic community to pledge their loyalty and obedience to the party and in turn get access to basic living conditions such as access to water, electricity, roads, radio, television, medical facilities, pension and personal accident insurance, etc.¹⁴ In January 2016, the TAR government announced that the program would be expanded to all officially-recognised 1700 monasteries covering over registered 46000 monks and nuns in the next five years.¹⁵ In November, Chinese authorities announced the extension of a mass surveillance program under which tens of thousands of party and government cadres are sent to Tibetan communities including religious institutions to monitor and surveil religious persons.¹⁶ In July, PRC authorities launched the second demolition drive on the world's largest Buddhist town of Larung Gar displacing thousands of religious practitioners and sparking international condemnation and outcry.

Legal Standards

The right to freedom of religion, more completely known as the freedom of thought, conscience, and religion, was first enshrined in Article 18 of the Universal Declaration of Human Rights ("UDHR") in 1948.¹⁷ Article 18 states, "[E]veryone

13 China Rewards 'Harmonious' Monasteries, 'Patriotic' Monks, Nuns, *TCHRD*, 20 April 2012, *available at*: <http://tchrd.org/china-rewards-harmonious-monasteries-patriotic-monks-nuns/>

14 Monks get a greater sense of gain in Tibet, *China Tibet Online*, 29 November 2016, *available at*: <http://eng.tibet.cn/news/th/1480386044108.shtml>

15 Across China: Tibet strives to expand medical service to all monasteries, *Xinhua*, 29 January 2016, *available at*: <http://en.tibet328.cn/02/05/201601/t1397730.htm>

16 China extends Tibet surveillance program for sixth year in row, *TCHRD*, 30 November 2016, *available at*: <http://tchrd.org/china-extends-tibet-surveillance-program-for-sixth-year-in-row/>

17 Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810 para. 18(1948)

has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.” In addition to the explicit right to freedom of religion, Article 2 guarantees that everyone is entitled to all of the rights in the UDHR regardless of their particular religious belief. This makes the right to freedom of religion universal across all religious practices.

In addition, Article 18 of the ICCPR reiterates the UDHR, providing everyone with the right to freedom of thought, conscience, and religion, which includes the freedom to have or adopt a religion or belief of one’s choice, as well as the freedom “either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice, and teaching.” This freedom to manifest religion or belief may only be limited by law and only when necessary to protect public safety, order, health, or the fundamental rights and freedoms of others.¹⁸ The ICCPR prohibits any form of coercion that would impair an individual’s freedom to have or to adopt religion or belief, and respects the autonomy of parents or legal guardians to ensure the religious and moral education of their children.¹⁹

Article 1 of the UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (the Declaration) echoes the language of Articles 18 of the UDHR and ICCPR. Article 6 of the Declaration elaborates on what is entailed in the freedom of religion, namely, the freedoms to: worship or assemble in connection with a religion or belief, and to establish and maintain places for those purposes; establish and maintain appropriate charitable or humanitarian institutions; make, acquire and use the materials and articles related to the rites and

customs associated with a religion or belief; write, issue, and disseminate relevant publications. Teach religion or belief in suitable venues; solicit and receive financial and other contributions; train, appoint, elect, or designate succession of religious leaders; observe days of rest and celebrate holidays and ceremonies; establish and maintain communications with individuals and communities in religious matters at the national and international levels. As in the ICCPR, the religious and moral education of children is left to parents and legal guardians.²⁰

The majority of the Declaration focuses on the need to prevent discrimination based on religion or belief. Article 2 articulates this right to freedom from discrimination by any State, institution, group, or individual on the grounds of religion or other belief. The Declaration defines intolerance and discrimination based on religion or belief as “any distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis.” Every form of discrimination on the grounds of religion or belief is considered “an affront to human dignity and a disavowal of the principles of the Charter of the United Nations.” As such, all member states of the UN, including PRC, are called upon to enact legislation that will not only prevent and eliminate discrimination based on religion or belief, but to proactively promote freedom of religion and belief in a practical and realizable manner.

The UDHR is widely accepted as customary international law, adopted and respected as international legal standard to which all nations are subject. Beyond its customary status, PRC is bound to the principles enshrined in UDHR by virtue of being a member of the UN Human

18 International Covenant on Civil and Political Rights (New York, 16 Dec. 1966) 999U.N.T.S.171, entered into force 23 Mar. 1976, art. 18(3)

19 Ibid.

20 United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief G.A. res.36/55,36 U.N.GAOR Supp. (No.51)at171,U.N.Doc.A/36/684(1981)

Rights Council. In a similar manner, PRC, as a member of the UN is obligated to comply with the declarations set forth by the General Assembly, such as the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

According to the Constitution of the PRC, all citizens of the PRC are equal before the law, enjoying the same rights, and responsible for the same duties prescribed by the Constitution and other laws.²¹ The same article declares that, “the State respects and preserves human rights.”²² More specifically in Article 36 citizens are granted freedom of religious belief:

Citizens of the People’s Republic of China enjoy freedom of religious belief. No state organ, public organization or individual may compel citizens to believe in, or not to believe in, any religion; nor may they discriminate against citizens who believe in, or do not believe in, any religion. The state protects normal religious activities. No one may make use of religion to engage in activities that disrupt public order, impair the health of citizens or interfere with the educational system of the state. Religious bodies and religious affairs are not subject to any foreign domination.²³

The same language is echoed in Article 11 of the PRC’s Law on Regional National Autonomy of 1984, which states, “The organs of self-government of national autonomous areas shall guarantee the freedom of religious belief to citizens of the various nationalities,” and continues to recite this provision of the constitution.²⁴

In practice, Chinese authorities use various means to curtail this right by taking advantage of the vague wordings contained in Article 36. For instance, what is ‘normal’ is never defined thus authorizing the government to arbitrarily impose its own interpretation of ‘normal’. The prohibition on the use of religion to engage in activities that disrupt public order or impair the health of citizens has become problematic in practice. Chinese government has increasingly used trumped up political charges of “inciting separatism” and “disrupting public order” as justification to detain and prosecute Tibetans engaging in peaceful protests against official policies violating their fundamental rights, including their right to religious freedom. Also the provision that bars the use of religion to interfere with the educational system of the State results in grave consequences in the Tibetan Buddhist context. This allows the Chinese government to justify the numerous restrictions placed on traditional monastic education, such as the coercive “patriotic education” sessions that disrupt customary Tibetan Buddhist learning, a law barring monks below age 18 from joining monasteries, and regulations enacted to control the monasteries and education system in general. By prohibiting any interference with education in the name of religion, the PRC is in fact able to interfere with religious education without lawful objection. Furthermore, the provision stipulating that religious bodies and religious affairs are not subject to any foreign domination is a direct reference to the Dalai Lama and the “Dalai Clique,” thus allowing the Chinese authorities to enact laws specifically prohibiting any contact with exiled Tibetan religious figures.

Cultivating Patriotic ‘Living Buddhas’

Chinese authorities have actively controlled the Tibetan reincarnation (Tib: *trulku*) system to secure the loyalty and compliance of hundreds of

21 Constitution of the People’s Republic of China of 1982, Art. 33

22 *Ibid.*

23 Constitution of the People’s Republic of China of 1982, Art. 33

24 Law of the People’s Republic of China on Regional National Autonomy, Art. 11.

highly regarded and influential Tibetan religious figures and to isolate the Dalai Lama. Under Order no. 5 issued by SARA in 2007, the party gave itself the sole right to choose reincarnations of Tibetan lamas. Since 2010, Chinese authorities have issued certificates and unique identification numbers to hundreds of *trulkus* or 'Living Buddhas'. Without these documents, a *trulku* or a *rinpoche* will be declared illegal and invalid. To further control the reincarnation system, the BAC in January 2016 released the 'Living Buddha Registration System', an online database of 870 registered *trulkus* with their unique certificate numbers and biographies;²⁵ the database was later updated in April by which time there were 1311 registered *trulkus*.²⁶ Chinese authorities claimed that the move was aimed at preventing fake 'Living Buddhas'. A number of influential Tibetan *trulkus* or *rinpoche*²⁷ living outside Tibet such as the 14th Dalai Lama²⁸ or the 17th Karmapa²⁹ are not included in the database. By the end of December 2016, Chinese authorities had approved the reincarnation of 24 'Living Buddhas' since 2014.³⁰ This was a calculated move from PRC to make the Dalai Lama irrelevant and undermine his popularity as a leading figure of Tibetan Buddhism. On the sidelines of the annual session of the PRC's National People's Congress in March, the then deputy party secretary of TAR, Wu Yingjie, launched a scathing criticism of three Chinese celebrities for attending a teaching given by the 17th Karmapa in India. Wu said the

PRC "firmly oppose[d] all celebrities, however influential they are, and whatever purpose they have, to make any contact with the 14th Dalai clique, or even help him spread his ideas."³¹

The PRC-approved *trulkus* are required to undergo special training courses such as 'Tibet Newly Recognized Reincarnated *Rinpoches*'³² that are designed to instill loyalty and obedience to the party. Trainees are required to study political speeches of the party leaders and the Chinese-appointed Panchen Lama Gyaltzen Norbu, so they can "learn to promote the incorporation of Tibetan Buddhism into socialist society."³³ Organised by the UFWD of the party's Central Committee and the local UFWD, the training curriculum also included "Buddhist rituals and theories, regulations of nation and religions, current affairs, visits to revolution sites of Chinese and former residences of Mao Zedong and other leaders of elder generations, etc., and learning about the history of Chinese People's War of Liberation".³⁴ In late October, about 20 young Tibetan reincarnate lamas were taken on a tour to the hometown of Mao Zedong, the party's atheist founder to pay tribute to Mao and the party. Official Chinese media website published a picture of a Tibetan reincarnate lama offering traditional Tibetan ceremonial scarf '*khata*' to Mao's bronze statue in Shaoshan county. In mid-December, a two-week long "national unification" courses focusing on the themes of "safeguarding national unity" and "opposing separatism" were given to 38 Tibetan Buddhist monks including registered reincarnate lamas at the Central Institute

25 China launches system to check authenticity of living buddhas, *Xinhua*, 18 January 2016, available at: http://news.xinhuanet.com/english/2016-01/18/c_135019961.htm

26 China updates online database of Tibetan living Buddhas, *Tibet Online*, 29 April 2016, available at: <http://en.tibet328.cn/02/05/201506/t1394357.htm>

27 The term *trulku* and *rinpoche* are used interchangeably. Rinpoche, literally 'the precious one', is an honorific title used to address a religious teacher held in high regard among Tibetan Buddhists.

28 Official website of His Holiness the 14th Dalai Lama of Tibet, <http://dalailama.com/>

29 Karmapa: Official website of the 17th Gyalwang Karmapa, available at <http://kagyuooffice.org/karmapa/>

30 Tibet protects the religious order according to law, *China Tibet Online*, 30 December 2016, available at: <http://eng.tibet.cn/culture/news/1483064910139.shtml>

31 Jayadeva Ranade, China launches new attack on the Dalai Lama, 8 April 2016, *Rediff.com*, available at: <http://www.rediff.com/news/column/china-launches-new-attack-on-the-dalai-lama/20160408.htm>

32 25 newly recognized reincarnated Rinpoches receive training in Lhasa, *China Tibet Online*, 24 June 2015, available at: <http://en.tibet328.cn/02/05/201506/t1394357.htm>

33 Commentary: Can Religious Figures be Trained? *China Tibet Online*, 17 November 2016, available at: <http://eng.tibet.cn/news/th/1479352547504.shtml>

34 Ibid.

of Socialism in Beijing.³⁵ The PRC's infiltration and co-opting of Tibetan reincarnation system demonstrates its inability to govern the deeply religious Tibetan populace without putting up a façade of legitimacy forcibly borrowed from influential Tibetan religious figures. But this policy has undermined the centuries old traditional Tibetan practice of recognizing reincarnations and by extension violated the collective rights of freedom of religion of Tibetans.

2016 was the 21st anniversary of enforced disappearance of Gedhun Choekyi Nyima, the 11th Panchen Lama recognised by the Dalai Lama.³⁶ Once again, the PRC was silent on the whereabouts of Nyima and his family. At the same time, the PRC worked on increasing the profile of its own choice of Panchen Lama, the 26-yr-old Gyaltzen Norbu, by promoting him as the face of Tibetan Buddhism in PRC and as an alternative to Dalai Lama as the leader of Tibetan Buddhism. Appointed the vice president of BAC and member of the Standing Committee of Chinese People's Political Consultative Conference (CPPCC) in 2010, Norbu is regularly quoted in official Chinese media as pledging to "uphold the leadership of the Party, adhere to socialism, safeguard national unification, strengthen ethnic unity and improve Buddhist exchanges."³⁷ In July 2016, Chinese authorities organised the long-banned Kalachakra religious ceremony, led by Norbu in Shigatse Prefecture in TAR.³⁸ Official Chinese media prominently publicized the event making

a show of religious freedom and acceptance of the Chinese-approved Panchen Lama by Tibetans. Chinese government publications reported the presence of over 100000 people including 5000 monks and nuns and 100 lamas at the event. However, information provided by Tibetans inside Tibet revealed that authorities made it mandatory for every family to send at least two members to participate in the Kalachakra or face penalties.³⁹ The PRC authorities have long dissuaded Tibetans in Tibet with threats, intimidation, and arbitrary detention from attending the Kalachakra teachings given by the Dalai Lama in India. More than two decades after his appointment as Panchen Lama, Norbu struggles to command genuine devotion among ordinary Tibetans. For the PRC, the political and religious significance of Norbu's position is clear: using him to choose the reincarnation of the current Dalai Lama when the latter passes away. To achieve this, the PRC has no qualms employing coercion and state power⁴⁰ to impose Norbu on reluctant Tibetans.

Over the years, the PRC has employed a systematic policy to discredit and extirpate Tibetan reincarnate lamas who have been vocal in their criticisms against government policies. Following the death of Trulku Tenzin Delek Rinpoche in prison in July 2015, Chinese authorities issued a decree that barred local Tibetans from discussing the reincarnate lama's mysterious death or holding public prayers and other rituals to mourn his

35 'Living Buddhas' take national unity courses, *Global Times*, 25 December 2016, available at: <http://www.globaltimes.cn/content/1025626.shtml>

36 China must end enforced disappearance of Tibet's 11th Panchen Lama, *TCHRD*, available at: <http://tchrd.org/china-must-end-enforced-disappearance-of-tibets-11th-panchen-lama/>

37 11th Panchen Lama elected vice president of Chinese Buddhist Association, *Xinhua*, 3 Feb 2016, available at: http://news.xinhuanet.com/english2010/china/2010-02/03/c_13162413.htm

38 China Focus: Panchen Lama leads first Kalachakra ritual in Tibet in 50 years, *Xinhua*, 22 July 2016, available at: http://news.xinhuanet.com/english/2016-07/22/c_135531006.htm

39 Two people per family mandated to attend fake Panchen's teaching, *Tibet Post International*, 19 July 2016, available at: <http://www.thetibetpost.com/en/news/tibet/5102-two-people-per-family-mandated-to-attend-fake-panchens-teaching>

40 Simon Denyer, China prepares for Dalai Lama's death by looking to its own top Tibetan cleric, *Washington Post*, 26 September 2016, available at: https://www.washingtonpost.com/world/asia_pacific/china-pushes-its-panchen-lama-into-spotlight-in-preparation-for-post-dalai-era/2016/09/25/7c28ac20-7f5e-11e6-ad0e-ab0d12c779b1_story.html?utm_term=.c03674abe2eb

death in Lithang County.⁴¹ Photos of Rinpoche were banned and his belongings found in various monasteries that he had established were confiscated and destroyed. Local Tibetans were not allowed to build a memorial stupa for Rinpoche. Tibetans who defied the order were later detained for about two months in Lithang, Nyagchukha (Ch: Yajiang), Thangkarma and Othok. Local authorities also launched a smear campaign against Rinpoche calling him “fake lama” and “criminal” to soil his legacy among his followers. Rinpoche died serving his 13th year of life imprisonment at Chuandong Prison in Dazhu County, Chengdu. He was recognised as the reincarnation of Geshe Adham Phuntsok by Dalai Lama in 1983.⁴² Rinpoche’s niece Nyima Lhamo who escaped to India in July 2016 accused Chinese authorities of poisoning her uncle.⁴³

In April, Phurbu Tsering Rinpoche⁴⁴ was released in poor health from Mianyang Prison and ordered to keep a low profile in Kardze County.⁴⁵ A

highly regarded reincarnate lama of Tehor Kardze Monastery, he was also the chief spiritual preceptor and head of Pangri and Ya-tseg nunneries in Kardze. His arrest in May 2008 was linked to the arrest of 55 nuns from Pangri Nunnery who had protested against the forced ‘patriotic education’ campaign.⁴⁶ He was sentenced to more than eight years on trumped-up charges of engaging in separatist activities in December 2009.⁴⁷ Since his release, he has not been allowed to speak about his ordeal and remains under strict police surveillance.

Known slogans linked to Dalai Lama recorded in 2015



Known slogans linked to Dalai Lama recorded in 2016



Return of Dalai Lama (27.27%) Long live Dalai Lama (18.18%) Freedom in Tibet (54.55%)

Anti-Dalai Lama Campaign

The PRC’s policy of denouncing and undermining the Dalai Lama reached new intensity in 2016. In his inaugural speech as TAR party secretary in August, Wu Yingjie declared the fight against Dalai Lama’s influence as “highest priority” and vowed to “expose the reactionary nature of the 14th Dalai Lama, crack down on separatist and subversive activities, and strive to eliminate at

41 Niece of Tibetan reincarnate lama says her uncle was poisoned to death in prison, *TCHRD*, 3 August 2016, available at: <http://tchrd.org/niece-of-tibetan-reincarnate-lama-says-her-uncle-was-poisoned-to-death-in-prison/>

42 Prominent Tibetan reincarnate lama Tenzin Delek Rinpoche dies in prison, *TCHRD*, 13 July 2015, available at: <http://tchrd.org/prominent-tibetan-reincarnate-lama-tenzin-delek-rinpoche-dies-in-prison/>

43 See more on Nyima Lhamo’s testimony in the torture section of chapter four in this report

44 Prominent Tibetan religious figure found in emaciated condition in prison, *TCHRD*, 28 August 2014, available at: <http://tchrd.org/prominent-tibetan-religious-figure-found-in-emaciated-condition-in-prison/>

45 Tibetan Protest Monk Released From Prison in Uncertain Health, *Radio Free Asia*, 19 April 2016, available at: <http://www.rfa.org/english/news/tibet/uncertain-04192016143140.html>

46 China arrests a popular religious figure in Kardze County, *TCHRD*, 19 May 2008, available at: <http://tchrd.org/china-arrests-a-popular-religious-figure-in-kardze-county/>

47 *TCHRD* condemns China’s framing of Tulku Phurbu Tsering Rinpoche on weapon charges, *TCHRD*, 24 April 2009, available at: <http://tchrd.org/tchrd-condemns-chinas-framing-of-tulku-phurbu-tsering-rinpoche-on-weapon-charges/>

their roots harmful elements that damage ethnic unity.”⁴⁸ In March, Padma Choling, TAR deputy party secretary, told a press conference that Dalai Lama was “no longer a religious leader”.⁴⁹ Such statements are calculated attempts to discredit and delegitimize the person and position of Dalai Lama and follow the decision taken by the party’s Politburo Standing Committee at a weeklong closed-door meeting in June 2015 where Xi Jinping categorically decided that the party would choose the next Dalai Lama.⁵⁰

On the ground, tens of thousands of party cadres and state officials stationed in rural communities, religious institutions and neighborhood committees are tasked with holding ‘legal education’ campaigns, a euphemism for ‘patriotic education’ that also includes denunciation campaigns against Dalai Lama.⁵¹ The appointment of Wu Yingjie as TAR party secretary signals the primacy of propaganda and ideological campaigns in PRC’s governance priorities in Tibet.⁵² An old Tibet hand, Wu is one of the longest serving Chinese officials in TAR with a long and successful career achievements in education and propaganda work.⁵³ He had been instrumental in launching successful crackdowns on a number of religious institutions and local communities in Diru and

other areas in Nagchu Prefecture, TAR where local resistance has posed persistent challenge to the PRC.

In January 2016, two high-ranking Tibetan monks, Pagah and Orgyen, from Chokri Monastery were detained incommunicado after they organized a mass prayer for the Dalai Lama who was then undergoing medical treatment in the United States.⁵⁴ The mass prayer ceremony was organized at the monastery on 25 January by monastic and lay community of Tehor Township in Drango (Ch: Luhuo) County, Kardze Tibetan Autonomous Prefecture, in Tibet’s Kham Province. On 31 January, local authorities issued a decree banning the display of Dalai Lama’s photos in public places. The decree explained that display of the Dalai Lama’s photos would mislead the public before giving a deadline of 2 February by which time everyone in the county was required to submit all photos of the Dalai Lama. Unspecified but severe punishment was promised to those who defied the order.

Although pictures of Dalai Lama are completely banned in TAR, authorities in other Tibetan areas of Kham and Amdo, located outside TAR, have been generally tolerant. But this situation is changing as more Tibetans are now targeted for displaying Dalai Lama’s photo or worshipping him. In March, Chinese authorities imposed unprecedented restrictions on the display of the Dalai Lama’s photo at Rongwo Monastery and in other monasteries in Rebkong (Ch: Tongren) County in Tibet’s Amdo province.⁵⁵ A directive issued in this regard announced that those who refused would be expelled from the monastery and prosecuted. The directive also requires monastic institutions to follow the orders of the

48 China says countering Dalai Lama is top ethnic priority in Tibet, *Reuters*, 30 September 2016, *available at*: <http://www.reuters.com/article/us-china-tibet-idUSKCN1200F2>

49 China no longer considers Dalai Lama a religious leader? *Tibetan Review*, 9 March 2016, *available at*: <http://www.tibetanreview.net/china-no-longer-considers-dalai-lama-a-religious-leader/>

50 Jayadev Ranade, China launches new attack on the Dalai Lama, *Rediff.com*, 8 April 2016, *available at*: <http://www.rediff.com/news/column/china-launches-new-attack-on-the-dalai-lama/20160408.htm>

51 Supra note 15.

52 Jayadev Ranade, Tibet gets new Chinese party secretary, *The Sunday Guardian*, 4 September 2016, *available at*: <http://www.sundayguardianlive.com/opinion/6330-tibet-gets-new-chinese-party-secretary>

53 Claude Arpi, A new boss for Tibet: Wu Yingjie, *The Claude Arpi Blog*, 29 August 2016, *available at* <http://claudearpi.blogspot.in/2013/12/most-amazing-photo-of-year.html>

54 Abbot and senior monk detained for holding prayer for Dalai Lama’s health, *TCHRD*, 8 Feb 2016, *available at* <http://tchrd.org/abbot-and-senior-monk-detained-for-holding-prayer-for-dalai-lamas-health/>

55 Chinese authorities slap new constraints on Tibetan monasteries, *RFA*, *available at* <http://www.rfa.org/english/news/tibet/chinese-authorities-slap-new-constraints-on-tibetan-buddhist-monasteries-03292016132055.html>

Monastery Management Committees (MMCs) and custodians of shrines and temples to pledge obedience to the instructions given by MMCs.

In September, a well-known Tibetan writer and teacher Gangkye Drupa Kyab, was penalized with 15-day administrative detention⁵⁶ after he was photographed holding aloft a portrait of the Dalai Lama at a public ceremony in Serthar (Ch: Seda) County. The ceremony was organized by local Tibetans to celebrate his release from prison after almost five years.⁵⁷

Tibetans could get arrested and sentenced for as long as two years if they are found keeping Dalai Lama's photo on their cellphones or wearing it around their necks, according to information provided by a Tibetan youth from Nyangra Township in Shetongmon County, Shigatse Prefecture, TAR who recently escaped Tibet.⁵⁸ Those with official connections could hope to get a lighter punishment of 15-day detention. On the other hand, it is mandatory for every monastery in the county to display photos of Chinese-approved Panchen Lama and Mao Zedong.⁵⁹

Through patriotic education campaigns, Chinese

56 China detains recently released Tibetan writer and his friend for two weeks brainwashing classes, *TCHRD*, 26 Sep 2016, available at: <http://tchrd.org/china-detains-recently-released-tibetan-writer-and-his-friend-for-two-week-brainwashing-class/>

57 Tibetan writer and teacher Gangkye Drupa Kyab released before completion of prison term, *TCHRD*, 20 Sep 2016, available at: <http://tchrd.org/tibetan-writer-and-teacher-gangkye-drupa-kyab-released-before-completion-of-prison-term/>

58 Interview conducted by TCHRD researcher Tenzin Dawa in November 2016 in Dharamsala, India.

59 Ibid.

authorities have sought to remove any influence of the Dalai Lama from Tibetan life inside Tibet. These campaigns include among others vilification drives against the 'separatist' Dalai Lama who must be opposed at any costs. Despite Chinese campaigns, protests staged by Tibetans, which usually involve holding high the Dalai Lama's portrait, and shouting slogans for his return and long life have occurred with consistent regularity.⁶⁰ Of all the known slogans Tibetan protesters shouted in 2016, almost half of them called for the return of Dalai Lama and for his long life, with the rest calling for freedom in Tibet.⁶¹



Gangkye Drupa Kyab holding a portrait of His Holiness the Dalai Lama

Beginning November, Chinese authorities began putting restrictions on Tibetan Buddhists in Tibet wishing to travel to India to receive teachings at the Kalachakra ceremony led by Dalai Lama in India. Many Tibetans had their passports confiscated and those who had already reached India were threatened and intimidated through their relatives to return by 20 December 2016; the Kalachakra ceremony was to begin in January.⁶² Some were

60 See more on protests in chapter one and four in this report.

61 For details, see the chapter on Political Prisoners Database in this report

62 China restricts freedom of movement of Tibetans ahead of Dalai Lama's teachings, *TCHRD*, 24 Nov 2016, available at: <http://tchrd.org/china-restricts-freedom-of-movement-of-tibetans-ahead-of-dalai-lamas-teachings/>

ordered to sign documents to guarantee that they would not travel to the religious event. They were told that doing so would get them blacklisted, excluded from government welfare schemes and banned from travelling for life. Thousands of Tibetan devotees were forced to return home before the end of December without getting to attend the Dalai Lama's teachings. Thousands more in Tibet had to cancel their plans to attend the teachings. In December, the Dalai Lama addressed Tibetan pilgrims from Tibet in Delhi and assured them that he would remember them in his prayers from the Kalachakra ground even if they could not be present physically to receive his blessings. "Distance cannot dampen the sacred ties between a lama and a disciple. You can all pray from the far-flung areas in Tibet and I assure you that you will receive the Kalachakra empowerment," the Tibetan spiritual leader told the gathering.

Intensification of Patriotic Education Campaign

Originally started in 1996, the primary aims of the campaign are to "inculcate love for the party"⁶³ and to deprecate the Dalai Lama as a "separatist." Propaganda films that misrepresent Tibet's history as a repressive feudal society and celebrate the PRC as the "great liberator" are a regular feature of the campaigns. Prior to the 2008 Uprising, re-education efforts were primarily implemented in the monasteries and nunneries, which were regarded as the main source of "separatist" activities.⁶⁴ In recent years, PRC authorities have intensified the implementation of patriotic education programs on the lay populace and school communities.⁶⁵ This systematic, coerced indoctrination of children with party ideology

63 TCHRD 2009 Annual Report.

64 China launches renewed "Patriotic Education" Campaign across all sections in Tibet, *TCHRD*, 24 April 2008, *available at*: <http://tchrd.org/china-launches-renewed-patriotic-education-campaign-across-all-sections-in-tibet-2/>

65 *Supra* note 55.

contravenes international standards regarding parental rights over their children's education.⁶⁶ Patriotic education's forcible exposure to communist ideology and demonization of the Dalai Lama therefore represents a gross attack on Tibetans' fundamental, universally recognized civil liberties. Refusal to comply with the requirements of the patriotic education sessions have resulted in arrests and expulsion of monks and nuns.

In 2016, the PRC carried out patriotic education campaigns through a vast network of party cadres, state officials and armed police force tasked with monitoring religious institutions including also the relatively unorganized religious entities such as temples and hermitages.⁶⁷ Implemented under the euphemism of 'legal education campaign' since 2008, all religious institutions and religious persons are required to study the party's basic policy on religion and the rules and regulations passed by the State Religious Affairs Bureau. With the introduction of new set of policies in late 2011,⁶⁸ the so-called 'legal education' campaign has become a pervasive presence in the everyday life of Tibetan Buddhist institutions.

The extension of a mass surveillance program in 2016⁶⁹ has further intensified the implementation of Cultural Revolution-style programs such as the "Six Ones" and "Nine Must Haves" in

66 The ICCPR demands that governments "undertake to have respect for the liberty of parents . . . to ensure the religious and moral education of their children in conformity with their own convictions." ICCPR, article 18(4)

67 Document Exposes Intensification of State-sanctioned Religious Repression in Troubled Tibetan County, *TCHRD*, 9 November 2015, *available at*: <http://tchrd.org/document-exposes-intensification-of-state-sanctioned-religious-repression-in-troubled-tibetan-county/>

68 China Re-launches 'Legal Education' Campaign in TAR, *TCHRD*, 17 May 2012, *available at*: <http://tchrd.org/china-re-launches-legal-education-campaign-in-tar/>

69 China extends Tibet surveillance program for sixth year in row, *TCHRD*, *available at*: <http://tchrd.org/china-extends-tibet-surveillance-program-for-sixth-year-in-row/>

Tibetan Buddhist institutions.⁷⁰ This would mean the continued presence of armed police and party officials and cadres stationed since the beginning of 2012 in and around religious institutions to monitor and surveil⁷¹Tibetan Buddhist practitioners. The TAR authorities promised that all religious institutions would be covered under these programs.⁷² For instance, in Bayan (Ch: Hualong) County in Tsoshar (Ch: Haidong) Prefecture, Qinghai Province, a party cadre is assigned to each monastery who visits the monks about five to six times a month to lecture on government policies and purportedly to listen to the monks' problems, a recently-arrived monk from Tibet told TCHRD.⁷³ In Rongwo Monastery in Rebkong County that witnessed a series of self-immolations, each monk has one official monitoring him, a former monk from the monastery told TCHRD. The monastery has over 800 monks. "The office where these officials are stationed is just 10 minutes walking distance from the monastery. The monastery is under 24-hour CCTV surveillance. There are informers among the monks that nobody recognises. The monks are scared of speaking their mind, even in the privacy of their quarters."⁷⁴

Patriotic education campaigns were conducted relentlessly in the run-up to the partial demolition of the famous Larung Gar Buddhist Institute in July.⁷⁵ Following the demolition work, thousands

of monks and nuns were evicted and forced to return to their hometowns where on arrival, they were detained by local police and kept in custody for weeks and months for patriotic education.⁷⁶ Patriotic education was given to hundreds of evicted monastics in Kongpo Gyamda (Ch: Gongbujiangda) County, Riwoche (Ch: Leiwuqi) County and Shetongmon County in TAR as well as in Sershul (Ch: Shiqu) County, Kardze TAP. In a video circulated on social media, 12 Tibetan nuns in their religious robes are seen performing on stage a revolutionary song called "The Song of the Emancipated Serfs". The song was originally performed in front of Mao Zedong in 1959. It is associated with official Communist Party celebrations.⁷⁷ A banner in the background reads, "Graduation Art Show for the Law and Politics Training Course for Buddhist Monks and Nuns, Gongbujiangda County" ("工布江达县僧尼法律、政策培训班结业文艺汇演"). The video was filmed on 10 November in Kongpo Gyamda in Nyingtri (Ch: Linzhi) Prefecture, TAR.

In July, a group of evicted nuns from Yachen Gar Buddhist Institute was detained for 15 days by local police for patriotic education at the Shetongmon County Detention Center in Nyangra Township in Shigatse Prefecture.⁷⁸ Located in Pelyul (Ch: Baiyu) County in Kardze Tibetan Autonomous Prefecture, Yachen Gar was partly demolished around the same time as Larung Gar. At Larung Gar, the Kardze prefecture authorities organized 'legal education' every month at Larung Gar from July to October. In July, a nun named Rigzin Dolma committed suicide after Chinese authorities began dismantling the dwellings of Buddhist

70 The Nine Haves and the Six Ones, *The Claude Arpi blog*, 9 March 2012, available at: <http://claudearpi.blogspot.in/2012/03/nine-haves-and-six-ones.html>

71 China no end Tibet surveillance program, *Human Rights Watch*, 18 January 2016, available at: <https://www.hrw.org/news/2016/01/18/china-no-end-tibet-surveillance-program> China no end Tibet surveillance program, *Human Rights Watch*, 18 January 2016, available at: <https://www.hrw.org/news/2016/01/18/china-no-end-tibet-surveillance-program>

72 Supra note 14.

73 Interview with a group of Tibetan monks who recently arrived from Tibet, conducted by TCHRD researcher Tenzin Dawa in November 2016 in Dharamsala, India.

74 Supra note 57

75 Demolition of leading Tibetan Buddhist institute reveals no change in China's policy of religious repression, *TCHRD*, 20 October 2016, available at <http://tchrd.org/demolition-of-leading-tibetan-buddhist-institute-reveals-no-change-in-chinas-policy-of-religious-repression/>

76 Larung Gar Evictees Forced to Attend Political Classes Back Home, *Radio Free Asia*, 4 November 2016, available at: <http://www.rfa.org/english/news/tibet/classes-11042016154905.html>

77 Professor Robert Barnett on his Facebook post dated 1 December 2016, available at: <https://www.facebook.com/robbie.barnett.14/videos/10153933534462484/>

78 Supra note 51.



Evicted monks and nuns look on waiting to be bussed out by Chinese authorities overseeing the demolition of the famed Larung Gar Buddhist Institute in Serthar County in the autumn of 2016.

practitioners living at the Pema Khando Nuns' Residence in Larung Gar. In a suicide note she left behind, Dolma related extreme psychological distress throughout her studies at the institute due to the unyielding intrusion of authorities.⁷⁹ The same month, two other nuns named Tsering Dolma and Semgha hanged themselves on 19 July at the same nuns' residence. Tsering Dolma left a suicide note, in which she expressed extreme distress at the ongoing destruction of the Institute and disruption of the lives of the practitioners.⁸⁰

Demolition of Larung Gar

Since July 2016, Chinese authorities have forcibly removed monastic and lay Buddhist practitioners and dismantled their dwellings at

Larung Gar Buddhist Institute in Serthar (Ch: Seda) County.⁸¹ A directive issued in June by the prefecture-level authorities called for the downsizing of the institute by reducing the number of residents to 5000, adding that the demolition order was implemented in light of the decisions taken at the Sixth Tibet Work Forum Conference⁸² and the Second National Work Conference on Religion chaired by Chinese president Xi Jinping. The document also included a detailed

guide on direct control and monitoring of the institute and its inmates by 'guiding the opinions and ideology of Buddhist practitioners', making them sign letters pledging to 'practice religion in accordance with the law' and holding patriotic education campaigns. One of the leading centres for Buddhist scholarship and practice in Tibet, Larung Gar has attracted both Tibetan and non-Tibetan practitioners from Mainland China, Thailand, Taiwan, Hong Kong, Singapore, Malaysia, and Korea. Before the demolition, over 20000 monastic and lay practitioners used to live at Larung Gar. In fact, evictions at the institute had begun long before the directive was issued. In 2013, nuns from TAR who had been studying at the institute were temporarily detained and threatened with criminal detention if they

79 Tibetan Nun Commits Suicide Following Demolition of Buddhist Institute, *TCHRD*, 15 August 2016, available at: <http://tchrd.org/tibetan-nun-commits-suicide-following-demolition-of-buddhist-institute/>

80 Nuns continue suicide protest against demolition of Buddhist institute, *TCHRD*, 1 September 2016, available at: <http://tchrd.org/nuns-continue-suicide-protest-against-demolition-of-buddhist-institute/>

81 China issues demolition order on world's largest religious town in Tibet, *TCHRD*, 15 June 2016, available at: <http://tchrd.org/china-issues-demolition-order-on-worlds-largest-religious-town-in-tibet/>

82 Tibet: cherish unity with China as if it is your own eyes, says Xi, *The Claude Arpi Blog*, 26 August 2015, available at: <http://claudearpi.blogspot.in/2015/08/tibet-cherish-unity-with-china-as-if-it.html>

returned to continue their studies.⁸³ In 2014, county authorities in Chamdo and Diru ordered to recall home their family members who were studying at Larung Gar or Yachen Gar.⁸⁴ Monks and nuns were threatened with removal of their names from county family registration lists if they did not return. Non-Tibetan practitioners such as Chinese, Americans and Europeans were also evicted.⁸⁵

In November, authorities imposed a ban on an annual religious festival and forbid public gatherings, and disrupted religious studies at the institute.⁸⁶ In December, authorities barred tourists and visitors from traveling there. New rules now require new students to get approval from the local party committee and government in Serthar County.⁸⁷ Without passing a “political examination” test administered by the police, no one will be allowed to join the institute. The County UFDW and the relevant RAB will strictly control the enrolment process. Laypeople will find it exceptionally hard if not impossible to get necessary permits to study at the institute.

The evicted residents were subjected to patriotic education and housed in temporary, makeshift shelters in Kardze and Golog (Ch: Guoluo) Tibetan

Autonomous Prefecture.⁸⁸ The rows of metal-roofed houses provide little protection against the long and frigid Tibetan winter. Available information does not indicate that the authorities have any definite plans to provide permanent and habitable residential facilities where the monks and nuns could pursue their religious studies.

In December, the European Parliament condemned the demolition at Larung Gar and called on the Chinese authorities to suspend the demolition work, stop the eviction of its residents and respect the freedom of expression, culture and religious belief of Tibetans.⁸⁹ In October, the Co-Chairs of the United States Congress’ Tom Lantos Human Rights Commission sent an appeal letter to the Chinese government calling for an end to the demolition and forced eviction of Buddhist practitioners at Larung Gar and Yachen Gar. Addressed to the Chinese ambassador to the United States Mr Cui Tiankai, the letter strongly urged Chinese authorities to allow everyone under the jurisdiction of the Chinese government to practice their religious faith in peace.⁹⁰ The same month, South Africa’s Inkatha Freedom Party (IFP) made similar appeals to the Chinese government and called the ongoing demolition and eviction at both the institutes a “human rights atrocity”.⁹¹

83 Two monks flee Tibet’s Nagchu to escape persecution as ‘social prisoner’, TCHRD, 9 October 2013, *available at*: <http://tchrd.org/two-monks-flee-tibets-nagchu-to-escape-persecution-as-social-prisoner/>

84 Monks, Nuns Forced to Return to Tibet County in Religious Life Clampdown, Radio Free Asia, 24 October 2014, *available at*: <http://www.rfa.org/english/news/tibet/return-10242014162330.html>

85 Han Chinese, Western Students of Buddhism Also Forced From Larung Gar, *Radio Free Asia*, 29 December 2016, *available at*: <http://www.rfa.org/english/news/tibet/forced-12292016160941.html>

86 China Cancels Annual Larung Gar Festival as Evictions Continue, *Radio Free Asia*, 7 November 2016, *available at*: <http://www.rfa.org/english/news/tibet/cancels-11072016142911.html>

87 China Slaps Ban on New Students At Larung Gar Tibetan Academy, *Radio Free Asia*, 9 December 2016, *available at*: <http://www.rfa.org/english/news/tibet/ban-12092016104543.html>

88 Expelled Larung Gar Nuns Held in Camp in Kardze, *Radio Free Asia*, 9 December 2016, *available at*: <http://www.rfa.org/english/news/tibet/nuns-12092016144033.html>

89 Human rights: Buddhism in Tibet, Rohingya in Myanmar, mass graves in Iraq, *European Parliament*, 15 December 2016, *available at*: <http://www.europarl.europa.eu/news/en/news-room/20161208IPR55163/human-rights-buddhism-in-tibet-rohingya-in-myanmar-mass-graves-in-iraq>

90 Co-Chairs to China: End Demolitions of Tibetan Buddhist Housing and Expulsions of Practitioners, *Tom Lantos Human Rights Commission*, 19 October 2016, *available at* <https://humanrightscommission.house.gov/news/press-releases/tlhrc-co-chairs-call-end-demolitions-religious-housing-and-expulsions>

91 IFP slams Chinese government destruction at Larung Gar and Yachen Gar Buddhist institute, *IFP*, 26 October 2016, *available at*: <http://www.ifp.org.za/newsroom/ifp-slams-chinese-government-destruction-yachen-larung-gar-buddhist-institutes/>

The LFP called for immediate diplomatic access to the UN High Commissioner for Human Rights to assess the ground situation. Likewise, on International Religious Freedom Day on 27 October, British MPs urged PRC government to halt the demolition and called upon the British government to make a public statement, raising its concerns with the Chinese government.⁹²

Detention and Prosecution of Monastics

In 2016, the Tibetan monastic population was subjected to arbitrary arrests and detention for allegedly committing political crimes. Fourteen of 32 known Tibetan detainees documented by TCHRD are monks. All of them belonged to seven different monasteries in the Tibetan provinces of Kham and Amdo, in present day Sichuan, Qinghai and Gansu. The monks were detained for either taking part in birthday celebrations of the Dalai Lama or calling for his long life and return to Tibet. Other monks were also detained for holding non-violent solo protests calling for freedom and human rights. All detentions took place in violation of criminal justice provisions in Chinese Law and International Law.

- In December, the Barkham Intermediate People's Court passed heavy sentences on four monks, three former monks and two laywomen in connection with the 80th birthday celebration of the Dalai Lama in Ngaba County. All of them were held incommunicado for almost a year before sentencing. Their family members learned about their whereabouts only after their sentencing.⁹³ The four monks

are Dukdra, 50, sentenced to 14 years; Lobsang Khedup, 44, sentenced to 13 years; Lobsang Gephel, 29, sentenced to 12 years; Lodoe, 41, sentenced to nine years. The former monks are Akyakya, 35, sentenced to five years; Trotsik Tsultrim, 33, sentenced to six years; and Tsultrim aka 'Tsultey' who was sentenced to five years. All seven of them are former political prisoners having been previously detained. Laywomen Tarey Kyi and Bhonkho Kyi, were given eight years and seven years respectively.

- In September, four young Tibetan monks: Jamphel Gyatso, Lobsang, Adrak and Lobsang Kelsang were sentenced to three years each on charges of inciting separatism.⁹⁴ They had held peaceful solo protests in separate incidents in late 2015 calling for freedom, human rights and the long life of the Dalai Lama. All of them were arbitrarily detained and held incommunicado for nearly a year before their sentencing.

In May, Lobsang Thupten staged a solo protest holding a portrait of the Dalai Lama on the main street of Ngaba County town.⁹⁵ Nothing has been heard of him since.

In October, a monk from Kirti Monastery named Lobsang Tsultrim carried out solo protest in Ngaba County. He was hospitalised after police subjected him to

92 British MPs urge China to halt demolition of Buddhist institutes in Tibet, *Tibet Society*, 27 October 2017, available at: <http://www.tibetsociety.com/content/view/622>

93 China jails Tibetans for celebrating Dalai Lama's birthday, nine Tibetans get varying terms of 6 to 14 years, *TCHRD*, 7 December 2016, available at: <http://tchrd.org/china-jails-tibetans-for-celebrating-dalai>

[lamas-birthday-ten-tibetans-get-varying-terms-of-6-to-14-years/](http://tchrd.org/china-jails-tibetans-for-celebrating-dalai-lamas-birthday-ten-tibetans-get-varying-terms-of-6-to-14-years/)

94 China sentences four peaceful protesters for inciting separatism, *TCHRD*, 14 Sept 2016, available at: <http://tchrd.org/china-sentences-four-peaceful-tibetan-protesters-for-inciting-separatism/>

95 Tibetan protester carrying Dalai Lamas portrait detained by Chinese traffic police, *TCHRD*, 3 May 2016, available at: <http://tchrd.org/tibetan-protester-carrying-dalai-lamas-portrait-detained-by-chinese-traffic-police/>

Crackdown on Larung Gar: Demolition, Eviction and Detention

June 2016
Chinese government orders demolition of housing facilities of thousands of monks, nuns and lay practitioners and their expulsion, so as to reduce the number of residents to government-set ceiling of 5000

July 2016
Demolition begins on 20 July. Three nuns commits suicide on 19 July. Evicted nuns from Shigatse prefecture detained for political education

August 2016
Chinese authorities in Nyingtri Prefecture detain about 100 evicted nuns and nuns for political education

September 2016
Chinese authorities in Riwoche County detain about 300 evicted nuns and nuns for political education. Detentions also reported in Sershul County

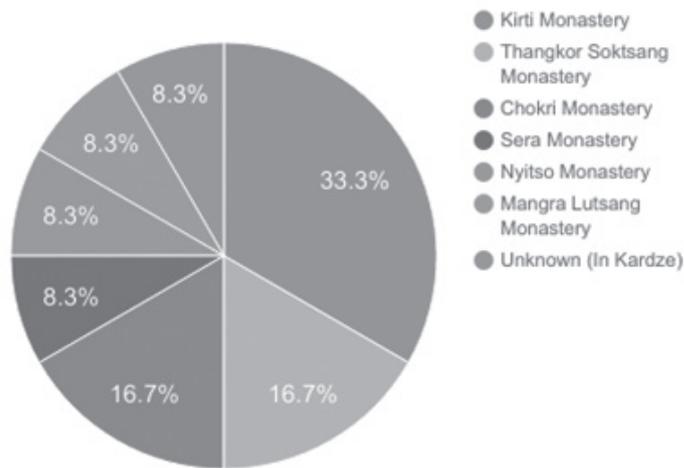
October 2016
Chinese authorities evict over 1000 monks and nuns from various parts of Tibet

November 2016
In early November, authorities cancel an annual religious assembly at Larung Gar, forbidding public gatherings and leaving the center's remaining monks and nuns to pray privately in their rooms

December 2016
In early December, over 1000 evicted nuns found resettled in a temporary camp made of metal houses in Kardze County. Similar camp set up in Golog. New restrictions imposed on student enrollment at Larung Gar. Among them, political examination made mandatory part of the entrance examination.

severe beatings in detention.⁹⁶

Breakdown of known Monastic Detention in 2016



Seventeen known monks were released in 2016 after completing sentence terms ranging from two to 10 years. Some were jailed for acts of peaceful solo protests while others were sentenced in connection with self-immolations. There were also senior monks and abbots among those released from incarceration.

In October, Jigme Gyatso aka Jigme Guri, a prominent scholar monk from Labrang Monastery, was released after five years.⁹⁷ He had been sentenced to five years on the charge of engaging in ‘splittist activities’ after his detention for the fourth time on 20 August 2011. He was primarily targeted because he spoke to *Voice of America* about the brutal torture he suffered during

previous detentions. After release, he was barred from wearing his monastic robes or joining his monastery. In December, he was hospitalized after being diagnosed with multiple diseases, a result of beatings and torture he had suffered during his multiple detentions.⁹⁸

In March, Khedrup Gyatso, a 33-yr old monk of Tsang monastery in Gepasumdo (Ch: Tongde) County in Tsolho (Ch: Hainan) Tibetan Autonomous Prefecture, was released in poor health two years before completion of his 10-yr prison term.⁹⁹ During his pretrial detention, he was severely beaten damaging his eyes and disfiguring his face. He was forbidden from

rejoining his monastery and banned from travelling outside his home village. He was sentenced for leading a peaceful protest against Chinese government in 2008.

In August, a monk named Sangga from Togden Monastery in Ngaba County was released after serving eight years on the charge of “disseminating state secrets to outside separatist forces”.¹⁰⁰ He was detained in August 2008 during the height of Tibetan uprising against Chinese rule in Tibet.

96 China hold police accountable for excessive use of force against Tibetan protester, *TCHRD*, 21 October 2016, available at: <http://tchrd.org/china-hold-police-accountable-for-excessive-use-of-force-against-tibetan-protester/>

97 Senior Tibetan monk imprisoned for exposing Chinese torture methods released after five years, *TCHRD*, 29 October 2016, available at: <http://tchrd.org/senior-tibetan-monk-imprisoned-for-exposing-chinese-torture-methods-released-after-five-years/>

98 Recently released Tibetan political prisoner hospitalized with multiple diseases, deprived of basic rights and under police surveillance, *TCHRD*, 27 December 2016, available at: <http://tchrd.org/recently-released-tibetan-political-prisoner-hospitalized-with-multiple-diseases-deprived-of-basic-rights-and-under-police-surveillance/>

99 Tibetan Protester is Freed From Jail Two Years Before Sentence Ends, *TCHRD*, 31 March 2016, available at: <http://www.rfa.org/english/news/tibet/freed-03312016160342.html?searchterm:utf8:ustring=khedrup+gyatso>

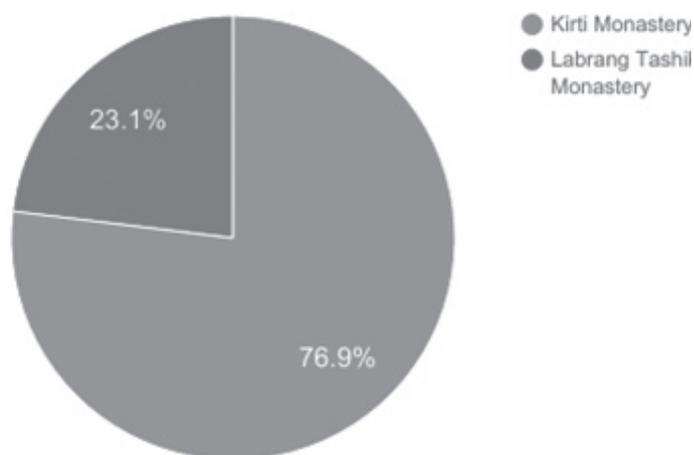
100 Former political prisoner released after completing 8-year term, Phayul, 16 August 2016, available at: <http://www.phayul.com/news/article.aspx?id=37925>

In September, Jamyang Phuntsok aka Jangkho, a monk from Kirti Monastery, was released after serving seven and a half years in Mianyang Prison. He became one of the first Tibetans to be arbitrarily detained and sentenced in connection with self-immolation protest in 2009.¹⁰¹ Jangkho was convicted in April 2010 on the charge of “illegally sharing secrets with outsiders” and deprived of ‘political rights’ for three years by the Ngaba (Ch: Aba) Intermediate People’s Court.

In November, a monk at Kirti Monastery named Lobsang Sangyal was released in poor health after serving four years in prison.¹⁰² Due to beatings and torture he faced in detention, he now suffers from memory loss and poor health.¹⁰³ He was detained in 2012 in connection with a self-immolation protest. He had been detained in the past for selling photos of Dalai Lama and videos of Dalai Lama’s teachings.

In July, Khenpo Karma Tsewang, also known as Khenpo Kartse, an abbot from Jhapa Monastery in Nangchen (Ch: Nángqiān) County in Yulshul (Ch: Yushu) Tibetan Autonomous Prefecture, Qinghai

Breakdown of known Monastic Sentencing in



Province was released after serving two and a half years in prison.¹⁰⁴ He was held in prolonged incommunicado detention and sentenced in secret on unknown charges.¹⁰⁵ During his pretrial detention, he was held in a cold cell and denied proper medical care despite his failing health.¹⁰⁶ Khenpo Kartse’s detention triggered widespread protests and vigils across the world, which made it difficult for Chinese authorities to jail him without giving him some access to legal representation although one of his lawyers quit midway due to government pressure. Khenpo Kartse is a popular senior religious figure and well respected for his social work and the promotion and protection of Tibetan language, culture and religion.

101 Tibetan monk imprisoned in connection with self immolation released after 7.5 years, *TCHRD*, 3 Sept 2016, available at: <http://tchrd.org/tibetan-monk-imprisoned-in-connection-with-self-immolation-released-after-7-5-years/>

102 Cousin of Tibetan self-immolator released in poor health after four years in prison, *TCHRD*, 18 November 2016, available at: <http://tchrd.org/cousin-of-tibetan-self-immolator-released-in-poor-health-after-four-years-in-prison/>

103 Kirti Monk is Freed in Poor Health After Four Years in Prison, *Radio Free Asia*, 14 Nov 2016, available at: <http://www.rfa.org/english/news/tibet/freed-11142016140227.html>

104 Respected Tibetan monk Khenpo Kartse released from prison at end of sentence, *International Campaign for Tibet*, 18 July 2016, available at: <https://www.savetibet.org/respected-tibetan-monk-khenpo-kartse-released-from-prison-at-end-of-sentence/>

105 Tibetan Religious Leader Secretly Sentenced to Two-and-a-Half Years in Jail, *Radio Free Asia*, 17 October 2016, available at: <http://www.rfa.org/english/news/tibet/jail-10172014190014.html>

106 TCHRD calls on China to respect lawful rights of detained senior monk, *TCHRD*, 12 March 2014, available at: <http://tchrd.org/tchrd-calls-on-china-to-respect-lawful-rights-of-detained-senior-monk/>

In May, a monk named Lobsang Tenpa was released after serving two years prison term for staging a peaceful solo protest in Ngaba County.¹⁰⁷ He protested holding aloft a portrait of the Dalai Lama and shouting slogans calling for freedom and return of Dalai Lama to Tibet. He was detained on 26 April 2014 and sentenced on charges of committing “anti-national activities” on 7 November 2014. His parents were allowed to attend the closed-door trial but were barred from hiring him a lawyer.

In March, Sonam Gonpo, a monk from Wonpo Monastery, in Wonpo (Ch: Wenbo) Township in Sershul County was released on 12 March 2016 after completing four years prison term.¹⁰⁸ He was detained along with another monk named Sonam Choedhar 12 December 2012 after they hoisted Tibetan flags and distributed posters in a local government school.

In June, a former Tibetan monk named Tsering Yoyoling, sentenced in 2011 for five years for taking part in 2008 protests against Chinese government was released from Deyang Prison. He had evaded detention for about three years leading a life of a fugitive but was finally captured on 20 June 2011 following which he was quickly sentenced.¹⁰⁹

Conclusion

The PRC continue to severely restrict freedom of religion through a combination of laws, policies and practice in Tibet. Tibetan Buddhism and its followers are targeted and persecuted to protect the so-called national unity and political stability of the party-state. Many of the draconian religious restrictions announced at the Third Tibet Work Forum in mid-1990s are being implemented with greater intensity, which includes among others the anti-Dalai Lama campaigns, forced political indoctrination and restricting religious activities by using law as a tool of suppression. Restrictions on religious practice imposed since late 2011 have also intensified. Policies and practices such as regulations requiring the registration of all religious professionals and reincarnated lamas; destruction of religious institutions in the name of downsizing and renovation; restrictions on movement of monks or nuns; limits on religious ceremonies and teachings; and the stationing of party cadres and police force in religious institutions are part of the practical steps taken by the party to ensure that religion becomes a means to achieve the ends of the party-state.

107 Peaceful Tibetan solo protester released after serving two years in juvenile prison, *TCHRD*, 6 May 2016, *available at*: <http://tchrd.org/peaceful-tibetan-solo-protester-released-after-serving-two-years-in-juvenile-prison/>

108 Monk imprisoned for hoisting Tibetan national flag released after four years imprisonment, *TCHRD*, 23 March 2016, *available at*: <http://tchrd.org/monk-imprisoned-for-hoisting-tibetan-national-flags-released-after-four-years-imprisonment/>

109 Tibetan Protester is Freed After Serving Five-Year Term, Radio Free Asia, 28 June 2016, *available at*: <http://www.rfa.org/english/news/tibet/freed-06282016160318.htm?searchterm=utf8:ustring=tsering+yoyoling>

OTHER CIVIL AND POLITICAL RIGHTS

In 2016, the People's Republic of China (PRC) continued to restrict and violate other civil and political rights of Tibetans including the right to freedom of movement, freedom of peaceful assembly, right to life, right to liberty and security, and freedom from torture. These rights and freedoms are necessary for a just, democratic society based on the rule of law, as they provide the conditions for the participation, construction and development of individuals in society.

The right to freedom of movement and travel of Tibetans was systematically violated with the imposition of explicit restrictions such as local directives prohibiting overseas travel, passport confiscations, and threats and intimidations. The restrictions were primarily targeted at the Kalachakra religious teachings given by the Tibetan spiritual leader His Holiness the Dalai Lama in India. Within Tibet, the movement of Tibetans remained equally restricted due to the continued practice of banning Tibetans particularly the monastics from enrolling in educational institutions located outside their hometowns.

Similarly the PRC's paramilitary troops engaged in brutal and ruthless attacks on Tibetans for exercising their right to freedom of peaceful assembly. Chinese authorities used excessive force to suppress and detain Tibetans protesting against mining operations, land grab, environmental destruction, and arbitrary demolition drives. The PRC authorities persisted in its practice

of subjecting Tibetans to arbitrary arrests and detention, torture, and enforced disappearances. Tibetans continued to die in detention due to torture and inhumane treatment for merely exercising their human rights.

Legal Standards

The rights and freedoms addressed in this chapter are recognized around the world as among the minimum conditions for human beings to live with dignity. They are included in numerous multilateral international human rights treaties and the Universal Declaration of Human Rights (UDHR). The rights enshrined in the ICCPR include, among others, the right to life (Article 6); freedom from torture (Article 7); the right to liberty and security of person (Article 9); the rights of detainees (Article 10); right to movement into out of and within a State (Arts. 12 - 13); the right to a fair trial (Article 14); the right to peaceful assembly (Art. 21); right to political participation (Arts. 25), and right to equality before the law (Arts. 26). Moreover, if any of the rights or freedoms recognized within ICCPR are violated a person must have access to an effective remedy (Article 2(3)(a)).¹

¹ ICCPR, Article 2 (3) (a): "Each State Party to the present Covenant undertakes [t]o ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity."

Article 4 of the ICCPR allows for certain circumstances for member states to derogate from their responsibilities such as “in time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed”.² But no derogation is allowed from Articles 6, 7, 8 (paragraphs I and 2),³ 11, 15, 16 and 18, which are considered as absolute rights.

The PRC has signed and ratified numerous multilateral international treaties including the ICCPR. As a signatory to ICCPR, the PRC must not defeat the object and purpose of the treaty, which is to protect human dignity. The PRC’s obligation to protect and respect human rights is reinforced because in October 2016, it was reelected to the UN Human Rights Council for the term 2017-2019. In its official UN campaign pledge, the PRC made the following claims: “China attaches great importance to promoting and protecting human rights. Respect for and protection of human rights have been enshrined in the Constitution of the Communist Party of China, the Constitution of the People’s Republic of China and China’s national economic and social development plans. Combining universal principles of human rights with its own national conditions, China has been working vigorously to promote economic and social development, advance social equality and justice, strengthen legal guarantees for human rights and the rule of law and facilitate the comprehensive and coordinated development of economic, social and

cultural rights as well as civil and political rights.”⁴

While the PRC’s constitution includes provisions that are consistent with international law, much of what it gives are taken away by a host of affirmative duties imposed on citizens to safeguard the security, honor, and interests of China and uphold the socialist system, that is the rule of the Communist Party (Arts. 1, 51, 52). The enjoyment of the fundamental rights is conditioned on submission to the control of the party-state. The duties that PRC citizens are required to perform alongside the enjoyment of their rights, as stipulated in Article 33, includes the duties to uphold the four basic principles: to uphold the socialist road, the dictatorship of the proletariat, leadership of the party, and Marxism-Leninism Mao Zedong Thought.⁵

Unjust Criminal Justice System

The administration of criminal justice covers all processes and practices by which a state affects, curtails, or removes basic rights. In Tibet, numerous rights associated with the protections afforded an individual in the criminal process are routinely denied and flagrantly violated. These rights are minimum requirements necessary to guarantee a fair and just treatment of a criminal suspect. Without respecting these rights during the criminal process, an individual is susceptible to abuse and at the mercy of the law enforcement agencies.

The PRC’s Criminal Procedure Law establishes substantial barriers to a defendant’s access to justice when he or she is accused of committing crimes of endangering state security (ESS), a group of vague and overbroad crimes used increasingly by Chinese authorities to silence dissent and criticism

2 ICCPR, Article 4 (1): “In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.”

3 ICCPR, Article 8(1): “No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.” Article 8 (2): “No one shall be held in servitude.”

4 UN: Don’t Elect China to Human Rights Council, *UN Watch*, 27 October 2016, available at: <http://www.unwatch.org/stopchina/>

5 Pitman B. Potter (2010). *Law, Policy, and Practice on China’s Periphery: Selective Adaptation and Institutional Capacity*, Routledge, pp. 93-94.

in Tibet. Majority of Tibetans arrested are charged of ESS crimes that effectively removes numerous procedural guarantees. The derogations from procedural protections in such cases fall into three main categories: limitations on access to evidence, the right to counsel, and an open trial. Defense lawyers face enormous difficulties when advocating on behalf of defendants accused of committing national security crimes such as ‘leaking state secrets’, ‘separatism’ or ‘inciting separatism’. Many Tibetans continue to be convicted of state secrets charges for sharing information with foreign media or organisations about protests and subsequent government crackdowns. Article 150 requires investigators to keep confidential evidence involving state secrets. This prevents lawyers from preparing an adequate defense for the accused. Article 96 requires suspects to obtain approval from the investigating organ before a lawyer may be appointed. Under Article 37, a lawyer must obtain permission from governmental authorities before he or she is allowed to meet with a suspect accused of committing crimes endangering State security, including terrorist activities, among others. Under Article 83, the police are not required to inform a suspect’s family within 24 hours of taking him or her in custody if the suspect is accused of ESS crimes or terrorism.

The PRC’s counterterrorism law that went into effect 1 January 2016 includes disproportionate penalties for crimes that have nothing to do with terrorism, particularly due to its tendency to equate religious extremism with terrorism. The definition of terrorism is so broad that it includes people exercising their human rights as terrorism. The PRC’s counterterrorism law combined with its national security strategy will have severe consequences for freedom of expression, association, peaceful assembly and religion, which are already sharply curtailed under existing laws and policies.⁶ In addition, under Amendment 9 of the

PRC’s Criminal Law that took effect 1 November 2015, acts such as “advocating or promoting terrorism through books/materials or by wearing apparel or emblems”, and “knowing[ly] possessing materials advocating terrorism or extremism” will be punishable by between three to five years in prison. This amendment would further legitimize suppression of religious and cultural expression of minority nationalities in the name of “anti-terrorism.”⁷ International observers posit that this vague new law “has less to do with physical threats to China and is more directed towards the expansion of restrictions.”⁸ Commenting on the new law, Chinese dissident activist Hu Jia argues, “[w]hat it is used for is not terrorism, but rather in the name of combating terrorism, it attacks all kinds of protests, particularly group and street protests. It creates all kinds of emergency situations where it can monitor and severely restrict citizens and groups.”⁹ With such a wide range of interpretations available, PRC officials can manipulate the law in ways that serve a political motive. The number of prosecutions in PRC on state security and terrorism charges doubled in 2015.¹⁰ At least a dozen human rights lawyers and activists in that period were charged with “subversion of state power” and “incitement of subverting state power.”

On 10 October 2016, the PRC’s Supreme People’s Court, Supreme People’s Procuratorate, and Ministry of Public Security released an opinion

for-tibetans-and-uyghurs/

- 7 China: Drop Draft Criminal Law Amendments & Protect Human Rights, *Network of Chinese Human Rights Defenders*, 4 August 2015, available at: <https://www.nchrd.org/2015/08/china-drop-draft-criminal-law-amendments-protect-human-rights/>
- 8 Singh, A.P., China’s First Anti-Terrorism Law: An Analysis, *Institute for Defense Studies and Analyses*, 29 March 2016, available at: http://www.idsa.in/idsacomments/china-first-anti-terrorism-law-apsingh_290316
- 9 Ibid.
- 10 China: State Security, Terrorism Convictions Double, *Human Rights Watch*, available at: <https://www.hrw.org/news/2016/03/16/china-state-security-terrorism-convictions-double>

6 Dangers of China’s counter-terrorism law for Tibetans and Uyghurs, *International Campaign for Tibet and FIDH*, 15 November 2016, available at: <https://www.savetibet.org/dangers-of-chinas-counter-terrorism-law->

on reforming the criminal procedure law.¹¹ In 21 clauses, the Opinion focused on establishing basic rules for convictions, evidence, transparency, and courtroom behavior. The Opinion failed to address the fundamental structural problems in the PRC's criminal justice system. Clause 17 of the Opinion gave defendants the right to obtain defence counsel, but clauses 18 and 19 threatened criminal punishment for defenders, litigation participants, and others. Taking into account the ongoing crackdown on civil society, this threat cannot be ignored. The clauses required criminal punishment for, among other things, disrupting litigation and not following the judges' instructions. However, without an independent and professional judiciary the clauses increase the threat to human rights advocates particularly the Chinese civil rights lawyers. Rather than protect the rule of law, the Opinion threatened these lawyers with criminal punishments. Furthermore, Amendment 9 to the Criminal Law contains the controversial 'contempt of court' provision that penalizes acts of "insulting, defaming or threatening judicial personnel or litigation participants" with three years imprisonment.¹²

Freedom from Arbitrary Detention

The right to be free from arbitrary or unlawful deprivation of liberty is an established principle of international human rights law grounded in widespread international practice. Customary international law and the domestic law of almost every state prohibit its use by government actors.¹³

- 11 China's legal reforms won't work without structural changes in its criminal justice system, *TCHRD*, 27 October 2016, available at: <http://tchrd.org/chinas-legal-reforms-wont-work-without-addressing-structural-problems-2/>
- 12 It's a crime, I tell ya: Major Changes in China's Criminal Law Amendment 9, *China Law Translate*, 27 September 2015, available at: http://www.chinalawtranslate.com/its-a-crime-i-tell-ya-major-changes-in-chinas-criminal-law-ammendment-9/?lang=en#_Toc431209893
- 13 Working Group on Arbitrary Detention, *United Nations Basic Principles and Guidelines on the right of anyone*

Article 37 of the Chinese Constitution establishes the inviolable (bu shou qinfan 不受侵犯) right of citizens to liberty of person.¹⁴ Granted, there are several legitimate deprivations of liberty recognized under international law, such as that of convicted persons or those accused of serious offences. Yet the myriad legal justifications for detaining an individual cannot answer for the PRC's baseless arrests and detentions of ordinary Tibetans. It is thereby illegal under international law to arrest or detain a civilian on such grounds.

On 27 January 2016, Tibetan businessman and language rights advocate Tashi Wangchuk was detained and held in secret for several weeks.¹⁵ His relatives were not informed of his arrest until 24 March.¹⁶ Before his detention, Mr Wangchuk maintained a microblog that stressed the need to protect Tibetan culture and asked that Chinese officials assist in this effort.¹⁷ He also advocated for Tibetan language education, arguing that schools should adopt mother-tongue-based education so that Tibetan children would become fluent in their mother tongue.¹⁸ For his advocacy efforts, he was charged with inciting separatism, an offense that could result in a 15-year prison sentence.¹⁹ As of 31 December, he was still in pre-trial detention even as state prosecutors asked the court for more time in gathering evidence although the police had conducted several investigations into the case and submitted reports to the prosecutors back in August. Arbitrary deprivations of liberty such as this are not uncommon in Tibet. Any other Tibetan

deprived of their liberty to bring proceedings before a court, para. 11, U.N. Doc. WGAD/CRP.1/2015, available at: <http://www.ohchr.org/Documents/Issues/Detention/DraftBasicPrinciples/March2015/WGAD.CRP.1.2015.pdf>.

- 14 Malmgren, O. *China-EU Law J* (2013) 2: 35. doi:10.1007/s12689-011-0002-9
- 15 China Charges Tibetan Education Advocate with Inciting Separatism, *New York Times*, March 30, 2016, available at: http://www.nytimes.com/2016/03/31/world/asia/china-tibet-tashi-wangchuk.html?_r=0
- 16 Ibid.
- 17 Ibid.
- 18 Ibid.
- 19 Ibid.

would have long been convicted if not subjected to prolonged secret detention or disappearance. Mr Wangchuk's case has attracted international attention thanks to sustained reporting by the *New York Times* that has made it harder for PRC authorities to imprison him easily.²⁰

Many other Tibetans continue to languish in arbitrary detention without any means to defend themselves. On 24 December, PRC charged Tsegon Gyal, a prominent former Tibetan political prisoner, of 'inciting to split the country' (煽动分裂国家罪) after holding him incommunicado for more than two weeks at Kangtsa (Ch: Gangcha) County Detention Centre in Tsojang (Ch: Haibei) 'Tibetan Autonomous Prefecture' (TAP), Qinghai Province. Mr Gyal was charged of the crime on 24 December and a copy of his arrest warrant was sent to his family on the same date. Mr Gyal has been in the custody of the Tsojang Prefecture State Security Bureau officers since 9 December, after he was arbitrarily detained on the same date. Mr Gyal has not been allowed to meet with his family or hire a lawyer. Mr Gyal has a unique background compared to other Tibetan detainees; he has experienced the PRC's flawed criminal justice system from close quarters as a former political prisoner and as former law enforcement official. It was, therefore, not surprising that he chose to sit on a 'silent protest' (以沉默对抗) refusing to respond to the State Security Bureau officers during interrogating sessions. He knew the investigation was a mere formality and that no amount of honest response would help him prove his innocence.²¹ Mr Gyal's silent protest exposes the gross denial of basic procedural guarantees such as the presumption of innocence, the right to

remain silent, and the right to counsel. But PRC's Criminal Procedure Law contains weak protection against self-incrimination. Article 14 (g) of ICCPR provides the right not to be compelled to testify against oneself as well as the right not to confess guilt. This right becomes all the more crucial when a person is detained incommunicado and vulnerable to torture and coercive interrogations.

PRC also imprisons Tibetans for years in complete secrecy without the knowledge of their family and relatives. On 7 April 2016, a Tibetan monk named Aku Tenzin Gyatso was released after about five years from a prison in Lanzhou city. Until then, family and friends of the monk had no information about his whereabouts. Gyatso, a monk at Labrang Monastery, had been detained incommunicado after greeting popular Tibetan singer Tashi Dhondup after the singer's release from prison in mid-2011.²² Likewise, the arrest of Tibetan writer Shokjang on 19 March 2015 was carried out in complete secrecy, only confirmed by Shokjang's friends after the fact.²³ The police did not disclose that Shokjang had been arrested, nor did they file formal charges against him. As is commonly the case in Tibet, Shokjang was detained without the police furnishing any kind of formal documents authorizing the detention or arrest.

Nighttime and early morning raids are on the rise in Tibet, resulting in secret extra-judicial deprivations of liberty without any adequate legal justification. Secret arbitrary detentions have been called the "ultimate silencing tactic," because a disappeared person is aware he or she has been placed outside the protection of the law, and is therefore at far greater risk of torture and other

20 China: Release Tibetan language advocate from unlawful detention, *TCHRD*, 30 December 2016, available at: <http://tchrd.org/china-release-tibetan-language-advocate-from-unlawful-detention/>

21 Charged of inciting separatism, detained former Tibetan political prisoner Tsegon Gyal on 'silent protest', *TCHRD*, 29 December 2016, available at: <http://tchrd.org/charged-of-inciting-separatism-detained-former-tibetan-political-prisoner-tsegon-gyal-on-silent-protest/>

22 Tibetan Monk Released From Prison After Being Held Incommunicado For Years, *Radio Free Asia*, 8 April 2016, available at: <http://www.rfa.org/english/news/tibet/released-04082016154140.html>

23 TCHRD condemns arbitrary detention of Tibetan writer Shokjang, *TCHRD*, 21 April 2015, available at: <http://www.tchrd.org/tchrd-condemns-arbitrary-detention-of-tibetan-writer-shok-jang/#>

forms of cruel, inhuman, and degrading treatment and punishment.²⁴

Arbitrary detention is also commonly used in Tibet for ‘re-education’ purposes often in the name of administrative detention that usually lasts for 15 days. Tibetan writer and teacher Gangkye Drupa Kyab was detained again on 17 September 2016, a day after his release from prison after almost five years. His friend Samdup who had been released on 19 August after serving more than four years was also detained on 18 September. Both had been held for two weeks presumably for ‘disrupting public order’. Mr Kyab had held aloft a portrait of the Dalai Lama at a public ceremony organized by local Tibetans to celebrate his release and Mr Samdup had greeted him.²⁵

In the aftermath of the demolition drive at Larung Gar Buddhist Institute, evicted monks and nuns were forced to return to their hometowns where on arrival they were taken into custody by local officials and given ‘patriotic education’ for several weeks and in some cases months.²⁶ In August, about 100 evicted monks and nuns were detained for two months and given political education in Nyingtri Prefecture, TAR. In September, another group of 300 was held in detention for two weeks for ‘patriotic education’ in Riwoche County, Chamdo Prefecture, TAR and Sershul County in Kardze TAP. Across Tibet, evicted monastics from Larung Gar were held in detention usually for six months of intense political education. In July in Shetongmon County, Shigatse Prefecture, TAR,

some nuns who had studied at Yachen Gar were detained for two weeks for political education.²⁷

Administrative detention, a form of arbitrary detention similar to the infamous ‘Re-education Through Labour’ (RTL), gives enormous powers to the police to detain and subject individuals to violent interrogation methods such as beatings, torture and other inhumane treatment. Individuals subjected to administrative detention have no way of accessing legal representation or fair trials, and are at the total mercy of law enforcement agencies such as the police.

Freedom from Torture

Torture is universally prohibited in the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention Against Torture). There are no circumstances that rationalise the existence of torture. Article 2, paragraph 2 states: “No exceptional circumstances whatsoever, whether a state of war or a threat war, internal political instability or any other public emergency, may be invoked as a justification of torture.”²⁸ Both the UDHR and the ICCPR have clear proscriptions against torture. ICCPR reiterates the universal ban on torture and states that there is no ignoring the prohibition on torture articulated in Article 7, not even in times of public emergency.²⁹ The systematic and widespread practice of torture constitutes a crime against humanity.³⁰ In its definition of torture, the Convention Against Torture decrees that both physical and mental suffering can rise to the level of torture.³¹

24 Report of the Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment, *Human Rights Council*, para. 10–15, U.N. Doc. A/56/156 (Jul. 3, 2011).

25 China detains recently-released Tibetan writer and his friend for ‘brainwashing class’, *TCHRD*, 26 September 2016, *available at*: <http://tchrd.org/china-detains-recently-released-tibetan-writer-and-his-friend-for-two-week-brainwashing-class/>

26 Larung Gar Evictees Forced to Attend Political Classes Back Home, *Radio Free Asia*, 4 November 2016, *available at*: <http://www.rfa.org/english/news/tibet/classes-11042016154905.html>

27 Interview conducted by TCHRD researcher Ms Tenzin Dawa in November 2016 in Dharamsala, with a new arrival from Tibet.

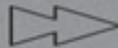
28 Convention Against Torture, Article 2.

29 ICCPR Article 7.

30 UN Torture Fact Sheet, *available at*: <http://www.ohchr.org/Documents/Publications/FactSheet17en.pdf>

31 Convention Against Torture, Article 1.

Tibetans tortured in Chinese Prison



He had been subjected to beatings and torture while being detained on four different occasions.

Jigme Guri was hospitalized with multiple health complications (diabetes, hypertension, and other problems related to his heart, liver and eyes) in Sangchu County.

Kelsang Tsering, was hospitalised in Chengdu for treatment of injuries sustained during his seven years' imprisonment.



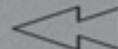
About six months after his release on 19 July 2015 from Chushur Prison, he still carries a large, open wound on his back.



Dolma Tso, 30, a mother-of- one, was released in poor health after she completed a three-year prison term for helping to move the body of a self-immolator.

She suffers from dizzy spells, insomnia, depression and anxiety. Before imprisonment, she was subjected to severe beatings and torture during 11-month incommunicado detention.

Ngodup Phuntsok aka Ngoe-ga, 61, was released with crippled back and legs, unable to walk.



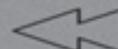
He was detained on 18 March 2008 and sentenced on 30 October to eight years and deprivation of political rights for four years for "inciting separatism".



Kunghen was released his eyesight and hearing failing and lips gnarled. His waning vision could escalate into blindness.

In prison, he suffered a stroke for which he did not receive proper medical treatment resulting in a pronounced contortion of his lips.

Yeshi Lhakdron, 25, was believed to have disappeared after her detention by Chinese police in 2008



She died due to torture-related injuries at a government hospital in Kardze County,

The PRC signed the Convention Against Torture in 1986 and officially ratified the convention into law in 1988. Despite this, torture remains rampant in Tibet with consistent cases of abuses by detention officials, high rates of deaths due to torture or ill treatment and lack of investigation into abuses and custodial deaths. Chinese domestic law does not have a definition for torture consistent with the definition decreed by the Convention Against Torture. Chinese Criminal Law considers only physical abuse, not severe mental pain or suffering, as torture. For instance, Article 248 prohibits physical abuse of inmates as well as instigation of detainee-on-detainee violence by a policeman or other officers of an institution of confinement like prison, detention house or a custody house.³² The October 2016 opinion on reforming the criminal procedure law³³ merely reiterates the prohibitions on the use of testimony and confessions obtained through torture and requirement to record interrogation sessions. But glaring loopholes remain such as the obligation for victims of torture to show they were tortured. And the penalty for torture is still the exclusion of evidence rather than criminal punishment for government officials. The Opinion may even impose obstacles to excluding confessions by torture. Clause 13 requires that when there is a confession, the in-court debate “be primarily centred around sentencing.” At worst, this requirement could prevent people who confess under torture from bringing it up in court. At best, Clause 13 reinforces the emphasis on confessions rather than other forms of evidence. This incentivises police and prosecutors to extract confessions.

Despite domestic legal provisions to the contrary,³⁴ the use of torture to extract confession is used extensively during interrogations in Tibet. Given the rampant practice of secret and incommunicado detentions involving ESS suspects, Chinese security forces enjoy discretionary powers to subject detainees to torture and other cruel,

inhuman or degrading treatment. In its Concluding Observations on the fifth periodic review of the PRC in December 2015, the UN Committee Against Torture reiterated its call for accountability for the events during the 2008 protests in Tibet and criticised the PRC for failing to provide information about 24 of 26 Tibetan cases that the Committee had specifically asked about during the previous review in 2008. In 2008, during the widespread protests throughout Tibet the PRC had its fourth periodic review before the Committee Against Torture. Similar to its fifth periodic review in 2015, the PRC dismissed claims of torture in Tibet as “groundless” and failed to provide practical or statistical information about the implementation of the Convention Against Torture.

The number of cases related to torture and other cruel, inhuman or degrading treatment reported in 2016 from Tibet again highlights that Chinese torture methods are inhumanely brutal and feared to the point that some prefer death. Likewise, custodial death remains a serious issue in Tibet. A significant number of Tibetan political prisoners were released in extremely poor health with some sustaining severe physical injuries ranging from failing eyesight, hearing problems, and stroke-related injuries to memory loss, insomnia and crippled body and limbs. Tibetans have generally shown remarkable resilience in preserving mental health condition due to strong cultural and religious factors. However, symptoms of posttraumatic stress disorder were detected in one known case. Denial of timely and proper medical treatment is a major concern.

- On 11 March, a Tibetan man named Tashi, 30, committed suicide unable to bear torture at Tsangshul Detention Centre in Markham County (Ch: Mangkang) County in Chamdo Prefecture, TAR.³⁵

32 The Criminal Law of PRC, Article 248.

33 Supra note 13.

34 The Criminal Procedure Law of PRC, Article 50.

35 Tibetan man kills self in detention to avoid custodial torture, *TCHRD*, 6 April 2016, *available at*: <http://tchrd.org/tibetan-man-kills-self-in-detention-to-avoid-custodial-torture/>

Tashi had been detained in early March and subjected to severe beatings and torture during interrogations.

- In February, the body of a Tibetan man named Trigyal was returned to his family in Diru County, Nagchu Prefecture, TAR.³⁶ Trigyal was serving a 13-yr sentence for refusing to fly Chinese flags on his rooftops in defiance of a government campaign to enforce loyalty among local Tibetans.³⁷ Trigyal was among the three men from Mukhyim Village who were sentenced in 2014; the two other men, Ngangdrak and Rigsal, were each given ten years for the same reason.
- On 8 August, a former political prisoner named Khenrab Tharchin, 40, died on his way to the hospital in Shelkar Township of Dingri (Ch: Tingri) County in Shigatse Prefecture, TAR.³⁸ He was released in 2013 in poor health after serving five years in Chushur Prison. Post release, his health continued to deteriorate due to detention-related injuries for which he did not receive proper medical treatment. His relatives took him to a hospital but he died on the way. He was one of the several monks at Dingri Shelkar Choedhe Monastery who opposed a patriotic education campaign conducted by Chinese authorities in April 2008, following the outbreak of the 2008 uprising the previous month. Arrested in

May along with 11 other monks, he received heaviest sentence for being a member of the Democratic Management Committee of his monastery.

- In June, a Tibetan man named Yudruk Nyima, 40, was beaten to death in police custody shortly after his detention in Dzakhok Township in Dege County.³⁹ He succumbed to his injuries while being moved to the County police office. He was detained on suspicion of possessing a gun at his home although relatives rejected the allegation and lodged a complaint over his death.
- On 26 December, about two months after his release from prison, prominent Tibetan scholar monk Jigme Gyatso aka Jigme Guri was hospitalized with multiple health complications including diabetes, hypertension, and other problems related to his heart, liver and eyes in Sangchu County.⁴⁰ Jigme Gyatso had been subjected to beatings and torture while being detained on four different occasions. His fourth detention in 2011 resulted in five years imprisonment. In his famous torture testimony that he gave to an overseas media organisation, he said: “I was kept there for one month during which time I was handcuffed in one position for many days and nights ... They would hang me up for several hours with my hands tied to a rope... hanging from the ceiling and my feet above the ground. Then they would beat me on my face, chest, and back, with the full force of their fists. Finally, on one occasion, I had lost consciousness and was taken to a

36 Tibetan Man Who Refused to Fly Chinese Flag Dies in Prison, *Radio Free Asia*, 8 February 2016, available at: <http://www.rfa.org/english/news/tibet/tibetan-man-who-refused-to-fly-chinese-flag-dies-02082016154201.html>

37 China sentences two village leaders to ten years imprisonment in Diru County, *TCHRD*, 3 April 2014, available at: <http://tchrd.org/china-sentences-two-tibetan-village-leaders-to-10-years-imprisonment-in-diru-county/>

38 Political Prisoner Who Opposed ‘Patriotic Reeducation Campaign’ Dies, *Radio Free Asia*, 9 August 2016, available at: <http://www.rfa.org/english/news/tibet/tibetan-political-prisoner-who-opposed-patriotic-reeducation-campaign-dies-08092016160702.html>

39 One Tibetan killed, another presumed dead in Sichuan’s Kardze, *Radio Free Asia*, 1 July 2016, available at: <http://www.rfa.org/english/news/tibet/killed-07012016144036.html>

40 Recently released Tibetan political prisoner hospitalized with multiple diseases, deprived of basic rights and under police surveillance, *TCHRD*, 27 December 2016, available at: <http://tchrd.org/recently-released-tibetan-political-prisoner-hospitalized-with-multiple-diseases-deprived-of-basic-rights-and-under-police-surveillance/>

hospital. After I regained consciousness at the hospital, I was once again taken back to prison where they continued the practice of hanging me from the ceiling and beating me. As a result, I again lost conscious and (was) then taken to the hospital a second time. Once I was beaten continuously for two days with nothing to eat or a drop of water to drink. I suffered from pain on my abdomen and chest. The second time, I was unconscious for six days at the hospital, unable to open my eyes or speak a word.”

- On 12 January, a former Tibetan political prisoner, Kelsang Tsering, was hospitalised in Chengdu for treatment of injuries sustained during his seven years’ imprisonment.⁴¹ Images of him surfaced on social networking sites that showed him lying facedown on a hospital bed wrapped in thick blankets. About six months after his release on 19 July 2015 from Chushur Prison, he still carried a large, open wound on his back. After failing to respond to treatment in Lhasa, he was flown to Chengdu with money raised by Tibetans within Tibet.
- On 4 December, Dolma Tso, 30, a mother-of-one, was released in poor health after she completed a three-year prison term for helping to move the body of a self-immolator in 2013 in Ngaba County.⁴² She suffers from dizzy spells, insomnia, depression and anxiety. Before imprisonment, she was subjected to severe beatings and torture during 11-month incommunicado detention. Fearing medical torture, Amnesty International had launched a campaign to

stop the Chinese prison authorities from undertaking a ‘forced operation’ on Dolma Tso on the pretext of medical treatment.

- Ngodup Phuntsok aka Ngoe-ga, 61, was released on the night of 20 March with crippled back and legs, and unable to walk. He was detained on 18 March 2008 and sentenced on 30 October to eight years and deprivation of political rights for four years for “inciting separatism”. His real crime was participating in a peaceful protest outside the Kardze County Public Security Bureau office.⁴³
- On 21 August, a middle school teacher and musician named Jamyang Kunkhen was released after serving nine years for taking pictures and making video of protests against the arrest of Ronggye Adrak.⁴⁴ Adrak was a Tibetan nomad who staged a peaceful solo protest against Chinese government in 2007.⁴⁵ Kunkhen was released with failing eyesight, hearing problems and gnarled lips. His waning vision could escalate into blindness. In prison, he suffered a stroke for which he did not receive proper medical treatment resulting in a pronounced contortion of his lips.

⁴¹ Tibetan torture victims uncover China’s inhumane detention system, *TCHRD*, 19 January 2016, available at: <http://tchrd.org/tibetan-torture-victims-uncover-chinas-inhumane-detention-system/>

⁴² Tibetan mother jailed in connection with self-immolation released in poor physical and mental condition, *TCHRD*, 6 December 2016, available at: <http://tchrd.org/tibetan-mother-jailed-in-connection-with-self-immolation-released-in-poor-physical-and-mental-health/>

⁴³ Tibetan political prisoner rendered crippled after 8 years imprisonment, *TCHRD*, 25 March 2016, available at: <http://tchrd.org/tibetan-political-prisoner-rendered-crippled-after-8-years-imprisonment/>

⁴⁴ Tibetan teacher arrested for exercising his human right released from prison in poor health and with physical deformities, *TCHRD*, 4 September 2016, available at: <http://tchrd.org/tibetan-teacher-arrested-for-exercising-his-human-right-released-from-prison-in-poor-health-and-with-physical-deformities/>

⁴⁵ Ronggye Adrak and three other Tibetans sentenced to lengthy prison terms, *TCHRD*, 20 November 2007, available at: <http://tchrd.org/ronggye-adrak-and-three-other-tibetans-sentenced-to-lengthy-imprisonment-terms/>

Tibetan Nun, 25, Missing Since 2008 Died of Custodial Torture



Yeshe Lhakdron, 25, a nun from Dragkar Nunnery who disappeared after her detention by Chinese police in 2008 died due to torture-related injuries at a government hospital in Kardze County, according to new information received in June 2016.¹ Two other nuns Sangay Lhamo and Tsewang Khando who were admitted in the same hospital later managed to complete their prison terms but Lhakdron could not make it. For the past eight years, nothing had been heard about Lhakdron despite her family's persistent efforts.

In 2008, Lhakdron along with Lhamo and Khando protested peacefully in Kardze County shouting slogans such as "Tibet belongs to Tibetans!" "Tibetans want Human Rights!" They also threw leaflets carrying slogans calling for the long life of the Dalai Lama and for freedom in Tibet.

Following their detention, they were subjected to severe beatings and torture and later hospitalized. The nuns were kept in separate cells and could not see each other because their heads were covered with black hoods during interrogations.

Yeshe Lhakdron was born and raised in Tsochu Village in Sershiuting (Ch: Sexidi) Township in Kardze County. Her father Ngodup Sonam had been imprisoned twice for holding peaceful protests against Chinese rule in 2000. Her uncle Ngodup Phuntsok aka Ngoega was detained on 18 March 2008, for leading a protest in Kardze County during which he sustained severe gunshot injuries. He was later sentenced to eight years in Tekyang prison in Sichuan and released on 20 March 2016 in extremely poor health.²

1 Tibetan nun disappeared since 2008 died of torture, TCHRD, 30 June 2016, available at: <http://tchrd.org/tibetan-nun-disappeared-since-2008-died-of-torture-in-chinese-police-custody/>

2 Supra note 44.

“My uncle was poisoned to death in prison”

In July 2016, niece of the popular and highly revered Tibetan reincarnate lama Trulku Tenzin Delek Rinpoche fled Tibet and sought refuge in India, to tell the story of her uncle's death and to appeal to the international community to pressure Chinese government to carry out a thorough investigation into Rinpoche's death in a Chinese prison the previous year. She believes her uncle was imprisoned and then murdered for a crime he did not commit. Rinpoche died on 12 July 2015 in his 13th year of life imprisonment at Chuandong Prison in Dazhu County in Chengdu, capital of Sichuan Province.

In her testimony, Lhamo recalled the moment she saw her uncle's body: “My mother and I could only see his face as other parts of his body were covered. His lips were black. Even the monks who had cleaned and dressed Rinpoche's body for cremation said his finger and toenails had turned black. And when they lifted his body, the back of his head felt



*hollow and unusually light.*⁴⁶

*Despite sustained protests and appeals from the international community, Chinese authorities have failed to launch an investigation into Rinpoche's death. Chinese state media claimed that he died of heart attack in the Dazhu County People's Hospital near the prison. There has been no death certificate issued or any known autopsy done yet, therefore the cause of death is still unknown. A death certificate is an important step in the investigation of his death, which would clarify the uncertainties surrounding his death. Prison authorities purported to read a death certificate to a crowd outside of the prison where Rinpoche died, however they refused to release written copies of these documents.*⁴⁷

*A government's obligation to investigate deaths is required to fulfill the right to a remedy for family members if the death was caused deliberately or by negligence. Additionally, the investigation establishes facts necessary to prosecute officials who were complicit in the death and can prevent other deaths. When there is a death in custody, States are obliged to investigate the death. While there is no single definitive document that definitively outlines for what an investigation must entail. To provide some guidance the International Commission of the Red Cross developed guidelines for investigating deaths in custody. These guidelines are based on existing international legal norms and provide minimum requirements for an investigation.*⁴⁸

⁴⁶ Niece of Tibetan reincarnate lama says my uncle was poisoned to death, *TCHRD*, 3 August 2016, *available at*: <http://tchrd.org/niece-of-tibetan-reincarnate-lama-says-her-uncle-was-poisoned-to-death-in-prison/>

⁴⁷ TCHRD calls for immediate investigation into death of prominent Tibetan reincarnate monk in Chinese prison, *TCHRD*, 17 June 2015, *available at*: <http://tchrd.org/tchrd-calls-for-immediate-investigation-into-death-of-prominent-tibetan-reincarnate-monk-in-chinese-prison/>

⁴⁸ Guidelines for Investigating Deaths in Custody, *International Commission of the Red Cross*, 21 November 2013, *available at*: <https://www.icrc.org/en/publication/4126-guidelines-investigating-deaths-custody>

To meet the minimum standards an investigation must be undertaken as promptly as possible once a death occurs. Additionally, it must be thorough, impartial, independent, and include some public scrutiny. The investigation should include all relevant physical and documentary evidence, statements from witnesses, and a proper autopsy.

One of the main purposes of investigating a death in detention is so that family members can learn what happened. This is particularly important in the case of Tenzin Delek Rinpoche because his family members had not been allowed to see him since December 2013, in violation of Chinese and international legal standards. Prison officials cremated Rinpoche's body and local officials confiscated the ashes.

Freedom of Peaceful Assembly

The right to freedom of peaceful assembly is the right to gather publicly or privately and collectively express, promote, pursue and defend common interests.⁴⁹ It covers not only the right to hold and to participate in peaceful assemblies but also the right to be protected from undue interference.⁵⁰ The right to freedom of peaceful assembly is recognized as a fundamental human right based on its inclusion in numerous multilateral international human rights treaties and the International Bill of Human Rights, which comprise the UDHR, the ICCPR and the International Covenant on Economic, Social, and Cultural Rights (ICESCR).

Other notable international treaties that the PRC is a party to and recognize the right to freedom of peaceful assembly include: (1) the International Convention on the Elimination of all Forms of Racial Discrimination, Articles 4, 5(viii) (acceded 29 December 1981); (2) the Convention on the

⁴⁹ International Law And Best Practices On Peaceful Assembly And Association Rights, Website of the United Nations Special Rapporteur On the rights to freedom of peaceful assembly and of association, *available at*: <http://freeassembly.net/about/best-practices/>

⁵⁰ *Ibid.*

Elimination of Discrimination Against Women, Article 7(c) (ratified 4 November 1980); and (3) the Convention on the Rights of the Child, Article 15 (ratified 2 March 1992).

The right to protest is “the individual and/or collective exercise of existing and universally recognised human rights, including the rights to freedom of expression, freedom of peaceful assembly and of association, the right to take part in the conduct of public affairs, the right to freedom of thought, conscience and religion, the right to participation in cultural life, the rights to life, privacy, liberty and security of a person and the right to nondiscrimination.” This right is also “essential to securing all human rights, including economic, social and cultural rights.” The right to protest is protected and recognized under various international and regional human rights instruments. The rights of peaceful protesters are protected through a set of universally recognized human rights and fundamental freedoms. Similarly the right to protest is guaranteed by the right to freedom of assembly and freedom of expression. Peaceful protests and assemblies are likewise protected by the freedoms of opinion and of association, the rights to participate in the conduct of public affairs, to promote and protect human rights, to liberty and security, and to be free from arbitrary detention and torture or cruel, inhuman or degrading treatment or punishment. These fundamental rights and freedoms are recognized in all the major international and regional human rights treaties including the ICCPR that the PRC has signed. Chinese Constitution also recognizes the right to “freedom of speech, of the press, of assembly, of association, of procession and of demonstration” (Article 35).

Article 35 in the PRC’s constitution guarantees the right to freedom of peaceful assembly: “Citizens of the People’s Republic of China enjoy freedom of speech, of the press, of assembly of association, of procession and of demonstration.”

In 2016, Chinese paramilitary troops particularly the Public Security Bureau and People’s Armed Police suppressed all known protests using excessive force and violence on unarmed protesters.

1. Dzoerge County: Land right petitioners given suspended jail terms

On 11 April, four Tibetans were given suspended jail sentences for holding peaceful protests and petitioning against land seizures in Ka Bharma nomadic camp in Thangkor (Ch: Tangke) Township in Dzoerge County, Ngaba TAP, Sichuan Province.⁵¹

The Dzoerge County People’s Court sentenced Jigjey Kyab to three years while Rinchen Dorje aka Rindo, Phurkho and Kirti Yeshi were each sentenced to two years. All of them were charged of “picking quarrels and provoking troubles” (Ch: xunxin zishi/寻衅滋事), vague and catchall charges used to silence and intimidate activists, lawyers and petitioners. In accordance with the law on suspended jail sentence, the court added six months each to their sentence terms. Although not required to serve their sentences in jail, they have to spend the entire duration of the sentence under police surveillance.

The four were sentenced in connection with a series of protests staged by Tibetan nomads against government land confiscation in Thangkor.⁵² Many protesters were beaten, tortured and detained in the ensuing crackdown.⁵³ The protests

51 Four Tibetan land right petitioners given suspended sentence, *TCHRD*, 14 April 2016, available at: <http://tchrd.org/four-tibetan-land-rights-petitioners-given-suspended-sentence/>

52 A dozen Tibetans detained in Sichuan after reoccupying grabbed land, *Radio Free Asia*, 24 September 2015, available at: <http://www.rfa.org/english/news/tibet/detentions-09242015174127.html>

53 Two Tibetans detained in Sichuan after petition over land grab, *Radio Free Asia*, 14 October 2015, available at: <http://www.rfa.org/english/news/tibet/detentions-10142015171345.html>

began January 2015 and ended in the beginning of 2016 after local authorities effectively silenced all protesters.

2. Machu County: Protesters beaten, detained and robbed

On 8 April, Chinese police suppressed a peaceful protest staged by a group of Tibetan graduates outside the county government office against unfair termination of employment in Machu (Ch: Maqu) County in Kanlho TAP, Gansu Province. A total of 29 protesters held a banner written in Tibetan and Chinese: “Reform public sector employment practices by blocking outside graduates!”⁵⁴

Police took all protesters into custody before subjecting them to severe beatings and intimidation. Protesters’ mobile phones were damaged and confiscated.⁵⁵ Some were robbed of their gold rings. Early next morning on 9 April, parents of the protesters were summoned to the county detention centre and warned against storing or sharing any pictures or information related to the protest on their mobile phones failing which they would be jailed for three to four years.

On 9 April, a second group came to protest in support but was also taken into custody.

To pre-empt attempts by local authorities to label their protest as political, Tibetan protesters took effort to assert in their protest leaflets that their protest was apolitical and its sole purpose was to air the grievances of the unemployed graduates against the corrupt practices of local

authorities. The protesters had worked for three to four years in the forestry department but were unfairly dismissed on the flimsy grounds of inadequate educational qualifications. Calling on the general public to support their cause, the protesters accused local officials of taking bribes and indulging in backdoor connections to hire new recruits; and called the job selection test a farce in which preferred candidates were allowed to use substitutes to write their tests.

3. Chabcha County : Protesters against proposed demolition beaten and detained

On 23 June, a group of 30 police officers led by the county government head beat up Tibetans for protesting the proposed demolition of their businesses such as shops and guesthouses that were built to cater to tourists visiting the Qinghai Lake in Chabcha (Ch: Gonghe) County in Tsolho (Ch: Hainan) Tibetan Autonomous Prefecture, Qinghai Province.⁵⁶ Protested carried a banner that read: “We Need to Eat! We Need to Survive!” Among them, eight from Karla and Choeje villages in Trelnak Township received serious injuries to their heads and legs. An unknown number of Tibetans were also detained on suspicion of taking photos of the police crackdown. The next day, armed police in three large vehicles and another 20 vehicles carrying other government officials arrived to intimidate local Tibetans.⁵⁷ Five Tibetans from Trelnak Township were detained that day without explanation.

54 China’s ill-advanced development policy led by Tibetan graduates, *TCHRD*, 12 April 2016, available at: <http://tchrd.org/chinas-ill-advised-development-policy-led-to-protest-by-tibetan-graduates/>

55 Detained Tibetan protesters are beaten and robbed, then released, *Radio Free Asia*, 12 April 2016, available at: <http://www.rfa.org/english/news/tibet/robbed-04122016143502.html>

56 Police attack, beat Tibetan protesters at Qinghai lake, *Radio Free Asia*, 23 June 2016, available at: <http://www.rfa.org/english/news/tibet/attack-06232016164347.html>

57 Five Tibetan protesters are detained in Chinese “Show of force” at Qinghai lake, *Radio Free Asia*, 24 June 2016, available at: <http://www.rfa.org/english/news/tibet/force-06242016150649.html>

4. *Anti-mining protesters beaten, hospitalized and detained*

Protests against mining operations continued throughout Tibet in 2016. On 28 March, Chinese security forces subjected peaceful protesters including a man in his 60s to indiscriminate beatings for protesting mining near a sacred mountain in Akhore town of Chuchen (Ch: Jinchuan) County in Ngaba TAP. Seven Tibetans were detained for a week to 20 days and then released while others sustained serious injuries.⁵⁸ Tibetans had resorted to blocking of a road construction, which on completion would be used to support mining activities. Tibetans had managed to stop the government project for five years but restarted the blockade when construction resumed in March. On 20 May, a group of police officers issued warnings over loudspeakers of “serious consequences” if the blockade was not ended. By late June, local authorities had announced a temporary halt to the mining project in a rare yet tenuous victory for the protesters.⁵⁹

In May, in yet another rare victory for anti-mining protesters, local authorities in Kardze Tibetan Autonomous Prefecture issued an order announcing a temporary moratorium on mining operations in Dartsedo (Ch: Kangding) County citing environmental problems. The 6 May order followed large-scale protest by Tibetans living in five nomadic villages against the resumption of lithium mining operations that had caused water pollution and fish deaths in the region.

But in June, anti-mining protesters in Amchok Township in Sangchu County were attacked by armed paramilitary troops, which resulted in the

detention and hospitalization of some protesters. The protests against rampant open-pit mining lasted for a week and witnessed arguments and clashes between armed troops and banner-carrying protesters.⁶⁰ On the fourth day of the protests on 3 June, armed police and military personnel beat and manhandled the protesters. Six protest leaders were severely beaten and hospitalized, among them one sustained serious injuries and was rushed to a bigger hospital in Chengdu.⁶¹ Protesters did not retaliate when provoked by the armed personnel and kept the protest peaceful. The weeklong protests followed 15 years of frustrated appeals to authorities to halt the mining on the mountain, which has been regarded for generations as a sacred site by the township’s cluster of eight villages.⁶²

In a circular issued on 3 June, local authorities in Amchok justified the violent suppression of anti-mining protests and denounced the protests as “illegal” and handiwork of “a few evil people in collusion with anti-China forces”. The protesters were warned to end their campaign and follow government order or face consequences.⁶³

Below is the full text of the circular:

“Recently under the instigation of a few evil and corrupt people, a group of masses have illegally gathered to ostensibly protest against what they refer to as destruction of environment. Their protests have hindered gold mining at Nag Deu mine. They have also, in collusion with anti-China forces, indulged in lies and propaganda. These

58 Tibetans in Ngaba warned over anti-mine protest, *Radio Free Asia*, 27 May 2016, available at: <http://www.rfa.org/english/news/tibet/warned-05272016145835.html?searchterm:utf8:ustring=akhore>

59 Tibetan protest in Ngaba bring mining to a halt ‘for now’, *Radio Free Asia*, 22 June 2016, available at: <http://www.rfa.org/english/news/tibet/halt-06222016135947.html?searchterm:utf8:ustring=akhore>

60 TCHRD calls on Chinese government to stop mining at sacred mountain, *TCHRD*, 7 June 2016, available at: <http://tchrd.org/tchrd-calls-on-chinese-government-to-stop-mining-at-sacred-mountain/>

61 Tibetan anti-mine protesters assaulted, beaten in Gansu, *Radio Free Asia*, 6 June 2016, available at: <http://www.rfa.org/english/news/tibet/beaten-06062016153101.html>

62 Over a hundred Tibetans launch new protest against gold mine in Gansu, *Radio Free Asia*, 31 May 2016, available at: <http://www.rfa.org/english/news/mine-05312016141452.html?searchterm:utf8:ustring=amchok>

63 supra note 63.

incidents have caused negative influence and serious consequences.

“In accordance with the law, the security forces have launched a crackdown and arrested the ringleaders of this protest. Right now, again a group of masses, under the influence of a few individuals, have gathered near the monastery. This is a serious offence and violation of the law.

“It is hoped that all of you, with clarity of mind, will be able to distinguish right from wrong and desist from participating in such illegal demonstrations. Those who fail to abide by this order must take full responsibility for any consequences that accrue from it.”

To restrict the right to freedom of peaceful assembly, Chinese authorities routinely accuse peaceful Tibetan protesters of “illegally gathering a crowd.” Many have been charged in the past of “illegally gathering a crowd.”⁶⁴ This charge most likely derives from Article 296 of the Chinese Criminal Law, which states: “Where an assembly, a procession or a demonstration is held with no application made in accordance with the provisions of law or no permission granted for the application or where it is held not in accordance with the time for start and stop, venue and routes permitted by the competent authorities, and the order of dismissal is disobeyed and public order seriously disrupted, the persons who are in charge and the persons who are directly responsible for the assembly, procession or demonstration shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention, public surveillance or deprivation of political rights.”

⁶⁴ See, for instance, the case of Kelsang Choklang in ‘Repression escalates in Tibet’s Diru County: Tibetan youth beaten to death, 2 others given heavy sentences and another disappeared’, *TCHRD*, 7 February 2014, available at: <http://tchrd.org/repression-escalates-in-tibets-diru-county-tibetan-youth-beaten-to-death-2-others-given-heavy-sentences-and-another-disappeared/>

By requiring organizers of an assembly to apply to the government for permission this law conflicts with international standards. According to the guidelines issued by the Office of Democratic Institutions and Human Rights (ODIHR)⁶⁵ of the Organization for the Security and Cooperation in Europe (OSCE), “[a]s a fundamental right, freedom of assembly should be enjoyed without regulation insofar as is possible...and those wishing to assemble should not be required to obtain permission to do so...it is the responsibility of the state to put in place adequate mechanisms and procedures to ensure that the enjoyment of the freedom is practical and not unduly bureaucratic.”⁶⁶

In a 2012 report to the UN General Assembly on the best practices with regards to the freedom of peaceful assembly, the Special Rapporteur on the rights to freedom of peaceful assembly and of association Maina Kiai writes, “[t]he Special Rapporteur believes that the exercise of fundamental freedoms should not be subject to previous authorization by the authorities...but at most to a prior notification procedure, whose rationale is to allow the State authorities to facilitate the exercise of the right to freedom of peaceful assembly...”⁶⁷ The ODIHR guidelines and the Special Rapporteur’s best practices together form an authoritative statements of the international standard. Article 296 of the Chinese Criminal Law violates that standard by expressly rejecting international human rights standards regarding the freedom of peaceful assembly. Therefore, legality requirement is not satisfied on this ground because the “legal basis in law” does not conform to international human rights standards.

⁶⁵ Office for Democratic Institutions and Human Rights (ODIHR) and the Venice Commission, “Guidelines on Peaceful Assembly, Second Edition”, Organization for the Security and Cooperation in Europe (OSCE), 2010.

⁶⁶ ODIHR Peaceful Assembly Guidelines, p. 35

⁶⁷ Maina Kiai, “Report of the Special Rapporteur on the rights to freedom of assembly and association, Maina Kiai,” (hereinafter, “UNSR Best Practices Report”) United Nations, General Assembly, Human Rights Council, Twentieth Session, 21 May 2012,

Freedom of Movement

Article 12(2) of the ICCPR, which is binding on the PRC as part of customary international law, recognizes that everyone has the right to freedom of movement, including the right to leave their country.⁶⁸ The Human Rights Committee's General Comment 27 is an authoritative interpretation of this right. It states that international travel cannot be restricted because of the purpose or duration of the travel. The right to freedom of movement may only be restricted in exceptional circumstances when the restriction is necessary to protect national security, public order, public health or morals and the rights and freedoms of others. The General Comment highlighted legal rules and administrative barriers to travel as a major concern. The right to freedom of movement includes the right to move freely within one's country and the right to choose one's residence.⁶⁹ The right to reside in a place of one's choice within one's country includes protection against all forms of forced internal displacement.

In 2016, Chinese authorities violated the right to freedom of movement of Tibetans by establishing tighter controls over Tibetans wishing to travel outside the country for religious and pilgrimage purposes. Thousands of Tibetans wishing to attend the Kalachakra religious teachings given by the Tibetan spiritual leader Dalai Lama had their passports confiscated and cancelled; many were threatened and intimidated of dire consequences while others were forced to cut short their travel duration and report back to the authorities. The restrictions follow previous policies and practices to monitor and control movement of Tibetans in and out of Tibet. This includes the 29 April 2012 'guiding opinions'⁷⁰ issued by TAR authorities

imposing substantial restrictions on the ability of Tibetans to obtain passports, followed by 2014 regulations that further prevent Tibetans from travelling to religious ceremonies and sacred sites.⁷¹ Within Tibet, restrictions were imposed on the movement of monks and nuns evicted from Larung Gar Buddhist Institute that demonstrates that measures introduced in 2012 to prevent Tibetans from travelling outside their village and to "border areas" for religious purposes are still in practice. Unlike the majority Chinese applicants, Tibetan passport applicants are subject to onerous application requirements and often wait years for a passport or are denied without explanation. Tibetans are regularly required to provide extensive documentary materials and submit to "political examination" prior to consideration of their application.⁷² The skewed application of PRC's Passport Law⁷³ contributes to the discrimination of Tibetans and is a violation of PRC's Constitution that guarantees the right to equality for all nationalities.⁷⁴

Discriminatory travel restrictions

In 2016, Chinese authorities severely restricted the ability of Tibetans to travel abroad for religious and pilgrimage purposes. Beginning November, local authorities launched a systematic crackdown on Tibetan passport holders living in Tibetan autonomous areas in Qinghai, Sichuan, and

68 UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, treaty Series, vol. 999, p. 171 [ICCPR] at art. 12(2)

69 ICCPR, Article 12(1).

70 Discriminatory Chinese passport regulations violate Tibetans' right to travel, *TCHRD*, 5 May 2015, available at: <http://tchrd.org/discriminatory-chinese-passport-regulations-violate-tibetans-right-to-travel/>

71 Document Exposes Intensification of State-sanctioned Religious Repression in Troubled Tibetan County, *TCHRD*, 9 November 2015, available at: <http://tchrd.org/document-exposes-intensification-of-state-sanctioned-religious-repression-in-troubled-tibetan-county/>

72 One Passport, two Systems: china's restrictions on Foreign travel by Tibetans and others, *Human Rights Watch* (2015) supra at p. 10, available at: <https://www.hrw.org/report/2015/07/13/one-passport-two-systems/chinas-restrictions-foreign-travel-tibetans-and-others>

73 Passport Law of the People's Republic of China, *CECC*, available at: <http://www.cecc.gov/resources/legal-provisions/passport-law-of-the-peoples-republic-of-china>

74 Constitution of the People's Republic of China, Article 4, *CECC*, available at: <http://www.cecc.gov/resources/legal-provisions/china%27s-constitution>

Gansu provinces.⁷⁵ The crackdown was primarily aimed at stopping Tibetans from attending the January 2017 Kalachakra religious teachings given by the Dalai Lama in India.

In Qinghai and Gansu, restrictions on passports began respectively in September and in the middle of October.⁷⁶ Local officials seized valid passports from Tibetans and pressured others whose relatives had already left to recall them home.⁷⁷ In Machu County, a Tibetan man who had planned to travel in the winter of 2016 was forced to hand over his passport after township officials and village heads threatened to blacklist him and exclude him from all government welfare schemes.⁷⁸ In November, Tibetans in Qinghai who had cleared all administrative hurdles to go on organized tours had their passports abruptly confiscated.⁷⁹ Local officials who visited the homes of passport holders to seize passports explained the move as necessitated by the requirement to affix new government seals on the passports.⁸⁰ In 2012, TAR authorities used similar tactics by revoking all ordinary passports purportedly to replace them with new electronic passports.⁸¹

75 China Seizes Tibetans' Passports in a Bid to Block Travel, *Radio Free Asia*, 14 November 2016, available at: <http://www.rfa.org/english/news/tibet/passports-11142016161438.html?searchterm:utf8:ust ring=kalachakra>

76 ICT Inside Tibet: Tightened controls before Kalachakra; new Chinese Interpol President, *International Campaign for Tibet*, 17 November 2016, available at: <https://www.savetibet.org/ict-inside-tibet-news-and-analysis-of-emerging-developments-in-tibet-2/>

77 China restricts freedom of movement of Tibetans ahead of Dalai Lama's teachings, *TCHRD*, 24 November 2016, available at:

<http://tchrd.org/china-restricts-freedom-of-movement-of-tibetans-ahead-of-dalai-lamas-teachings/>

78 Ibid.

79 Tibetans Online Raising Legal Awareness: "Legally Issued Passports Can't Be Confiscated", *High Peaks Pure Earth*, 23 November 2016, available at: <http://highpeakspureearth.com/2016/tibetans-online-raising-legal-awareness-legally-issued-passports-cant-be-confiscated/>

80 supra note 78

81 One Passport, Two Systems, *Human Rights Watch*, 13 July 2015, available at: <https://www.hrw.org/report/2015/07/13/one-passport-two-systems/chinas-restrictions-foreign-travel-tibetans-and-others>

Travel restrictions were also imposed in Ngaba TAP, where Tibetans holding valid passports were ordered not to travel before February 2017 forcing those who had booked their tickets to cancel their trips. Some in Ngaba County were asked to return their passports or be barred from travelling abroad for life. Some were stopped from boarding the plane despite carrying valid passports and visas. In a bizarre attempt to control passports in Drango (Ch: Luhuo) County in Kardze Tibetan Autonomous Prefecture, local police conducted a lottery scheme to issue passports to Tibetan applicants, which means that only a few could get passports. On 24 June, the County Public Security Bureau office held a lottery for the first batch of passport applicants in which 150 won.⁸² The first batch of applicants consisted of the elderly population above 50 years of age while the second and third batches presumably comprising the younger applicants had to participate in the next rounds of lottery in August and October. This was aimed at not just limiting the number of passport holders. The closely supervised 'lottery' process enables the local authorities to run a thorough investigation into the political history and background of the winners, and to keep a tab on the person's movement in future. In 2015, 500 Tibetans managed to obtain passports after winning in a similar lottery scheme conducted by the local police.

In TAR, passport applications for purposes other than business and official matters were rejected and many chose not to apply knowing that permission would be denied.⁸³ Many others did not apply due to fear of government reprisals, as happened

82 Pema Tso, 'Lottery scheme to restrict passports' [In Tibetan language], *Tibet Times*, 27 June 2016, available at: <http://tibettimes.net/%E0%BD%A2%E0%BE%92%E0%BE%B1%E0%BD%93%E0%BC%8B%E0%BD%A0%E0%BD%95%E0%BD%84%E0%BD%A6%E0%BC%8B%E0%BD%8F%E0%BD%BA%E0%BC%8B%E0%BD%95%E0%BE%B1%E0%BD%B2%E0%BC%8B%E0%BD%A6%E0%BE%90%E0%BE%B1%E0%BD%BC%E0%BD%91/>

83 Private communication with sources in Lhasa by TCHRD researchers in December 2016.

in early 2012 when hundreds of Tibetans who had travelled to India for pilgrimage and attended Dalai Lama's teachings were subjected to arbitrary detention and forced political education for weeks and months.⁸⁴ In the months preceding the January 2017 Kalachakra teachings, local authorities in TAR collected all passports on the vague and unexplained pretext of "checking the documents".⁸⁵ During the same period, in Yakde village, Rinpung (Ch: Renbu) Township of Rinpung County in Shigatse Prefecture (TAR), strict warnings were issued to stop Tibetans from contacting their India-based relatives or friends. Village leaders warned that the government would know if Tibetans communicated with anyone India and threatened jail terms for those who did.⁸⁶ Generally, it is extremely difficult to obtain passports in TAR. Since 2012, Chinese authorities have rarely issued passports to TAR residents except for those traveling for business or on organized group tours.

In mid-December, Chinese authorities imposed temporary travel restrictions on PRC citizens travelling to Nepal, a popular transit point for Tibetans in their onward journey to India.⁸⁷ A travel advisory issued by the Chinese government ordered all travel agencies and airlines in PRC to cancel all travel plans and bookings made until 10 January with immediate effect. A Chinese government directive had also ordered local Tibetans not to visit Nepal, India and Bhutan, asking those who had made the bookings to cancel them. The directive ordered others who had already travelled to Nepal to cancel their trips and immediately return home.⁸⁸ Following

the government order in November, local officials visited the homes of Tibetans and pressured them to recall their relatives or lose their jobs. Those who had vouched for the passport holders were similarly threatened with dismissal from jobs if they failed to make their relatives return before December.⁸⁹

On 16 November, Nepal border police detained 41 Tibetan pilgrims at the Nepal-India border. Thirty-nine of those detained had travelled to Nepal on Chinese passports but chose not to apply for Indian visas for their onward journey to India for fear of government reprisals. The Kathmandu-based human rights NGO HURON reported that Tibetans could likely be jailed for six months to five years upon their return to Tibet if their passports were found stamped with Indian visas.⁹⁰ The PRC's relentless restrictions on the movement of Tibetan pilgrims caused thousands of Tibetans to leave Nepal and India without getting the opportunity to visit pilgrimage sites or attend the Dalai Lama's teachings.

Restriction on Movement Within Tibet

Freedom of movement consists of the right and ability to move and choose one's residence freely and in safety within the territory of the State, regardless of the purpose of the move.⁹¹ Article 13 (1) of the UDHR states that "everyone has the right to freedom of movement and residence within the borders of each State". Article 12 (1) of the ICCPR provides for the right to liberty of movement and freedom of citizens to choose one's residence within the borders of a state. The

84 China: End Crackdown on Tibetans Who Visited India, *Human Rights Watch*, 16 February 2012, available at: <https://www.hrw.org/news/2012/02/16/china-end-crackdown-tibetans-who-visited-india>

85 Ibid.

86 Ibid.

87 Anil Giri, China issues travel restriction to Nepal, *The Kathmandu Post*, 24 December 2016, available at: <http://kathmandupost.ekantipur.com/news/2016-12-24/china-issues-travel-restriction-to-nepal.html>

88 Ibid.

89 *China seizes Tibetans passport in a bid to block travel*, *Radio free Asia*, 14 November 2016, available at: <http://www.rfa.org/english/news/tibet/passports-11142016161438.html>

90 Supra note 81

91 Action Sheet 8: Liberty and Freedom of Movement, Handbook for the Protection of Internally Displaced Persons, *UNHCR*, available at: <http://www.unhcr.org/4794b4702.pdf>

right to freedom of movement also protects the rights of the internally displaced from involuntary movement and expulsion as well as from forcible return or resettlement.

In 2016, Chinese authorities imposed severe restrictions on the freedom of movement and residence of Tibetan religious practitioners by subjecting them to forced eviction and internal displacement following the demolition and downsizing of world's largest Buddhist town of Larung Gar in Serthar County. Since July, Chinese government employed demolition crews have destroyed hundreds of residences and makeshift shelters and evicted thousands of monastic residents many of whom have lived there for a long time devoting their lives to learning Buddhist texts and cultivating inner peace.⁹²

In August, monks and nuns hailing from different parts of TAR including Lhasa, Ngari (Ch: Ali) Prefecture, Shigatse Prefecture, Nagchu Prefecture, and Chamdo Prefecture were forcibly removed, deprived of their shelter and sent back to their hometowns. Family and relatives were ordered to take their relatives home.⁹³ Monks and nuns from Diru (Ch: Biru) County in Nagchu, the first to be evicted from Larung Gar, were warned of “consequences” to their families if they refused to leave, including their right to collect caterpillar fungus, a highly valued medicinal plant and an important source of income. Before they could return home, monks and nuns from TAR were held in detention for weeks and months by respective police departments in TAR for patriotic education campaigns.

Many were locked out from their residences at the institute, and were forced to leave without being

able to collect their belongings.⁹⁴ By November, authorities had begun removing the older residents some of who had reached their 70s, and had lived there for a long time.⁹⁵ In early December, more than a thousand evicted nuns were found sheltered in temporary camps of metal huts in the freezing winter in the Dzuchen area of Serthar County.⁹⁶ The temporary shelters were built after the authorities failed to build actual houses as promised.⁹⁷

An additional 400 houses of nuns were dismantled at Tashi Lung in Larung Gar forcing many nuns to take shelter in others' houses.⁹⁸ On 24 December, 500 monks and nuns were expelled and taken away on buses and military trucks to their homes in Golok (Ch: Guoluo) Tibetan Autonomous Prefecture in neighboring Qinghai.⁹⁹ A temporary camp was also set up for the displaced monastics in Golok.

Contrary to claims made in June by local authorities that they were not evicting the residents of institute or dismantling their residences,¹⁰⁰ the following

92 For more details on Larung Gar, refer to the chapter on freedom of religion in this report.

93 Larung Gar Monks, Nuns forced to return to their family homes, *Radio Free Asia*, 11 August 2016, available at: <http://www.rfa.org/english/news/tibet/return-08112016152026.html>

94 Larung Gar Monks and Nuns ‘locked out’ before eviction, *Radio Free Asia*, 3 November 2016, available at: <http://www.rfa.org/english/news/tibet/locked-11032016140556.html>

95 Older Monks and Nuns expelled from a ‘calmer’ Larung Gar, *Radio Free Asia*, 21 November 2016, available at: <http://www.rfa.org/english/news/tibet/calmer-11212016172448.html>

96 Expelled Larung gar nuns held in camp in Kardze, *Radio Free Asia*, 9 December 2016, available at: <http://www.rfa.org/english/news/tibet/nuns-12092016144033.html>

97 Larung Gar teachers visit Nuns housed in temporary camps, *Radio Free Asia*, 14 December 2016, available at: <http://www.rfa.org/english/news/tibet/visit-12142016151721.html>

98 More Nuns home torn down at Larung Gar, *Radio Free Asia*, 22 December 2016, available at: <http://www.rfa.org/english/news/tibet/more-12222016145752.html>

99 Hundreds more removed from Larung Gar as friends faint in grief, *Radio Free Asia*, 27 December 2016, available at: <http://www.rfa.org/english/news/tibet/grief-12272016145406.html>

100 Edward Wong, China Takes a Chain Saw to a Center of Tibetan Buddhism, *New York Times*, 28 November 2016, available at: <https://www.nytimes.com/2016/11/28/world/asia/china-takes-a-chain-saw-to-a-center-of-tibetan-buddhism.html>

months saw relentless eviction and demolition that caused several suicides and tore apart one of the most important religious communities in Tibet. Tragic scenes were witnessed during the evictions as monks and nuns fainted unable to bear the separation and displacement as they bid farewell to their dharma friends. Some who were unable to bear the shock had to be treated in hospitals.¹⁰¹

Chinese authorities claim that the downsizing of the institute was necessary to “eliminate hidden dangers and safeguard the personal safety and property of the monks and nuns”. But the severe consequences on the residents of the institute and violations of a host of movement-related rights entitled to the evicted religious practitioners belie the stated intentions.

Conclusion

Tibetans have the right to leave their country, to move freely within it and to reside where they wish. Like millions of Chinese tourists who travel the world without any problems, Tibetans also have the right to travel outside their country and this right cannot be restricted because of the purpose or duration of the travel. The right to freedom of movement is also a fundamental right implicit in the concept of personal liberty guaranteed by Article 21 of the Chinese Constitution.

The practice of confiscating passports of Tibetans, interrogating them at airport counters and stopping them from leaving the country violates both domestic and international legal provisions. Obtaining a passport is a fundamental right and not a privilege granted by the government. Every Tibetan is entitled to a passport and personal liberty to travel abroad.

The violation of the right to freedom of movement has enabled violations of other human rights including the rights to freedom of religion, liberty and security and adequate housing. Forced evictions and displacement of Tibetan religious practitioners violate their right to practice their culture and religion with other members of their community.

The PRC has failed to justify the numerous restrictions it imposed on the freedom of movement of Tibetans. Restricting the freedom of movement can only be justified on an exceptional basis if strict conditions are met. It must be provided for by law and be necessary and proportionate to protect national security, public order, public health or morals and the rights and freedoms of others.¹⁰² Restrictions must be consistent with other human rights and international legal obligations of the state. Restrictions may never involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.¹⁰³

101 Han Chinese, western students of Buddhism also forced from Larung Gar, *Radio Free Asia*, 29 December 2016, available at: <http://www.rfa.org/english/news/tibet/forced-12292016160941.html>

102 ICCPR, Article 12(3)

103 ICCPR, Article 4 and Article 1.

ENVIRONMENT

In 2016 the People's Republic of China (PRC) ratified the Paris climate change agreement to reduce greenhouse gas emissions. Unlike the Kyoto Protocol,¹ the Paris Agreement² does not formulate binding emission reductions until 2030. Instead the agreement depends on voluntary mitigation contributions and will come into force by 2020. It emphasizes that implementation will be in accordance with the '*principle of common but differentiated responsibilities and respective capabilities*'.³ This means the PRC will develop at a fast pace to catch up with the richest countries. In the 15 years between 2015 and 2030 greenhouse gas emissions will continue to rise, and the PRC will continue to increase its coal consumption. The PRC committed itself to reduce carbon emissions per unit of its gross domestic product (GDP) by 60 to 65 percent from the 2005 level by 2030.⁴ It also intends to increase non-fossil fuel sources

consumption to about 20 percent, and to increase its investments in renewable energy sources like hydropower, wind turbines and solar energy. The peak in the PRC's carbon emissions will be in 2030.⁵

The PRC's 13th Five-Year-Plan (FYP) for social and economic development (2016-2020) also emphasizes environmental protection and targets to reduce greenhouse gas emissions including 15% goal for the share of non fossil-based energy. Although environmental pollution is becoming a major challenge in sustaining economic development in the PRC, economic growth remains the ultimate objective. In September, at the start of the G20 summit in Hangzhou, Chinese president Xi Jinping said, "To protect the environment is to protect productivity and to improve the environment is to boost productivity. We will make China a beautiful country with a blue sky, green vegetation and clear rivers so that our people can enjoy their lives with the ecological benefits created by economic development".⁶

1 Kyoto Protocol, *United Nations Framework Convention on Climate Change*, available at: http://unfccc.int/kyoto_protocol/items/2830.php

2 The Paris Agreement, *United Nations Framework Convention on Climate Change*, available at: http://unfccc.int/paris_agreement/items/9485.php

3 Common but Differentiated Responsibilities and Respective Capabilities (CBDR-RC), *Climate Nexus*, available at: <http://climatenexus.org/about-us/negotiation-issues/common-differentiated-responsibilities-and-respective-capabilities-cbdr>

4 Ilario D'Amato, China to cut emissions intensity by 60-65% from 2005 level by 2030: INDC, The Climate Group, 30 June 2015, available at: <https://www.theclimategroup.org/news/china-cut-emissions-intensity-60-65-2005-level-2030-indc>

5 China's legislature ratifies Paris agreement on climate change, *Xinhua*, 3 September 2016, available at: http://news.xinhuanet.com/english/2016-09/03/c_135656703.htm

6 Tom Phillips, China ratifies Paris climate change agreement ahead of G20, *The Guardian*, 3 September 2016, available at: <https://www.theguardian.com/world/2016/sep/03/china-ratifies-paris-climate-change-agreement>

The PRC is still the largest source of carbon dioxide emissions, accounting for almost 25 percent of all greenhouse gas emissions in the world.⁷ Available statistics indicate that 80 percent of PRC's monitored cities failed to meet air quality standards, and an estimated 300,000 to 1.5 million deaths are linked to air pollution.⁸ In April, the PRC's Ministry of Water Resources reported that more than 80 percent of ground water was not fit for human consumption.⁹ The costs of environmental pollution were estimated between 3.5 and 6.5 percent of total GDP.¹⁰ Despite these figures, the PRC's power sector further added 64 gigawatts of coal-fired electricity capacity in 2015, compared to an increase of around 35 gigawatts in 2014.¹¹ The PRC continued to censor reporting on the environment and on environmental emergencies. During the annual meeting of the National People's Congress in April, PRC's Central Propaganda Department prohibited Chinese media from reporting on the smog. Reporting was also restricted on the December 2015 landslide in Shenzhen municipality, and widespread flooding across the country in the summer of 2016. As a result, the officially reported number of environmental emergencies declined to 330 in 2015, from 712 in 2013.¹²

Accelerated economic development is threatening

7 The Paris agreement on climate change, *Natural Research Defense Counsel*. Issue Brief December 2015., available at: <https://www.nrdc.org/sites/default/files/paris-climate-agreement-IB.pdf>

8 Jonathan Amos, Polluted air causes 5.5 million deaths a year new research says, *BBC*, 13 February 2016, available at: <http://www.bbc.com/news/science-environment-35568249>

9 Groundwater 80% polluted, *Global Times*, 12 April 2016, available at: <http://www.globaltimes.cn/content/978117.shtml>

10 Constance Gustke, Pollution crisis is choking the Chinese economy, *CNBC*, 11 February 2016, available at: <http://www.cnbc.com/2016/02/11/pollution-crisis-is-choking-the-chinese-economy.html>

11 Congressional Executive Commission on China. Annual report, 2016, available at: <https://www.cecc.gov/sites/chinacommission.house.gov/files/2016%20Annual%20Report.pdf>

12 Ibid.

the fragile environment, food security and livelihoods of millions of people on the Tibetan Plateau. Expanding infrastructure is making resource extraction easier and more lucrative on the Tibetan plateau. Numerous mining sites and hydro-dams are already becoming operational in Tibet, and more have been announced in the 13th FYP. The Tibetan plateau stretches across the Tibet Autonomous Region (TAR) and includes Tibetan areas in four adjoining provinces of Qinghai, Gansu, Sichuan and Yunnan. The plateau covers an area of 2.5 million square kilometer and comprises around one-fourth of the PRC's landmass. Tibet is sometimes called the Roof of the World with its average altitude of 14,800 feet (4,500 meters). It represents an important ecological landscape with critical ecological functions that affect both global and regional weather patterns. Tibet is sometimes called the third pole, as it contains the largest amount of ice and snow after the North and South Pole. This ice is mostly stocked in around 37,000 glaciers and feeds many rivers.¹³ Six of Asia's major rivers originate on the Tibetan Plateau, which provide water for almost one third of the world population. Tibetan grasslands support a unique collection of flora and fauna with many rare and endemic species, like the Tibetan gazelle, snow leopard and wild yak. For thousands of years the plateau has provided a home for the Tibetans, who interact within this complex environment in pursuit of their livelihoods.

Both natural and man-made factors have wrought havoc on the fragile environment and inhabitants of the Tibetan Plateau. In July and August, storms, floods and drought hit parts of the plateau. Several severe storms and massive floods occurred in Amdo and Kham, sweeping away houses, cars, and livestock destroying and disrupting the lives of the local population. A fast-breaking storm destroyed a nomad village causing families to lose their houses and livestock in Themchen (Ch:

13 Brook Larmer, The Big Melt, *National Geographic Magazine*, April 2010, available at: <http://ngm.nationalgeographic.com/print/2010/04/tibetan-plateau/larmer-text>

Tianjun) County. Hailstones the size of eggs smashed the windshields of many cars and roofs of several houses in Thekphang township. Heavy rain resulted in major floods and landslides that swept away a number of cars and blocked roads in Sangchu (Ch: Xiahe) County and in Xining.¹⁴ In July, a critical drought resulted in the drying up of streams that normally feed the Machu (Yellow River) causing drinking water shortages and death of many fish in Chumarleb County in Yulshul TAP. Large parts of the area have now been reduced to sandy patches of dry grass.¹⁵

Hydro Dams and Water Grab

To meet the ever-increasing demand for water and energy in the PRC, projects for hydro dam constructions along Tibet's major rivers are rapidly expanding. Tibet has a huge potential for hydro, geothermal, solar and wind energy and already produces a significant proportion of all the hydro energy produced in the PRC, and this share will increase rapidly in the near future. In its 13th FYP, PRC has announced plans to build more hydro dams despite the fact that rapid population growth, industrialization, and deteriorating water

sources have long threatened water availability and food security of millions living in countries downstream.¹⁶

Although hydro dams have the potential to contribute to renewable energy resources, the hidden costs of such projects and their sustainability in the long run cannot be ignored. Many of Asia's rivers are dependent on seasonal melting of Tibetan glaciers. The current rate of glacial melt in Tibet is seven percent annually. It is estimated that two-thirds of Tibetan glaciers will be gone by 2050, causing serious social and environmental consequences. Although water supply in some rivers will increase in the short-term due to glacial melt, this will only last as long as the glaciers do.¹⁷



14 Tibetan Areas of Qinghai, Gansu Hit by Hail And Floods, *Radio Free Asia*, 23 August 2016, available at: <http://www.rfa.org/english/news/tibet/floods-08232016162133.html>

15 Weather in Tibetan Regions of Qinghai Parches Some Areas, Floods Others, *Radio Free Asia*, 14 July 2016, available at: <http://www.rfa.org/english/news/tibet/parches-07142016153552.html>

16 M. Lovelle (2016). Tibet, a major source of Asia's rivers. *Future Directions* 4 February 2016, available at: <http://www.futuredirections.org.au/publication/tibet-a-major-source-of-asias-rivers/>

17 M. Lovelle (2016). Tibet, a major source of Asia's rivers. 4 February 2016, available at: <http://www.futuredirections.org.au/publication/tibet-a-major-source-of-asias-rivers/>

That this is a serious threat was proved when, in July and September 2016, two major glaciers collapsed in TAR. Although Tibetan glaciers were long considered to be rather stable, glaciologists fear that the recent glacial collapse is only the beginning of a trend. The first glacial collapse occurred on 17 July on a lake near the Aru Basin in Changthang area (TAR). A sudden wind blew away several herders' tents, followed by a huge avalanche when the glacier collapsed. Ice and stones came crashing down into the lake, traveling a distance of six kilometers. According to Chinese state media, the avalanche killed nine nomads and hundreds of yaks and sheep. Scientists visiting the area observed that the remains covered almost 10 square kilometers, an area the size of 1,400 soccer fields. This was the largest avalanche in recorded history. On 21 September, another glacier collapsed in the same area further reducing the glacial base. According to Chinese meteorological station, the average temperature in the area has risen by 1.5 degrees Celsius in the past 50 years. Data from another government weather station showed that rainfall in the first seven months of 2016 had been 88 percent higher than the average of the preceding five years.¹⁸

The 13th FYP announced the construction of a series of hydro dams and water diversion projects to solve PRC's water problems and meet its renewable energy targets.¹⁹ The PRC is already the country with the largest number of dams in the world; several large dams are under construction on all of its major rivers.²⁰ In October 2015 the first large hydro dam on the Yarlung Tsangpo

(Brahmaputra River) in Tibet became operational with a capacity of 510 MW. The Zangmu dam is located near Drumpa (Ch: Gyaca) Township in TAR, only 550 kilometers from the Indian border. On the Yarlung Tsangpo, five more dams are currently under construction with an estimated capacity of at least 1460 MW.²¹ In April 2016 PRC announced the construction of the Suwalong hydro dam at the junction of Markham (Ch: Maérkang) County and Bathang (Ch: Batang) County located at the border of TAR and Sichuan Province. It is the first large-scale hydropower project on the upper reaches of the Driчу (Yangtze River). The dam will be 112 meter high and will have a 674 million cubic meter reservoir. By 2021, it will have a capacity of 1.2 GW, three times more than that of the Three Gorges dam. This project is specifically designated as the first to be built for the purpose of exporting electricity to cities and factories located in eastern China.²² Going upriver from the Suwalong dam 17 dams are planned across the main channel of the Driчу deep into the Tibetan Plateau. Going downriver, below Suwalong dam, on the Yangtze, there are 18 dams, upriver from the Three Gorges, of which four are operational.

On 30 November, the PRC's National Energy Administration (NEA) released its energy blueprint for the next five years which included plans to dam Dadu and Yalong, the upper tributaries of Driчу under the controversial Western Route of the South-to-North (S2N) Water Diversion project that will run up the steep and remote valleys of Ngaba and Kardze areas in eastern Tibet.²³ Part

18 Shi Yi, Scientists Study Deadly Tibet Avalanche, Prevent Second Disaster, *Sixth Tone*, 5 December 2016, available at: <http://www.sixthtone.com/news/scientists-study-deadly-tibet-avalanche-prevent-second-disaster#jtss-fb>

19 Beth Walker, China plans more dams and mega infrastructure in Tibet, *The Third Pole*, 21 March 2016, available at: <https://www.thethirdpole.net/2016/03/21/china-plans-more-hydro-projects-and-mega-infrastructure-in-tibet/>

20 M. Buckley (2014). Meltdown in Tibet: China's Reckless Destruction of Ecosystems from the Highlands of Tibet to the Deltas of Asia

21 Beth Walker, China plans more dams and mega infrastructure in Tibet, *The Third Pole*, 21 March 2016, available at: <https://www.thethirdpole.net/2016/03/21/china-plans-more-hydro-projects-and-mega-infrastructure-in-tibet/>

22 Gabriel Lafitte, Overpowering Tibet: ELECTRIFYING THE WORLD FACTORY FROM TIBET, available at: http://rukor.org/overpowering-tibet/#_ftnref15

23 Gabriel Lafitte, CONCRETE WALLS ACROSS THE GREAT TIBETAN RIVERS: HYDRO DAMS ADVANCING UP THE RIVERS OF EASTERN TIBET, *Rukor.org*, 30 December 2016, available at: <http://rukor.org/dropping-tibet-fighting-gravity/>

of the S2N project to divert water from the lower, middle and upper reaches of Drichu to China, the damming on Western Route will generate huge amounts of electricity that will lead to the construction of a power grid to export electricity from the Tibetan Plateau to major Chinese cities on the coast.

A leading Chinese water-engineering analyst has argued that the building of the Western Route will partly benefit at the PRC's coal industry. According to Prof. Jia Shoufeng, deputy director of the Center for Water Resources Research under the Chinese Academy of Sciences (CAS), chair of the Department of Water & Land Resources Research at the CAS Institute of Geographical Sciences and Natural Resources Research, and vice chair of the Special Committee for Water Resources under the Hydraulic Engineering Society of China, the implementation of S2N Western Route will supply enough water for PRC's many coal mines, coal-fired power stations and coal chemical factories to obtain the water they badly need.²⁴ It is estimated that almost one fifth of the total water consumption in PRC is used for mining, processing and coal fired industries.²⁵ Large quantities of water and energy are needed for mining operations within Tibet. Scientists have questioned the S2N project fearing water shortages, water pollution and increased desertification on the Tibetan Plateau.²⁶ In December 2016 the PRC announced the building of a new underground water channel by 2020 from the Drichu basin to supply water to Beijing under the Central Route of the S2N project. Upon completion in 2030, it will supply 600 million cubic meters of water annually to Beijing.²⁷ Already since late 2014,

about 1.94 billion cubic meters of water has been transferred to Beijing from the Drichu.

Due to massive ground water pollution in China, water from Tibet is promoted as the purest water available. Water sourced from Tibetan glaciers is now bottled and sold throughout China. In 2014, the Ministry of Industry and Information Technology announced support for the growth of the natural drinking water industry in Tibet. Water manufacturers in Tibet will be exempted from all corporate taxes for the first five years. The TAR provincial government has developed a 10-year plan to stimulate the bottled water industry to produce 10 million cubic meters of bottled water by 2025.²⁸ Chinese officials argue that the industry could provide safe drinking water for as much as 15 per cent of the PRC's population.²⁹

In September 2016, India was alarmed when the PRC blocked the Xiabuqu river, a tributary of the Yarlung Tsangpo located in Tibet's Shigatse Prefecture. Part of the Lallo hydro dam, a so-called run-of-the-river project, its reservoir is designed to store 295 million cubic meters of water and is supposed to irrigate 30,000 hectares of farmland. The project began in June 2014 and is set to complete by 2019. PRC officials said the project serves multiple purposes, such as irrigation, flood control and power generation.³⁰ Although this dam will not directly reduce water flows into India, it will impact the flow of silt that is essential to the river deltas on the Indian and Bangladeshi plains. In Tibet, it will dry up a long stretch of the Xiabuqu river due to water diversion through

24 Gabriel Lafitte, *Defying Gravity*, *Rukor.org*, 23 May 2016, available at: <http://rukor.org/defying-gravity/>

25 M. Buckley (2014). *Meltdown in Tibet. China's Reckless Destruction of Ecosystems from the Highlands of Tibet to the Deltas of Asia.*

26 South-North Water Transfer Project, *International Rivers*, available at: <https://www.internationalrivers.org/campaigns/south-north-water-transfer-project>

27 Water from south China to reach more Beijingers by 2030, *Global Times*, 29 December 2016, available at: <http://www.globaltimes.cn/content/1026344.shtml>

28 Liu Hongqiao, China bottled water industry eyes up the Tibetan plateau, *The Guardian*, 16 November 2015, available at: <https://www.theguardian.com/sustainable-business/2015/nov/16/chinas-bottled-water-industry-eyes-up-the-tibetan-plateau>

29 China pushes to bottle and ship clean water, *The Globe and Mail*, 26 December 2016, available at: <http://www.theglobeandmail.com/news/world/china-pushes-plans-to-bottle-and-ship-tibets-clean-water/article33436017/>

30 Tibet dams river for its costliest hydro project, *Xinhua*, 1 October 2016, available at: http://news.xinhuanet.com/english/2016-10/01/c_135726387.htm

a tunnel designed to produce electricity. The area is already suffering from rapid desertification, and Tibetan nomads living along its banks are facing severe water shortages.³¹

Hydro dams have profound impacts on the livelihood of nearby communities because water supplies and fish stocks are threatened. Communities are displaced to make room for the dam and its huge reservoirs. In Tibet, local people play no role in the project planning or implementation processes. According to a 2012 study on land confiscations in the PRC, affected communities are in many cases required to follow the decisions, terms of compensation and relocation plans that are developed by the local government without their prior consent.³² In October 2016, more than 200 Tibetan villagers living in Yenmon Township protested against a government relocation order to make way for the new 990 MW Wunonglong Dam on the Dzachu (Mekong River). Construction of the dam began in 2010 and will become operational in 2018. Entire village of Yenmon was ordered to relocate to neighbouring Tsodruk Town. To house the “dam migrants”, Tibetans in Tsodruk have to give up pieces of their land. In keeping with PRC’s urbanization policy, Yenmon villagers will receive urban registration, which will take away their rights to farm the land. This will mean losing their sources of livelihood and increased risks of poverty. Although villagers challenged the relocation order by submitting a petition to the local government, it is highly unlikely that their grievances will be addressed.³³ A few years ago, a former mayor had

yelled at the villagers during a meeting, “This land, this water, these mountains, they are not yours! Stop acting like these are yours! This is the state’s land, and these are the state’s resources.”³⁴

Most dam construction companies in Tibet operate secretly and the main style of operations is to proceed with rapid construction before objections could be made.³⁵ According to the PRC’s Environmental Impact Assessment (EIA) Law, all large projects are required to carry out an EIA before construction begins to measure the social and environmental impact of the project. But the fact is most projects proceed without EIA. In some cases an EIA is done perfunctorily. This is often linked to the state ownership of energy companies and corruption within Chinese national and local government bodies.³⁶ Globally, there are over 100 identified cases of earthquakes that scientists believe were triggered by dam reservoirs. This is known as Reservoir-Induced Seismicity (RIS) and is related to the extra water pressure in the ground under and near a reservoir. Scientific evidence shows that specifically at Suwalong, at least three major earthquakes triggered landslides big enough to block the Yangtze, later bursting disastrously as the blocked river backed up.³⁷ A 2014 report produced by a coalition of 19 Chinese NGOs concluded that hydropower is not the answer to PRC’s carbon emission reductions goals and instead threatens its ecological resilience.³⁸ The

31 Chinese dam hurts Tibet more than India, *thethirdpole.net*, 2 October 2016, available at: <https://www.thethirdpole.net/2016/10/02/chinese-dam-hurts-tibet-more-than-india/>

32 C. Goebel and L.H. Ong (2012). *Social Unrest in China*, available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2173073

33 Impoverish Tibetans protest forced relocation and deprivation of livelihood amid increased Chinese land expropriation, *TCHRD*, 24 November 2016, available at: <http://tchrd.org/impoverished-tibetans-protest-forced-relocation-and-deprivation-of-livelihood-amid-increased-chinese-land-expropriation/>

34 No Recourse: Upper Mekong Dam Spells End for Tibetan Village, East By Southeast. 1 September 2015, available at <http://www.eastbysoutheast.com/no-recourse-upper-mekong-dam-spells-end-for-tibetan-village/>

35 M. Buckley (2014). Meltdown in Tibet. China’s Reckless Destruction of Ecosystems from the Highlands of Tibet to the Deltas of Asia.

36 Nicholas Jenny, Panama Papers lay bare China’s corruption, environmental woes, *Global Risk Sights*, 15 April 2015, available at: <http://globalriskinsights.com/2016/04/panama-papers-china-corruption/>

37 Supra note 24.

38 China’s Last Rivers Report, *International Rivers*, 18 March 2014, available at: <https://www.internationalrivers.org/china%E2%80%99s-last-rivers-report>

report called for the immediate establishment of ecological redlines for rivers and river protection legislation without which the major rivers are destined for a vicious cycle of energy intensive and high polluting industries including mining and petrochemical processing.

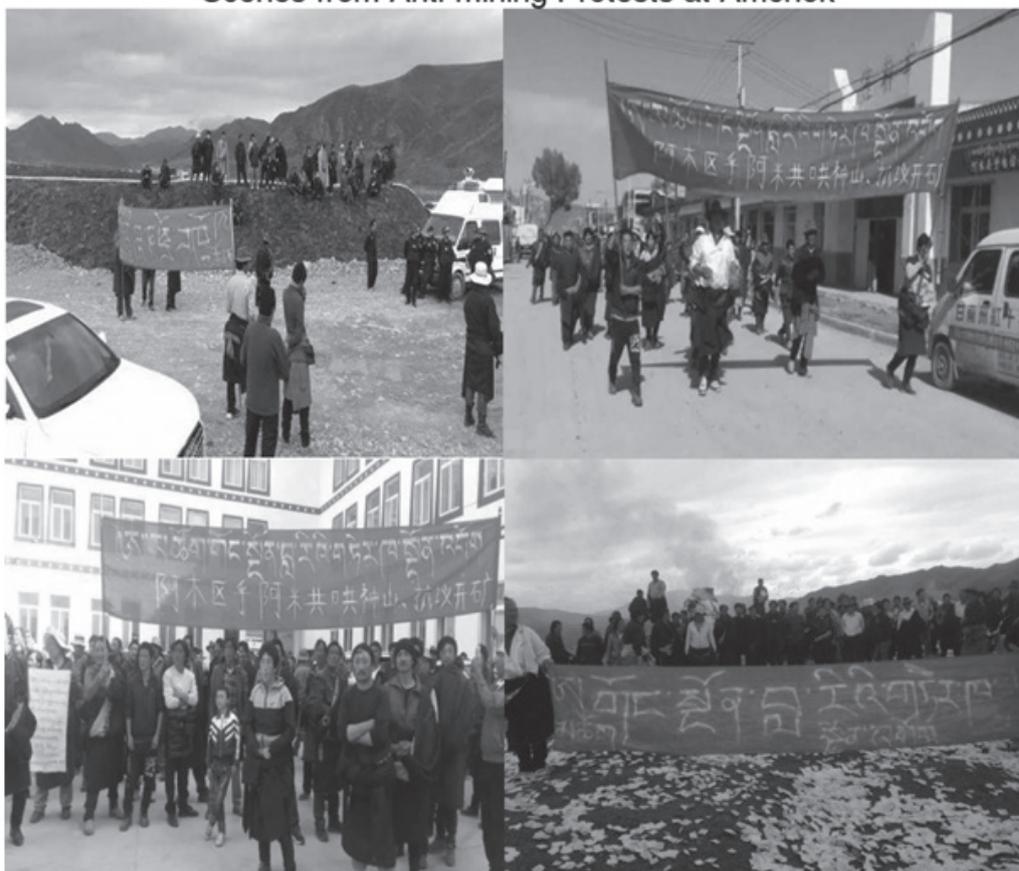
Mining

Tibet's rich water resources along with its mineral resources were one of the primary reasons China invaded and annexed Tibet.³⁹ Tibet has large deposits of copper, gold, iron, lithium, zinc and other minerals. Mining is one of the primary industries to advance the economic development of Tibet under the PRC's Open Up the Great West (*xibu da kaifa*) campaign. Under the campaign, massive infrastructure projects and resource extraction enclaves have displaced and dislocated local Tibetans from their ancestral homes, alienated them from economic opportunities, forced them to live in polluted environs with an uncertain and insecure future. Large-scale resource extraction in Tibet is just beginning as a result of the construction of several railroads and highways that connect Tibet with the rest of the PRC. The numerous hydro dams provide large amounts

of electricity and water needed for mining operations.⁴⁰

Although mining operations in Tibet are increasing as a result of improved infrastructure, it is often still cheaper to buy resources in countries outside the PRC. To stimulate resource exploitation in Tibet and make the price more competitive, the PRC authorities provide incentives for mining companies to operate in Tibet, which often includes exemption from environmental regulations and permission to ignore the welfare of local Tibetans.⁴¹ The impact of large-scale mining on the landscape, environment and traditional Tibetan lifestyle is highly destructive. Where mining has taken place, the land is destroyed for any type of agriculture or animal husbandry. Pollution of water sources and rivers has resulted in villagers becoming sick, rivers becoming polluted

Scenes from Anti-mining Protests at Amchok



39 Gabriel Lafitte, 'Spoiling Tibet: China and Resource Nationalism on the Roof of the World', Zed Books, 2013

40 Ibid.

41 Supra note 41.

Protest against Lithium mining and river water pollution in Lhagang Township, Dartsedo County in May 2016



and livestock killed by drinking polluted water. Mining operations also threaten water availability and food security of local communities. Most mining sites have become small cities populated almost exclusively by Chinese, while local Tibetans receive no economic benefits and bear the costs of the pollution and destruction of their lands.⁴²

Article 26 of the PRC's constitution states that "The state protects and improves the environment in which people live and the ecological environment. It prevents and controls pollution and other public hazards." Article 7 of the PRC's regulation on nature reserves (1994) stipulates that "All units and individuals shall have the obligation to protect the natural environment and resources within nature reserves, and have the right to report on or file charges against units or individuals who have destroyed or seized the nature reserves." Despite these provisions, Tibetans are beaten up, shot at, and imprisoned for protesting environmental degradation and desecration of sacred cultural and spiritual sites, while others are imprisoned for sharing information about these protests.⁴³

⁴² Ibid.

⁴³ *Radio Free Asia*, available at: <http://www.rfa.org/english/news/tibet>

Environmental activists are charged of engaging in separatist activities, and accused of colluding with the "Dalai clique" or "hostile foreign forces".⁴⁴ For Tibetans, mining is particularly distressing because they have a deep spiritual and cultural connection with their environment. Protests often occur when mining takes place at sacred places. Many Tibetan villages regard local mountains as the residences of protector deities.

In May and June 2016 there were several protests by local villagers against a Chinese gold mining project in Amchok Township in Sangchu County.⁴⁵ The mine is located near the sacred Nyenchen Gong-ngon Lari and in 2012 Kunchok Tsering, 18, and Tsering Dhondup, 35, died of self-immolation near the mining site. Another self-immolator, Tsultrim Gyatso, a monk from Amchok Monastery, left behind a note: "Whom should we appeal for the suffering of the six

⁴⁴ Not engaged in anti-mining protests in Tibet: government in exile, *CTA*, 8 June, 2016, available at: <http://tibet.net/2016/06/not-engaged-in-anti-mining-protests-in-tibet-govt-in-exile/>

⁴⁵ TCHRD calls on Chinese government to stop mining at sacred mountain, *TCHRD*, 7 June 2016, available at: <http://tchrd.org/tchrd-calls-on-chinese-government-to-stop-mining-at-sacred-mountain/>

million Tibetans? China's repressive policies took away our precious gold and silver, plunging our people into suffering, thinking of this brings tears in my eyes." The protests were the result of 15 years' of frustrated appeals to local authorities against mining on the mountain. The protests were brutally suppressed by armed paramilitary troops who beat several protesters out of which one required hospitalization.⁴⁶ A government directive denounced the protests as being manipulated by "a few evil people in collusion with anti-China forces" and justified the beating and detention of peaceful protesters.⁴⁷ In March, local Tibetans in Chuchen (Ch: Jinchuan) County also protested against mining on a sacred mountain. But the protest was brutally suppressed by armed police who beat the protesters and detained seven. In May, a group of police officers warned villagers in Chuchen of "serious consequences" if they attempted to revive the protests, and imposed restrictions on the villagers.⁴⁸ In another protest in May, a large group of Tibetans protested the reopening of a lithium mining site by throwing loads of dead fish on the road in Lhagang Township, Kardze Tibetan Autonomous Prefecture, in the Tibetan province of Kham.⁴⁹ During the resumption of mining, the company had dumped toxic waste in the Lung River killing many fish. Following the protest, authorities put a halt to mining operations at Lhagang due to "environmental problems" and in

order to "resolve remaining issues".⁵⁰ The mining site had been closed several times in the past due to environmental problems.

Tourism and Infrastructure

Since the announcement of the Open Up the Great West campaign, infrastructure development has accelerated in Tibet. The growing number of road, rail and air network has facilitated large-scale resource extraction and resulted in a huge influx of tourists. In the 13th FYP the PRC announced the construction of a second railway, which will connect Lhasa with Chengdu. In June 2017 a new ring road of 100 kilometers will be opened which circles Lhasa in less than two hours. According to the plan, the total investments in roads, airports, scenic spots and hotels will reach 100 billion yuan (145 million US dollar) by 2020.⁵¹ The new infrastructure development plan raises a number of environmental concerns. Over 80 percent of the Gormo-Lhasa railway that PRC touts as "an engineering miracle" lies on permafrost at an elevation higher than 4000 meters. Permafrost is frozen ground that remains at or below 0° Celsius for two or more years. Large parts of railways and highways are built on permafrost soil. Since the Tibetan Plateau is warming nearly three times faster than the rest of the earth, this has serious effects on the permafrost foundation, according to report from the Institute of Tibetan Plateau Research under the Chinese Academy of Sciences (CAS). Much of the permafrost on the Tibetan plateau will possibly disappear by the end of the century under the present trend of global warming. Permafrost contains carbon in the form of frozen organic matter. Releasing this carbon, in the form

46 Tibetan Anti-Mine Protesters Assaulted, Beaten in Gansu, *Radio Free Asia*, 6 June 2016, available at: <http://www.rfa.org/english/news/tibet/beaten-06062016153101.html>

47 TCHRD calls on Chinese government to stop mining at sacred mountain, *TCHRD*, 7 June 2016, available at: <http://tchrd.org/tchrd-calls-on-chinese-government-to-stop-mining-at-sacred-mountain/>

48 Tibetans in Ngaba Warned Over Anti-Mine Protests, *Radio Free Asia*, 27 May 2016, available at: <http://www.rfa.org/english/news/tibet/warned-05272016145835.html>

49 Chinese Police Clamp Down on Tibetan Mining Protest, *Voice of America*, 6 May 2016, available at: <http://www.voanews.com/a/chinese-police-clamp-down-tibetan-mining-protest/3319093.html>

50 Temporary halt to mining after protest in eastern Tibet: the rush to invest in Tibet's lithium, *International Campaign for Tibet*, 9 May 2016, available at: <https://www.savetibet.org/temporary-halt-to-mining-after-protest-in-eastern-tibet-the-rush-to-invest-in-tibets-lithium/>

51 Lhasa to be the International tourist cultural city, *China Tibet News*, 14 January 2016, available at: http://english.chinatibetnews.com/ly/lyxw/201601/20160114_1034517.html

of methane, as a result of melting permafrost, could contribute significantly to increased global warming. Moreover, by releasing water and changing the structure of soil, permafrost degradation can result in high-altitude lake floods. This changing structure of the soil can result in soils losing their stability, which in turn could trigger landslides.⁵² Just weeks after the Gormo-Lhasa railway went into operation, Chinese state media reported cracks in the concrete structures as a result of its permafrost foundation sinking and cracking.⁵³

With the expanding infrastructure network, tourism in Tibet is rapidly expanding and becoming a lucrative industry. Both state-owned and foreign companies are making huge investments in the tourism industry in Tibet. In TAR, tourist visits are often concentrated in specific locations like Lhasa or during special events. According to a 2016 government report, TAR received a record of 20 million tourists in 2015, which accounted for 27 percent to the region's GDP. Over the last five years, TAR tourism industry experienced an average annual growth of 23 percent.⁵⁴ More than 98 percent of the visiting tourists were Chinese, while foreigners were less than two percent.⁵⁵ But media investigations revealed that government figures on tourism are inflated to meet party targets and that eight million is a more plausible figure.⁵⁶ Still this number is greater than the total

population of TAR, which stands little over three million. A large majority of tourists visiting Tibet is Chinese making Tibet a popular destination for mass tourism among the wealthy Chinese tourists from the PRC's coastal cities.⁵⁷

Although tourism has the potential to contribute to sustainable development and poverty alleviation, Tibetans have not benefited from the tourism boom reported by PRC authorities. Migrant Chinese workers fill the majority of the jobs in the tourist industry because Chinese tourists prefer their services. Often Tibetans are evicted from their houses to build tourist infrastructure or hotels. In October 2016, Tibetans in Nubsur Township in Serthar County were evicted to make way for a new tourist complex. A minimum compensation was paid while those who refused were forced out.⁵⁸ The influx of Chinese tourists often pushes Tibetans to the sidelines, reducing them to mere tourist attractions. The expanding tourism industry combined with accelerated infrastructure development dominated by state-owned companies and their cronies has caused displacement and dispossession among local Tibetans.

In June 2016, hundreds of police officers accompanied by heavy machinery tore down shops, restaurants, and private homes near the path circling scenic Qinghai Lake in Chabcha County.⁵⁹ The structures, built by former nomads, were financed by the sale of livestock and bank loans. The local officials deemed the shops and houses illegal and more than 600 structures were

52 Jayalashmi. K (2015), Permafrost in Tibetan Plateau can be wiped out by temperature rise, *International Business Times*, 20 November 2016, available at: <http://www.ibtimes.co.uk/permafrost-tibetan-plateau-can-be-wiped-out-by-temperature-rise-1529647>

53 Plans for second railway across Tibet confirmed: likely to have even greater impact, *International Campaign for Tibet*, 14 March 2016, available at: <https://www.savetibet.org/plans-for-second-railway-across-tibet-confirmed-likely-to-have-even-greater-impact/>

54 Paldne Nyima (2016), Tourism helps alleviate poverty in Tibet, *China Daily*, 13 September 2016, available at: http://www.chinadaily.com.cn/china/2016-09/13/content_26778921.htm

55 G.Latiffe (2013). Spoiling Tibet.

56 [Simon Denyer](#) and Congcong Zhang (2016) China's Tibet tourism statistics just don't add up, *The Washington Post*, 6 October 2016, available at:

https://www.washingtonpost.com/news/worldviews/wp/2016/10/06/tibettourism/?utm_term=.a7d1ee561b8a

57 Inventing Mass Tourism to Tibet, *Rukor*, 30 July 2016, available at: <http://rukor.org/inventing-mass-chinese-tourism-to-tibet/>

58 Tibetan evicted from their own land for Chinese tourist complex, *Tibetan Review*, 18 August 2016, available at: <http://www.tibetanreview.net/tibetans-evicted-from-their-land-for-chinese-tourist-complex/>

59 Tibetan Homes, Shops are torn down by Police near Qinghai Lake, *Radio Free Asia*, 01 June 2016, available at: <http://www.rfa.org/english/news/tibet/lake-06012016135614.html>

demolished, most of them belonging to Tibetans. In the ensuing protest, five people were detained and eight seriously injured.⁶⁰ In July 2016, Chinese officials were found confiscating land at a low price from local Tibetans for re-sale at a profit to Chinese developers in Riwoche (Ch: Leiwuqi) County. Those who refused to sell were threatened with imprisonment.⁶¹ Local Tibetans were told that the land belongs to local government and the ruling Chinese Communist Party.

Depopulating Grasslands

The Tibetan plateau is covered with 1.65 million square km of grassland that contains diverse vegetation from desert steppe in the west to moist alpine meadow in the east. It is the birth ground of major Asian rivers and is home to a unique collection of flora and fauna with many rare and endemic species. The ecological functions of the grasslands include the storage of water, soil, and carbon, maintaining biodiversity and ensuring the stability of seasonally frozen soil. The nomadic livestock management system is an important way to maintain both the natural environment and secure the livelihood of the nomads.

With little historical experience in environmental management of the Tibetan plateau, Chinese legislators have dictated a grassland policy that will have major environmental and social consequences. By classifying the historical residents of the land as the very threat to its preservation the PRC is justifying forced displacement of Tibetan nomads.⁶² PRC's model is exclusionary, a policy

based on an either/or logic, in which land may be used either for grazing or for conservation, not both.⁶³ Creation of conservation areas is one component of the widespread appropriation of land, natural resources and social control. Suddenly, activities that had for centuries been vital to nomadic livelihoods such as grazing of livestock, collecting firewood and hunting became 'illegal' in certain areas.⁶⁴

Chinese authorities maintain that the implementation of its nomadic resettlement policy improves living conditions, eases access to government social services, alleviates poverty, protects the Tibetan ecosystem and that all resettlement is voluntary. Resettled and relocated nomads are referred to as "ecological migrants" (*shengtai yimin*), a misnomer that suggests that their loss of land and livelihood is voluntary, done for the greater good of China, in order to rehabilitate degraded Tibetan grasslands or make way for development projects. Being made to leave their land compromises all the collective economic and social rights of the Tibetan nomads, specifically their rights to food security, land tenure and access to a sustainable traditional livelihood. The civil and political rights of individuals are transgressed by the compulsory nature of the displacement, the official insistence on tearing up government guarantees of land tenure, and the impermissibility of protest or free expression of opposition.⁶⁵ The depopulation of Tibetan grasslands also threatens the survival of traditional lifestyle and pastoral culture.⁶⁶

In 1990, the number of protected areas in TAR accounted for around four percent. In 2012 this number had increased to around 33 percent. By

60 Police Attack, Beat Tibetan protesters at Qinghai Lake, *Radio Free Asia*, 23 June 2016, available at: <http://www.rfa.org/english/news/tibet/attack-06232016164347.html>

61 County Officials in Tibet Seize Land, Sell at a Profit to Developers, *Radio Free Asia*, 07 July 2016, available at: <http://www.rfa.org/english/news/tibet/land-07072016145422.html?searchterm:utf8:ustring=riwoche>

62 David Himmelfarb (2005) 'Moving People, Moving Boundaries: The Socio-economic Effects of Protectionist Conservation, Involuntary Resettlement and Tenure

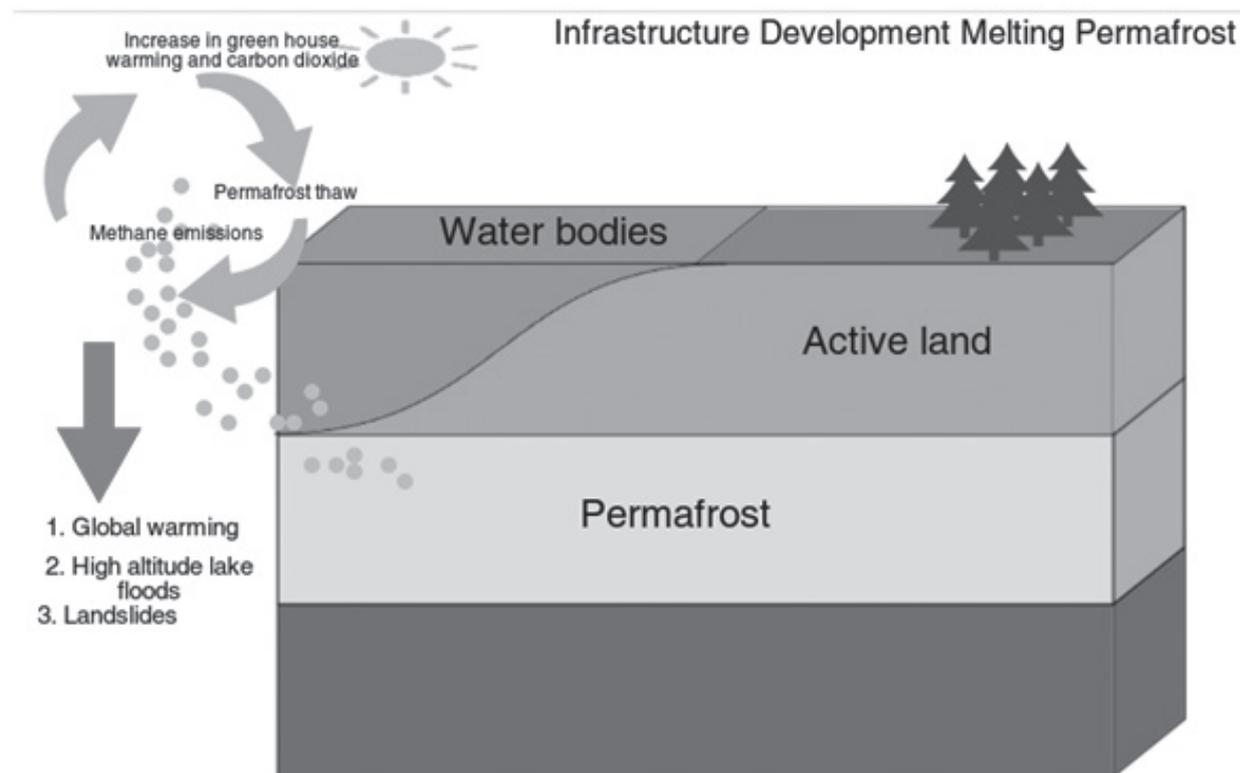
Insecurity on the Edge of Mt. Elgon National Park, Uganda' University of Georgia.

63 wasted lives.

64 ibid.

65 Gabriel Lafitte, Protection of Destitution, *Rukor.org*, 11 November 2014, available at: <http://rukor.org/protection-or-destitution/>

66 A review on China's rangeland policies. IIED country report .



then, there were 60 nature reserves with a total size of 158,300 square kilometers. Scores of Tibetan nomads were removed from these areas in the name of environmental protection.⁶⁷ It is estimated that since the 1990's more than two million nomads have been resettled in Tibet. According Chinese government figures in 2012, 1,062,436 households were registered as wholly or partly pastoral in the provinces of Sichuan, TAR, Gansu and Qinghai. Of these households, 897,424 households were resettled in 'new socialist villages' in 2013. The percentage of pastoral households resettled under the 'ecological migration' policy was 87.1 percent in Sichuan, 37.5 in TAR, 79.6 in Gansu, and 86.9 percent in Qinghai. However, the statistics for Sichuan, Gansu and Qinghai also include semi pastoral households of other ethnicities than Tibetan.⁶⁸

⁶⁷ E. Yeh (2013). The politics of conservation in contemporary rural China.

⁶⁸ TCHRD Report (2015). Wasted Lives. A Critical Analysis of China's Campaign to End Tibetan Pastoral Lifeways, available at: <http://www.tchrd.org/wp-content/uploads/2015/05/Download-Report.pdf>

Development and Environment

On 1 December 2016, the PRC issued a white paper "The Right to Development: China's Philosophy, Practice and Contribution" that expounded human rights in aspirational terms and rejected the universality and indivisibility of human rights. It prioritized 'right to development' as a precondition for enjoyment of civil and political rights by stating that economic development is the top priority for the PRC and the key to resolving all other problems.⁶⁹ This clearly contradicts with the intended meaning of the UN Declaration on the Right to Development which asserts in Article 1.1: "The right to development is an inalienable human right by which every human being and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized." Furthermore, Article 1.2 emphasises the importance of self-determination in exercising

⁶⁹ China issues white paper on right to development, *The state council The people's republic of China*, 1 December 2016, available at: http://english.gov.cn/news/top-news/2016/12/01/content_281475505235360.htm

the right to development: “The human right to development also implies the full realization of the right of peoples to self-determination, which includes the exercise of their inalienable right to full sovereignty over all their natural wealth and resources.”

The 1992 Rio Declaration on Environment and Development affirms the UN Declaration on Right to Development and builds upon the basic ideas concerning the attitudes of individuals and nations towards the environment and development, first identified at the UN Conference on the Human Environment (1972).⁷⁰ The Rio Declaration identifies the three integral and mutually reinforcing pillars of sustainable development as economic prosperity, social equity and environmental protection. Principle 4 of the Declaration states that “in order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.” Principle 17 stresses the importance of environmental impact assessment “as a national instrument” to be “undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority.” In particular, Principle 23 calls for the protection of the environment and natural resources of “people under oppression, domination and occupation.” Principle 25 states that “peace, development and environmental protection are interdependent and indivisible.”

The 1997 UN Comprehensive Human Rights Guidelines on Development-Based Displacement⁷¹

70 The Rio Declaration on Environment and Development, *United Nations Environment Program*, available at: <http://www.unep.org/documents.multilingual/default.asp?documentid=78&articleid=1163>

71 United Nations (UN) (1997) ‘Comprehensive Human Rights Guidelines on Development-Based Displacement’, *The Practice of Forced Evictions: United Nations Comprehensive Human Rights Guidelines on Development-Based Displacement*, Geneva, Switzerland, 11-13 June 1997.

represent an important framework that protect the human rights of those communities and individuals who have been moved from their land by the state. In 2007, the Special Rapporteur on adequate housing presented the Human Rights Council with a set of Basic Principles and Guidelines on Development-Based Evictions and Displacement. It aims to assist states in developing domestic legislations and policies to prevent forced evictions and provide effective remedies should prevention fail.⁷² Additionally these guidelines provide a deeper understanding on the cost of displacement. The guidelines highlight the obligations of states in respect to their compliance with existing international human rights standards. Development practices covered in these guidelines include evictions often prepared or conducted under the auspices of being ‘in the public good’. These include, among others, infrastructure projects such as dams, large-scale industrial or energy projects and extractive industries like mining; land-acquisition measures that are associated with environmental protection; agricultural purposes; urban renewal and housing renovation. Invariably, forced evictions intensify social conflict and inequality, affecting the poorest and most vulnerable sectors of society. States are duty bound to refrain from and protect against forced evictions from homes and land. This obligation arises from many international treaties, decisions, judgements and other texts that have recognised and reaffirmed the wide range of human rights violations that are breached when forced evictions are carried out. Included in these are the UDHR, the Convention on the Rights of the Child (Art. 27, Para. 3), the International Covenant on Economic, Social and Cultural Rights (Art. 11, Para. 1), the Convention on the Elimination of All Forms of Discrimination against Women (Article 14, Para. 2: h) and the

72 United Nations (UN) (2007), ‘Basic Principles and Guidelines on Development-Based Evictions and Displacement’, A/ HRC/4/18,

United Nations (UN) (2007), ‘Basic Principles and Guidelines on Development-Based Evictions and Displacement’, A/ HRC/4/18,

International Convention on the Elimination of All Forms of Racial Discrimination (Article 5: e).

The PRC has signed and ratified several international human rights treaties and covenants. Domestically, the growing reach of the party-state, and its intensifying exclusionary policies can be tracked through the multiple laws and edicts ostensibly to protect the environment. For instance, the regulation and management concerning energy conservation and environmental protection consists of 32 laws, 48 administrative regulations, 85 departmental rules of the State Council, and 14,257 government agencies involved in environmental protection at all levels.⁷³ The party is set above all other legislative bodies and is the only institution that makes and interprets laws. Implementing and monitoring are mostly done on a regional and local level, which increases the risk of competing interests and corruption.⁷⁴

The Environmental Protection Law (EPL) was implemented in the PRC in 1989. The revised EPL took effect on 1 January 2015, and contains important changes that update The PRC's environmental legal regime and provide a stronger legal basis for public participation in environmental public interest lawsuits. Under the new law, government authorities and NGOs may now file a public interest lawsuit even if they have no direct interest in the suit. Under Article 63 of the revised EPL, individuals who commit noncriminal environmental offenses can also be punished with up to 15 days of administrative detention.⁷⁵ It appeared that at least in mainland

China, authorities were allowing the public to make use of the new provisions. In October 2015, in the first case filed under the revised EPL, the Nanping Intermediate People's Court in Nanping municipality, Fujian province, issued a 1.46 million yuan (230,000 US dollar) verdict against a mining company for the illegally dumping of waste material. The lawsuit was brought by the environmental non-governmental organizations (NGOs) Friends of Nature and Fujian Green Home. In January 2016, the Supreme People's Court upheld a judgment greater than 160 million yuan (26 million US dollar) in water pollution litigation brought by the Taizhou City Environmental Protection Association, a government-organized NGO, against six chemical companies in Taizhou municipality, Jiangsu province.⁷⁶ In September 2016, the PRC introduced the revised Environmental Impact Assessment Law. The amendments to the EIA law did not do much to introduce new changes save for one notable exception: the administrative requirements for EIAs have been weakened. The previous version required an EIA to be obtained before other construction permits could be processed. The revised version no longer holds EIAs to be a prerequisite for other approvals to be obtained.⁷⁷ The revised law also provides for increased penalties for violators. Before the revision, the enterprises that carried out construction before receiving approval would be fined no more than 200 thousand Yuan (28.778 US dollar). The amendment substantially increases the fines that make violations extremely costly. The construction projects will now be charged 1% to 5% of their total investment quota, depending on the degree of violation and damages.⁷⁸

73 The right to development: China's philosophy, practise and contribution, *Xinhua*, 1 December 2016, available at: http://news.xinhuanet.com/english/china/2016-12/01/c_135873721.htm

74 TCHRD (2015). Rule by Law. Special report on the Rule of Law With Chinese Characteristics, available at: <http://tchrd.org/new-report-critiques-rule-of-law-with-chinese-characteristics-amid-increased-crackdown-on-civil-society-in-china/>

75 Congressional Executive Commission on China. Annual report 2016. <https://www.cecc.gov/sites/chinacommission.house.gov/files/2016%20Annual%20Report.pdf>

76 Ibid.

77 Zhang Chun, Has China's impact assessment law lost its teeth? *China Dialogue*, 20 July 2016, available at: <https://www.chinadialogue.net/blog/9122-Has-China-s-impact-assessment-law-lost-its-teeth/en>

78 Amendment passed to China's Environmental Impact Assessment Law, *China Development Brief*, 21 July 2016, available at: <http://chinadevelopmentbrief.cn/news/amendment-passed-to-chinas-environmental-impact-assessment-law/>

The problem with PRC is that it has too many laws that it either does not implement or implement in a way that benefits the interests of the state and not the citizens. Without creating an enabling environment for citizens and civil societies to exercise their civil and political rights, no amount of legislation will bring positive changes to the status quo. More importantly, protecting the environment in Tibet requires a careful overhaul of the PRC's current economic development model. The Open Up the Great West campaign, *xibu da kaifa*, has wreaked havoc on the lives of Tibetans and their environment. From the outset *xibu da kaifa* was announced as a long-term goal, which would take decades to accomplish. It has many aspects, many projects, all of which emplace infrastructure for integrating remote areas into the Chinese, and thus the global economy, usually as a base of extraction for industries elsewhere and ultimately for global markets. The thrust of *xibu da kaifa* is productivist, imagining Tibet and other regions located in western PRC primarily as a source of oil, gas, coal, copper, gold, silver and many other minerals; but also water, as in the official slogan that “Tibet is China’s Number One Water Tower.”⁷⁹

Tibetan Spiritscapes are Sacred Natural Sites

In 2016 the PRC nominated the Hoh Xil (Kekexili) nature reserve, home to the endangered Tibetan antelope or *chiru*, to become a UNESCO World Heritage Natural Property. Located in Drito (Ch: Zhidoi) County in Yulshul Tibetan Autonomous Prefecture, Hoh Xil comprises only a part of the vast swathes of nature reserves created across the Tibetan Plateau. The Hoh Xil nature reserve together with Changthang and Sanjiangyuan nature reserves form the entire contiguous range of birthing and feeding grounds for the *chiru*. The

PRC claims that the nomination is done for the protection of *chiru* but the UNESCO proposal constitutes an area of 77,000 square kilometers including Hoh Xil’s 45,000 square kilometers and also 32,000 square kilometers of Sanjiangyuan nature reserve.⁸⁰ Experts fear that after getting the UNESCO nod in July 2017, the PRC will use Hoh Xil for mass safari tourism to cater to the increasing number of domestic and international tourists.⁸¹ Among the three interlocked nature reserves, only Hoh Xil has the tourist infrastructure in the form of a railway, highway and 250-km long infrastructure-engineering corridor with four newly built, unused stations. The PRC promotes Hoh Xil as uninhabited land devoid of human presence.⁸² The fact is the Hoh Xil and Sanjiangyuan drylands are Tibetan production landscapes populated by Tibetan nomads who have made a living off the land with their herds of yaks, sheep and goats for thousands of years.

The PRC created vast bands of nature reserves without any consultation with and participation from the local population in the planning and management of these reserves. The PRC envisages protected wilderness areas without any human presence by excluding local population. Traditional knowledge of local Tibetans on environment and sustainable management of resources is not recognized. However, there exists a remarkable overlap between official nature reserves and sacred sites within Tibet. Conservation International estimated that around 25 percent of the Tibetan Plateau – 567000 square kilometers – consists

80 Gabriel Lafitte, IN THE “NO-MAN’S LAND” OF TIBET: EVALUATING CHINA’S NOMINATION OF HOH XIL NATURE RESERVE TO BECOME A UNESCO WORLD HERITAGE NATURAL PROPERTY, *Rukor.org*, 18 October 2016, available at: <http://rukor.org/in-the-no-mans-land-of-tibet/>

81 Gabriel Lafitte, SAVING CHIRU ANTELOPES OF “NO-MAN’S LAND”, *Rukor.org*, 18 October 2016, available at: <http://rukor.org/saving-chiru-antelopes-of-no-mans-land/>

82 Kekexili nature reserve to apply for world heritage status, *Global Times*, 22 July 2016, available at: <http://gbtimes.com/china/kekexili-nature-reserve-apply-world-heritage-status>

79 Wasted Lives, A critical analysis of China’s campaign to end Tibetan pastoral lifeways, *TCHRD*, available at: <http://www.tchrd.org/wp-content/uploads/2015/05/Download-Report.pdf>

of sacred lands.⁸³ The World Wide Fund for Nature concluded that sacred sites are probably the oldest method of environmental protection on the planet. These sites can play a critical role in ecological conservation in and around government-protected areas.⁸⁴

For Tibetans, sacred sites are the home of local deities and nature spirits. Sacred sites have several forms including sacred mountains, lakes, relics, forbidden areas and pilgrimage routes. They are based on the local belief systems that value land and all sentient beings. Protecting the deities and respecting all forms of life is believed to benefit the well being of the community. Historically, Tibetan nomads and farmers base their cultural identity on the honouring of their *yul-lha* (territorial divinity) and *gzhi-bdag* (numina) that inhabit much of the sacred sites.⁸⁵ The protection of sacred sites mainly depends upon local social mechanisms that are rooted in the traditional Tibetan worldview and cultural values. This belief is a strong spiritual motivation for a self-disciplined protection system that is performed through local institutions. This results in a strong local participation in the conservation and preservation of sacred sites.⁸⁶

Protecting sacred sites and involving local Tibetans in their management can help transform the current “paper” parks into genuine protected areas with global significance for biodiversity and environment. Recognizing and involving traditional knowledge and practices of sacred

site protection will promote both biodiversity conservation and community development. It is increasingly recognized that biological and cultural diversities are mutually reinforcing and interdependent. Together, these hold the critical key to ensuring strength in both social and ecological systems. Tibetan sacred sites should be incorporated in state conservation efforts, and local communities should be empowered to participate in protecting and managing their sacred sites.

The protection of sacred sites is a human right identified in the 2007 UN Declaration on the Rights of Indigenous Peoples (UNDRIP).⁸⁷ In particular, Article 12 of the Declaration provides significant political leverage for developing appropriate policies for the protection and recognition of sacred natural sites at the national level.⁸⁸ It states that “indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.”⁸⁹ Article 25 provides that “indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.” Furthermore, Article 34 states, “Indigenous Peoples have the right to promote, develop and maintain their institutional structures and their distinctive

83 X. Shen et al. (2012) Tibetan Sacred Sites: Understanding the Traditional Management System and Its Role in Modern Conservation.

84 Beyond belief: Linking faiths and protected areas to support biodiversity conservation, *World Wide Fund for Nature* (2005), available at: <http://www.arcworld.org/downloads/WWF%20Beyond%20Belief.pdf>

85 Studley J. and Awang Jikmed (2016), Creating new discursive terrain for the custodians of the Tibetan spiritscape in North West Yunnan. In Bas Verschuuren and Naoya Furuta (Eds.), *Asian Sacred Natural Sites Philosophy and practice in protected areas and conservation*. Francis and Taylor Ebooks.

86 International Union for Conservation of Nature. *Guidelines for Sacred Natural Sites*.

87 Indigenous is used in the sense of being native or belonging to a place. For more see, Verschuuren, B., Wild, R., McNeely, J. A. & Oviedo, G. (eds.) *Sacred Natural Sites: Conserving Nature and Culture* (2010) Earthscan.

88 Verschuuren, B., Wild, R., McNeely, J. A. & Oviedo, G. (eds.) *Sacred Natural Sites: Conserving Nature and Culture* (2010) Earthscan.

89 UN Declaration on the Rights of Indigenous Peoples, available at: http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards. Article 13 of the of International Labour Organisation's Convention No. 169 highlights the responsibility of governments to "respect the special importance for the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories, or both as applicable, which they occupy or otherwise use, and in particular the collective aspects of this relationship."⁹⁰ Article 27 of the UDHR provides that "everyone has the right to freely participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits."⁹¹ Article 18 of the ICCPR guarantees everyone the right to freedom of thought, conscience and religion, which include "freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching."⁹² For persons belonging to "ethnic, religious or linguistic minorities", Article 27 of the ICCPR guarantees "the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language. "Article 1 of the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities states that "states shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall

encourage conditions for the promotion of that identity." Establishing a World Heritage property solely for wildlife conservation, adventure tourism and infrastructure engineering corridors violates human rights of the local Tibetans who will be displaced, demobilised and excluded, in the name of conservation.⁹³

90 C169 - Indigenous and Tribal Peoples Convention, 1989 (No. 169), Convention concerning Indigenous and Tribal Peoples in Independent Countries, *International Labour Organisation*, available at http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169

91 Universal Declaration of human rights, *United Nations*, available at: <http://www.un.org/en/universal-declaration-human-rights/>

92 International convention on Civil and Political rights, available at: <http://www.ohchr.org/Documents/ProfessionalInterest/ccpr.pdf>

93 Supra note 84.

TIBETAN POLITICAL PRISONERS DATABASE

The Tibetan Political Prisoner Database (TPPD) aims to monitor and document human rights violations committed by the Chinese authorities in Tibet. The database contains verified and updated information on Tibetan victims of human rights abuses. All of them have been detained under vague laws that criminalized the exercise of human rights. Tibetan detainees are routinely subjected to arbitrary arrests and detention, torture, enforced disappearances, extrajudicial killings, unfair sentencing and denied due legal process.

Since 1991, the Tibetan Centre for Human Rights and Democracy (TCHRD) has documented more than 5000 cases of known arbitrary arrests and detention. This number is just a fraction of the actual figures due to extreme restrictions on information in Tibet. Tibetans sharing information about protests and subsequent crackdowns are routinely intimidated and silenced through torture and imprisonment.

The documentation process includes collecting information from primary sources (from Tibet and from relatives of victims in exile) and secondary information from different media agencies disseminating information on human rights violations in Tibet. Human rights violations documented by different organizations such as the Congressional Executive Commission on China (CECC) and the International Campaign for Tibet (ICT) demonstrate the egregious human rights conditions in Tibet. Every year since 1991 an average of 194 known Tibetans have been

detained in Tibet. Due to extreme clampdown on information and use of collective punishment, the number of average detention witnessed a minor decline in the last two years (2015 and 2016) but the number was still high at 70. The average monthly breakdown for 2015 was approximately nine per month and in 2016, the number stood at 3.27 persons per month.

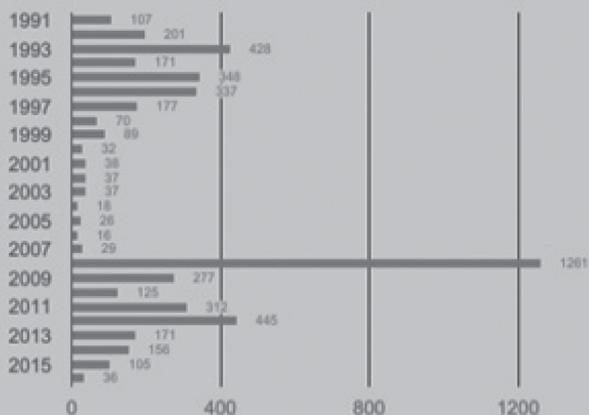
TCHRD believes that exposing human rights violations and repression in Tibet will not only help Tibetans but millions of other subjugated peoples living under the tyranny of the Chinese Communist Party. Human rights advocates all over the world should work together to stop the party state from committing further violations through its colonial policies and practices.

New Searchable, Exportable Database

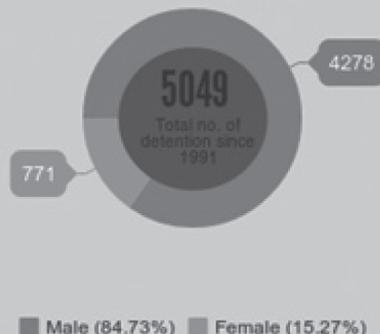
TCHRD has been documenting and recording data on political prisoners in Tibet since the inception of this center in 1996. Since 2016, TCHRD has taken a step forward in upgrading the list of political prisoners into a full-fledged database with new features that would enable a user to conduct customized searches and export data for further research purposes. The amount of information documented in relation to specific cases of detainees has been expanded to include other aspects and facets of human rights violations, thus providing a more comprehensive picture on

BREAKDOWN OF DETENTION IN TIBET FROM 1991 TO 2016

Detention per year since 1991



Gender Breakdown of Detainees since 1991



The highest number of detention was recorded during the 2008 uprising

Mapping of Detention Across Tibet



In the past majority of detainees had been monastics. In recent years, more laypersons of both genders, from various ages and occupations have been recorded. The nature of protests is changing from group demonstrations to self-immolation and solo protests.

TAR has greatest number of detainees between 2500 and 3000. Information coming out of TAR has greatly reduced due to extreme restrictions.

Tibetan areas of Kham and Amdo in Sichuan have the second highest number of detainees between 1000 and 2500.

Parts of Kham and Amdo in Qinghai ranked third with detention recorded between 500 and 1000.

Number of detainees recorded in Amdo areas in Gansu ranged between 100 and 500 while Kham areas in Yunnan has between 0 and 100 known detainees.

the scale and extent of political detentions and related violations in Tibet.

The PRC's relentless political detentions including extrajudicial killings and torture-related deaths in Tibet has steadily undermined the major international declarations and covenants such as the UDHR, the ICCPR, and the ICESCR, which are together considered the International Bill of Human Rights. Tibetans are arbitrarily and illegally detained for inordinate periods without charging them with crimes and without informing the public and their families of their whereabouts. While in detention, they are routinely subjected to beatings, endemic torture, and other inhumane treatment.

According to the Chinese Prison Law¹, if a person is apprehended, he or she should not be detained for more than six months and family members must be immediately informed of their arrest or detention. Chinese Criminal Law Article 83 requires public security organs to inform the family of a person who has been taken into custody within 24 hours of his or her being taken into custody. However, revisions to the law introduced in 2013 also gives the public security organs enormous powers to detain persons incommunicado for as long as six months if he or she is suspected of committing crimes of endangering state security (ESS), a category of criminal offenses that Chinese authorities have used to punish criticism and dissent in Tibet.² This amendment has legalized enforced disappearances and the victims are mostly Tibetans and Uyghurs who are usually charged with these crimes even when their activities have nothing to do with inciting separatism or other national security crimes. Without any evidence, many Tibetans are routinely charged of separatism, espionage and sharing state secrets, which enables

the police and state security agents to subject them to torture and other inhumane treatment in prolonged secret detention.

Limitation

Over the years, the PRC has introduced new policies and practices to censor and tightly control information it wants to hide from the international community. In addition, its sheer avoidance of cooperation with international investigatory bodies, the stringent communication blockade, and the violation of privacy rights and censorship have made it all the more hard to access complete information from inside Tibet. What this report portrays cannot be considered as a complete picture of Chinese human rights violations in Tibet and elsewhere because the list of political prisoners is just a fraction of the actual number of detained prisoners.

With regard to trends and forms of resistance by Tibetans, Chinese authorities have similarly intensified control and surveillance at the grassroots level, particularly in the rural areas of the TAR and other parts of Tibet. The influx of Chinese cadres and paramilitary troops tasked with implementing mass surveillance policy in both lay and monastic communities has made it even harder for human rights monitoring agencies like ours to obtain information from Tibet.

Despite the challenges, TCHRD has managed to record a significant number of detention cases in Tibet. But there are legitimate grounds to fear that there are still a large number of political prisoners across Tibet whose news of arrest, detention, and sentencing has not been able to reach the outside world.

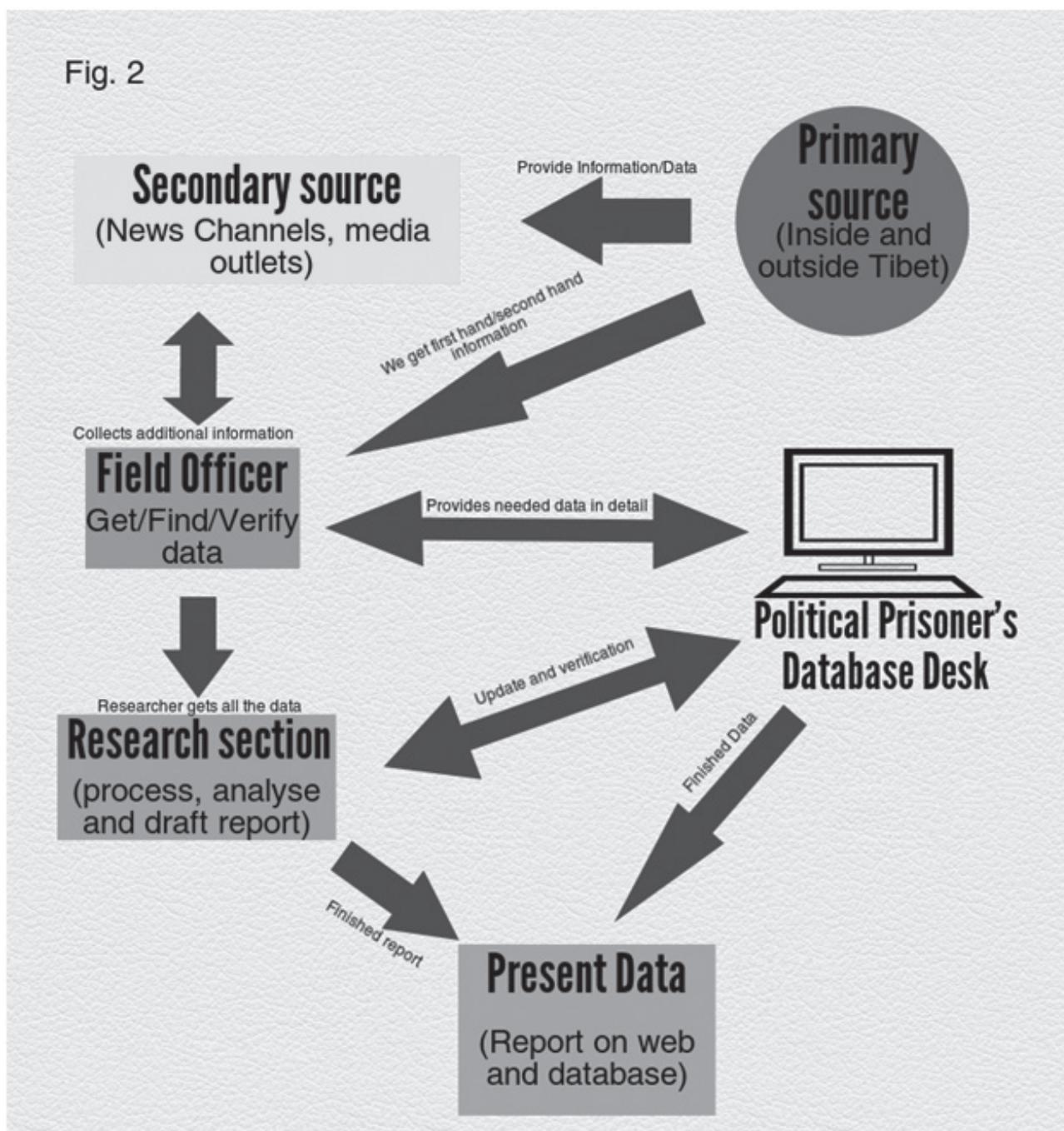
Methodology

TCHRD's team of researchers particularly the database desk staff conducts necessary verifications and fact checking with different sources before

1 Prison Law of the People's Republic of China available at: http://www.npc.gov.cn/englishnpc/Law/2007-12/12/content_1383784.htm

2 Annual Report (2016), *Congressional Executive Commission on China*, available at: <http://www.cecc.gov/publications/annual-reports/2016-annual-report>

Fig. 2



documenting specific cases of human rights abuses in its database.

As shown in Fig. 2, TCHRD's field officer is exclusively responsible for interviewing and collecting testimonies from primary sources, monitoring of media and other secondary sources, before conducting in depth investigation and verification of the data and information collected. The second step is to document the data in our database and followed by drafting of data analyses

by researchers and database staff by looking at the pattern of the information gathered before finally embarking on the editing and dissemination of the data and information in the form of news, annual, and thematic reports.

Self-immolation

Thupten Ngodup was the first Tibetan to stage self-immolation as a form of political protest on 27 April 1998 in New Delhi, India. A total of

154 known Tibetans both inside and outside of Tibet have followed him since then. Out of which 146 occurred inside Tibet and eight outside Tibet. Kalsang Wangdu and Dorjee Tsering became the first Tibetans to commit self-immolation in 2016.³ Toward the end of 2016, Tashi Rabten⁴ died of self-immolation on 8 December, two days before the Human Rights Day. Most self-immolators have called for ‘freedom’ and ‘return of the Dalai Lama to Tibet’. Contrary to PRC propaganda, the root causes of self-immolation and other protests by Tibetans inside Tibet stem from a wide range of factors such as violent political repression, forced cultural assimilation, economic marginalization, racial discrimination, nomadic displacement and environmental destruction.⁵

The implementation of stringent measures to deter self-immolation such as the deprivation of political rights for the self-immolator’s family, fining the entire village, denying welfare subsidies or imposing harsh crackdowns has caused a significant decline in self-immolation protests. Chinese authorities routinely respond to immolations with information blackouts, heightened security, and increased surveillance.⁶ The fate of the self-immolators largely remains known. Many of them die on the spot or they die days after the act but those who survive have to go through a great ordeal; they are detained while

they are on treatment and after mild recovery sent to detention centers or prisons. Of the 146 self-immolations in Tibet, only 18 are known to have survived. Many of the survivors are imprisoned on charges of endangering public security, which carries the penalty of prison terms ranging from three to 10 years. In March 2016, a monk named Samdup, who was 16 when he committed self-immolation, was released after serving three years in prison.⁷ In September 2016, Tapey, the monk who became the first Tibetan to self-immolate in Tibet, was found imprisoned at Mianyang Prison. The news of Tapey’s imprisonment was the first since his detention following his self-immolation in 2009.⁸

Consequences of Detention

This section highlights the impact of detention on the Tibetan political prisoners. When a Tibetan is apprehended on alleged grounds of ‘suspicion’, the person is normally subjected to harsh beatings, if she/he doesn’t abide by the Chinese authorities’ will. Most of the prisoners suffer from intimidation, harassment, and torture during interrogation. As a result, they succumb to chronic health conditions and sometimes die inside detention centers from torture. The cases of Trulku Tenzin Delek Rinpoche and Jigme Gyatso aka Golok Jigme suffice to bring to one’s attention the plight and agony that a Tibetan political prisoner has to endure while in detention and prison. Rinpoche died in detention from torture in 2015 and Golok Jigme managed to flee Tibet in 2014. This year their testimonies were heard at the Human Rights Sub-committee of the European Parliament.⁹ Golok Jigme was present to testify his ordeal whereas Nyima Lhamo, niece of Rinpoche testified on behalf of her uncle.

3 “Two Tibetan youths stage self-immolation protests in Tibet and India”, *TCHRD*, 03/03/2016, available at: <http://tchrd.org/two-tibetan-youths-stage-self-immolation-protests-in-tibet-and-india/>

4 “Tibetan man dies of self-immolation protest, family members detained for demanding return of body”, *TCHRD*, 009/12/2016, available at: <http://tchrd.org/tibetan-man-dies-of-self-immolation-protest-family-demand-police-to-return-body/>

5 Why Tibet is Burning? *Tibet Policy Institute*, 2013, available at: <http://tibet.net/wp-content/uploads/2013/05/TPI-BOOK.pdf>

6 English translation of guideline to the act of self-immolation by the Chinese authorities by duihuahr “Those Who Incite Self-Immolations Must be Severely Punished Under the Law” published by the Gannan Daily-2012, available at: <http://www.duihuahrjournal.org/2012/12/china-outlines-criminal-punishments-for.html>

7 <http://www.phayul.com/news/article.aspx?id=37316>

8 <http://www.phayul.com/news/article.aspx?id=38025>

9 Tenzin Delek Rinpoche’s Niece Testifies before European Parliament, *tibet.net*, available at: <http://tibet.net/2016/11/nyima-lhamo-testifies-before-human-rights-subcommittee-of-european-parliament/>

Excerpts from Golok Jigme's testimony:

“Once, they hung me forward with my back against the chair. Both my ankles were shackled below the chair’s seat and wrists shackled on the chair’s small metal table. My feet were not touching the floor. It was like hanging on the chair. The weight of my whole body was borne by my shackled ankles and wrists. This made me feel that my chest was going to split into two and all my intestines were going to fall onto the floor. I became very dizzy and could not see properly.”

“The pain the chair caused when they hung me was too extreme to feel any of the pain caused by the metal sticks or the kicking. When they gave me electric shocks, I could feel nothing. I could only smell the burning of my own flesh.”

Legal Representation

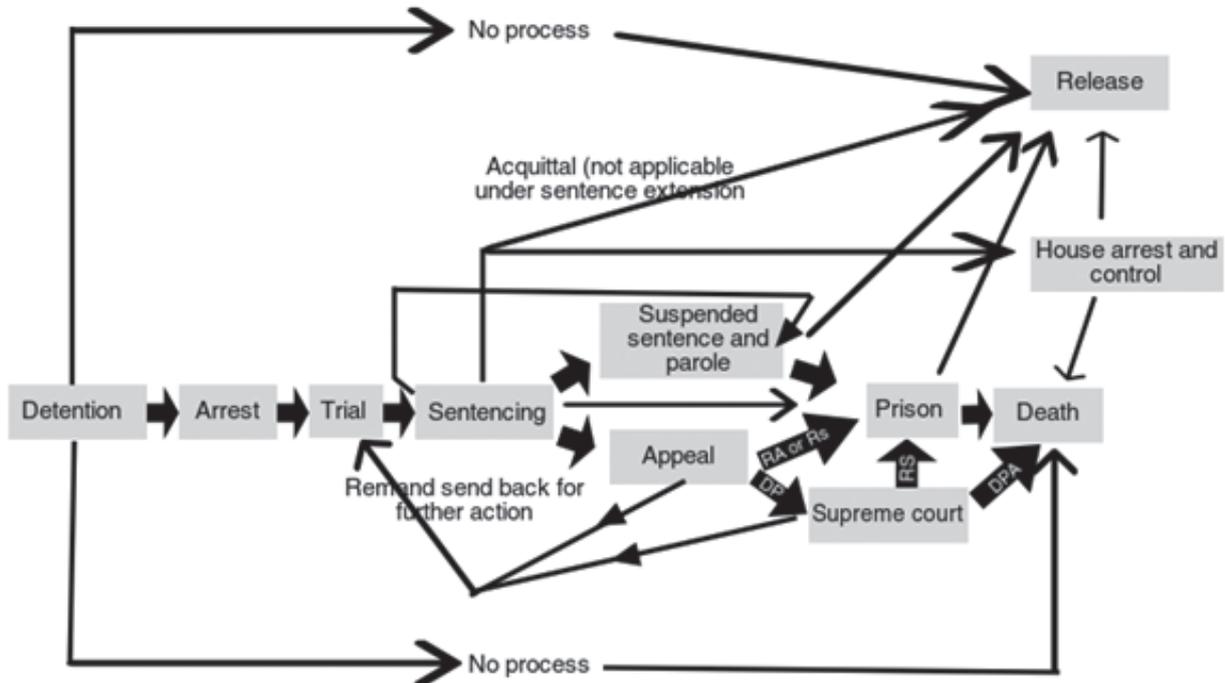
The Chinese judicial system lacks independence and is controlled by the CCP. Dissidents and critics of Chinese rule are subjected to arrests and disappearances. Torture is reportedly widespread. Defendants lack access to meaningful legal representation, which is a violation of the provisions of Chinese Criminal Procedure Law that states a defendant should be able to see a lawyer within 48 hours of a request (Article 37). Trials are closed and held secretly. Lawyers taking up cases to defend Tibetan suspects have been harassed or disbarred. Security forces routinely engage in arbitrary detention without any arrest warrant to produce and detainees’ families are often left uninformed as to their whereabouts or well being. In PRC, the representation of lawyers for those dissidents who are detained are impeded. They are also denied access to lawyers for fear that their presence would hamper their effort to extract information or proving them guilty. Specifically, lawyers themselves become concrete evidence for all the mistreatment and torture endured by prisoners. Therefore, the chances of hiring a defense lawyer are very limited. If allowed, lawyers

are granted access only after interrogation sessions are completed.

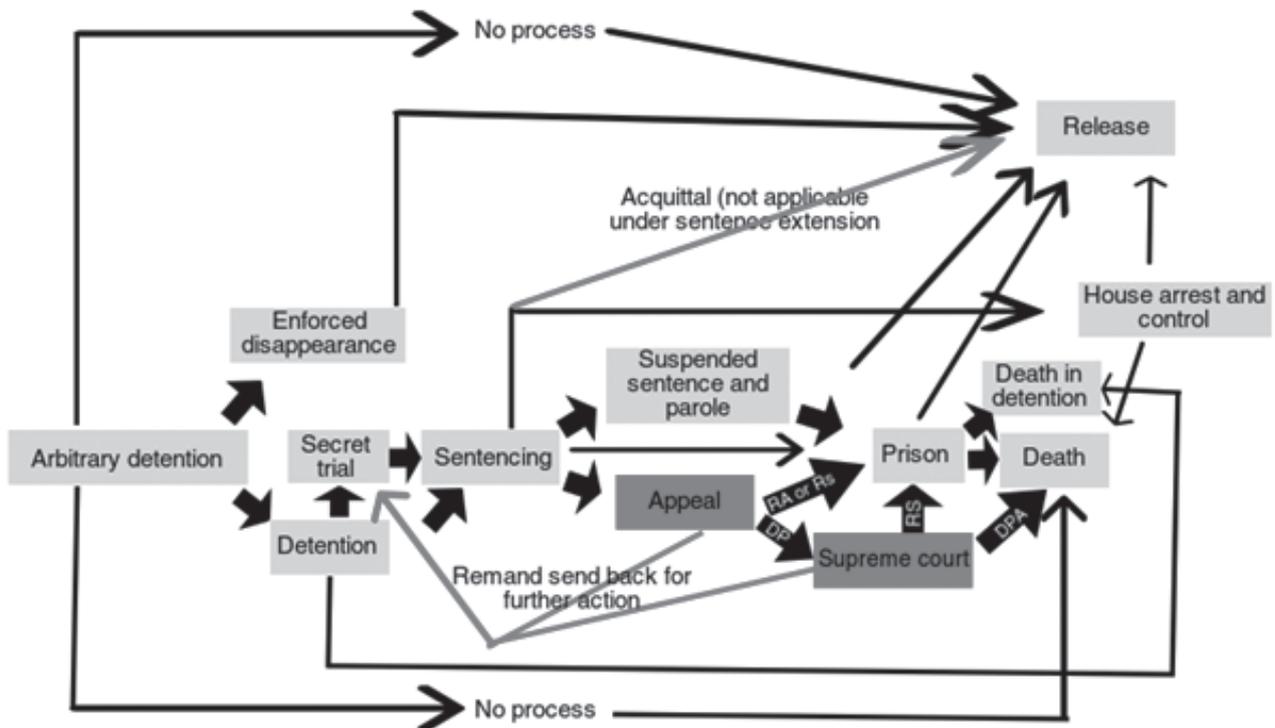
Tashi Wangchuk,¹⁰ a Tibetan shopkeeper from Kyegudo, was detained for advocating Tibetan language education on 27 January 2016. As of 31 December 2016, Wangchuk was still in pre-trial detention. Another Tibetan named Lobsang Kalsang¹¹, a monk of Kirti Monastery, was sentenced in a secret trial on 19 July 2016. His families and relatives had no opportunity to attend the hearing or hire a defense lawyer to present his case. His case is among the many that explain PRC’s restrictions on legal representation and violation of the Prison Law which stipulates that the dignity of a prisoner shall not be humiliated and that his/ or her personal safety and rights to defense, petition, complaint, and accusation as well as other rights which have not been deprived of or

10 “TCHRD calls for release of Tibetan language advocate Tashi Wangchuk from illegal detention”, *TCHRD*, 11/07/2016, available at: <http://tchrd.org/tchrd-calls-for-release-of-tibetan-language-advocate-tashi-wangchuk-from-illegal-detention/>

11 “China sentences four peaceful Tibetan protesters for inciting separatism”, *TCHRD*, 14-09-2016, available at: <http://tchrd.org/china-sentences-four-peaceful-tibetan-protesters-for-inciting-separatism/>



Above Chart shows the Chinese legal procedures from the time a person is detained, trial, sentencing and to the eventual release.



A Tibetan detainee is routinely denied opportunities for legal assistance such as hiring lawyers and appealing unfair sentencing. Tibetans are arbitrarily detained, tortured for confession, disappeared, kept in prolonged police custody, and subjected secret trials. Some also die in detention without any accountability on the part of the authorities.

Index: RA or RS= reject appeal and revised sentence, DP= death penalty, RS= revised sentence, DPA= death penalty approved

restricted according to law, shall not be violated. Article 21 of the law states that if a prisoner is not satisfied with the effective judgment he may file a petition. A people's procuratorate, or a people's court, shall without delay handle the petitions filed by prisoners. Article 23 requires a prison to transfer without delay the petitions, complaints, and accusations made by prisoners and not withhold them.

Use of Endemic Practice

It is common knowledge that the period between the time suspects are apprehended and when they are taken to a detention center is a period with a high incidence of torture in Tibet. Tibetans who are detained are routinely subjected to torture during interrogations. They are coerced to divulge information and confess to crimes they have not committed. Failing to comply results in severe torture, mistreatment, and abuses. Such acts violate Article 14 of the Prison Law, which states that the prison staff shall not commit any of the following acts:

- 1) To use torture to coerce a confession, or to use corporal punishment, or to maltreat a prisoner.
- 2) To humiliate the human dignity of a prisoner; if the prison police commit any act specified in the preceding paragraph and the case constitutes a crime, the offenders shall be investigated for criminal responsibility; if the case does not constitute a crime, the offenders shall be given administrative sanctions.

Former Political Prisoners

In Tibet, former political prisoners face numerous restrictions and hardships as they try to put their lives on order after release. In addition to suffering mistreatment and torture in detention, they are also subjected to discrimination and deprivation

of certain rights after their release. They find it difficult to find employment. Former political prisoners are denied benefits under the government poverty alleviation schemes that the Chinese government usually provides to all households in Tibet. In other cases, they are restricted from leaving home without taking permission from the local authorities and are closely monitored. When the prisoners are released they cannot enjoy many basic rights. Monks and nuns are barred from returning to their respective monasteries. Senior monk Jigme Gyatso aka Jigme Guri, who was released on 26 October 2016 after serving a five-year term, was not allowed to rejoin his monastery.¹² Moreover, political prisoners are also deprived of political rights for a certain number of years. Articles 54 to 58 of the Chinese Criminal Law stipulate that individuals deprived of political rights lose their rights to freedom of speech, press, assembly, association, procession, and demonstration. In addition, the 'Regulations for Monitoring and Management of Offenders Subject to Public Surveillance, Deprivation of Political Rights, Suspended Sentence, Parole, or Medical Parole by Public Security Organs' provide specific restrictions on individuals deprived of political rights. Jangkho¹³, released in September 2016 has been deprived of political rights for three years.

These practices violate Article 38 of the Prison Law, which states that a person released after serving his sentence shall enjoy equal rights with other citizens in accordance with the law. Some of the prisoners who complete their prison terms are not released on time that violates Article 35 which

12 "Senior Tibetan monk imprisoned for exposing Chinese torture methods released after five years", *TCHRD*, 29/10/2016, available at: <http://tchrd.org/senior-tibetan-monk-imprisoned-for-exposing-chinese-torture-methods-released-after-five-years/>.

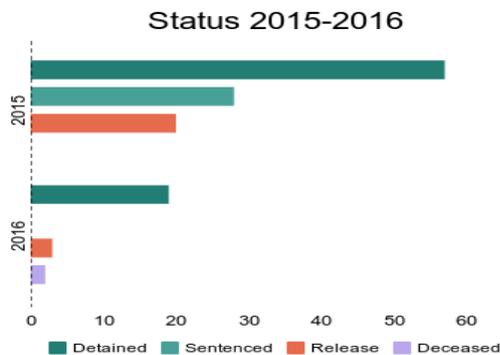
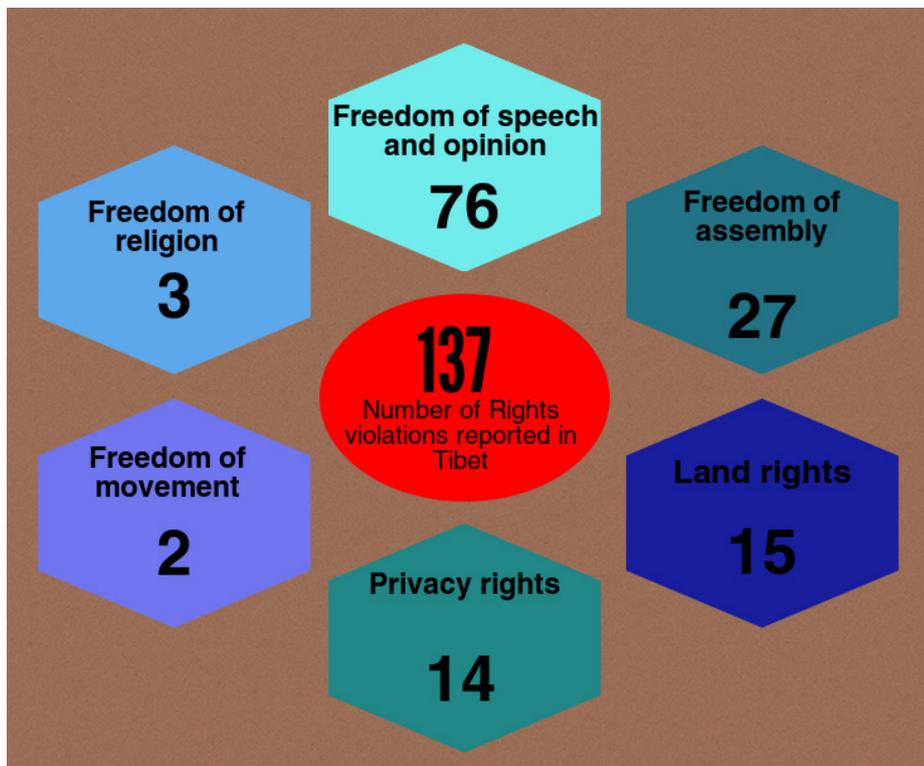
13 "Tibetan monk imprisoned in connection with self-immolation released after 7.5 years", *TCHRD*, 03/09/2016, available at: <http://tchrd.org/tibetan-monk-imprisoned-in-connection-with-self-immolation-released-after-7-5-years/>.

states that if a prisoner has completed serving his sentence, the prison shall release him per schedule and issue him a certificate of release. Article 37 of the Prison Law stipulates that with respect to a person being released after serving his sentence, the local government shall assist him in resettling. If a person released after serving his sentence has lost the ability to do labor and has no statutory supporters or basic sources of income, the local government shall offer him relief. However, the Chinese government has shown no inclination towards the implementation of these laws in practice. Instead, the authorities bring about

further havoc and pain in the life of the former political prisoners. Hence news of their release does not mean full freedom.

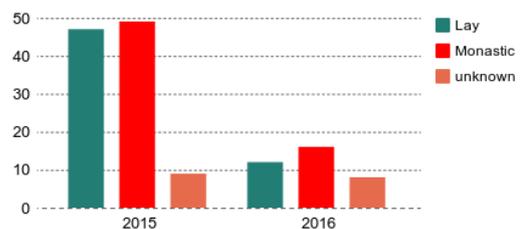
Types of Violations

In 2015, TCHRD documented a total number of 105 political prisoners. In 2016, the number was 36. Based on the data we collected in the aforementioned years, we find a higher number of violations of freedom of speech and opinion, land rights, freedom of assembly, freedom of religion, and privacy rights.



TCHRD database has more number of detained Tibetans than those who are sentenced or released due to extreme restriction on information coming out of Tibet.

Breakdown of Detainees by Occupation (2015-2016)



There is a higher number of detainees belonging to the monastic population than lay in the last two years. Concurrently, restrictions on the monastics and repression of religious freedom has increased.