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EXECUTIVE SUMMARY

Monitoring and evaluating human rights violations in Tibet for 2002 has continued to be a challenge for the Tibetan Centre for Human Rights and Democracy (TCHRD) considering the tremendous lack of transparency and secretive nature in which Chinese authorities work, coupled with cynical moves by Beijing to avoid international criticism of its human rights record in Tibet. In the absence of free and independent access to Tibet, TCHRD has researched academic papers and Beijing's White Papers for data on Chinese policies in Tibet and also made use of information provided by independent travellers. However, our greatest source remains the testimonies of refugees fleeing Tibet, including former political prisoners. Tibetans can best report on what is happening in their country and the information they provide is crucial in understanding the situation on the ground.

The year 2002 was marked by key changes in the political control of the Chinese government. The 16th Chinese Communist Party (CCP) Congress in November appointed to China's helm of affairs Hu Jintao as Party-Secretary, a man little known to the outside world but remembered by Tibetans as the hardline leader responsible for the imposition of Martial Law in Tibet in 1989 and for the introduction of potentially repressive policies that became the beginning of the end of what had been a relatively liberal decade in the region.

2002 was also a year of intensifying contradictions. China's human rights policies and practices in Tibet were not only contradictory and self-defeating, but also without consistency. There was a pattern of Beijing's human rights diplomacy using the cover of

concessions to prelude fresh crackdowns on dissent assuming that world leaders are less likely to react strongly after a gesture of goodwill.

The 58th session of the United Nations Commission on Human Rights (UNCHR) was a huge disappointment to the peoples of China, Tibet, Eastern Turkestan (Xinjiang) and Inner Mongolia. With no “Resolution on China”, UN member countries again failed to condemn and censor China for its poor human rights record.

The universality and indivisibility of human rights, persistently reiterated by UN delegates after the Vienna Declaration in 1993, was blatantly negated by speeches of Chinese diplomats at the UN this year. According to Vice Foreign Minister Wang Guangya, “owing to their different history, culture, social system and the stage of economic development, it is only natural for countries to adopt different ways, approaches and processes in realising human rights”. China claims the right to a special form of relativism. In effect this is a claim for exemption from the very concept of the universality of human rights.

TCHRD continued to monitor the human rights situation on the ground in Tibet throughout 2002 and found little serious effort on the part of the Chinese authorities to improve the lives of the Tibetan people or to guarantee their fundamental rights and freedoms. During the year, China tried hard to block voices of dissent from being heard inside the country as well as from outside. Within the country harassment and imprisonment of dissidents remained high. Security was tight in Beijing and around the Great Hall of the People during the 16th CPC meeting. Hotels and guesthouses were strictly ordered not to accept Uighurs and Tibetans.

Outside the country, China used its power as a member of the UN Security Council to block accreditation to three Tibetan rights groups to participate in world conferences including the World Summit on Sustainable Development (WSSD). TCHRD was one of the three. Elsewhere, Chinese NGOs used civil society forums to strongly defend their government policies such as at the Asian Civil Society Forum (ACSF), held in Bangkok in December 2002.

“Despite deepening economic reforms, China’s authoritarian government has resisted calls for political liberalization and has made little progress improving civil and political rights”,

- the United States Congressional Executive Committee on China (CECC) Annual Report, August 2002.

This year TCHRD in its Annual Report on the human rights situation in Tibet for 2002 takes a hard look at China’s compliance with the two international instruments of human rights, i.e. International Covenants on Civil and Political Rights (ICCPR) and Economic, Social and Cultural Rights (ICESCR). China ratified ICESCR on 27 March 2001 but is yet to ratify ICCPR, which it signed on 5 October 1998.

The year started on a positive note with the release in January of Ngawang Choephel, a prominent political prisoner. This was followed with releases of other high profile prisoners of conscience including Takna Jigme Sangpo and Ngawang Sangdrol, two of Tibet’s longest serving political prisoners. TCHRD received information of a total of 90 known releases of political prisoners upon completion or expiry of their prison terms, including seven early releases. However, information on the arrest of 40 more new detainees was reported to the

Centre. There are 208 known political prisoners currently incarcerated for exercising their basic fundamental human rights

In September this year, China received a Tibetan delegation from the exile government in Dharamsala nearly nine years after the last contact in 1993. This visit generated renewed hopes amidst the international community in general, and Tibetans in particular. Although the Tibetan delegation stressed the visit was mainly to break the ice with China for a fresh and sincere beginning, the authorities in China maintained that the visit was a private one. While hosting the delegation in Tibet the authorities continued to condemn the Dalai Lama as a “splittist”. Applying this label to the spiritual and political leader of all Tibetans did not go down well with his people. TCHRD believes the visit was crucial as a positive outcome in terms of genuine self-rule or autonomy could mean more fundamental rights and freedoms for the people of Tibet.

After years of restricting foreign observers to the region, China invited two groups of foreign correspondents on reporting trips (admittedly heavily escorted) in August and October 2002. One of the journalists, Geoffery York, after visiting Tibet’s most notorious Drapchi Prison wrote, in *Globe and Mail* on 17 September 2002,

“In a nearby cellblock, there was another staged tableau. A hundred inmates were staring woodenly at a Christmas cartoon on a big-screen television, not daring to move a muscle or steal an illicit glance at their visitors”. He added, “Only about 100 inmates were visible. They sat with weird rigidity, gazing silently at an American cartoon on a Chinese state television channel. Prison authorities, nervous about possible protests, had obviously warned the inmates not to speak or move”.

The recent decline in political protests is not an indication that Tibetans are happier with Chinese rule or that their aspiration for self-determination has declined. Rather, it is the result of heightened surveillance and heavy-handed, brutal suppression by the authorities. Another factor is the fear of severe physical abuse, including beating and torture, and ensuing years of imprisonment if dissidents are caught. The authorities included “illegal religious activities” and those who “illegally guide Tibetans across the borders” which expanded the scope of the renewed “Strike-Hard” campaign in Tibet.

The strongly strategic and hard line policies of the PRC - made in the interests of the State by a select few-excluded the genuine interests of the Tibetan people who as a people under the United Nations Charter have the “Right to Self-determination”. UN Resolutions of 1961 and 1965 called upon the PRC to respect the ‘Right to Self-Determination’ of the Tibetan people.

Repression of political, religious or spiritual activities by persons or groups perceived as a threat to government authority or national stability continued through the year. Linking activities of religious persons to acts of terrorism, holding secret trials and imposing extreme sentences occurred during the year. The death sentences on Trulku Tenzin Delek and his attendant, Lobsang Dhondup, on 3 December was headline news and sent shock waves through the Tibetan people aspiring to self-determination in Tibet.

TCHRD received reports of many arrests of exile returnees in the Tibet Autonomous Region”, of monks for performing religious rites in Karze, eastern Tibet, and of others for engaging in peaceful pro-independence activities. Ex-political prisoners and many others who

fled the country during the year reported arbitrary detentions, torture and beatings to TCHRD. One death occurred in detention.

In the religious sphere, the anti-Dalai Lama campaign heightened and restrictive measures were imposed on observance of traditional religious practices and belief. The Chinese authorities imposed Management Committees and “work team” visits in monasteries and nunneries, enforced the official ceiling on the number of monks and nuns, imposed 18 year age limits and conducted political education classes for the clergy. This year influential religious leaders in Tibet came under severe persecution.

Internet censorship in China remained a big issue in 2002. There were reports of the State employing more than 100,000 cyber police to maintain a tight control over the Internet. In Tibet ordinary people are unable to access information freely. Key words that the PRC deems “sensitive” such as democracy, human rights, Dalai Lama, Tibet and Taiwan trigger blocks on the Internet: jamming and strict control of foreign radio, TV and news broadcasts in Tibet remained as before.

In the area of Economic, Social and Cultural Rights the PRC’s policies on the Tibetan plateau fall short of international standards of good governance. Under the Chinese Constitution there are provisions for safeguarding the Right to Livelihood but these are not implemented on the ground. It is evident from the testimonies of refugees that it is those assigned the task of guaranteeing these rights who are the abusers. Tibet, along with 11 other western provinces of China, forms one of the country’s poorest and most underdeveloped regions. There is huge income disparity between the rural and urban populations.

At the core of the complexities surrounding livelihood issues for Tibetans is the fact that the PRC does not recognise the right of the Tibetan people to self-determination, nor their right to freely pursue economic, social and cultural development, which is at the heart of ICESCR.

Under the Western Development Program (WDP) launched in 1999, China is pouring billions of dollars into Tibet and other remote western areas. Beijing likes to believe that as long as the country’s economy is burgeoning everything else will take care of it. Despite the huge propaganda hype relating to the WDP, Tibetans view its main aims as being the exploitation of their natural resources and the transfer of Chinese settlers on to their land. In addition to the economic targets, WDP is aimed at cultural assimilation. The profits will largely benefit government officials, local elites and well-connected entrepreneurs from China’s affluent coastal regions. The major projects - including the Golmud-Lhasa railway line, gas pipelines, water transfer schemes and electricity transmission lines-are aimed at sending western resources to the east. One Chinese scholar has candidly described the Western Development Program as a policy of “Western Exploitation and Eastern Development”.

The PRC in its White Paper on Tibetan culture released on 22 June 2001 speaks on "great attention to maintaining and safeguarding the Tibetan people's right to study, use and develop their spoken and written language". The White Paper also speaks highly of its educational policies in Tibet and quotes impressive statistics on the development of education in Tibet. However, out of the 2,000 to 2,500 Tibetans fleeing Tibet every year the percentage of refugees who can read and write is not very high. A large percentage of the young people flee in search of freedom and to seek a broader-based education outside Tibet. Education in the rural areas in Tibet is hugely neglected.

Education policies in Tibet are meant to indoctrinate communist ideologies. Students must denounce the Dalai Lama. Tibetan students are taught a Chinese version of the history of Tibet. The medium of language and instruction in most schools is in Chinese sidelining the Tibetan language. As a result many Tibetans are losing the ability to write their own language. In July 2002, the Chinese authorities closed down a private Tibetan school “Tsangsul” in Lhasa. The school had a record of stressing on preservation of Tibetan culture.

Tibetans in Tibet have very limited or no access to health care facilities. Health provisions for Tibetans continue to lag far behind China’s national averages, and fall short of international standards of adequate healthcare. The increasing cost of hospital care, and the shortage of trained village-level health professionals, contribute to a worsening health situation for Tibetans. Health care is no longer a right. It is the privilege of those who can pay and have the right connections.

The prison conditions in Tibet are alarming and way below international standards. They are overcrowded, lacking proper ventilation, with very poor sanitary conditions and low-grade food. Since 1986, TCHRD has recorded the deaths of 79 prisoners, many of who succumbed to the unhygienic and inhumane conditions of the prisons after long periods of torture.

Conclusion

The world today is pre-occupied by its fight against terrorism. China joining the United States-led anti-terrorist coalition could be an end to or at least a toning down of criticism of Beijing’s human rights record by western governments, in particular the United States and the European Union.

The fundamental problem in Tibet in regard to human rights abuses and restrictions on human freedom is the Chinese government’s lack of implementation and abuse of Laws. It becomes clear that the strength of the rule of law, in which lies its universal relevance and application, is non-existent. “All too often these laws are not honoured, all too often; domestic laws are subverted to provide a cloak of legitimacy for breaches of fundamental human rights, or infringements on civil liberties” said UN Secretary-General Mr. Kofi Annan on the occasion of Human Rights Day, 10 December 2002.

Aware of its rising global status, China is today obsessed with presenting a clean image to the world. Its increasingly prominent international profile was symbolised in 2001 by its entry into the World Trade Organisation and Beijing’s successful bid to host the 2008 Olympics. Yet the communist administration remains an international bete noire for its violation of human rights and is facing huge opposition from various rights groups, western countries and donors against giving aid to China. International attention to its policies on Tibet is a continuing thorn in China’s global image.

However, TCHRD sees change in China as inevitable, and with that there is hope for a peaceful solution to the Tibet issue. Noting resolutions adopted on Tibet in particular the Tibet Policy Act of the US Congress, signed into United States Public Law 107-228 by President George Bush on 31 September 2002, TCHRD calls upon the international community to maintain the pressure on the PRC until signs of real improvement in human rights are seen on the ground. China must adhere to international standards of human rights both for its own citizens and the people of Tibet.

Xu Wenli, a prominent Chinese dissident freed in late December 2002, said, "There is a strong awakening of consciousness within Chinese society towards democracy, freedom and human rights".

Recommendations

Economic, Social and Cultural Rights

- TCHRD deplores the fact that China is yet to submit its initial report to the UN Committee on Economic, Social and Cultural Rights, which was due on 30 June 2002.
- TCHRD calls upon China to carry out its obligations to recognise and provide implementation mechanisms to safeguard the right to work and adequate standard of living
- In spite of having ratified the ICESCR the Chinese government does not respect the Tibetan people's right to preserve their culture and identity and their Right to Self-determination. TCHRD calls upon the PRC to allow the Tibetan people direct control of the content of the curriculum and the medium of instruction in Tibetan schools and monasteries.
- TCHRD calls upon PRC to halt its population transfer policy that has adversely affected the livelihood of the Tibetan people
- TCHRD would like to urge all international development agencies collaborating with China to ensure the participation of Tibetan people at all levels of developmental projects that are being undertaken in Tibet in particular, the Western Development Programme.
- TCHRD urges China to develop and enforce health-care policies, which match the standards of healthcare guaranteed in the Conventions, which it has ratified. China must provide its citizens and Tibetans the right to free or affordable healthcare services.
- TCHRD deplores China's failure to submit its second periodic report to the UN Committee on the Rights of the Child, which was due in March 1999.

Civil and Political Rights

- TCHRD urges China to immediately ratify the UN Covenant on Civil and Political Rights.
- TCHRD demands that the Chinese government clarify the scope and extent of the term "endangering state security" in its Criminal Procedural Law. The term's ambiguity is used to suppress multiple legitimate rights, including the right to freedom of expression and speech.

- TCHRD calls upon the Chinese government to respect the rule of law, its universal relevance and application. It urges the Chinese government to create a system of free and fair trial for people accused for political, religious or other reasons.
- TCHRD calls upon the Chinese government to release all prisoners of conscience held in prisons, labour camps and detentions centres in Tibet.
- TCHRD also calls upon China to extend a standing invitation to all Thematic Special Rapporteurs of the UN Commission on Human Rights as already done by 40 countries as of 3 December 2002.
- TCHRD urges the Chinese government to allow free movement of Tibetan people wishing to travel within or outside Tibet. Tibetans must be allowed to return to their homeland freely, without fear of harassment or arrest.
- TCHRD calls upon the Chinese government to stop the ongoing anti-Dalai Lama campaign and to halt the “patriotic education” of monks and nuns. China must stop limiting the number of monks and nuns in the plateau’s monasteries and desist from coercing the monastic population to conform to communist ideology. We also call upon the Chinese authorities to end its atheist campaign in Tibet.
- TCHRD reiterates its appeal to the international community and governments to raise the issue of Gedhun Choekyi Nyima, the X1th Panchen Lama of Tibet, whose whereabouts are unknown since May 1995. The Chinese authorities continue to insist that the boy is safe and well but have provided no evidence of this to date. We demand the release of Gedhun Choekyi Nyima.
- TCHRD appeals to the UNHCR to make arrangements with the Royal Government of Nepal to secure the release on 13 Tibetans who remain incarcerated in jails in Nepal for lack of residential permits and legal travel documents.

ECONOMIC, SOCIAL AND CULTURAL RIGHT

With its ratification of the International Covenant on Economic, Social and Cultural Rights (ICESCR) on 27 March 2001, China has undertaken to enact domestic legislation that implements the articles of the Covenant. Therefore, China is now obligated to recognise and provide implementation mechanisms to safeguard such rights as the right to work, the right to social security for all, and the right to an adequate standard of living.

The covenant has been critiqued as failing to deliver specific protections and for giving developing countries such as China a pretext to appear committed to safeguarding human

rights. They thereby can be seen to be bolstering human rights, when simultaneously supporting arguments for development superceding civil and political rights. However, in recent years the international community has begun to push for economic and social rights to be taken more seriously and to be seen as interconnected with civil and political rights.

The promise of such rights is that they apply to peoples collectively. We consider, below, problems with the way in which countries like China have utilised economic and social rights. A key issue is that the implementation of the rights outlined in ICESCR is considered to be progressive; the ratifying country is only obligated to move towards the general objectives of the rights. It is noted that economic and social rights are to be “exercised under a guarantee of non-discrimination” except in the case of non-nationals.

This is an important qualification when we come to look at the privileges of the Chinese urban migrants and elites in the economic development of Tibet.

The vagueness and the aspirational tone of the ICESCR is the result of compromise by the international community to encourage developing countries such as the People’s Republic of China (PRC) to engage in a human rights framework, while recognising the difficulties faced by developing nations.

In this light does ratification offer any real protection? China claims that the ratification

fully demonstrates the Chinese government’s positive attitude toward carrying out international cooperation in human rights as well as China’s firm determination and confidence in promoting and protecting human rights.

Based on Beijing’s claim, TCHRD makes two observations. The first is that the standards upheld are vague, the international community does not presently enforce them, and thus they do not count for much. This may be the case in the short term, but at least in rhetoric the international community has moved towards taking a more rigorous approach to these rights.

This points the way to a second approach of warily testing the claims of China. Through ratification, China has set standards for its own conduct, which Tibetans can rightfully test with due diligence. For a long time the developing countries — including China — were insisting that social and economic rights were as important to human rights as civil and political rights. They used this argument to push for pro-development policies and a more

equitable international economic system as a necessary corollary to the effectiveness of human rights in general.

In recent times, some of the major industrialised countries have also begun to stress the need to link development with human rights. Arguments based on the right to development framework have highlighted that “development does not merely amount to economic growth, but also involves a human dimension; furthermore, it directly concerns not only governments but the whole population; consequently its realisation should not be to the sole advantage of ruling elites.”

Right to Land and Housing in Tibet

Introduction

Land rights, housing, and sustainable habitats are economic issues, which are crucial not just to individuals’ personal rights, but also to the future of a country. A balance must be struck between affording individuals equitable access to quality land/housing, and ensuring that the settlements in which such housing is located, or the uses to which the land is put, are sustainable. This report therefore examines housing and land issues using a rights framework that embraces the right of a people to sustainable development.

In 1996 the PRC government made a public commitment to the full and progressive realisation of the right to adequate housing. In ratifying the ICESCR in 2001, China has made a legal commitment to recognise this right. Over the past decade, the PRC has also regularly made submissions to the United Nations’ Committee for Sustainable Development claiming compliance to sustainable development including the right to land. Despite this public face, there are serious violations of international law and principles currently occurring within Tibet.

In studying Tibet’s housing and land rights issues against the framework of both human rights and sustainable development, TCHRD hopes to contribute to the ongoing debate about the links between the two issues. Many human rights NGOs participating in the Preparatory Meetings for the WSSD and the final conference were outraged at the exclusion of human rights discourse from the Summit platform. The fact is no country can claim to be achieving sustainable development if it denies its people their fundamental political, civil, religious, economic, social and cultural rights. Sustainability is meaningless if people are not involved in creating or taking part in its benefits.

Land Rights and Sustainable Land Use

There is no explicit international law, which states that people have a right to ownership or use of land. However, the right to land is implicit in many rights contained in the ICESCR and other covenants. In addition, equitable access to land has been recognised as central to sustainable development.

The global organization, Habitat International Coalition has pointed out that access to land is a prerequisite to the fulfillment of the right to housing, food and culture, which are contained in the ICESCR. Involvements in the development of economic policies and in the equitable use of land resources are also inherent in the first two Articles of the ICESCR.

The sustainable development principles formulated over the past decade have increasingly called for equitable land tenure systems. Agenda 21, formulated in 1992 after the Rio Earth Summit, advises governments to “establish appropriate forms of land tenure that provide security of tenure for all land-users, especially indigenous people, women, local communities”. It also states that people should be protected by law against unfair eviction from their land.

In 1996, the second United Nations Conference on Human Settlements (Habitat II) drew a link between land rights, housing rights and sustainable development by noting that “access to land and legal security of tenure are strategic prerequisites for the provision of adequate shelter for all and for the development of sustainable human settlements affecting both urban and rural areas”. The Habitat Agenda arising from Habitat II committed governments to protecting “the legal traditional rights of indigenous people to land and other resources, as well as strengthening of land management”.

Habitat International Coalition have proposed that the right to land can be stated in the following terms:

Land is a resource integral to survival, livelihood and adequate housing. To this end, the state must ensure reasonable access to land. In particular, the state must ensure equitable distribution with emphasis on the provision of necessary resources for poor households and other marginalised and vulnerable groups. Governments must implement land reforms where necessary to ensure fair distribution as a public good.

To this we would add: Governments must design and implement land reforms through meaningful consultation with, participation and consent of, local communities. Governments should also respect the skills, knowledge and rights of indigenous/local people developed through their long connection with the land.

Current Land Laws in Tibet

Article 10 of the *Constitution of the PRC* (as amended) sets out ownership of land in China as follows:

Land in the cities is owned by the state. Land in the rural and suburban areas is owned by collectives except for those portions which belong to the state in accordance with the law; house sites and private plots of cropland and hilly land are also owned by collectives. The state may in the public interest take over land for its use in accordance with the law. No organization or individual may appropriate, buy, sell or otherwise engage in the transfer of land by unlawful means. The right to the use of land may be transferred according to law. All organizations and individuals who use land must make rational use of the land.

The *General Principles of the Civil Law of the People's Republic of China* (1986) outlines the way in which state-owned land can be used (Article 80):

State-owned land may be used according to law by units under ownership by the whole people; it may also be lawfully assigned for use by units under collective ownership. The state shall protect the usufruct of the land, and the usufructuary shall be obligated to manage, protect and properly use the land. The right of citizens and collectives to contract for management of land under collective ownership or of state-owned land under collective use shall be protected by law. The rights and obligations of the two contracting parties shall be stipulated in the contract signed in accordance with the law. Land may not be sold, leased, mortgaged or illegally transferred by any other means.

The full regime of land ownership and use rights is then set out in the *Law of Land Administration of the PRC* (1998) (LAL). The purpose of the LAL is claimed to be to protect the total amount of farmland and to “protect cultivated land against industrial development” (Article 4). To this end, governments at all levels have to compile general plans “in accordance with the national economic and social development programme”, environmental policies, land consolidation and construction projects (Article 17).

The LAL declares that the State Council, on behalf of the nation, owns all land in urban areas or land occupied by state departments; while land in rural areas is owned by the village collective (Articles 2 and 8). The definition of “village collectives” is not contained in the LAL but is assumed to mean local villagers groups, generally conforming to the population of traditional villages. However critics have pointed out that the ambiguity in the definition of “village collectives” permits bureaucrats of “administrative villages” (which replaced the old production teams which existed under the commune system) to appropriate the rights under the LAL.

The distinction between state-owned land (the rights of which can be exercised by county governments or higher) and collective-owned land (the rights exercisable by two-thirds of the village collective) is important because different land appropriation rights and compensation calculations apply. In rural Tibet most land would be held by village collectives so only these provisions shall be discussed in detail. The law in relation to urban Tibet shall be discussed under Section III on Housing Rights.

Article 10 states that “village committees” administer collective-owned land. Under the *Organic Law of Village Committees* (1987) village committees are elected by adult villagers.

Farmers’ contracts for their land are guaranteed for 30 years unless changes are approved by a two-thirds majority of the village assembly (Article 14). The law requires that “no unit or individual is allowed to let the land lie idle or go wasted” (Article 37). The LAL also prohibits the sale or purchase of portions of land by the land-users themselves – any transfers must be done by the collective (Articles 2, 14 and 73).

Land owned by village collectives can be requisitioned by the state (represented by county, provincial or prefectural governments) for construction purposes (Articles 43-46) or, less specifically, “according to the law on public purposes” (Article 2). There doesn’t appear to be any Chinese law on public purposes so Article 2 effectively grants wide, ambiguous discretion to the state for requisitioning rural land. Similarly Article 58 permits the state to take back its own land (rather than land held by collectives) if it requires the land for “public

purpose” or for urban reconstruction (this shall be further discussed in Chapter 7.2). The village collective can also itself take back land from farmers if they want to use the land for public facilities or if the land is not being used properly (Article 65).

The level of compensation given for loss of land varies under the LAL according to the purposes for which the land is taken. Where land owned by collectives is requisitioned by the state for construction purposes, the LAL sets out a compensation formula which includes “resettlement” costs and the value of the land based on the average output over the past three years (Article 47). Where rural land is requisitioned for water conservancy projects and hydroelectric power projects, the compensation and resettlement fees can be determined separately by the State Council (Article 51). Where the state wants to exercise its broad discretion in Article 2, the ambiguous “law on public purposes” would apply to compensation. Where the state takes back its own land (rather than requisitioning land held by collectives) compensation is merely to be “proper” (Article 58).

Where the state requisitions rural land from collectives, compensation is given to the village committees which are then obliged to pass the money onto individual farmers whose land has been taken (Article 49).

The LAL has been proclaimed by the PRC Government as imposing “the world’s strictest land-use regulations” and a keystone to their sustainable development policies. However, when considering the way in which the LAL actually works in the context of Tibet, it becomes apparent that the LAL’s strictness has the effect of consolidating control over land-use in the hands of the Chinese government, while Tibetan farmers are given few rights at all.

This lack of power stems from the fact that Tibetan farmers do not own land, but merely lease the land from village collectives. This means that farmers are vulnerable to having their land removed either by the village collective or by the State (county governments or higher). Farmers are not given rights to transfer portions of their land privately, to defend the requisition of their land, or to challenge the amount of compensation granted to them.

Village collectives are also not perfect models of democracy. Many critics have noted that election processes for the committees often fall far short of democracy, and that village committees – particularly in politically sensitive areas such as Tibet - are controlled by higher levels of government or local Communist party officials.

Despite the appearance that land use and allocation occurs at a village level, the requirement for government-developed plans (Article 17) means that land use and land management strategies remain controlled at county level. The people who know the most about the land – the Tibetan farmers themselves – have very little control over the allocation system or the use to which their land is put.

The level of compensation offered through the LAL (whether under the formula set out in Article 47 or through the ambiguous requirement for “appropriate” compensation) has been criticised as inadequate to actually compensate farmers for the loss of their livelihood. The World Bank has also noted that the requirement for compensation to go through the collective before it gets to the farmers gives opportunities for corruption and embezzlement at the local level. As one legal analyst says, government officials take contracted land away from farmers for development because they want to and they can.

The LAL's failure to protect Tibetan farmers' land tenure, and its inadequate compensation regime, is illustrated by the following case study. In this case land was taken from the farmer not for construction purposes but merely because the government wanted to farm it for its own profit. In 2002, farmers from Dechen township, Taktse County (26 kms east of Lhasa city), have been forced to return 100 *mu* of land to the government for it to cultivate. A recently arrived Tibetan explained:

It is said that the government paid 3,000 yuan for a mu of land. It was for that year only, with no extra money being given in subsequent years. 3,000 yuan does not compensate farmers for the yield from the land over many years. ... There is no choice as to whether you want to sell your land or not. They said it is the government's land, which has been leased to the Tibetans, the Tibetans do not own the land. The government will grow vegetables on the land with the profit going to the government. The local farmers criticise these confiscations of land for such a paltry sum but they can't say anything in public.

It is not wholly clear which provisions of the LAL support the government's requisition of land from these Tibetan farmers. However given the wide discretion of both Articles 2 and 58, which permit the state to requisition or take back land for "public purposes", the state can simply justify requisitions as being in the interests of the national economic and social development programme (Article 17). Thus an understanding of land use in Tibet requires an understanding of China's development agenda for the plateau.

Development-based displacement from land

The United Nations' Expert Seminar on Forced Evictions issued *Human Rights Guidelines on Development-Based Displacement* in 1997. These guidelines relate to people who are evicted from land or housing to make way for developments ranging from urban expansion programmes to infrastructure construction such as dams and railways. The guidelines apply equally to developments carried out by governments and those initiated by private companies. The guidelines entitle people to be given information about the project; to be consulted in the resettlement plans; to defend eviction in an independent court or tribunal; to be protected against violence or intimidation in the process of eviction; to be awarded appropriate compensation if their land or property is taken from them; and/or to be resettled in a location agreeable to them.

China's population transfer programme has mostly focused on encouraging non-Tibetan settlers to move to urban areas of Tibet. The result has been a rapid growth of Tibet's towns and cities. Urban expansion inevitably means a loss of land to farmers or nomads who use the land on the periphery. Most are not compensated sufficiently. Nowhere is this expansion more obvious than in the area surrounding Lhasa. Lhasa city was no more than three square km in area and had a population of 30,000 and a mere 600 buildings in 1949, had grown to 53 square km in size with an estimated population of up to 400,000 in 2001. Moves for further expansion of Lhasa are afoot. The Chinese Communist Party's Five Year Plan for 2001-2005 envisages Lhasa's urban area to expand to 70 square km by the end of 2005, while the goal by 2015 is for a Lhasa, which, at 272 square km, will take up half of the Lhasa municipality.

One initiative to expand Lhasa was the announcement in 2001 of a new Special Economic Zone (SEZ) in Toelung Dechen County, just outside of Lhasa. The SEZ will centre around

the Lhasa terminus of the Qinghai-Tibet railway, currently under construction. Reports from Tibetans indicate that Chinese investors have begun land speculation: it is not known whether offers of compensation or alternative accommodation have been made to Tibetan farmers in Toelung Dechen. A Tibetan former official, now living in exile, predicted that anyone protesting against evictions resulting from this development will be dealt with severely because "...they would be accused of being a 'splittist', as someone who wants to destroy the country".

Clearly where the Beijing government has plans, private individuals must forego any rights. China's Constitution, Civil Law or the LAL permit the goals of the government to take precedent over individual rights. If there is an order from the State Council to confiscate land in autonomous areas for "economic development" then private individuals may end up with very little or no compensation. Objectors to the development will be branded "splittists".

One of the most fundamental elements of the UN Guidelines for Development-Based Evictions is informed consent. There are reported cases of some Tibetan families were completely overlooked in the resettlement plans and ended up with no land. In early 2000, the local Chinese authorities called the 60 families of a township in Gonjo County, Chamdo Prefecture, "TAR" for a meeting. The authorities explained that they would have to move out of the area to another area and if they did not they would have to pay a 70,000 yuan as fine. A refugee who escaped from Tibet early 2002, from the same township recounts that:

"The area chosen for the families to move to was Kongpo Gyama County, Nyingtri Prefecture, "TAR" where the Chinese authorities spent nearly two years building new houses. In December 2001, the authorities told us that the houses were ready for us to move. All the 60 families were then loaded into about 100 military trucks and we travelled for five days. While the Chinese authorities did not ask the families to pay for transportation, the families had to pay for all other expenses on the trip such as food and water.

"The farming land we were moved to was of an inferior quality to our traditional land and it is difficult to grow crops. The houses are built in Chinese style and seem unsuitable for our needs. The houses are grouped into two areas with 30 families residing on each side of the area. The houses have three rooms each and no other facilities.

"To add to the already growing list of problems for these families, there were not enough houses built, with nine out of the 60 families having no accommodation built for them. Apparently, at the meeting in the village the previous year, the families had been required to register to have new houses built for them. Unfortunately, some families, including mine, were not present during the meeting and hence, no houses were built for us.

Biased enforcement of land protection policies

In 1998 the Yangtze River flooded, causing a national disaster in Tibet and China. Environmentalists reported that the flooding was related to deforestation, and subsequent desertification, in Tibet. The evidence of extensive logging in Tibet is immediately apparent to any travellers across the plateau. For example, several Westerners who travelled through Karze "TAP", Sichuan in 2002 saw a 600 km stretch that had been completely deforested. On their travels through the region they passed an estimated 20 logging trucks a day full of timber.

Beijing's response to the advice of environmentalists was to introduce two initiatives to reverse the effects of desertification and lessen the likelihood of flooding; a ban on logging, and a programme of enforced plantation whereby Tibetan farmers had to plant trees and grasses on their croplands. Although few would argue that such environmental initiatives are crucial to restore the land and in the interests of sustainable practices on the plateau, these initiatives have been carried out in such a way as to penalise Tibetans and undermine their use of land, while leaving untouched the massive resource extraction by private and government enterprises.

According to reports from tourists and recently-arrived refugees, the logging ban is selectively enforced; the following Case Study explains that wealthy Chinese businessmen and enterprises have no problem continuing their logging on payment of large bribes to the forestry department. A Tibetan who escaped into exile late 2000 gave the following testimony about corruption in the logging industry.

Officially, logging and trade in timber are prohibited in the forest regions of Tibet However, if you can manage to pay bribes ranging from RMB 5,000 to RMB 50,000 (US\$600 to \$6,000) to the right officer in the forestry department, an Authorisation Certificate can be obtained which would allow the logging and transportation of timber ranging from 30 to 100 lorry loads. Once you have the Authorisation Certificate, there is no one to stop you from transporting the timber to anywhere for sale for a massive profit. Most of this timber goes to China. Some of such illegally-obtained timber is also sold in Lhasa.

The local Tibetan inhabitants, particularly those who used to be dependent on the forest for their livelihood and have been adopting afforestation methods to sustain the supply of wood and timber, are now being forced out of work. They are required to obtain permission even to get wood for home use such as building a house or making furniture. The application has to be made through the local office of the forestry department and they have to pay all the charges set by the government. They are also required to plant exactly the same number of trees as those that are cut.

Thus the Tibetans, who traditionally used and conserved forestland in a sustainable manner, are effectively being punished for deforestation caused by Chinese enterprises.

The replanting referred to in the above Case Study is another "environmental" initiative introduced in the wake of the 1998 floods in China. Tibetan farmers living in degraded areas have been ordered by the government to plant some of their cropland with trees and grasses in order to reverse the effects of desertification. Tibetan farmers in the Karze "TAP", Sichuan told a recent traveller that the trees they are forced to plant are not indigenous. Environmentalists have expressed concern that insensitive replanting such as these will therefore reduce biodiversity in the area and could cause unforeseen environmental damage.

The government provides compensation to farmers for loss of land due to these enforced replantations but many families report that it is insufficient. Without sufficient land on which to plant crops, families suffer a drastic loss of livelihood. According to Lobsang, many farmers in Zakong Township, Derge County, Karze TAP, Sichuan were left destitute by enforced plantation. According to him,

Once the local authorities have identified a particular area of land, the farmers are forced to plant vegetation. They receive some compensation but it is not

sufficient to replace each farm's loss of livelihood. By the end of 2000, Lobsang's family could no longer survive and they were forced to move to Lhasa looking for work. Here they could find no work and so had to beg on the streets.

There is no doubt that environmental protection is required in Tibet. However it is important that initiatives such as bans on logging and enforced plantations are enforced across the board without disproportionately harming small landholders such as Tibetan farmers. Research has shown that in China, land degradation has a direct relationship to rural poverty. It therefore does not make sense for environmental protection programmes to in fact cause further financial hardship for land-users. Tibetans have the right to alternative land allocations where their land has been lost due to degradation or environmental programmes, as well as adequate compensation for loss of livelihood.

Housing rights and sustainable development of human settlements

The right to adequate housing was first set out in the Universal Declaration of Human Rights in 1948. In the last 10 years it has received increasing attention by the United Nations, particularly with the appointment of a Special Rapporteur for Adequate Housing (as a component to an adequate standard of living).

The People's Republic of China has signed and ratified many international treaties relevant to the right to adequate housing. These instruments include: the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC), and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). Finally, the Universal Declaration of Human Rights (UDHR) is also relevant.

The most comprehensive provision regarding the legal right to adequate housing is embodied in Article 11(1) of the ICESCR, which states:

The States 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. The States Parties will take appropriate steps to ensure the realization of this right, recognising to this effect the essential importance of international co-operation based on free consent.

Article 2(1) of the ICESCR obliges a government

...to take steps...to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognised in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

In General Comment No. 4, entitled "The Right to Adequate Housing," the Committee on Economic Social and Cultural Rights defines the right as containing the concept of human dignity and the principle of non-discrimination. In addition to these two concepts,

...the full enjoyment of the right to freedom of expression, the right to freedom of association (such as for tenants and other community-based groups), the right to freedom of residence and the right to participate in public decision-making – is indispensable if the right to adequate housing is to be realised and maintained by all groups in society. Similarly, the right not to be subjected to arbitrary or unlawful interference with one's privacy, family, home or correspondence constitutes a very important dimension in defining the right to adequate housing.

Other international laws also oblige governments to ensure that the right to adequate housing is granted to particular classes of people without discrimination. CEDAW obliges governments to take all appropriate measures to eliminate discrimination against women, including in the provision of housing (Articles 1, 14). CRC obliges governments to ensure children have an adequate standard of living including housing (Article 27). In Article 5 of ICERD provides for the right to own property alone as well as in association with others, and the right to housing.

Existing housing laws and policies in Tibet

There are no PRC laws, which guarantee the right to adequate housing, for example by providing protection against forced evictions. In general the PRC reserves itself the right to evict tenants and appropriate property where it is deemed in the public interest to do so. While there are some laws claiming to protect the individual's right to own private property, rights are somewhat illusory because it is extremely difficult for citizens to take legal action to ensure that their rights are enforced.

The *Constitution of the PRC* explains that urban land is owned by the State (rather than village collectives, as is the case for rural land). The Constitution also contains the right to own and maintain property (Article 13); the right not to have property expropriated by the State unless in the "public interest" (Article 10); the right not to suffer unlawful intrusion into one's home (Article 39); and the right to be compensated if rights are violated (Article 41).

The *General Principles of the Civil Law of the People's Republic of China* (1986) also states that a citizen's personal property including housing is protected by law, and no organization or individual may appropriate, encroach upon, destroy or confiscate it (Article 75).

The *Urban Real Estate Administration Law of the PRC* (1994) (Urban Property Law) details the "rights" of property owners. The state can lease a right of use of urban land which can include construction of property or ownership of property existing on that land (Article 7); these leases are to be written contracts (Article 14) with terms and fees set by the State Council (Articles 7, 13 and 15). The lease-holder's rights, including their right to build or to use property on that land, are protected for the term of the contract except where the state wishes to take back the land "out of public interest" (Article 19). In this case, the land-user has the right to compensation "in accordance with the real term that the land has been used and the real conditions of the land development" (Article 19). These compensation levels are not detailed in the Urban Property Law. Instead the State Council reserves itself the right to determine the standard land and property values from time to time (Article 32).

Clearly the government still has a great deal of power to evict even property-owners from their own properties. Most importantly, the *Land Administration Law* (LAL) gives the state the right to recover the land use right where they require the land "for the sake of public

interests” or to “adjust” land for the purpose of “re-building old city districts in order to implement urban construction plans” (Article 58). Under this provision of the LAL, compensation to land-users is merely to be “appropriate”. This makes it extremely vague as to whether private owners of properties in these circumstances would receive compensation equating to the value of their properties.

Some Chinese provinces have also enacted Administrative Provisions on the Dismantlement and Removal of Housing in Urban Areas, but it is unclear whether these provisions have been enacted in the “TAR” or provinces with Tibetan populations.

In general, where private houses in urban areas are expropriated to make way for urban development plans or other purposes in the “public interest”, it would appear that the owners do not appear to have much protection. In any case, few Tibetans own property in urban areas, so more relevant for this Report are laws relating to tenants’ rights.

The biased application of the hukou system

The bureaucratic registration system of *hukou*, allows the PRC to restrict its citizens’ freedom of movement, place of residence and type of residence. *Hukou* in general targets rural people who seek to move to urban areas. In Tibetan areas, *hukou* is particularly used by the PRC to restrict rural Tibetans from seeking work opportunities in urban areas. At the same time it has relaxed the strict application of the *hukou* system on Chinese migrants who come to live in the “TAR” or in Tibetan provinces now designated part of China. The result is that Tibetans are subject to close government control and restriction of movement while once again Chinese settlers are advantaged.

In the past decade, many rural Tibetans whose farming or nomadic livelihoods can no longer sustain them have drifted into urban areas hoping to find work. But they can only work in the formal, state sector if they have, at the very least, temporary urban *hukou*. Temporary *hukou* – or Temporary Registration Permits – generally are granted only if a person has obtained work in the area to which they are seeking permission to move. For rural Tibetans whose agricultural skills have no application to urban work, who do not speak or read Chinese, who have no influential connections in the Chinese-dominated urban areas, and who in many cases have progressed no further than primary level of education, work with the government or state-owned enterprises is simply impossible. Work in the private sector is also very difficult, particularly to start up one’s own business, which requires a bewildering array of business permits, start-up cash, and deposits for bank-loans.

The lack of urban *hukou* exposes Tibetans to harassment by government authorities and ultimately expulsion. Individuals without urban *hukou* status can be subject to arbitrary administrative detention at any time under “Custody and Repatriation” (C&R). This allows urban authorities to detain people who do not possess the correct household registration and send them back from the city to their place of origin. C&R is effectively a blank slate for police to harass anyone who they perceive to be a threat to law and order (for further discussion, see Section IV Homelessness in Tibet).

Tibetans on the streets of larger urban centres are regularly stopped by police for “on-the-spot” checks of their registration cards. In Lhasa, Chinese authorities regularly conduct house-searches in Tibetan areas for “unauthorised residents”. Often the searches and expulsions are motivated by a desire to quash political dissent. On 21 March 1989, during a

period of martial law in Lhasa, all Tibetans without residence permits – estimated to be up to 40,000 people - were forcibly removed from the capital and returned to their birthplace villages. TCHRD also receives many reports of police invading private households in urban areas of Tibet, perhaps initially to check *hukou* of residents, but resulting in arrests for the possession of “splittist” items such as photos, videos or writings of the Dalai Lama.

These intimidatory searches, whichever their motivation, are clear breaches of the human right to privacy which is integral to the right to security of tenure. This right to privacy is also guaranteed in Article 10 of China’s Constitution.

While the registration system subjects Tibetans to close government control, the Chinese government has relaxed the application of the system on Chinese settlers coming to live and work in Tibet. Indeed, to attract settlers into Tibet under Beijing’s development plans, Chinese migrants are given either permanent *hukou* or temporary *hukou* which allow them immediate access to housing and jobs. The “Implementation Opinions Concerning Policies and Measures Pertaining to the Development of the Western Region” released in December 2001 includes great flexibility in *hukou* registration for Chinese migrants to Tibet:

Individuals selected for assignment to a key national development task or key development project in the western region do not have to transfer their residency registration and instead may keep their work relationship with their original unit. The western region needs to accelerate the reform of the personnel, labour, and hiring systems and allow people from other parts of the country to invest, do business, and participate in its development while keeping their original residency registration.

Although these measures speak of attracting “skilled” personnel, at the same time broader policies also encourage ordinary Chinese workers to move to the “impoverished” western regions, including Tibetan areas. Thus Chinese workers coming to work on construction projects in the western regions would, at the very least, be granted Temporary Registration Permits or even permanent registration. This is in marked contrast to the difficulties faced by rural migrants who try to move to urban areas in China’s eastern regions.

Chinese citizens from rural regions throughout China can therefore obtain urban *hukou* if they move to Tibetan urban areas, while rural Tibetans are excluded from the same offer. This is a clear breach of China’s constitutional “guarantees” of racial equality, is a clear breach of the non-discriminatory element of the right to adequate housing contained in ICESCR, and comprehensively violates the ICERD.

The possible effect of housing reforms

In the mid to late 1990s China’s housing policy changed radically. Housing was no longer perceived by government as a core welfare benefit available to all citizens; it is now seen as a commodity. While China’s housing system prior to these reforms was certainly imperfect and did not provide adequate housing to all its citizens, there are concerns that privatizing housing will not resolve these inadequacies and in fact may deepen inequities already present in the system, particularly for disadvantaged groups such as Tibetans. The inequity is most likely to be felt by tenants who remain in the public housing system or are forced to rent in the newly-emerging private rental system.

In 2001 the Special Rapporteur on Adequate Housing warned that the privatisation of housing and land markets can result in the increased marginalisation of disadvantaged people “as manifested by the growing numbers of people having to cope with land speculation, the commodification of housing, the application of “user fees” for housing resources such as water, sanitation and electricity and the repeal or amendment of land ceilings and rent control legislation.”

This appears to be what is happening across China and Tibet. Rents in public housing were traditionally kept very low, usually less than one percent of average income. However, under the housing reforms, rents are gradually rising, reaching around 10-15 percent of average income in 2000. For many Tibetans this rent excludes them from accessing government-owned housing.

From 31 December 1998, the PRC Housing Authorities no longer allocate subsidised flats to new residents. People trying to access public housing have to pay spiralling rents which is often completely unachievable. Market rents in Lhasa, for example, have been estimated at 50 percent of the average income of Tibetans living in the old area, literally 100 times greater than the previous rent.

There is already evidence that the promotion of a private housing market in Tibet will entrench the housing disparity between Chinese settlers and Tibetans. Chinese traders and other settlers have begun acquiring land and property in towns throughout the Qinghai-Tibetan plateau. This is causing problems for Tibetan residents who simply cannot compete on the property market. To make matters worse, the current form of tenure registration is vague and insecure.

In Lhasa, Shigatse and metropolitan areas throughout Tibet, government authorities at county level have set up registers of property-owners and of land-use holders; under the Land Administration Law transfers of land-use rights must be registered. But in rural Tibet the registration system has not materialised and people mostly conduct transactions in a more informal manner. Housing analysts note that this vague ownership registration system allows bureaucrats to exploit the system to their own advantage. In a climate of racially-based disadvantage, it is also highly likely that the system will work to the detriment of Tibetans who lack the education, connections, or resources available to Chinese settlers.

TCHRD’s informant gave the following example of a situation in which a Tibetan from Sog County, Nagchu Prefecture was literally squeezed out of his home and business through a biased enforcement of the requirement for registration of land-use transactions. According to the interviewee,

I lived in a small shop/house with my family doing petty business and paid 30,500 yuan to purchase the building in 1997. At the time of sale, the previous owner, a Tibetan, gave me a private declaration stating that I was the owner of the building. In our County, the standard practice was to use private declarations, although the government in Lhasa and the bigger towns required sales to be registered with the government.

In 1998-1999 the Chinese authorities began demolishing all the old Tibetan shops in Sog Market place, citing plans to replace them with new Chinese-style shops. I was informed that as the land on which my shop stood belonged to the PRC Government and not to me, they could deal with my shop in whichever way they wished. The authorities then claimed that

there was no evidence of registration, and therefore he was not entitled to compensation or to appeal the government's decision. In 1999 we were evicted and given no compensation.

The privatisation of the housing and land market is thus yet another policy proving to have a differential effect on Tibetans and Chinese people in Tibet.

Urban reconstruction causing forced evictions

As with the housing allocation system, the planning and development of Tibet's urban areas has been one-sided. Chinese authorities use the catch-cry of "development" as an excuse to neglect, or even worse, destroy the "old" urban areas, where the majority of Tibetans live. Many of these buildings have suffered decades of neglect by government authorities and are conveniently pronounced "dangerous" or "unhealthy". From their ruins grow the ubiquitous Chinese concrete precincts composed of units of residential housing rented or sold at double the price of the old units, therefore out of reach of the average Tibetan family.

Lhasa and Xining are the biggest cities on the Tibetan Plateau. Although Xining – capital of Qinghai (Amdo) - has a population of close to one million, there is very little housing for Tibetans whose proportion of the population is negligible. Lhasa therefore provides the majority of urban housing for Tibetans.

Lhasa's centrality to the religious and political life of old Tibet, it is hardly surprising that the PRC Government's occupation of Tibet has wrought massive transformations on it. In 1949, Lhasa city was no more than three square km in area, and had a population of 30,000 and a mere 600 buildings. In 1980, the Beijing government formulated a Lhasa Development Plan which projected a population of 200,000 by 2000, with the size of Lhasa extending to 42 square km. Lhasa's size in 2002 exceeds Beijing's 1980 projections: it is 53 square km in size with an estimated population of up to 400,000. The rate of population increase for the last decade is at least five times the officially claimed national average of 1.07 per cent.

The period from 1994 to the present day has seen an even more rapid reconstruction of Lhasa. In 1998 China proudly claimed that "since the 1980s more than 300,000 square metres of old residential houses have been rebuilt in Lhasa, and 5,226 households have moved to new dwellings".

This has effectively meant the destruction of older Tibetan buildings in the "old city" of Lhasa, the Shol and Barkhor areas, which house the majority of Lhasa's Tibetans. Lhasa has been described as "really two cities: a dense Tibetan core – all that remains of pre-1959 Lhasa – and a much larger modern Chinese city that has grown to encircle the shrinking Tibetan centre".

The residents of the old buildings do not automatically become residents of the new buildings.

On 24 and 25 April 2002 demolition began on two blocks of buildings in a Tibetan area located near the Barkhor, approximately three minutes' walk from Jokhang square. The blocks contained many traditional Tibetan dwellings and some newer buildings, built in a Tibetan style several decades ago. It is estimated that at least 75 families, up to 400 people, were evicted. The great majority of these families, if not all, were Tibetans; some had lived in

the building for generations. Most of the families rented their flats but a few were actually owners.

Observers stated that while the buildings were in need of some renovation work, they were sturdily-built, the apartments of a decent size compared to other Tibetan buildings in Lhasa, and could have lasted for many more decades if they had been maintained properly or were renovated. Importantly for many of the residents, their homes were built in a Tibetan style, with rooms overlooking a communal courtyard.

Residents were offered accommodation in the new buildings replacing their old homes, but they were told the rent or purchase-price would be much higher and the size of the apartments much smaller than their current homes. One family who owned their own flat were offered 50,000 yuan as compensation, but if they wished to purchase one of the new flats they were told it would cost a minimum of 160,000 yuan.

Residents were given only five days eviction notice by the Residential Management Committee. Appeals to this committee were ignored. Tibetan families were seen during those five days frantically removing their belongings from their homes, loading them onto trucks, jeeps, and bicycle rickshaws, and driving away.

One evicted Tibetan woman who spoke to a witness said she had looked for an apartment in the older Housing Authority buildings where rent is generally cheaper, but there were no vacant apartments. Finally she found a vacancy in a new building. The rent is 300 yuan per month; this woman only makes 600 yuan a month on which she supports two children.

These evictions are therefore clearly in breach of the right to adequate housing contained in the ICESCR, particularly the right against forced eviction. In addition, the razing of older, distinctively Tibetan housing to be replaced by new, Chinese-style, and more expensive accommodation also has the effect of discriminating against Tibetans and therefore contravening the ICERD. TCHRD has submitted to the Special Rapporteur for Adequate Housing that few Tibetans will be able to afford the new housing units; the demolition of older-style housing in Lhasa will effectively displace Tibetans away from the city centre. There is little doubt that wealthier Chinese migrants will move in to take their place.

It is difficult to avoid the conclusion that government authorities allowed these buildings to become run-down so that there would be an excuse for demolitions and evictions, thus freeing up the space for more lucrative developments. Research has shown that rehabilitating older buildings is in fact cheaper than building new constructions from scratch. The fact that the Chinese government refuses to take up the option of rehabilitation points to a goal which is less about improving accommodation and possibly more about removing Tibetans from prime real-estate.

Loss of cultural heritage

These evictions and the subsequent demolition of buildings are not merely breaches of the right to security of tenure, they are also breaches of the right to live in homes which are culturally adequate, the seventh principle of the right to adequate housing. The loss of cultural heritage is also in contravention of Agenda 21's requirement that cities should work

with local residents to preserve “older buildings, historic precincts and other cultural artifacts”

In the past, China rarely respected the principles of conservation of traditional buildings in Tibet. The Cultural Revolution saw the loss of thousands of significant religious and secular buildings, and Tibet today continues to suffer rapid loss of its unique built heritage. Nowhere is this more apparent than in the city of Lhasa.

Although the city of Lhasa was designated one of “China’s Historic Cities” in the tourist-oriented 1980s, the Lhasa Development Plan proposed destroying “Old” Lhasa, protection only being offered to the Jokhang temple, the Ramoche temple and a handful of historic homes. The “Historic City” regulations which stipulated that construction in the old city area had to have “national characteristics” turned out to mean “little more than giving new facades a Tibetan-style paint-job”. A large proportion of Lhasa’s historic buildings were destroyed between 1980-1993. From 1993 onwards it has been estimated that an average of 35 historic buildings are demolished every year. By 1998 only 200 buildings remained from the 600 buildings recorded in Lhasa in 1949.

Demolitions continue despite the best efforts made by international organisations to save traditional Tibetan monuments and housing. In 1994, UNESCO listed the Potala Palace on the World Heritage List; in 2001 the Jokhang temple and the Norbulingka also gained World Heritage protection. The PRC boasts proudly of the money that it is spending on restoration of these sites. However it conveniently omits to mention that the World Heritage Committee has asked the government to consider nominating the historic village of Shol and the Chakpori Hill, and has also asked it to mitigate changes in the areas surrounding the World Heritage properties caused by “development pressures in the city”. To date no residential buildings or areas in Tibet have been proposed by the Beijing government for World Heritage consideration.

Development plans which destroy traditional homes of indigenous or ethnic minorities, while constructing new buildings in a “modern” style which do not reflect the traditions or needs of those minorities, breach the seventh component of the right to adequate housing articulated by the Committee on Economic, Social and Cultural Rights: the right to cultural adequacy. Traditional Tibetan housing expressed cultural values, for example by allowing families to interact in central courtyards. It was also designed to minimise intrusion onto the land. The new buildings in Tibetan cities, and the new settlements across the plateau, pay no respect to the traditional culture, climate or lives of Tibetans.

Conclusion

Since 1949 Tibetans have been denied the ownership and effective control of their own land. Commencing from China’s redrawing of the map of Tibet, continuing with the mass confiscation of land, through to the dictation of resource-management directives and policies, Tibetans have had little say in the use of their traditional lands. Culturally appropriate and ecologically sustainable land management systems and housing design are to this day being rapidly destroyed by Beijing’s policies. This eradication of knowledge and culture is an immense loss not just to the Tibetan people, but ultimately to the world.

Underlying the inequality and discrimination of both land and housing developments is the continuing flood of Chinese settlers into Tibet. With regards to housing, the dominant issue for Tibetans is massive inequality and discrimination in the allocation, construction and type of housing available to Tibetans. Tibetans simply do not have the same access to services as Chinese. Tibetans are also rarely consulted regarding plans for new constructions, which may meet their cultural needs, as opposed to Beijing's "development" plans. Such discrimination and non-consultation contravenes the Habitat Agenda's requirement for "equitable human settlements", the right to adequate housing in the ICESCR, the right not to be discriminated against on the grounds of race in the ICERD and the general provisions of equality and non-discrimination in the UDHR.

Right to Livelihood

Introduction

The right to livelihood, although not explicitly stated in the ICESCR, is deeply embedded in the principles of the Covenant. It is implicit in the articles of the Covenant, and encompasses such rights as the right of a person not be deprived of his own means of subsistence (article 1.2); the right to work (article 6.1); the right to fair and equal remuneration (article 7); and above all, the right to an adequate standard of living including adequate food (article 11).

Even under Chinese law there are provisions for safeguarding the right to livelihood. Article 13 of the PRC Constitution provides that:

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

Although these provisions appear on paper, their implementation in the form of mechanisms to provide protection is extremely lacking. It is evident from the testimonies of recently-arrived Tibetan refugees that the main violators are those who are assigned with the task of guaranteeing the rights.

At the heart of the complexities surrounding livelihood issues for the Tibetan people is the fact that the PRC does not recognise the right of Tibetans to self-determination and their right to freely pursue economic, social and cultural development.

The UNDP China Human Development Report 2002 has placed Tibet at the very bottom in its ranking of the human development index for the PRC. The income index in Tibet (0.5034) is lower than even Inner Mongolia (0.5414), another poor region under the PRC. Tibet today is one of the poorest and most underdeveloped regions ruled by Beijing. There is a huge disparity between the incomes of the rural and urban population. This disparity in income indicates a very high ethnically defined inequality between Tibetans—who are mostly rural—and Han and Hui Muslim Chinese, who are mostly urban.

Rural subsistence

Subsistence, especially in a developing country context, is usually equated to a rural household that consumes most of what it produces and relatively speaking has little exchange with the larger economy. This is primarily the case in rural Tibet.

The bulk of the Tibetan population is residing in the rural areas. Official Chinese statistics reveal that around 80 percent of Tibetans are based in the countryside. Chinese statistics on average rural income in recent years reveal that 80-90 percent of Tibetans live on approximately 1,000 Yuan per annum while the poverty line is 2,600 yuan. Despite the PRC's claims — and its successes in alleviation of poverty and hunger elsewhere in Mainland China — there are many indications that in Tibetan areas poverty and basic subsistence issues dominate and blight the daily structure of life.

Rural Tibet is almost exclusively agrarian with farming and animal husbandry forming the two most important economic activities. Crop and livestock production continue to dominate agricultural output but there has been a lot of fluctuation in the output. This fluctuation is due not only to climate variations but also to inappropriate and frequent changes in agricultural policy and input over time. Subsistence depends on families combining agriculture with pastoralism and trade.

The Chinese propaganda machinery has recently been active in promoting Beijing's initiatives in undertaking development plans to diversify farming in Tibet. Chinese reports claim that the area sown with grain crops has been cut by 4.7 percent while the area sown with economic crops has risen by 3.2 percent and that of fodder crops has gone up by 2.3 percent. Initiatives like these, which are not accompanied by the involvement of farmers, tend to jeopardise rural incomes.

A 12 November 2002 *Xinhuanet* article claims that the "TAR" has set up 16 experimental bases for the breeding of goats, yaks and sheep. The region has also established companies for the purchase of vegetables, milk, butter and other animal byproducts from herdspeople. The reality is that often Tibet is used as a testing ground, and that experiments with forms of agriculture unsuitable to the Tibetan ecosystem and environment have been disastrous in the past. What is needed is a less centrist approach to policy in Tibet and more Tibetan input in finding suitable local solutions to local problems.

Lacking Food Security

Article 11(1) of the ICESCR states that, "The State parties...recognise the right of everyone to ...adequate food and (2) recognising the right of everyone to be free from hunger, shall take...the measures...which are needed..."

China repeatedly declares that making Tibet self sufficient in food production is a major goal in its development policy. Tibet's long history of self-sufficiency ended with the Chinese invasion in 1950. Today, poverty is widespread across the plateau, mainly due to the PRC government's policy of taking surpluses and subsistence produce from farmers and nomads. Taxation imposed on farmers, usually usurped in kind as a percentage of their crop and animal products, is excessive and frequently leaves the family without enough to eat. Moreover, TCHRD has reported cases of the authorities controlling what the farmers should grow in the field. A peasant from Labrang County, Gannan TAP, Gansu Province reported that the authorities compulsorily make them plant trees. He further said that:

We plant the trees in the field where we usually grow barley and wheat. Some families have to grow grasses while others have to plant trees. They don't give any money but come to inspect the work.

Many TCHRD interviewees told us that they hardly had enough to sustain themselves after paying the local tax and the other arbitrary budgetary extortions. The economic level of farmers is too low to enable them to purchase food and other necessities on the open market. Farmers have to often resort to borrowing in order to purchase necessities.

Local farmers depend upon a subsistence food production system to sustain their livelihoods. The yield from fields is very poor since most farmers have to depend on rain for irrigation. Interviews upon interviews with recent arrivals who are farmers give evidence to the fact that very little is forthcoming from the government as an incentive in the form of irrigation facilities and fertilisers. On the contrary, Tibetan farmers and nomads are additionally forced to sell a certain proportion of their crops, animals and animal products to the State at a fraction of their fair market value. In her interview with TCHRD, Tsetan Dolma (32) from Karze County, Karze "TAP", Sichuan recounts that:

After the harvest of the barley and the peas, we have to give 1,000 gyama of barley and 500 gyama of peas to the authorities. You give according to the size of the household and this is the limit imposed on a 13-member family. When we

give 1,000 gyama of barley to the government they give money only for 500 gyama. They give only 30 yuan for 100 gyama of barley and not a single penny for the 500 gyama of peas. In the market, 100 gyama of barley would fetch 80 Yuan.

The policy of settlement and fencing

The PRC's policy in relation to grasslands has focused on changing the land tenure system from communal pastoral land to individual ranch-style enterprises where Tibetan nomad families are restricted to certain portions of land. There are many reasons put forward for this change of land-tenure and land-use. China has historically seen pastoral land as wasteland, and pastoralists as primitive; central authorities have consistently sought to sedentarise the nomads as part of a project to "civilise" the pastoralists. The PRC claims that this will protect the land from overgrazing and will increase efficiency.

By the 1980s China realised its compulsory communalisation of the grasslands was a disaster. The degradation, desertification and salinisation of rangeland is derived from the 1960s and 1970s when the land was made to carry huge herds, far beyond the carrying capacity of a frigid upland prone to blizzards and vulnerable to unstoppable erosion.

In 1985 the *Grassland Law of the PRC* (the Grassland Law) came into effect, signalling a renewed attempt by the PRC to settle nomads through allocating fixed portions of land.

The purpose of the Grassland Law is to (inter alia) "enhance prosperity of local economies of national autonomous areas" (Article 1). Grassland is owned by the state, and county governments are authorised to contract out portions of the land falling within their boundaries "to individuals for pursuits of animal husbandry" (Article 4). Disputes between individuals or counties regarding boundaries of land are to be resolved by the people's government (Article 6).

Under this policy, high mountain villages have been allocated the high land surrounding them while low-lying villages are given low land in some cases. Low-lying villagers then have no access to the high grazing land in warmer months, and high-land villagers have no access to low-lying land in the winter. Thus, the essential and effective method of seasonal rotation for grazing herds was destroyed.

The implementation of policies on fencing and sedentarisation of nomads have been enforced more vigorously in the provinces of Qinghai, Gansu, Sichuan and Yunnan —merged into Mainland China since the invasion — where a large chunk of Tibet's population reside. In fact there are more Tibetans residing outside the "TAR" than inside the region. In these merged provinces, herds were not only redistributed to individual families after the communes were disbanded under the reform era that began in the late 1970s, but each family was allocated land use rights to specified pastures on which the family was expected to settle, build permanent housing and fencing, usually by going into debt. Some nomadic families, such as those of Lobsang Tsultrim's relatives in Gade, Golok "TAP" in Qinghai Province had to even sell their cattle because of limited grazing space.

With the implementation of the grassland policy, nomads were expected to carry out fencing at their own cost. To ensure compliance to the policy of enforced settlement Chinese government authorities impose penalties on nomads who do not comply with their orders. Khundrup, a 28-year-old nomad from Karze "TAP", Sichuan narrates his personal experience:

The authorities ordered that the boundaries of the grazing areas be fenced. Nomad families had to buy the fencing material from the government and build the fences themselves. The amount each family had to pay for the fencing was calculated according to the number of animals owned by the family. A bundle of fencing wire costs 1,500 yuan. We owned 100 animals so we had to buy six bundles of fencing wire, which is 9,000 yuan. It was very difficult for us to find this amount of money and we had no choice but to borrow money from outside. If a group of families did not put up a fence within the time stipulated by the authorities they were fined 300 yuan per day. As a result, the nomads had to work all day to complete the fences as fast as possible, sometimes until their hands were bleeding.

This haphazard policy of sedentarisation has also resulted in familial disputes. With the fencing and distribution of grassland, the semi-nomads and nomads encounter problems with land that has either grass with no water or water with no grass. Under such circumstances, according to a nomad from Dzoge County, Ngaba "TAP", Sichuan:

Animals come to the neighbour's fence for grass or water and lie there against the fence. If the neighbour is a kind man then he allows the animals to drink water or eat grass in return for what his grassland does not have. Often times, there are fights that can lead to a court battle.

In 2000 a dispute over access to grassland between nomads from two counties in Karze "TAP", Sichuan, caused several deaths. After county officials failed to mediate the dispute, Trulku Tenzin Delek from Lithang County stepped in to mediate before further deaths arose. However he was accused by the Chinese authorities of interfering and they tried to arrest him.

The PRC justifies sedentarisation and compulsory fencing as necessary to protect lands from overgrazing and also to increase productivity. At the heart of these policies is a belief that traditional migratory grazing systems do not protect the land and are an inefficient use of land, measured in terms of animal production per square kilometre. However, international land experts, including the World Bank, are increasingly recognising that customary tenure systems such as those employed by Tibetan nomads are in fact the most sustainable and efficient use of such land. Furthermore, the Chinese government has argued that sedentarisation has in fact helped the economy by allowing poor families to be serviced with health care and education and for extremely poor ones to receive income support.

These policies of sedentarisation have greatly affected pasture quality by reducing mobility and flexibility of rangeland management in a highly unpredictable climate in which flexibility is essential. Sedentarisation intensifies pasture degradation, reduces yields and forces many families into malnutrition and poverty.

Insufficient Sources of Income

Guo Jinlong, Party Secretary of "TAR", stated during the Fourth Work Forum on Tibet in 2001 that the per capita net income of farmers and herdsmen reached 1,410 yuan - a 5.9 percent increase over the previous year.

The household net income per rural Tibetan household (1,331 yuan) for the year 1999 was the lowest in comparison to other provinces of China. There was an increase of approximately 22 yuan from the previous year. The actual purchasing power of rural incomes in Tibet did not change between 1990-2000. In fact, in 1998 it became the lowest of all incomes in China. This stagnation of rural incomes summarises the economic conditions of most Tibetans.

Tibetans in the rural areas subsist on land for their livelihood. In most cases, for the farmers and semi-nomadic families, the produce from the land is barely enough to sustain the

household. Very often they have to look for other avenues of income. In many regions, collecting *yartsa gumbu* (*cordyceps sinensis*) has become a supplementary

source of income and in some cases the main source of income for the rural masses. In other regions, plucking of *droma* (small sweet tubers) or looking for minor construction work has been the trend.

Avenues of income such as plucking *yartsa gumbu* are also an erratic source. A 39-year-old from Tengchen County, Chamdo Prefecture, “TAR” from a mixed farming and livestock rearing background, reports how difficult and unrewarding the venture can be. According to the interviewee,

In our area, we pluck *yartsa gumbu* for two months from April to June. This year we did not get more than three sang which is very little. 10 sang makes a gyama. When we go to pluck, we have to give 100 yuan per person to the County authorities. Plucking *yartsa gumbu* forms the largest part of the income in our area.

Full time unemployment is almost unheard of in the rural areas since the bulk of the population is engaged in labour-intensive agriculture. But during the after-harvest period people are left with no jobs. Rural incomes are dependent on meager farming profits, and there are hardly any opportunities for non-farm employment. More specifically, rural non-farm economic activities appear to have been prohibited, perpetuating poverty.

Alternative avenues such as working for development projects are closed during the winter months precisely when the employment crisis strikes. Under-employment is common even though winter could be a time for adding value to non-perishable rural products, such as transforming wool into garments. But there is no market created for such products.

There have been reported cases of forced labour schemes mandating farmers and nomads to work on construction of roads, et al, and being fined for non-attendance. An employee of the Forestry Department originally from Chentsa County, Malho "TAP", Qinghai, in

his testimony to TCHRD expressed that:

Officially, for only 15 days in the year, the government can come in and cut five truckloads of wood per day. For the rest of the year the forest is technically closed to logging. However in practice, throughout the year, I would receive orders from Chinese government officials to "clean-up" the forest. This meant getting 20-30 local Tibetans to come in and cut trees, which are then transported to China in logging trucks. None of these Tibetans are paid for their labour. It is considered a form of "tax" which the local village owes to the government. No local Tibetans were permitted to cut trees from the forest for themselves."

Burden of Taxation

The Chinese Statistical Yearbook 2001 indicates that the revenue that the government collects in Tibet is not up to the mark and that in fact the government is pumping in subsidies to bolster the economy. This is true to the extent that much of the taxes imposed does not figure officially because of its arbitrary nature. Moreover, the official statistics do not give detailed figures or breakdowns for tax collected at the county level or below.

It seems that in many provinces, the imposition of taxes occurs at the discretionary power of local officials and it is not clear how the levels or types of tax are set or what proportion is remitted to the higher authorities. There is a clear absence of any accountability or provision for appeal against harsh and unfair taxes.

With little or no correlation between the amount of money spent in subsidies and the severe taxation policy imposed on the rural population, one must question whether the taxation policy is yet another means through which Beijing's bureaucrats discipline the Tibetan polity into submission? This question comes up especially since the revenue

from taxes does not make a significant contribution to the economy. A closer examination of the lives of the Tibetan poor would clearly evidence the efficacy of taxation as a tool of oppression.

The taxation policy covers almost every aspect of the right to subsist — ranging from taxes on human life, crop yield, animals, water, grass, herbs, and education. Thus, while there exists a right to subsist, the means to it are severely impaired.

China itself faces widespread unrest in the countryside, as farmers complain about arbitrary and burdensome taxes imposed by local officials. The very same arbitrary impositions of budgetary changes in addition to local taxes are common in Tibet, but in “minority” areas there are few mechanisms to prevent local cadres from extorting the poorest in the population. A nomad from Darlag County, Golog “TAP”, Qinghai confirms that taxation is exorbitant and says that:

My family has to pay 3,600 yuan in the form of cattle tax and grassland tax annually. Then we have to sell two yaks to the authorities each year. They give you only 500 yuan for a yak but a private businessman pays 1,200-1,300 yuan for a yak. Then we have to give butter tax. Each person has to give two gyama of butter. Each person should give one gyama of cheese. The authorities also collect 25 yuan per person, which is said to be used for old age pension, but my parents are both in their sixties and they do not get any pension.

Urban livelihood

A little over 15-20 percent of the Tibetan population resides in the urban areas of “TAR” and in regions outside “TAR”. The challenges faced by urban Tibetans with regard to their livelihood are very different from those encountered by rural Tibetans. Generally, they have to compete with Chinese migrants who are more often than not have “connections” to get better jobs. In comparison to the Chinese migrants, Tibetans are disadvantaged by a lack of Chinese language skills —the language of the colonisers —, which is critical for getting any employment, particularly in State-run institutions.

Chinese migrants who now flood Tibet’s urban areas have monopolised the economy thus marginalising Tibetans in the economic sphere as a whole. In addition, there is the heavily enforced registration system (*ch: hukou*), which everyone must adhere to in order to find jobs. Each citizen must have these identity documents, which control where they live and work, thus giving employers and factory managers a powerful tool over to control the labour market. This keeps wages down and employers can use it to control every aspect of the lives of workers. In Tibetan populated regions, *hukou* is particularly used by the PRC to restrict rural Tibetans from seeking work opportunities in urban areas. At the same time it has relaxed the strict application of the *hukou* system on Chinese.

Work opportunities for Tibetans in their own land began to be greatly undermined in the mid 1990's when the market was opened for competition, and privileges were systematically accorded to Chinese settlers. The preferential treatment enjoyed by Chinese settlers in all spheres of employment exacerbates the discrimination faced by Tibetans today. This inequity was accelerated by the July 1994 Third Work Forum in Tibet, which launched 62 projects in the "TAR", many of which were major construction ventures undertaken by contractors using imported workers or Chinese already living in Tibet.

These hyped development projects, supposedly intended for the economic progress of the region, have been concentrated in the urban areas. One of Beijing's acknowledged goals in launching the western development plan, which was unveiled in 1999, was to bolster stability and unity in the PRC's less developed western regions. Beijing's fear is that as the economic gap widens between the booming east coast and the undeveloped —and often restive —west, the "unified motherland" will begin to fragment. In the past three years, government has poured money into the western regions, creating an artificial boom in cities such as Lhasa. The external subsidies provided to major cities are also a solution to the need to generate employment for Han Chinese from other provinces along with controlling the "troublesome" Tibetan plateau.

During the Fourth Work Forum on Tibet in June 2001, President Jiang Zemin emphasised that the development, stability and security of Tibet are closely related to the implementation of the strategy of developing the country's western regions, national unity and social stability, national reunification and security, as well as China's image. But little of this development largesse is trickling down to the 80 percent of Tibetans living in villages and on farms.

According to an aid worker, "Nothing is being manufactured," and "It's just the reselling of things. No new wealth is being created."

The prevalence of *guanxi*

Obtaining employment in Tibet often centres around *guanxi* (connections) or "bribery" that are utilised rather than reflecting the skills or suitability of the applicant. Chinese settlers in Tibet are far more likely to have access to high-ranking Chinese officials, putting them in a better position to obtain employment; business permits and fulfil associated paperwork. As a result, Tibetans resort to attempting to gain employment through illicit means, referred to as

“*guanxi*”. “Connection” also reportedly works to the advantage of ethnic Han (who tend to be in higher-ranking positions), and it is more difficult for Tibetans to get permits and loans to open businesses than it is for ethnic Han.

A Tibetan from Qinghai reports that “Without a good connection with high up Chinese officials there is no chance of getting employed.” He states that “Even higher qualifications do not count in terms of finding a job unless you have equally good Chinese contacts...it is through personal contacts and backdoor connections that good jobs are obtained.”

In addition to *guanxi*, bribing is necessary in order to start up a private business. A Tibetan from Lihang who has experience setting up his own enterprise reports:

I bought land worth 20,000 yuan and gave 6,000 yuan as a bribe. If you don't pay bribes it is difficult to get land, and even if you do get land they will make it very expensive and will create continuous problems.

While recognising the need for development to improve living conditions, Antonio Cassese, an international lawyer, points out the problems created by developing countries such as China. In such countries, it is not unusual for political leaders to be inclined to act more in the interest of the ethnic group or the elite to which they belong than in the interest of the whole population.

This is clearly the case in Tibet where development is motivated by broader Han nationalist agendas. The Chinese government policies are fixated upon centralised top-down models of development rather than locally appropriate and sensitive models and the need to accommodate an ever-increasing Chinese population.

Under the red banner of development, China is today pouring billions of dollars into Tibet and other remote western areas in an ambitious plan to develop the strategically important hinterland. But the money is largely benefiting government officials, local elites and well-connected entrepreneurs from affluent coastal regions. The biggest infrastructure projects -- railways, gas pipelines, water schemes and electricity transmission lines -- are all aimed at sending western resources to China's privileged east coast.

The Tourist Dollar

Tourism is being referred to as one of Tibet's "pillar industries" and projected as one of the main sources of revenue by the Beijing authorities. According to Xinhua, the official Chinese news agency, with the number of visitors growing from 3,525 in 1980 to more than 840,000 in the first 10 months of 2002, tourists now bring 900 million yuan in income to the region, accounting for six percent of Tibet's Gross Domestic Product.

Local officials estimate that 700,000 tourists visited Tibet in 2001 — the majority of them Chinese. World Tourism Organisation, a UN agency based in Spain, has recently completed a master plan for the development of tourism for Sichuan, Yunnan, Gansu and Qinghai and are now completing one for the "TAR".

Where do the Tibetans figure when it comes to reaping economic benefits accruing from this much-hyped industry? In fact in certain areas the infrastructure for the industry are displacing Tibetans from their ancestral land. A nomad from Dzoge County, Ngaba "TAP", Sichuan, described a tourist development around one of the Machu River's famous "bends" which sparked a dispute over communal grasslands — traditionally the community's winter pastoral area. He corroborates that:

There was a dispute over the site; the sixth village said that the area belonged to the village; the monastery claimed that it belonged to them, and the Dzoge County government said that it belonged to the county. The land was of no use to the monastery but the sixth village needed it as grassland for its animals, and also wanted to build some storerooms for families. But the county wanted to run a tourist place and make some money from it.

The case was taken to Ngaba Prefecture. Both the prefecture and the county jointly made the decision to allow the county government to run the tourist project.

Initially the county had told the sixth village that half the income would be given to the village. However, when the prefecture authorities made the final decision, there was no compensation given to the village. The government ordered the village to stop constructing storehouses on the land. The county has constructed a big building there where county administration staff stay, and they have pitched many tents where tourists sleep. There is a tent for playing games. There are boats on the river. Chinese government officials have a long holiday in summer and they come here during that time. Last year when I was about to come here,

about 50 to 60 tourist buses came there per day. Most of them come from Chengdu and Beijing.

Tourism will drive Tibet's economy in the future, so it is essential to train the “autonomous” region's tourism professionals, says Li Yuezhong, an official with China National Tourism Administration (CNTA). However, the trend has been to exclude the Tibetans from employment — even as tourist guides. There is anecdotal evidence that in schools with programmes to specifically train tour guides, where courses are offered in Tibetan culture and language, the enrolment is mainly Chinese.

There are reported incidents of “TAR” authorities pressuring employers to dismiss staff who were raised or educated in India – especially in socialised professions such as the tourism industry. Lhasa tour agencies are continuing to be forced to dismiss Tibetan tour guides educated in Nepal or India. These guides are then required to seek employment with the “TAR” government’s Tibet Tourism Bureau (TTB). Prior to being employed by the TTB, applicants must pass an examination on Tourism and Politics. Many — if not most — Tibetan tour guides educated abroad reportedly fail this examination. Tourist hotels and restaurants are also “encouraged” to dismiss ethnic Tibetan employees educated abroad.

Pouring in of Chinese migrants

Since the early 1990s, Tibet has been subject to a mass influx of Chinese migrants. This has been encouraged by government-sponsored infrastructure projects, mining, the gold rush in Qinghai and Northern Tibet, and relaxation of regulations governing private enterprises. Chinese from the Mainland have been encouraged to start businesses in Tibet with loans made easily obtainable. The process was further enhanced after 1992 when Lhasa was declared a Special Economic Zone, leading to an increase in both skilled and unskilled Chinese moving to the “TAR”.

Tibetans form the majority in the rural areas within “TAR” and some prefectures of Sichuan and Qinghai outside “TAR”. However, in the urban areas of the aforementioned regions, Tibetans are being driven to being a minority in their own homeland. They are also being rendered a minority in many of the “Minority Nationality Autonomous Areas” (MNAAs), particularly those close to urban centres such as Xining and Lanzhou.

At a news conference on 7 August 2002 in Lhasa, Jin Shixun, Deputy Director General of Tibet's Development and Planning Commission, admitted that in urban Lhasa, about 50 percent of residents are ethnic Chinese migrants. He further informed 12 foreign correspondents on an official visit to Tibet that: "There are more and more people from other provinces of China who are coming to Tibet to open up their businesses or make investments here."

Jin further added that Tibet needed the skilled labour and investment from other regions to help maintain the average GDP growth rate and that the influx will bring unprecedented prosperity and stability to the region.

Official Chinese statistics fail to clearly differentiate between ethnic Tibetans and Chinese migrants now living in Tibet. Unfortunately, the official census does not give figures below prefecture level. It is extremely difficult to determine the number of Tibetans vis-à-vis the Chinese since the ethnic classification would appear only if county level figures were shown.

Article 8 of the UN Declaration on the Right to Development mentions that "states should undertake...all necessary measures for the realisation of the right to development and shall ensure...equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and fair distribution of income."

With the Chinese policy of organised transfer of population from China to Tibet, even the lowest jobs in society are filled by Han migrants, which in practical terms leaves very little scope for the local Tibetan people. Chinese have taken over even the traditional trades of the Tibetans such as thangka painting, wood carving, and tailoring.

According to a recent visitor to Lhasa "One needs to take a 10-yuan ride in a taxi in any direction away from the Potala to discover who are the real beneficiaries of this progress. Just a peep into the multi-storeyed houses, government offices and glittery shopping arcades will tell you that a large majority of houses, jobs and businesses belong to the Chinese".

Taxi drivers and shopkeepers in Tibetan cities are overwhelmingly migrants from China's ethnic-Han majority, who appear to be getting most of the benefits of the urban boom. These newcomers often sneer at the Tibetans.

A Chinese businessman who owns a fruit stand in the Tibetan city of Shigatse has this to say, “They (Tibetans) just play around. They don't understand anything about business.”

The mega Qinghai-Tibet railway project initiated in 2001 will further facilitate the economic integration of Tibet into China and increase the number of Chinese settlers in Tibet. There has always been a sense among Beijing planners and the military that Tibet cannot be fully assimilated without a rail link to the Mainland.

A taxi driver in Lhasa who is Han Chinese from a poor central province of China tells me the government has made it easy for migrant workers to come to Tibet. A few dollars buys a temporary residence permit. There is money to be made here, he says, adding that many other people from his village have come to Tibet.

Race-based Discrimination

CERD recognises various grounds as constituting discrimination, defining it as: “Any distinction, exclusion, or preference made on the basis of race, colour, sex or religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation” Article 5(e) of the same Convention states that, “Everyone without discrimination should enjoy 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 and favourable remuneration.”

Going by the letters of the Convention, the volume and consistency of testimonies gathered in exile confirm extreme discriminatory practices even against those who are employed. These policies further economically marginalise Tibetans in their own land. “Discrimination in employment reportedly is rampant; ethnic Han are hired preferentially for any jobs and receive greater pay for the same work. Ethnic Tibetans reportedly are fired discriminatorily from some jobs.”

Pema Dolkar, a 28-year-old former taxi driver from Lhasa claims that racial bias has permeated throughout the Chinese settlers in Tibet, resulting in Tibetans being deprived of opportunities and profit. She asserts that Chinese help each other to establish businesses and in other matters. Further, “Chinese people never ride in taxis driven by Tibetans, they always

seem to prefer taxis driven by fellow Chinese.” Given the high percentage of Chinese living in urban areas, and their higher disposable incomes, this discrimination has a significant effect on Tibetans employed in private transport. Pema Dolkar also testifies to the “alarming number of shops, restaurants, factories and almost every business establishment owned and run by Chinese civilians”.

Conclusion

At the 16th CCP Congress concluded in Beijing in November this year, the nation’s leaders showcased economic progress and their ostensible ability to fight unemployment, corruption and other obstacles to developing a more prosperous, more capitalist country. However, their achievements in these fields in the region of “TAR” and outside “TAR” where Tibetan people subsist are negligible.

Tibet is a glaring example of a country where mismanagement plus authoritarian colonial governance has led to unprecedented economic woes and an inadequate standard of living — not to mention the ongoing abuse of civil and political rights. China has failed miserably on both scorecards. And this leaves Tibetans doubtful of the utility of so-called economic and social rights, and fearful of the consequences to Tibetan lives and culture of continued bad governance and race-based discrimination in the country’s economy.

Right to Education

Introduction

“If governments wish to prevent certain groups from equally participating in the political, social, economic or cultural life in their countries, one of the most efficient methods is to deny them equal access to education...”

Since it’s takeover of Tibet in the 1950’s, the Chinese government has used the system of education as a means to systematically discriminate against Tibetans. Instead of education catering to the human development of the Tibetan children on the plateau it has been the medium of inculcating loyalty to the government in Beijing. Such an exercise of power is a blatant violation of international law.

The UN Convention on the Rights of the Child (CRC), ratified in 1992 by China, makes a number of provisions for State parties. Article 29 of the CRC states that

...the education of the child shall be directed to...the development of respect for the child’s parents, his or her own cultural identity, language and values, for the

national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own.

China, being a State party to the United Nations Convention on the Rights of the Child, is obligated to submit a four-yearly periodic report to the UN. China is yet to submit its second periodic report which is long overdue since March 1999.

This chapter is a comprehensive review of the state of education in today's Tibet, incorporating sections on school curriculae, Tibetan as a language and Beijing's minority education policies and practices in Tibet.

The PRC's White Paper on Minorities Policy of 1999 states that the education of China's "minorities" shall be "of paramount importance to the improvement of the quality of the minority population and to the promotion of economic and cultural development in ethnic minority areas".

Yet independent studies and anecdotal evidence from all over Tibet reveal that there is minimal educational development in the "TAR" as well as in provinces of Qinghai, Gansu, Sichuan and Yunnan which now incorporate most of the traditional eastern Tibetan provinces of Kham and Amdo.

According to China Human Development Report 2002 released by the United Nations Development Program, the educational index for Tibet stands bottom against China's other 31 provinces. The gross enrolment rate and adult literacy ratio for Tibet are also the lowest in comparison with provinces of China.

In June 2002, David Strawbridge, education advisor to Save the Children Fund (SCF), an organisation with much experience in Tibet, said that,

the Tibet Autonomous Region still lags behind other provincial areas of China in education and equipment, and therefore all parties should continue to increase cooperation in this field.

China frequently publishes inflated and often inconsistent statistics on the number of schools across the plateau and the government funding to them but they conceal the actual educational experiences of pupils. Statistics on the number of school buildings and employees in these institutions tell us nothing about the quality of services provided, the cost to users, or the qualifications of those providing the services. When one looks more closely at quality, qualifications, budgets and the crucial question of who pays, a very different picture emerges.

The level of education continues to be low among Tibetans for multiple reasons. Many more remote areas do not have schools and parents are reluctant to send their children to boarding schools for various reasons including their inability to pay the fees.

A significant number of children escape across the Himalaya to the Tibetan exile community in India each year to receive a proper Tibetan education. Children under the age of 18 constitute more than half of the Tibetans annually seeking asylum in India. In 2002, 715 children under the age of eighteen - mostly in the age group of seven to thirteen - arrived at the Tibetan Reception Centre in Dharamsala, north India. These minors who risk the treacherous and sometimes fatal journey across the Himalaya escape primarily to enrol in exile schools

and receive broad-based education. Most are sent by their parents paying guides and trusting strangers to accompany them. The only impetus for Tibetan parents to send their children alone –often parting them permanently- to India is the sheer lack of viable education in today's Tibet.

Children arriving in India receive free and high quality education in a country-wide network of various schools set up in exile by the Dalai Lama and the Tibetan Government- in-Exile. “Whoever has gone to Dharamsala will acknowledge that the education of the refugee children is a success story.” Unfortunately, though well-educated and professionally competent, these students will face a difficult time overcoming prejudices from Chinese institutions if they decide to return to their homeland.

Politicised Education

Education in Tibet is designed to inculcate love for communism and the “motherland” and demands the denunciation of the Dalai Lama and his “clique” in the exile. The school curriculum is based on the Marxist analysis of history placing cultures as being at different stages of development. The Han Chinese are regarded as being at the apex of development and superior to the Tibetan race who are portrayed as backward and ignorant barbarians. The state propagates the myth of a Chinese people descending from the Yellow Emperor although Tibetans themselves have a myth of descending from monkeys: a myth which may make more sense to Darwinian science. However Tibetans are made to forget this and embrace ‘Chinese’ identity. This doctrine of superiority is specifically prohibited by article 4 of Convention on the Elimination of All Forms of Racial Discrimination (CERD) which states that

States Parties condemn all propaganda and all organisations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitements to, or acts of, such discrimination...

The Tibetan students are taught China's version of history and world view and are deprived of knowledge of their own independent history. Repeating patriotic slogans about the great motherland, its “great” leaders and atheistic sentiments are a daily ritual in classes.

Tenzin, an 18-year-old student from Chenduo township, Jyekundo County, Jyekundo “TAP”, Qinghai Province, who arrived in Nepal on 1 April 2002, said,

The students are highly discouraged from attending any religious functions or visiting temples. They are also barred from displaying images of the Dalai Lama.

Any form of political discussion or dissent in political connotation in the classrooms is quelled with threats of severe repercussions, including being reported to the state's armed police, the Public Security Bureau (PSB). Tenzin reported TCHRD of a classroom incident that occurred in 1999 when he was in higher middle school. An anti-Dalai Lama news item shown on television sparked a strong reaction from the students. The headmaster, on learning about the protest reprimanded the whole class. Tenzin says,

In a very stern tone, he reminded us of what he had talked about at the meeting with the whole school at the beginning of the semester. He told us again that we must follow the path shown by the Chinese communist government with their Marxist and Leninist ideology, and we should not think of anything incriminating. He told us that we should not believe in the Dalai Lama's misleading preaching about Tibet's independence, which is simply not attainable. We were warned that if that sort of incident happened again, he would not hesitate to expel the whole class from the school and hand us over to the Public Security Bureau.

Beijing's "Patriotic Education" campaign, launched in 1996 in Tibet, seeks to undermine loyalty to the Dalai Lama through the promotion of atheism. The campaign involves re-educating Tibetan monks and nuns in Chinese communist ideology and China's version of Tibetan history, denunciation of the Dalai Lama and Gedhun Choekyi Nyima, the XIth Panchen Lama chosen by the Dalai Lama. This campaign which was originally meant for monastic institutions has now been extended into the lay populace too. Though the campaign is not formally launched in the schools of Tibet but it is very much prevalent.

Chinese authorities reportedly require professors, particularly those from Tibet University's language department which is viewed as a potential source of dissent, to attend political education sessions and purge course studies and materials in an effort to prevent "separatist" (political and religious) ideas and activities on campus. Many ancient or religious Tibetan texts are banned from the curriculum for the fear of generating Tibetan nationalism by studying them.

Beijing's 2001-2005 Five-Year Plan requires more Chinese nationals to be recruited to fill teaching posts in the "TAR" ostensibly to develop education in the region. This threatens the Tibetan teachers job security. This suggests that existing Tibetan teachers are likely to be marginalised and liable to lose their jobs to Chinese migrants recruited deliberately for Tibet.

Beijing's strategy to transfer Chinese teachers to the "TAR" is to upgrade the teaching of communist theory and indoctrination to Tibetan children. Students look to their teachers for knowledge and emotional development, with more Chinese teachers in Tibet's classrooms, the influence of "Middle Kingdom" thinking and culture on young Tibetan minds can only spiral in future.

Assimilation Through Education

People's Daily, the official newspaper of the Communist Party, reported on 8 November 2002 that "Since the first Tibetan class was set up in an inland school in 1985, more than 20,000 Tibetan students have graduated from such classes offered by more than 20 provinces and cities over the past 17 years. Some 10,000 are university graduates."

China's central government has allocated special funds to set up Tibetan middle schools in mainland China. The students are selected after medical examinations and on the basis of their school results. These mainland middle schools are distant from Tibet, and so the students must stay continuously for three years. Some young Tibetans who were chosen from primary school age spent a many more years' continuously in China. Teng Xin (Tib: Tenzin), a scholar, fully endorses this policy and states that students need to be isolated so that they can learn and not be affected by their fatalistic surroundings.

TCHRD questions why these elite schools are being provided in Mainland China and not where they are most needed, in Tibet. Beijing's rationale is that these students, upon graduation, would become trusted leaders and bureaucrats under the socialist system when they are assigned government positions in the "Tibet Autonomous Region". The PRC calculates that it can more easily control Tibet's population by installing leaders of an ethnic Tibetan origin who nevertheless follow the correct path over development, socialism and anti-Dalai Lama rhetoric.

This "minorities" education policy of taking the brightest Tibetan students to special schools in China and indoctrinating them in communist ideology and political worldview is part of a series of systematic schemes to assimilate Tibetans into the Chinese mainstream and blur the distinctness of Tibetan language, customs, culture and history.

Tibetan becoming a moribund language

The Tibetan language policy has been one of the most significant issue in education in Tibet, particularly since the temporary period of liberalisation in the early 1980's. The Tibetans regard their language as the root of their ancient culture whereas the Chinese authorities view it as the symbol of nationalist sentiment.

The Tibetan language is seen by some Chinese leaders as the proper target of both the current campaign against the pro-independence movement and the campaign throughout Tibet to eradicate traditional beliefs. In October 1995 Communist party leaders in the "Tibet Autonomous Region" are reportedly circulated a document arguing that separatism was partly caused by schools teaching too much religion and using the Tibetan language.

In fact, China's 1995 Education Law provided for teaching nationalities in their own languages. Article 12 of the Education Law states that

Schools and other educational institutions primarily for 'minority' nationalities may use the spoken or written language in common use among the ethnic group or in the locality as the language of instruction

While teaching of Tibetan has been permitted in some village schools, the best equipped and staffed schools continue to teach in Chinese medium.

Two foreign tourists who travelled extensively in Tibet in the month of April-June 2002 commented that

Chinese schools (like in Dartsedo) were taught in Chinese and no Tibetan subjects are taught, not even Tibetan language although in some cases most of the students are Tibetan. Chinese medium schools in which Tibetan language is taught just as another subject and all other subjects are taught in Chinese only. Tibetan history, philosophy and arts are not taught in these schools. This is the type of school most prominent in Tibet.

By the end of July 2002, the Chinese authorities closed down Tsangsul School. This Tibetan-run school was first founded in 1988 through the joint effort of three Tibetan individuals to promote and preserve Tibetan language. The primary reason for the school to be closed was due to its popularity for giving emphasis to Tibetan culture. Parents removed their children from the government school, Yuethong school no.1 to admit them to Tsangsul school. The

school followed the curriculum similar to the other middle level school in addition to the fact that Tibetan was given the main emphasis. At the time of its closure the school had 500 students, of whom 60 students –all orphans- received free education while the others, who generally were unable to pay the regular exorbitant fees asked by other schools, paid a nominal fee of 20 Yuan per semester.

The written Tibetan language is suffering the most drastic deterioration. Business and government reports, especially at a higher level, usually are written in Chinese. Computer software in Tibet usually is formatted to write in Chinese. Even well-educated Tibetans are losing the ability to write in their own language.

Beijing claims that Tibetan is widely used in the media and in publications. In fact the opposite is true as most newspapers, books and periodicals in Tibet are written in Chinese and not in Tibetan. John Billington, an independent observer noted that there were 408 magazines for sale in Chinese, but saw only one in Tibetan.

Tenzin Rabgyal, a refugee who arrived in Kathmandu on 25 May 2002 reported that

In 2002, the Chinese authorities virtually closed the Cultural Development Society (a forum for pure cultural exchange through showcase of literary talent) in Rebkong County, Malho “TAP”, Qinghai Province. The Chinese are always against anything that promotes Tibetan culture. On the pretext of the society having underlying political tones, the Chinese authorities ordered for its closure without prior notice. There was no political significance attached to the aims and objectives of the society.

Even among the policy-making elite in Lhasa of educationist, intellectuals and officials, there are varying views. One group argues the importance of the language and calls for education in all its extensions to be in Tibetan whereas the later group advocates importance of economy calling for the language to be sidelined in favour of economy. In the post 1987 political climate, the second group has emerged dominant with the government giving importance to economic reasons and the de-emphasis of Tibetan culture. Chinese is increasingly the language of business and government in Tibet—a development that many critics say has worrisome implications for the embattled Tibetan culture.

Kunchok Gyatso (Ch: Goinqog Gyaco), a linguist with the Tibet Regional Academy of Social Sciences said, “the Tibetan language face a challenge in the wake of globalization and cultural influences”. Tibetan is still the main language in rural Tibet’s villages and farms, but ambitious young urban Tibetans, immersed in Chinese pop culture and aspiring to higher-paying jobs in a Chinese-dominated system, find fewer and fewer reasons to speak their native tongue.

Students who attend the Chinese schools master Chinese better than those who attend the Tibetan schools. Since a high level of Chinese language is prerequisite for any government job, those attending the Chinese schools have better chances. Tsering Yangtso, 17, originally from Dingri (Ch: Tingri) County said,

The students pay more attention to Chinese classes, and it is common knowledge that learning Tibetan doesnot offer much scope in future career.”

Most affluent Tibetans tend to send their children to mainland China to study in Chinese language schools. Tsering, a successful businessman, when asked why he had sent his children to mainland China said, “I want them to find good jobs in Tibet when they graduate.”

Linguistic scholars warn that younger Tibetans are having trouble communicating with their older relatives, becoming “aliens” in their own communities.

In the light of current political situation of Tibet, Tibetan as a language faces the danger of becoming a moribund language should Beijing don't hold fast to the illustrious provisions in their constitution in regard to minority education.

The much publicised promotion of Tibetan language law approved at the 15th session of the Seventh Regional People's Congress of the Tibet Autonomous Region on 23 May 2002 will remain to be speculated for its effectiveness with the common understanding that such an approval will remain an approval only and just a hollow law out of many in the Chinese constitution and its provisions for the minorities.

“Minority Education” in Tibet: An Unfulfilled Promise

Under the classification of Tibet as one of China's so-called minority nationalities, Tibetan children should enjoy enhanced educational rights under international law. Article 30 of the Convention on the Rights of the Child (CRC) stipulates that

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 practice his or her own religion, or to use his or her own language.

China is thus obligated to ensure that Tibetans enjoy the enhanced protections that “ethnic, religious or linguistic minorities” receive under certain international treaties, including the CRC, which establishes the right of each “minority” child to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language.

The fact that the populations of the 55 “minority nationalities” recognised by the People's Republic of China (PRC) live predominantly in poor rural areas, combined with the often neglected state of education in the countryside, means that ethnic minority children face particular difficulty getting proper schooling.

The Han-centric curriculum, taught largely in standard Mandarin Chinese (Ch:Putonghua) and obligatory throughout China regardless of the ethnic composition of the region, generally does not create an environment in which Tibetan children do not feel their cultures, languages and histories have value. The government as nurturing separatist sentiments views the Tibetans.

With shrinking government subsidies, minority colleges have begun to enrol more and more Han Chinese students: Han students account for half or more of the enrolment in most minority colleges now. China's minority colleges are at a crossroad, and where they will go is as uncertain as trying to predict the future of historically black colleges in the United States. To meet their expenses, minority colleges have begun to enrol ethnic Chinese students at an

astonishing rate, and focussing on departments, such as English and computer science, that attract those students.

Beijing claims that to foster education in Tibet and as part of its preferential policies toward local ethnic groups, a flexible method of enrolment is applied in all schools by lowering the passing marks of local ethnic groups and then taking into account their test results. While it is true that admission to the University of Tibet in Lhasa does not require high grades, Tibetans must pass an entrance exam in Chinese to enroll in the university. So they lose many places. On top of that the preferential policies are often misused by Han Chinese who reclassify themselves as Tibetans (or other minority) to take advantage of these program. Tibetan students lose their seats to Chinese students who have failed entrance exams in their homeland. These individuals then go to Tibet, where they have an advantage of passing the test due to their command over their mother language and more importantly the prevalence of corruption.

A detailed account of how Chinese usurp places ostensibly designated for Tibetans was given to TCHRD by a Tibetan who recently arrived in exile.

In 2001, approximately 300 Tibetan students were denied their opportunity for higher education in the Tibet Autonomous Region. These courses included specialised fields such as medicine, secretarial studies, banking, accountancy, police force etc. According to an exclusive bulletin on exam results published on 30 July 2001 by the 'TAR' Department of Education, the cut off score was 225. Four days later, a revised higher score was announced on TV causing great distress to the students and their families who had already been celebrating their admittance into university. When asked about the change, the Lhasa City Education Department gave no apparent reason which made the students and their parents proceed to the 'TAR' government office. There, they protested against this abrupt and unexplained change. A junior official played down the whole episode as an unfortunate typist error. The assertive parents and students were singled out for insinulative threats. One of the ill-fated student stated, "Chinese officials take bribes to recruit Chinese students in the reserved seats meant for the Tibetans in the category of 'ethnic minority group'."

Many Chinese are stealing those few opportunities that are extended to Tibetan students. This speculation is supported by the fact that in 2001, of the 1019 students who qualified for these specifically allocated positions, only 405 were Tibetan and the remaining 515 were Chinese students.

To limit the number of students accepted, age restrictions also apply. Here too, Tibetans are underprivileged because they begin school later than students in Central China.

A factor that affects Tibetan children's primary education is the ethnic composition of their schools. This often reflects the demographics of the local population in the school's area. But in state-run institutions it may also depend on connections (Ch: guanxi) a factor that tends to favour students whose parents work in government offices or administrative positions in the school system. Dolma, 18, easily moved to Gannan Prefecture Middle School from her previous Machu County Middle School, Gansu Province. She said, "one needs private connection with the school principal which I fortunately have and was able to change my school".

Even for school teacher's family connections matter a lot in securing their job. Choeyang, a village primary school teacher in Jyekundo County (Ch:Yushu), Qinghai Province commented that the process of securing employment or having their position secured is not difficult for those students whose families have money or good family connections.

Conclusion

The Beijing government is fearful of political unrest in Tibet. To suppress this unrest education has been given high priority by the government as a means to inculcate loyalty to the state. The main aim of education in Tibet is to Sinicise the Tibetan population and indoctrinate them with political dogma. At every opportunity the government emphasises the rhetoric of love for the great motherland and insist on inculcating the rhetoric into the masses.

The official language is Chinese and this discriminates against Tibetans in every sphere of life. Tibetan as a language though promoted sometimes is merely done with the aim of disseminating government policies and ideology. Despite illustrious provisions in the Chinese national law and regulations passed in the regional government, Tibetan as language is bound to become a moribund language as it is not the medium in all forms of mass communications in Tibet. Tibetan language is sidelined in favour of much acclaimed economic prosperity of the Tibetan people. Beijing has managed to create a demand for Chinese to be taught and taken seriously by laying the trap of unemployment in the job market if Tibetans insist on studying in their native language. And those who insist faces the repercussion of having separatist sentiments and inciting the people against the government.

The minority education facilities for Tibetans is as minor as in its name. The so called minority education exist in name only as the reservation seats for Tibetan people in getting higher education are being stolen by Han Chinese who fake Tibetanness by changing their name and their house registration. The authorities willingly entertain these mainland failure Han Chinese students by issuing them false house registration and identity.

The so-called inland schools for Tibetan children are nothing more than for effective control of Tibetans as they will act as community leaders for China upon their graduation. These students are thoroughly brainwashed in the communist ideology and make the perfect leaders to unleash the government policies. These inland schools are a breeding ground for China's stooge Tibetan rulers.

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China promised to uplift and educate Tibetans but the actual reality experienced by so many Tibetans is that these are empty promises. China often refer to development when countered on certain policies. Unless there is human development in Tibet, there will be no sustainable development in Tibet. Education is sustainable development.

Until education in Tibet improves enormously, the basic economic and social human rights of the entire people will be denied.

Right to Health

Health is perhaps the most important aspect of human life, indivisibly linked to other rights and to human happiness and wellbeing. However, there are many people in this world, including Tibetans, who are still deprived of this basic right. The right to health is comprised of many small yet significant rights, including the right to free or affordable health care and services, the right to access medical services within a reasonable distance, and the right to information regarding public health issues.

The right to health has been addressed in international instruments, in the Universal Declaration of Human Rights (UDHR), and the conventions and declarations on refugees, racial discrimination, migrant workers, prisoners, women and disabled people.

The “enjoyment of the highest attainable standard of health” has been recognised as a “fundamental right” by the international community since the adoption of the constitution of the World Health Organization in 1946. UDHR provides that “everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including...medical care and necessary social services”.

Treaties such as the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by China prohibit racial discrimination in the enjoyment of the right to public health and medical care, “recognize the right of the child to the enjoyment of the highest attainable standard of health” and to facilitate for the treatment of illness and rehabilitation of health, and bar discrimination against women in the field of health care “in order to ensure, on the basis of equality of men and women, access to health care services.” Article 14(2)(b) of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) provides the rights of rural women’s “access to adequate health care facilities.”

In addition to these international obligations, the People’s Republic of China (PRC) has committed itself to providing health care to its citizens in its domestic laws. In the Constitution of the PRC, China purports to “develop medical and health services, promote modern medicine and traditional Chinese medicine, encourage and support the setting up of various medical and health facilities by the rural economic collectives, state enterprises and undertakings and neighbourhood organisations, and promote sanitation activities of mass character”.

While China has made significant strides in improving health in urban China, the health conditions of Tibetans continue to lag far behind national averages, and fall far short of international standards of adequate health care. The lack and cost of primary care and the shortage of trained village-level health workers contribute to preventing Tibetans from achieving the highest attainable standards of health.

Tibetans on the plateau have very limited or no access to health care facilities. The few facilities available in rural areas are curative rather than preventative, and are extremely expensive. Modern medical amenities are generally concentrated in areas where large numbers of Chinese migrants reside. Urban bias is strong. Even in these regions, however, Tibetans face many problems accessing the available medical services as compared to their Chinese counterparts.

TCHRD has received complaints of discrimination, high fees, and an absence of Tibetan-speaking staff, all of which combine to pose a significant barrier to Tibetans who want to use these medical facilities. Tibetans consistently report that not only money is needed in order to gain admission to medical facilities or examination by a doctor, but also connections (Ch: *guanxi*) that Tibetans seldom have.

The plight of Tibetans living in remote areas is even worse. With distance being their main barrier, they also face discriminatory problems. The general claims of the Chinese government are negated by specific testimonies by Tibetans indicating that they are charged up front for all medical services, often in a biased manner. Health care is no longer a right. It has become a favour, made available to those who can pay and have the right connections.

The lack of public health education among Tibetans living in Tibet is also a cause of major concern. With estimates of up to one million HIV positive persons across China this year, China has now started taking this epidemic seriously, calling the situation “very dangerous”. For “the first time it has lavished that kind of attention on a disease”.

The issue of the reproductive rights of Tibetan women is of major concern too. Tibetan women are subjected to strict birth control measures. Although these measures are also imposed on Chinese women, the methods forced on Tibetans are of an extremely biased nature. Forced sterilisation and other birth control measures have been taking place across the plateau on an enormous scale under the governance of the PRC although it is a signatory to the Convention on the Elimination of All Forms of Discrimination against Women. The huge fines that are imposed on families exceeding the official quota often result in late abortions and other serious threats to the health of Tibetan women.

Grave concern may also be raised over the health conditions of political prisoners. Cases of custodial deaths are reported every year from Tibet’s prisons and labour camps and the cause of many such cases frequently turns out to be inadequate medical care, unhygienic and inhumane conditions of the prisons and inadequate food and drinking water.

Political Prisoners: Health in Peril

As of late 2002, there were approximately 208 Tibetans who remained incarcerated in various prisons in Tibet. The deaths of around 10 political prisoners were reported in the year 2001. Lobsang Dhargyal, a Tibetan prisoner of conscience, died on 19 November 2002 in a Manufacturing Unit for Hydro-Electricity Power Plant, a “reform-through-labour” camp in Siling Township, Golog “TAP”, Qinghai. It is almost certain that Lobsang Dhargyal's demise was due to torture and maltreatment in the forced labour camp. He is believed to have suffered a brain hemorrhage at the time of death.

TCHRD has recorded the death of 79 political prisoners since the year 1986. Some of these deaths have occurred due to torture inflicted in the plateau’s prisons; others have succumbed to the unhygienic and inhumane conditions that are prevalent in prisons in Tibet. We do recognise the declining number of Tibetans in prison but then one of the reasons for the decline is that prison authorities in Tibet are increasingly releasing prisoners with serious health problems on medical parole. This tactic of releasing of critically ill prisoners—usually

on medical parole—is to avoid responsibility for their deaths and criticism over denial of adequate, timely and effective medical care. Chinese authorities have routinely employed this strategy of releasing prisoners whose critical health condition is beyond recuperation.

Conditions in almost all the prisons where Tibetan political prisoners are detained or imprisoned continue to be poor and fall far below international standards. *According to Amnesty International:*

Reports continued of torture and ill treatment of detainees and harsh conditions in the ‘Tibet Autonomous Region’ prisons. Many prisoners suffered health problems because of poor food and sanitation.”

Prisons in Tibet are an exceptionally unhealthy environment. When asked what are their most acute problems, ex-prisoners interviewed by TCHRD generally cite overcrowding, lack of medical care, low-grade food. Proper sanitary conditions are key elements of humane and decent treatment. They impact on a prisoner’s health, morale and to a large extent determine the quality of life in prison. But prisons in Tibet have primitive provisions for defecation and urination.

This complaint is corroborated by the case of Dhak Lobsang from Jheney Village, Lithang County, Karze Prefecture, who escaped to exile after serving a five-year sentence at Ngaba Prison in Sichuan. Dhak Lobsang, along with two other Tibetans, was sentenced on charges of involvement in “counter revolutionary activities, incitement and propaganda” during a closed trial at Karze Intermediate People’s Court. While recounting the torture he suffered at the hands of the prison officials, Lobsang described the cell conditions at Karze PSB Detention Centre where he was held before being sentenced. He said, “I was kept along with more than 11 people inside a small room. The place was so congested that there was hardly any place to move. Each of us had less than one-foot breadth of space to sleep. We could only sleep sideways.

“There were two open-ended buckets meant for toilet in the cell. The foul smell of the toilet along with the congestion was unbearable and suffocating. But we had no other option.

“The food provided was not fit enough to eat. It was so bad and meager that many of my fellow prisoners fell sick.”

- Failure to comply with minimum standards of treatment:

The UN Standard Minimum Rules for the Treatment of Prisoners sets out detailed rules for the treatment of prisoners and detainees. It provides that:

10. All accommodation provided for the use of prisoners and in particular to sleeping accommodation shall meet all requirements of health, due regard being paid to climate conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation....

11. The sanitary installation shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.

12. Adequate bathing and shower installations shall be provided so that every prisoner may be enabled and required to have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region...

13. Prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness....

19. Every prisoner shall, in accordance with local or national standards, be provided with a separate bed, and with separate and sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure cleanliness.

Political prisoners ought to be kept in situations as envisaged by the UN Standard Minimum Rules for the Treatment of Prisoners. Prison conditions in Tibet are often harsh with inadequate food and medical care and many prisoners suffer from serious illness as a result. Testimonies often bear complaints of prisoners being punished by exposure to temperature extremes.

Takna Jigme Sangpo, Tibet's longest serving political prisoner, was released on medical parole on 31 March 2002. During one of his prison days, Takna recounted, "I was dragged from my cell and beaten so severely that my body became numb. I was then placed in solitary confinement. Six weeks later, I suffered from a new form of 'cold cell' torture. My cell was lined with wet sheets that were designed to lower the cell's temperature. Permission to put on extra clothing was denied when the average winter temperature in Lhasa is minus 3.5 degrees Celsius and can drop as low as minus 10 degrees Celsius."

Political prisoners are frequently denied medical care until their condition becomes particularly severe and treatment, which is often incomplete, is given. This is corroborated by cases like that of Soepa from Mancho Village, Dzogang County, Chamdo Prefecture, "TAR". Soepa underwent five years' imprisonment at Lhasa's Drapchi Prison. During an interview with TCHRD, Soepa recounted cases where his fellow inmates suffered severely due to a lack of medical attention.

Prisoners who fall sick in prison are not attended to immediately. They are left unattended until other prisoners start protesting and demanding for medical attention.

Soepa recounts the case of his fellow inmate, Bhugo from Maldrogongkar County, "TAR".

Bhugo fell ill in prison but he was ignored for a long time. Bhugo was bedridden for almost four months. His condition was so severe that he could not even stand on his own feet and would even defecate in his pants. It was not until fellow inmates started protesting and demanding medical attention that the prison officials admitted Bhugo to the Army hospital. He was hospitalised for around 19 days.

Soepa also experienced a similar case with Gonpo Gyaltsen from Drayab County, Chamdo Prefecture, “TAR”.

Gonpo suffered from tuberculosis but he was not given medical treatment for almost three months. Gonpo would scream all night begging for medical attention but to no avail. Finally, Gyamtso, a prison official took him to the hospital.” Soepa also recounted that many of his fellow prison inmates suffered from appendicitis, which he believes is caused by the poor quality of food in prison. He recalled that during his prison term around six prisoners suffered from appendicitis.

Prisoners in Tibet are vulnerable to contracting TB and Multi-drug-resistant TB. It has been documented that epidemics such as tuberculosis (TB) can become a great problem in Chinese prisons as they are generally in crowded and unhygienic conditions.

Tibetan prisoners—especially political prisoners who should not have been imprisoned in the first place—are often subjected to discrimination regarding health. Prisoners are forced to perform harsh labour even when they are not medically fit to do so. An ex-political prisoner Thupten Namdrol, from Gyatsa County, Lhokha Prefecture, “TAR”, died in 2002. Thupten Namdrol had spent over 27 years in prison before being released in 1995. Reportedly, Thupten fell ill while in prison but then prison officials continued to force him to perform hard labour. In recent years, many ex-political prisoners have died following their release due to illnesses, which they reportedly contracted while in prison. A prison sentence can become a death sentence.

On 31 May 2002, while clarifying the official stand over cases involving the accidental death of prisoners in Tibet, the warden of Drapchi Prison admitted to the death of 15 prisoners due to illnesses in the past five years.

The completion of a new punishment block at Drapchi Prison was reported in August 2002 and photos of it have been published. This facility holds prisoners undergoing stricter punishment than the normal regime and new male arrivals. Conditions in this block, known as “Tsonkhul” (Detention Area) Nine, are reportedly the prison’s harshest. Tibet Information Network reports that Detention Area Nine, which appears to have become operational around mid-2000, has a total of 24 cells. Out of the 24, two are for solitary confinement and 21 are two-person cells. The two-people cells measure roughly three by three meters. All cells are reportedly poorly ventilated.

The first prison hospital in Tibet reportedly will soon admit inmates. This hospital is situated just outside Drapchi Prison and is supposedly designed to improve medical conditions for Tibet’s three prisons: Tibet Regional Prison (Drapchi), Lhasa Prison and Bomi Prison. The building of a hospital to treat prisoners in Tibet was long overdue and urgently needed. While the Chinese government is to be commended for opening this hospital, whether or not the new facility proves helpful for Tibetan prisoners remains to be seen.

Large-scale letter writing campaigns calling for the improvement of the conditions of political prisoners were organised by the International Campaign for Tibet and other Tibet Support Groups this year. If the Chinese government is really able to fulfill the claims they made, then perhaps we will witness some improvement in the prisoners’ health problems — but all we can do now is wait, monitor and hope.

Psychological implications

Prisons in Tibet do more than deprive political prisoners of their physical freedom. Prolonged solitary confinement in horrendous cells, especially after harsh beating and torture, often leads to psychological imbalance in prisoners. The effects of long-term isolation can be highly destructive. Tortures such as deprivation of sleep and food and exposure to extremes of cold or heat may leave fewer marks on the body but can be just as destructive to the human body and personality as electric shocks or battering. Such torture not only inflicts physical agony but also brings about mental anguish.

Testimonies of former political prisoners who were placed in solitary confinement reveal that during such detainment their hands and legs were often manacled and the food that they got was considerably less than usual. The sizes of the solitary confinement cells in Drapchi Prison are very narrow, with just enough room for a prisoner to lie down. The rooms reportedly are completely dark, without windows or electricity.

The UN's Standard Minimum Rules for the Treatment of Prisoners further provides that:

31. Corporal punishment, punishment by placing in a dark cell and all cruel, inhuman or degrading punishment shall be completely prohibited as punishments for disciplinary offences.

32(1). Punishment by close confinement or reduction of diet shall never be inflicted unless the medical officer has examined the prisoner and certified in writing that he is fit to sustain it.

However, as a direct contravention of the UN's suggested rules, prisoners are routinely placed in dark cramped cells under harsh conditions like inadequate diet and sanitary facilities. It is clear from ex-prisoners' accounts that these rules are not adhered to in Tibet.

- Breaches of Medical Ethics

The International Code of Medical Ethics set out a doctor's obligation to practice for the good of the patients and never to do harm. Unfortunately the participation of doctors in systematic torture usually in the form of inadequate or denial of medical treatment often contributes to the health problems faced by prisoners in Tibet.

The Vienna Declaration in paragraph 58 calls for special attention to be given to the following principles of medical ethics and for these principles to be accorded universal respect and effectively implemented.

Principle 1:

Health personnel, particularly physicians, charged with medical care of prisoners and detainees have a duty to provide them with protection of their physical and mental health and treatment of disease of the same quality and standard as is afforded to those who are not imprisoned or detained.

Principle 3:

It is a contravention of medical ethics for health personnel, particularly physicians, to be involved in any professional relationship with prisoners or detainees the purpose of which is not solely to evaluate, protect or improve their physical and mental health.

Contradictory to the above principles, testimonies also show indifference on the part of medical workers. Worse, in some cases denial of proper care is used as a form of punishment. Lhakpa Tsering, a former political prisoner interviewed by TCHRD, reports that during his prison term he once overheard a conversation between prison nurses. He heard them say, "If the prisoner is from the fifth division (usually for political prisoners), you can give them any kind of medicine, it doesn't matter what their complaints are."

- Prisoner's Right to Food:

UN Secretary-General, Mr. Kofi Annan, in his Millennium Report said that the first priority in today's world was to fight hunger and realise a new human right – the right to food.

According to the Special Rapporteur on the Right to Food,

"The right to food is the right to have regular, permanent and unobstructed access, either directly or by means of financial purchases, to qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensures a physical and mental, individual and collective, fulfilling and dignified life free from anxiety."

States Parties to the International Covenant on Economic, Social and Cultural Rights have a legally binding obligation to take steps to respect, protect, facilitate and fulfil the right to food. Nevertheless, even after the ratification of this International Covenant on 27 March 2001, China has failed to realise the right to food when it comes to the rights of political prisoners.

Prisoners are routinely starved. The meager quantity and poor quality of prisoners' diets is something that Tibetan interviewees repeatedly complain of. Food is a fundamental human need and should be supplied to all. Further, it should not be something that is distributed on a discriminatory basis, or withdrawn as punishment. Testimonies by ex-political prisoners sometimes reveal that lack of food is used to punish the prisoners, for instance when prisoners are first arrested and interrogated and also when they are placed in solitary confinement.

Rule 20 of the UN's Standard Minimum Rules for the Treatment of Prisoners provides:

Every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.

In stark contrast to the above-stated rule, prisoners' accounts often show us a disturbing picture. Lhakpa Tsering, who was detained in Drapchi Prison for a period of three years, states:

The food is prepared in a very unhygienic way. To avoid washing the huge utensils, the kitchen staffs would leave the utensils out in the sun to dry. Both the kitchen and the cooks were very dirty. In the mornings we were given a handful of tsampa (roasted barley) with salted black tea and salt. The tingmos (steamed bread) that we got would sometimes be two or three days old and the vegetable was more like vegetable broth as there were no trace of vegetables in it."

Women and their wellbeing:

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) instructs State parties "to eliminate discrimination against women in all means of health care and take gender-specific measures in all areas of pre-natal and post-natal care and services".

The BPFA (Beijing Platform for Action) states that women have "the right to employment of the highest attainable standard of physical and mental health". The BPFA also takes into consideration that women, in regards to health care, have the right to privacy, to be educated about HIV/AIDS etc.

The Beijing Conference also states,

"Good health is essential to leading a productive and fulfilling life, and the right of all women to control all aspects of their health, in particular their own fertility, is basic to their empowerment."

BPFA further states:

"The human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence."

However, the issue of the reproductive rights of Tibetan women under Beijing regulations has been a cause of major concern. Although all women in the PRC are subjected to strict birth control measures, the measures forced on the Tibetans are of an extremely biased nature. Forced abortion and sterilisation and other extreme medical interventions have been taking place on an enormous scale under the governance of the PRC—a State that is a signatory to the Convention on the Elimination of All Forms of Discrimination against Women.

Huge fines imposed on families who exceed the official quota for children often bring about late abortions and other serious threats to the health of Tibetan women. Fines for “illegal” births are common as the testimony of a 38-year-old nomad from Drango County, Kanze “TAP”, Sichuan, shows,

No one in our village has four or five children. If anyone has more than three children, a penalty of 1,400 yuan (US \$169) per year is imposed on the family. A fine is imposed on every additional child and this is paid until the child reaches 18. If someone was unable to pay the penalty, then the family planning officials would take away cattle and other possessions from the house.

Another Tibetan, from Trika County, Tsolho “TAP”, Qinghai reported that three women in his area were made to pay a penalty of 2,000 yuan (US \$242) for exceeding the official limit of children a family can have. He recounted,

All three women had to pay the penalty and were taken to hospital for an operation. At the hospital you are not allowed to refuse to undergo the operation.”

In its 1998 report to CEDAW, the PRC makes no specific mention of health care in relation to Tibetan women. However, China does claim that, there has been an increase in the general health services to women and this has resulted in the “general improvement of women and children’s health”. But anecdotal evidence reveals that Tibetan women have not benefited at all from the so-called development claims made by the Chinese government.

Sources indicate that Tibetan woman, especially in rural areas, have literally no access to any basic health care, or even if they do, services are far too expensive for them to use. Lhakpa from Tingri County, Shigatse Prefecture, “TAR” recounted in an interview with TCHRD that there are no medical centres or hospitals in her county. She states, “A medical team comprising of two or three Chinese people visit the county only during the warmest five or six months. During their visit, all women having reached the official child-quota are given injections in their shoulders. This injection makes a woman infertile.” The long-term effects of this injection have not been monitored to date.

In many cases women are deterred from seeking health care services because they feel that they might be victims of forced sterilisation or abortion. Tibetan women endure discriminatory health care practices under China’s birth control policies, despite purported concessions to “minority” groups, by being subjected to sterilisation and abortion procedures against their will.

Abortions and contraception procedures performed on Tibetan women are often dangerous. They take place in makeshift facilities, with no medical follow up or medication. Due to negligence there are many cases of post-operation death. The operation usually involves full sterilisation or the administering of a long-term contraceptive. Forced and coerced sterilisation, contraception and abortion, including advanced-term abortion, take place commonly. These practices because they prevent birth, because they inflict physical and cognitive suffering, and because they sometimes result in deaths constitute acts which lead to serious mental imbalance in women patients.

The health situation for Tibetan women detainees is also of grave concern. In addition to being subjected to torture, women prisoners face degrading treatment in the form of denial of

basic health needs such as the failure to provide sanitary materials for menstrual cycles and facilities for bathing. The condition in prison for Tibetan women falls far short of international standards laid down as norms for human detention. They are subjected to hard labour, forced exercise and other cruel forms of physical and psychological torture.

The case of Ngawang Sangdrol, a 24-year-old nun who was released nine years early from Drapchi Prison on 17 October 2002, reportedly for good behaviour, clearly proves the use of torture and the serious lack of medical care in prisons.

An informant from Tibet revealed that Sangdrol continues to receive medical treatment at her home. Another source, Passang Lhamo, a former Drapchi inmate currently in exile in Dharamsala, added,

“Sangdrol had endured extensive beatings and torture during her imprisonment, especially for her participation in the May 1998 protest. She suffers multiple chronic ailments such as stomach, intestinal and heart diseases”. These are often related to anxiety and stress. It is strongly believed that Sangdrol was almost certainly released more on medical grounds than for the stated reason of “good behaviour”.

Grossly inadequate medical care in detention—as well as the apparent collusion of medical personnel—are major problems to be addressed by professional international ethics organisations. This is especially urgent since the release in 2002 of the report “Dangerous Minds”, on the use of psychiatry by the Chinese State to repress, incarcerate and forcibly medicate political dissidents. Many female political prisoners — most commonly nuns — have died due to lack of medical care after being tortured.

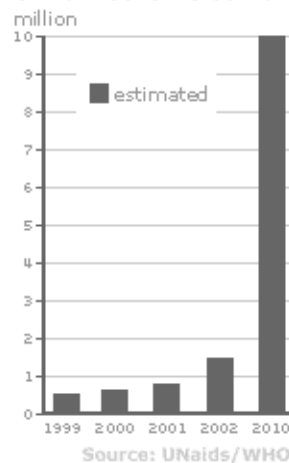
Tibetan women are discriminated against in the field of health care in Tibet on the basis of both their gender and their “minority” status as Tibetans. This not only violates International Human Rights and Humanitarian Laws but also contributes to the lack of power and human dignity experienced by women in Tibet.

HIV/AIDS: The epidemic

HIV/AIDS was first reported in China in 1985 and is today a worldwide epidemic of global concern. While the world is spending heavily on AIDS awareness campaigns, the case does not seem to be so under the Chinese government. Testimonies and research show that there is a serious lack of AIDS/STD-related awareness and education among Tibetans.

Many newly exiled-Tibetans are even oblivious of the very existence of such sexually transmitted diseases and the ones who are aware complain of inadequate medical facilities, indifference and negligence on the part of the health authorities in Tibet in tackling the problem. There are some signs that the central government in Beijing is waking up to the danger, but AIDS education and prevention across this vast country has barely begun. The Chinese government, despite international obligations to work towards the progressive realisation and confrontation of the HIV/AIDS virus, are seriously behind in the field of HIV/AIDS and other related diseases. China is where AIDS is a near-certain catastrophe, where the government doesn't want to talk about it, where physicians fighting the disease are arrested, not assisted.

China Aids 'time bomb'



China is estimating that 850,000 people are infected with HIV virus, a tremendous rise as compared to last year's figure. According to China's official news agency, *Xinhua*, by the end of last year the Ministry of Health had recorded 30,736 people with HIV virus, among whom 1,594 had AIDS and 684 had died of the disease. UN health experts believe China has a much worse problem than the government acknowledges, with as many as 1.5 million HIV cases.

Chinese health officials too have admitted for several years that the official figures are way too low. Their unofficial estimates for the number of HIV carriers in China have risen steadily from 400,000 in 1999 to 500,000 in 2000 to 600,000 in 2001 and now 850,000 in 2002. The United Nations says China could have 10 million HIV/AIDS sufferers by 2010 unless it acts decisively.

With such alarming estimates, HIV poses a threat to Tibetans both inside and outside the "Tibet Autonomous Region". AIDS is already alarmingly common in almost all areas surrounding Tibet, including the Chinese provinces of Sichuan and Yunnan to the east,

Xinjiang to the north, and Nepal to the south. The economy China has imposed on Tibet depends on long-haul trucking, and Chinese policy encourages much commercial traffic with Nepal. These factors, along with the huge military presence on the plateau, make an AIDS outbreak in Tibet a high risk.

Although infection rates in China are still lower than in Africa, health experts say China has all the preconditions for a massive AIDS epidemic: a large mobile population, widespread prostitution and increasing sexual promiscuity among young people. However, on the plateau the biggest risk factor is the huge size of the commercial sex industry in all Tibetan cities, catering primarily to Chinese employed to work in Tibet. Their number has swelled recently with the introduction of innumerable work gangs of semi-literate poor Chinese workers constructing the Gormo-Lhasa Railway.

Prostitution is a growing problem in Tibet as it is elsewhere in the country. Hundreds of brothels operate openly in Lhasa. Yuden, a 20-year-old from Lhasa recounted that prostitution is being widely practiced in the capital. She said,

Most sex workers in Tibet are ethnic Han women—mainly from Sichuan. However, a substantial number of ethnic Tibetans, mainly young girls from rural or nomadic areas, also work as prostitutes. The main reason for the growth in the number of Tibetan prostitutes is the poor financial status of Tibetans in Tibet.

Yunnan and Sichuan register significant levels of confirmed HIV/AIDS cases, Yunnan recording the highest HIV/AIDS rate in China.

The principal risk factors for Tibetans are:

- A tendency to reside in poor rural areas. The economic situation in such areas encourages people to engage in illegal blood sales, and in prostitution, in order to earn extra income
- A high rate of poverty, which has a demoralising effect that can in turn lead to intravenous drug use
- A high risk of HIV-contraction through blood transfusions and other medical procedures if universal precautions are not followed
- A lack of educational HIV/AIDS-prevention programmes.

Denial of Right to Information

Beijing went public with its fight against AIDS in 2001 in the wake of the rampant spread of HIV in rural Henan province, Central China. In November 2001, China's First National AIDS Conference was held in Beijing where experts warned that the number of HIV-positive people could top 10 million by 2010 if their number soars by 30 percent. However a UN report states that Beijing had not done enough to educate the public about AIDS and how it is spread, with many Chinese still believing it can be contracted through mosquito bites or shaking hands. The vast majority of Chinese do not know how AIDS spreads, what causes the disease or how to protect themselves from it. The findings emerged from the first representative survey of AIDS knowledge in China, a country with one-fifth of the world's

population—almost 1.3 billion people—where an estimated 850,000 people already carry HIV, the AIDS virus.

Among other findings:

- Two-thirds of Chinese didn't know condoms can protect against AIDS or that people could be infected through unsafe transfusions
- More than 80 percent didn't know they could avoid AIDS by not sharing hypodermic needles or that an infected mother could transmit the virus to her newborn baby

Such knowledge about AIDS and measure to prevent it are equally limited in the case of the Tibetans in Tibet. Interviews and testimonies from recent arrivals in India reveal the noticeable lack of health education regarding this rampant epidemic in Tibet. One interviewee recounted, "In our village, the AIDS Awareness posters are all written in Chinese." This shows the indifference and discrimination on the part of the Chinese authorities towards Tibetans' health and wellbeing in Tibet.

Racist Exclusion from Health Care

Article 5 (e)(iv) of the International Convention on the Elimination of all Forms of Racial Discrimination guarantees the right of everyone, without distinction as to race, colour, national or ethnic origin, to enjoy:

...The rights to public health, medical care, social security and social services.

The International Covenant on Economic, Social and Cultural Rights (1966) also specifies that steps should be taken by State Parties to create

...Conditions which would assure to all medical services and medical attention in the event of sickness.

Although the PRC Constitution does not itself speak of the right to health, China has continued over the years to place health care at the forefront of its White Paper propaganda, and claimed substantial improvements in the Tibetan sector each year.

Such claims are negated by cases like that of a Tibetan (name withheld) from Tingkye County, Shigatse Prefecture, "TAR" who was a monk at the Tashi Lhunpo Monastery. Upon leaving the monastery he went back to his hometown. He recounted the changes he noticed on his return. He said,

"The County had economically developed but the public facilities like schools and hospitals have deteriorated. In the case of hospitals, earlier there were doctors directed by the government but these days they don't give medicines to people even when they need them. In the hospitals, there are doctors but the medicine supplies are very poor. Sometimes people have to go to long distances to get medicines, which cost them a lot."

Testimonies reveal the serious lack of medical centres or hospitals at village or township level. Recent escapees from Tibet mostly complain that medical institutions are largely confined to county capitals and larger towns, which can be substantial distances for the estimated over 80 percent of Tibetans living in rural areas. A Tibetan from Darlag County, Golog Prefecture, Qinghai, when asked about the hospital in his area recounted,

“We have a small hospital with just one doctor. If you have a headache he gives you medicine; if you have fever he has medicines for it. If you have stomach ache he has the medicine. But if you are seriously ill he doesn’t know the treatment.”

Rinzin Palmo from Nangchen County, Jeykundo “TAP”, Qinghai, reported that her elder sister is a cataract patient. She recounted, “ My sister could not be treated at the township hospital so we had to go to the county hospital. There we were told that the operation would cost thousands of yuan, which we could never afford. My sister is still suffering from cataracts.”

Racial Discrimination is defined 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.

Over the years, international concerns have been expressed at the gross violations of Civil and Political Rights by Chinese authorities in Tibet. Among the most prominent areas is the health sector where large-scale violations of Tibetans’ health rights are still carried on. Many Tibetans interviewed by TCHRD report that in order to be admitted to a hospital ward, or even to be examined by a doctor, it is necessary not only to pay all costs in cash up front, but even prior to this it is necessary to have connections among the Chinese staff in order to even get in through the door. They report the professional staff do not see themselves as providing a service to all who fall ill; rather they have the power to dispense favours to those who merit them, according to their connections.

Two foreign travellers to Tibet, debriefed by TCHRD after their tour through the Amdo, (Ch: Qinghai) region, looked closely at the current situation in the areas they visited. When asked about the health and medical infrastructure in the areas they visited they recounted,

In Darlag County, Golog Prefecture, there were small clinics only around the market area. These clinics were just one-room clinics. The clinics are supposedly the main health care centres that provided both Tibetan and allopathic medicines. There are no clinics at all in the large nomadic area for which the town is the administrative centre. The methods of treatment are still very primitive; for example the IV drip packets were merely suspended by a nail in the wall. Most of the clinics were poorly stocked”. However they added, “ But this could be progress for the Darlag area”.

Two other foreign tourists, Yaki Platt and Sinead Ni Ghairbhit, travelled extensively in Tibet in the months of April-June 2002, mainly through the Kham (Ch: Sichuan) and Amdo (Ch: Qinghai) regions. They stated,

In Lithang County, Kanze TAP, Sichuan Province we met a man who had broken his leg a month before. He had been bedridden since he could not afford the 400-yuan (US \$48) he would have to pay if he wanted to get treated in the hospital there. So health care facilities are not free in Tibet and, like the roads, they have improved only in areas populated by Chinese.”

Systemic Inequalities

China was once famous for its vigour in extending basic health care to all through its “barefoot doctors.” For decades now, though, China at a national level has abdicated almost all responsibility for health. Instead, China makes those least able to pay solely responsible for their own health care costs. The result is not only poor health for the rural masses, but also a concentration of personnel and facilities in cities and urban centres where treatment requires up-front cash payments, and connections. This works well for those with sufficient incomes, such as Chinese immigrants who are on high salaries paid by Beijing, and who are well connected. It is a system that works badly for nomads and farmers who have little cash income and few political connections.

The World Bank’s fieldwork demonstrates in detail China’s failure after 50 years to deliver the basic prerequisites of health care development. The World Bank found:

The provision of health care is extremely decentralized in China. By expenditure shares, the Central Government accounts for only two percent of total budgetary spending on health and sub-national governments the rest.

China National Development and Sub-national Finance, World Bank, 2002

China’s allocation of funds for health care in Tibet constitutes only a fraction of total funds expended. However, the case gets even worse when the funds allocated for Tibet’s health sector is siphoned off into developing infrastructure—most commonly in areas where a significant Chinese population has settled. The story of an impoverished Tibetan village that received a donation from one of China’s wealthy eastern provinces is a case in point. Instead of spending the money on health or education, the entire donation was spent on a monumental archway at the entrance to the village.

The World Bank fieldwork investigation of two counties in Gansu Province, adjacent to Tibet, showed in great detail how unequal China’s health care delivery presently is. According to its May 2002 report, China: National Development and Sub-national Finance, rural people are now without medical insurance schemes and so must pay directly all the costs of the expensive health care system.

“More than 90 percent of the rural populace or 700 million people [in China] are now without any coverage from risk-pooling [medical insurance] schemes. During this period the government’s share of the total health spending has fallen and the personal out-of-

pocket portion has risen rapidly. The Government finances a small proportion of the total health expenditure – very low compared to other countries.”

World Bank Report, 2002

The cost of rural health care has risen twice as fast as income rose in the 1980s and 1990s. This erodes the basic human right of equitable access to health care.

The World Bank's China report also remarks that government subsidies are highly concentrated in urban areas with as little as 82 US cents per person per annum going from the centre to rural township health centres. Sixty percent of total government health expenditure goes to the urban sector with 30 percent of the population, and only 40 percent goes to the rural sector. As a result,

many township health centres are severely run down and poorly equipped, reflecting years of neglect of maintenance, repairs and replacement of equipment. In theory, the local government that owns the health facility should finance these costs. When budgetary appropriations are insufficient even to meet wage costs, health centre managers have to choose between maintenance and repairs and bonus payments to staff. They have mostly chosen to meet the immediate expectations of their [mostly Chinese] employees.

Compared to worldwide statistics in recent years, China's achievements in health indicators are modest. In China, nine percent of the population is malnourished, 17 percent of young children are under height for their age, the maternal mortality rate is 55 per 100,000 live births, girls at birth have 79.4 percent chance of living to 65, and boys a 70.9 percent chance. All these indicators of basic health show even worse picture in the case of Tibet.

China manages to secure a mid-position in the UN Human Development Index, in company with South Africa, Turkey and Sri Lanka, whereas Tibet is close to the bottom, in company with the most unfortunate places ruined by war and disaster. Half of all children in Tibet suffer from stunted growth as a result of malnutrition.

The Chinese authorities claimed that maternal and infant mortality rates on the plateau had dropped to a “historic low” in 2002, and linked this decrease to the “democratic reforms” in Tibet since 1959. Zhang Wengkhag, Minister of Health, stated in May 2002 that maternal death in childbirth has dropped from 715.8 per 10,000 to 324.7 per 10,000 in 2001. The same report stated that infant mortality had dropped from 91.8 per 1,000 to 31.3 per 1,000 in 2001. The reliability of these statistics is not known; Chinese birth and infant mortality calculations are known to be under-reported.

Tibet's environment is a challenge to the human body. Due to the high altitude and excessive exposure to ultra-violet rays, Tibetans have a cataract incidence rate double that of Mainland China. Although a state-sponsored medical programme known as “Sight First China Action” helped nearly 1,280 cataract sufferers in the “Tibet Autonomous Region” regain their eyesight last year, yet most counties and townships in Tibet have no eye hospitals.

This year, the independent medical aid organisation *Médecins Sans Frontières* (MSF or Doctors Without Borders) made the decision to pull out of Tibet after 14 years of working with Tibetans on humanitarian and medical assistance projects. This decision certainly will

have a negative impact on Tibetans who have benefited from their projects. Since 1993 MSF has worked to combat Kashin Beck Disease (KBD) or “Big Bone Disease” in the “Tibet Autonomous Region”, which has one of the highest incidences of this disease in the world. This is an extremely painful and crippling condition, which has been investigated to some extent by Chinese researchers, with no effective treatment yet available.

Overall, health care costs have escalated rapidly across the “Tibet Autonomous Region”. In 1990, an urban household’s per capita living expenditure on medicines and medical services was barely 10 yuan. In 1995 the expenditure spiralled to 109 yuan and subsequently 265 yuan in 2000.

Taking the number of health institutions, beds and health personnels by region, if we compare the statistics for the year 1999 with those of 2000 we see a graph of declining development. Overall the number of “health institutions” fell from a high of 1,324 in 1997 to 1,237 in 2000.

Conclusion

The PRC’s Five-Year-Plans make healthy-sounding predictions and allocations for the country’s medical services, and Beijing’s White Papers list impressive statistics. All these claims and promises are not borne out by independent reports and anecdotal evidence emerging from Tibet.

If there is any goal in achieving improved standards of living, it should be the attainment of good health for all. But, as a minority nationality under occupation in their own country, Tibetans face discriminatory practices—which may or may not be seen in future to constitute genocide—when it comes to the application and distribution of medical services.

According to the UN Convention on the Prevention and Punishment of the Crime of Genocide, any act which is committed “with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group”, constitutes genocide. This includes the imposition of measures intended to prevent births within a group. The outcome of China’s birth control policies, in tandem with Beijing’s ongoing population transfer of Chinese onto the plateau, has already reduced Tibetans to a minority within the traditional territory of pre-1950 Tibet. Whether the “intent” to destroy Tibetans as a group is official State policy is yet to be established. But it is certain that China’s birth control and immigration policies are widely viewed by Tibetans as long-term strategies to limit and reduce the ratio of the Tibetan population.

Additionally, recent arrivals in exile in India unanimously complain of inadequate healthcare services, escalating costs and low quality of treatment, plus the distance in accessing facilities and the racial discrimination faced by Tibetans in urban areas.

Mr. Kofi Annan, UN Secretary-General in his December 2002 message to the Fifth Asian and Pacific Population Conference, highlighted the need for stronger efforts to promote women’s rights, and greater investment in education and health, including reproductive health and family planning. However, China’s allocation of funds for the health care of women and children constitutes only a fraction of total funds expended. A lack of financial resources has led to inadequate long-term inputs, and primarily accounts for the difficulties in providing health care services for women and children and in the protection of the vulnerable.

The ability of individuals to exercise their human rights is directly related to their awareness of the rights to which they are entitled. Thus the importance of health education over adequate nutrition and preventable, communicable diseases is paramount. However, interviews with recent arrivals from Tibet reveal a serious lack of education on HIV/AIDS on the plateau. The level of ignorance is dangerous and sets the scene in Tibet for an HIV/AIDS crisis alongside the epidemic predicted in China.

TCHRD's immediate concern is over the health and wellbeing of prisoners in Tibet's labyrinth of jails and reform-through-labour camps. With torture still endemic for political prisoners, and hospital care arbitrarily denied, China's detention facilities continue to be the major violators of Tibetans' human rights.

Tibetans' Right to Development

During the year 2002, China made major claims of bringing development and modernity to Tibet. All through the year, the highest Beijing authorities and "TAR" officials made several statements like "Tibet has seen eight straight years of double-digit economic growth" and the "inhabitants of Tibet now have a standard of living which exceeds average for the rest of China."

Further, to support this claim the China's media quoted western delegation that visited Tibet during the year. *People's Daily* reported on 31 October 2002 that

Foreigners who have visited China's Tibet cannot but have a fresh understanding of new Tibet, ... a land which has undergone the process from darkness to brightness, from backwardness to progress, from poverty to prosperity, from autocracy to democracy and from closure to openness over the past 50 years since its peaceful liberation in 1951.

"TAR" Governor Legchog went to the extent of saying, "Now is the best time in Tibetan history in terms of stability and economic development". Whether it is the best period for economic development for Tibetans – the custodians of Tibet for millennia – remains to be seen and to be debated in the light of Tibetans' Right to Development guaranteed under international law.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) states that all peoples have the right to pursue their "economic, social and cultural development". According to the United Nations Declaration on the Right to Development (UNDRD), governments must "formulate appropriate national development policies that aim at the constant improvement of the wellbeing of the entire population and of all individuals, on the basis of their **active, free and meaningful participation in development** and in the fair distribution of benefits resulting there from". The UN World Conference on Human Rights in Vienna in 1993, Vienna Declaration of 1993, further recognised and established, "the right to Development, as a universal and inalienable right and an integral part of fundamental human rights".

The People's Republic of China (PRC) stated in its *White Paper on Tibet's March Toward Modernisation* 2001 (hereafter "White Paper on Modernisation"), "social and economic development has improved the [Tibetan] people's material and cultural life remarkably". The White Paper then goes on to list various economic statistics, making it clear that for China,

when it refers to development it means an increase in productivity, economic investment, the gross domestic product (GDP) or average incomes.

However, this definition of development as economic advancement is clearly not the same as the definition conceived by the United Nations. The right to economic, social and cultural development detailed in the United Nations Declaration on the Right to Development (UNDRD) is as follows:

The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.

This right to development has been defined by the UN as “a universal and inalienable right and an integral part of fundamental human rights law”. It views development as a process in which “fulfilment of civil and political rights and the freedom to participate in both the decision-making processes and the enjoyment of the fruits of development in all spheres” is integral. Amartya Sen, the Nobel Prize laureate for Economics, has articulated a framework of development, which is used by the UN Independent Expert on the Right to Development. Sen states in *Development as Freedom*:

In judging economic development it is not adequate to look only at the growth of GNP [gross national product] or some other indicators of over-all economic expansion. We have to look also at the impact of democracy and political freedoms on the lives and capabilities of the citizens.

Tibet, of course, simply has no democracy. As this report shows in many chapters, personal freedoms are routinely trampled on, beginning with the denial of Tibetan people’s right to self-determination. By denying Tibetans this fundamental right, the Chinese government is able to follow a programme of “development” which fails to take into account the wishes of the Tibetans and largely uses Tibet for its own ambitions. Tibetans are excluded from policymaking that affects their lives and their own land.

Information from Tibet in 2002 shows that economic policies are developed and implemented by the Beijing government without consideration or respect for the wellbeing of Tibetans – in other words, in denial of Tibetans’ right to participate in the development of their country.

The Constitution of the People’s Republic of China says:

All nationalities in the People's Republic of China are equal. The State protects the lawful rights and interests of the minority nationalities and upholds and develops the relationship of equality, unity and mutual assistance among all of China's nationalities. Discrimination against and oppression of any nationality are prohibited; any acts that undermine the unity of the nationalities or instigate their secession are prohibited. The State helps the areas inhabited by minority nationalities to speed up their economic and cultural development in accordance with the peculiarities and needs of the different minority nationalities.

This provides a useful insight into the Chinese government’s policy toward Tibetans. It offers its citizens the human right to equality and non-discrimination while in the same breath

warning that minority nationalities that advocate secession (or “splittism”) will be condemned. It also states that the central government will speed up development of minority areas. To this end, the Regional Ethnic Autonomy Law 1984 granted the “TAR” People’s Congress some powers regarding the administration of economic policies. Despite the Constitution and the Regional Ethnic Autonomy Law, the Beijing government has always set economic policy for Tibet.

Over the last 21 years, this has occurred through the “TAR” Work Forums on Tibet. All seven members of the Chinese Communist Party Politburo Standing Committee – China’s top leaders – attend these forae, and the policies arising from them dictate Tibet’s economic, social, cultural and political agenda for the subsequent years. The First and Second Work Forums, held in 1980 and 1984 respectively, granted a measure of flexibility to the “TAR” government for delivery of economic policy. However, the Third “TAR” Work Forum on Tibet in 1994 saw the Beijing government react to freedom demonstrations on the plateau by taking back much control over Tibet’s affairs.

In February 2001 the Beijing government removed this token of respect for Tibet’s “autonomy”. It amended the Regional Ethnic Autonomy Law to ensure that the development of Ethnic Autonomous Regions (such as “TAR”) will be carried out under the unified plans of the central authorities in accordance with market demand. The government justified the amendments as being necessary to accelerate the development of autonomous regions and further integrate such regions into the rest of China.

These amendments are a clear expression of Beijing’s determination that development in Tibet will be based on the needs of the Chinese market rather than local needs and interests. The amendment law, therefore, is in contradiction to the UN Declaration on the Right to Development, as the law undermines Tibetan peoples’ (already limited) ability to contribute to economic decisions.

The definition in the Agenda 21 White Paper published by China in 1994 and, more importantly, China’s earlier commitment at the UN Earth Summit in 1992, unequivocally state that its economic goal is the topmost priority second to none. However, the claim is contradicted in the Shadow Report submitted by the Tibetan Government-in Exile to the last World Conference on Sustainable Development (WSSD) 2002. The report in part says: the World Bank recognises that the “degradation of our homelands is due primarily to persistent policy mistakes over many decades by the Chinese state, and that these mistakes have yet to be rectified or remedied.

Our livelihoods are threatened, our rural poverty worsens, and our biodiversity dwindles. Our waters, rivers, oases, oil, gas, forests, and minerals are being expropriated to serve the nation-building agenda of the Chinese state. Our wildlife has been hunted almost to extinction. Soon, our pandas may live only in Chinese and Western zoos. Our vast grasslands, once second in the world in size, now desiccate, degrade, and blow away in the wind. Our deserts grow at an alarming rate.

A number of observers, including bodies such as Greenpeace, also cite the damage to the environment arising from unregulated development, which cannot be supported by the fragile ecosystem of the Tibetan plateau. These concerns show the impact of Chinese economic policies on a wide range of issues that have come up, for Tibetans and the plateau of Tibet,

covering environment and the basic sustainability of Tibetan subsistence economy in which Tibetans have no say.

To ensure that economic policies are implemented in the manner dictated by Beijing, Tibetans have for some time been sent to different parts of China to learn rural development strategies. In 2002 a Tibetan now living in exile explained that these Tibetans do not receive training which will help their own people. Tibetans interviewed by TCHRD who had been deputed to undergo specialist training in various regions of China underwent political indoctrination rather than focusing on the realities of local situations prevailing in the Tibetan areas where they were to work. These Tibetans did learn about scientific and technical means of raising [industrial] economic productivity but these are based on Chinese policies of development, and are aimed at pushing forward the campaign to popularise “scientific” means of improving economic productivity, replacing the traditional methods of production practised among the farming and nomadic communities of Tibet. These policies are frequently incompatible with either the current economic realities [in Tibet] or the cultural life of the Tibetan people...

The United Nations General Assembly has stated that in order to achieve social development, governments should make “a renewed commitment to effective, transparent and accountable governance and democratic institutions that are responsive to the needs of people and enable them to take an active part in decision-making about priorities, policies and strategies”. Information received from Tibetan refugees in 2002 and before shows that the PRC does not respect this principle. Tibetan cadres appointed by their villages find that their duty is to implement State policies amongst the villagers.

One former Tibetan village cadre, now in exile, said that in theory he was meant to be the “middleman” between the government and the villagers, but it became clear to him that his job was to read out statements of Communist Party cadres to the people while the villagers’ requests for a motorable road, electricity, money for a school and other basic amenities, fell on deaf ears.

Perhaps frustrated with the reluctance of Tibetan cadres to be a propaganda tool for the Beijing government, China announced in 2001 that 70 Chinese cadres were being trained at the University of Tibet in Tibetan language and “nationalities policy”. Upon completion of their course the cadres will be appointed to senior administrative positions in farming and nomadic areas of the “TAR”.

However, the problem of chronic overstaffing and indifference to service also persists in Tibet. The World Bank agrees, finding “chronic overstaffing by cadres not only in government offices in the towns, but also in the main schools and hospitals. Smaller local hospitals, clinics and schools in villages rot and fall into disrepair, lack qualified staff, and survive only by directly charging the poor people who rely on them”. Added to this is the widespread corruption without which nothing is possible. Tibetans face enormous difficulties with government redtape in starting a business, “unless you bribe them sufficiently they are reluctant to issue a permit”.

China has changed much in 50 years, but always it has embraced an ideology of development; of nature subservient to man; of material growth at all costs; and of a “sustainable” development defined as that which will provide the fastest possible growth rate, without regard to longterm consequences. Tibetan concerns are overridden by China, a state

so enormous that it finds little time to consider the needs of its peripheral provinces and counties.

Western Development Program

The year 2002 saw the PRC further promote the Western Development Program, originally launched in June 1999. The PRC describes the programme as a strategy of large-scale development in its western regions through “preferential construction projects of infrastructure facilities, ecological environment and resource development in the western region”. The goal of the programme is said to be improving the economy of the region and therefore the living standards of the people – particularly in rural areas of western China.

It was presented as a response to worsening poverty and regional disparities in western areas. In fact the major infrastructure projects in the Western Development Program are designed to transfer resources (water, gas, electricity) from Tibet to eastern regions of China. The WDP has defined four priority areas for development: the construction of large-scale inter-regional transportation and communications infrastructure; the development of energy and raw material industries; the construction of infrastructure for the transfer of resources from west to east; and construction of soft infrastructure. In reality investments in the vital construction of soft infrastructure such as education, roads, and irrigation has not received much-needed attention.

The Chinese government’s current Tenth Five-Year Plan (2001-2005) for National, Economic and Social Development identifies four major infrastructure projects in China, all of which involve Tibet: the Qinghai-Tibet railway, the west to east gas pipeline, west to east electricity transmission, and water diversion from south to north. This encompasses a massive transfer of resources from the Tibetan plateau to eastern China. Whether China can – and will – adequately compensate Tibet for these resources remains to be seen.

In June 2001, the Communist Party’s Fourth Tibet Work Forum set Beijing’s policy on Tibet for the coming years. The Work Forum emphasised the continued importance of developing Tibet economically. It described the Western Development Program as a “leap-over” model of development for Tibet, whereby the Beijing government will provide special assistance to overcome the region’s “backwardness.” Encouragement of foreign investment, as well as increased subsidies from the Beijing government, are seen as crucial for both the economic and political stability of Tibet.

Several foreign investors, such as Shell, BP, and Exxon-Mobil and development agencies, are supporting such projects without properly acknowledging the uniqueness and biodiversity of the Tibetan economy. In the past the development agencies have overlooked the impact of these projects on Tibetan lives – social and environment – and there are more coming up. In a country where freedom of speech is limited, and opposition to such projects may be interpreted as political dissent, there are fundamental difficulties in conducting a meaningful social and environmental assessment.

In September 2002, the Chinese authorities did not allow JBIC “to release the environment impact assessment” of the Zingpupu Dam Project, another component of China’s Western Development Program. Japan’s Export Credit Agency – JBIC has approved a loan of US\$ 260 million, — half of the project’s costs. The project is one of the series of dams slated for

the Min River in Sichuan Province. It is expected that China will “resettle close to 40, 000 people from counties where 14 percent are Tibetan”

The project, which is officially to provide agricultural irrigation, urban water supply, flood control, and tourism, is however opposed by Tibet Support Groups. They say that the project will resettle thousands of Han Chinese onto Tibetan lands resulting in marginalisation of the Tibetan population and exacerbating their disadvantaged position. Critics, being believe the dam is not only unsustainable, but also politically motivated; its purpose being to sequester waters to serve industrial and resource extraction demands.

The Tibet railway exemplifies the way in which development in Tibet is designed to cater to the interests of China rather than those of the Tibetan people. The cost of the railway has been estimated at 20 billion yuan (US\$2.35 billion). The mayor of Lhasa stated that the railway "is expected to play an important role in enhancing exchanges between ethnic groups, bolstering the exploitation of resources, reinforcing economic development in Western China and consolidating national security".

“The construction of the Qinghai-Tibetan railway ... will accelerate economic development in Qinghai and Tibet, raise the living standards of the people and accelerate the speed of building an overall well-off society,” Sun Yongfu, Vice Minister of Railway said. However, political analysts noted that the railway will allow China to move troops quickly to its western border in the event of hostility from its neighbors, or indeed to disturbances within Tibet; the railway will also allow China to export goods to Central and South Asia.

Other critics have voiced concern that the project will cause extensive damage to the fragile ecosystem of the Tibetan plateau and will encourage a massive influx of Chinese settlers. The cause of the destruction of Tibet’s unique ecosystem is two fold: the first factor is the impact of an influx of Chinese settlers; the second is China’s predatory extraction of Tibet’s natural resources.

Tibetans have long been deeply troubled by Chinese population transfer practices. Now it has been officially acknowledged that China plans to bring in more Chinese settlers to promote economic growth and stability, to the detriment of internal and international challenges. At a special press conference organised for visiting foreign media on 7 August 2002, the vice-president of the Commission for Planning and Development in Tibet said “There are currently 200,000 inhabitants in Lhasa, and half are Tibetans ... Many Chinese have come here to open businesses, invest or find work. In the future, the number of migrants will be determined according to the requirements of economic development”.

The railway may benefit Tibetans. Undoubtedly the better communication links can be instrumental in developing the economic prospective of a remote region, but it will also be the cheapest way to strip the local population of their agricultural products and mineral resources. Tibetan communities nearby the rail tracks have mixed feelings about the railway. Nakchu County has become home to a floating population of 100,000 unregistered migrants, which has now been officially acknowledged. Gompo Tashi, Communist Party Secretary for Nakchu told *Reuters* in August 2002 that “Population growth will take its toll ... the growing population has created a growing demand for food, and we need more horses and cows and other animals. That puts more pressure on the grassland.” Nakchu is a marginal area on the edge of the high alpine desert with limited production capacity.

Tibetans are faced with challenges and obstacles, which threaten their very survival. In major cities like Lhasa the problem is highly apparent at a glance. For instance, in Lhasa, a journalist noted, “There are now tens of thousands of Chinese men doing petty work in Lhasa. For many years, the Chinese in Tibet were only PLA personnel and bureaucrats posted by Beijing, but since a few years the Chinese policy seems to have changed and now there is an organised transfer of population from China to Tibet. This population occupies even the lowest jobs in society, which in practical terms leaves very little scope for the local Tibetan people. If the Chinese are tailors, shoemakers, rickshawallahs, and coolies, what is left for the Tibetans to do except to beg?”

Inequality and Poverty

China’s 2001 White Paper on Modernization in Tibet gives statistics showing an increase in Tibet’s GDP and in the incomes of both urban and rural Tibetans. However such statements fail to differentiate between the incomes of ethnic Tibetans and the incomes of non-Tibetan migrants who have moved into Tibet. In addition, income statistics mean very little when they are taken out of the context of other poverty indicators such as health, education, nutrition, clothing, housing, and quality of life.

The United Nations Development Program (UNDP) has consistently found that the “TAR” and other Tibetan areas are ranked lower than most other areas of China in the Human Development Index, which uses indicators such as education, income, and health. The same agency also reported that “Tibet is the poorest and least developed region of China with a human development index of only 0.39 placing it within the bottom 12 of a list of the world’s 49 officially recognised least developed countries, between Rwanda and Maldives”

The findings of UNDP and testimonies of recent arrivals received by TCHRD contradict the Chinese claims of benevolent development and investment in Tibet. In this regard, the Chinese economist, Hu Angang, says,

“If we examine Tibet since Peaceful Liberation to the present day, it can be seen that the traditional route of modernisation and development using the model of exploitation of natural resources as a guide for industrialisation has been taken, and that investment in industry has all along been biased in favour of intensive-styled natural resources industries.”

The current economic strategies for the region are fundamentally flawed in that they do not acknowledge the basic underlying causes and conditions for poverty in the region.

In its pursuit of large-scale development, China has disregarded the funding of essential services necessary for Tibetans to partake in the crucial part of economy such as access to secondary and post-secondary education and related employment opportunities. In spite of reforms in the rest of China, any form of grassroots development programmes is yet to be initiated. Giving priority to low-cost, low-tech, infrastructure and services such as small-scale hydropower, portable solar power for nomadic families, or wind power could go a long way to improving the lives of the rural poor. Such grassroots development projects are not to be found in Chinese blueprints for Tibet. This reveals that the authorities are neglecting to enhance the lives of the rural poor. Therefore Beijing’s development policy can be directly recognised as supporting the inequality and poverty of Tibet.

Tibet expert, Gabriel Lafitte, stresses that the extensive model of development in Tibet is not conducive to the local environment of Tibet; the economic policy should be rather an intensive one that caters to the needs to the existing subsistence economy, which is not only sustainable but also eco-friendly to the fragile economy of Tibet. Leading Chinese economists such as Hu Angang and Geng Xiangling have argued that China should build [Tibet's] subsistence economies. Similarly, a representative of the Asian Development Bank in China also advised the Chinese government that living conditions will not improve by increased expenditure on infrastructure programmes alone, but only if more money is spent on education and health. But so far the State has not heeded this expert advice.

Most Tibetans live in rural areas while Chinese immigrants and government personnel reside in or around urban centres. “Two main cities of Tibet look and feel more and more Chinese. About 30 percent of Lhasa is ethnic Chinese, even excluding the heavy military presence. In Shigatse, Tibet's second city, the ethnic Chinese population is at or above 50 percent, according to unofficial calculations of permanent and migrant workers. The government ignores these numbers choosing to emphasize that claim that 95 percent of whole province is Tibetan.” In “TAR” the rural population is almost entirely Tibetan. The same is the case for other Tibetan areas. Therefore, statistics for “TAR” correlates strongly with the actual ethnic divide, and shows the actual development status of Tibetans.

Table 1. Income and Consumption, rural and urban, “Tibet Autonomous Region”

| | 1990 yuan per capita | 2000 yuan per capita |
|-------------------|----------------------|----------------------|
| Rural Income | 582 | 1547 |
| Urban Income | 2,120 | 11,772 |
| | | |
| Rural Consumption | 485 | 1,477 |
| Urban Consumption | 1,340 | 5,554 |

On the World Bank's old standard of US\$1 per person per day as the poverty line, only those earning above 3,000 yuan a year are not poor. So it is clear from the above table that even while relying on Chinese statistics, “TAR” rural per capita annual income was only 1,547 yuan in 2000, just half of the World Bank's standard. This shows that almost all rural Tibetans in “TAR” remain very poor.

The State Statistical Bureau now annually interviews a large sample of rural and urban households in “TAR”, and finding out what they actually consume is a much more accurate indicator of living standards than the previous crude method of calculating GDP (Gross Domestic Product) per person by taking the total wealth and dividing it by the official total population.

However, reality is that the statistics on which the Chinese government relies in proving Tibet's economic development may be unreliable, according to the testimony of a former township party secretary. This refugee, who recently fled into exile, said his responsibility was to make fake reports on the development of the people, places and animals. When we write the reports and submit them to the higher levels they also exaggerate more in the reports and then submit them to their superiors.

The growth of the “TAR” economy has been almost exclusively concentrated in the urban industrial and service sectors. China does not invest in poverty alleviation programmes that are specifically targeted at human services specifically to villages known to be poor. Government spending and investment reinforces this bias within the economy. There is virtually no rural industry in the whole of the “TAR”. Tibet’s rural economy is extremely dependent on a few staples such as barley, rapeseed, wheat and wool. With Tibetans engaged principally in farming and animal husbandry (primary sector activities), the economy has stagnated. Therefore the Tibetan households find themselves vulnerable to the economic shocks that have arisen from changing government policies such as price liberalisation, decreased subsidisation and particularly vulnerable to falling prices resulting from China’s World Trade Organisation (WTO) accession.

Lack of off-farm income opportunities in the rural areas has limited the capacity of rural Tibetan households to respond to current challenges such as degrading land, decreasing per capita land holdings and falling commodity prices. Excessive taxation and general government indifference for the welfare of rural Tibetans, even at the times of natural calamity like drought and flood, are life’s reality. The government not only ignores the repeated pleas made by its own rural officials, but also regards the very act of submitting petitions as illegal. Gyara Village is a case in point. Since 1999 the village was facing severe consecutive drought affecting about 2797 *mu* (one *mu* is equal to 67 squares metres) of land. Not only did the government ignore their plight, but also the already-water-starved village is further overburdened with crippling taxation. The government imposed a huge per household tax of 1, 408 yuan. Strangely, the biggest single item listed is the water tax. This is substantiated from the testimonies and documents brought into exile in July 2002 by Sonam Dhondup, a foreman from Gyara Village, Kawasumdo County (Ch: Tongde *Xian*), Tsolo Prefecture (Ch: *Hainan* “TAP”), Qinghai.

Sonam Dhondup told TCHRD, “The Chinese government is not meant for the welfare of Tibetan farmers. There is no improvement of livelihood for Tibetan farmers, actually the Chinese government is responsible for the worsening condition of Tibetan farmers ... even at the time of natural calamities, and the government does not exempt farmers from tax.

“Gyara Village was facing severe consecutive drought since 1999 affecting about 2797 *mu* (one *mu* is equal to 67 squares metres) of land. Gyarak leaders’ and inhabitants’ collective effort of repeated petitions to the higher authorities at township, county and prefecture level were met with conscious disregard from the authorities. As of December 2002, the authorities ignored constant plea for help and also refused to visit the drought-affected area. Worse still, the authorities imposed a 30-yuan tax on one *mu* of land. Unable to bear such economic strain, 20 families from Balong Shang had to leave their ancestral land for other better opportunities, and more are being forced to leave. The Chinese government has done nothing to solve this emergency for Tibetan farmers. No efforts have been made to irrigate the rain-thirsty fields. No matter how much the local Tibetan farmers face problems there is nowhere to seek assistance and make complaints. Despite repeated appeals for assistance nothing has resulted. This is a stark reality for us ... ”

The following is a translation of one of petitions from Gyara submitted in Chinese:

An explanatory Appeal

To,

Tongde County Government,

We, the people of Gyarak Village, Balong Township, would like to bring to your kind notice our uncircumstantial predicament concerning our farming and nomadic condition. Gyarak Village is an undeveloped itinerant land due to its peripheral location in the outskirts of Balong Township. The village consists of two rukhag (units), 126 households; population of 1,230; 320 draft animals; and 2,797 mu (one mu is equal to 67 square metres) of area for cultivation.

In the year 2000 alone, Gyarak Village incurred an expense of 177,388.18 yuan on taxes and duties. This includes major expenditure on: animal tax, 2,4670 yuan; agriculture tax, 9,600 yuan; and water, electricity, and other miscellaneous taxes (which includes 14 variety of taxes such as seed, fertiliser, labour, cultivation, harvest, administrative, power, etc.) charges, amounting to 127,997.18 yuan (paid to Balong Water & Electricity Department).

Besides, Gyarak Village is required to make major expenses on the cultivation of its 2,797 mu of land. The cost for cultivation is calculated as 312.36 yuan per mu. Each year, grain production is 500 gyama per mu. The market price for one gyama of grain is only 0.5 yuan, which when calculated per mu is 250 yuan. In other words, the income from cultivating one mu of land is a meagre 250 yuan. With the income of 250 yuan the farmers are incurring an expense of 312.36 yuan, resulting in an obvious loss of 62.36 yuan. Due to this, the farmers are forced to compensate the loss with their income from animal products and other miscellaneous sources.

The question of compensation for the total 2,797 mu of cultivated land, therefore, has become a big challenge before the inhabitants of Gyarak Village. Moreover, if the wages of free labour by farmers are included, then the total cost for each mu would be whopping 364.14 yuan, leading to a huge loss of 114.14 yuan per mu. Should not the government find out ways to possibly compensate this loss?

If all this were not enough, this year, due to drought, Gyarak farmers could harvest only around 200 gyama of grain yield, which is less than half of the usual pattern. As a result of which, 50 % of the households are forced to depend on their stored grain for survival, 30% are just able to fill their stomachs, and few are trying to get government food aid.

The situation in 2001 became worse still as water supply could resume only in the fourth month of the Chinese calendar (June 2001). With the water supply, the farmers immediately began ploughing the fields. Hardly had the cultivation finished when severe drought hit the village touching 37 degrees Celsius.

Despite our repeated plea to the concerned Agriculture Department and Water Management Office, for immediate consideration of our critical plight, the authorities turned a blind eye to our request. Instead, the authorities choose to blame the infrequent power supply for their inability to supply water. We are left with no crops to harvest. As a result we are reeling under severe economic hardships.

Now, who would take the responsibility for this huge economic loss resulting from thoughtless actions? We, the people of Gyarak, paid our water and electricity bills by taking loans. However, in order to repay the loans many of us had to sell our domestic animals. Because of this, 17 households are deprived of their basic livelihood, thereby forcing them to seek menial jobs elsewhere. More than a hundred are forced to part with their ancestral land to seek employment outside Gyarak. In addition to the problems suffered by the villagers in terms of basic livelihood, they are also burdened by various taxes. Both the factors acted as catalysts in leading to this exodus.

Under these circumstances, we the leaders of Gyarak Village, have approached Balong Township

Water Department to appeal for help but to no avail. What could be the reason for this response? This year, to give water and electricity bills for 2000 and 2001, we were compelled to take loans amounting to 19, 6000 yuan. Had there been a good harvest, we would be in a position to partly repay the loan amount. However, when there is no crop to harvest, repaying our loans was impossible? This is an unprecedented scale of serious problems faced by inhabitants of Gyarak. We believe that our pathetic condition is not the result of natural calamities, but rather the result of negligent delivery of duties by authorities of Township like the Water Department. Who should be held responsible for this? Who would compensate for our losses?

The above-mentioned facts clearly outline our real condition. Despite repeated appeals for assistance, the authorities have so far made no attempts to inspect our conditions even. At a time when President Jiang Zemin's three doctrines of representation and his 1 July speech are being implemented, which is said to bring prosperity and richness for rural farmers along with the Western Development Programme, we the Gyarak people are being flung into a condition of extreme poverty and unending difficulties. We hope that the County Government will conduct a meaningful investigation with the responsible departments and support the truth and justice. We earnestly hope and appeal for justice from the Tongde County Government.

Sincerely

All the inhabitants of Gyarak Village

2001, August, 4

Sealed and signed

(Gyarak Village People's Management Committee, Gyarak, Balong Township, Tongde County)

Conclusion

China talks of encouraging Tibetan participation, devolving policy-making power, and the importance of real autonomy, yet in practice Tibetans are totally exploited. China also talks of encouraging market economy in Tibet, yet in practice it runs on the old socialist command economy – where the State directs, controls, and allocates with no role for Tibetans to play.

Under the much-vaunted Western Development Program, China transports Tibet's coal, oil, natural gas and mineral resources to its industries in the eastern coastal region, while the Tibetans have no say on the matter, receives no royalties, and gain no benefits all of which clearly violates Tibetans' Right to Development. Extensive development projects only increase the dependency of the region on both Central funding and skilled labour from mainland China, alarmingly encouraging a perennial flow of non-Tibetan migration into Tibet.

Despite the seemingly high GDP figures, that feature so prominently in Chinese claims, the result is that rural Tibetans "remain bereft of development, deprived of even the most basic modern services." Inequality and poverty are further entrenched by the total absence of grassroots development programs — either currently or in future planning.

Tibetans – the custodians of Tibet for millennia - are being pushed towards a crisis point where even their basic subsistence is threatened and the region's fragile ecology is being torn apart.

Respect for Civil Liberties

Introduction

The year 2002 was marked by key changes in the political leadership of the Chinese government. Beijing hosted the 16th Communist Party Congress (CPC) was held in November this year amidst global speculation over the transfer of power. The magnitude of international media attention concentrated on China was a clear indication of PRC's growing significance in world politics. Hu Jintao's takeover as Party General-Secretary raised serious concerns for Tibetans. China's new leader is known as the hardliner responsible for the 1989 imposition of Martial Law in Tibet and other hardline reforms, which reportedly went beyond his brief. Hu's tenure in Tibet from December 1988 to 1990 marked the beginning of the end of what had been a relatively liberal decade in the region.

Beijing's effort during 2002 to improve its international profile and forestall critics from marring its image was marked by the release of prominent Tibetan political prisoners, allowing two foreign media groups to visit Tibet, and hosting two envoys from the India-based Tibetan Government-in-exile.

Critics have, however, labelled the release of prisoners of conscience as "hostage diplomacy". The release of political prisoners, and the overall decrease in the number in detention, of prisoners in prison cannot be attributed to any official compliance with human rights standards. The Tibetan plateau continues to encompass a vast Chinese network of jails and forced labour camps where other prisoners of conscience remain incarcerated for long periods. The released prisoners in 2002 did not legally deserve incarceration and torture in the first place.

Additionally, Beijing's reception of exile government's two special envoys has to be taken with a grain of salt: shortly after the September visit. Legchog, "Tibet Autonomous Region (TAR)" governor, said he met with then Tibetan delegation as a special courtesy, but denied knowing they were envoys of the Dalai Lama.

Just a few months after the visit, China warned countries such as Japan and Mongolia against issuing visa and hosting the Dalai Lama. Scheduled visits by the Buddhist leader were subsequently cancelled. This does not appear to be an indication of extending genuine friendship. The ongoing drive to defame and discredit the Dalai Lama has not softened, despite indications of a possible dialogue between the Chinese and exile Tibetan governments in 2002. In October 2002, Tu Deng (sinicisation of Thupten), Tibetan head of the “TAR” religious affairs committee that enforces government policy, described the Dalai Lama as a “Splittist and an enemy of China whose picture is therefore banned in public places. He has now sunk in the mud too deep to renounce all he has done in the past.”

In another October 2002 media report Lu Bo, warden of Lhasa’s Drapchi Prison, claimed that the downward trend in the number of political prisoners is because society is stable and the economy is developing. We might reasonably ask if it is stable because Tibetans have been denied their fundamental freedom? Certainly, the current decrease in political detainees is because many Tibetans who were serving long-term sentences imposed in the late 1980’s have recently been released following the completion of their prison terms. Beijing’s new strategy of tightening its grip on Tibet is relying upon economic inducements, a population transfer policy and political re-education campaign coupled with stepped-up control by the military and police. Many former prison inmates deduce that when the entire society is surveilled under prison-like methods the need for formal incarceration disappears. It is like having invisible chains,” they say. The Chinese State has now extended its surveillance strategy into the homes and private lives of Tibetans.

The Chinese government’s zealous fight against what it now terms “terrorism” following September 11 2001 has been further enshrined in law. The amended Chinese Criminal Code adopted in December 2001 imposes severe punishments on those who “organise or lead a terrorist organisation”. Sentences have been increased from three years to 10 years’ imprisonment, and between ten years and life (article 120 of the Criminal Law). The term “terrorist organisation” is not defined, thereby allowing a broad and ambiguous range of legal interpretation including the criminalisation of non-violent political protests.

In November 2002, president Jiang Zemin declared that the ruling Communist Party wants to “fight terrorism in all its forms” and urged international cooperation in the effort. *China News Weekly* quoted Wang Xinjian, a professor of public order at the China People’s Public Security University, as saying terrorist attacks by Uighur and Tibetan “separatists” poses a

serious challenge to security and law and order in border regions. In March the Ministry of Public Security reportedly set up an anti-terrorism bureau, led by He Ting, formerly deputy chief of criminal investigation. On 2 December 2002, a People's Court in Chengdu sentenced two Tibetans to summary execution for allegedly exploding a bomb on 3 April 2002 in the city's main square. Their trial was held in camera: the accused were not defended.

It was a diplomatic coup for the Chinese government when member countries failed to sponsor a resolution to condemn China's human rights record at the 58th United Nations Commission on Human Rights in Geneva in 2002. The UN also succumbed to China's pressure by denying accreditation to the UN World Summit on Sustainable Development (WSSD) to Tibetan NGOs - in particular the Tibetan Centre for Human Rights and Democracy, which had been given accreditation to the UN World Conference Against Racism (WCAR) only the previous year.

Chinese diplomats to the UN CHR blatantly negated the universality and indivisibility of human rights, persistently reiterated by UN delegates after the Vienna Declaration in 1993, in speeches this year. According to Vice Foreign Minister, Wang Guangya, "Owing to their different history, culture, social system and the stage of economic development, it is only natural for countries to adopt different ways, approaches and processes in realizing human rights". Mr. Shen Yongxiang, Alternate Representative of the Chinese Delegation, claimed that "implementation of the international human rights instruments mainly relies on national legislative, judicial, and administrative measures and its people's own efforts. Making decisions for others can only be counterproductive. No attempt should be made to promote one category at the expense of the other." China claims a right to a special form of relativism. In effect this is a claim for exemption from the very concept of universality of human rights.

This relativism was raised by US Assistant Secretary of State for Democracy and Human Rights, Lorne Craner, during a five-day visit to Beijing when she said, "China acknowledges gaps in respect for human rights. Chinese officials have acknowledged that their country's respect for human rights does not conform and falls short with international standards."

There are currently 204 known Tibetan political prisoners incarcerated in various Chinese-administered prisons in Tibet. Almost all of them have been imprisoned for exercising their

fundamental rights to freedom of expression, belief, movement, assembly etc. TCHRD believes that there are many more Tibetans unaccounted for, but remaining in various detention centres and prisons in Tibet.

The following chapter is not a total overview of the current violation of Civil and Political Rights of the Tibetan people. Rather it is a compiled study of refugee testimonies recorded in 2002, which give clear indications of violations of some of the fundamental civil and political rights. Very often cases contain multiple violations of human rights. In such instances, case studies that fall well within the section in question have been used. Cross-references of case studies are given where they fall in other chapters. Some of the pertinent violations of rights covered in this chapter are Freedom of Expression, Movement, and Freedom from Arbitrary Arrest and Detention, Right to Fair Trial, Freedom from Torture.

Right to Freedom of Expression

Simultaneous with China's increasingly prominent international profile, there was heightened repression of fundamental freedoms in Tibet by the arrest of dissidents prior to the 2002 media tour, sentencing of two Tibetans to summary execution, the strict controlling of Internet content and intensification of the refurbished Strike Hard Campaign.

In his report to the UN on the promotion and protection of the right to freedom of opinion and expression, Mr. Abid Hussain, Special Rapporteur on Freedom of Expression and Opinion expressed regrets that no reply has been received so far to his request, sent in 1999, to visit China.

Article 19 of the International Covenant of Civil and Political Rights (ICCPR) clearly stipulates

Everyone shall have the right to hold opinions without interference

Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

China signed the ICCPR in 2000 but has not ratified the Covenant to date. During a statement to the 58th UN Commission on Human Rights in 2002, China reiterated the right to free expression being safeguarded and clearly stipulated in the Constitution of the People's

Republic of China. However, China's representative stressed that limitations to the full enjoyments of these rights are protected by article; 19, 20, 21, 22 and others in the ICCPR where a question of national security arises. However, Article 19 of the International Covenant on Civil and Political Rights provides a qualification directly in relation to the right to freedom of expression:

“The exercise of the rights ... carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (order public), or of public health or morals.”

International legal opinion makes it clear that these qualifications on the exercise of rights can only be invoked in extraordinary circumstances, only where absolutely necessary, and as the Universal Declaration of Human Rights (UDHR) says only where such restrictions are in the interests of a democratic society.

Article 29 of the UDHR contains the following qualification:

“In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.”

The skewed interpretation of international law to suit national needs resonated in China's response to cases submitted by the Working Group on Arbitrary Detention in 2002. China stated that while it “guarantees all civic freedoms in accordance with the law” all such guarantees are subject to the “legitimate rights and interests of the State”. According to China, “any State would punish” people who damage state security and unity. In all cases of arrest in Tibet, detainees were imprisoned solely for peaceful expression of their rights regarding freedom of religion, association or opinion.

TCHRD considers this interpretation by the Chinese government of international law regarding rights and responsibilities as simply dissimulation. Democratic states do not imprison their citizens for life or longterm merely because they are members of a political

organization, practice their religion peacefully, or express dissent towards government policies.

It appears that China is attempting to inject qualifications into the exercise of rights contained in various international legal instruments. However, once again they are misinterpreting and blindly disregarding international law.

The 2002 US State Department report on human rights slammed China for its failure to improve its human rights record. “Citizens who sought to express openly dissenting political and religious views (in China) continued to live in an environment filled with repression”. The report also decried abuses such as “extra judicial killings, torture and mistreatment of prisoners, forced confessions, arbitrary arrest and detention, lengthy incommunicado detention, and denial of due process.”

In 2002, TCHRD documented information of 40 new arrests of Tibetans across the plateau. Each was detained for merely exercising their fundamental right to freedom of expression. In the summer of 2000, **Nyima Dakpa**, a monk from Tawu Monastery in Karze “Tibetan Autonomous Prefecture” (TAP), Sichuan, pasted pro-independence posters on the doors of a Chinese office, bank and the Memorial Garden in Tawu County. The posters carried slogans such as “Free Tibet”, “Tibetans in Tibet have no freedom”, and “Tibet is not a part of China”. Nyima had earlier stayed in India for three years. In May 2000 he was arrested on a tip-off by a paid Tibetan informer.

Nyima suffered severe beatings in a detention centre in Tawu County to extract confession about his alleged crimes. On 5 October 2000, at a closed court trial, he was sentenced to 10 years’ imprisonment in Tawu Prison on charges of “propaganda and incitement against the masses”. His family and friends were denied visitation rights for two months after the sentencing.

Dawa Tsering was arrested and sentenced in 1996 but TCHRD received information about him only in 2002. Dawa from Khag Township, Markham County, Sichuan, had been sentenced to 15 years in Drapchi Prison for peaceful expression of his political beliefs.

In 1990 Dawa and other compatriots in Lhasa started to give political education to Tibetans. He talked to people about the former freedom of Tibet and its history. At night he pasted freedom posters on the walls of Chinese offices and along Lhasa's sacred circumambulation route, the Lingkhör. After two years he returned to his hometown in eastern Tibet after a tip off that the PSB planned to arrest him on suspicion of involvement in political activities.

But even in his hometown, Dawa talked to young people about the former freedom of Tibet and related messages of the Dalai Lama. Chinese intelligence officers watched his activities and interrogated his family and other citizens to build a case against him. Dawa once again went to Lhasa and continued his political activism until 1996 when he was arrested with a friend. They were severely beaten and tortured during interrogations. Dawa's 15-year sentence will keep him in Drapchi Prison until 2011.

In February 2002, a Tibetan policeman named **Tsangpa** shouted "Free Tibet" slogans while inebriated in a bar with several other Tibetans. Chinese police from Dzokhang County, Shigatse, "TAR", detained him for five months after which he was expelled from the police force.

Dorjee (30), a farmer from Gormo Municipality in Amdo Ngapa, Sichuan shouted "Free Tibet" during a patriotic reeducation campaign imposed upon the area's lay community in October 1999. He was subsequently taken to the local PSB detention centre. There,

"I was beaten so severely. I vomited blood and became so sick; I could not eat or move. Other inmates called the police and reported the seriousness of my condition. A doctor who checked me reported that I needed immediate medical attention. After a month and a half hospitalization, the doctor still recommended complete bed rest."

Dorjee was spared a prison sentence but he has to regularly report to the local police station.

In December 2002, a monk reached Dharamsala, India having fled Tibet to evade possible arrest. Tashi Delek (24), from Karze Prefecture, Sichuan Province, screened video tapes of the Dalai Lama during a county festival in May 2002. In June he was summoned to the county police station where following a brief interrogation session and confiscation of his *shan fein zhang* (citizenship card), he was released. Tashi immediately left his monastery and fled into exile.

Right to Information

The Right to seek, receive and impart information and ideas through media regardless of frontiers is clearly enshrined in article 19 of the UDHR and 19 of ICCPR

The importance of respect for freedom of expression and right to information relates directly to broadcasting; Radio is the primary source of information and news in Tibet and plays a pivotal role in disseminating information - particularly in remote rural areas. It is thus of the greatest importance that this medium is able to operate independently and in the best interests of the public. The key to serving the public interest is by ensuring the availability of the widest possible range of information and ideas through broadcasting. All sectors of society should have undisturbed access to the airwaves. It should serve the public, not the government or the party in power.

On 11 January 2001, President Jiang Zemin spelt out the PRC's stance when he said, the "information media are the loudspeakers of the Party and the people" and they have a duty to "educate and propagate the spirit of the Central Party's Committee".

In February 2002, Jiang further stressed that increasing broadcasting coverage in northwest China, the "Tibet Autonomous Region" and Xinjiang Uighur Region in particular, would help promote economic development and maintain social stability in the regions. This policy statement came at a time when reports of jamming of radio stations were increasing.

Radio Jamming:

In 2002, the battle of the airwaves between the Chinese government and international broadcasting in Mandarin, Tibetan or Uighur, was heightened and went hi-tech. Despite sustained jamming, programmes in Tibetan over Voice of America, Radio Free Asia and Voice of Tibet are tuned into by a substantial section of the Tibetan population. These programmes have been targeted by the authorities in order to make them inaudible.

According to information received from Tibet in early August 2002, local and regional governments are imposing restrictions on the use of Internet and adopting various methods to jam Tibetan language foreign radiobroadcasts. This new crackdown has created an atmosphere of fear and intimidation among Tibetans wishing to listen to overseas radio

broadcasts. Reports indicate that the authorities have installing hi-tech equipment to cause aural disturbance and jam airwaves.

“Beijing is working hard to prevent news we report from getting through...”said Joan Mower, communications coordinator for the Broadcasting Board of Governors, the US agency that oversees Voice of America and Radio Free Asia. Speaking before the Congressional Executive Commission on China on 9 December 2002, Mower reported that the Chinese government not only jams VOA And RFA broadcasts but also blocks access to their websites.

Evidence of jamming is outlined in a testimony received by TCHRD from a Tibetan from Ngaba “Tibetan Autonomous Prefecture”, Sichuan.

“In Ngaba, equipment was installed under the pretext of replacing an old duplicate mobile service. Since the installation, the radio broadcasts have been blurred and barely audible. It is the new gadget installed that has directly affected the quality of the broadcast which now sounds distant and jammed with a lot of blaring loud cacophony.”

Overseas broadcasts are still a “breath of fresh air” for Tibetans. While tuning in to radios transmitting “political information” or information that could harm "social stability” is forbidden, and listeners are conscious of the risks they are taking, they choose to listen secretly.

Politicising use of Internet:

The revolution of Internet as a key instrument both in terms of receiving information and for the right to disseminate information and ideas has been sky rocketing in the last couple of years in China. However, the efficacy of Internet as a potential means of political expression in Tibet encounters several impediments. The Internet is still largely unavailable to Tibetans inside Tibet. Internet usage is largely narrowed to the educated urban people. Additionally, the high probability of limited English language proficiency in Tibet act as a deterrent – most sites containing “subversive” information are in English.

In a Harvard Law School report on Internet Filtering in China, the findings conducted from may to November 2002, concluded that the Chinese government maintains an active interest

in preventing users from viewing certain web content; both sexually and non-sexually explicit. Thousands of sites were found to be blocked and inaccessible in China.

Besides blocking, the authorities have learned to jam e-mail they deem subversive. Electronic mail, news reports and postings from the Voice of America and popular chat rooms, which serve as forums for lively discussion on current issues are monitored and filtered out. The words Tibet, Taiwan, Xinjiang trigger automatic filtering. More than 60 per cent of Google's top 100 "Tibet" sites were blocked.

Specific reports on Internet filtering in Tibet have not yet been compiled but travellers to Tibet have reported that sites deemed subversive by Beijing are inaccessible in Tibet. With the draconian restrictions placed on Chinese accessing "dissident" sites - and reports of Chinese being arrested for Internet crimes - one can extrapolate the political sensitivity in Tibet. Moreover, Internet access in Tibet does not appear to be as widespread as in China, so surveillance is an easier task for the Chinese authorities.

The UN Special Rapporteur on Freedom of Expression and Opinion expressed concern at continuing reports of excessive Internet content regulation and of on-line surveillance. He warned that excessively stringent regulation on these grounds betrays a paternalistic attitude and frustrates the Internet's potential to ensure respect in practice for the right to freedom of expression.

Arbitrary Arrest and detention

Article 9 (1) of the ICCPR clearly stipulates:

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 United Nations Working Group on Arbitrary Detention (WGAD) regards deprivation of liberty as arbitrary in the following cases:

"When it manifestly cannot be justified on any legal basis (such as continued detention after the sentence has been served or despite an applicable amnesty act) (category I);

When the deprivation of liberty is the result of a judgement or sentence for the exercise of the rights and freedoms proclaimed in the articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and also, in respect of States parties, in articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights (category II);

When the complete or partial non-observance of the relevant international standards set forth in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned relating to the right to a fair trial is of such gravity as to confer on the deprivation of liberty, of whatever kind, an arbitrary character. (Category III)”

A large number of detentions in Tibet occur in relation to the exercise of rights to freedom of expression and opinion and other rights linked intrinsically to freedom of thought, conscience and religion. The Working Group on Arbitrary Detention in their report to the UN reminded States that detentions based on these factors shall “constitute the classic and most frequent cases of detention which the Working Group considers arbitrary in conformity with category II of its methods of work”.

In a country where human rights are respected, far from being prohibited, dissent is encouraged, publicized and considered healthy. China’s repression of dissent under the guise of being “necessary” to protect public order and security makes a mockery of the UDHR, ICCPR and other human rights legal conventions.

TCHRD received confirmation on the long term sentencing of **Bhangri Tsamdrul Rinpoche**. This has been one of the most obscure cases in recent years. Tsamdrul Rinpoche had been linked to Tashi Tsering — who died due to police brutality for a flag-raising incident — was allegedly charged with “espionage” and “endangering state security”.

Security forces routinely resort to arbitrary arrest, imprisonment, and torture in response to non-violent protest - including displaying the Tibetan flag or other innocent symbols of cultural identity - holding peaceful demonstrations, possessing photographs of the Dalai Lama and putting up and distributing political leaflets. Detentions of Tibetans for several months as a means of intimidation were also common. In all these cases of arbitrary arrests, fair trial was almost non-existent and detainees were subject to torture and punishment.

Beijing spokespeople repeatedly claim that no one is sentenced in Tibet for possessing photographs or tapes (audio/video) of the Dalai Lama. This official denial is because no law of the People’s Republic of China has an article imposing a prison sentence on anyone found

in possession of pictures of the Dalai Lama. However, the Chinese government is currently paranoid about social stability being shaken under the influence of the Dalai Lama. Many articles in the Chinese Criminal Law and other legal documents clearly stipulate that those who disrupt social stability and endanger state security are subject to punishment of imprisonment.

Many Tibetans have faced detention and fines for possessing photographs of tapes of the Dalai Lama. Six monks from Phukhong Monastery in Sershul County, “TAR” was detained for several months and was only released upon payment of fines up to 4,000 yuan.

In July/August 2001, Sang Ga, (26) from Hortsang Sangchu County, Gannan “TAP”, Gansu, was sentenced to four years’ imprisonment after being found in possession of photos of the Dalai Lama. He was detained in Ngaba Public Security Bureau (PSB) Detention Centre where he was interrogated and tortured. After 15 days’ detention, Ngaba PSB Detention Centre could not decide his case as they had still been unable to elicit a confession and so they consigned the case to the neighbouring Barkham County PSB Detention Centre. Officers from Barkham arrived to extend the interrogation for another week. Sang Ga is currently imprisoned in Barkham County Prison.

On 18 October 2002, five Tibetans were arrested for organizing a long life prayer ceremony for the Dalai Lama in Karze “TAP”, Sichuan. The five Tibetans, Jampa Sangpo (37), Namgyal (35), Kayo Dogha (55), Tsering Dorjee (49) and Jampal (40) were not allowed visitors and their family members were not given any reasons for their detention.

It is not only such explicit “crimes” as possessing photos of the Dalai Lama or holding long life prayers for him which can lead Tibetans in prison. Any drawing closely resembling the forbidden Tibetan national flag could bring about detention. Businessman **Nyima Tsering** (32) from Shigatse was sentenced to three years for being discovered with *thangkas* (religious scrolls) with such drawings.

“In the first week of August 2001, during one of the infamous random visits, policemen came and confiscated 20 pairs of carpets (approx. cost 4,000 per pair) and 12 thangkas. These inspections are actually meant as surveillance of any unregistered guests. The thangkas were of Chenrezig (God of Compassion, the deity believed to be the Dalai Lama) cost approximately 20,000 yuan each. The next day

all the confiscated thangkas were burnt right in front of my eyes. I was also fined 6000 yuan although I told them that I did not have the money to pay that sort of fine. When I claimed my innocence they said that I had done the paintings on purpose. They said, "when you draw or stitch snow lions and snow mountains then it is a political offence".

Right to fair trial

China's Constitution states that courts shall, in accordance with the law, independently exercise judicial power. In practice, the judiciary is subject to policy guidance from both the government and the Communist Party. At the local and central level, the government and particularly the CCP frequently interfere in the findings and proceedings of the judicial system and dictate court decisions. In Tibet a majority of judges are Tibetans, but most of them have little or no background or legal training. Trials are closed and invariably defendants are not allowed independent lawyers. Chinese Criminal Law grants defendants a right to appeal within 10 days of sentence - but a successful appeal is rare.

The most internationally high-profile case for the year 2002 was the sentencing of two Tibetans, Trulku Tenzin Delek (a.k.a: Angag Tashi) and Lobsang Dhondup to summary executions. According to sources within Tibet corroborated by *Sichuan People's Daily* (3 December 2002), Lobsang Dhondup was given an immediate death penalty with life-long deprivation of political rights and Trulku Tenzin Delek was sentenced to death with a suspension of two years in carrying out the sentence.

On 2 December 2002, a hearing was held at Karze Intermediate People's Court in Karze "TAP", Sichuan. The two accused were charged with alleged involvement in a bomb blast incident on 3 April in the city's main square (Tianfu) in Chengdu. Other charges levelled against them are, "illegal possession of arms" and "engaging in splittist activities".

It was also reported that Trulku accused the court of false allegations and unfair trial proceedings and shouted, "Long Live His Holiness the Dalai Lama." Security personnel immediately entered the courtroom and gagged Trulku with a strip of cloth. He was then reportedly dragged to an inner room within the court.

The unprecedented death sentences for Tibetan political prisoners became global headline news. In December the case was referred to the Sichuan Higher people's Court and according to Wang Lixiong, two prominent Chinese lawyers, Zhang Sizhi and Li Huigeng, were prepared to defend Rinpoche at the request of Tsering Lolo, brother of Trulku Tenzin Delek Rinpoche. However, Wang Jinghong, Judge of Sichuan Provincial Court, informed them on 29 December 2002 that their services were unnecessary. Instead, two local lawyers from Karze Prefecture were to represent Trulku.

On 27 December Li had telephoned Judge Wang about their intention to defend Tenzin Delek and discussed arrangements for a translator for Rinpoche. Judge Wang suggested that they find a local translator, as Tibetans from Beijing or Chengdu may not understand the local dialect. At that time Judge Wang made no mention about the local lawyers allegedly hired by Trulku.

Wang Lixiong believes that the abrupt development may be the result of pressure on Judge Wang from Sichuan Provincial authorities to stop the two high-profile Beijing lawyers from acting on behalf of Rinpoche. Wang's report summarises that only lawyers outside of Sichuan could render a fair defense, as they would be beyond the control of provincial authorities. Also, the two local lawyers would be unlikely to have the capability and courage to mount a vigorous defense since they reside within Karze Prefecture and are dependent on prefecture authorities. Wang therefore suspects that Trulku's re-trial upon appeal will not be fair.

According to reports, officials visited Tsering Lolo's residence in Lithang County on 27 December 2002 and threatened him for attempting to hire lawyers from Beijing.

Trulku has in the meantime initiated an indefinite hunger strike on 6 January 2003 in protest of his treatment in detention and for denying him a fair trial. Sources indicated that his appeal was scheduled on January 10 2003 but to date there is no information of a trial being held. He is being detained in Dartsedo (Ch: Kanding) in Kanze Autonomous Prefecture in present-day Sichuan Province.

Sources indicated that the hunger strike began after two officials from the Central Government visited Tenzin Delek on 6 January 2003. He is reported to have told the two officials that he did not wish to respond to their queries, as they were not interested in finding out the truth.

The provision in the Chinese Constitution guaranteeing “freedom of belief” is automatically negated by the requirement of the Chinese Communist Party that members take an oath of commitment to atheism. The extent and limit of what freedom constitutes is most ambiguous.

In recent years, the focus of religious repression, which is today a central issue for the Communist Party, appears to have shifted eastwards from the “TAR” towards China itself. Karze TAP in Sichuan Province has become a hotbed of political resistance and retaliatory crackdowns. The area is reportedly known for its relentless public support for the Dalai Lama, which has resulted in troop reinforcements being stationed in Karze. It is widely apparent that religious leaders in this region inspire respect, loyalty and exert social influence and have therefore recently become prime target for official oppression.

This recent focus perceiving religious leaders as a direct threat to Beijing has resulted in a series of arrests of eastern Tibet’s most revered lamas including Geshe Sonam Phuntsok, Khenpo Jigme Phuntsok and Trulku Tenzin Delek.

Khenpo Jigme Phuntsok was released from house arrest in Chengdu in August and returned to Serthar Buddhist Institute although there are recent reports that his health has again deteriorated. Geshe Sonam Phuntsok is now serving a five- year sentence in Karze Detention Centre. In all three cases, the accused religious teachers have visited India in past years and had private audiences with the Dalai Lama. Repression and political repercussions also extended to disciples, attendants or people even remotely linked to these teachers.

Pema Phuntsok, the head of Mong Sa Village in Karze County, Sichuan, was sentenced in November 1999 to two-and-a-half years in Menyang Prison. 39-year-old Pema had organised many religious activities and on several events invited Geshe Sonam Phuntsok to grace the occasion and lead the prayer services. His release is long overdue but TCHRD has received no confirmation of his release to date.

Dhondup (25) a monk, fled to India to avoid interrogation and harassment. “I was held under suspicion because I was related to Gyalwa Karmapa’s personal attendant, Drunag.” He was reportedly interrogated, beaten and threatened in order to extract information on the escape.

Following the dramatic escape to India of Karmapa in December 1999, his main seat Tsurphu Monastery came under severe scrutiny. The Chinese authorities have imposed serious restrictions on Tsurphu and arrested Yongzin Nyima, tutor of Karmapa, and monks Thupten and Namla within a period of six months in 2002

According to TCHRD’s informant, monk Thupten was arrested in January 2002 while trying to flee Tibet. Namla was detained in March 2002 in eastern Tibet; and Tutor Nyima in June 2002 in Kongpo. No clear reports have yet emerged over their places of detention and state of health.

Meanwhile, from his exile in India, the Karmapa has expressed serious concern for the wellbeing of the three monks. In a press statement in August 2002 he appealed for the three monks' immediate release and urged the Chinese authorities not to torture them in prison.

Freedom from torture

According to article 7 of the ICCPR, no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In Tibet, torture is endemic. Every year TCHRD receives reports from former political prisoners of torture and deaths of prisoners either in custody or following their release.

Propaganda Vs. Reality

According to information received in March 2002, Chinese government authorities attempted to make a documentary in Lhasa’s notorious Drapchi Prison in order to project well-fed and well-treated prisoners in a well-maintained prison. However, several political inmates refused to cooperate on the day of filming. There were reports that some prisoners of conscience were beaten while others were taken to the solitary confinement cell as punishment for their refusal to be filmed.

Beijing hosted two groups of foreign correspondents in Tibet within a two-month period of 2002 in addition to various visits by overseas delegations. This is in keeping with the PRC's image-building efforts to appear open, hospitable and accessible to the world. TCHRD has misgivings about such visits, as they are largely whistle stop guided tours and Tibetans pay a high price for such visits. In order to raise international awareness of Chinese colonial oppression, Tibetans will often time their demonstrations during or prior to the visits of any foreign delegations.

A week before a group of foreign correspondents arrived in Tibet in August 2002, five Drepung Monastery monks were detained for listening to cassettes of pro-independence songs and two more for trying to hoist a Tibetan flag. Individuals who go into Tibet independently as tourists have been able to gain more access to valid information. Their experiences appear to be inconsistent with Beijing propaganda.

Former political prisoners, many of whom have fled into exile in India following their release, tell a totally different tale than those who are quoted by State-Sponsored media inside Tibet. Lack of independent access to prisoners inside Tibet makes it difficult to assess the severity of prison conditions, however; former political prisoners now in exile have been the main source of information for monitors.

Takna Jigme Sangpo, a 73-year-old prominent political prisoner who served most of his 40-year prison term, was released on medical grounds in mid-2002 by the Chinese government. Following his release he stated, "Most importantly as I begin to enjoy a life of freedom and happiness, I am concerned at the fate of my former fellow prisoners who continue to suffer and languish in dark prisons.

During the year 2002, despite stepped up restrictions at the border and the brutal treatment inflicted on Tibetan refugees by the Nepali authorities, there were 1,378 refugees who fled between 2 January 2002-10 January 2003. Out of which six were former political prisoners. Their detailed accounts of prison conditions are chilling and outright contradictions of claims by Tibet's prison authorities.

A case in point is former political prisoner Dhak Lobsang who reached India in December 2002. Originally from Lithang Monastery in Karze Prefecture, Sichuan, he spent five years in Lhasa's Drapchi Prison and survived intensive sessions of torture. Detained on 19 August 1993 for political activities, Lobsang was arrested at gunpoint while PSB officers ransacked his house.

"After nearly half a kilometre's walk at gunpoint, a PSB jeep picked us up and took us to Lithang PSB Detention Centre, located only a kilometre away from Lithang Monastery. Upon reaching the PSB station they put me in a dark room, which I later learnt, was an interrogation room. Within a few minutes about seven PSB officers interrogated me. Initially, one officer asked me if I knew the reason why I was there at the police station. I replied I didn't know. They warned me not to be smart and said I clearly knew the reason. They ordered me to tell the truth so that they could reduce my punishment. I didn't say anything.

"After warning me for the third time, I was told that there were two paths ahead of me - one white, one black - and it was entirely up to me to choose. The officers told, 'It is in your hands'. When I refused to say anything, the officers said 'You are lying'. I was beaten and kicked. I was hit with a stick, cattle-prod and other torture equipment. No part of my body was left without being hit or kicked.

"As a result of kicks and blows I lost my two front teeth. I thought I would die. After nearly an hour of beating I fell unconscious. When I regained consciousness I realised that they had poured cold water on me to wake me up and the beating resumed. I lost consciousness several times and each time the officers splashed me with cold water to wake me up. I was in no position to talk, stand or move. I could hardly open my eyes.

"Around 5 a.m two officers held me by my arms and dragged me to a room where Passang, Head of Lithang County, and Chakdrup, Head of Lithang PSB, were waiting for me. The moment I was placed in the room, Chakdrup slapped me hard on my cheek and said, 'This guy is the troublemaker'. Then Passang told me 'Not to invite death for myself' and said I still had the opportunity to choose the white path i.e. confession. When I did not respond the officers flung me into the custody room. After two days, they took me to the torture room and started interrogation

accompanied by beatings. They frequently asked questions like 'Who are your other friends?' 'What links do you have with those outside Tibet?' and, 'Who told you to write the slogans?' They interrogated me more than 13 times within a period of three months.

"I was detained for three whole months at Lithang PSB Detention Centre. My handcuffs were unlocked for only five minutes when I had to change my clothes.

"I was kept along with more than 11 people inside a small room. The place was so congested that there was hardly any place to move. Each of us had less than one-foot breadth of space to sleep. We could only sleep on our sides. There were two open buckets meant as toilets in that room. The foul smell of the toilets along with the congestion was unbearable and suffocating. The food provided was not fit to eat. It was so bad and meagre that many of my fellow prisoners fell sick. Only pigs would be given such food."

Another former political prisoner, Soepa (ordained name Loden Thupten), a 30-year-old monk from Mancho Village, Chamdo Prefecture, "TAR" also provides torture testimony contrary to Chinese claims. Soepa spent five years in Drapchi Prison for his political activism in 1996.

"I suffered different forms of torture and maltreatment at the hands of the PSB officers. To extract information, I was shocked with an electric baton. They poured alcohol on my head and prodded me with the electric baton. The hurt was all the more severe. They put a yoke on my neck and my hands were held up straight in the air behind the yoke. At the same time, I was made to kneel on two sharp-edged stones with a stick across the back of my knees. When I moved a bit unable to bear this cruel position, they stepped on the stick. The pain was excruciating. Wangdu, a Tibetan official, was the main person responsible for the torture. That way, I was tortured and interrogated at the PSB office for an entire day. In the evening I was taken to Chamdo Detention Centre.

"At Chamdo Detention Centre I was interrogated once every two to three days. Each time I was interrogated, I was beaten and pushed against the wall. My head was banged and I was kicked in the chest.

“I was released from prison on 1 May 2001 upon completion of my full prison term. I was ordered not to stay in Lhasa for more than 20 days. Therefore, I left for my native place and lived there for about nine months. I left Lhasa on 30 September 2002 and arrived at the Tibetan Reception Centre (TRC) in Kathmandu on 10 October 2002.”

Death in Custody due to torture

This year TCHRD monitored deaths of two former political prisoners. One was **Lobsang Dhargyal**.

Lobsang died on 19 November 2002 in a “reform-through-labour” camp in Siling Township, Golog Prefecture, Qinghai. He was serving 16 years’ imprisonment for alleged charges of “espionage” and “splittist activities”. The camp where he was incarcerated is a manufacturing unit for a Hydro-Electricity Power Plant.

Lobsang had earlier served two and half years’ imprisonment of a previous three-year prison term. At that time he was released on medical grounds. Reports at that time indicated that he was handcuffed and manacled throughout his entire detention period. He lost both his front teeth as a result of the excessive beatings he endured while in detention. Following his release, in 1997, he was again involved in political activities and also visited India to escort his *rinpoche* to a monastery in South India. In May 2001, while returning to Tibet to visit his ailing mother, Lobsang was arrested in Shigatse.

Right to Freedom of Movement

Article 13 of the UDHR states:

Everyone has the right to freedom of movement and residence within the borders of each state

Everyone has the right to leave any country, including his own, and to return to his country.

The number of Tibetans fleeing as refugees to India increases substantially during the winter months, in particular November, December and January when the mountain passes are too cold for Chinese security personnel. Approximately 2,000-3,000 Tibetans flee every year, including children.

The “TAR” regional government issues a variety of documents; *Hu zhao*, *Shan fein zhang* and *Tong xin zhang*. *Hu zhao* is a PRC passport issued by the Lhasa PSB Passport Office. Obtaining this is difficult and a lengthy process largely involving leverage with officials and forms of bribery.

Tong xin zhang is a document that enables travellers to enter restricted border areas. The paper is issued by regional governmental offices and must cite the purpose of travel. This travel document is provided only after *Shan fein zhang*, the citizenship card, is produced.

In the process of acquiring any of these papers by legal or illicit means, greasing the palms of the authorities or using official leverage is essential. Tibetans who are poor and have no official connections must make the perilous journey across the mountains.

Restrictions on internal freedom of movement appear to increase during politically sensitive periods or while foreign dignitaries visit Tibet. However, according to sources, such restrictions do not apply to migrants from China. According to Amnesty International, “The new Strike Hard began in April 2001 with renewed intensity and its scope was expanded by regional and provincial authorities to cover various issues. In Tibet it also targets those who “guide people illegally across borders.”

On 11 March 2001, 17 Tibetans were arrested allegedly for illegally guiding escapees across the Tibet-Nepal border. According to a TCHRD informant who is a guide himself,

“Some of them were not even guides. I was arrested in Shigatse by border security personnel. At that time I was taking five people. I was questioned for three days and I was also beaten. Although I did not face detention, as far as I can remember at least six of them faced varying detentions with terms ranging from four months to five years.”

There have been numerous cases of refugees being abandoned by their guides when arrests by border authorities appeared imminent. It is during these times that refugees are most exposed to various dangers including death, robberies, arrests and even sexual harassment.

Tibetan refugees fleeing into exile run multiple risks during their journeys. In addition to the risks of being apprehended by Chinese border police, the refugees now have reason to fear

arrests at the Nepali border. Recently the Chinese authorities have stepped up security at the border and imposed restrictions on guides who illicitly assist Tibetan refugees.

Arbitrary maltreatment and imprisonment by Chinese border Police

There have been numerous cases of arrests and detention on the Tibetan side of the border. Many of the stories go unaccounted for. Detention for a few months during which Tibetans are subject to interrogation and ill treatment is commonplace.

Tashi, 30, was born in Rishoekha Village, Kanlho "TAP", Gansu. In three different attempts to flee Tibet he was caught and with each detention, he was robbed of his belongings and the money that he had arranged for each escape.

Tashi recounts,

“In total, I was robbed of 50,000 yuan. The first thing that the Chinese police do is search your body and luggage for any cash or other valuables. They know that escapees come with money and the first one to lay hands on the cash can claim it as his. Only on my fourth attempt, I managed to reach India.”

Lobsang Sherab (22) was apprehended the first time he attempted to flee Tibet.

“In May 2001, I tried to escape Tibet with a group of five including a route guide. Before we managed to cross the border patrolling Chinese policemen arrested us. It was around midnight. After tying our shoelaces together, the police kicked us around. They hit shoes on our head and said it was symbolic of HH the Dalai Lama giving us blessings. Our religious sentiments were deeply hurt by their callous behaviour.”

Lobsang was detained for four months in Nyari Detention Centre. His third attempt, in September 2002, was successful and he reached India in November.

Arrests of Tibetans at the border are commonplace. Such arrests also include many Tibetans returning to Tibet following periods spent in India for education, pilgrimage or visiting relatives. An official Chinese report claimed that 2,500 Tibetans have been caught in Tibet in

eight months trying to cross the border either into or out of Tibet. While some are released after a few months of detention, there are others who are sentenced to long prison terms. Very often the personal background of behaviour of the detainee becomes crucial. A Tibetan who has a political record, has been apprehended with political literature, has a record of visiting India once or more or responds to interrogation in a negative manner will receive severer forms.

In 2001, a junior head leader at Drapchi called Kalsang was arrested at the Bhutan border while trying to escape Tibet. He was deported by the Bhutanese border officials and was later sentenced to a life term. The informant believes that because of his post as an officer, his sentence would have come from the “TAR” and not from Lhoka County – the region of his arrest - as is the usual practice.

In May 2001 four exile returnees were detained and subsequently sentenced to six years’ imprisonment. The four detainees were Mathok Damchoe (27), Sonam Gyatso (34), Kunchok Dhargay (32) and Phuntsok (26). They were all monks from Rabgya Monastery, which is located in Machen County, Golog “TAP”, Qinghai Province. The monks were targeted simply because they had visited India on pilgrimage or for study. It appears that the act of visiting India was sufficient for the four to be charged with “splittist” activities.

In the pilgrimage season of May/June 2002, restrictions were imposed on government officials travelling on pilgrimage to Tibet’s holiest mountain, Mount Kailash. This restriction encompasses human rights violations on three fronts; freedom of movement, belief and expression. General restrictions on visiting Mount Kailash have been imposed in past years; there were times when permits were required and other times when the region around Mt Kailash was closed to both foreigners and Tibetan pilgrims without any official explanation. However, this recent imposition of restrictions comes during a year in the Tibetan almanac, which has special significance for circumambulating sacred sites.

Conclusion

China continues to consolidate its iron grip over Tibet. Political reeducation is continuing throughout the plateau’s religious institutions and infiltrating every strata of Tibetan lay

society. Yet, Beijing's strategies to prevent international criticism affecting the State's booming trade and economy appear to be effective.

However, despite the official policies to mute Tibetans, the thousands of refugees who continue to escape Tibet annually are vocal witnesses to the repression inside Tibet - repression in the form of a heavy military presence, secret agents, informants, Public Security Bureau and campaigns engineered in Beijing to alter Tibetan hearts and minds.

Right to Religious Belief and Practice

Introduction

Religious freedom was severely curtailed throughout 2002 with Beijing continuing its long-term campaign to transform Tibet into an atheist region. Tibetans continued to face Chinese governmental restrictions; controls and repressive measures over their right to religious practice while their spiritual leaders and teachers were persecuted and detained.

One noticeable pattern this year was the systematic attacks launched against any expressed or implied allegiance to the exiled Dalai Lama, labelled a “splittist” by China, and revered by Tibetans as the quintessence of Buddhism. China’s indoctrinating “work teams” and their ruling body, the “Democratic Management Committees” (DMC), are a standard presence in most monasteries and nunneries across Tibet.

Sacred gatherings, like the Great Prayer Festival (Tib: Monlam Chenmo) and birthday celebrations for the Dalai Lama continue to be banned at the Jokhang Temple in Lhasa, Tibet’s capital. The transmission of Buddhist teachings to younger generations is severely hindered and the possibility of producing qualified scholars is limited under Beijing’s restrictive religious policies.

Almost 90 percent of current Tibetan political prisoners are monks and nuns. The clergy continue to be at the forefront of political activism in Tibet. The whereabouts and wellbeing of Gedhun Choekyi Nyima, the XI Panchen Lama recognised by the Dalai Lama, and Chadrel Rinpoche, head of the Panchen Lama Search Committee, continue to be unknown.

The unshakeable religious belief of most Tibetans is considered by Beijing to be a major impediment in the all-out attempt to sinicise and “modernise” Tibet and the populace. China interprets the practice of Buddhism as a manifestation of deep-seated nationalist sentiments. Tibetans’ irrevocable faith in the Dalai Lama, Tibet’s spiritual and political leader, is seen in Beijing as fuelling a rival centre of power and therefore a direct threat to their occupation of the plateau.

Believing that religion is the organising principle of Tibetan society — and therefore a vehicle of Tibetan nationalism — Beijing has systematically attempted to substitute Tibetan Buddhism with a state-controlled surrogate version of religious practice referred to in Chinese propaganda as “normal”, i.e. patriotic, religious practice. Official statements corroborate the ingrained suspicion that Buddhism threatens China’s national stability.

In Tibet, Beijing is faced with a population so overwhelmingly attached to a non-communist ideology, and the monasteries and nunneries are the focus of this central contradiction to Chinese rule. A misconstrued hope that China places on the perceived potential of economic prosperity supplanting religious belief is a continued cause for conflict between the two systems. The People’s Republic of China appears confident that the nation’s religious faith and fervour will die once stronger economic and social progress is achieved.

The political strategy of the Chinese authorities in Tibet continues its attempts to eliminate the religious faith of Tibetans. This strategy has been without success for more than five decades.

Another approach implemented is to transform Tibet into an atheist region where the “communal spiritual civilisation” will be propagated to the Tibetan people. Ma Chongying, Deputy Director of the Minority and Religious Affairs Bureau in Tibet, was quoted as saying, “If you are not patriotic, there is no such thing as being a living Buddha. This is an unchangeable principle.”

Freedom of religion is sometimes referred to as the “heart of human rights”. Articles 1, 2, and 18 of the Universal Declaration of Human Rights (UDHR), Art. 18 of the International Covenant on Civil and Political Rights (ICCPR), and the Declaration on the Elimination of all Forms of Intolerance and Discrimination Based on Religion or Belief guarantee the right to religious freedom, the freedom of choice of one’s religion and the right to exercise one’s religion freely and publicly.

In its provision of freedom of religious rights as basic rights of its citizens, Article 36 of the Constitution of the People’s Republic of China requires religious activities to fall well within the State’s definition of “normal”. In 1994, the State Council approved the “Regulations on the Management of Religious Activities of Foreigners within Territories of the PRC” and “Rules on the Management of Places of Worship”.

A Xinhua article of 9 June 2002 claimed that there are over 13,000 Buddhist monasteries and temples in China with some 120,000 “lamas” and nuns, and over 1,700 “living Buddhas” and more than 3,000 monasteries and temples in Tibet. The statistics have remained static for some years and contradict the actual ground realities in Tibet.

In its third Annual Report of May 2002, the US Commission on International Religious Freedom expressed concern over continued violations of religious freedom of the Tibetan people by the Chinese authorities. China countered the findings by accusing the US report of containing groundless criticism of its policy on religion and gross interference in China’s internal affairs.

In a move to deflect such criticism of its religious policies, Beijing has now extended an invitation without conditions to the UN Special Rapporteur on the Freedom of Religion or Belief. This was revealed by Mr. Lorne Craner, US Assistant Secretary of State for Democracy and Human Rights, following his December 2002 visit to China. In 1994, Mr. Abdelfattah Amor, the Special Rapporteur, became the first UN Human Rights expert ever to enter Tibet.

Institutionalisation of Religious Control

Beijing launched its “Patriotic Education” Campaign in Tibet in 1996 with the stated objective to “educate” Tibetan monks and nuns in Chinese communist ideology and China’s version of Tibetan history. Written denunciation of the Dalai Lama, renunciation of Gedhun Choekyi Nyima, the candidate chosen by the Dalai Lama as the XI Panchen Lama, and accepting that Tibet an inalienable part of China, are the key concerns of the campaign.

Policy was clarified when the 2001 Fourth Work Forum on Tibet stated that “the work of patriotic education and public education in the legal system and restoration of normal order in monasteries and temples carried out in the region has shaken the social foundation of the Dalai separatist activities, and foiled the Dalai clique’s plot of taking advantage of the opportunity of

the reincarnation of Panchen (Ch: Bainqen) to wreck and confuse religion, thus satisfactorily fulfilling the grand event of the reincarnation of Panchen.”

Religious control in Tibet has become more centralised and institutionalised with the installation of “Democratic Management Committees” (DMC) at religious institutions, temples and other spiritual sites. The initial role and stated responsibility of the Communist Party’s “work teams” was to certify “politically correct” religious practitioners to stay and study, and to “educate” or expel “nonconformists”.

Other common forms of repression exercised on monasteries and nunneries through “work team” units and DMCs are expulsion of practitioners for refusing to renounce Tibetan independence and the Dalai Lama, secular control of monasteries, official limits on the number of monks and nuns allowed in the monasteries and nunneries, an 18-year age limit on admission of novices, and the detention and torture of Buddhists.

A paradigmatic shift has now taken place in religious control within Tibet. “Work team” indoctrination visits have begun to lessen while DMCs are gaining absolute authority over the administration and overall management of religious institutions. The DMCs, permanently installed within monasteries, extend the reach of the State.

In China, the State decides what is and what is not religion. Given its acknowledged political implications, religious policy is formulated at the highest level, the Standing Committee of the Politburo, and is administered and implemented by the United Work Front Department (UFWF), a party structure, and the Religious Affairs Bureau (RAB), a government organ. Both bureaucracies, those of the UFWF and the RAB, have branches extending into local communities now including the DMC.

It was traditional in Tibet that anyone could seek admission to a monastery or nunnery without any pre-knowledge of Buddhism. A well-disciplined person, who abstained from committing demerit and showed a strong interest and enthusiasm to learn Buddhism and adhere to its vows, was eligible for admission. Those enrolled at a very young age had ample time to learn and practise Buddhism. This tradition is now reversed with the 18-year age limit set on novice monks and nuns by Beijing’s regulations.

Mr. Abdelfattah Amor, the UN Special Rapporteur on Religion, was told that members of Chinese minorities were exempted from the 18-year age limit. In his report, Mr. Amor called on China to introduce legislation guaranteeing the right of religious belief to minors.

At an education conference three years ago, a leading Communist Party cadre, Tenzin (Ch: Dan Zeng) stated, “The centre (in Beijing) demands that we should maintain stability in Tibet and weaken the influence of religion. Through the ‘Patriotic Education’ Campaign the monks have learned what is not allowed and what is illegal. Monks teaching children are not allowed. Monks demonstrating with pro-independence slogans is illegal. A person is responsible for his own law breaking. Our responsibility is to look after the great majority of [law-abiding] lamas.” While claiming the “Patriotic Education” Campaign to be a success, Dan Zeng conceded that it is difficult to “change people’s mind in a short space of time”.

A practitioner requires long hours of study to listen, memorise texts, contemplate and meditate on the fundamental aspects of Buddhism and assimilate its profound philosophy into daily life. A Gömpa (lit. seclusion), loosely translated as a monastery, is a place of study and practice for monks and nuns and is customarily located at a distance of one *rGyangs grags* (approx. two miles) from towns or villages. This, in turn, necessitates a practitioner to achieve and subsequently maintain detachment both physically and mentally from the worldly life.

In the past, a day in a monk's life involved morning congregation for chanting prayers and meditation, rigorous study under the tutelage of religious teachers followed by intensive debating sessions in the evening. Today, Chinese "work team" units and DMCs installed on the premises, infringe upon and curtail the basic right of Tibetan monks and nuns to pursue their traditional avenues of learning. Long periods are spent in sessions of communist indoctrination.

The DMCs promote spying, mistrust and poison the once wholesome atmosphere of monasteries and nunneries. Where once trust and tolerance ruled, the monks and nuns are now breathing the air of suspicion and scrutiny. They suffer anxiety over whether their religious pursuits are in conformity with the regulations laid down by the DMC or over when they might be hauled up for interrogation. This situation makes it impossible for today's monks and nuns to engage in serious study of Buddhist philosophy to which they are committed for life.

Evidence of the "Patriotic Education" Campaign being ongoing is borne out by a case study in Jadar Monastery in Amdo, north-eastern Tibet in present-day Qinghai Province. A TCHRD source on condition of anonymity reports, "Since 1998, Jadar Monastery in Tsekhog County in present day Qinghai Province, has had a Democratic Management Committee of five elected monks. The members of the DMC, headed by a chairman and a vice-chairman, are elected for a period of five years. The main responsibilities of the DMC are to check the admission process and to eliminate 'splittist' activities within the monastery. If any political incidents were to happen, the DMC members would suffer serious consequences." Documents with 15 chapters were distributed to all the monks calling for the inculcation of patriotism towards one's nation and denunciation of the Dalai Lama. Monks were forced to spend many hours daily studying these materials, disturbing their focus on religious studies and practice.

According to a monk from Yoetri Monastery in Markham County in south-eastern Tibet, "Members of a 'work team' first came to my monastery in 1997 and stayed for three months and 20 days. Lately, they have been visiting the monastery three times a month and have been staying there for upto a week during each visit. I aspire to be a good dharma practitioner, but under China's control it is quite impossible to fulfill my aspirations. Our religious studies and peace of mind are negatively affected by the constant intervention of a Chinese 'work team'. So, I decided to escape from Tibet."

In addition to subjecting them to regular political education sessions — in itself a major intrusion into their religious study — monks and nuns are constantly appraised for their loyalty. Any dissenting clergy are targeted for repression, and most commonly end up in Chinese prisons facing different forms of prison maltreatment and torture. The years in prison deprive them of their opportunity to learn and practise religion. After release from prison, monks and nuns are socially ostracised and not permitted to rejoin monasteries. Their vocations are therefore terminated.

Owing to the success of Beijing's strategy to purge the monastic community of "splittist" influences and activities, some monasteries and nunneries are today deserted. Others are curtailed by limitations on their monastic strength and restrictions on residence and the curriculum.

Restrictions imposed on monastic strength are apparent from an account of an ex-abbot of Shugseb Nunnery in Chushul County in "TAR". He testified to TCHRD, "According to Chinese officials, there were 208 nuns in Shugseb Nunnery while in reality there were 270. Of the 208 nuns, 130 were permanent nuns while approximately 65 attended the nunnery on a temporary basis. There were 20-30 unregistered nuns, some of whom have been expelled from other nunneries. These nuns would disappear during the 'work team' visits, who normally visit the nunnery one or two times every three to four months. During important official events, a 'work team' would be ensconced at the nunnery for the whole duration".

The anti - Dalai Lama campaign

There have been shifts in written policy on the practise of religion since the Cultural Revolution era (1966-1976). Newer emphasis and momentum has been directed to campaigns against the Dalai Lama who is, by and large, symbolic of the soul of Tibetan Buddhism. Anti-Dalai Lama campaigns have their roots in the late 1950s to early 1960s, and current restrictions are a revival of that same policy to discredit the personality and undermine the authority of the Dalai Lama, in particular within the Tibetan community.

Many Tibetans currently face stringent punishments of incarceration, torture or even death sentences for overt or even suspected affiliation to the "Dalai clique" (a reference to the Tibetan Government-in-Exile), for possession of pictures, cassettes and videotapes of the Dalai Lama, and offering prayers during the Dalai Lama's birthday on 6 July.

During China's 2002 Fourth Work Forum meeting on Tibet held in Beijing, the anti-Dalai Lama approach adopted by China is intensified. The "Dalai clique" is accused of instigating instability in the region. Therefore, China has conducted "region-wide exposure and criticisms of the Dalai Lama's crimes, captured and confiscated the Dalai cliques' reactionary propaganda materials".

Thupten (Ch: Tu Deng), the Tibetan Party Cadre and head of the Religious Affairs Committee in the "TAR", told the meeting that many Tibetans' belief in the Dalai Lama is "well known but the main task is to help people understand his real character". Thupten described the "the Dalai Lama as 'splittist' and an enemy of China whose picture is therefore banned in public places".

Once, in the presence of county officials in eastern Tibet, Trulku Tenzin Delek, a charismatic reincarnate lama, reportedly said, "You people issue orders calling for a ban on the display of portraits of His Holiness the Dalai Lama. For me, it does not make any difference. Displaying the banned pictures does not deepen my devotion to His Holiness nor does the official ban on the portraits lessen my faith. His Holiness the Dalai Lama is my very soul." Trulku Tenzin Delek is now facing a death sentence with a suspension of two years.

Another Tibetan monk was sentenced in early August 2001 to a four-year prison term for distributing photos of the Dalai Lama. On 18 October 2002, five Tibetans from Karze town in

the present-day Sichuan Province were arrested for “serious crimes”. The arrest happened the day after 400 People’s Liberation Army troops arrived in Karze after a year-long investigation relating to a series of long-life prayer ceremonies held for the Dalai Lama in Karze region.

In another incident, Chinese authorities prohibited Delong Rinpoche, an ethnic Chinese Buddhist reincarnate, from travelling to India. No credible explanation was provided for the refusal. There is, however, widespread speculation that Delong Rinpoche’s faith in, and alleged plans to seek an audience with, the Dalai Lama could have evoked Chinese fears about “splittist” influences and infiltration.

The Dalai Lama is considered to be the embodiment of Avalokitesvara, the Buddha of Compassion, and the supreme leader of countless Buddhists all over the world including Mongolia and Russian Republics. In August 2002, Guo Jinglong, “TAR” Party-Secretary told *Reuters* news agency, “In China, there is no such thing as political differences due to religious beliefs. The population here believes in religion but that does not mean they must believe in the Dalai Lama.” This is a clear indication of how the Chinese government attempts to undermine the religious authority of the institution of the Dalai Lama.

Under the banner of the “Patriotic Education” Campaign, the Chinese authorities go to great lengths to denigrate the Dalai Lama. This denunciation campaign places the monks and nuns in a perpetual dilemma and direct conflict between their religious loyalty to the Dalai Lama or their avowed loyalty to the communist party. Either they believe in the Dalai Lama, and face serious consequences, or follow the dictates of Chinese “work team” units and DMCs, the bodies controlling religion in Tibet.

The clergy are the most seriously affected by this battle of choices and consequences. It is reported that monks and nuns comprise half of the Tibetan refugees escaping into exile every year. Almost 90 percent of them flee specifically to seek an audience with the Dalai Lama and to follow unhindered study and practice of Tibetan Buddhism in exile.

Some recent testimonies of refugees substantiate the fact that the 2001 demolitions at Serthar Buddhist Institute were retaliation for the institute’s devotion to the Dalai Lama. Khenpo Jigme Phuntsok, the founder and chief abbot of Serthar Institute, refused to denounce the Dalai Lama “even if a gun is pointed to my head”. A former Serthar monk told TCHRD, “If we had condemned the Dalai Lama, the Chinese wouldn’t have destroyed Serthar.”

Restrictions on religious practice and observance

China claims “religious activities are held on a different scale every day in temples and monasteries in Tibet”. The outer manifestations of religious activities such as prayers, prostrations, twirling prayer wheels, circumambulation around sacred sites, participating in a few festivals, are permitted in a few exclusive areas to create an image of religious freedom inside Tibet. Yet the ground reality of increased restrictions on traditional religious practices—in particular transmission of religious teachings or observance of religious traditions—contradicts Chinese assertions.

Instead of placing an outright ban on religion, Beijing tries to “appropriate” Tibetan Buddhism by placing bans on its essence and replacing this with so-called “normal” religion. This “normal” religion is State-controlled and “patriotic”. “Normal” religious activities exclude “worshipping the Dalai Lama” and include “love for the great motherland”. China’s dictate that “Buddhism must conform to socialism and not the other way round” means that the Chinese Communist Party determines what Buddhism is to Tibetans. The role of reincarnate lamas and scholars —the former religious and community leaders — is thereby eliminated.

Article 251 (formerly Article 147) of the Criminal Law of the PRC explicitly states “serious cases in which any government employee illegally deprives citizens of their rights to religious belief and infringes upon ethnic customs and practises, may result in custody or a sentence of two years in prison”. On the implementation level, no report has been received of a government employee being held for flouting the above provision.

Communist Party cadres are required to be atheists, but a minister in Beijing who spoke on condition of anonymity said, “Religion is growing but Communist Party membership is not, so authorities have reason to be afraid.”

During the holy month of Saga Dawa (the anniversary of Lord Buddha’s birth, enlightenment and death) in 2002, an internal notice was issued to Tibetan cadres and State employees prohibiting them from circumambulating, offering prayers and lighting butter lamps. Expulsion was threatened for those who flouted the order.

It is believed that the year 2002 being the Waterhorse year was an auspicious time for pilgrimage to Mount Kailash, one of Tibet’s holiest mountains. The Chinese authorities forbade government employees and cadres from visiting and circumambulating Mount Kailash, the penalty being loss of pensions and posts. Applications for permits to circumambulate Mount Kailash were rejected and applicants warned of future jeopardy to their careers. For several years, permits have been required for pilgrims to visit and circumambulate Mount Kailash.

According to a refugee from Sog County in Central Tibet, “In March 2001, the Chinese authorities banned a Kalachakra initiation in Sog County. Two days before the ceremony, officials came with a prohibition order from the central government in Beijing. The directive was that since the Kalachakra ritual is a teaching of the Dalai Lama, it should be banned. A monk went to the authorities to explain that the Kalachakra initiation is a teaching from the Lord Buddha. He was held in custody for five days and fined 200 yuan for questioning the prohibition of the initiation.

It is now evident that China’s religious repression is reducing the number of learned *geshes* and lamas in Tibet. Sog County authorities have gone to the extreme of banning examinations for the Geshe Lharampa degree, thereby effectively preventing the achievement of a high level of religious study. This will seriously affect the future of Buddhist scholarship in Tibet.

Geshes have significant role in the transmission of religion and preservation of culture. The traditional role of *geshes* as teachers has overriding significance since many influential lamas have now been singled out for harassment. “Politically correct” lamas, on the other hand, enjoy “full rights of religious freedom” and are more likely to be registered by the authorities.

Since many lamas are denied registration papers, their access to monasteries and the opportunity to teach lay Tibetans are hindered. Villagers also suffer, as only registered lamas are licensed to teach in rural areas — and then only under the supervision of relevant authorities.

Under Chinese control, monasteries and nunneries have now been turned more into business opportunities and living museum pieces than being places of worship and pursuit of religious studies. Eyewitness reports from Tibet shed light on the commercial and propaganda value of religious institutions and how China is exploiting them.

After their visit to Tibet in 2002, two tourists reported to TCHRD, “The Chinese have turned some monasteries and holy places into a tourist circus and business centre, completely against the spirit of Buddhism. For example, the entrance fee to the Potala Palace, the former palace of the Dalai Lama and former seat of the Tibetan government, is 70 yuan (US\$9) with some additional fees charged inside.”

Propaganda films are also screened in monasteries. According to the same tourists’ testimony, “In Kumbum Monastery, Chinese still screen a propaganda movie about how Tibetans live happily under Chinese rule. It was partly interesting to see how such propaganda works, partly sad and partly so ridiculous. However, turning religion into business harms the purity of that path. It is such a shame that many Tibetans take part in this Chinese way — making a shop out of religion.”

Reports of China shipping priceless religious artefacts — including a five-metre bronze statue of Maitreya — from Potala Palace to Shanghai have raised concern amongst Buddhist believers. The Potala Palace is declared a world heritage monument and comes under the protection of UNESCO. According to Tsering Dorjee Gashi, author of *New Tibet – Memoirs of a Graduate of the Peking Institute of National Minorities*, published in 1980, “Priceless works of art, literature, and religious relics and works that were of model of Tibetan artistic perfection and achievement were taken out of the Potala and other monasteries...Idols and images made of gold, silver, brass, and precious stones and metals were taken to China and eventually they found their way in the markets of Hong Kong, Shanghai and Tokyo where antique-collectors from the West bought them for exorbitant prices. A rough estimate of the foreign exchange earned by China from the sale of Tibetan religious and art objects is more than 80 billion US dollars.”

Fear over popular religious figures’ influence

In the wake of China’s fears over the Dalai Lama’s alleged influence in inspiring nationalism amongst Tibetan Buddhists, popular religious figures inside Tibet have now come under intense scrutiny and suspicion over recent years. Several of Tibet’s leading lamas have faced insurmountable obstacles and persecution from the Chinese authorities over their alleged links to “splittist activities” and their loyalty to the Dalai Lama.

As outlined earlier, Trulku Tenzin Delek, a revered lama from Lithang County in present-day Sichuan Province, was sentenced to death in 2002 with a two-year reprieve. Trulku is a staunch activist in the revival and restoration of Tibetan culture and religion and was actively engaged in social welfare activities. He was instrumental in the construction of seven monasteries, an old people’s home, and an orphanage school in Nagchuka County

(Ch:Yaijiang Xian) in present-day Sichuan. Trulku had also reportedly supported the Dalai Lama's candidate to be the Panchen Lama.

Trulku's rising popularity for his outspoken allegiance to the Dalai Lama and his numerous community services started to trigger China's concern over "national stability". Trulku, along with his follower and former attendant, Lobsang Dhondup, was framed with charges of involvement in bomb blast incidents. Lobsang Dhondup received an immediate death penalty.

A Xinhua article of 4 February 2002 quoted Pasang (Ch: Basang), Director of the "TAR" Committee for Receiving Returned Tibetans, as saying, "China welcomes overseas Tibetan compatriots contributing to the development of Tibet and their hometowns. Tibetans will not be asked of prior political activity carried out in exile".

However, in 2002, Chinese authorities rejected an appeal made by inhabitants of Dzoge County, in present-day Sichuan Province, to allow Kirti Rinpoche to visit his hometown from his exile base in Dharamsala. Kirti Rinpoche was labelled a well-known "reactionary", and his Taktsang Lhamo Kirti Monastery — suspected to have spearheaded the invitation — was issued threats of closure. Kirti Rinpoche's popularity and huge spiritual following has raised Chinese concerns over "endangering the security of the State".

Following the rejection of the appeal, police were deployed at Kirti Monastery and the monks were subjected to intensive "patriotic education" sessions. In July 2002, a spiritual text authored by Kirti Rinpoche was banned on the basis that it contained hidden derogatory messages against the government. Orders were issued to retrieve copies that had already been widely distributed amongst the monks and locals. Kirti Rinpoche had last visited Tibet in 1985.

Geshe Sonam Phuntsok, a respected philosopher and religious teacher from Karze County, is ill and serving a five-year prison term in Chuangdong Prison No. 12, Ngaba County, Ngaba "TAP", Sichuan. In March 2001, Karze Intermediate People's Court found him guilty, among many other charges, "for seeking an audience with the Dalai Lama, for illegally conducting a religious ceremony, including a long-life prayer ceremony for the Dalai Lama, in Rongbatsang".

Reports received in June 2002 indicate that Geshe Sonam Phuntsok continues to undergo interrogation three times a week. However, his health is somewhat improved. Geshe is interrogated with questions such as "What is the basis of Buddhism that all you Tibetans are so devoted to? What were the things that you said to your followers when you conducted religious ceremonies before? Do you love the Chinese motherland? How much do the Tibetans respect the Dalai Lama? What is your personal opinion about the teachings of the Dalai Lama?"

The violent crackdown on Serthar Buddhist Institute in 2001 was reminiscent of China's attempts to eliminate religion between 1949 and 1979. Khenpo Jigme Phuntsok, a hugely popular abbot, was allowed to return to Serthar Buddhist Institute in November 2002 after being held incommunicado for a year in Chengdu, the capital of Sichuan. Upon his return, religious discourse resumed within the institute under heavy security and surveillance, but only officially sanctioned monks and nuns are now allowed to attend the teachings.

Over 9,000 male and female practitioners studied at Serthar Institute before the demolition and expulsions of spring-summer 2001. This figure included around 1,000 Mainland and Overseas Chinese students. Serthar County “work teams” stationed at the institute make constant announcements through loudspeakers that the total populace cannot exceed the officially sanctioned ceiling of 1,400 and that no new huts are to be built.

On 25 December 2002, a row erupted over reconstruction at the site of a demolished hut between the local police and Serthar monks and nuns. A policeman was injured in the encounter and gunfire was reportedly heard. To date, it is unclear whether anyone was hurt in the incident.

TCHRD is gravely concerned over the Chinese government’s continuing custody of 13-year-old Gedhun Choekyi Nyima, the eleventh reincarnation of the Panchen Lama in Tibet. Since May 1995, Gedhun Choekyi Nyima and his parents have been held incommunicado and his whereabouts and wellbeing are uncertain. No government body, concerned organisation or independent observer has been allowed access to the young prisoner and his family.

In March 2002, a government delegation from the “TAR” met with a European Parliament delegation and claimed that Gedhun Choekyi Nyima did not wish to be disturbed. The “TAR” delegation refused to answer questions about photographs promised to the Polish delegates. On 10 October 2002, the US House of Representatives passed House Resolution 410 calling for the release of the young Panchen Lama, abducted by Chinese authorities in 1995.

Meanwhile, the Chinese-appointed Panchen Lama is being trained to take over the high profile position of the Panchen Lama at Tashi Lhunpo Monastery in Shigatse, “TAR”. China uses its own Panchen Lama as a media spokesperson to demonstrate how religious freedom is practised and guaranteed in Tibet. At a March 2002 religious ceremony in Beijing, China’s Panchen Lama reportedly urged all Buddhists “to safeguard the interests of their motherland, country, people and observe all laws.”

Reincarnation forms the crux of the Buddhist belief in life after death. It is paradoxical to find an atheist government like China interfering and intervening in significant Buddhist conventions like reincarnation. More ironic is the extent to which Chinese authorities provide “security” for someone they considered “just an ordinary boy” like Gedhun Choekyi Nyima.

Chadrel Rinpoche, the 63-year-old former abbot of Tashi Lhunpo Monastery and Head of the Search Committee to identify the successor of the Xth Panchen Lama, has failed to be seen in public even after his announced release from prison in 2001. Despite official assertions about his release upon completion of a six-year prison term, his current whereabouts are yet to be established. It is believed that he is being held under house arrest.

With Beijing’s approval, Chadrel Rinpoche had maintained private communication with the Dalai Lama in order to locate the XIth Panchen Lama. By May 1996 — a year after the Dalai Lama’s choice was announced — Chadrel Rinpoche had been dismissed from all official posts because he had “gone against the basic principles and lost the political stand of a patriot”. On 24 May of the same year, Radio Lhasa announced that “in doing this, we have purged the CPPCC of bad elements and have made it clean”.

President Jiang Zemin, in his speech to the 1990 Work Conference on Religion, advised, “Senior figures in the religious sectors have a certain influence amongst the masses of

believers, so it is of great importance to do our work with them properly.” When Beijing leaders realised the ineffectiveness in trying to co-opt Tibet’s religious leaders to help safeguard “national stability” and “state security”, they resorted to cracking down on them instead.

Conclusion

The logic behind State legitimation in China unfortunately makes popular religious practice and belief a challenge to authority – because it celebrates higher truth. Until and unless the Chinese authorities move on to a newer repertoire of legitimation claims — one that does not include official knowledge of ultimate ethical truths — we can expect popular religious belief and practice to continue to be perceived always as a potential, and sometimes as an active, counter-hegemonic danger to stability and order.

Today, monasteries and nunneries serve merely to showcase the PRC’s claims to allowing religious freedom in Tibet. But deeper probing reveals that intellectual spiritual practice is curtailed under state regulations. Religious repression in Tibet is “consciously implemented as a policy to realise political ends”. For over 50 years, Tibetans’ adherence to their religion and its leaders has been seen as the major obstacle to Beijing’s goal of absorbing Tibet into China.

China’s best efforts to transform Tibetans’ hearts and minds have met with stubborn resistance and defiance for decades. Official rhetoric on religion explicitly warns the Beijing government to identify religion as a hindrance to building a “progressive” nation. China’s ploys to exterminate Tibetan Buddhism have ranged from the virtual extinction of Tibet’s religious institutions between 1949 and 1979 to the ongoing “Patriotic Education” Campaign and the Dalai Lama vilification crusade. Religion remains Enemy Number One.

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Trulku Tenzin Delek, a highly respected senior teacher from Lithang County in Karze “TAP” was taken into custody on the night of 7 April 2002 along with Lobsang Dhondup and three other attendants. Trulku was held completely incommunicado for eight months until the day of the trial.

Chinese historian and intellectual

Zhang and Li had defended Chinese dissident Wei Jingsheng in 1995. In 1991, Zhang had also defended Wang Juntao, another Chinese dissident

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Ch: *gongzuo dui*, Tib: *las dun rukhag*; Temporary units of Chinese Communist Party cadres specially formed and trained to conduct investigations or instill political education

Democratic Management Committees are administrative bodies set up in monasteries in Tibet since 1962 to displace the traditional authority of the religious hierarchy. The role of DMCs is further explained under ‘Institutionalisation of Religious Control’ in this chapter

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John Gittings, “Cultural Clash in land on the roof of the world”, *The Guardian*, 8 February 2002. Gittings visited Lhasa as one of the few western journalists allowed access in recent years

“All Living Buddhas have to be patriotic”, *New York Times*, 9 November 1998

There are additional articles on protecting religious freedom and prohibiting religious discrimination against believers or non-believers in PRC legal codes like the Criminal Law, the General Principles of the Civil Code, the Law on Regional Autonomy for China’s National Minorities, the Military Service Law, the Law on Compulsory Education, the Electoral Law for the National People’s Congress and Local People’s Congresses, and the Organization Law of Village Committees

The Fourth Work Forum on Tibet was held in Beijing from 25 –27 June 2001 by the Party Central Committee and the State Council to formulate China’s strategies to control Tibet

A Beijing ministry uniting Party and bureaucratic functions

Abdelfattah Amor, United Nations Special Rapporteur on Religion, “Report on visit to China”, Geneva 1995

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“Tibetans arrested after organizing prayer ceremony for the Dalai Lama”, International Campaign for Tibet, 6 November 2002

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“Police detain five Tibetan monks for songs, flag-raising”, Jeremy Page, *Reuters*, 12 August 2002

Established in 1980, the leading non-sectarian centre of Buddhist scholarship and practice on the Tibetan plateau. In spring/summer 2001 Chinese security personnel demolished over 4,000 huts housing Serthar’s nun population

“China cracks down on growing faiths”, *Boston Globe*, 2 March 2002

Tantric initiation of the highest level in Tibetan Buddhism

A monk or a lama who has completed the highest course in metaphysics and other monastic studies in the Gelugpa School; similar to a doctor of divinity

A Tibetan term for a respected religious teacher; equivalent to the Sanskrit term guru

Traditionally, a *geshe degree* (equiv. to PhD) is granted upon examination, after the candidate has completed 18 years of rigorous study of Buddhist practice and philosophy

“Travellers’ account of Tibet experience”, *Human Rights Update*, TCHRD, July 2002

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“China loots the Potala again, Tibetan appeal to world to stop China from emptying Tibet of its religious wealth”, Department of Information and International Relations, Press Release, 21 April 2001

Trulku is an honorific Tibetan title for a reincarnate lama

“Geshe Sonam Phuntsok’s continued detention raises concern”, *Human Rights Update*, TCHRD, June 2002

The non-sectarian institute was targeted for “supporting the Dalai clique”, “harbouring anti-Chinese elements” and “lacking official standing”. Khenpo was taken into custody at an undisclosed location and denied medical treatment despite his ill health

On 14 May 1995, the Dalai Lama named Gedhun Choekyi Nyima as the reincarnation of the Xth Panchen Lama. Three days later, the boy disappeared with his family. The PRC Government appointed its own Panchen Lama, a boy named Gyaltzen Norbu, and declared the announcement made by the Dalai Lama as “null” and “illegal”. Traditionally, only the Dalai Lama undertakes the selection of a Panchen Lama

In a US Congress that has been consistently vocal on Tibet, H.Res. 410 is the latest in a series of measures to be passed, including the Tibetan Policy Act of 2002 (Title VI of H.R. 1646) which was signed into law on 30 September. A Senate version of the Panchen Lama Resolution, S. Res 252, was also passed on 4 June 2002

“11th Panchen Lama Holds Buddhist Gathering in Beijing”, CPI News, at <http://english.cri.com.cn/english/2002/march/54354.htm>

On 21 April 1997, after two years’ incommunicado detention, Chadrel Rinpoche received a six-year prison sentence and subsequent three years’ deprivation of political rights for “conspiring to split the country” and leaking “State secrets”

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State Legitimation in China: The Challenge of Popular Religion, Vivienne Shue, Cornell University. Paper prepared for the 2001 annual meeting of the American Political Science Association, San Francisco