

Annual Report, 1998 - Tibet: Crackdown on Humanity

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Executive Summary

In 1998, the 50th anniversary of the Universal Declaration of Human Rights was celebrated internationally. Despite recognition of this declaration, the People's Republic of China continues to breach the provisions therein, leaving the Tibetans very little to celebrate. 49 years after the PRC occupied Tibet, the freedom to exercise fundamental human rights has not been restored.

The People's Republic of China has successfully deflected international pressure with regards to its human rights record, primarily on account of its massive market economy. Despite a number of visits from foreign delegations during the year, few practical revisions have been made to amend the situation. Evidence actually indicates a contrary trend; an increasingly tighter governmental control over all sectors of Tibetan life which is seriously jeopardising the survival of the unique Tibetan culture and people.

It appears that China is attempting to alienate the Tibetans from their own identity in order to prevent dissension. The Tibetan population is being marginalised in all domains. Extreme repressive measures imposed on religion, an intrinsic element of the indigenous culture, continue to stifle Tibetan cultural autonomy. The right to freedom of expression and opinion is consistently negated and many Tibetans are arrested arbitrarily on account of such activity.

Tibetan autonomy is also severely restricted by lack of true representation in the political sector, and Tibetans consequently face discriminatory policies and further marginalisation in their own land. State-encouraged population transfer of Chinese into Tibet exacerbates this condition. Population transfer, augmented by harsh birth control policies contrary to domestic law, has grave implications on the survival of the Tibetans. These practices must be curbed.

The harsh suppression of a peaceful demonstration inside Drapchi Prison, Lhasa, in May 1998, is evidence of China's absolute disregard of the Tibetans' right to freedom of expression. There are confirmed reports of 10 prisoners who died as a result, and many more were injured. Others who participated in the demonstration have endured severe

repercussions. The demonstration occurred at the time of an official visit by European Union Troika Ambassadors, yet the Chinese monopoly over information prevented the delegation from finding out about the incident until they had left the region. Information regarding the incident is still very restricted. This is an indication of overwhelming governmental control in the region, and causes concern to human rights monitors as the Chinese government obviously has an unbounded ability to manipulate the dissemination of information regarding all human rights issues.

Following the EU Troika mission, Tibet was also visited by members of the Danish Parliament's Foreign Policy Committee in August 1998, and by the UN High Commissioner for Human Rights, Ms. Mary Robinson, in September. Each visiting party expressed dissatisfaction with the limits imposed on their visit by the Chinese government. Little contact with Tibetans was permitted unless accompanied by government officials and all items on the itineraries were subject to Chinese approval. Unfortunately, despite the admission of these restrictions on their visits, delegation reports were diplomatically ambiguous, failing to put sufficient pressure on the Chinese government to rectify the current abusive practices in place.

On October 5, 1998 the PRC signed the International Covenant on Civil and Political Rights. This is a welcomed gesture, and both Tibetan and international communities await evidence of suitable adaptations to bring Chinese domestic law and practice into line with these standards. Present practices transgress international human rights standards, and although improvements have been made in some areas, a more comprehensive scheme for the protection of the Tibetans' human rights must be implemented immediately.

Freedom of Expression

Despite their obligation to ensure that all citizens can enjoy freedom of expression and opinion, the PRC has actively repressed this right. Any expression of opinion contrary to Chinese Communist Party ideology can result in arrest and in 1998, 56 Tibetans were arrested for such actions, 31 of these were detained.

The repressive measures are focused on religious institutions which the Chinese identify as the primary source of contrary ideas. Since the launch of the "Strike Hard" campaign in 1996, the Chinese government has systematically covered religious institutions in Tibet in an attempt to eradicate allegiance to the Dalai Lama, Tibetan nationalism and any dissension. Thousands of monks and nuns have been expelled as a result of this initiative and hundreds have been arrested. The campaign has been introduced into the lay sector so no Tibetans are exempt from this repressive policy.

This is a deliberate denial of the right to freedom of expression and if continued, the Tibetan cultural heritage will be seriously endangered. This governmental policy must be immediately checked.

Arbitrary Arrest and Detention

The 1996 amendments to the Chinese Criminal Procedure Law failed to implement mechanisms to protect individuals from arbitrary arrest and detention. The International Covenant on Civil and Political Rights, which China signed in October 1998, contains

provisions which uphold the right of citizens to be free from such a risk, and appropriate amendments to the national constitution are anticipated.

The vast majority of the 135 arrests of Tibetans in 1998 were arbitrary; imprisoned on ambiguous charges of "endangering state security." Incarcerated for exercising their basic rights, the prisoners are denied many rights whilst in detainment. Legal proceedings fail to meet international standards; the accused are often denied legal representation, visitation rights and the right to appeal. They are often subjected to torture in order to extract a "confession," and many are detained without any judicial proceeding at all.

Political Prisoners and Prisoners of Conscience

In December 1998 there were 1083 known Tibetan political prisoners in Chinese prisons. 246 of these were women and 12 were juvenile. An additional 93 prisoners, now of adult age, were imprisoned as juveniles and remain in incarceration. 76 of the prisoners are serving sentences of more than ten years. The rate of imprisonment for political reasons in Tibet is far greater than in other areas beneath Chinese rule. It is indicative of the extent of the comprehensive campaign of the government to eliminate any views contrary to official policy in Tibet. This is a direct violation of basic rights to life, liberty and freedom of expression.

Torture in Detention Centres and Prisons

Torture constitutes a profound abuse of human rights yet despite being party to various international convention's which outlaw the practice, the Chinese government continues to tacitly endorse its use in detention centres and prisons.

The ultimate violation of human rights is the termination of life. In 1998, 19 Tibetans died prematurely whilst in detention. Eleven of these deaths resulted from the Chinese suppression of the peaceful demonstration in Drapchi Prison in May. Since 1986, the deaths of 60 Tibetans in detainment have been recorded.

Testimonies from former political prisoners confirm that torture remains prevalent in prisons in Tibet. The primary function of this torture is to extract a confession from the prisoner in the pre-trial stage but accounts indicate that it continues throughout detainment. This practice is unacceptable, and is in direct contradiction with the United Nations Convention Against Torture. After a decade of participation in this convention, China is yet to fulfil its responsibility to eradicate torture from its detention institutions.

Religious Persecution

China's comprehensive repression of religion in Tibet was intensified in 1998. An overwhelming increase in the number of expulsions of monks and nuns from their institutions is evidence of China's intention to further restrict religious practices in Tibet. 327 monks and nuns were arrested and 7156 religious people were expelled from their religious institutions as a result of the "Strike Hard" campaign during the year.

The campaign was introduced nation wide in May 1996 with an overall aim of reducing general crime and corruption. In Tibet, the accompanying programme of "patriotic re-education" was the focus, aimed at diminishing any subversive sentiment and restricting

Tibetan nationalism. The Tibetan Centre for Human Rights and Democracy has recorded 9,977 expulsions since the inception of the programme and 492 arrests of monks and nuns.

China has recently declared Tibet to be non-Buddhist and is implementing measures to achieve this end. The Dalai Lama, the spiritual and temporal leader of Tibetans, and his recognised Panchen Lama have been denounced. The nine year-old 11th Panchen Lama has been missing since his status was announced in 1995. Even photographs of the Dalai Lama have been banned. Numerous institutions have been closed down completely and other religious monuments have been destroyed. The right to freedom of religion is consistently negated in Tibet.

Women's Rights

Domestic legislation and international obligations have failed to uphold the rights of Tibetan women in Tibet. The primary violation of their rights results from birth control policies. Despite domestic laws which guarantee concessions for minority groups, Tibetan women continue to be subjected to enforced sterilisation, contraception and abortion procedures. They are not given the option of voluntary contraception methods nor are they provided with adequate healthcare following these procedures. Fear of sterilisation deters many women from seeking medical attention for other ailments and thus the health of Tibetan women is compromised.

The rights of women to freedom of expression are also violated. There are presently 246 known female Tibetan political prisoners. These women are vulnerable to sexual abuse, torture and hard physical labour. China ratified the Convention on the Elimination of all forms of Discrimination Against Women in 1980 but is yet to fulfil its requirements.

The Rights of the Child

Contrary to international and domestic regulations, the rights of Tibetan children are not being fully protected by the Chinese government. Due to subsistence difficulties, inadequate facilities and discriminatory measures, many Tibetan children are denied access to adequate healthcare and schooling. The health of Tibetan children is of a substandard level. In some counties the weight-for-age ratio has been classified as "unacceptably low" and reports indicate that chronic malnutrition is restricting the growth of Tibetan children.

Within the education system, indigenous children face significant discrimination. As they are now part of a minority population, the education system is not directed to them but to the Chinese immigrants. Consequently they are disadvantaged throughout their entire education and this in turn impacts on future employment opportunities.

Tibetan juveniles are not exempt from China's repression of freedom of expression. There are presently 12 Tibetan political prisoners below the age of 18 and 93 others who were imprisoned as children but are now adult. 2,206 child monks and nuns were dismissed from their religious institutions in 1998 and were thus alienated from their right to freedom of religion, culture and education.

Overall subsistence levels must be raised and discriminatory tactics abolished in order to address the urgent needs of Tibetan children.

Population Transfer

The transfer of Chinese citizens into Tibet is perhaps the most significant threat to the Tibetan people as a whole today. If the government is permitted to continue its present policies of population transfer, Tibet may face total marginalisation; a fate not unlike that of Inner Mongolia, Manchuria and Eastern Turkistan.

The affects of the deliberate strategy are already apparent. Tibetans are denied complete access to the political sector and are subjugated to Chinese law. As a result, they are vulnerable to exploitation and negligible policies. Massive economic developments, the catalyst for much of the immigration, is exploiting the land and destroying the livelihood of many indigenous people. The traditional subsistence economy is being replaced by a market economy from which the Tibetans are alienated. Subsistence capabilities are being severely diminished which compromises all other rights. Tibetans face physical displacement on account of the Chinese influx and are losing the right to autonomy over their land.

Economic hardship, combined with blatantly discriminatory policies, is also disabling the Tibetans opportunities in education and health. The ramifications of such alienation are profound. When all these factors are considered along with the stringent birth control measures imposed on Tibetan women, the motives of the People's Republic of China have a much more guileful undertone.

Subsistence Rights

Increased Chinese migration, discriminatory policies and inadequate social welfare combine to create a hostile economic environment for Tibetans. More than 70 per cent of Tibetans in the "TAR" now live below the poverty line. The destruction of their traditional subsistence economy is creating an economic void for the indigenous people as they have been alienated from the market economy which has replaced the former. China's economic development programmes are repeatedly failing to alleviate the poverty and new means of financial assistance must be employed.

These difficulties are compounded by harsh taxation policies that have been implemented without concession. Tibetans are being greatly affected by these demands which sometimes constitute as much as half their salary. China plans to equate tax revenue from the "TAR" to that of the rest of China and with so many "TAR" residents living in poverty, such an intention is clearly abusive.

It is essential that China relax their taxation policies and redirect their annual subsidy for the "TAR" so that the living standard of Tibetan individuals may be raised. Until this is achieved, many basic human rights cannot be assured.

Enforced Disappearance

A major breach of the human right to life, liberty and security of person is in cases of enforced disappearance; when a person is taken into custody by the state and details of their detention are not disclosed. Such acts cause immense anxiety to the detained person and to all concerned individuals.

12 new cases of such disappearance were reported to TCHRD in 1998. Details of all remain inaccessible. The condition and location of 18 of the 22 reported cases last year are yet to be released. The Chinese government is urged to immediately release all information regarding the situation of these missing persons.

Racial Discrimination

The immigration of increasing numbers of Chinese into Tibet has forced the Tibetans into minority status and made them vulnerable to various forms of discrimination.

Despite being a party to the International Convention on the Elimination of All Forms of Racial Discrimination, domestic laws are failing to provide the Tibetans with an environment free from discrimination. Some government-endorsed practices are blatantly discriminatory, to the detriment of the Tibetans.

Tibetans rights in the political sector are severely restricted which annuls their lawful right to autonomy. They also suffer distinct biases in education and health care which greatly affects both their cultural and physical development.

The continual influx of Chinese settlers is also resulting in discrimination in the employment sector and the Chinese government is yet to introduce steps to rectify this issue.

Conclusion

By the end of 1998, the People's Republic of China had at least signed each of the three covenants comprising the International Bill of Rights. This gives rise to the hope that effective measures will soon be implemented to align China's domestic laws with these international norms in order to cease the current violations of human rights.

The cultural and physical survival of the Tibetan population in Tibet is greatly threatened today by continual infringements of these rights. China must actively address this issue. Previously, participation in such covenants has not guaranteed compliance with the provisions therein, and the international community is urged to monitor the situation closely.

Individual and collective rights abuses continue to challenge the Tibetan people in their daily lives and in the future survival of their unique cultural identity. The Chinese government is obliged to rectify this situation immediately by amending their domestic law to provide for the protection of all rights. The signing of the International Covenant on Civil and Political Rights is a welcome indication, but the Tibetan people await evidence of China's adherence to this and other codes. Continual international pressure is essential in encouraging the Chinese government to abide by the regulations of the covenants of human rights.

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Recommendations

There is little doubt that China shows insufficient regard to its obligations under the Universal Declaration of Human Rights and various other human rights instruments. This report provides evidence of the continued breach of these regulations. We request the United

Nations Commission on Human Rights and the international community to urge China to consider the following recommendations.

Release all the political prisoners and prisoners of conscience imprisoned in various Chinese prisons in Tibet.

Define the term "endangering state security" in its Criminal Procedure Law which in its present ambiguous state defeats various rights of Tibetan people, particularly the right to freedom of expression and opinion.

Adhere to the regulations in international community which protect individuals from arbitrary arrest and detentions.

Ensure that detainees receive adequate prison facilities as stipulated by the Standard Minimum Rules for the Treatment of Prisoners and prohibit the use of torture. Also guarantee right of access to legal representation and proceedings.

Protect the rights of the Tibetan people to freedom of religion thereby eliminating the policy of religious repression through the "strike Hard" campaign.

Abolish policies of population transfer and forced abortion and sterilisation which threaten the cultural and physical survival of the Tibetan people.

Guarantee the rights of Tibetan children, including access to education, and freedom from discrimination and juvenile detention.

Prevent the imposition of unreasonable taxation policies that jeopardise the livelihood of the Tibetan people, especially in the rural areas.

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Curtailed Freedom of Expression

International covenants provide for the rights of freedom of expression, assembly and association without any interference from the state, yet Tibetans enjoying these fundamental rights risk long-term imprisonment and torture. Of the 135 known arrests in 1998, 56 Tibetans were arrested for exercising their right to freedom of expression. Peaceful expression of Tibetan nationalism, allegiance to the Dalai Lama or criticism of the Chinese government can result in imprisonment or other forms of punishment.

The latest grave incident of the violation of freedom of expression occurred in Drapchi Prison in May 1998. Tibetan prisoners in Drapchi staged peaceful protests on May 1 and May 4 by raising slogans and distributing leaflets amongst the prisoners. On both occasions, the People's Armed Police (PAP) and the Public Security Bureau (PSB) officials opened fire on approximately 500 Tibetan prisoners in an attempt to suppress the protest. The officials also used bayonets, sticks, metal rods and electric cattle prods. 11 deaths and some 200 serious injuries resulted. This display of repression indicates the PRC's total disregard of international standards protecting the fundamental right to freedom of expression.

The right of religious people to freely express their opinion has been targetted by the People's Republic of China since the launching of the "Strike Hard" campaign in April 1996. Beneath this campaign, a "patriotic re-education" programme was implemented in the religious institutions in Tibet in an attempt to suppress opinions contrary to Party policy. Monks and nuns are forced to sign pledges of political allegiance to China and denounce the Dalai Lama, and those who fail to comply are labelled "splittist" and face expulsion or arrest. The campaign was officially extended into the lay sector in November 1997. In 1998 Tibetan Centre for Human Rights and Democracy recorded 7,156 expulsions and 327 arrests of monks, nuns and lay people for exercising their right to freedom of expression. There has been no sign of a relaxation of these suppressive practices.

International Law

The right to freedom of expression and opinion are specifically stated in Article 19 of the Universal Declaration of Human Rights:

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.

Freedom of expression is also recognised in Article 19 of the International Covenant on Civil and Political Rights to which China has recently become a signatory. It clearly states that:

Everyone shall have the right to hold opinions without interference.

China's domestic laws are inconsistent with the international laws to which they have, in principle, agreed to respect. Under the 1997 amendments of the Criminal Procedure Law, the charge of "counter-revolutionary" activity has been replaced with the charge of "endangering state security." Details of the new terminology have not been clearly identified by the Chinese authorities, and it appears that the new charge encompasses the same offences as defined by "counter-revolutionary" activity. Any expression of opinion contrary to government ideology may be deemed a threat to national security and as a result this right is consistently denied.

China has failed to realise its obligation to protect the right to freedom of expression and to create an atmosphere in which everyone may enjoy this basic right.

Cases of Violation of Freedom of Expression and Opinion

The following cases are a few of those reported to TCHRD in 1998 and are indicative of China's continuing violation of the right to freedom of expression and opinion.

- Palden Wangmo and her daughter Kunchok Chodon were arrested in early 1998 for refusing to comply with the orders of Chinese "work team" officials. Similarly, Thupten Tenzin, a senior monk in Rongpo Rabten Monastery and Gyalchoe from Pa Dha monastery were arrested for questioning the "re-education" campaign in their monasteries. Six monks from Serpo Monastery were arrested for similar offences.
- Tenpa Rabgyal, a 27 year-old monk from Tashi-Ge Kun-Phel-Ling Monastery, was arrested in February 1998 for writing some prayer notes for the long life of His Holiness the Dalai Lama.

- Gedun Tharchin (25), Tenzin Lobsang (25), Gyaltzen Tsultrim (18), and Tenzin Tsultrim (17), were arrested on February 12, 1998 for pasting Free Tibet posters when the Chinese "work teams" arrived in their respective monasteries. They were all from Rongpo Rabten Monastery in Sog County, Nagchu region and are currently held in Sog County prison.
- Samdup, a 28 year-old monk from Drepung Monastery, was re-arrested in May 1998 for pasting independence posters in the monastery. He is currently being held in Seitru Detention Centre but details of his sentence have not been disclosed. He was first arrested on May 13, 1992 for taking part in a peaceful demonstration in Lhasa along with ten other monks from the same monastery. He was released in 1994, after serving a sentence of two years in Drapchi Prison.
- 18 monks from Tashi Choeling Monastery were arrested for pasting posters in June 1998 and were detained for one month.
- Ngawang Kyonmey, a 28 year-old from Toelung Dechen was arrested on September 18, 1998 on charges of conspiring to hand a letter to the High Commissioner for Human Rights, Mrs. Mary Robinson, during her visit to Tibet.
- Lobsang Sherab (33), Lopel (25), Palkho (25), Tingzin (34), Tenzin (25) and Palden (29) from Kirti Monastery in Ngaba County, Sichuan Province were arrested for pasting independence posters inside the monastery and opposing the Chinese "work teams" after their arrival on October 16, 1998.
- Bhu Dawa, a 24 year-old lay man from Jamdun Dogo, was arrested on January 20, 1997 for pasting independence posters and is currently in Drapchi Prison.
- On May 4, 1997, 40 students from Tibetan Middle School in Ngaba "TAP" formed the "Rig-Tsel Tsok Pa" (Arts and Literature Association). Twenty-year-old Tsundu and another boy (name unknown) aged 19, were the founders of the group. The members of the association gathered in the school auditorium in front of all the students and sang a song of praise to the Dalai Lama. Behind them hung a flag they had made showing a snow mountain in the centre with a sun on one side and a moon on the other. The following morning local police came to the school and seven students from the group were arrested as a result of the display. After three days of detention five of the students were released upon payment of 5,000 yuan (US\$ 625) each. The students were threatened with expulsion from school if they did not pay. Tsundu and another boy were detained for 10 days and also had to pay 5,000 yuan bail. They had been identified as the leaders of the group and as a result were expelled from the school. They have been forbidden from attending any school or participating in any kind of employment for three years.
- In April 1997 in Jamdun Monastery, Drayab county, three monks were arrested on charges resulting from pasting posters. Nyima, Nyima Tsering and Gyaltzen were sentenced to five years imprisonment in March 1998. The monks were aged between 20 and 27 years.
- Around April 1997 in Rinchenling village in Meldro Gongkar, a 50 year-old female oracle (name unknown) called for people to support Tibetan independence while she was in a trance. Her husband Drakdok tried to stop her but she continued. Chinese police accused both the husband and wife of calling independence slogans. They were arrested, along with the woman's father, and taken to Medro Gongkar police station before being transferred to Drapchi Prison.
- Jampa, a 30 year-old monk from Sera Monastery was arrested in August 1997 on the charge of distributing pamphlets regarding the reincarnation of the Panchen Lama. He was sentenced to five years and is now in Gutsa Detention Centre.

- Trulku Ka Bukey, (also known as Nazod Trulku), 30 year-old religious teacher from Nubsur Monastery was sentenced to seven years imprisonment in December 1997. He is currently detained in Maowan Qiang County prison, which is a part of Ngaba County Labour Camp. He was arrested on May 10, 1996 by the People's Armed Police during the 40th anniversary of foundation of Serta County. He was arrested for initiating a 25 km peace march from Nubsur Monastery to Serta County, for carrying a Tibetan national flag and distributing pro-independence leaflets to the public.
- Gonpo, a 45 year-old businessman from Thawa Village, received five years imprisonment in December 1996 for distributing independence leaflets during a three-day ceremony held at Ngaba County in June 1996. He was arrested in July 1996 and was imprisoned in Maowan Qiang County Prison, which is a part of Ngaba County Labour Camp. According to recent information from Tibet, he was severely tortured and two ribs were broken after beatings.
- In October 1996 local PSB officials arrested six monks of Taktsang Lhamo Monastery, in Gansu Province. They were alleged to have instigated a crowd to revolt against Chinese oppression and for hoisting a Tibetan national flag in a prominent place in Gannan Prefecture. Four were detained in Gannan "TAP" prison, and two were held in Lu-Chu County Prison, also in Gannan "TAP."
- Lobsang Choephel, aged around 25, was a monk in Thekchen Jangchup Choeling Monastery. He was arrested on December 4, 1996 for having pasted an independence poster in Drepung Monastery. Twelve days after his arrest he was taken to a "reform-through-labour" camp. He was sentenced while in the camp (sentence unknown) and reportedly accepted the charge of pasting the poster.
- Kelsang Tenzin, a 27 year-old from Nyemo County, was a monk and the scripture printer of Sera Monastery. In 1996 he was charged with having made wooden block prints reading "Freedom Organisation." He was subsequently sentenced to three years in Trisam Prison.
- Lobsang Thokmey (lay name: Bhutuk) and Lobsang Tenphel (lay name: Pasang Ngodrup), both aged 22, from Dongtse Monastery in Gyaltse County, Shigatse Region "TAR," were arrested in 1996 after pasting posters on the entrance gate of Chinese shops and hospitals in Dongtse Prefecture. The poster read: "Tibet is free. China is forcibly depriving Tibetans of their basic human rights. The Chinese are selling worthless and inferior goods in Tibet at exorbitant rates, Chinese are cheating the poor Tibetan farmers by compelling them to sell their hard-earned grain and other products at minimal rates." The two monks were tried in Gyaltse County Public Court and charged with "propagating splittist actions." Lobsang Thokmey was sentenced to four years and Lobsang Tenphel to two and a half years. Both are currently held in Drapchi Prison.

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Arbitrary Arrests and Detentions

The UN Working Group on Arbitrary Detention defines arbitrary detention as:

Cases of deprivation of freedom when the facts giving rise to the prosecution or conviction concern the exercise of the rights and freedoms protected by certain articles of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

Arbitrary arrests and detention continued to take place in Tibet in 1998. 135 arrests of Tibetans in 1998 were recorded and almost all these are deemed arbitrarily arrested and detained.

On October 5, 1998 the People's Republic of China (PRC) signed the International Covenant on Civil and Political Rights (ICCPR) which binds them, in principle, to the provisions therein, including the protection of citizens from arbitrary arrest and detention. The decision to enter the agreement appears to be merely an attempt to deflect international pressure on the Chinese government to uphold international human rights standards. China continues to evade these international obligations by qualifying the conditions of the Covenant.

In its revision of the Criminal Procedure Law (CPL) in 1996, the PRC failed to ensure the protection of all citizens from arbitrary detention and unfair trial. The threat of arbitrary arrests has actually increased under the CPL amendments with the introduction of the charge of "endangering state security." Under the new CPL police can use "state secrets" as a justification for arrest and detention and can deny suspects access to legal representation throughout the investigation and interrogation period, thus enabling further arbitrary arrests. The revisions, therefore, do not go far enough in bringing China into compliance with international standards.

International Law

Article 9 of the Universal Declaration of Human Rights (UDHR) specifically states:

No one shall be subjected to arbitrary arrest, detention or exile.

Article 9 of the International Covenant on Civil and Political Rights similarly declares:

Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

The President of the Chinese Society for the Studies of Human Rights qualified Chinese participation in the covenant by stating that "[s]ince China did not participate in drafting the covenant [ICCPR] and its national conditions differ from those in other countries, Chinese government will pay attention to the issues of how to implement the covenant and adapt it to China's existing laws and regulations." This effectively annuls their adherence to the codes and reveals a reluctance to alter existing policies to meet international standards.

Arrests Resulting From Exercise of Rights

The most common offence resulting in arbitrary arrest and detention is "endangering state security." This category was introduced into the CPL under the 1996 amendments, replacing the controversial term of "counter-revolutionary" activity. This change fails to introduce any measures to restrict the incidence of arbitrary arrest and Tibetans are still at risk of arrest for any act or expression which may be contrary to Chinese official ideology. The Working Group on Arbitrary Detention who went to Tibet in October 1997 expressed concern because "even though the nomenclature 'counterrevolutionary crimes' has been abolished, the jurisdiction of the State has been allowed to expand and acts of individuals in exercise of freedom of expression and of opinion may well be regarded as acts 'endangering national

security." This enables the PRC to continue its practice of arbitrary arrest to suppress subversive opinions and is in direct violation of each person's right to liberty and freedom of expression and opinion.

People are liable to be arbitrarily charged with "endangering state security" even for non-political acts which involve contact with those who have engaged in political activity. There have been reports of people being arrested for merely providing financial or moral assistance to inmates and their families. For instance Ama Lhundup Wamgmo, who has been missing since August 20, 1998, was arrested twice previously on suspicion of political activities and having visited political prisoners. Her current detention is expected to be a result of subsequent prison visits although details of her charge are yet to be disclosed.

- Dawa Tsering, 27 years old from Phenpo County, was a monk of Dha Lobu Monastery. He was charged with having compiled a list of political prisoners and sending it to India and circulating documents from India in Tibet. He was sentenced to six years in Drapchi Prison.
- Gyalkye (also known as Lobsang Tsering) is in his early thirties and a senior monk at Pomda Monastery. When "work team" members came to the monastery, he disobeyed their instructions and expressed his resentment of their presence. On August 8, 1997 he was taken to the police station and later transferred to Chamdo Prefecture prison where he was detained for almost four months. He is currently held in a prison in Lhasa and his sentence is unknown.
- Lo-Ghuy an 18 year-old student monk of Sera Chabra Monastery was arrested in September 1997 on charges of having pasted posters which read "Free Tibet." He was sentenced to six years imprisonment and transferred to Toelung prison.
- Ngawang Dipsael (lay name: Penpa) is a 29 year-old monk from Drepung Monastery. He was arrested on December 22, 1997 by Lhasa Public Security Bureau (PSB) for staging a demonstration in Lhasa. He was taken to Tsethang Prison in Lhoka Region where he was sentenced to three years and transferred to Toelung prison. Ngawang had previously spent four years in Drapchi from May 13, 1992 to May 16, 1996.
- Tseten, a 37 year-old from Nyemo County, was sentenced to seven years imprisonment in August 1997. She was arrested for possessing the autobiography of the Dalai Lama and charged with "endangering state security." Tseten is serving her prison term in Drapchi. She has previously been arrested twice; once in 1988 for pasting freedom posters when she was detained for six months in Nyemo County Prison and again in 1995 for the same offence for which she was detained for eight months in Gutsa Detention Centre.

Denial of the Right to Fair Trial

According to Article 10 of the Universal Declaration of Human Rights:

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

The existence of an independent bar is also critical to the right to a fair trial and the protection of human rights. The classification of lawyers as government paid 'state legal workers' was abolished under the 1996 Lawyers' Law in 1996. They are now described as "personnel ...who are providing legal services for the public." Legal services are not uniformly made

available to the public in China, and Tibetan political defendants in particular have had great difficulty in attaining legal representation. Financial difficulty and the reluctance of lawyers are the two major contributing factors. Authorities have retaliated in the past against lawyers representing such defendants.

Amnesty International, in its 1998 report stated that "[p]olitical trials continued to fall far short of international standards, with verdicts and sentences decided by the authorities before the trial, and appeal hearings usually a mere formality."

These conditions within the Chinese legal system deny political prisoners their fundamental right to a fair trial.

The case of Chadrel Rinpoche, the abbot of Tashi Lhunpo Monastery and head of China's Search Committee for the reincarnation of the 11th Panchen Lama, is a prime example of the denial of the right to fair trial. He was charged with "plotting to split the country" and for "leaking state secrets" and was sentenced to six years imprisonment. He was denied legal representation and his trial was closed to the public on account of alleged "state secrets." Details of the trial were never released.

Cases of Unsuccessful Appeals

Despite some amendments to the trial process, the appeal system seems to have undergone minimal modifications. The revised law specifies the obligation of the lower level court to organise a new tribunal for the hearing of any new trial at the request of the defendant.

"... none of these changes address the fundamental problem in the appellate process in China: the reluctance of defendants to appeal. Chinese researchers have documented the steady decline in appeal rates since the CPL first became effective [in 1979]." The appeal rate was reported to be just above 10 per cent by 1994 which indicates a significant handicap in the system. The reluctance of defendants to appeal is due to the fact that appeals are generally unsuccessful or the higher courts merely approve the decision of the original trial without reviewing the case. Another significant hindrance in the appeal process is the fact that those who do appeal may face a graver verdict.

- Jampel Monlam, a former political prisoner who served five years in Drapchi prison from 1989 to 1994 reaffirmed that of all the political prisoners about 10 per cent of them try to appeal. He claimed that defendants were reluctant to appeal due to the futility of the appeal system and the risk of a harsher sentence.
- Ngawang Choephel, the 32 year-old Tibetan musician sentenced to 18 years imprisonment and four years subsequent deprivation of political rights was transferred to "TAR" Prison No. 2, formerly known as Powo Tramo Labour Camp. Ngawang, who was detained in Nyari Detention Centre since August 1995 is reported to have appealed to the Higher People's Court in Lhasa on various occasions but his appeals were consistently rejected.
- Rinzin Choenyi, a former Shugseb nun, was arrested on September 22, 1989 for taking part in a demonstration. She was sentenced to seven years by the People's Intermediate Court on October 5, 1989 for "counter-revolutionary" activities. She was told that if she felt her sentence was too heavy she could appeal for a retrial within a period of ten days. After three days she appealed

to the Higher People's Court for a retrial under article 102 (36) of the CPL which states:

- "Whoever for the purpose of counterrevolution commits any of the following acts is to be sentenced to life imprisonment, criminal detention, control or deprivation of political rights; ringleaders or others whose crimes are monstrous are to be sentenced to not more than five years of fixed-term imprisonment:
- Inciting the masses to resist or to sabotage the implementation of the state's laws or decrees; and
- Through counterrevolutionary slogans, leaflets or other means, propagandising for and inciting the overthrow of the political power of the dictatorship of the proletariat and the socialist system."

She was notified on November 10, 1989 that the verdict of the Intermediate Court was to be held as the final decision. After seven days she was transferred to Drapchi Prison where she completed her prison term.

- Rinzin Wangyal (also Rinwang) is a 52 year-old from Lhasa. He was first arrested in 1966 or 1967 for allegedly organising an underground movement and served between 15 and 17 years in prison. He was re-arrested in 1995 on suspicion of planning to disrupt "TAR" anniversary celebrations for which he was sentenced to a 16-year prison term. In October 1997, while still in detention, his sentence was increased to life. The extension order came from the People's Intermediate Court. Before he could initiate an appeal to the Peoples' High Court, Rinzin received instructions stating that the decision made by the Intermediate Court has been approved and finalised, thus negating any appeal process.

Pre-Trial Detention

The revised CPL eliminated five different forms of pre-trial detention. This revision anticipated the elimination of the practice of a sixth form of pre-trial detention known as "shelter and investigation" (Chinese: shourong shencha). This is a form of administrative detainment where prisoners serve their term under "re-education-through-labour." "Shelter and investigation" is not included in the CPL and is therefore absent from the 1996 amendments. Cases received in 1998 confirm the continuation of this form of administrative incarceration.

Decisions regarding this form of detention are mostly determined by police and local government committees, independent of judicial proceedings. Not only are citizens who are subject to such proceedings denied the right to a judicial determination of their sentence, they are denied the right to a hearing or to counsel.

The maximum specified period of "shelter and investigation" of three months is also frequently breached. There are reports of suspects being held for up to three years prior to trial. "These widespread abuses stemmed from the fact that, as an administrative measure, 'shelter and investigation' was subject to virtually no outside checks. Unlike a formal arrest under the CPL, this procedure required no prior approval from the procuratorate."

In its report from its field mission to Tibet and China in October 1997, the Working Group on Arbitrary Detention "denounced the absence of a judge or independent tribunal when a detainee was sentenced by committees to re-education through labour." During the 54th UN Commission on Human Rights in March and April 1998, the Working Group again expressed concern about the continuation of these measures.

Ngawang Beyjey is 35 years old from Gurum township in Toelung Dechen County. He is a former monk of Drepung Monastery. In September 10, 1997 when Drepung Monastery was being whitewashed, Ngawang reportedly tore down the Chinese flag that was hoisted on the rooftop of the monastery and stamped on it. He was immediately arrested and was detained for four months in the police station situated on the western side of Lhasa. In February 1998, he was transferred to Gutsa Detention Centre. His sentence has not yet been passed but he is still incarcerated.

CONCLUSION

The legal system in the People's Republic of China is failing to protect the rights of Tibetan citizens. Arbitrary arrests continued unabated in 1998, violating the Tibetans' fundamental right to liberty of person and to freedom of thought, conscience and religion. Pre-trial detention procedures also continued and detainees were denied many fundamental legal rights including the right to fair trial, to legal representation and to appeal. It is the responsibility of the Chinese government to ensure that all people are protected from such unjust procedures.

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Political Prisoners and Prisoners of Conscience

Political prisoners and prisoners of conscience are those detained on account of their religious, political and ethnic views. As of December 1998, 1083 known Tibetans remain incarcerated on these grounds. Of these, 246 are women and 12 are juveniles. An additional 93 prisoners, now of adult age, were juvenile at the time of arrest and remain in custody. There are currently 61 political prisoners known to be serving sentences of ten years or more.

These prisoners, arrested for simply exercising their rights, lose many other rights once imprisoned. They are often subjected to physical and mental torture and held in incommunicado detention in prisons whose standards fall well below international guidelines.

Various international campaigns have been launched in 1998 by non-government organisations urging the Chinese government to release political prisoners and prisoners of conscience. Campaigns have been undertaken on behalf of Tanak Jigme Sangpo (72), longest serving Tibetan political prisoner; Gedhun Choekyi Nyima (9), the 11th Panchen Lama as recognised by the Dalai Lama; Ngawang Sangdrol (22), longest serving female political prisoner; and other long-term prisoners of conscience: Ngawang Sungrab (27), Ngawang Jungney (28), Gyaltsen Choephel (27), Lodroe Gyatso (39), and Phuntsok Nyidron (30).

Despite strong international pressure, the Chinese government is yet to accede to these requests and has shown no relaxation in their policies.

New Political Prisoners Placed in Detention in 1998

Ama Lhundrup Wangmo, originally from Phenpo Lhundrup County, was arrested by the Lhasa Public Security Bureau (PSB) on August 20, 1998 after raiding her house. Her whereabouts since her arrest are not known. She had visited India twice and was also involved in visiting the political prisoners. She was previously arrested twice by PSB officials, once in 1987 and again in 1993.

Gyalchoe, a monk from Padha Monastery in Pashoe County was arrested when he refused to attend "re-education" sessions in January 1998. The "work-team" officials found a Tibetan National Flag and was arrested and taken to Pashoe County Prison. His sentence is unknown.

Jamyang Tsultim a 29 year-old from Hualong County, Tsoshar (Chinese Haidong), "TAP", Qinghai Province was re-arrested on May 30, 1998. He was previously arrested once in 1995 and twice in 1996 on suspicion of involvement in subversive political activities. The reason for his arrest in 1998 is not known. He was held for more than a month in various detention centres before being released on bail of 10,000 yuan (US\$ 1250).

Jampa Tenzin and Ngawang Tsultrim are both monks of Rongpo Rabten Monastery in Sog County in Nagchu Region. They were arrested by the "work team" officials on February 26, 1998. Jampa opposed the "re-education" policy. Ngawang had earlier distributed audio and printed copies of speeches of the Dalai Lama. His room was ransacked and some documents advocating independence of Tibet were found. Jampa and Ngawang were both taken to Sog County Prison on August 5, 1998. Their sentence was announced in the monastery on September 23, 1998. Jampa was sentenced to two years and Ngawang Tsultrim was sentenced to one year. According to an unofficial source they are being held in Toelung County Prison.

Lobsang Sherab (33), Lopel (25), Palkho (25), Tingzin (34), Tenzin (25) and Palden (29) are monks from Kirti Monastery in Ngaba County. They were arrested in November 1998 for pasting independence posters inside the monastery and arguing with the "work team" members. The details of their conditions are not known.

Ngawang Kyonmey was arrested on the September 18, 1998 in connection with preparing letters to be handed over to Mary Robinson, the UN High Commissioner for Human Rights, while she was in Tibet. The police found 100 small pictures of the Dalai Lama, one Tibetan National Flag and some speeches of the Dalai Lama recorded on audio cassettes in his house. It is reported that he was sent to Gutsa Detention Centre but at present his whereabouts are not known.

Ngawang Tenrab, a monk from Drepung Monastery was re-arrested in May 1998 along with Samdrup, also a monk of the same monastery. He was released after a month's detention. He was first arrested in 1989 while taking part in a demonstration.

Norsang, Chupar, Phagchog, Tsundue Tharchin and Gyaltsen Choephel were arrested in March 1998 from Karchung Retreat in Nagchu Region. Norsang was arrested on charges of helping his teacher Drupa Tharchin flee Tibet. He was sentenced to three years imprisonment and taken to Drapchi Prison. Gyaltsen Choephel and Phagchug were released after seven days of detention. The whereabouts of Chupar, Tsundue Tharchin and Gyaltsen are not known.

Samdrup, a 28 year-old former monk of Drepung Monastery is from Phenpo County. He was first arrested for his participation in a peaceful demonstration on May 13, 1992 with a group

of 12 other monks from the same monastery. In September 1992 their sentences were passed by the Intermediate People's Court, ranging from two to eight years. Samdrup was sentenced to two years and moved to Drapchi prison. In May 1998 he was re-arrested on suspicion of political activities. He is currently held in Seitru Detention Centre. So far his sentence has not been passed and his visitation rights have been denied.

Sonam Wangdu, a 33 year-old was arrested in June 1998 when he was crossing the Tibet-Nepal border. He was detained overnight in a Nepalese police station and was not given any food, instead he was beaten. The next day he was handed over to the Chinese Police. From there he was detained in Shigatse Detention Centre for five days. He managed to escape the Detention Centre but was re-arrested when attempting to cross the border again with a group of 56 people.

Tenpa Rabgyal, a 27 year-old monk from Tashi-Ge Kun-Phel Monastery, was arrested in mid-March 1998 by the local Public Security Bureau. He was arrested for giving prayer notes reading "Long Live His Holiness the Dalai Lama" to a friend. He was detained for six months and released in September 1998.

Tenzin Lobsang (25), Gyaltzen Tsultrim (18), Tenzin Tsultrim (17) and Gendhun Tharchin (25) are all monks from Rongpo Rabten Monastery. In December 1997 they had written freedom slogans on the back of the township office's vehicle. In February 1998 the PSB announced the arrival of the "work team" to the monastery. Fearing arrest, they planned to flee on February 12, 1998. Their plan to escape was reported to the County PSB. The four monks were caught on their way to Gyamo Ngulchu (name of river in Sog County) and were detained in Sog County Prison before taken to Nagchu Region Detention Centre. The details of their sentence were announced by the "work team" on September 23, 1998 in the monastery. At present they are being held in Sog County Prison.

Wotse, a 30 year-old businessman from Ngaba County in Sichuan Province was arrested from his residence on the suspicion of subversive political activity in October 1998. At present he is detained in Ngaba County Prison.

Cases of Long Serving Political Prisoners Still in Detention

Tanak Jigme Sangpo is a 72 year-old former primary school teacher in Lhasa. He is the longest serving political prisoner in Tibet. By the time he is released, in 2011, at the age of 85, Tanak Jigme Sangpo will have spent 28 unbroken years in prison with a cumulative total of 44 years. He was first arrested in 1960 on the charges of "corrupting the minds of children with reactionary ideas" In 1964 he was sentenced to three years imprisonment in Sangyip prison after opposing Chinese repression of Tibetans, and was then sent to "reform-through-labour" Camp in Lhasa. In 1970 he was sentenced to ten years hard labour in Sangyip prison on charges of inciting his niece to escape to India in order to report Chinese atrocities to the Dalai Lama. He was released in 1979 from the prison and transferred to "reform-through-labour" Unit 1 in Nyethang, 60 km west of Lhasa.

In November 1983, at the aged 57, Tanak Jigme Sangpo was sentenced to 15 years imprisonment for "counter-revolutionary propaganda and incitement." He was arrested for pasting a poster in protest of Chinese rule on the gate of Tsuglakhang Temple in Lhasa, and for wearing a white banner over his body to symbolise the ultimate realisation of Tibetan people's freedom and independence. In 1988 Tanak received an additional five-year prison

sentence for shouting pro-independence slogans in jail. In December 1991 he was reported to have been beaten for shouting slogans during a visit to Drapchi Prison by Swiss government officials and to have been subsequently held in solitary confinement for at least six weeks. His sentence was again increased, this time by a further eight years. He remains in Drapchi Prison. Tanak Jigme Sangpo had spent at least 13 years in prison for similar offences before 1980. There are concerns for his safety because he might have taken part in the May Drapchi incident. At present he is suffering from hypertension. Amnesty International has launched an urgent appeal for his release.

Ngawang Choephel, a 32 year-old Tibetan musician, was reported missing in August 1995, a month after he travelled to Tibet from India to research traditional Tibetan music. After more than a year, the Chinese government admitted to his detention. He was subsequently sentenced on December 26, 1996 to 18 years imprisonment and four years subsequent deprivation of political rights, on charges of "spying" for the Tibetan government-in-exile. In November 1998 it was reported that Choephel was transferred to the remote and high security Powo Tramo Prison in Tramo County.

Sonam Dekyi, Ngawang Choephel's mother, has been campaigning for her son's release since his arrest, and also for the right to visit him in prison. The Chinese government is yet to respond to her humanitarian appeals.

Ngawang Sangdrol (commonly known as Rigchog) from Garu Nunnery, is the longest serving female political prisoner in Tibet serving a total of 18 years sentence. She was born in 1977 in Lhasa. Ngawang was first arrested in 1987 when she was just ten years old for participating in a demonstration and was detained for 15 days. On August 28, 1990 at the age of 13, she participated in demonstration along with other nuns in Norbulingkha. She was considered too young to be tried but was detained without charge for nine months and forbidden to rejoin her nunnery after her release.

On June 17, 1992 Ngawang was again arrested for attempting to stage a demonstration in Lhasa along with other Garu nuns and some monks from Gaden Monastery. This time she was sentenced to three years imprisonment "for subversive and separatist activities." While in Drapchi Prison, Ngawang was involved in the recording of independence songs and poems on a tape recorder and her sentence was extended by six years in October 8, 1993 for "spreading counterrevolutionary propaganda."

In March 1996, Ngawang protested against the "re-education" campaign regarding the Panchen Lama reincarnation. Her sentence was extended by a further nine years in July 1996, bringing her total current sentence to 18 years. At present she is the longest serving known female political prisoner in Tibet. Tibet Information Network acknowledges her participation in the Drapchi protests. According to reliable source, she is being kept in solitary confinement in Drapchi Prison and subjected to harsh interrogation involving ill treatment and beatings. An urgent action appeal was launched in 1998 by Amnesty International and the Body Shop for her immediate release. Her father Namgyal Tashi aged 67 years old is currently serving an eight-year prison term for distributing Tibetan National Flag and leaflets.

Lobsang Tenzin, a 32 year-old former student of Tibet University, was arrested on March 19, 1988 and accused of being involved in the death of a People's Armed Police officer during the demonstrations on March 5. Lobsang was sentenced to life imprisonment but this has

since been reduced to 18 years. Since his incarceration in 1988 he has been granted only four visits, all of which took place before 1990. He is currently detained in Powo Tramo Prison.

Lodroe Gyatso, aged 39 years, was a dance artist and three times weight lifting champion in Sog County, Nagchu Region, "TAR." In April 1994 Lodroe was sentenced to 15 years after a fight between himself and a Tibetan known to be pro-Chinese which resulted in the other man's death. While in prison, Lodroe staged a one-man demonstration calling for Tibet's independence and distributing pamphlets and posters. He was taken to a torture cell where he was kicked and beaten when he refused to confess. News of the execution order against Lodroe was smuggled out by other prisoners and consequently, the UN Special Rapporteur on Extrajudicial Summary or Arbitrary Executions made a special appeal to China on May 18, 1995. The Chinese response was that no execution sentence has been passed rather that Lodroe's sentence was extended to an additional six years from May 3, 1995 and stripped of his political rights for three years bringing his total sentence to 21 years. Amnesty International has launched an urgent action appeal for his immediate release on July 28, 1998.

Ngawang Phulchung, a monk aged 38 or 39 from Drepung Monastery, was sentenced at a public rally on November 30, 1989 to 19 years imprisonment. He was accused of forming a "counter-revolutionary group" which had clandestinely produced political leaflets from Drepung Monastery. Ngawang Phulchung was arrested in April 1989 along with three other Drepung monks. Among the "reactionary literature" published by the group was a complete Tibetan translation of the United Nations Universal Declaration of Human Rights. On March 30, 1991 he was severely beaten and placed in solitary confinement for trying to hand over a petition regarding prison conditions to an American delegation visiting Drapchi Prison.

Rinzin Wangyal (alias Rinwang) is a 57 year-old former cement factory worker. He was first arrested in 1966 or 1967 for allegedly organising an underground movement. He was imprisoned in Drapchi Prison where he was regularly tortured and interrogated by the prison authorities. He was released from Drapchi in 1982 or 1983. Rinzin was re-arrested in August 1995, suspected of being involved in a movement aimed at disrupting anniversary celebrations of the founding of "Tibet Autonomous Region," which was to be held on September 1, 1995. Rinzin was reportedly sentenced on December 13, 1996 to 16 years imprisonment.

According to reports received in October 1997, Rinzin's imprisonment has been extended to life imprisonment by order of the Intermediate People's Court. The reason for the extension of his imprisonment is not known. He is currently being held in Drapchi Prison. His wife Sonam, who is critically ill, has made repeated appeals to see her husband in prison fearing that she may die before seeing him. Her pleas have been ignored.

Bhagdro, Jampa Tenkyong and Po Lhoy, from Gaden Monastery were arrested on May 7, 1996 during the demonstration in their monastery. They have been sentenced to 15 years imprisonment for participating in the demonstration.

Chime Dorjee, a 31 year-old monk of Serwa Monastery, was arrested on March 29, 1994. He was sentenced to 16 years imprisonment with deprivation of political rights for a further five years.

Dramdul a 28 year-old ex-soldier from Lhasa Town 2, was arrested on March 12, 1989 and sentenced to 16 years. He is presently in Drapchi Prison.

Gyaltzen Choephel, a 27 year-old Drepung Monk, was arrested for participating in a demonstration. He was reportedly tortured severely by prison officials during the first days of his arrest. One source reported that he is currently being held in "TAR" Military Hospital. He was serving a sentence of 15 years for his involvement in the demonstration on March 5, 1988 and alleged involvement in the death of a policeman. Amnesty International launched an urgent action appeal in 1998 for his immediate release.

Gyaltzen Dolkar (lay name: Dawa) is a 28 year-old nun from Garu Nunnery. She was arrested on August 21, 1990 for calling slogans of "Free Tibet" and "Chinese Quit Tibet" during the opera festival in Norbulingka Palace, Lhasa, along with 12 other nuns from the same nunnery. Gyaltzen was sentenced to four years imprisonment with one year's deprivation of political rights. While serving her sentence, she and 13 other nuns recorded pro-independence songs and messages to their families on a tape recorder smuggled into Drapchi Prison. As a result she was charged with "spreading counter-revolutionary propaganda" and was sentenced to an additional eight years. Gyaltzen Dolker is presently serving a total of 12 years imprisonment in Drapchi prison.

Jampa Tashi, a 27 year-old Serwa monk from Gyabdo village, was arrested on March 29, 1994. He was sentenced to 12 years imprisonment with deprivation of political rights for a further four years.

Jampel Jangchub a 37 year-old monk from Drepung Monastery, was arrested on April 16, 1989 and was tried at a mass public meeting in Lhasa on November 30, 1989. He was charged with "counter-revolutionary" advocacy of Tibetan independence, and was sentenced to 19 years imprisonment with five years deprivation of political rights. He is presently detained in Drapchi Prison.

Jampel Lobsang (also known as Jampel Losel), aged 32 from Taktse County, Lhasa City, was arrested in March 1989 and sentenced to 10 years with three years subsequent deprivation of political rights.

Jigme Gyatso aged 30s, was a businessman and also a former monk of Labdrang Monastery in Kainlho "TAP," Gansu Province. Jigme was arrested in 1987 for political reasons and sentenced to life imprisonment in 1988. He is presently held in Drapchi Prison.

Jigme Yangchen aged 29 years from Lhoka Prefecture, was a nun at Shugseb Nunnery. At present she is serving a 12-year prison term in Drapchi Prison. She was first arrested for participating with 14 other Shugseb nuns in a pro-independence demonstration in the Barkhor on August 28, 1990 and was sentenced to seven years. Jigme was also involved in the recording of songs and poems on a tape recorder smuggled into Drapchi Prison. As a result, her sentence was extended by a further five years on October 8, 1993 bringing her prison term to a current total of 12 years.

Kunchok Dhondup, Kyi Truk Pa, Lobsang Dawa, Passang Tsegyay, Penpa and Yonten Gyalpo, all from Gaden Monastery were sentenced to 12 years imprisonment. They were imprisoned for participating demonstration in Gaden Monastery in May 1996.

Kunchok Lodroe, a 28 year-old farmer from Dashar village under Meldro Gongkar County, Lhasa City, was arrested on June 30, 1992 and sentenced on October 20, 1992, to 13 years

imprisonment with four years deprivation of political rights. He is presently serving his term in Drapchi Prison.

Lhundrup Dorjee, a 28 year-old farmer from Meldro Gongkar County, Lhasa City, was arrested on June 30, 1992. He was sentenced on October 20, 1992 to 15 years imprisonment with four years deprivation of political rights. The reason for his arrest is not known.

Lobsang Gelek is a 27 year-old Sera monk from Lhatse in Shigatse Prefecture. He was arrested on November 17, 1989 and sentenced in 1990 to 12 years prison. He is presently in Drapchi Prison.

Lobsang Palden (lay name: Gyalthar or Gyaltzen Tharchin), aged 37 from Chamdo Pashoe County, Chamdo Region, "TAR," was sentenced to 10 years in 1991 on charges of "reactionary behaviour." He is presently serving his term in Powo Tramo Prison in Nyingtri Region.

Lobsang Palden, a 27 year-old monk from Serwa village, Chamdo Region, "TAR" was arrested on March 29, 1994. He was sentenced to 12 years imprisonment with deprivation of political rights for a further four years.

Lobsang Tseggyal (lay name Lobsang Dhargye), is a 31 year-old monk of Serwa Monastery, Chamdo Region "TAR". He was arrested on March 29, 1994 and sentenced to 16 years imprisonment with deprivation of political rights for a further five years.

Lobsang Wangchuk, Tsering Bhagdrol and Ta Sang, all from Gaden Monastery, were arrested in connection with the Gaden demonstration of May 1996. They were arrested on May 7, 1996 and they have all been sentenced to 10 years.

Loye, a monk at the Potala Palace, was sentenced in December 1989 to 15 years imprisonment and five years deprivation of political rights for alleged involvement in "espionage" and "counter-revolutionary" propaganda. He was accused of having collected intelligence "from the enemy abroad."

Namdrol Lhamo, a 31 year-old nun of Chubsang Nunnery, was arrested on May 12, 1992 and sentenced to 12 years. She is presently in Drapchi Prison.

Ngawang Sungrab, a 27 year-old Drepung monk from Phenpo, is serving 10 years for his participation in a demonstration in 1989. He participated in the Drapchi protest in May 1998 and was seriously beaten following the incident, requiring hospitalisation. An urgent action appeal for his release was launched by Amnesty International in 1998.

Ngawang Jamtsul (lay name: Loyak), a 39 year-old former caretaker-monk at the Potala Palace, Lhasa, was arrested on March 10, 1989. He was sentenced at a mass rally on December 6, 1989, to 15 years imprisonment with five years deprivation of political rights. He is presently in Drapchi Prison.

Ngawang Choephel, a 34 year-old monk, from Ghemo Monastery in Lithang County in Karze "TAP," was arrested on August 20, 1993 and sentenced in 1996 to 10 years. Unconfirmed reports say he is detained in Lithang County Prison in Karze "TAP".

Ngawang Choezom is a 26 year-old nun from Chubsang Nunnery. She was arrested on March 21, 1992 and sentenced to 11 years and is presently in Drapchi Prison. She participated in the May Drapchi incident and following that she has been held in solitary confinement and subjected to harsh interrogation. Amnesty International has launched an appeal for her immediate release.

Ngawang Gyaltsen (lay name: Nga-Gyan) is a 40 year-old Drepung Monastery monk originally from Toelung Dechen County, Lhasa City. He was arrested on April 16, 1989 and sentenced to 17 years with five years subsequent deprivation of political rights. Ngawang Gyaltsen is presently serving his sentence in Drapchi Prison.

Ngawang Lochoe is a 27 year-old nun from Nyengoen Nunnery who was arrested on May 4, 1992 and sentenced to 10 years. She is currently in Drapchi Prison.

Ngawang Pekar, a 36 year-old monk from Drepung Monastery, was halfway through an eight year sentence when his prison term was extended by six years on March 31, 1996. In August 1995, while in Drapchi Prison, Ngawang Pekar was caught trying to smuggle out a list of political prisoners and a document describing human rights violations. Ngawang Pekar, who was first arrested on July 12, 1989 for putting up independence posters and participating in a demonstration, is now serving a total of 14 years in prison.

Ngawang Tensang, a 29 year-old monk from Drepung Monastery, Lhasa, was arrested on September 14, 1991 and sentenced to 10 years. He is presently in Drapchi Prison.

Ngawang Tsamdrol, a 25 year-old nun from Nyengon Nunnery, was arrested on May 14, 1992 and sentenced to 13 years. She is presently in Drapchi Prison.

Ngawang Woesser (lay name: Jamyang), aged 26 from Lhokha Dranang, was arrested on 16 April 1989 and sentenced to 17 years imprisonment with five years deprivation of political rights. He was accused of being the "main culprit" in organising a "counter-revolutionary clique" and spreading propaganda.

Ngodrup (also known as Ngodrup Phuntsog and Ngophun) is a 40 year-old former member of the Chinese People's Political Consultative Conference (CPPCC) from Lhasa. He was arrested in March 1989 and sentenced to 11 years with four years subsequent deprivation of political rights.

Pasang, a 20 year-old monk from Jang Ta-Lung Monastery, was arrested with three other monks from the same monastery. They were detained for five or six months in Gutsa Detention Centre where they were tortured by having cold water thrown on them in winter and shocked with electric batons. They were then transferred to Drapchi Prison after their sentences were passed. Except for Pasang who was sentenced to 11 years, the others' sentences are unknown. They are currently being held in Drapchi.

Pema Tsering, a 27 year-old Serwa monk from Pashoe County, Chamdo Region, was arrested on March 29, 1994. He was sentenced to 16 years imprisonment with deprivation of political rights for a further five years.

Phuntsok Nyidron is a 30 year-old nun from Michungri Nunnery. She is currently held in Drapchi prison and serving a sentence of 17 years. She was first arrested on October 14, 1989

for leading a demonstration in Lhasa's Barkhor area calling an end to Chinese occupation in Tibet. In an article published in the Tibet Daily, Phuntsok Nyidron was described as "the ringleader". She was taken to a court and given a sentence of nine years. Phuntsok Nyidron was also involved in the recording of songs and poems whilst imprisoned. Her sentence was extended by eight years. Phuntsok Nyidron was named as a recipient of the Reebok Human Rights Award for the year 1995.

Rinzin Choekyi is a 26 year-old nun of Shugseb Nunnery. She was arrested on August 28, 1990, and sentenced to 12 years. She is detained in Drapchi Prison.

Sholpa Dawa, a 58 year-old tailor in Lhasa, was sentenced to nine years imprisonment in October or November 1996, after almost 14 months of detention without charge. He had been arrested in Lhasa in early August 1995 for engaging in "political activities." Sholpa Dawa was first arrested on September 29, 1981 and was sentenced to two years' imprisonment and one year deprivation of political rights for allegedly distributing pamphlets on the independence of Tibet. He spent six months in Gutsa Detention Centre and one and a half years in Sangyip Prison. On November 8, 1985 he was arrested for the second time for distributing pamphlets about the deteriorating living conditions for Tibetans and was sentenced to four years in Sangyip Prison and one year deprivation of political rights. By the time he is released, Sholpa Dawa will have spent a total of 16 years in prison for expressing his views.

Sonam Dhondup, aged 25 years, comes from Phenpo Khatse in Phenpo Lhundrup County. Sonam was a monk in Nalenda Monastery and was arrested when a booklet on Tibet and a Tibetan National Flag were found in his room. At present he is serving a 12-year sentence in Gutsa Detention Centre.

Sonam Rinchen is a 28 year-old farmer from Dashar village in Meldro Gongkar County, Lhasa City. He was arrested on June 30, 1992 and sentenced on October 20, 1992 to 13 years with four years subsequent deprivation of political rights and is presently in Drapchi Prison.

Tendar Phuntsog a 67 year-old caretaker-monk from the Potala Palace, Lhasa, was arrested on March 8, 1989 and sentenced to 10 years. He is presently in Drapchi Prison.

Tenpa Wangdrak (lay name: Sonam), a 53 year-old former monk of Gaden Monastery, was sentenced to 14 years imprisonment in 1991 for attempting, while in Drapchi prison, to hand over a petition regarding prison conditions to James Lilley, then U.S. Ambassador to China. Tenpa Wangdrak had been arrested on March 7, 1988 for participating in a demonstration. On April 28, 1991 he was moved to the labour camp in Powo Tramo County in Nyintri Region and was held in Dhamchu, a unit within the prison complex.

Tenzin Thupten (lay name: Dawa Yangchen), aged 28, is from Meldro Gongkar in Lhasa City. Tenzin, a nun from Michungri Nunnery, was arrested for participating in a short demonstration during the Shoton festival (Tibetan opera festival) along with eight nuns from Michungri Nunnery and five from Garu Nunnery. Tenzin was taken to Gutsa Detention Centre and sentenced to five years by the Lhasa City People's Intermediate Court before being transferred to Drapchi Prison. She had also participated in the recording of songs and poems on a smuggled tape. Her sentence was increased by nine years making her total sentence 14 years.

Tsering Ngodrup 57 years old was sentenced to 12 years imprisonment on accusations of being a spy for the Dalai Lama and making "counter-revolutionary" propaganda.

Tsering Phuntsog is a 31 year-old monk from Palkor Choede Monastery. He was arrested in August 1990 and sentenced to 13 years and is presently in Drapchi Prison.

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Torture in Detention Centres and Prisons

Since the People's Republic of China (PRC) became a State Party to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) in 1988, it has been under a legal obligation to outlaw torture in Tibet. Yet a decade after the ratification of the Convention, testimonies from former Tibetan political prisoners show that torture is still prevalent in Tibet. The majority of the political prisoners currently in detainment have undergone torture at some stage of their detention.

In 1998 TCHRD received 19 accounts of death resulting from torture while in detainment in Tibet. Eleven of the deaths occurred after the demonstrations in Drapchi Prison on May 1 and 4, 1998 when prison guards opened fire on the protesting prisoners.

To date, TCHRD has a record of 60 Tibetan deaths from torture while in detention since 1986. This figure is based on confirmed reports from Tibetan refugees and information obtained from Tibet. The actual figure is believed to be higher.

International Law

Article 1 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment defines torture as:

... any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing ... or intimidating or coercing ... or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or the person acting in an official capacity.

On October 4, 1988 the People's Republic of China became legally bound to CAT when it ratified the Convention. Article 2 of the Convention stipulates that States Parties must:

... take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

China must also ensure that torture is an offence under its own domestic law. However, ten years after the signing of the Convention, the Committee Against Torture found China to be in breach of the Convention, stating that China had failed to introduce any domestic laws in compliance with their international obligations.

China's Criminal Procedure Law

The Criminal Procedure Law of China (CPL) which was first promulgated in 1979 and amended in March 1996, is the PRC's main statute containing provisions regarding the outlaw of torture.

Article 43 of the revised CPL states under "evidence gathering" that:

The use of torture to coerce statements and the gathering of evidence by threats, enticement, deceit or other unlawful methods are strictly prohibited.

The Lawyers Committee for Human Rights, an international body which analysed China's revised CPL acknowledged that there is "a clear failure to bring China into compliance with the Torture Convention and make the exclusion of illegally-gathered evidence a basic principle of the Chinese criminal process."

Personal accounts of political prisoners confirm that prison officials continue to torture until confession is obtained or until a sentence is passed. "Leniency for those who confess and severity for those who resist" is a standard procedure of the PRC while interrogating a prisoner.

Article 18 under Chapter II of the revised CPL states that:

Cases involving ... [the] violation of the personal and democratic rights of citizens committed by power-abusing state organ functionaries, such as illegal detention, the act of extorting a confession by torture, retaliation and framing and illegal searches, are to be filed for investigation by the people's procuratorates.

The Chinese government evades this obligation by filing statistics and information on cases of torture in a "Highly Secret" category, and "evidence involving state secrets [is] kept secret." It is likely then that China does not reveal cases of torture to the Committee Against Torture which is its obligation as a State Party under the Convention.

Torture Resulting in Death

- Jampel Thinley, aged 28, a monk of Chamdo Monastery in the "TAR," was arrested around April 1997. He was charged with pasting "counter-revolutionary" posters on the outer wall of the monastery. He was reportedly tortured in detention and was only admitted to Chamdo People's Hospital when he was close to death. When a doctor said he was likely to die, he was denied any treatment. He was reportedly denied food and water for nine days when he was severely tortured. Four hours after being removed from the prison, he died. His body was returned to the monastery by authorities without any explanation for his death. At the sky burial monks saw that his body had turned red and blue both inside and out.
- Ngawang Dekyi, a 25 year-old nun of Poto Nunnery in Phenpo Lhundrup, was arrested in 1995 after participating in a demonstration in Lhasa. First detained in Gutsa Detention Centre, she was later sentenced to six years imprisonment at Drapchi Prison. Ngawang, was reportedly near death when she was taken to Lhasa "Regional Military Hospital" by prison authorities on January 5, 1998. She died on January 21, 1998 after being hospitalised for 16 days. A Tibetan source who visited Ngawang every month in prison reported that her weak condition was a result of beatings by prison guards.

The source said that Ngawang's body was kept at Drapchi Prison until January 23, 1998. During that time nobody, including her parents, was allowed to approach the body to carry out the customary Tibetan death rites. On January 23, 1998 the sky burial (a traditional Tibetan burial) was carried out near Sera Monastery and the source was called to be present, accompanied by a prison official. During the sky burial he was not allowed to go near the body but saw Ngawang's head had turned red and blue. He was later told by the topdhen (person who performs the burial) that "from the injury marks it looks like the deceased had received severe beatings and as a result blood had entered the circulatory veins of the brain, turning it red and blue. The red and blue colours on the shoulder blades also indicated beatings."

- Pasang was a monk arrested on December 8, 1994 for holding a short solo demonstration in the Barkhor area in Lhasa, criticising the Chinese regime and calling for independence. He was sentenced to five years in Drapchi Prison. Soon after being taken to Drapchi, Pasang required medical treatment after beatings. His condition was so serious that he was permitted to visit a hospital outside the grounds during the day, on the condition that he return to the prison every evening. Prevented from receiving continuous treatment, Pasang's health deteriorated. He died on December 17, 1997 in the "TAR" Chide (Public Welfare) Hospital. He was from Dechen Sangnak Monastery.
- Rinzin, a 61 year-old man, was imprisoned in August or September 1996 for possessing a photograph of the Dalai Lama on his altar. Photographs of the Dalai Lama were banned earlier that year by the Chinese government. After defying the Chinese officials who discovered the photograph, he was detained for one month in the town prison and refused visitation rights. Rinzin was sentenced to three years imprisonment, although a source said that no formal trial took place. He was transferred to Ngari Prison where he was reported as looking "very weak and [suffering from] malnutrition." He is believed to have been tortured in prison and to also have developed tuberculosis. A source stated that he was admitted to the prison hospital for a month and sent home when his condition became too serious. He survived only a month at home and was so sick that he could barely speak and was completely bedridden. He died on February 11 or 12, 1997. Rinzin was from Mugrum Trehte Township in Lhabrang County in Ngari Region.
- Yeshe Samten (also known as Tenzin Yeshe) was a 22 year-old former monk of Gaden Monastery. He was arrested on May 6, 1996 when a protest against Chinese "re-education" sessions was held in Gaden Monastery. He was initially detained in Gutsa Detention Centre and later sent to Trisam Prison in Toelung County. While in prison he was reported to have been tortured but received no medical care for his deteriorating health. Yeshe was released on May 6, 1998 at the end of his prison term. Still suffering from health problems, he died six days later. At his cremation, the person performing the funeral rites discovered that two of Yeshe's ribs were broken. Yeshe was originally from Tsangtog in Taktse Dechen County.

Drapchi Prison Deaths

The latest mass outbreak of violence by Chinese authorities occurred in Drapchi Prison in May 1998. Two demonstrations, staged within Drapchi Prison on May 1 and May 4, 1998 were quelled by People's Armed Police (PAP) and Public Security Bureau (PSB) officials who fired shots in the air and used bayonets, sticks, metal rods and electric cattle prods against the prisoners. Early information received indicated that PAP officers opened fire on

approximately 150 Tibetan political prisoners. Further reports said that 500 prisoners were present during the shooting.

Confirmed reports of deaths and injuries have been difficult to obtain since the incident. Chinese officials went to extreme lengths to cover up any leakage of the events; both staff and prisoners were transferred to control the information, and visitation rights were denied to political prisoners. For five months Chinese officials denied that any disturbance had occurred. On October 21, 1998 the Tibet Information Network (TIN) reported that officials had told a delegation from the European Democratic Union that guards had fired into the air although they continue to deny any deaths.

The following people are believed to have died as a result of the Chinese response to the Drapchi Prison demonstrations. The list is a combination of our own sources, supplemented by information from TIN.

- Karma Dawa (Kadar) was a non-political prisoner suspected of starting a demonstration on May 1, 1998. He and another prisoner began distributing pamphlets purporting to a “Free Tibet” among the crowd of prisoners gathered for a Chinese flag raising ceremony celebrating ‘International Labour Day.’ The ceremony was to be filmed to portray a positive image of Drapchi to a European Union Troika delegation that was due to visit the Prison. Reports received by TCHRD in September 1998 confirmed that Karma was shot and killed during the demonstration. Conflicting reports stated that he may have been executed after the demonstration. He was serving a 13-year sentence.
- Khedrub was 26 years old from Meldro Gongkar in Lhasa City. He was arrested on March 10, 1994 on suspicion of subversive political activities. He was serving a five year sentence in Drapchi Prison. After participating in one of the demonstrations (believed to have been the May 4 demonstration), he was transferred to Outridu Prison on June 30, 1998. He died there from beatings and torture. His body was handed over to the family although the date of his death is unknown. His relatives were told that he committed suicide.
- Lobsang Choephel (lay name: Thinley Phuntsok and referred to by TIN as Lobsang Gelek) was a monk who was shot and killed on May 4, 1998 after participating in the demonstration. He was serving a five-year sentence at Drapchi Prison after being arrested on April 15, 1995 for leading a pro-independence demonstration at the Barkhor in Lhasa, with five other monks from his monastery. The prison officials reportedly told Lobsang’s father that he had committed suicide. He was 24 years old, from Damshung County in Lhasa City, and formerly a monk at Khangmar Monastery.
- Ngawang Tenkyong (lay name: Lobsang Wangchuk) is believed to have died in May 1998 after the demonstrations, although reports received by TCHRD are currently unconfirmed. TIN reported that the cause of death was from severe beatings. He was arrested on May 7, 1996 after participating in a pro-independence demonstration. It is believed he was serving a 10 year sentence. He was 28 years old from Meldro Gongkar County and formerly a monk of Gaden Monastery in Lhasa.
- Ngawang Tensang (lay name: Penpa) was a 26 year-old monk arrested on September 14, 1991 after leading a demonstration in the Barkhor in Lhasa, holding a Tibetan national flag. He was sentenced to 10 years imprisonment and four years deprivation of political rights. After the demonstrations in Drapchi he was put in solitary confinement and individually interrogated about the demonstrations. He was tortured

during interrogation and it is believed he died in the interrogation cell. Formerly a monk of Drepung Monastery in Lhasa, Ngawang was from Toelung Dechen County, Sangmo township. His death is currently unconfirmed.

- Ngawang Tenzin (lay name: Norbu Phuntsok) was arrested on February 22, 1995 after participating in a demonstration at the Barkhor in Lhasa. His sentence is unknown. It is believed he died after the May 4 demonstration although an unconfirmed report from TIN states that Ngawang died on June 7, 1998. He was from Phenpo Lhundrup County and a monk of Taklung Monastery.

The six nuns listed below were confirmed dead on June 7, 1998 when their bodies were given to the families. It is reported that the nuns had been put in solitary confinement after demonstrating on May 4 at Drapchi Prison. Authorities said that the deaths were suicide but doubts have been raised due to their solitary confinement at the time of death. Reports received by TCHRD in September confirmed that the bodies of Tashi Lhamo, Ngawang Choekyi, Drugud Palmo and Kundon Yonten were given to the families on June 7, 1998 although the exact date of death remains unknown.

- Choekyi Wangmo was a 21 year-old nun from Shar Bumpa nunnery in Phenpo. The prison authorities allegedly claim that Choekyi hanged herself in prison. Her death has not been confirmed by TCHRD.
- Drugud Palmo (lay name: Dekyi Yangzom) was a 21 year-old nun from Nyemo County, 150 km west of Lhasa. She was arrested in 1994 or 1995 although her sentence is unknown. She was injured during the demonstration and is believed as is believed to have died of her injuries. Prison authorities claim that she had suffocated herself by stuffing a scarf in her mouth. She was formerly a nun at Nyemo Rangjung Choten Nunnery in Nyemo County.
- Kundon Yonten was also from Nyemo County. Her cause of death was also said to be from suffocation with a scarf.
- Lobsang Wangmo (possibly two nuns by the same name) was included among the deaths although this is currently unconfirmed. It is possible that there were two nuns by the same name. One was from Phenpo Nunnery and arrested on December 10, 1994. The other Lobsang Wangmo was from Doternenga Nunnery and arrested on February 15, 1995. Both are believed to have died after May 4 demonstration.
- Ngawang Choekyi was serving a five-year sentence for demonstrating in the Barkhor in June 1994. She died during the protests on May 1 or 4 but her body was not handed over to her parents until June 7, 1998. She was 26 years old from Phenpo Lhundrup County and formerly a nun of Shar Bumpa Nunnery.
- Tashi Lhamo (lay name: Youdon) was imprisoned in 1994 or 1995 on suspicion of subversive political activities. It is believed she was serving a six-year sentence. Confirmed reports say she was injured during the demonstration. She was from Nyemo County, 150 km west of Lhasa. Prison officials claimed she had suffocated herself by stuffing a scarf in her mouth.

TCHRD received reports in September 1998 that another nun whose name is unknown, died during one of the demonstrations. Her body was handed over to her family on June 7, 1998. She was from Phenpo Jhopo Nunnery in Phenpo Lhundrup County.

Suicide

Torture includes the affliction of mental pain or suffering. The psychological effects of extensive interrogations and harsh incarceration conditions have driven Tibetans accused of dissident activity to suicide. TCHRD received one report of suicide this year.

Jampa Choden, aged 21, was a monk from Chamdo Tawa Teng. He was badly beaten when Chinese officials interrogated him regarding his involvement with "splittists". Jampa was given "time to think" and was permitted to return to his home. Around June 1997 Jampa learned that he was to be arrested and committed suicide.

Torture and Ill Treatment of Prisoners

The following incidents of torture during detention were recorded and confirmed by TCHRD in 1998.

- Gyalchoe, a monk from Pa Dha Monastery in Pashoe County, was arrested in or after January 1998 and taken to Pashoe County Prison. He was beaten severely, his hands were chained and he was shocked with an electric cattle prod that was also inserted in his mouth. It is reported that Gyalchoe has become very weak and frail and is said to be struggling for his life in prison.
- Gyaltzen Choephel was arrested in March 1988 on suspicion of involvement in subversive political activity and sentenced to 15 years imprisonment in Drapchi. He was beaten for disagreeing with prison guards when they claimed that those who died after the Drapchi demonstrations had committed suicide. Last reports stated that he was seriously injured from the beatings. He is 30 years old and from Lhasa.
- Kunchok Tsomo, a 25 year-old nun from the town of Meldro Gyama, Lhasa City, was arrested in May 1993 for taking part in a peaceful demonstration in the Barkhor, Lhasa. During her arrest, she was hit with a rifle butt which broke the bone of her upper right arm. For her three year imprisonment at Drapchi Prison, Kunchok received no medical treatment for her arm, despite her requests. The injury was exacerbated as she was forced to clean and separate wool during her imprisonment. On her release in June 1996, Kunchok's relatives took her for hospital treatment. Her flesh had grown around and inside the broken bone. A relative said that her current condition is poor and she still requires medication.
- Kyaga, in his early thirties, was arrested in 1985 or 1986 for pasting a poster near Pompa Monastery and tearing down the Chinese office signboard. He was sentenced to 11 years imprisonment. He has now been released but suffers mental problems as a result of torture while in prison. Chinese officials also broke his ribs. Kyaga now resides in Pompa village.
- Lodroe Gyatso was sentenced to death for demonstrating while in Drapchi Prison in March 1995. After pressure from the international community, his death sentence was reduced to a six year extension on his 15 year sentence. Reports in June 1998 state that he was transferred to Powo Tramo Prison and is currently suffering psychological problems resulting from torture.
- Ngawang Choezom, also a nun in Drapchi Prison, is believed to have accompanied Ngawang Sangdrol in protesting after the May demonstrations. She has also been subjected to harsh interrogations, ill treatment and solitary confinement. There is current concern for her health as she is said to be in extremely poor physical condition.
- Ngawang Jungney is believed to be suffering from psychological problems after being tortured in prison. He is currently held at Powo Tramo Prison serving a nine year

sentence. He is 28 years old and was arrested on his return to Tibet after teaching Tibetan in Dharamsala, India, on grounds that he was a spy for the Tibetan government-in-exile.

- Ngawang Lasang was arrested in 1997 while returning to Tibet. He had previously been studying as a monk in Sera Monastery in India. He was kept for five days in a dark cell in an army camp in Dram, close to the Nepalese border in Tibet. For 12 days he was given no food. When guards found a photograph of the Dalai Lama on him, he was ordered to step on it. When he refused, he was beaten. He was then taken to Nyari Prison where he was held for six weeks. In Nyari Prison, prisoners are required to salute to the prison officers. When Ngawang failed to do so, an officer beat him so severely on the head with his rifle butt that Ngawang fell unconscious for half an hour. He was not hospitalised and he now suffers from memory loss. He has since been to Lhasa hospital where mental damage from the beating was confirmed.
- Ngawang Sangdrol, a nun, is said to be in a serious condition at Drapchi Prison after being punished for involvement in political protests within Drapchi. TIN reported that she continued to protest a month after the political demonstrations in May 1998 despite severe reprisals and is now in solitary confinement. She has already received two sentence extensions for political involvement. She is currently serving an 18-year prison sentence, the longest of any known female political prisoner in Tibet.
- Ngawang Sungrab (also known as Dawa Tsering) is 24 years old and formerly a monk of Drepung Monastery in Lhasa. He was arrested on September 27, 1991 with four monks from Drepung, protesting at the Barkhor in Lhasa. He was sentenced to 10 years imprisonment in Drapchi. Latest reports in September said that Sungrab was badly injured from bullet wounds during the Drapchi demonstration, either on May 1 or 4. He is from Phenpo Lhundrup County.
- Phuntsok Dorjee is formerly a monk from Phenpo Lhundrup County. During the May demonstrations, he was blinded from being hit by a bayonet. It is believed his condition is now permanent. Details of his sentence are not known.
- Phuntsok Thoesam, 28 years old and formerly a monk of Drepung Monastery, was arrested on June 1, 1993 during a demonstration in Lhasa. He is serving a seven-year sentence in Drapchi Prison and is believed to have been beaten for his involvement in the demonstrations at Drapchi. He is from Phenpo Lhundrup County.
- Tsundu, a 20 year-old student, was arrested with six other students on May 5, 1997. The students were arrested, handcuffed and had sacks tied over their heads. The sack was left in place for about two hours causing near suffocation. They were detained at the local police station and were beaten every night by police officers, during which they were tied up and their heads covered with sacks.

Conclusion

Despite all evidence, the People's Republic of China continues to deny that torture takes place in prisons in Tibet. Testimonies show that this abuse remains widespread and extreme. The Chinese government is yet to implement mechanisms to ensure compliance with the provisions of the Convention Against Torture despite ten years of ratification.

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Religious Persecution

China's relentless repression of religion in Tibet continued in 1998. The "Strike Hard" campaign, first introduced in 1996, was intensified this year. The accompanying "patriotic re-education" program, specifically targetting Tibetan Buddhism, was vehemently pursued in many religious institutions with drastic results. The program is designed to minimise dissent by controlling the religious practices of Tibetans and forcing them to forego any nationalistic sentiment. Tibetans are forced to denounce His Holiness the Dalai Lama and pledge their allegiance to the Chinese government. These suppressive measures are a grave violation of the people's right to freedom of expression, conscience and religion.

In 1998 TCHRD recorded the arrests of 327 monks, nuns and lay people although the majority of these arrests occurred in 1997. The expulsion of 7,156 monks and nuns on account of the "patriotic re-education" campaign in Tibet were also reported this year. This is a dramatic increase on last year's figure which confirms that there has been no relaxation in China's harsh measures. Since the inception of the campaign in 1996 there have been 9,977 expulsions and 492 arrests.

The "Strike Hard" campaign was officially extended into the lay sector at the end of 1997 and continued throughout 1998 although it had been unofficially implemented in some areas prior to this. Rural peasants were subjected to "re-education" as were students and teachers at the Tibetan Medical University in Lhasa. China appears to be intensifying its campaign to restrict the Tibetans' opportunities to live and develop their own culture.

International Law

Religious and cultural rights are internationally recognised human rights. The incorporation of these rights into international law is a recognition that the preservation of these values is of universal concern. The right to freedom of religion is upheld by the Universal Declaration of Human Rights.

Article 18 of the Universal Declaration of Human Rights (UDHR) clearly specifies that:

Everyone 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.

This right is similarly defined in Article 15 of the International Covenant on Civil and Political Rights (ICCPR). Freedom of religion is also protected as a right of minority groups under Article 27 of the ICCPR, which states:

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their culture, to profess and practice their own religion, or to use their own language.

In its 1998 White Paper on Human Rights in Tibet China states that:

The Chinese Constitution stipulates that freedom of religious belief is one of the fundamental rights of citizens. Chinese government respects and protects its citizens' right to freedom of religious belief.

China regularly claims that the Tibetan people enjoy religious freedom. Their law also stipulates that officials who deprive citizens of religious freedom are subject to up to two years imprisonment. However, till date no officials have been charged for this crime despite massive violation of religious freedom. On the contrary, the Chinese government itself maintains policies and programs to suppress religious freedom of the Tibetan people.

Official Campaign for Religious Persecution

In 1996 the Chinese government introduced the "Strike Hard" campaign with a general aim of reducing national crime and corruption rates. In Tibet, the focus of the campaign has been the "patriotic re-education" of the Tibetans, a project designed to eliminate dissent by suppressing any Tibetan nationalistic sentiment, particularly targeting religious institutions. Ad hoc government "work teams" are being sent to monasteries and nunneries to forcibly "re-educate" monks and nuns in their political and religious beliefs. Monks and nuns are encouraged to assume Chinese "socialist" ideals in preference to traditional Tibetan Buddhist teachings. Hundreds of religious people have been expelled or arrested for resisting this "re-education."

The deaths of 14 monks as a direct result of the "patriotic re-education" campaigns were reported in 1997. The causes of deaths were said to be severe pressure from the "work team" officials and torture in detention.

Intensive seasonal campaigns were reported in some parts of Tibet. On December 26, 1997 a comprehensive Winter "Strike Hard" campaign was launched in Nagchu Region. Spring, Summer and Winter programmes were implemented in Lhasa City and a Summer campaign was organised in Shigatse. There is no sign of a relaxation in this policy.

Officials of the Public Security Bureau were honoured for successfully carrying out the "Strike Hard" campaign in Tibet's various religious institutions. According to a "TAR" Radio Broadcast, an award ceremony was held on January 6, 1998 in the Haitang Hall, Lhasa where 71 out of 800 officials were awarded for their "exemplary service" in carrying out the campaign.

Arrests of Monks and Nuns

In 1998, 327 monks, nuns and lay people were reportedly arrested in connection with the "patriotic re-education" campaign. 55 cases of arrest were reported in 1997 and 110 in 1996, making a total of 492 arrests from the start of the campaign. The arrests were made for such activities as pasting wall posters in and around the monasteries, failing to comply with the principles laid down by the "work team," protesting against officials, possessing a picture of the Dalai Lama, opposing the Chinese-appointed Panchen Lama and refusing to sign the political pledge of allegiance to China. The arrested persons stand charged by the Chinese government for "endangering national security."

"Patriotic Re-education" in Lay Community

On November 19, 1997 Pema Dragpa, President of the Regional Higher People's Court, and Nyima Tsering, the new Deputy Chairman of the "TAR" announced the extension of the "re-education" campaign to the whole society. Although it only became an official element of the "Strike Hard" policy on this date, the campaign in the lay community had been

implemented in various areas since the introduction of the campaign in 1996. By 28 November, 1997 in Lhuntse county, Lhoka prefecture, "54,597 peasants had participated with 4,466 written statements of criticism of the 'Dalai's rule and suppression in old Tibet'. All the temples in the county had held 111 meetings attended by 1,038 monks and nuns, and 192 monks and nuns in monasteries had written 639 articles to criticise [the] Dalai [Lama]."

Following the announcement, pilot projects for the "patriotic re-education" of lay people were launched in Gongkar County and in Lhuntse County, also in Lhoka Region. The pilot project was aimed to study how successfully the "patriotic re-education" campaign could be implemented in the lay community. Lhasa's Medical University has also been targeted and it is expected that the implementation of the campaign in the lay sector will continue.

Total Control over Religious Activity

Chinese "work teams" continue to exercise control over all religious activities in monasteries and nunneries. "Patriotic re-education" sessions have been routinely conducted since the project's inception. In the first half of 1998 "work teams" were still conducting such sessions in some religious institutions. In addition, many monasteries and nunneries previously covered in the campaign reported that "work teams" made re-visits in 1998 to ensure that the "re-education" policies were still being followed.

The latest testimonies from Tibetan monks and nuns who have fled into exile, reveal a fairly consistent pattern of "patriotic re-education" sessions in religious institutions throughout the year. By December 1998, at least 132 religious institutions in Tibet had been covered by the "work teams" during the year.

- **Choede Monastery** (Ba, Karze "TAP" Sichuan Province): A monk reported that a seven-member "work team" visited his monastery in early 1998. Besides conducting the "patriotic re-education" sessions, the officials limited the number of monks to 100. Of the 370 monks in the monastery, all except 70 were expelled including novice monks below the age of 18. The monks have to pay 10 Chinese yuan and the monastery has to pay 1,000 Chinese yuan to the County Religious Bureau as a form of tax.
- **Dhumbu Choekor Monastery** (Gongkar County, Lhoka Region): 30 monks were reportedly arrested and six monks were expelled from the monastery when the "work team" first visited in 1996. In March 1997 the monastery was revisited by a 12-member team.
- **Drak Yerpa Retreat** (Taktse County, Lhasa City): There were 120 monks and hermits in this retreat managed by Lama Azom Trulku. "Work team" members ordered the demolition of the main hall and the meditation caves. Prayer flags were torn and the ropes from the flags were used to tie up the wooden planks from the destroyed prayer hall. At present there are only 11 monks in the retreat and they are forced to pay rent to the Chinese authorities.
- **Drigong Sha Lhagang Monastery** (Meldro Gongkar County, Lhasa City): This monastery was visited by a "work team" in March 1998. The monastery had 300 monks and 200 nuns who were all compelled to leave following the "patriotic re-education" campaign.
- **Galo Nunnery** (Nagchu Region "TAR"): A nun from this nunnery reported that a 17-member "work team" arrived in 1997. They stayed for just over three months during which time three "re-education" meetings were conducted each day. There were 250

nuns in the nunnery of whom 20, all below 18 years, were expelled. The food and lodging cost of the "work team" was borne by the nunnery.

- **Kirti Monastery** (Ngaba County, Sichuan Province "TAP"): This is the biggest monastery with 2,300 monks. The date of the "work team" visit is not known. The "work team" members stayed in the monastery for 20 days during which the monks were told to oppose the Dalai Lama and accept "Tibet as part of China."
- **Minyak Sukhu Monastery** (Nyakchu County, Karze "TAP"): Gyama, aged 22, from Dartse Do County, Karze "TAP," reported that a Chinese "work team" of four or five officials visit the monastery in March, June and October every year. At present there are 35 monks in the monastery but the officials have set a limit of 20 monks. About 10 novice monks below the age of 20 have been expelled and the monks must have ID-Cards to stay in the monastery.
- **Pembar Monastery** (Pembar County, Chamdo Region): A monk from this monastery reported that a "work team" arrived in July 1997. Ten of the "work team" members were Tibetan and 20 were Chinese. They did not stay in the monastery on this occasion and before they left they said that they would return in November 1997. At present there are 63 monks in the monastery but a limit of 30 monks has been imposed with a minimum age of 23 years. The Chinese officials have told the monks to oppose the Dalai Lama, and photographs of the Chinese-appointed Panchen Lama and red ID cards have been issued to the monks.
- **Potok Nunnery** (Phenpo Lhundrup, County, Lhasa City): This nunnery had 190 nuns before the arrival of the "work team" in March or April 1997. During the re-education sessions 60 nuns below the age of 16 were expelled from the nunnery.
- **Ragya Monastery** (Thingtoe County, Tso Lho "TAP"): "Work teams" came to this monastery in April and September 1998. A monk reported that there are presently 600 monks in this monastery and that the "work team" has set a limit of 200 monks above the age of 18. On their departure the "work team" indicated that they planned to revisit the monastery.
- **Rakor Nunnery** (Toelung Dechen County, Lhasa City): This nunnery had about 81 nuns. Following a visit by the "work team" on March 17, 1997 all the nuns were expelled and the nunnery was closed down. The nuns rooms have also been destroyed and the wooden planks of their beds sold.
- **Samdrup Monastery** (Karze "TAP," Sichuan Province): A monk from this monastery reported that there used to be about 200 monks but at present there are 150 monks. In 1996 Chinese officials made random visits to this monastery with 10 to 15 officials staying for 15 days. The authorities plan to reduce the congregation to only 30 monks above the age of 18. Last year more than 100 monks were expelled. Pictures of the Dalai Lama and the Panchen Lama recognised by the Dalai Lama are not allowed.
- **Toerong Nunnery** (Lhoka Region): A "work team" comprising of four members visited Toerong Nunnery in Sho Re township in July or August 1997. Not one of the nuns in the nunnery accepted the principles laid down by the "work team." As a result, all the nuns in the nunnery were expelled. The "work team" demolished the rooms of the nuns.

Expulsion of Monks and Nuns

Expulsion is a key element in the Chinese authorities' campaign to eliminate political activities in religious institutions. In 1996 about 1,295 monks and nuns were expelled, and a

further 1,526 in 1997. In 1998 reports of 7,156 monks and nuns expelled from various religious institutions were documented, including 2,206 juvenile monks and nuns. The total number of expulsions resulting from the "Strike Hard" campaign is now 9,977.

In addition, around 306 monks and nuns are known to have voluntarily left their monasteries and nunneries in 1998 rather than accept the pledge required by the "patriotic re-education" session. This is a dramatic increase on previous years. In 1996 there were only 52 such cases and 35 in 1997.

Once expelled or arrested, monks and nuns are prohibited from joining any religious institutions in Tibet. With the expulsions and restrictions imposed, the population in religious institutions has been drastically reduced. Ma Yingchou, Deputy Director of Minority and Religious affairs in Tibet stated that the admission of monks and nuns into the monastery is now strictly controlled.

- **Dakkar Monastery** (Pembar County, Chamdo Region): It was reported that 12 monks were expelled from the monastery because the official limit imposed by the "work team" had been exceeded. Among the monks expelled were: Nyima Dhondup (18), Tashi Tsering (15), Sonam Ngodup, Ngawang Palden, Nortse, Tsering Dhondup, Wangyal, Dhonden, and Sonam Tsering, all from Pember County.
- **Drak Yerpa Retreat** (Taktse County, Lhasa City): So far 109 monks, including 20 elderly monks from Drak Yerpa retreat were expelled and sent back to their respective villages.
- **Garlog Nunnery** (Toelung Dechen County, Lhasa City): Karma Tsultrim, a 17 year-old nun, was expelled twice from this nunnery; first during the 1997 Losar (Tibetan New Year) because her name was not on the nunnery's official list and then again in 1997 because she did not oppose the Dalai Lama. Karma reported that 180 of 200 nuns have been expelled.
- **Gegay Gon Nunnery** About 330 nuns were reportedly expelled and prohibited from entering any other nunneries. The "work teams" have also ordered that no new nuns will be admitted into the nunnery.
- **Ladrang Monastery** (Tso Ngon Region "TAP"): This monastery has a total of around 5000 monks, including those unregistered. During the "patriotic re-education" session in May 1998, 1000 novices, below the age of 18 years, were expelled from the monastery and were sent back to their respective towns and villages. After two months another 1000 monks were reportedly expelled from the monastery. The source reported that the "work team" was to stay in Labdrang Monastery for 3 months.
- **Lhagon Monastery** (Minya Lhagon County, Karze "TAP"): Four monks have been expelled from this monastery. Dhartse (23) was expelled in 1996 because "he did not study properly"; Karma (19) and Rinzin Gyamtso (23) were both expelled in 1997 for arguing with the "work team," and Abu Tenzin (17) who was expelled in 1998 because he was under-age.
- **Lhakang Ser Po Nunnery**: 13 nuns were expelled after expressing dissatisfaction with the presence of a six-member "work team" in the nunnery. Of those expelled, the following names have been confirmed; Chungwang, Tsering Wangmo (22), Tashi Paldon (25), Dechen Dolma (26), Passang (20), Dawa and Wangmo (22).
- **Lhari Daegyen Monastery** (Nagchu Region): Seven monks were expelled from this monastery. Among them were three novice monks including Gyaltzen Jampa, Namdrol Tenzin and one unknown monk. The four other monks expelled were Palden, Sonam Nyima, Namkha and Sonam Gonpo.

- **Potok Nunnery** (Phenpo, Lhasa City): The "work team" came to this nunnery in March, 1996 and 60 nuns under the age of 16 were expelled.
- **Sakya Trul Pae Monastery**: The "work teams" have expelled six monks from this monastery. Among them were Kyentse Wangchuk, Shakya Sanghe Shungwa, Kunga Rabgay, Gedhun Gyaltzen.
- **Sera Choe Dring Monastery**: All 15 monks in the monastery were forced to leave in January 1998 and the monastery was closed down.
- **Serpo Monastery** (Pashoe County, Chamdo Region): A "work team" came to this monastery in February 1998. Of 45 monks, six were arrested and the remaining 39 were expelled.
- **Thekchok Ling and Shong Chey Nunnery**: "Work team" members expelled 33 nuns from Thekchok Ling and Shong Chey Nunneries.
- **Toerong Nunnery**: A four-member "work team" visited this monastery in August 1997 and expelled 23 nuns. The "work team" also ordered the demolition of the rooms of the nunnery.
- **Youning Monastery** (Huzhu County): Chinese authorities expelled 49 monks of 52 over the age of 60 years. 28 monks below the age of 15 were also expelled from the monastery.

Closures of Religious Institutions

Strict instructions were given by the Chinese authorities that monasteries and nunneries involved in political unrest be closed down. 14 monasteries and nunneries in Tibet were reportedly closed for these reasons in 1998. In 1997 TCHRD recorded the closure of three religious institutions. Chinese authorities claim that these religious institutions were built without permission. They have also demolished monasteries and nunneries on the pretext that they were built from foreign money. The monks and nuns from such institutions are sent back to their respective villages and are forbidden from joining any other monasteries and nunneries in Tibet, instead being forced to perform lay work. Monasteries and nunneries completely closed down as a result of the "Strike Hard" campaign include:

- Doalbo Monastery in Gongkar County, Lhoka Region, "TAR"
- Drak Yerpa Monastery in Taktse County, Lhasa City, "TAR"
- Drugung Yama Ri Monastery in Meldro Gongkar County, Lhasa City, "TAR"
- Karsang Monastery in Nangchen County, Kye Gu do, "TAP"
- Kumbum Jonang Monastery in Pashoe County, "TAR"
- Lachung Monastery in Nangchen County, Kye Gu Do, "TAP"
- Namrab Samtenling Nunnery in Gongkar County, Lhoka Region, "TAR"
- Rakor Nunnery in Toelung Dechen County, Lhasa City, "TAR"
- Samdrup Gonsar Monastery in Lhatse County, Shigatse Region, "TAR"
- Samye Chimpu in Danak County in Lhoka Region, "TAR"
- Serpo Monastery in Pashoe County, "TAR"
- Shongchen Nunnery in Ngamring County, "TAR"
- Warang Monastery in Nangchen County, Kye Gu Do, "TAP"
- Yu Lung Nunnery Nakar Tse County, Lhoka Region, "TAR"

Additional Repressive Measures

Pangsa Monastery (Tashi Gang township, Meldro Gongkar County), was visited by a six-member work team on September 2, 1997. There were 35 monks in the monastery at the time

of the "work team's" arrival but only 16 monks remain. When the monks refused to comply with the "patriotic re-education," the "work team" prevented them from leaving the premises. The doors and windows were locked and the monks were subjected to regular "re-education" and interrogation sessions. It was reported in February 1998, that some were still being held under these conditions. It was also reported that all of the monasteries in the Meldro Gongkar area had been strictly instructed not to hold any religious ceremonies.

Religious monuments have been destroyed by the Chinese authorities. Three temples in Gyamda County, Nyingtri Region were reportedly demolished during the year. The Chinese claimed that these temples were not authorised by the government.

The Chinese government has extended its campaign against the Dalai Lama. All Party cadres and government employees are liable to have their homes searched for any evidence of allegiance to the Dalai Lama. This includes all Party members, lower ranking officials and any employees in governmental departments. This indicates the government's intention of eradicating the influence of the Dalai Lama at all levels of the community, further denying the Tibetans' right to enjoy freedom of religion.

Conclusion

The brunt of China's religious repression is currently borne by Tibet's monks and nuns. Testimonies of monks and nuns from all areas indicate that China's crackdown on religion is widespread, systematic and extremely effective. The campaign appears to be intensifying, with exponential increases in the number of expulsions and arrests recorded in 1998, and indications that the programme is being pushed into the lay sector. The Tibetans are being denied their fundamental right to freely determine their own beliefs. The entire cultural heritage is threatened by this trend and measures must be introduced immediately to halt the process.

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Women and Forced Birth Control

The rights of Tibetan women are being annulled by the continual repressive measures implemented by the People's Republic of China. Contrary to domestic policy to exercise leniency with regards to family planning in minority groups, Tibetan women are being subjected to enforced sterilisation, contraceptive and abortive procedures. Not only are the stringent birth control policies violating the rights of women and compromising their health, they legally amount to genocide.

The UN Convention on the Prevention and Punishment of the Crime of Genocide defines genocide as meaning any acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group, including the imposition of:

... measures intended to prevent births within the group. (Art. II d)

In 1998, reports were received of 432 Tibetan women being sterilised against their will.

Tibetan women are not exempted from other human rights violations in Tibet. They too are denied the right to freedom of expression and opinion, and are vulnerable to arbitrary arrest

and imprisonment. In prison, women are frequently tortured and there are many accounts of sexual abuse.

These practices breach both international and domestic laws and it is China's responsibility to implement more effective measures to protect the rights of Tibetan women.

In 1998 TCHRD recorded 11 arrests of women for exercising their freedom of expression. 1,123 nuns were expelled from their nunneries on the same grounds, bringing the total number to 1261 since the launch of the "Strike Hard" campaign in 1996. Of the 1084 current Tibetan political prisoners, 245 are women.

International Law

Since 1980, the People's Republic of China has been a State Party to the international law of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW). In ratifying this Convention, China is bound to uphold its provisions and, under Article 2, agrees to condemn discrimination against women. In 1998 China submitted its latest report to the United Nations detailing its adherence to CEDAW. Testimonies from Tibetan women and witnesses, however, show that China is continuing to violate its obligations under the Convention.

Article 1 of CEDAW states:

... the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

China's Legal Position

In its latest report to the United Nations CEDAW Committee, submitted on May 29, 1998, China outlines its main domestic laws which have been created to protect the rights and interests of women. These are:

- the Law of the People's Republic of China on the Protection of the Rights and Interests of Women [referred to as the Women's Law (1992)]
- the Law of the People's Republic of China on Maternal and Infant Health (in effect from 1995)
- the Labour Law of the People's Republic of China (1994)
- the Program for the Development of Chinese Women (1995-2000)

The Women's Law is described by the Chinese government as the "first basic law dealing with women's rights and interests in a specific and systematic manner." It also states that, "[t]he Law highlights the special protection of women's rights and interests. ... [it] makes new provisions for women's political participation, appointment, employment, labour protection, marriage, etc."

The Law on Maternal and Infant Health "stipulates that health services be provided to women and mothers in ... pre-pregnancy, prenatal and postnatal stages and in care of infant and young child."

To date, these domestic laws have failed to provide women with the protection of their rights to which they are entitled.

Birth Control Policy

In 1998 TCHRD received reports of 432 women who were subjected to enforced sterilisation or contraceptive procedures. These reports all relate to events in 1997. 300 of the 432 sterilisations took place in Nyemo County after the birth control policy was launched on May 22, 1997. There are also reports of men being subjected to a "seven stitch" operation as a form of sterilisation.

Despite the PRC's obligations under international law, the rights of Tibetan women to have children are restricted by stringent birth control policies. It appears that China's family planning policies neglect the options of voluntary contraception and education. Instead, forceful measures are used throughout Tibetan areas. Quotas have been imposed to restrict the number of children born, and any family who exceeds the given quota faces discrimination and hefty fines. All mothers are required to hold a permit detailing the number of children they have, and are entitled to. Those working in official positions are limited to two children; farmers are permitted three children. If the woman becomes pregnant above the permitted quota she will be requested to undergo an abortion. Other cases testify that if a woman refuses the operation while pregnant and goes to lengths to avoid authorities, she may be subjected to sterilisation after the birth.

In Rebkhong County, Amdo it was announced in October 1997 that a fine of 1,000 yuan (US\$125) would be imposed for a child in excess of the quota born after the announcement, with progressively higher fines for each successive child. These children are not registered and, consequently, denied basic rights (the same condition applies across Tibet). A ration card which entitles the child to food is not issued, they have no rights to an education and the child is not entitled to any land rights during his or her lifetime.

Article 16 (e) of CEDAW obliges States Parties to ensure, on a basis of equality of men and women:

The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights.

In Nyemo County in Lhasa City, couples must have at least a three year gap between each child. They are allowed up to three children. Parents are fined 500 yuan (US\$62.50) if a child is born before the three-year period elapses. A woman reported in 1998 that each couple must register their names with the Township People's Government Office before they are married and are required to obtain a certificate if they want a child. If they give birth without permission from the office, each family is fined 500 yuan (US\$62.50).

Birth Control Measures

The PRC's Law on Maternal and Infant Health Care states that health services are to be provided to women and mothers in pre-pregnancy, prenatal and postnatal stages. "Prenatal health services" includes "foetus health care, new born care and guidance for safe delivery."

Contrary to this law, abortion and contraception procedures performed on Tibetan women are often dangerous and performed in make-shift facilities with no medical follow-up or medication. Witnesses say that many women lose consciousness or are ill or weak after the operation, making them unable to return to work. Others have died after the procedure. The operation usually involves full sterilisation or the administering of a long-term contraception. The most common form of contraception is the insertion of an intrauterine device (IUD). Women are not provided with information on the nature of the device and are often unaware of its insertion. This has resulted in infection in many women. Other forms of contraception reported are an injection believed to last around three years, or an implant in the arm that releases hormones to prevent pregnancy.

Cases of women aborted against their will in full-term pregnancy have been reported. There have also been reports of fetuses being injected with a fatal substance after induced births. The fear of sterilisation also deters women from accepting general healthcare treatment.

- Gedun Kyi from Sangchu County in Ngapa "TAP" reported that there is a quota of two children for the 400 Tibetan farmers in the area. If a woman is pregnant with a third child she will be aborted at the hospital. If a third child is born the family must pay 1000 yuan and the child is not entitled to any benefits until the age of 18. In some cases only one child is allowed before the mother is forcibly taken to the hospital. Gedun said that majority of married women in the County had been contacted by hospital authorities about birth control.
- Namgyal Choephel, aged 56 from Na-kar Tse County, reported that both Tibetan men and women were subjected to sterilisation procedures in his area. Once a family's child quota was reached, the parents would be summoned to the hospital to undergo an operation. Namgyal said that men were given an injection in their lower side, leaving them with a scar and seven stitches in their abdomen. Women were operated upon and simply advised by the hospital staff to eat meat and refrain from work after their release. He also stated that people would offer the doctors compensation, such as food, to ensure the operation was successful. This was out of fear that the operation might fail, resulting in further pregnancies and consequent fines.

Cases of Coerced Sterilisation

The following testimonies of Tibetans now living in exile in India and Nepal were recorded in 1998 although the events took place in 1997.

- Kunchok Tendar, interviewed in June 1998, said that 112 Tibetan women in Lhasung Yul were inserted with contraceptive devices during one month of 1997. This was either a long-term contraceptive tubing in the upper arm or an intrauterine device. Women with two children were also called to the hospital although they were, theoretically, entitled to three children.
- Yangchen Dolkor, a nun from Penpo County in the "TAR" said that officials demanded that all women, married or unmarried and over the age of 16, must have a contraceptive injection in the arm as a method of long-term contraception. In her village of 50 families, seven women who were over 16 years old received the

injection. If they refused, they were threatened with a fine of 1,000 yuan or imprisonment. The women were first given an anaesthetic and then the contraceptive. Yangchen said that most of the women were physically weak or unconscious after receiving the contraceptive. Those who pleaded with the authorities were given the injection without the anaesthetic. The contraceptive measures followed an announcement this year that women were entitled to three children and anyone bearing children above that quota would be fined 10,000 yuan (US\$1,250). Most of the women were farmers or nomads.

- Nine women between the ages of 18 and 45 from Shabrang village, Thonring Sub-County were transported at night in October 1997 to the Rebkhong Government Hospital in Rebkhong County, for sterilisation. They were told that their medication for a week after sterilisation would be arranged. The nine women returned two days later and eight of them fell seriously ill. They received no medication from the authorities. County officials had made an announcement several days prior to the arrival of the birth control team that 100 per cent cooperation was expected and any refusals would lead to heavy fines. Fines were also introduced for children born outside of the quota.

A birth control team also took four women from Gomar village in Thonring, two of whom never had any children. It was reported that the four suffered critical post-sterilisation health problems and that one of them was in danger of dying.

- A source (name withheld), aged 40, from Nyemo County reported seeing approximately 300 women summoned to Nyemo hospital to be sterilised on May 22, 1997. The health department had surveyed a total of about 1,000 women who were to be subjected to birth control measures. The source reported that women up to three months pregnant had their babies aborted.

Torture and Ill-treatment of Women Prisoners

In 1992 CEDAW formally extended the general prohibition on gender-based discrimination to include gender-based violence, which it defined as:

... violence that is directed at a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.

Conditions for women in prison in Tibet do not adhere to international standards. Women are given no provisions for menstruation and this is exacerbated by not being allowed to wash for long periods. No exceptions are made for pregnant women in detainment and Tibetan women have miscarried after torture. The latest reports of torture and deaths of female prisoners stem from the demonstrations that took place in Drapchi Prison on May 1 and 4, 1998. Six nuns are reported to have died a month after the demonstrations. Another two nuns are now believed to be suffering from health problems after initiating further protests.

Jamdrön, a nun and political prisoner in Drapchi Prison, was interrogated, beaten and put in solitary confinement after openly singing an independence song during Losar (Tibetan New Year) at Drapchi in February 1998. She may remain in solitary confinement until her sentence expires in 2002. This is the longest period of solitary confinement reported to

TCHRD. She was sentenced to seven years imprisonment in 1995. She is currently 23 years old and from Phenpo Gyarak Nunnery.

Ngawang Choezom, a nun in Drapchi Prison, is believed to have accompanied Ngawang Sangdrol (below) in a protest following the May 1998 demonstrations in Drapchi. The Tibet Information Network (TIN) reported that both nuns were subjected to harsh interrogations, ill-treatment and solitary confinement. There is current concern for her health as she is said to be in extremely poor physical condition.

Ngawang Sangdrol is said to be in a serious condition at Drapchi Prison after being punished for involvement in political protests within Drapchi. TIN reported that she continued to protest a month after the political demonstrations on May 1 and 4, 1998, despite severe reprisals. She is currently serving an 18 year sentence. This is the longest sentence of any female political prisoner.

Nyima is a nun currently serving a five year sentence at Drapchi Prison. In February 1998 she was put in solitary confinement for singing an independence song with fellow inmate, Jamdron (above). She was interrogated and beaten and it is reported that she will remain in solitary confinement until her release in 1999. She is 18 years old, from Phenpo Potok Nunnery in Phenpo Lhundrup County.

Deaths as a Result of Torture

Six nuns are believed to have died following their participation in the May 4 demonstration in Drapchi Prison. The nuns all died on June 7, 1998 after being put in solitary confinement. The authorities told the families that the nuns committed suicide. The nuns are Ngawang Choekyi (26), Tashi Lhamo (24), Choekyi Wangmo, Lobsang Wangmo, Dekyi Yangzom (21) and Khedron Yonten.

Authorities claim that Choekyi Wangmo from Sharbumba Nunnery hanged herself, while Tashi Lhamo, Dekyi Yangzom and Khedron Yonten, suffocated themselves by stuffing their mouths with scarves. The latter three nuns were all from Nyemo County, Lhasa City. The death of Lobsang Wangmo is unconfirmed and could possibly be two nuns by the same name.

Conclusions

The People's Republic of China is obliged to ensure that all rights of women, as recognised by both international and domestic laws, are upheld. Enforced birth control measures must be abolished as they are a profound abuse of women's rights and are in direct conflict with international law. Mechanisms must also be introduced to ensure the protection of female prisoners from torture, sexual abuse and other forms of ill-treatment. Current domestic regulations are insufficient in the protection of these rights and China needs to address this issue immediately.

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Rights of the Child

The rights of children are comprehensively protected under various international laws and covenants to which the People's Republic of China (PRC) is bound. In 1994, in China's initial report on its adherence to the United Nations Convention on the Rights of the Child (CRC), China described itself as a "consistent respecter and defender of children's rights." There is much evidence, however, to indicate that this is not the case.

The rights of Tibetan children are consistently neglected by the Chinese government. Their rights to education and healthcare are not protected, nor are their rights to liberty and freedom of expression. Until the overall living standard of Tibetan people in Tibet is raised, the rights of children to these and other basic necessities cannot be guaranteed. The PRC is obliged to intensify its efforts in raising the subsistence levels and to also make concessions for the child's right to enjoyment of free expression. Current repressive measures in place in Tibet deny children this fundamental right and many parents choose to send their children into exile rather than let them grow up beneath Chinese rule.

International Law

On August 29, 1990 the People's Republic of China signed the Convention on the Rights of the Child and ratified it on March 2, 1992. Signatories are bound to refrain from any practices that may defeat the objectives of the convention. The CRC cannot be separated from other conventions as the fundamental principles therein are intrinsically linked to other covenants including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. This emphasises the responsibility of the state to maintain conditions which foster the development of the child, in all aspects, to the fullest extent.

Article 24(1) of the International Covenant on Civil and Political Rights (ICCPR) contains provisions for the protection of children's rights which states:

Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the state.

Child Political Prisoners and Prisoners of Conscience

There are currently 12 known juvenile political prisoners detained in various prisons in Tibet as a result of their attempt to exercise their rights to freedom of expression. The treatment of juvenile detainees in Tibet violates both Chinese law and international human rights treaties which China is legally compelled to observe, causing serious concern to human rights monitors and advocates.

There is evidence of juveniles being detained in almost every Chinese prison in Tibet. They are detained in adult prisons, denied legal representation and contact with family, and subjected to severe ill-treatment.

These indications violate Article 37 (b) of the Convention on the Rights of the Child which states:

No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.

This Convention recalls "the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, ...[and] the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)."

- Lhakpa Tsering was only 17 when he, along with two other friends, made posters and a Tibetan flag and pasted them in the Lhoka Chideshol township on July 31, 1992. They were arrested on August 28, 1992. Charged with "counter-revolutionary" propaganda, Lhakpa was sentenced to two years and one year deprivation of political rights. Lhakpa served his term in Drapchi prison.
- Tenzin Tsedrup from Taktse Phagmo Monastery in Taktse County, was 11 years-old when he and his friends organised a demonstration on August 18, 1993 in Norbulingka, Lhasa during the Shoton festival. They were immediately arrested and brutally beaten. A Chinese policeman kicked Tenzin on his chest and he fell unconscious. Moments after he gained consciousness, he was subjected to interrogation. On September 14, 1993 their sentences were passed whereby Tenzin was sentenced to one year in Gutsa. The other two were sentenced to six and four years respectively and transferred to Drapchi. After his release from prison he was not allowed to rejoin the monastery. Tenzin fled Tibet and reached India in August 1998.
- Tenzin Tsultrim was 17 years-old when he was arrested by the Chinese "work team" officials on February 12, 1998 for pasting "Free Tibet" posters. He is a monk at Rabten Monastery in Sog County, Nagchu region. He is currently detained in Sog County Prison.
- Tsering Choekyi was only 14 years-old when she was arrested for participating in a freedom demonstration on December 12, 1993. A former nun of Shugseb Nunnery, she served three years "re-education-through-labour" in Trisam Prison, Toelung. Despite being a juvenile prisoner, she was housed with other older prisoners and was subjected to the same kind of labour as the others.

The Child Panchen Lama

Since Gedhun Choekyi Nyima disappeared in May 1995, China has made evasive statements about his whereabouts. For an entire year they blatantly denied accusations from international organisations, government bodies and the Tibetan government-in-exile regarding the child's disappearance. In May 1996 China's permanent mission to the United Nations, Wu Jianmin, finally conceded that they were holding the child in custody "at the request of his parents." This came after prolonged scrutiny by the UN Committee for the Rights of the Child. However, to this date no government body, concerned organisation nor independent observer has been allowed to see the child. Conflicting reports on his location were provided to delegations who expressed concern about Gedhun Choekyi Nyima. The Austrian delegation, who went to Tibet in 1997, were told that the boy was held in the village of Lhari about 250 km from Lhasa. The same year, the US delegation and other sources were told that the boy was in Beijing. China continues to deflect international pressure regarding the issue, and has been able to sustain this gross abuse of human rights for more than three years.

Right to Education

The Convention on the Rights of the Child guarantees:

... the right of the child to education.

The Chinese government's Education Law reiterates this, stipulating that every:

... citizen shall enjoy equal educational opportunities regardless of race, nationality, sex, occupation, financial status and religion.

The Chinese government needs to urgently address the issue of education in Tibet. High proportions of Tibetan students are not being educated and this has grave implications on the individual and on the survival of the entire Tibetan culture.

Article 30 of the Convention on the Rights of the Child stipulates:

In those states in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Contrary to this, in April 1997 "TAR" officials announced that Tibetan language would no longer be the sole language for education in primary schools and implied that in some cases Chinese would actually replace Tibetan altogether. Tenzin, the TAR Deputy Secretary, said that to only study in the Tibetan language would "do no good to ... children's growth." This is an extension of ideas articulated by the TAR Party Secretary, Chen Kuiyuan, in 1994 when he said: "[t]he success of our education does not lie in the number of diplomas issued ... It lies ... in whether our graduating students are opposed to or turn their hearts to the Dalai clique and in whether they are loyal to or do not care about our great motherland and the great socialist cause." The curriculum of schools in Tibet is controlled by the Chinese government and is recognised as the means to suppress ideas which conflict with Communist ideology. Kuiyuan stated that "political and ideological work in the schools" should be intensified, prioritising it over conventional academic goals of education. The fact that the Tibetan language in the primary sector is being superceded shows that this process is underway.

Yangzom Dolma, a 17 year-old student from Mirig Lobdra (Ethnic Groups Middle School) in Dechen "TAP," was one of 500 Tibetan students in the school of 2000. "The Chinese students used to call us names in Chinese meaning 'dirty minority.' No Tibetan was taught in the school and everything was in Chinese medium. We were discouraged from speaking in Tibetan even outside class and we were told that we would fall behind in our studies. If we did speak in Tibetan we would be ignored. The teachers were also from different ethnic groups but all had a good knowledge of Chinese subjects and the Tibetan teachers had no knowledge of Tibetan subjects. Our subjects were Chinese History, Geography, Politics (concentrating on socialism and its advantages), Chemistry, Biology and Astronomy. No Chinese language was taught as it was assumed that we already knew it well enough. I had learned Chinese in my primary school."

By restricting the use of the Tibetan language, the Chinese maintain a monopoly over the curriculum and are thus able to further restrict the child's right to enjoy their indigenous culture. Pasang Dolma, a 15 year-old who arrived in India in December 1998 said that all the teachers in her school were Chinese and that some subjects were taught only in the Chinese

language. Such procedures alienate Tibetan children both socially and academically and the future implications are many.

Gyaltzen Norbu, Chairman of the TAR government conceded that by the end of 1993, approximately one third of Tibetan children were unable to go to school due to financial constraints. The fundamental reason for low enrolment levels is a distinct lack of government funding in the education sector. In 1993, the Minister in Charge of the State Education Commission, Zhu Kaixuan, stated "funding shortages have been the prime factor impeding the development and reform of ... educational services [in both China and Tibet]."

The government continues to rely on "voluntary" labour and financial input from the locals for the maintenance of educational institutions, this policy has been in place since the Fifth TAR Conference on Education. "[L]ocal governments ... mobilize and organize peasants and herdsmen to reconstruct unsafe village schools, build new schools, and improve teaching conditions by contributing their labour service or construction materials on a voluntary basis." In a country where more than 85 per cent of the population is living below the poverty line, this demand on personal resources for the development of schooling in the local area places great strain on the Tibetans. Where these needs cannot be met, children are simply denied the right to education.

Low enrolment levels can also be attributed to a lack of schools in rural areas and inadequate facilities and poor conditions where they do exist. Poor teaching standards, the frequent and sometimes exclusive use of the Chinese language, and a curriculum deemed irrelevant by the indigenous population also deter Tibetans from sending their children to school. Tibetan children are further alienated from education opportunities by selective enrolment procedures and prohibitive fees.

States Parties to the Convention on the Rights of the Child are obliged to:

... make primary education compulsory and available free to all.
-- Article 28 (a)

Article 10 of the PRC's Compulsory Education Acts states:

The State shall not charge tuition fees for students attending compulsory education.

In an interview conducted with 50 children who came to India in the last three years, only nine of the 38 students who had received primary education in Tibet were not required to pay any fees at all. Various fees for primary education were imposed, ranging from 20 yuan to 6000 yuan (US\$ 3 to \$ 750) per year. 16 students had to pay more than 500 yuan in fees each year.

These testimonies provide evidence that China is evading the restrictions in its own constitution by introducing amendments which allow for the implementation of auxiliary fees. Whilst initial education may be free in some cases, students are obliged to pay exorbitant fees for stationery, electricity, examinations, additional tuition and the use of the furniture and the classroom itself. These fees prevent a significant proportion of Tibetan children from exercising their right to education. In addition to these miscellaneous charges, students are also obliged to offer appeasement "gifts" to their teachers and school authorities in order to elude discrimination.

The education system remains inadequate throughout Tibet. Pasang Dolma completed two years of middle school in Tibet before leaving on financial grounds. The local government provides no financial aid to needy families and many cannot afford the fees. She testified that of the 37 children in her locality, only 7 remained in school.

Pasang reported that fees were imposed for general education (contrary to Chinese policy). 800 yuan was required annually with additional charges for exam papers, cleaning products, uniforms and extra tuition. A non-refundable deposit was also demanded to pay for furniture. The fees totalled more than 1000 yuan (US\$ 125) per annum, a figure beyond the capacity of many Tibetan families. Pasang said that her primary reason for coming into exile was to receive an adequate education and to be able to study in Tibetan.

The Chinese government has allegedly implemented a grant programme to assist Tibetan students meet the financial demands of their education. Unfortunately, due to subsistence difficulties many families rely on this subsidy for survival and consequently the child's right to education is not guaranteed. However, of the 50 interviewed students, not one of them received grants or any form of financial concession. China is obliged to address this need urgently and find new means of ensuring that all children can exercise their basic right to education.

Education in Religious Institutions

Lack of educational facilities, prohibitively high school fees, instruction in Chinese language and discriminatory practices against Tibetan children in schools make education virtually inaccessible in Tibet. The growing number of child refugees who escape to India to seek education confirms violations of the right to education and Tibetan dissatisfaction with the present education system.

Monasteries and nunneries are the only learning institutions that provide opportunities for children to be educated in Tibetan culture and philosophy as these subjects are omitted from the secular schooling curriculum. The study of Buddhist philosophy, either for personal learning or to impart knowledge to the entire community, is also restricted to these centres. By prohibiting and expelling juvenile monks and nuns from religious institutions the Chinese authorities violate Tibetan children's inherent rights to education and to enjoyment of their religion, culture and language. These rights are upheld in Article 30 of the CRC.

Interviews from refugee monks and nuns confirmed that China has failed to uphold this obligation by introducing regulations which prohibit juveniles from joining religious institutions. In 1998 TCHRD recorded 2,206 expulsions of child monks and nuns, bringing the cumulative total of the "Strike Hard" campaign to 2,945.

Child Refugees

By December 22, 1998, of the 3,750 refugees who fled to India, 1,190 were children, ten percent of whom were unaccompanied by their parents. Every year, many Tibetan families feel compelled to send their children into exile rather than let them grow up under Chinese doctrine. The fact that so many families choose this option, risking the life of their children, is proof enough of a failure of the Chinese government to protect the rights of Tibetan children.

Some children die on the perilous journey and if they do survive, there is a high risk that the child will never see his or her family again. Five children who attempted to flee Tibet in October 1997 died before reaching exile; Karlo (10), Dolma Chotso (11) Phurdon (12), Shelo Dolma (13) and Sonam Tashi (16).

Many are sent unaccompanied by their parents who entrust them to strangers and use their savings to buy their son or daughter's passage to freedom. Some are still babies and have to be carried across the Himalayas on someone's back; a journey averaging at least four weeks. Parents in Tibet who have sent their children into exile to be educated are coming under increasing pressure from the Chinese government to bring them back. Recent information from Tibet shows that another three families were forced to follow this instruction under threat of dismissal from their jobs.

In 1995, 37 children studying in schools run by the Tibetan government-in-exile were taken back to Tibet against the will of both the children and their parents. Although this campaign is geared towards repressing "splittist" activities, the rights of the children are compromised. In 1998 three parents came to India to take back their children.

Health Care

The Convention on the Rights of the Child also guarantees:

... safeguards and care, including appropriate legal protection, before as well as after birth.

The health of Tibetan children continues to lag behind that of the Chinese. Chronic malnutrition is severely affecting their wellbeing both before and after birth. Malnutrition as a result of poverty and inadequate healthcare services throughout the country threaten the right of children to good health. The Tibetan infant mortality rate (in the "TAR") of more than 9 per cent is triple the rate for the entire PRC. In 1990, the Lhasa Health Bureau conducted a health and nutritional survey and results indicated a large discrepancy in the height and weight of Tibetan children compared to Chinese children by the age of three to six months, in both urban and rural regions. The results indicated that, by World Health Organisation standards, the "weight-for-age" ratio of Tibetan children was "borderline unacceptable" overall and in certain counties "unacceptably low."

The research also concluded that, "many children within the TAR are extremely short for their age, so short that 60% fall drastically below accepted international growth reference values. Data indicates that this shortness is a result of nutritional stunting -- chronic malnutrition during the first three years of life -- rather than a result of genetics or altitude, as previously assumed."

Conclusion

The People's Republic of China must urgently address the needs of Tibetan children. Many fundamental rights are currently being violated despite international and domestic laws, and this must be changed. The protection of the rights of children is integral in the survival of the Tibetan culture.

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Population Transfer

"The massive [state encouraged] population transfer into Tibet, with its accompanying economic and physical dislocation, discrimination, overburden on the fragile environment, exploitation of resources, restrictive child-bearing practices and threats to the physical health of Tibetans is not just infringing on the Tibetans' human rights, it is threatening the survival of the Tibetan people and culture."

UN High Commissioner for Human Rights, Mary Robinson, raised the issue of population transfer into Tibet during her official visit to China in September 1998. Li Dezhu, Minister in Charge of State Ethnic Minorities Commission, denied that Tibet is in any way threatened by the state-endorsed relocation of Chinese nationals in Tibet. However, there is much evidence to support the fact that population transfer amounts to a "violation of basic principles of conventional and customary international and human rights law."

China's Official Policy

The long held Chinese policy of population transfer into Tibet was only announced as an official policy of the Chinese government in 1994 at the Third Work Forum but the practice of moving Chinese into Tibet has been maintained since 1949. Since the late 1980s when Deng Xiaoping's policy of "development and opening up" became evident, waves of resettlement have taken place. Economic development is the purported reason behind this state-encouraged movement with various economic, administrative and development measures employed to facilitate and encourage further Chinese migration.

In 1987, Deng Xiaoping admitted to US President Jimmy Carter that Chinese migration to Tibet was being encouraged as the Autonomous "region's population of about two million [was] ... inadequate to develop its resources." The Third Work Forum in 1994 pursued this line of economic development, but documents leaked from a high level Communist party meeting on May 12, 1993 indicate a subversive motive behind the policies. It was decided that in order to make it demographically "impossible for Tibetans to rise, as is the case in Mongolia and Xinjiang," significant numbers of Chinese settlers would be moved in to dissipate and weaken Tibetan resistance. Since then, innumerable development projects, economic incentives and direct transferrals have been implemented to increase the proportion of Chinese settlers in the Tibet Autonomous Region.

Population Statistics in Tibet

Accurate figures regarding population in Tibet are not readily available. The most recent official census was conducted by the Chinese government in 1990 and this count omitted a significant proportion of the population; the "floating population" (all those skilled and unskilled Chinese drifting in search of employment), all military personnel and those brought in on official projects, Chinese who entered Tibet prior to July 1, 1985 and those who had been residents in a place for less than a year. The official figures of 4.59 million Tibetan and 4.2 million non-Tibetan in Tibet are therefore inaccurate. The Tibetan government-in-exile estimates the figures at 6 million Tibetan compared to 7.5 million non-Tibetans. No independent census has been conducted.

Since the "opening up" of Tibet and the inception of massive development programmes, the number of Chinese in Tibet is expected to have risen significantly. The 62 Projects begun in

the "TAR" in 1995 in addition to the 42 Projects of 1985, compounded by the relaxation of movement throughout the PRC and the introduction of attractive incentives, have undoubtedly boosted the proportion of Chinese. There is an estimated "floating population" of 200,000 in Lhasa alone and between 200,000 and 500,000 Chinese soldiers in Tibet.

These statistics and indications suggest a high proportion of Chinese in Tibet. In 1997 the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities claimed that "Tibetans are now a minority within their own country." If China is permitted to continue the practice of deliberate civilian relocation, the Tibetans will be forced further into minority status and will face a greater denial of their rights.

METHODS

"The Chinese development policy for Tibet is to improve the infrastructure, invest in industry, encourage enterprise and generally integrate the rural population in the Chinese market economy." There are indications that Chinese authorities are taking advantage of these development projects to use them as a catalyst for further Chinese relocation. Employment openings are generally filled by Chinese in both skilled and unskilled positions, and the projects create opportunities for further population transfer. Agricultural development projects initially attract Chinese workers but are expected to also attract Chinese farmers in search of fertile land in the future. Tibetans are frequently excluded from the development programmes altogether.

The controversial Panam Integrated Rural Development Project was again approved this year, attracting minimal press coverage despite the controversy surrounding the project since its first proposal in 1992. In August 1998, the European Union granted China 7.6 million ECU in aid for the programme and the remaining 14.2 million ECU is to be borne by China. The Panam project is part of the comprehensive "One River Two Streams" (ORTS) agricultural programme which was developed with a long-term economic focus of introducing a market economy into Tibet. The principle aim of the Panam project is to increase grain production in the 1001 km² area by installing a complete irrigation system, but the EU has since amended the plan to provide for education, forestation, health and sanitation initiatives. There are concerns that these secondary aspects will be all but negated in practice.

The new project is being implemented in an area that already possesses a basic infrastructure with a subsistence economy and is self-sufficient in food, rather than in one of many poorer areas in Central Tibet that could benefit more from such a scheme. It promises to introduce a full market economy into the area and this threatens the livelihood of many of the locals as traditional economic processes will be made void. It appears that the project was conceived not for the benefit of Tibetans but to reduce the grain deficit (and the resulting economic strain) induced by the influx of Chinese into Panam and surrounding areas.

There are many indications that the Panam project will have serious implications regarding the relocation of Chinese settlers into Tibet. To date, negligible consultation with local Tibetans has taken place, suggesting that the scheme will remain in the control of the Chinese. If the similar UN World Food Program (WFP) # 3357 is any indication of the outcome, the Tibetans will have minimal input into the project. The UN WFP was eventually discredited "due to a lack of technical co-operation and unethical behaviour from the Chinese authorities." It is expected that the majority of employment opportunities will be taken by Chinese and the project will also act as a magnet for the "floating population" thus further

marginalising the Tibetans in the region. The project aims to increase grain production by 78 per cent with the majority of this being accounted for by wheat. 1991 statistics indicate a wheat consumption rate of 10 percent in Panam County which suggests that the programme is "not designed for the benefit of the local people but to create stability for the new, Chinese, population."

As land in the Panam area assumes a cash value with increased grain production, there is a risk that the Chinese will enable private rent or purchase of individual farms. Tibetans in Panam are therefore at risk of total displacement, being subject to the Chinese settling in the area.

The stated long-term objective of the Panam project is "to establish a viable model for self-help development activities which can be replicated in other parts of Tibet." If this mode of large-scale development continues, the accompanying transfer of the Chinese population into Tibetan regions seriously jeopardises the survival of the Tibetan people.

The Three Gorges Dam Project, due for completion in 2009, continues to threaten the Tibetan population. The dam, expected to generate 84 billion kilowatt hours per year, will result in the relocation of up to 1.6 million people. These citizens are being urged to settle in the under populated areas of Gansu, Tibet and Xinjiang.

Massive migration resulting from development in both Tibet and China is compounded by China's policies of direct transfer of officials, and the use of incentives to encourage individual civilian resettlement. Chinese in Tibet are exempted from the 'one child' policies of mainland China and their children may be granted free education. They can earn up to five times as much in Tibet as they can in China and enjoy favourable investment conditions and tax relief. Cadres are guaranteed higher retirement pensions, income supplements and priority job assignments for children. All Chinese in "TAR" are entitled to faster promotion, more favourable wages and welfare benefits than they would receive in other areas of China. These financial bonuses are not extended to the indigenous population.

Transfer of Chinese Officials into Tibet

Contrary to Chinese assertions that they respect "the Tibetan people's autonomous right to independently administer local and ethnic affairs," active transfer of Chinese officials into key positions in Tibet continues to compromise Tibetan rights.

The following cases were reported on "TAR" Radio broadcasts and are indicative of the deliberate policy of transferral of officials into Tibet.

- June 4, 1998; it was reported that 88 Chinese officials from Huinan Province arrived in Lhoka County to work in Lhoka Region on official assignments.
- June 17, 1998; 24 officials from Fujian Province were sent to Nyintri Region to be employed in local government offices.
- June 25, 1998; 25 Chinese governmental officials were assigned to administrative work in the Ngari Region, Western Tibet.
- July 3, 1998; another 25 governmental officials were reportedly sent to work in government departments in the Ngari Region.
- July 5, 1998; according to a broadcast on July 10, 1998 66 Chinese officials from Beijing and Jensu arrived in Lhasa where they were employed.

Implications

The active Chinese policy of population transfer into Tibet under the guise of economic and social development is threatening both the cultural and physical survival of the Tibetan people. The Tibetans are now a minority in their own country and are being marginalised in all sectors of society. Chinese dominate the economic sphere, owning the majority of private enterprise and holding all key positions of power. Development projects in both urban and rural areas have resulted in the physical displacement of Tibetans as more Chinese move in to fill the labour needs. Urban Tibetan housing has been demolished to make way for Chinese construction and rural Tibetans have lost their livelihood as collective Chinese properties or developments have subsumed private and publicly owned land. The economic marginalisation of the Tibetans has greatly impacted on the Tibetans' rights to subsistence, and consequently threatens to diminish their culture.

As the occupying Chinese assume control over the economy, the Chinese language has become indispensable. The Tibetan language has become a minority language and is even secondary in the education system. Education, an integral instrument in the preservation of a culture, is now geared towards the Chinese settlers and actually discriminates against the indigenous population. Discriminatory practices resulting from massive population transfer challenge not only the Tibetan cultural autonomy but also the physical survival of the population.

Although the influx of Chinese has led to the development of more hospitals and medical centres throughout the region, discriminatory charges exclude the majority of Tibetans from these facilities. The denial of access to adequate health care, when compounded by extreme birth control measures and massive population transfer indicates a far more insidious intention behind the state encouragement of Chinese resettlement into Tibet. China's "current policy of population transfer in Tibet is a means of conquering a territory ... by demographic rather than military means."

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Violations of Subsistence Rights

In 1998 TCHRD continued to document accounts from Tibetans revealing a very poor standard of living in Tibet. These testimonies qualify Chinese assertions that there has been significant progress in the socio-economic sector in Tibet, indicating that the indigenous population is yet to benefit from these advancements. This year the Chinese government acknowledged "subsistence" as a fundamental human right as it is "the prerequisite of all other rights." This admission, along with the development programs in place, indicate that the People's Republic of China is aware of the need to improve the living standards of Tibetans, however, there is much concern that the measures in place are both inadequate and misdirected. Evidence suggests that Tibetans are benefiting very little from the Chinese economic development and urgently need a more direct provision of basic needs. Tibetans are also in need of the freedom to exercise this intrinsic right.

The Chinese government has provided the "TAR" with an annual subsidy of more than 1.2 billion yuan (US\$150million) in recent years and claims to have adopted "other favourable measures, ...such as lightening its financial burdens, preferential investment, investment in skill training and an aid-the poor programme." The majority of these funds, however, go to

the development of the economy which China claims "has tangibly improved the lives of all people in Tibet." China claims that by "1996 the average per capita income of peasants and herdsman increased by 48.3 per cent since 1991." These improvements are welcomed but are far from sufficient. According to the International Commission of Jurists, more than 70 per cent of Tibetans are living in poverty. This level is unacceptable and further measures must be implemented to rectify the situation.

The average per capita income of rural residents in the "TAR" in 1997 was only 1,040 yuan (US\$ 130). This figure is estimated to be approximately one fifth the average income of urban dwellers which is growing at twice the rate. This is evidence of an increasing economic gap within the region, and with 86.23 per cent of Tibetans residing in rural areas it is clear that their rights to subsistence are not being fulfilled. The extremely low income level is compounded by insufficient governmental assistance and the harsh taxation policies which China continues to implement.

International Law

On October 5, 1998 the PRC signed the International Covenant on Civil and Political Rights (ICCPR) which provides that everybody be entitled to:

... freely pursue their economic, social and cultural development [and] ... may, for their free ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit and international law. In no case may a people be deprived of its own means of subsistence.

A year earlier the PRC signed the UN sister treaty: the International Covenant on Economic Social and Cultural Rights (ICESCR) which also contains provisions protecting the right to subsistence. Article 11 stipulates that:

The State Parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.

Chinese Law

Article 9 of the Chinese constitution provides that:

The state protects the right of the citizens to own lawfully earned income, savings, houses and other means of livelihood.

Despite these regulations, there is ample evidence to prove that the Tibetans' rights to subsistence are not being protected. Both domestic and international laws continue to be violated by the Chinese government.

Development Projects

"China's strategy for alleviating poverty is economic growth rather than programs specifically targeting the poor." The focus is on large scale enterprise; on installing an infrastructure and boosting production levels rather than on direct assistance to impoverished households and areas. Consequently, little of the Chinese investment filters through to the more than 85 per

cent of Tibetans living in rural communities. Financial aid and development programs in Tibet need to be reassessed so that the Tibetans living standard may be lifted and their right to subsistence protected.

Massive development projects have been introduced nation wide, including the 62 projects announced at the Third Work Forum in 1994. In rural areas, despite such development programs, a mere 2.5 per cent of Tibetans are working beyond the scope of the traditional agricultural economy. Employment opportunities created by such projects are consistently filled by Chinese settlers who consequently benefit from the governmental subsidy. The majority of Tibetans therefore remain as peasants and farmers, with the additional pressure of providing for the new settlers. A major implication of the new developments in rural Tibet is the replacement of the traditional subsistence economy with a market economy which will nullify traditional means of income in Tibet.

Tibetans participating in the market economy are not exempt from subsistence difficulties. Chinese dominate the market, restricting the Tibetans' opportunities to provide for their subsistence. Of the 1,061 businesses in Lhasa's main market hall, only 305 belonged to Tibetans and only 101 of 1,458 salesperson's in Lhasa's vegetable markets were Tibetan.

Discriminatory practices continue to mar the employment sector and there are many reported cases of racially biased appointments and dismissals. The Chinese government encourages skilled and unskilled Chinese to seek employment in Tibet, thereby "actively taking job opportunities away from Tibetans." Throughout 1998 Tibetan staff in government, administrative, judicial and industrial sectors have been particularly vulnerable to dismissal.

Continuing economic difficulties and minimal employment prospects compel many Tibetans to beg for their livelihood. Tenzin Kunga, a Tibetan who arrived in exile in November 1998, reported a trend amongst many impoverished rural families to move to Lhasa or other urban areas to beg. He said that beggars could be seen on the streets of Lhasa, particularly around hotels and especially during religious festivals. Another exiled Tibetan estimated that the beggar population in Lhasa alone now numbers approximately 3,000.

TAXATION POLICIES

In January 1998 Xinhua reported that tax revenue in the "TAR" in 1997 had increased by 25 per cent on the previous year. 470million yuan (US\$58.75million) was collected in 1997 and the rate is expected to reach 600million yuan (US\$75million) by the year 2000. If this aim is reached, the taxation policy in the "TAR" will be in line with the rest of China despite the rural Tibetan income (in the "TAR") being only half that of rural workers in other autonomous and Chinese areas. This failure to accommodate to the needs of the population is a violation of the government's responsibility to protect subsistence rights.

Rural Taxation and Enforced Sales

In the latest White Paper issued by the Chinese government on February 24, 1998, China claims that "no levies have been imposed on the peasants and herdsmen in Tibet since 1980 and there is no compulsory state purchase of grain there. The income that Tibetan peasants and herdsmen earn is entirely their own." This claim has been consistently discredited by Tibetan testimonies. Not only are Tibetans subject to extensive taxation, the enforced sale of grain and other products to the State continues at sub-minimum rates. The rural population is

also forced to purchase goods from the government such as barbed wire and fertiliser, regardless of need or economic viability.

Tibetans have said that they can no longer survive solely from animal or agricultural production as over half their earnings are paid to the Chinese government in various taxes. Rural Tibetans pay taxes on land, animal products and farm yields among other things. There is no consistency in the application of these harsh taxation policies yet it seems that no area of Tibet is exempted and few concessions are made on account of financial hardship. The following accounts illustrate the taxation measures implemented in rural areas throughout the country.

- Nyegyang from Jobdra township in Nangchen County, Qinghai province, arrived in exile on October 6, 1998. He reported that he had to pay taxes on land, people and meat but the policy was always changing. In 1996 he had to pay 150 yuan (US\$ 18.75) in taxes, with additional payments of butter and other food items. In 1997 the rate increased to 300 yuan (US\$ 37.50) which equalled half the family's income. On account of these unreasonable fees, the family was compelled to leave their home and they came into exile. In June 1998 they received news that their property had been confiscated by the Chinese authorities.
- Lobsang, a 28 year-old from Amarkham village in Whokpa County, arrived in exile in September 1998. When he was 19 years old he began to do small business by buying goods such as clothing and sweets in Lhasa and travelling to rural and urban areas to sell them. Lobsang had to pay many forms of tax, totalling more than 480 yuan (US\$ 60) each month. Transportation tax ranged from 100 to 200 yuan (US\$ 12.50 to \$25) per trip, depending on the amount of goods being moved. 250 to 500 yuan (US\$ 31.25 to US\$ 62.50) was required for permission to sell the goods and a tax of 80 yuan (US\$ 10) was imposed for his space to sell on the streets. He was forced to pay 60 yuan (US\$ 7.50) a month for sleeping in his tent in nomadic areas and for the last two years an additional road tax was required for travel between villages which cost Lobsang a further six or seven yuan each trip.

Lobsang reported that another form of tax was introduced three years ago. Those persons selling non-Chinese goods were required to pay a tax of 1000 to 2000 yuan (US\$ 125 to US\$ 250).

- Sonam Wangdu, 33 years old, from Manya village in Tandho county, reported that as a nomad he had to pay many taxes: "I owned 30 to 40 yak and they were taxed as follows: 12 or 13 yuan (approximately US\$ 1.50) annual grazing tax, butter tax of eight gyama (four kg) per year, wool tax of six gyama (three kg) per year and a meat and hide tax of one yak which was for the staff working at the tax office. I owned 30 sheep and for these I paid an annual grazing tax of three to four yuan (approximately US\$ 0.50) per sheep and a meat tax of half a sheep per year. For each of my 10 horses the grazing tax was three times as much as one yak because they eat more. We also had to pay a 'person tax' of 10 yuan each year for the upkeep of the government tax officials."

Due to these high taxation rates, Sonam Wangdu could not afford to sustain his family solely on this income. He was compelled to seek additional work in a gold mine. He has since come into exile.

- Dadon of Tamdha village from Palbar County, Chamdo Region arrived in exile in November 1998. He reported that in October every year, he had to pay the

government the equivalent of almost 10% of his annual yield of nai (a type of barley), 20% of his yield of beans and an additional 100 kg of grass. If the tax demands were not met, a penalty of 1000 yuan (US\$125) was imposed. Many people were compelled to seek a loan in order to meet the requirements. Financial strain was increased by governmental policy of compulsory sales of animal products to the authorities for a minimum price. Cases were reported of Chinese officials purchasing butter at as little as a quarter of market price and meat at less than half retail value. Such purchases greatly impacted on the livelihood of the family as it disrupts the subsistence economy on which they rely.

Urban Taxation

Urban Tibetans are also heavily taxed for land and traders are compelled to pay exorbitant fees for market stalls.

Sources from Lhasa reported the imposition of taxes on space in the Barkhor open market. Traders must pay taxes directly to the taxation office and the Management Committee, and additional fees for market space and litter control, bringing the total to 120 yuan (US\$ 15) per month. One source stated that "in Lhasa people have no real profession except keeping stalls which now means paying unbelievable taxes. Living has become very difficult for Tibetan people and they are suffering an unemployment crisis."

A 22 year-old Tibetan woman who arrived in exile in May 1998 said she had been working in Lhasa for six years selling prayer flags near the Tsuglhakhang Temple. With an annual income of only 3000 to 4000 yuan a year (US\$ 375 to \$ 500), she was required to pay a total of 984 yuan (approximately US\$ 125) in taxes.

Under Article 8, 1(a) of the International Covenant on Civil and Political Rights:

No one shall be required to perform forced or compulsory labour.

Now that China has signed the International Covenant on Civil and Political Rights, it is expected to respect the provisions therein. TCHRD anticipates evidence of the abolition of forced labour in Tibet, a practice which, to date, violates the people's right to subsistence.

Throughout 1998 reports were received of compulsory labour programmes in various areas of Tibet. Tibetans were required to engage in arduous tasks for long hours with little or no payment. Such an obligation prevents a person from participating in other forms of employment and thus minimises their subsistence capabilities. The following cases are indicative of the continuation of this exploitation.

- Pema Lhamo from Gonjo, Chamdo Region, "TAR," reported that the people in her village were required to work on road construction for the Chinese government without any payment.
- Migmar Tsering, a 17 year-old farmer from Kyedrong County in Shigatse Region, reported that all people from his village between the age of 15 and 60 were required to work for the Chinese government for 15 days. In Kyedrong County, 110 eligible people were made to assist in road construction.

- A Tibetan woman from Karze County, "TAP," who arrived in exile on 16 November 1998 reported that in Zora Nang, Karze County, the Chinese have constructed a hydro-electric plant using enforced unpaid labour of local Tibetans.

In Lhodrak Venpa, Lhoka Region, "TAR," Tibetans are compelled to work for 20 days each year, unpaid, for the Chinese government, according to a source who fled Tibet in 1998. They are used in either road construction or mining and are fined if they fail to comply.

Health and Social Welfare

Article 12 of the ICESCR states that:

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

It also obliges the State to ensure the maintenance of:

Creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Although much progress has been made in primary healthcare, an intrinsic element in the right to subsistence, it remains out of reach for the majority of Tibetans. Contrary to Chinese claims that health care "is free in farming and pastoral areas," prohibitive fees continue to compromise the Tibetans' health. This is augmented by discriminatory treatment and a general lack of adequate facilities. Healthcare facilities are concentrated in urban areas and are yet to be fully extended to the more isolated rural areas where the majority of Tibetans reside.

- Admission to Lhasa People's Hospital costs a minimum of 1,000 (US\$ 125) yuan, according to a Tibetan man who arrived in exile in 1998. The source, from Shol village in Lhasa, reported that consultations would not be granted until the payment was made. His cousin was hospitalised for four months and the family was required to pay a total of 10,800 yuan (US\$ 1,350).
- Dickey Dolker, a 26 year-old from Ngari region, reported that there is no clinic or hospital in her locality and those requiring medical treatment had to go to the County centre. She also reported an unconditional hospital admission charge of 1,000 yuan with an additional weekly charge of 1,000 per week.
- Dorjee from Zokhang County in Chamdo said that his area is also without a hospital or medical centre. There is one at the township, but the expense is very high. Again, a 1,000 yuan hospital admission fee was reported with additional fees for tablets (one yuan for three tablets) and injections (70 yuan each). In the event of illness, such exorbitant medical fees greatly impact on subsistence capabilities.

Social welfare is significantly lacking in Tibet. Benefits for the unemployed, the disabled and the elderly, for example, are non-existent and little compensation is provided for those who lose their home or their jobs as a result of Chinese resettlement. Such a lack in governmental assistance further breaches the government's responsibility to provide for the subsistence of the population.

Housing

In 1996, the Chinese government acknowledged the fundamental need for shelter, stating that "adequate housing [is] a basic human right." According to a White Paper released by the Chinese government in February 1998, "[s]ince the 1980s more than 300 000 sq.m. of old residential houses have been rebuilt in Lhasa, and 5,226 households have moved to new dwellings. All this has improved the living environment and quality of life of both urban and rural residents." Tibetan residents do not appear to have benefited from this construction however. Many have been forcefully removed from their homes to make way for Chinese housing, with little or no compensation from the government.

The Chinese government actively discourages Tibetans from moving to cities whilst simultaneously encouraging further Chinese settlement. Access to urban housing resources is clearly discriminatory, some residential areas are reserved for the exclusive use of those employed in governmental work units. Prohibitive fees exclude the majority of Tibetans from urban property rental and, for most, private construction is not a viable option.

Rural Tibetans have also been displaced on account of new Chinese developments. Properties have been taken by the government for military use, development projects or communal properties, and the cost of building a new home is beyond the means of most Tibetans.

Tsentsok from Karze County in Amdo reported that to build a house 30,000 yuan (US\$ 3,750) was needed to purchase the land from the government. This sum was beyond the means of the family so they came into exile.

Prostitution

There is evidence of a dramatic increase in the number of brothels and the incidence of prostitution in Tibet, and particularly in urban centres such as Lhasa. Economic difficulty is purported to be the primary reason behind the boom in this industry. A 47 year-old man from Shol village near Lhasa testified in September 1998 that many young Tibetan women were resorting to prostitution as their sole means of subsistence. He said that the women are generally aged in their early twenties. Another source reported that Tibetan prostitutes provide sex in exchange of food, or as little as 10 yuan (US\$1.25).

Conclusion

For many Tibetans, fundamental requirements of subsistence are not guaranteed due to continuing poverty, lack of facilities and racially discriminative policies. "Clinics, schools, electricity and other social services are all available in Chinese population centers ... Tibetans who happen to live near Chinese settlements are casual beneficiaries of government programs which would not exist in their present state but for the Chinese population." Economic development is yet to provide the majority of the indigenous people with these facilities and the People's Republic of China is urged to redirect and intensify its assistance measures.

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Enforced Disappearance

"The 'disappeared' are people who have been taken into custody by agents of the state, yet whose whereabouts and fate are concealed, and whose custody is denied." In Tibet, on many

occasions, Tibetans are arrested without warrant and taken into police custody without any disclosure of details concerning their whereabouts.

Enforced disappearance is of great concern to the people of Tibet. In 1998 TCHRD recorded 12 new cases of enforced disappearances. Of the 22 cases of disappearance recorded in 1997, the whereabouts and conditions of 18 remain unknown. The PRC's total disregard of international standards of the right to life, liberty and security of person can be best illustrated by the case of nine year-old Gedhun Choekyi Nyima, the 11th Panchen Lama. The Chinese authorities abducted the young boy at the age of six in May 1995. Despite strong international concerns and appeals, China continues to conceal the location and condition of this child.

International Law

The act of enforced disappearance is ... a grave and flagrant violation of the human rights and fundamental freedoms proclaimed in the universal declaration of Human Rights.

Every State must ensure the protection of citizens from enforced disappearances yet China continues to infringe on the fundamental human rights of the Tibetan people by abducting those who dare to criticise the ruling government. This creates an atmosphere of fear and insecurity amongst the Tibetans as the fate and whereabouts of those detained are sometimes not released and the Chinese government often denies their custody.

Disappearance violates a whole range of human rights, in particular, the Universal Declaration of Human Rights which recognises the right to life, liberty and security of a person, and the right not to be subjected to torture and arbitrary arrest. Acts of enforced disappearance deny victims subsequent human rights including the right to humane conditions of detention. "[T]he right to a family life as well as those rights of an economic, cultural and social nature, such as the right to an adequate standard of living and the right to the education of the family" are also negated. China is urged to disclose the details of those who are currently classified as "disappeared" so that measures may be taken to prevent further denial of their basic rights.

New Cases of Disappearances

- Alak Jamyang Gyatso, is a high monk teacher in Labrang Monastery, Sangchu County, Gansu Province. He was called to Beijing last year by Chinese authorities to teach the Chinese appointed Panchen Lama but he refused to go. In March 1998 he was forcibly taken to China and since then no information regarding his whereabouts has been released.
- Ama Lhundrup Wangmo, aged between 60 and 70 years, originally from Phenpo County was a resident of Tsomonling, in Lhasa City. On August 20, 1998 she disappeared after PSB raided her home. Family members appealed to the PSB office to reveal her whereabouts and requested visitation rights. Their appeal was rejected. It is not known to date where she is detained. Lhundrup Wangmo had previously been arrested twice on suspicion of involvement in Tibetan independence activities and visiting prisoners. On each occasion, the PSB failed to gather adequate evidence and she was released. She has visited India on two occasions, most recently in 1995.
- Ama Sonam 65 years old and Tashi, 67 years old, both from Lhasa, were arrested by the PSB in September 1998. The current whereabouts of these two people are not

known. It is believed that they had both visited prisoners to give them food before they were arrested.

- Dakpa Kalko, 48 year-old nomad from Ngaba County, Sichuan Province was arrested on 23 May, 1998 for distributing photographs and copies of speeches of the Dalai Lama and a booklet entitled Guidelines for Future Tibet Policy. He was detained in Barkham County Prison in Ngaba for an unspecified time and severely tortured. According to our source, he was transferred to an unknown prison and his current status is not known.
- Wado Samten, a 70 year-old lay man from Sog County in Nagchu Prefecture, was arrested by the PAP in May 1998 after he protested against the "work team" during a public meeting in Sog county. His current location is not known.
- Gedun Kelsang is a monk from Golok Ragya Monastery in Golok Machen County in Qinghai Province. In 1997 he visited India and returned the same year. He was arrested in May or June 1997 in Xining city for an unspecified time and later handed over to authorities of the Golok "TAP." His current whereabouts are not known.
- Kelsang Thutop, is a 32 year-old monk from Taktsang Lhamo Monastery, Lu-Chu County, in Gansu Province. Kelsang was arrested in December 1996 on charges of raising the Tibetan flag and distributing independence leaflets in the monastery. According to Thinley Gyatso who witnessed Kelsang Thutop's arrival at Ganlho Prison, Kelsang was held for three days before being transferred. It is not known where he was taken.
- Tsering Dorjee, a 33 year-old monk from Thekchen Jangchup Choeling Monastery, Nyagchu County, Kham, disappeared when the PSB arrest him for the second time in December 1997. He was first arrested in September 1996 by the PSB on suspicion of having distributed independence pamphlets during the inauguration ceremony of Lithang Monastery.
- Tsultrim, a 23 year-old from Ragya Monastery in Machen County, Golok "TAP", was arrested by the PSB in November 1997. He had left on a pilgrimage to India in 1996 to seek a blessing from the Dalai Lama and was arrested on his return. Tsultrim was imprisoned in Dram for two months but his present whereabouts are not known.
- Bhu-Khog (24) and Jigme Gyalpo (26), both farmers from Meldro Gongkar, were arrested in April 1995 for pasting posters in front of the township government office. They were sentenced to 6 years in Drapchi prison. In May 1998 following the protests inside Drapchi prison, both were reported as "disappeared" by their relatives. It is believed that they took part in the protest and were consequently tortured and transferred to an unknown place.

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Racial Discrimination

In 1981 the People's Republic of China formally accepted the provisions of the UN International Convention on the Elimination of all forms of Racial Discrimination (CERD). Under this convention, and under China's domestic laws, Tibetans are entitled to all rights and freedoms in political, economic, social and cultural spheres of public life, without distinction based on nationality or descent.

Despite these legal guarantees the Tibetans, who are defined as a racial minority by the People's Republic of China, face discrimination on racial grounds in all sectors of life. The continuing influx of Chinese settlers and the accompanying discriminatory practices endorsed

by the government are pushing the indigenous population further into minority status and compromising their rights.

Tibetans are discriminated against in the political sector, as the appointment of governmental officials is a severely selective process. Consequently, they are denied their lawful right to autonomy and are subject to Chinese rule and influence. This in turn reduces the Tibetans ability to effectively challenge Chinese policies in Tibet and makes them vulnerable to further discriminatory practices. Tibetans rights in employment, education and health are all affected by discriminatory policies, and continual subjugation to Chinese influence threatens the survival of the Tibetan culture.

International Law

The United Nations International Convention on the Elimination of All Forms of Racial Discrimination defines racial discrimination as:

... any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life. (Article 1,1)

China's Domestic Law

A White Paper released by the PRC in February 1998, states that under the Chinese Constitution and the Law on Ethnic Regional Autonomy, the Tibet Autonomous Region "enjoys the extensive rights of autonomy, involving legislation, the use of local spoken and written languages, the administration of personnel, the economy, finance, education and culture, the management and development of natural resources, and other aspects."

The White Paper also asserts that there are more than 60 local laws and regulations in the "TAR" which protect the ethnicity of the Tibetan people.

There are many indications that these measures are failing to protect the Tibetan people from discrimination.

Public Representation

Despite PRC claims that there are, "extensive rights of autonomy involving ... the administration of personnel" within the "TAR," the highest position in the TAR Party Committee is held by a Chinese person. Chen Kuiyuan has been TAR Party Secretary since 1992. The second highest position in the "TAR," the Chairman of the Standing Committee of the TAR People's Congress, is held by a Tibetan Communist Party cadre.

Although 48 per cent of the cadres who run the regional or higher level departments in the "TAR" are Tibetan, this is not indicative of a representative governmental body. Great care is taken to ensure that all Tibetans employed are "politically clean." Cadres are forbidden to support the Dalai Lama or any pro-independence activity. They are also forbidden to "distort history and deny that Tibet is an inalienable part of the motherland." This selective approach

denies the Tibetans their right to autonomy as the "TAR" government, with a significantly Tibetan front, is merely a puppet for the Chinese government.

A report in 1997 by the International Commission of Jurists stated that Chinese authorities conceded that Chinese was the only language spoken in official positions in the "TAR." This contradicts a 1988 declaration that the Tibetan language was to be the official language of the "TAR," to be used in employment, education and official communications. Tibetan is not used in government offices and this tactic disables the majority of Tibetans from accessing and becoming involved in political affairs. It is a breach of both international and domestic laws and contradicts China's claim that "[p]ersonages of all strata and all circles in Tibet participate in the administration and discussion of state affairs."

Tibetans living in autonomous regions subsumed by Chinese provinces also suffer discrimination in the political sector. Acknowledging their minority status, severe under-representation is evident in the governments of these areas. Of 270 leaders at province level in Qinghai, Gansu, Sichuan and Yunnan, only 26 are Tibetan. In Qinghai, 32 of the 41 counties are designated Tibetan autonomous areas yet only 11 Tibetans hold provincial leadership positions. This shortcoming must be addressed as it opens the Tibetans, a minority population, to further discrimination.

TCHRD is concerned by reports received throughout 1998 of a reduction of the proportion of Tibetans in government. At the beginning of 1998, a programme was implemented to "downsize" government departments in Lhasa City, particularly affecting Tibetan employees. Tibetan staff members in government businesses, industrial, administrative and judicial sectors have been dismissed after quotas were imposed to reduce numbers.

In November 1998 one of the most senior Tibetan representatives, Akya Rinpoche, fled Tibet for the United States. He was one of only 25 Tibetans to hold official positions at a national level and he held such positions of three main bodies. As Vice-President of the Buddhist Association of China, it is believed that he came under pressure to comply with Chinese authorities about moving the Chinese-appointed Panchen Lama to Kumbum Monastery, the official seat of the Panchen Lama. If he had agreed to the move, it would, in effect, conflict with the Dalai Lama's appointment of the 11th Panchen Lama. Akya Rinpoche also held the positions of Vice-President of the All China Youth Federation and Vice-Chairman of the Chinese People's Political Consultative Conference 7th Qinghai Provincial Committee.

Employment

Under Article 5(e)(i) of CERD, States Parties undertake to guarantee the right of everyone, without racial discrimination, to equal enjoyment of:

The right to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration.

Population transfer of the Chinese into Tibet remains one of the greatest threats. The emphasis by the government on economic development has caused a huge influx of Chinese workers and entrepreneurs. The resulting population imbalance, in favour of Chinese in most urban areas, has resulted in disparate treatment of employees, to the detriment of the Tibetans.

Discrimination in employment extends through all sectors. In September 1998, three Tibetan staff members of the government-run Lhasa Middle School in the "TAR" were threatened with dismissal if they failed to return their children from exile. The employees had sent their children into exile so that they might attain a Tibetan education. In order to retain their positions, the parents had to walk across the Himalayas to Nepal to collect their children. Their jobs were suspended until they complied. This discriminatory measure is an effort by the government to maintain strict control over all activities and is a distinct violation of the right of the parents to determine their children's education. Since 1995, 37 children have returned to Tibet from exile on account of discriminatory Chinese governmental policy.

Khando Dekyi and Kelsang Dolma from Karze "TAP" were among the 51 Tibetan employees in a government-owned petrol station in Dhrango. The Chinese Office of the County Commerce Department ran the station, and both men had been employed for eight years. In January 1998 the County government ordered staff cuts in various governmental sectors and as a result 60 positions were terminated. In all, 50 Tibetans were dismissed and of the seven remaining positions, six were given to Chinese workers.

A report received in August 1998 stated that Pashoe Monastery monks whose parents worked in official government positions within the Chinese government, had been expelled from the monastery. The expulsions took place in February 1998. It is believed that around 20 monks and 20 novices were expelled.

Discrimination is also evident in the manual labour industry. Children as young as 14 work on roads for around five yuan per day (US\$ 0.60) while Chinese workers received around 100 yuan per day (US\$ 12.50) with lodgings and food provided for equivalent work.

Education

Article 5(e)(v) of CERD guarantees under economic, social and cultural rights:

... the right to education and training

Despite Chinese claims that new mechanisms have been adopted in education to give "priority to people of ethnic groups," Tibetan students suffer considerable discrimination in this sector. Prohibitive and discriminatory fees, inadequate facilities in rural areas, language alienation and the resulting social discrimination complicate the Tibetans' right to education.

The Chinese government is responsible for the maintenance of an education system free from bias, and current measures are failing to achieve this. Contrary to domestic policy to provide free primary education, many Tibetan students are denied access to basic education on account of financial strain. Rural families are expected to make significant financial contributions to educational institutions and considering that more than 85 per cent of Tibetan families live in rural areas and the majority of Chinese settle in cities, this discriminates against the Tibetan population. The majority of new schools in Tibet are built in urban centres, catering to the Chinese settlers, which further discriminates against the indigenous people.

The use of the Chinese language in education continues to marginalise Tibetan students. The Chinese government appears to be attempting to diminish the Tibetan culture by making the language redundant in all sectors. The Tibetan Language Department of the University of

Tibet in Lhasa took no new enrolments for the 1997-1998 academic year. Most secondary schools teach only in the Chinese language and in April 1997 it was officially announced that Chinese was to be introduced in all grades of primary education. Tibetan children are thus severely disadvantaged from the outset and their opportunities for further education are greatly impeded.

A former student from a school for "ethnic groups" in Dechen, Kham, reported that although a quarter of the students were Tibetan, all classes were in Chinese, no Tibetan language was taught and students were discouraged from using the Tibetan language even outside the school.

Despite flexible enrolment procedures and prioritising measures, the education of Tibetan children cannot be equated to that of the Chinese and further concessions must be made.

Health

The right to public, medical care, social security and social services is guaranteed to everyone without racial discrimination under Article 5(e)(iv) of CERD. Although the PRC Constitution has no reference to health rights, high levels of government have recognised the need to "further raise the people's health level." One of the primary factors in the discriminatory healthcare service is the distribution of medical centres. The majority of health care services are located in urban areas which once again facilitates the Chinese settlers as opposed to the Tibetans.

Inconsistent treatment procedures within the health services are also greatly affecting the wellbeing of the Tibetan population. Testimonies of exiled Tibetans indicate a significant racial distinction in the treatment levels received and medical expenses incurred.

- Tsundue from Toelung Dechun County, a rural area in Western Tibet, said that money determines the fate of many underprivileged farmers and nomads. He told of two cases of death resulting from lack of treatment. One woman, a farmer, tried to receive treatment in 1996 for a cough infection. She was asked to pay around 100 yuan (US \$12.50) to be admitted but had no money. A month later, she died. He also told of another farmer who had contracted a terminal disease, but didn't seek medical consultation because he could not afford it. He died in August 1996.
- Tibetan women also endure discriminatory healthcare practices under the birth control policy. Despite alleged birth control concessions to minority groups, Tibetan women continue to be subjected to sterilisation and abortion procedures against their will. As most Tibetan women live in rural areas where medical facilities are scarce, these procedures are conducted in ill-equipped centres and the risk of complications is particularly high. Women are deterred from seeking medical attention in any matter for fear of sterilisation.

Tibetan political prisoners and people involved in pro-independence demonstrations are openly denied any treatment for injuries which often result from beatings and torture. Of the 60 reported deaths from torture received by TCHRD since 1986, 18 of them died after being denied medical treatment. Others have suffered permanent maiming from untreated injuries.

- Lobsang Dolma, a former political prisoner and nun, was denied medical treatment in 1995 while in Drapchi. After falling seriously ill, and at first denied treatment by the

prison doctor, she was taken to hospital. The hospital doctor recommended she undergo an operation but the head of her prison unit refused, stating she could wait until the end of her sentence in two years time. Her parents eventually financed the operation but it was conducted on the premise that Lobsang had to immediately return to prison. Immediately after the operation, Lobsang worked in the prison (cleaning toilets and separating wool) and was forced to exercise with the other prisoners, exacerbating her condition.

- Kunchok Tsomo spent three years in prison with an untreated broken arm She incurred the injury at the time of her arrest in May 1993 when she was hit with a rifle butt during a demonstration. Her condition was aggravated by continual use as she was not relieved from her prison duties. After her release, a doctor diagnosed that flesh had grown around and inside the broken bone. In 1998 her condition remains poor and she is still receiving medical treatment.