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Tibetan Centre for Human Rights and Democracy

Special Rapporteur on extrajudicial, summary or arbitrary executions

Special Rapporteur on the independence of judges and lawyers

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

c/o OHCHR-UNOG

1211 Geneva 10

Switzerland

Dharamsala, 27 April 2009

Dear Special Rapporteurs,

The Tibetan Centre for Human Rights and Democracy (TCHRD) seeks the urgent intervention of the Special Rapporteurs in requesting the government of the People's Republic of China (PRC) to overturn the death penalty announced recently on four Tibetans and severe sentences on three other Tibetans in connection to the spring protest in Tibet in 2008. The TCHRD considers the sentences to be politically motivated which has been handed down arbitrarily and summarily in the absence of due process of law and a free and fair trial.

In a shocking revelation, the state media, Xinhua, on 8 April and 21 April 2009 (urls at the end) announced the death penalty verdict on five Tibetans and very harsh sentences on three other Tibetans as follows:

- 1) Lobsang Gyaltsen[n] - death sentence
- 2) Loyak - death sentence
- 3) Tenzin Phuntsok - death sentence with a two year reprieve
- 4) Kangtsuk - death sentence with a two year reprieve
- 5) Penkyi of Sakya County, Shigatse Prefecture(Ch: Xigaze) "Tibet Autonomous Region" ('TAR') - death sentence with a two year reprieve
- 6) Penkyi from Nyemo County (Ch: Nimo Xian), Lhasa Municipality, "TAR" - life imprisonment
- 7) Dawa Sangpo - life imprisonment
- 8) Chimed from Namling County (Ch: Nanmulin xian), Shigatse Prefecture, "TAR" -10 years prison term

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The Centre is seriously concerned about the fairness of the legal procedures according to international standards for fair trial and the treatment of the detainees who were held for more than a year in custody prior to their court sentencing. The secretive nature of the court trial and sentencing without providing any detail information on defendants, their argument, date of court trial and sentencing are particularly worrisome. Such secretive nature of the court trial procedure raises many questions on fairness, transparency, effectiveness and independence of judiciary which is cornerstone for ensuring justice.

While the official mouthpiece, Xinhua, report states that trials had been open and strictly abided by the Criminal Procedural Law of the People's Republic of China (PRC) and provided with Tibetan interpreters for the defendants during the trial, however, the rights of defendants to be represented by the lawyer of their choice was ignored by the judicial authorities in other earlier cases, due to politicized nature of the process. Following March 2008 protests, several lawyers from the Mainland China were threatened to revoke their license if they represent detainees.

Such political patronage in the judicial trials is evident from the past experiences. After a series of protests in Tibet last year, Pema Trinley, Executive Vice Governor of "TAR," who was also a Deputy Secretary, Standing Committee of the 'TAR' Communist Party's Political and Legal Affairs, call on judiciary bodies to act fast and strike hard on 'Dalai clique' during a meeting on 2 April 2008 in Lhasa. He further said that stringent legal action should be taken in tune with the Party policy so that the final verdict would gain political, legal and social dividends referring to achieving social and political stability in the region.

In February this year, Xinhua quoted Nyima Tsering, Vice Chairman of the "TAR" People's Congress Standing Committee as saying that Chinese courts had handed down sentences ranging from three years to life in prison to a total of 76 people over the riots. However, according to the Centre's documentation around 235 Tibetans from "TAR" and Tibetan areas outside "TAR" have so far been sentenced to varying prison terms by court at different levels for their participation in the spring Tibet protest last year.

The latest verdict passed by the Lhasa court is the harshest till date since spring 2008 uprising in Tibet. The Centre would like to seek the urgent intervention of the UN Special Rapporteurs to stop the execution of the Tibetans sentenced to death and to seek explanations from the

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Tibetan Centre for Human Rights and Democracy

government of the People's Republic of China over the standards of legal proceedings followed in the recent court trials and the verdict passed.

Sincerely,

Tenzin Norgay
Personnel for UN Affairs

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Note:

Chinese court sentences two to death on starting fatal fires in Lhasa riot [8 April 2008, Xinhua]
http://news.xinhuanet.com/english/2009-04/08/content_11151158.htm

Court sentences 3 for arson in Lhasa riot [21 April 2009, Xinhua]
http://www.china.org.cn/china/news/2009-04/21/content_17643102.htm

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Tibetan Centre for Human Rights and Democracy

**Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions
c/o OHCHR-UNOG,
1211 Geneva 10, Switzerland**

Dated: 23 October 2009

Dear Mr. Phillip Alston,

Following up on our appeal dated 27 April 2009 for intervention from your esteemed mandate regarding the imposition of death sentences on Tibetans by Chinese courts for their involvement in protest against the government in spring 2008, we wish to inform you with much sadness that the executions have been carried out on 20 October 2009. We learnt that four Tibetans, Mr. Lobsang Gyaltsen, Mr. Loyak, Ms. Penkyi and an unnamed Tibetan were executed under the supervision of the Lhasa Intermediate People's Court at 11 a.m. on Tuesday, 20 October 2009.

The execution has been carried out extremely secretly. None of the state media outlets have carried any report on the executions. According reports there has been an increase in the presence of troops in the city in anticipation of possible public protest over the executions. The families of the executed Tibetans have been living under extreme fear and sadness over the death of their family member.

Although Chinese criminal procedure law stipulates that defendants can appeal to higher courts with the final approval from the Supreme People's Court, it is not all clear whether Mr. Lobsang Gyaltsen and Mr. Loyak have appealed to the Higher People's Court or not. It is highly possible that their rights have been denied due to the political nature of the case. Penkyi, female, was earlier sentenced to death with two years suspension. It is usually accepted that such a case is commuted to life imprisonment. However, it did not apply to Penkyi as she was also executed on 20 October. This sudden change in the sentence along with the secretive nature of the executions is highly suspicious of ill motive maneuver by the government of the People's Republic of China.

The Tibetan Centre for Human Rights and Democracy (TCHRD) seeks your urgent intervention with the government of the PRC in investigating the executions of the four Tibetans and in ensuring that the human rights of the executed Tibetans have been respected according to the Universal Declaration of Human Rights.

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Sincerely,

Tenzin Norgay (Mr.)

Personnel for UN Affairs

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Note: The following documents have been enclosed

- 1) Press Statement by the Tibetan Centre for Human Rights and Democracy on 22 October 2009 titled "China Executes Four Tibetans in Lhasa Over Spring 2008 Protest"
- 2) Appeal sent to the Special Rapporteur on Extrajudicial Killings on 27 April 2009

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Tibetan Centre for Human Rights and Democracy

Press Statement

23 October 2009

China Executes Four Tibetans In Lhasa Over Spring 2008 Protest

TCHRD condemns in strongest term China's execution of four Tibetans

The Tibetan Centre for Human Rights and Democracy (TCHRD) has received confirmed information from reliable sources that Lobsang Gyaltsen, Loyak, Penkyi and an unnamed Tibetan were executed on Tuesday, 20 October 2009 under the supervision of the Lhasa Municipality Intermediate People's Court for their alleged involvement in last year's mass protest in the Tibetan capital. Further information is awaited. No information on their execution was reported anywhere in the Chinese state media.

According to sources, the dead body of Lobsang Gyaltsen, from Lubug on the outskirts of Lhasa city, was handed over to his family and his dead body was later known to have been immersed in Kyichu River.

There is no information on whether the defendants appealed their sentences to the Supreme People's Court after Lhasa Municipal Intermediate People's Court sentenced Lobsang Gyaltsen and Loyak to death on 8 April 2009.

According to the Chinese official mouthpiece dated 8 April 2009, Lhasa Municipal Intermediate People's Court sentenced two people to death (Lobsang Gyaltsen and Loyak), two to suspended death penalties (Tenzin Phuntsok and Kangtsuk) and another (Dawa Sangpo) to life imprisonment on charges of arson causing death. The five were convicted of torching five shops in Lhasa, killing seven people, during the March 14 riot.

On 21 April 2009 the same court, according to the State media, sentenced three Tibetans (Penkyi of Nyemo County and Penkyi of Sakya County and Chime of Namling County) to suspended death, life and 10 years' imprisonment respectively for setting fires that allegedly killed six people in Lhasa last year. The Centre is highly concerned about the fate of Tibetans who were on suspended death sentences.

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The PRC government currently sentences more people to death each year than any other nation in the world. TCHRD condemns the executions of four Tibetans and urges PRC government to show restraint and to grant its citizens fair trials and to abide by the basic human rights of all of its peoples, regardless of their ethnicity.

TCHRD remains unconditionally opposed to the use of the death penalty in all cases as a violation of the fundamental right to life and the right not to be subjected to cruel, inhuman or degrading treatment or punishment. It should also be noted that the death penalty has never shown to have a special deterrent effect nor should state use it to justify the wrong done by the defendant. For instance in the case of two Tibetans (Lobsang Gyaltsen and Loyak) the state media earlier reported that both "have to be executed to assuage the people's anger." Such eyeball for eyeball approach is in no way a justification of giving death sentence. The execution of four Tibetans are further proof of China's unwillingness to abide by the United Nations Global Moratorium on the Death Penalty, adopted in 2007, which establishes a suspension on executions with the view to abolish the death penalty.

TCHRD expresses strongest condemnation and grief over the shocking executions. The Centre also expresses serious concern over the fate of other Tibetans with suspended death sentences. Toward this end, the Centre seeks immediate and urgent intervention by the UN Special Rapporteur on Extra Judicial, Summary, or Arbitrary Execution, governments and the international community over this unlawful execution.

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