

# Annual Report 2001

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## EXECUTIVE SUMMARY

The events of 11 September 2001 caused a paradigm shift in international concern over human rights. While most states have measures in place to ensure the security of their citizens, others are taking advantage of the 11 September attacks to justify internal repression. The People's Republic of China (PRC) is a distinct case in point.

TCHRD is concerned that China has taken advantage of this global crisis to step up government action against those it labels "separatists": Uighurs, Tibetans and the Falun Gong. China is attempting to seek international justification and political sanction for its actions. Beijing chooses to draw no distinction between "terrorism" and "separatism". Official manipulation of the new world order became clear at the 27 October 2001 Ninth Session of the 24th Meeting of China's National People's Congress (NPC), where approval was given to the ruling State Council's proposal that the PRC join the international campaign against "terrorism, splittism and fanaticism". Addressing this meeting, Li Peng, NPC Chairman, said that, "The decision for China to join the global campaign is wise in the wake of 'splittist' activities in China and will be helpful to strike hard against terror created in the country by inside and outside enemies."

TCHRD believes that the events of 2001 make it more vital than ever that the international community - including the PRC - honours the international conventions and universally-

recognised laws which specify the rights to which all human beings are entitled. With the global spotlight currently on China, due to its entry into the WTO and its winning bid for the 2008 Olympics, the international community has an opportunity and a duty to increase pressure on Beijing to carry out the obligations under international conventions to which it is a party.

China's widespread human rights abuses were a central feature of international opposition this year to its Olympic bid and its accession to the WTO. Ignoring world opinion, the Olympic selection panel and members of the WTO have in effect sanctioned Beijing's clearly-documented abuses against its own populace and in territories it occupies including Tibet. In June 2001 the Fourth Tibet Work Forum was held behind closed doors in Beijing. This high-level meeting sets Beijing's upcoming policy on Tibet; this session has placed top down "economic development" and "stability" over all other freedoms and rights of the people. It is evident from the testimonies of refugees fleeing to exile in India that the majority of Tibetans do not believe that they will ever reap the much-vaunted "benefits" from the mammoth "development" projects now being implemented on the plateau.

The White Paper issued on 8 November 2001 by the Information Office of China's State Council - Tibet's March Toward Modernisation - is crafted to further promote and enhance China's image in the global arena. Brushing aside the accepted norms of civil and political rights as "Western notions", China continues to call on cultural relativism to justify its human rights abuses. While still claiming that "economic development" supersedes all other rights, China ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) in February 2001. Yet, the International Covenant on Civil and Political Rights (ICCPR) remains to be ratified more than three years after PRC became a signatory to the document. In his 10 December 2001 Nobel Peace Prize acceptance speech, the United Nations Secretary General, Kofi Annan, said that in this new century, "...the sovereignty of States must no longer be used as a shield for gross violations of human rights" and " ...peace must be made tangible in the daily existence of every individual in need". He called upon the world to consolidate its resolve to fight against injustice and human rights violations.

TCHRD has relied upon the framework of ICESCR and ICCPR to present and document the human rights situation in Tibet throughout 2001. At the heart of these two international covenants is the right of all peoples to self-determination, by virtue of which they freely determine their political status and pursue their economic, social and cultural development. Tibetans are recognised as a distinct people with their own history, culture, language, religion; their own ethnic identity and a strong connection to their own territory. In the context of the Tibetan people, the right to self determination must relate to the fact that Tibetans are a people under occupation and the cases of human rights violations documented in this report stem from this fact. During the PRC's domination over Tibet's political, economic, social, cultural and religious life for more than half a century, there has been a total disregard for the Tibetan people's right to self-determination.

At the much-publicised September 2001 Durban World Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance, one of the main themes of discussion was economic, social and cultural discrimination based on race. TCHRD gained accreditation to this conference and presented the case that the discrimination suffered by Tibetans inside Tibet has its roots in the fact that Tibetans do not have the right to self-determination and are a race under occupation.

On International Human Rights Day, the UN Human Rights Commissioner, Mary Robinson, reiterated that the anti-discrimination agenda adopted at the Durban Conference should be "an integral part of efforts to safeguard against any erosion of human rights standards that might flow as an unintended consequence of measures to counter terror". Her words of concern reflect on totalitarian regimes and their new-found interpretations of "terrorism".

Based primarily on TCHRD's interviews with recent arrivals from Tibet, and supplemented by secondary sources, this report furnishes clear evidence that during 2001 China has systematically violated the human rights of Tibetans through policies leading to acts and omissions. Additionally, official Chinese sources occasionally provide and publish information that gives insights into the real scale of human rights violations continuing across the Tibetan plateau.

## **ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

With its ratification of the International Covenant on Economic, Social and Cultural Rights this year, it now becomes obligatory for China to enact domestic legislation implementing the articles of the Covenant. Guided by the ICESCR framework, this report examines the situation regarding rights of Tibetans inside Tibet to education, economic participation, health, housing and livelihood. We have additionally integrated the rights of women and children, as they are two of Tibet's most vulnerable groups under China's colonisation.

Attempting to ensure women's equality, the PRC has periodically introduced a number of domestic laws pertaining to women's rights. The legislation now covers women's political participation, employment, labour protection, education and marriage, among other concerns. To date, these domestic laws have failed to provide women across China with protection via rights to which they are universally entitled. This leaves Tibetan women little or no options to exercise their basic right to freely determine their futures. Birth control policies continue to deny the reproductive rights of women in Tibet to control the size of their families, decide upon spacing between births and take informed decisions on abortion. Severe penalties are exacted for non-compliance with reproductive policies. The disproportionate discrimination faced by women in Tibet is further examined particularly under *The Right to Health*.

Children are the most vital assets of any society, while also remaining the most vulnerable to abuse and exploitation. China has signed and ratified many international conventions guaranteeing children protection from abuse and support for their welfare. Despite this, countless children in Tibet remain deprived of access to basic education and adequate healthcare. This explains why almost half of this year's asylum seekers are under the age of 18. Violations of The Rights of the Child are documented in this report, particularly under *The Right to Education* and *Health* chapters.

### **The Right to Livelihood**

A very high proportion of recent arrivals interviewed by TCHRD revealed that Tibetans, particularly in rural areas, are being denied their right to livelihood. Nomads are facing a programme of excessive taxation and fencing of grasslands which appears designed to destroy a quintessential Tibetan way of life. Tibetans in the urban areas are facing severe discrimination and lack of opportunity in relation to employment and business. One of the greatest threats to traditional Tibetan livelihoods is the ongoing environmental destruction caused by China's intensive exploitation of resources, from which there are also no benefits that flow back to the Tibetan people.

Under this chapter, TCHRD examines the right to livelihood of Tibetans as well as the policies of the Chinese government that infringe on these rights. The section further examines Beijing's ambitious new economic policies and their impact on Tibetans within the narrow definition of development embraced by the PRC government. With Beijing's emphasis on

economic development, reinforced by the 2001 release of its White Paper on Modernisation, the Chinese leadership shows no interest in adopting a holistic approach to development, appropriately outlined in the UN Declaration on the Right to Development, which stresses the indivisibility and inter-dependability of all rights.

China claims to be boosting Tibet economically; however, policies and infrastructure are designed to consolidate Chinese control over the region and benefit Chinese migrants to the detriment of the Tibetan population. Not only is there official neglect of their basic needs, but Tibetans are not consulted on, or meaningfully involved in, any sector of the development of their country. The Chinese government is pursuing a policy of population transfer to suit its economic and political agenda to marginalise Tibetans in their own land. The influx of Chinese settlers further perpetrates racism and discrimination against Tibetans, particularly in the urban areas. This includes a wide-ranging bias in employment with preference given to those fluent in Chinese and preferential treatment of Chinese migrants.

### **The Right to Education**

The NGO Declaration adopted at the Durban Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance states that "...the mono-cultural and hegemonic practices of the Chinese government, through the school system and through other State institutions, has caused forced integration and assimilation and deprived the Tibetan people of their basic human rights". In real terms, this means that Tibetan children suffer a high degree of discrimination in gaining access to education, and within the curriculum and everyday teaching practices.

China's proclamations over the enormous investment made in developing education has little to show in the way of ground realities in Tibet. In many rural areas there are either no schools or those that exist cater only to those students who can afford the fees. An estimated 85 percent of parents reside in rural areas, with incomes that do not allow their children the luxury of attending schools demanding high fees and located far from their homes. Moreover, Tibetan parents are extremely concerned with the increasing and overt Sinicisation of school curriculae. The all-pervasive Chinese medium of instruction puts those Tibetan children who are able to attend school at a further academic disadvantage. For these reasons, juveniles are increasingly dominating the numbers of refugees fleeing into exile.

### **The Right to Health**

With extremely limited access to healthcare facilities, the wellbeing of Tibet's population is under serious threat, with the levels of malnutrition, tuberculosis and other preventable diseases reaching epidemic proportions. In most remote areas, where the majority of the Tibetan populace resides, adequate healthcare facilities are virtually non-existent. For Tibetans within both urban and rural areas, the cost of available healthcare is prohibitive. Rampant discrimination is yet another inhibitive factor, all of which has led to many preventable deaths and unalleviated physical suffering and distress.

With estimates of up to one million HIV positive persons across China this year, and an annual increase rate of 30 percent, one can clearly extrapolate the incidence of HIV/AIDS in Tibet. The current absence of testing facilities, treatment and support centres, or education campaigns, exposes once again China's blind refusal to take responsibility for containing the epidemic.

## **The Right to Housing**

The ratification of ICESCR in February 2001 obligates China to now afford "adequate housing to everyone". This means providing housing fit for habitation, in a non-discriminatory manner, and includes the development of laws to protect against unfair evictions and demolitions. It also means introducing national legislation implementing the principles as defined under ICESCR as necessary to the provision of adequate housing. Despite issuing statements on the bare necessities of accommodation, the Beijing authorities had by year's end not enacted specific legislation on housing.

From the testimonies given by recent arrivals in India, it is evident that while discrimination persists against Tibetans over urban housing, there is also a distinct lack of infrastructure and available materials in rural areas as well. Cultural and climatic inappropriateness of new housing is another serious concern. The most numerous and blatant housing rights violations during the year 2001, however, were the extensive forced evictions of monks and nuns, primarily due to government-enforced ceilings on the number of practitioners permitted in religious institutions. Urban development projects under Beijing's new economic policies also led to evictions and demolition of Tibetan dwellings.

## **CIVIL AND POLITICAL RIGHTS**

Under the framework of the International Covenant on Civil and Political Rights, this report primarily documents the lack of freedom of expression that results in arbitrary detention and torture, and the lack of freedom of religious belief leading to the imposition of restrictions on, and in some cases even destruction of, religious institutions. Freedom House, the New York-based freedom and democracy watchdog, released its annual study of world freedom on 18 December 2001. The study reveals Tibet as one of the worst-rated areas in the world for political rights and civil liberties.

### **Political Freedoms**

TCHRD continues to be highly concerned about the arrest and sentencing of prisoners of conscience and the existence of legislation providing for their detention. Prolonged detentions without trial, inadequate trial procedures, and the absence of legal safeguards to assure a fair and open trial, have been the cases throughout this year. Reported torture and ill treatment of prisoners of conscience - usually in detention centres administered by Public Security Bureaus - and conditions of detention are deplorable. There are currently 254 known political prisoners out of which 37 known arrests took place this year. Ten Tibetans died directly due to torture and ill-treatment.

A major policy development with specific implications for Tibet has been the re-launch in April 2001 of Beijing's "Strike Hard" Campaign, first implemented in 1996. This anti-political activism campaign is targeted towards "achieving the ultimate goal of improving China's public order situation in the future". It legalises heavy crackdowns on drug trafficking, smuggling activities, mafiotic crimes, financial scams and the guiding of asylum seekers across international borders. Under its auspices, local Party Committees are to strike relentlessly against activities that advocate local nationalism.

In Tibet, the campaign's implementation has been primarily against peaceful protest demonstrations and/or the possession of "illegal" materials; this term includes the Tibetan

flag, a photo of the Dalai Lama and any materials deemed "political". Furthermore, on 27 June 2001 the "TAR" Higher People's Court stated that the "TAR Strike Hard Campaign will strike against those who endanger national security and those who assist people to illegally cross into foreign countries". As a consequence of the two-year extension of "Strike Hard", many Tibetans have been arrested for "political activism" during 2001.

At the same time that Tibetans are being denied freedom of speech and expression, China is utilising the full force of its propaganda channels in an all-out endeavour to enhance its own image internationally and also project an image of the "general well-being and happiness" of Tibetans under Chinese rule. China has aspired to extraordinary levels of spin doctoring this year in the utilisation of not only its own State media, but also the international media.

Recently Beijing's propaganda machinery boasted that the number of political prisoners in Tibet has dropped significantly and its media projected a glorified image of prison conditions on the plateau which are, in fact, deplorable and life-threatening. While it may be true that the actual number of political prisoners has dropped, strict vigilance and counter measures have been stepped up to prevent any activities "endangering state security". In addition, the "reform through labour" scheme and detentions are utilised to clamp down on dissent and criticism.

### **Freedom of Religious Belief And Practice**

Lengthy and incessant Communist Party "work team" visits to propagate loyalty to Beijing and Marxist ideology - resulting in the expulsion of many monks and nuns from their institutions - exemplified the suppression of religious freedom over the year 2001. A heightened Dalai Lama denunciation campaign, and stricter control on public expressions of belief and practice, were further widespread violations of the freedom of religious belief. During this year, 9,408 religious practitioners were expelled from various religious institutions and the closure of two major institutions was reported.

Designed to suppress the religious and patriotic sentiments of Tibetans, and in particular of the populace in robes, the ongoing "Patriotic Education" Campaign initiated in 1996 has imposed ceilings on the number and age limits of those entering religious institutions, leading to many arrests and expulsions. Almost all religious institutions now have a "Democratic Management Committee" manned by Communist Party cadres installed on their premises to control and oversee the working of the institution. Monasteries and nunneries are increasingly perceived as "hotbeds of splittist activity" and tools of the "Dalai Clique".

The game of reincarnation politics now played by Beijing is another official intrusion to control Tibetan culture, identity and the whole traditional way of life and belief. Obvious previous attempts have been Beijing's interference in the search for the reincarnation of not only the Panchen Lama but also, more recently, of Reting Rinpoche. This year has also seen statements on the controversial issue of the reincarnation of the present Dalai Lama. China has made known the key role it intends to play in selecting any future Dalai Lama.

According to a US State Department report on religion released in October 2001, "...repression of religious freedom in Tibet has reached severe levels". Guo Jinlong, Party Secretary of the "TAR", in his interview with the New York Times this year, made a peculiar but telling comment that, "...the belief of the Tibetan school of Buddhism is the choice of the local residents and the local Tibetans will have a better choice of religious belief when the

economy has well-developed in the region". This reveals the intent behind Beijing's current push towards economic advancement. It also illustrates Beijing's view of Tibetans - and within that, Tibetan religion - as a "primitive, backward and ignorant race".

### **The Status of New Tibetan Refugees**

In addition to this report adhering to the two covenants utilised above, TCHRD draws special attention to the particular plight of the recent Tibetan refugees and their rights under international law, in particular the Refugee Convention. The Centre documents the experiences of Tibetans who were forced to flee their homeland in 2001 in search of protection against human rights abuses. Fear of persecution and denial of fundamental human rights leading to suppression of their religion, culture and identity, and discrimination faced in every aspect of their life - in particular in education - forces thousands of Tibetans to attempt the arduous trek into exile.

The "TAR's" border security officials detained 2,500 Tibetans trying to cross the border during six months of 2001. Recently-arrived refugees have testified that many of these Tibetans subsequently suffered beatings, arrest, torture and imprisonment - in some cases resulting in death. Additionally, the heightened current political instability in Nepal - the region through which Tibetans must transit to escape occupied Tibet - and the recent declaration of a state of emergency poses an increased threat to the asylum seeker's ability to successfully reach freedom.

While acknowledging the longstanding generosity of Nepal's government to Tibetan asylum seekers, and the existing arrangement between Nepal's Department of Immigration and the Kathmandu-based United Nations High Commission for Refugees (UNHCR) which allows refugees to pass through Nepal and be processed for third country resettlement, TCHRD is currently gravely concerned about the ad hoc forced deportation of Tibetan refugees and the probability that such cases may be increasingly common along the Nepal/Tibet border. Such forced deportations reflect an absence of understanding of the human rights of asylum seekers by Nepalese border officials, as well as their own culpability in the human rights violation of Tibetan asylum seekers.

The consistent severity and institutionalisation of the PRC's infringements of the fundamental rights of Tibetans must question the international community's role in condoning China's colonisation and control of Tibet. Tibetan people are entitled to access basic human rights and exercise their right to self-determination in every sphere of life. For over half a century, the basic human rights of Tibetans have been constantly and systematically violated by the Communist leadership in Beijing. In 2001, we saw this repression being sanctioned and rewarded by both the IOC and the WTO.

### **RECOMMENDATIONS**

#### ***Pertaining to Economic, Social and Cultural Rights***

- TCHRD welcomes the ratification of ICESCR by China and urges the Committee body of the Covenant to ensure that China fulfils its obligations by taking immediate steps to incorporate the norms laid down in the Covenant within its national legislation and initiate implementation of the same.

- TCHRD urges the Chinese government to respect the Tibetan people's fundamental right to control the content of the curriculum and the medium of instruction in their children's education as stipulated in the CRC.
- TCHRD urges China to recognise the potential HIV/AIDS crisis in Tibet, and take steps in order to mitigate the epidemic. The establishment of testing facilities, treatment centres and preventative education campaigns are critical.
- TCHRD urges China to develop and enforce policies relating to healthcare which match the standards of healthcare guaranteed in the Conventions to which it is party. China must amend its constitution to guarantee the rights of its citizens to accessible, affordable medical care. The nutrition and health of Tibet's children require specific attention.
- The reproductive rights of Tibetan women continue to be denied and controlled by oppressive Chinese policy. We demand full self-determination for Tibetan women over their bodies, and the amending and/or repeal of birth control policies.

### ***Pertaining to Civil and Political Rights***

- TCHRD would like to demand the Chinese government's co-operation with all thematic special rapporteurs and working groups of the Human Rights Commission, and to give consideration to their recommendations.
- TCHRD demands that the Chinese government clarify the scope and extent of the term "endangering state security" in its Criminal Procedural Law. In its present ambiguous form this is utilised to suppress multiple legitimised rights, including the right to freedom of speech and expression.
- TCHRD condemns the recent forceful eviction of over 7,000 monks and nuns from Serthar Buddhist Institute in Serthar County, Karze, Sichuan, and the consequent demolition of the living quarters of the expelled monks and nuns. In particular, TCHRD appeals to the Special Rapporteur on Religion to investigate the whereabouts of Khenpo Jigme Phuntsok, the Abbot of Serthar, in particular and the violation of freedom of religious belief of former residents of the institute in general.
- TCHRD demands the release of all political prisoners held by the Chinese government for exercising their right to freedom of speech and expression.
- TCHRD demands the immediate and permanent removal of electric batons from every member and all branches of security personnel. Police and prison personnel frequently use the electric shock baton in a brutal and degrading manner, employed particularly in the gender-specific torture of female prisoners.
- Contravening all international norms pertaining to the Rights of the Child, the Chinese government has detained Gedhun Choekyi Nyima, the 11th Panchen Lama of Tibet, since May 1995. TCHRD demands the immediate release of the world's youngest prisoner of conscience. TCHRD urges the international bodies engaged in "bilateral dialogue" on human rights with the Chinese government to recognise that to date this has not yielded any positive results, but rather has been consistently utilised to evade international scrutiny and liability. This unproductive process should be discontinued.
- TCHRD calls for the Chinese government to immediately cease all practices of sending "work teams" to religious institutions, and to desist from all efforts to coerce the monastic population to conform to the communist ideology propounded in "patriotic education" sessions.

### ***Pertaining to Refugee Rights Tibetans***



- TCHRD would like to recommend to the UNHCR to request the Government of Nepal to co-operate by allowing its border officials to participate in UNHCR training and awareness-raising on the human rights of asylum seekers;
- TCHRD acknowledges the arrangement that exists between the Department of Immigration of Nepal and the United Nations High Commission for Refugees (UNHCR) based in Nepal, to allow refugees to pass through Nepal and be processed for third country resettlement - usually to India. Yet it is gravely concerned about the ad hoc forced deportation of Tibetan refugees and the probability that such cases may be common along the Nepal/Tibet border.
- **Chapter 1: ECONOMIC, SOCIAL AND CULTURAL RIGHTS**
- On 27 March 2001<sup>1</sup> China ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR), three and a half years after becoming a signatory.<sup>2</sup> Acceding to the Covenant obliges the People's Republic of China (PRC) to bring their domestic legislation into line with the articles of the convention, and also requires the PRC to report to the United Nations on their adherence to the Covenant.<sup>3</sup> The government stated that 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.<sup>4</sup>
  - The first article of the ICESCR (and the ICCPR) declares
  - All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
  - It has been argued in many international forums that this article gives Tibetan people a right to independence from China; or at the very least, genuine autonomy.<sup>5</sup> In 2001, however, China moved even further away from granting Tibetan people this right.
  - Despite claiming to fully respect human rights, in 2001 China continued to maintain a distinction between economic rights and civil/political rights and argued that China should be permitted to choose its own way of protecting human rights.<sup>6</sup> In China's case, its method of protecting human rights is to prioritise economic development over human rights such as political and civil freedoms: the PRC argues that its citizens are more interested in economic security than with personal freedoms. For this reason, when ratifying the ICESCR China made a reservation in respect to Article 8(1)(a). This article ensures "The right of everyone to form trade unions ... for the promotion of his economic and social interests...No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary." The PRC stated that this right "...would be in line with relevant provisions of China's Constitution, Trade Union Law and Labour Law"<sup>7</sup>, laws which forbid the organising of independent trade unions.<sup>8</sup> The International Labour Organisation, of which China is a member, continues to call on China to allow freedom of association and permit workers to form independent trade unions, but at the end of 2001 China still refused to do so.<sup>9</sup>
  - All rights contained in the ICESCR must be read alongside the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) which China ratified in 1981. The Convention defines discrimination 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 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.<sup>10</sup>

- In 2001 TCHRD presented a statement to the World Conference against Racism to the effect that China practiced institutionalised and cultural discrimination against the Tibetan people through its continued occupation of Tibet; the continuing population transfer of Chinese settlers; coerced birth control against Tibetan women; discrimination in education, health and employment; the exploitation of Tibet's natural resources for the benefit of China; and the attempt to destroy Tibet's culture in order to control Tibetans politically.<sup>11</sup>
- The following chapters examine China's treatment of Tibetans in relation to some of the major rights contained in the ICESCR – the right to livelihood, the right to housing, the right to health, and the right to education. These chapters show that in 2001 Tibetan people had these fundamental rights denied. They reveal that the PRC's agenda for Tibet is not to grant the Tibetan people their fundamental human rights, but to assimilate Tibet into China so that the Beijing government may exploit the land and its people for its own benefit.

## THE RIGHT TO LIVELIHOOD

The right to livelihood is a term that can be used to describe the fundamental rights of people to fulfilling, dignified work or other sources of subsistence, including access to land and productive resources, and to basic labour protections. It draws in several articles of the ICESCR, such as the right of a people to not be “deprived of its own means of subsistence”;<sup>1</sup> the right to freely choose work which is adequately remunerated;<sup>2</sup> the right to assistance from the State in the event of unemployment or lack of resources;<sup>3</sup> and the right not to be discriminated against in relation to all these rights.<sup>4</sup>

The right to livelihood must be read in the light of the first article of the ICESCR which guarantees the right of all peoples to self-determination and the right to freely pursue their economic, social and cultural development. This right has been further clarified in the United Nations Declaration on the Right to Development (UNDRD), the right to development requires governments to “formulate appropriate national development policies that aim at the constant improvement of the well being 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 therefrom”.<sup>5</sup> It is therefore inherent in the right to livelihood that the people whose livelihood are affected are themselves involved in the development of any policies affecting them.

In 2001, testimonies provided to TCHRD show a rural sector struggling under insensitive policies which in many cases destroy the ability of Tibetans to eke out a living. While Tibet's rural sector suffers, Tibetans in urban areas face increasing unemployment or discriminatory employment conditions. China's policy of population transfer of Chinese migrants into Tibet is rapidly marginalising Tibetans in towns and cities. The Chinese language has become the language of business, while Chinese businesses can access cheaper goods from Chinese markets in the east.

The formulation of all these policies occurs in Beijing, with little involvement of the Tibetans whose lives are affected by them. In 2001 the PRC showed no interest in delivering policies to Tibetans based on their needs, requests or interests. Rather it pursues its own agenda of resource-extraction and “modernisation”. The result is an increasingly dissatisfied Tibetan rural sector largely untouched by massive Chinese investment in Tibet; discrimination against Tibetans in the market economy; the loss of livelihoods in both rural and urban economies;

and the potential for massive environmental devastation. These conditions appear set to worsen after China's accession to the WTO in December 2001.

### *Rural livelihoods*

The vast majority of Tibetans living in Tibet – over 80 percent of Tibetans<sup>6</sup> – sustain their living in agriculture and/or nomadic pastoralism. Crops such as barley (which accounts for over half the grain harvested in Tibet), wheat, peas and rapeseed are cultivated, while nomads herd yaks, sheep and goats. Beijing makes much of its support of the rural sector, boasting that “no levies have been imposed on the peasants and herdsmen in Tibet since 1980 and there is no compulsory state purchase of grain there. The income that Tibetan peasants and herdsmen earn is entirely their own...”<sup>7</sup> However this statement is contradicted by testimonies from refugees who fled Tibet in 2001. Refugees describe a rural sector struggling under high taxes, compulsory selling of produce to the government at below-market prices, an insensitive land distribution policy, and forced labour schemes. In addition, the so-called environmental protection schemes disproportionably impact upon traditional rural livelihoods while leaving untouched China's massive resource-extraction programme.

### *Divide and rule: destroying nomadism*

Grasslands make up 70 percent of the land on the Tibetan plateau, and nomadic pasturing provides the backbone for rural Tibet.<sup>8</sup> The nomadic way of life is also an essential part of Tibetan cultural identity and is increasingly being seen as a sensible use of environmentally fragile land.<sup>9</sup> Traditionally grasslands were held as communal property, free for nomads to traverse with their herds.<sup>10</sup> However the government has in the last decade embarked in an ambitious plan to fence all the grasslands. In November 2001 the chairman of the “TAR” government stated that “...one million hectares of fenced grasslands will ... be added” in the next decade.<sup>11</sup>

The distribution and fencing of grasslands has been based on the geographical location of villages and without consultation with the nomads as to a just system of distribution. High mountain villages have been allocated the high land surrounding them while low-lying villages are given low land. The seasonal rotation essential for effective nomadism was therefore destroyed. Low-lying villagers 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. Once recent arrival from Ngamring County, Shigatse Prefecture, “TAR” provides a concrete example of the effect on his community:

We do not have good grassland in the winter. People quarrel over the grassland because their animals graze on others' lands. When there is a shortage of grassland, the animals stay hungry.<sup>12</sup>

The PRC justifies the fencing of grasslands as necessary to increase production from the land. Indeed, PRC officials have openly stated that the nomadic way of life should be destroyed as it is an inefficient use of land.<sup>13</sup>

The PRC has also justified fencing as necessary to protect lands from overgrazing (see section on “Right to control natural resources” within this chapter). However, the current policy encourages overgrazing of available grassland, leaving little free for rejuvenation. It has also been pointed out that the distribution and fencing of land provides a good opportunity for restricting the access of nomads to lands the PRC wishes to mine.<sup>14</sup>

The Tibetans suffering under the programme can see no point behind the policy except to destroy their way of life. One refugee believes the fencing system is deliberately setting Tibetans against each other.

If we live happily with our neighbours the government officials tell us that we cannot live this way. The government distributed the grasslands, divided the river and always makes us fight because we are told to stop other people's cattle coming onto our land. The government doesn't come at all to give advice. The officials are happy if we fight because they will receive bribes to allocate larger amounts of land.<sup>15</sup>

This informant said that the grassland fights were shown on television across Tibet.

***In some cases people had to sell their cattle in order to buy fences, and when they finished erecting the fences, there were no cattle left to put within them***

In most cases the fights occurred because nomads had to try and stop other people's cattle coming onto their land. The only permanent solution to this is to erect fences, but the nomads are forced to pay for the fencing themselves and this is costly. Another exile remarked "...Poor families had to pay so much money on setting up fences that they were left with no money to feed their cattle. In some cases people had to sell their cattle in order to buy fences, and when they finished erecting the fences, there were no cattle left to put within them."<sup>16</sup>

Some nomads believe that the division of the grasslands is motivated by a desire to sedentarise nomads in order to make it easier to collect taxes from them.<sup>17</sup> A former village Community Party Secretary who escaped into exile in 2001 was responsible for collecting taxes for his village. He is extremely critical of the heavy taxation experienced by nomads.

The nomads have to pay animal tax, land tax, tax when animals are killed, tax when animals are sold. The government every year says there is a new tax and that the total amount of tax is increased. If one household has to pay 1,500 yuan (US\$176) tax this year then they have to pay 2,000 yuan (US\$235) next year. They kill the nomads' lives with their taxes.<sup>18</sup>

In addition to the complex taxation scheme, nomads are also being told they must limit the numbers of animals they own. One refugee told TCHRD that in his area a new "Chinese policy" was to be implemented in late 2001 limiting livestock to five per person. Those having more animals will have those livestock confiscated. He angrily told TCHRD that "the livelihood of the Tibetan nomads are very poor and we are made even poorer by such policies".<sup>19</sup> Another nomad told TCHRD that "a leader came and said that there will be development when there was uniformity in the numbers of animals". He asks "where is the development?"<sup>20</sup> It seemed to this nomad that the government wanted to bring all nomads down to the same level whereby they could barely survive. He was understandably cynical about a definition of "development" which stopped nomads from increasing their herds.

There are also recent reports of government authorities telling nomads to abandon herding and take up business, and many nomads believe this is because the government will then be able to "take lots of tax".<sup>21</sup> In Malho "TAP", Qinghai, some nomads, desperate for money to survive, have begun selling their land to Chinese traders who then set up shops.<sup>22</sup> While this may provide nomads money in the short-term, this is no solution to long-term survival. This

also shows no respect for the skills and unique culture of nomadic Tibetans. Once again, a vital – and viable – part of Tibet’s culture is being destroyed in order for the PRC to pursue their own agenda on the Tibetan plateau.

### *Arbitrary policies in the farming sector*

While nomads have borne the brunt of the PRC’s rural “reform” programme in 2001, testimonies to TCHRD also show a struggling farming sector. The arbitrary and outdated land allocation scheme is a major complaint of many farmers. The PRC collectivised all private property in China after assuming power in 1949; after the Cultural Revolution (1966 – 1976) the PRC admitted that collectivisation had been disastrous, and so the “Household Responsibility System” was introduced into Tibet in the early 1980s.<sup>23</sup> Farmlands were decollectivised by apportioning amounts of land and animals to each family based on the number of people in the family at that time. As there has been no re-allocation of land after the initial grants, families who had children after the date of allocation are still expected to survive on the same acreage.

A comparison of several Tibetan families illustrates the effect of an arbitrary land-allocation policy on their livelihoods. Lobsang, a farmer from Dromo County, Shigatse Prefecture, “TAR”, his wife and three children try to live from three mu (equivalent to 201 sq m) of land which is the share allocated to just two people, as none of Lobsang’s children had been born at the time of land allocation. To make ends meet, Lobsang’s family are forced to seek alternative sources of income.<sup>24</sup>

Tenzin from Ngamring County, Shigatse Prefecture, “TAR”, has 11 family members. Seven members of the family were alive when land was allocated so they received a large portion of land, around 37 mu (2,500 sq m). Tenzin says that her family’s agricultural livelihood is sufficient to support them, although several family members also do “sidejobs” for additional income.<sup>25</sup> Sonam from Karze County, Karze “TAP”, Sichuan, lived with her three daughters and husband on a farm. As two of her daughters were alive in 1980 when the land was allocated, the size of their farm is sufficient to support them.<sup>26</sup>

The plight of those families with small land allocations is exacerbated by a complicated taxation scheme. A recent article in the Beijing Review admitted that a multitude of “agricultural fees” were collected from farmers throughout China for such things as “public accumulated funds, public welfare, management, education, family planning and communications”.<sup>27</sup> Taxation is sometimes levied by township authorities, and sometime by the county government, with very little consistency throughout China.

A recently-arrived refugee from Tingri County in Shigatse Prefecture, “TAR”, outlines the scheme for taxes, fees and quotas his family is obliged to pay:

- land tax calculated annually based on the number of mu – in 2001 the amount per mu was three times the previous year’s rate;
- water fees/tax for irrigation calculated monthly, again based on number of mu;
- compulsory sale of wheat to the government: an annual amount of between 165-175 gyama (82.5 – 87.5 kg) of wheat per family member, for which the government pays half the market price.<sup>28</sup>

The money made from selling to the government covered the taxation fees; the remaining grain was just enough for the family to feed itself. Farmers are not permitted to sell their grain privately. Non-farmers in his region, mostly nomads, had to purchase grain from the government stores at market prices. To ensure that the nomads do not bypass this system, checkpoints have been set up and nomads who are found with grain for which they have no government receipt have their purchase confiscated and those farmers who sold the product are fined.<sup>29</sup>

Most Tibetans TCHRD interviewed had no idea what all these taxes were used for, except where they gave directly to government officials for those officials' winter food supplies. Indeed, even village or town leaders who liaised with county governments were unaware of the purposes of the taxes or why particular increases were necessary.<sup>30</sup> In the absence of information or any tangible improvement in their lives, it is easy to understand why Tibetans may suspect that their money and produce goes into the pockets of local officials.

An illuminating article in the Beijing Review recently admitted that the “burden on farmers is mainly embodied in supporting redundant township staff members”.<sup>31</sup> The PRC apparently has plans to remedy this situation and has introduced pilot taxation reform projects in some provinces in rural China.<sup>32</sup> However neither the “TAR”, nor any of the Tibetan Autonomous Prefectures, appear to be involved with the pilot projects. In any event the tax reform only expects to increase farmers' incomes by around 60 yuan (US\$7) per year, hardly enough to improve the conditions of Tibet's farmers.

While Tibetan agriculturalists are struggling to earn a livelihood due to high taxes and compulsory sales of grain at below-market prices, Chinese settlers in urban areas of Tibet receive subsidies of approximately US\$128 per person, including access to wheat imported into Tibet purely for consumption by Chinese residents.<sup>33</sup> The United Nations World Food Programme, for example, has estimated that almost the entire budget of Amdo (Ch: Qinghai) is spent on importing grain.<sup>34</sup> The combined effect of a food subsidy policy favouring urban settlers, while primary producers in Tibet face increasing taxation and below-market price for their grain, is discrimination against Tibetans in favour of Chinese settlers.

### ***Threatened “sideline” incomes: the case of Yartsa Gunbhu***

Due to government policies eroding farming and nomadic incomes, rural Tibetans have relied on “sideline” or supplementary sources of cash. For example, a farmer from Ngamring County in Shigatse Prefecture, “TAR”, spends two to three months every year to do minor construction work on houses, laying electricity wires or wool-spinning.<sup>35</sup>

Another important source of income has been collecting and selling the medicinal plant Yartsa Gunbhu (*cordyceps sinensis*).<sup>36</sup> In 2001 information came from Tibet that collection of this plant is now under threat due to interference by the PRC and the rapidly-growing interest of traders from outside Tibet.

Yartsa Gunbhu is highly valued in China as an ingredient in indigenous medicine, and increasingly popular in the West. It has been promoted on internet sites as a “miracle ingredient” improving stamina in athletes and making people feel younger.<sup>37</sup> Yartsa Gunbhu grows in Tibetan highlands. Traditionally the highlands were accessible to all Tibetans from the local area, so families would go to “pluck” the plant for free. They would then sell to



traders for around 3,000 yuan (US\$353) per gyama; in an average season one family could pluck anywhere between two to eight gyama (one to four kg) of the valuable plant.

As grassland throughout Tibet becomes fenced, some families or county governments end up with Yartsa Gunbhu growing on their lands. They can therefore charge collectors for access or prohibit access altogether. This has further exacerbated tension over the fencing of grassland. A recently-arrived refugee told of at least 10 deaths in his region caused by fights over access to Yartsa Gunbhu: “We have asked the Chinese authorities to come up with a solution to this conflict but they haven’t come up with anything”.<sup>38</sup>

In addition to these fights between Tibetans, there is now hot competition with traders from China.<sup>39</sup> One collector says that his group of four used to gather seven to eight gyama (3.5 – four kg) of the fungus, but “now we only get three to four gyama (1.5 – two kg) because that is all that is left after outsiders come in”.<sup>40</sup>

A former Tibetan trader in Yartsa Gunbhu suspects that private collection of the product is now under threat from government authorities. He told TCHRD of reports that from 2002 the government plans to stop the plucking of Yartsa Gunbhu by private individuals. They say that no one is allowed to pluck it unless they give tax... Previously the town government took 200 to 500 yuan (US\$23 - \$59) from each person plucking. From next year, the government will take 1,000 yuan (US\$118). This will make it very difficult for local people to make a profit.<sup>41</sup>

At the Fourth Tibet Work Forum held in Beijing in 2001, priority was given to the development of specialist Tibetan industries and economies which may include Tibetan medicine.<sup>42</sup> Given the information from this trader, and the sheer value of Yartsa Gunbhu, it appears inevitable that the Chinese government is now moving to take over this industry, thereby commandeering another crucial source of livelihood for rural Tibetans.

### ***Poverty reduction schemes***

The ICESCR obliges governments to recognise the right of everyone to an adequate standard of living, for himself and his family, including adequate food, clothing and housing.<sup>43</sup> In the absence of employment or other sources of independent livelihood, governments must guarantee people the right to social security.<sup>44</sup> Article 8 of the UN Declaration on the Right to Development also obliges governments to undertake “all necessary measures for the realization 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 the fair distribution of income”.

China’s Constitution grants citizens the right to material assistance from the state and society when they are old, ill or disabled, if necessary through social insurance, social relief and medical and health services.<sup>45</sup> The sorts of “social relief” offered to Tibetans in 2001 showed once again that the Beijing government fails to consult or include Tibetans.

In October 2001 the PRC released the White Paper on the Development-Oriented Poverty Reduction Programme for Rural China (hereafter White Paper on Poverty Reduction)<sup>46</sup> which acknowledged that poverty in areas such as the “TAR” and other autonomous regions had not been eradicated.<sup>47</sup> Only a month later the PRC claimed in the White Paper on Tibet’s March Towards Modernisation (hereafter White Paper on Modernisation) that “...people of

all ethnic groups in Tibet [have] basically shaken off poverty, and had enough to eat and wear...”<sup>48</sup>

The PRC claims that the impoverished section of the population of “TAR” has been reduced from 480,000 in the early 1990s to just over 70,000 today. It has been pointed out that China calculates its numbers of poor people using China’s own poverty line which is equivalent to around US20 cents per day – a fifth of the internationally-accepted poverty line of US\$1 per day.<sup>49</sup> Obviously if China used the international poverty line the numbers of impoverished people in Tibet would be much higher.

The information TCHRD received from Tibetans reaching exile in 2001 shows that poverty-reduction schemes put in place in Tibet have been disorganised, inconsistent from county to county and even village to village, rife with corruption and largely inaccessible to the very poor. Several exiles said that poor families did receive one or two sacks of grain from the local government.<sup>50</sup> However, other exiles said in their region the government gave nothing to the poor.<sup>51</sup> In some cases, the only assistance for the poor is provided by the local monastery; for example, the shop of a monastery in Trika County, Tsolho “TAP”, Qinghai, provides daily necessities, animal medication and fertiliser to poor families on credit and at cost price, with an understanding that these families will pay the monastery back when they have the money.<sup>52</sup>

China boasts about its provision of “small-amount credit loans” to poor households as a measure to eradicate poverty.<sup>53</sup> A recent arrival from Tibet explained that families could only borrow money from the government if they owned property to mortgage.<sup>54</sup> A quarter of the amount loaned would be taxed by the government in the name of the “help-the-poor” scheme. In theory this fund would then be accessible to poorer families to borrow money to build a house. However, in practice very poor families were refused loans. The TCHRD informant gave an example of a nine-member family in his village who through misfortune lost all three adults capable of earning a living. After repeated requests for assistance the county government gave the family a 300 yuan (US\$35) grant but nothing more. As there is no social security or income support available, this family is now dependent on the generosity and charity of Tibetan neighbours.

Another unpopular element of China’s poverty eradication plan is to encourage migration of poor families away from “areas with extremely difficult living conditions to more favourable areas”.<sup>55</sup> A recent arrival explains that in her area the scheme first of all used forced labour to build new houses and break new fields. Then she comments

the policy behind the forced labour was poverty reduction, a concept with potential that was once again poorly implemented. The poor people for whom the houses and fields were being constructed often refused to leave, not wanting to be forced to leave their family’s area.<sup>56</sup>

Clearly this policy was conceived and developed without first determining what local people wanted - another instance of Tibetans being denied their right to meaningfully participate in their own development. The PRC claims that offers of resettlement under this poverty-reduction measure are non-compulsory. However, these schemes must be monitored closely. If Tibetans are forced to move away from their families and historical lands this would constitute a breach of the ICCPR which permits people the right to choose the place of one’s residence.<sup>57</sup> It would also be a breach of the



right not to be forcefully evicted which is inherent in the right to adequate housing contained in the ICESCR (see Chapter on The Right to Housing).

Finally, TCHRD was informed by some refugees that the township authorities faked their incomes so that they did not appear as poor as they actually were.<sup>58</sup> A former township party secretary described his job as being

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.<sup>59</sup>

### ***The right to control natural resources***

The ICESCR recognises “the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.”<sup>60</sup> The UN Declaration on the Right to Development also states:

The human right to development also implies the full realisation of the right of peoples to self-determination, which includes, subject to the relevant provisions of both International Covenants on Human Rights, the exercise of their inalienable right to full sovereignty over all their natural wealth and resources.<sup>61</sup>

### ***The poor people for whom the houses and fields were being constructed often refused to leave, not wanting to be forced to leave their family's area***

Tibetans' inability to exercise their right to self-determination therefore has clear consequences for their ability to control the way in which the plateau's rich resources are exploited. Perhaps the greatest threat to Tibetans' right to livelihood in the long-term is the environmental destruction caused by China's intensive resource extraction and infrastructure development programme.

The government's policy of forced sedentarisation of nomads not only denies a large sector of the Tibetan community their livelihood but also threatens Tibet's environment through the opening up of lands for mining.<sup>62</sup> In Lithang County, Karze “TAP”, Sichuan, grassland which used to be nomads' grazing lands was spoiled by a mine, and animals can no longer graze there. The informant who gave this information to TCHRD says that income from the mine and factory does not benefit the area. Local people do not work at the mine or factory; employment is provided only to Chinese settlers.<sup>63</sup> A Tibetan from Chentsa County in Malho “TAP”, Qinghai, is very cynical about mining.

In our area there is a mountain which we consider very sacred. Now the government says that they will dig the mountain...They said they would extract the minerals and so they constructed a road to the mountain last year. It is said there are eight different kinds of minerals in the mountain. Close to this mountain there is a group of people who the government has deceived by saying if they allow them to extract minerals from this mountain they will draw water to them.<sup>64</sup>

In Lithang County, Karze “TAP”, Sichuan, local Tibetans used to pan for gold to supplement their marginal agricultural livelihoods. However, this is now coming under threat as Chinese professionals move into the area to mine. An informant explains:

Because we dig by hand we are not able to excavate all the gold. The Chinese dig with machines for more gold. After they have done that we can't find more gold again in that place. They dig up stones and rocks, whatever their machines meet, and leave holes big as four to five storey buildings. We Tibetans don't have such machinery. We sit and watch in amazement at the sites where the machinery of the Chinese is at work.<sup>65</sup>

In addition to large-scale mining, deforestation is playing havoc with Tibet's environment. In 1998 the Yangtze River flooded, causing a national disaster in Tibet and China. The PRC finally accepted advice from environmentalists that flooding – as well as desertification, siltation and pollution – is related to deforestation in Tibet.<sup>66</sup> As a result Beijing ordered 151 forestry enterprises to halt logging in non-“TAR” Tibetan areas. However, according to reports from tourists and recently-arrived refugees, the logging ban is selectively enforced. A Tibetan who escaped into exile late 2000 said that corruption, bribery and embezzlement is apparent in the forestry business.

If you can manage to pay bribes 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.

This informant said that those who can afford to pay bribes are people from outside Tibet whereas local Tibetans, “...particularly those who used to be dependent on the forest for their livelihood”, are now being forced out of work. “We are required to obtain permission even to get wood for home use such as building a house or making furniture.” For this reason, he concludes, “Chinese nationals coming from outside enjoy more privileges and exemptions than the local Tibetan inhabitants.”<sup>67</sup>

There are also fears that logging operations will merely shift from non-“TAR” areas into the “TAR”, which has not been subjected to logging bans. Logging practices within “TAR” are, however, controlled by the government but the purpose of the control is less to limit the amount of logging than it is to provide the government with yet another source of income. A recent arrival from Dromo County, Shigatse Prefecture, “TAR”, explained that prior to 1996 his family would chop wood for six months every year and earned 10 yuan (US\$1.20) per bundle selling to private buyers in the cities of Shigatse and Lhasa. In 1996 the zhangmo, or forest department, took over operations, requiring people to sell wood directly to the Department for only 4.5 (US\$0.50) yuan per bundle.<sup>68</sup>

Many refugees informed TCHRD of another environmental initiative apparently designed to lessen the likelihood of flooding: enforced plantation.<sup>69</sup> Farmers across the plateau have been ordered by the government to plant some of their farmland with trees and grasses. Although compensation is provided in small amounts of cash or grain, many families report that it is insufficient.<sup>70</sup> Without sufficient land on which to farm, many families are suffering a drastic reduction in their quality of life and are reduced to living hand-to-mouth.<sup>71</sup> Some Tibetan farmers claim that this new scheme is in the name of the Western Development Programme: they protested to the government that all “Western Development” meant for them was the loss of their land.<sup>72</sup> Needless to say, these complaints have gone unheeded by Beijing.

This year TCHRD was provided with information about the exploitation of several lakes through over-fishing.<sup>73</sup> According to a refugee who left Tibet early 2001, two lakes in Mateo County, Golog “TAP”, Qinghai, were depleted of fish when Chinese settlers took up

commercial fishing there. The Chinese fishermen then moved on to fishing at two more lakes which were considered by local Tibetans to be “very sacred and should not be exploited”. This informant said that Tibetans are protesting against fishing in these sacred lakes “but as usual, the locals’ protests are in vain”.<sup>74</sup>

In addition to overfishing, Tibet’s watercourses are suffering from ill-designed dams for powerplants which often lead to unexpected flooding of farm and grasslands, affecting thousands of Tibetans.<sup>75</sup> The wishes and aspirations of local people are clearly not consulted or considered when the PRC designs these projects. In 2001, several refugees warned of plans for another dam on the Machu River crossing Malho and Tsolho “TAP”, Qinghai, which will require forced resettlement of at least 1,000 people.<sup>76</sup>

***Many new hotels and restaurants will be constructed, and many people from China who have lost their jobs will come to find work . . . [T]he influx of more and more Chinese people with education and skills means that local Tibetans . . . will gradually be marginalised***

In February 2001 the PRC amended the Regional Ethnic Autonomy Law. Although the amendments generally took power away from Tibetans (see section in this chapter on “Beijing’s economic goals for Tibet”), there was one positive initiative. The Beijing government is now obliged to grant a certain level of compensation to autonomous regions for exploitation of their natural resources. Given the amount of environmental exploitation outlined above, it remains to be seen whether China can and will honestly estimate the value of resources extracted from Tibet and provide compensation.

### ***Urban livelihoods***

The 15-20 percent of Tibetans who live in urban areas of Tibet encounter different problems to rural Tibetans, most of them caused by China’s policy of population transfer. Since the early 1990s the Beijing government has encouraged a mass influx of Chinese migrants into the “TAR” and surrounding “TAP”s. These migrants are lured to urban areas by offers of employment, government-sponsored infrastructure projects, a rapid improvement in infrastructure of these cities, relaxed regulations governing private enterprises and cut-price loans to Chinese migrants to start businesses in Tibet.<sup>77</sup> Gyaltzen Norbu, then-chairman of the “TAR” government, stated in January 1993 that “We must open our door wide... and formulate preferential policies to attract qualified personnel.”<sup>78</sup>

This policy of attracting Chinese migrants to Tibet through offers of employment in infrastructure projects received a boost in 2001 through the Chinese government’s all-out promotion of the Western Development Programme. Originally launched in June 1999, the Western Development Programme is explained by the PRC as “preferential construction projects of infrastructure facilities, ecological environment and resource development in the western region”.<sup>79</sup> In 2001 the Fourth Tibet Work Forum also described the Western Development Programme as a “leap-over” model of development for Tibet.”<sup>80</sup> The Chinese government’s Tenth Five-Year Plan (2001-2005) for National Economic and Social Development identified four major infrastructure projects in China: the Qinghai-Tibet railway, the west-to-east gas pipeline, west-to-east electricity transmission, and water diversion from north to south.<sup>81</sup> All these projects will attract more Chinese personnel into Tibet, and in the case of the railway, will actively transport Chinese migrants.<sup>82</sup>

In addition, this year the Chinese government announced that a new 12.5 sq km Special Economic Zone (SEZ) would be set up in the Ne'u township in Toelung Dechen County, Lhasa Municipality. The Tenth "TAR" Five-year Plan (2001-2005) in announcing the SEZ promised that the zone would "become the pioneers of economic development of Lhasa and even the whole autonomous region".<sup>83</sup> In an effort to entice investors, taxation rates for businesses setting up in the SEZ are being offered at half the normal rate. The SEZ will also be the site of the Lhasa railway terminus.<sup>84</sup>

A Tibetan former government official who lived in Lhasa explained that the economic development of Toelung Dechen following the announcement of the new railway station, would increase the numbers of Chinese workers in the area but was unlikely to benefit local Tibetans.

Many new hotels and restaurants will be constructed, and many people from China who have lost their jobs will come to find work. There may be some short-term benefit for Tibetans in the construction of shops and restaurants for local people, but the influx of more and more Chinese people with education and skills means that local Tibetans may only be able to hold onto these jobs for a couple of years, and will gradually be marginalised. After the construction of the railway station at Xining (northern Tibet), local people got jobs as cleaners and ticket sellers and so on, but gradually many of them lost these jobs due to competition from more skilled Chinese migrant workers.<sup>85</sup>

In part due to the new SEZ, government authorities anticipate that Lhasa's population will increase by 30 percent over the next four years.<sup>86</sup> The Tibetan population of Lhasa is currently estimated at around 30 percent; this anticipated influx of Chinese settlers will substantially reduce the proportion of Tibetans, further marginalising them in employment and access to services.<sup>87</sup>

The population transfer, coupled with Chinese government propaganda often referring to Tibet as a "backwards" area, is also the cause of racial harassment and discrimination against Tibetans.

A Tibetan woman who used to work as a taxi driver in Lhasa claimed that racist opinions are prevalent among Chinese settlers in Tibet, and can be shown in the fact that "Chinese people never ride in taxis driven by Tibetans, they always seem to prefer taxis driven by fellow Chinese".<sup>88</sup> Given the high percentage of Chinese people living in Lhasa, and their higher disposable incomes, such discrimination would have a significant effect on Tibetans employed in private transport.

A former traffic policeman from Sangchu County, Gannan "TAP", Gansu, reported that Tibetan drivers were more regularly penalised than Chinese drivers.<sup>89</sup> He believed that the Chinese officials in charge of traffic infringements were biased, and arbitrarily interpreted the vague traffic regulations in such a way as to fine only Tibetans. Receipts for the fines were not issued and there was a widespread belief among Tibetans that the Chinese officials embezzled the money. In general, this informant felt that Tibetans were looked down on by Chinese settlers and accused of being lazy. He believed that as Tibetans are a minority in the workforce, discrimination against them went unchecked.

### ***Discrimination in employment***

In ratifying the International Covenant for Economic, Social and Cultural Rights (ICESCR), the PRC bound itself to “recognise the right of everyone to the enjoyment of just and favourable conditions of work”<sup>90</sup> including fair wages and equal remuneration for work of equal value without distinction of any kind;<sup>91</sup> safe and healthy working conditions;<sup>92</sup> equal opportunity for promotion;<sup>93</sup> and a reasonable limitation of working hours plus paid holidays.<sup>94</sup> When read in conjunction with the ICERD, which China ratified in 1981, it is clear that “equal” and “just” employment conditions include employment being available without discrimination on the grounds of race.

The Chinese Constitution declares that “citizens of the People’s Republic of China have the right as well as the duty to work”<sup>95</sup> and that all citizens be treated equally.<sup>96</sup>

In 2001 it was apparent that despite international law and the Chinese Constitution, Tibetans experienced great difficulties in obtaining employment of any sort; when they did obtain work, they often experienced discrimination. In jobs where Chinese and Tibetans undertook the same work, large discrepancies in wages are reported with Tibetans receiving half the salary of Chinese - or an even lesser ratio. An exile from Rebkong County, Malho “TAP”, Qinghai, who was employed at an aluminium factor testified that “Tibetans are paid only about 200-400 yuan (US\$23-47) whereas the Chinese were paid as high as 1,000 to 1,500 yuan (US\$117-176), all for the same work.”<sup>97</sup>

One area in which Tibetans have in the past found employment is the tourism sector, as Tibetans are better able to act as guides and interpreters. International NGOs also prefer to work with Tibetan rather than Chinese interpreters, as Tibetans naturally have a better accent.<sup>98</sup> However, in 2001 many Tibetan tourist guides, particularly those who had spent any time in India, were being subjected to repeated questioning by Chinese authorities. It was also rumoured that a thousand Chinese tourist guides were being trained in China and would be brought to Lhasa to replace Tibetans in the tourist industry.<sup>99</sup> This year reports also emerged that porters in Tingri County, Shigatse Prefecture, “TAR”, are being hit with a taxation increase from 20 yuan (US\$2.30) per climb to 450 yuan (US\$53) per climb – considering that each climb earns porters 800 yuan (US\$94), this appears to be a concerted attack on one of the last sectors in which Tibetans were better equipped to earn a living than Chinese people.<sup>100</sup>

This year the PRC government claimed that “a great number of farmers and herdsmen have become businessmen, throwing themselves into the mainstream of the market economy”.<sup>101</sup>

However, the number of Tibetans becoming involved in the market economy may in fact not be increasing. Many refugees have testified to TCHRD that Tibetan businesses cannot compete with Chinese businesses, as Chinese migrants have access to cheaper commodities brought in by Chinese or foreign multi-national companies. One refugee from Sog County in Nagchu Prefecture, “TAR”, says that in the past five years Tibetan businesses have been squeezed out of his township by Chinese businesses who bring cheaper Chinese goods in and can therefore make larger profits.<sup>102</sup> This informant estimated that in 1999 there were between 40 and 50 businesses in his area, almost all owned by Tibetans. However by 2001, 48 businesses in his area were run by Chinese settlers while only nine were owned by Tibetans.

Obtaining employment or running a successful business in Tibet often centres around guanxi or “connections” rather than the skills or suitability of the applicant. Chinese settlers in Tibet

are far more likely to have connections with high-ranking Chinese officials, putting them in a better position to obtain employment and business permits. A Tibetan student reports that

without a good connection with high up Chinese officials there is no chance of getting employed. 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.<sup>103</sup>

The majority of Tibetans escaping to India interviewed by TCHRD also report a discriminatory bias toward those who are fluent in Chinese. According to a student from Do-Wi Salar Autonomous County, Tsoshar “TAP”, Qinghai, deficiency in Chinese literacy makes it extremely difficult to gain employment.<sup>104</sup>

An exile from Mangra County, Tsolho “TAP”, Qinghai, shares the view that fluency in Chinese language is the most important criteria for employment. This has led Tibetan youths to believe that learning Tibetan is of no benefit if they want to succeed in the workforce.<sup>105</sup>

This year the PRC’s Tenth Five-Year Plan for the “TAR” proposed a recruitment drive for teachers of Chinese nationality in order to further develop Tibet. The Plan states “We must put existing qualified personnel to good use and actively recruit from outside [the TAR] the qualified personnel we urgently need.”<sup>106</sup>

The cumulative effect of discrimination meted out to Tibetans accelerated problems of unemployment among them. Today, many young Tibetans who have struggled to obtain university degrees are uncertain about their livelihood, and the few who are able to gain employment find themselves in jobs that do not reflect their qualifications.<sup>107</sup> One refugee reported that

even after graduating from university the students do not get a job. They often wait three or four years to start work. Now there are more than 200 graduates from our Tshodrug County who are unemployed. It is said that graduates from teacher’s college do not get jobs at all. If the university graduates manage to get employed, it is usually just a forest job. Most of the educated opt for agricultural work, which itself is not free from discrimination.<sup>108</sup>

An exile from Mangra County, Tsolho “TAP”, Qinghai, complains “the employment of college graduates rests solely in the hands of the leaders of the county. It is totally arbitrary on their part; if they say they cannot give jobs it is a final decision”. He reports that a number of students attempted to raise the matter with the county head. Their complaints were seen as defiance, and they were threatened with detention.<sup>109</sup> This informant also reported that the high cost of tuition for higher education prohibits many Tibetan students from attending or graduating from tertiary institutions.<sup>110</sup>

Despite a plethora of international and national laws claiming to protect women in the workforce, Tibetan women continue to face discrimination in their attempts to gain employment in Tibet. The International Covenant on the Elimination of Racial Discrimination prohibits discrimination in employment on the basis of gender, while Article 11 of the Convention for the Elimination of Discrimination Against Women (CEDAW) provides for equal employment of women, including the right to freely choose employment, the right to equal pay for equal work and the right to healthy and safe working conditions.



A Tibetan woman employed as a bricklayer reports that the Chinese labourers not only receive higher wages for easier work, but Tibetan men also receive higher wages than she did for the same work.<sup>111</sup> In the face of discriminatory practises, the economic difficulties faced by the many unemployed Tibetan women could render them vulnerable to being exposed to trafficking and prostitution.<sup>112</sup> It has recently been estimated that there are 7,000 Tibetan girls in Lhasa now working as prostitutes.<sup>113</sup> In June 2001, a recently-exiled monk knew 23 girls from Tsolho “TAP”, Qinghai, who went to Lhasa for teacher’s college training. On completing the training, the girls were unable to find employment. They told him that “they had finished all their money and were left with no other ways to make their living except to become prostitutes.”<sup>114</sup>

While Tibetans struggle to eke out a living in the primary sector or in the employment market, an increasing number are being utilised by the Chinese government in compulsory labour schemes. “Re-education-through-labour” camps provide a source of cheap labour for the Chinese government. Such camps have been roundly condemned by the International Labour Organisation (ILO), of which China is a member, for being in breach of international law in that people detained in the camps are not sentenced by judicial bodies but rather by administrative committees.<sup>115</sup>

In Tibet, re-education-through-labour is used often for the detention of political dissidents against whom criminal charges have not been made but who have shown “splittist” inclinations.<sup>116</sup> People who have been convicted by a court and imprisoned also undertake labour while in detention. Once again, this also includes many Tibetan political prisoners.<sup>117</sup> The work done by the detainees of both types of camps includes major development projects in rural and urban areas. A refugee interviewed by TCHRD in 2001 reported that

the Lhasa railway station is being constructed by people in the labour camps. Any people who were found gambling in Lhasa were arrested and sent to work for the railway station for two years as punishment. Any Tibetan who were caught trying to escape Tibet were also sent to work on the railway for three to four years.<sup>118</sup>

In February 2001 the UN High Commissioner for Human Rights, Mary Robinson told a gathering of Chinese government officials and criminal justice practitioners

I believe a serious review leading to the abolition of the practice of re-education- through-labour is justified. The concept of using forced labour as a punishment is against the accepted international human rights embodied in many international instruments.<sup>119</sup>

In May 2001 an agreement was signed between the ILO and China “to strengthen national employment reform in China”, but as yet the PRC has not outlawed re-education-through-labour.

### *Beijing’s economic goals for Tibet*

This year the PRC stated in their White Paper on Modernisation that “social and economic development has improved the [Tibetan] people’s material and cultural life remarkably”.<sup>120</sup> The White Paper then goes on to list various economic statistics, making it clear that when China refers to development it means an increase in productivity, economic investment, the gross domestic product (GDP) or average incomes. However, many rural Tibetans in the case studies given above spoke disparagingly of the “Development Programme”, commenting that their lives were certainly not developing.

Claims of development of Tibet by the PRC based on these economic indicators can be criticised on two fronts: firstly, the PRC fails to differentiate between the incomes or economic condition of ethnic Tibetans as opposed to Chinese settlers; secondly, the definition of development as purely economic improvement runs counter to the holistic concept of development held by the United Nations.

The PRC claims an increase in incomes across Tibet in the White Paper on Modernisation. Keeping in mind that for China “Tibet” is only the “TAR”, these statistics fail to differentiate between the incomes of ethnic Tibetans and Chinese migrants who have moved into the “TAR” under the PRC’s policy of population transfer. Given the testimonies of the Tibetans living in urban areas dominated by Chinese settlers, it is clear that the beneficiaries of the PRC’s policy in Tibet are Chinese settlers while Tibetans are becoming more marginalised. By averaging incomes the PRC effectively covers up the increasing polarisation between rural and urban incomes, and between Tibetan and Chinese people’s incomes in urban areas.

A second criticism of the Beijing government’s claims in relation to Tibet is that its plans for development are purely based on ideas of modernisation or economic advancement. However GDP and income statistics mean very little when taken out of context from other poverty indicators such as health, education, nutrition, clothing, housing, and quality of life. The United Nations Development Programme 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.<sup>121</sup> In 2001 a representative of the Asian Development Bank in China 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.<sup>122</sup>

The definition of development as economic advancement is clearly not the same as the definition conceived by the United Nations. The ICESCR states that all peoples have the right to pursue their “economic, social and cultural development”. Amartya Sen, the Nobel Prize winner for Economics, has articulated a framework of development which is used by the UN Independent Expert on the Right to Development.<sup>123</sup> He states

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.<sup>124</sup>

In Tibet, there is simply no democracy. Personal freedoms are routinely trampled on, beginning with the denial of Tibetan people’s right to self-determination. Denial of this crucial right allows the Chinese government 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.

The Constitution of the People’s Republic of China gives the central government the role of developing economic policy for minority autonomous areas in order to speed up development of those areas. In 1984 the Regional Ethnic Autonomy Law granted the “TAR” People’s Congress some limited powers regarding the administration of economic policies. Despite this lip service paid to “autonomy” of the Tibetan people, economic policy for Tibet continued to be set by the Beijing government.



In February 2001 the Beijing government removed even this token of respect for Tibet's so-called "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.<sup>125</sup> 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.<sup>126</sup> These amendments make it clear that development in Tibet will be based on the needs of the Chinese market rather than local needs and interests.

To ensure close adherence to Beijing's economic goals, Tibetans have for some time been sent to different parts of China to learn economic production strategies. In 2001 a Tibetan now living in exile explains the results of this training:

Tibetans who have been deputed to undergo specialist training in different parts of China have undergone political indoctrination rather than focusing on the realities of local situations prevailing in the Tibetan areas where they are to work. These Tibetans do 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...<sup>127</sup>

The United Nations General Assembly has stated that in order to achieve social development, governments will 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".<sup>128</sup> Information received from Tibetan refugees in 2001 shows that the PRC does not respect this principle. A former Tibetan village cadre, now in exile, said that he was meant to be the "middleman" between the government and the villagers. This involved little more than the propagation of the Beijing line amongst the villagers by reading out statements of Communist Party members in regular meetings. When he passed on villagers' requests to the county government - for a motorable road, electricity, money for a school, assistance for poverty-stricken families - the requests were blatantly ignored.<sup>129</sup>

Perhaps in awareness that many Tibetan cadres are reluctant to be a propaganda tool for the Beijing government, since 1995 the PRC began posting Chinese cadres into administrative positions throughout Tibet. This year, for example, the PRC boasted that 70 cadres were being educated in Tibetan language and "nationalities policy" at the University of Tibet. Upon completion of their course the cadres will be appointed to various administrative positions in farming and nomadic areas of the "TAR".<sup>130</sup>

Tibetans who fled into exile in 2001 display a keen awareness that the Chinese government is only interested in what it can get out of Tibet rather than what it can do for Tibet. The Chinese government pays no attention to feedback from Tibetans regarding the economic policies designed in Beijing. However one refugee pointed out that China has selective deafness on matters relating to Tibet:

When disputes over pastureland result in bloodshed among the nomads, the authorities hardly take any notice. One would think they never notice anything that Tibetans do, but this is not so. When

some Tibetans put up posters demanding Tibetan freedom, immediately Chinese police swoop on the site.<sup>131</sup>

### *Effect of WTO and globalisation*

China became a member of the World Trade Organisation (WTO) on 11 December 2001. The Chinese government promoted this as a “‘win-win’ and ‘all-win’ [event] for China as well as for the world”.<sup>132</sup> However some economists have predicted that China’s accession to the WTO, and indeed the wider processes of globalisation, have the potential to destroy the livelihoods of many Tibetans.<sup>133</sup>

China has tried to argue that the globalisation of China’s economy will benefit Tibetans through opening up their access to commodities. This year’s White Paper on Modernisation boasts “[c]ommodities from other parts of the country and the world are flowing into Tibet in a continuous stream to enrich both the urban and rural markets and the lives of the local people”.<sup>134</sup> This “continuous stream” of commodities is likely to become a flood in the wake of China’s entry into the WTO. However, given the experience of Tibetan traders being unable to compete with Chinese businesses, it appears unlikely that Tibetans will be enriched by this flow of commodities.

WTO membership will have an even greater impact on Tibet’s primary producers. WTO rules dictate that the Chinese government can no longer protect local produce by imposing high tariffs on foreign imports. Tariffs on many agricultural imports into China will be slashed, allowing in cheaper foods from vast and hi-tech foreign farms which can produce cheaper products than small Tibetan farms. Barley producers are likely to experience a drop in the market price because the government will no longer be able to impose high taxes on foreign barley coming into Tibet.<sup>135</sup> Without such protection, market prices for important Tibetan produce such as barley, wheat, rapeseed and meat, are likely to plunge. Experts predict that nomads will also “...have their markets adversely affected as they face increasing competition in their marketplaces”.<sup>136</sup>

Even more significantly, the PRC is itself dubious about the benefits of WTO accession on its rural sector. In the White Paper on Poverty Reduction the PRC admits that labour- and resource-intensive industries, such as agriculture and herding, “...may be adversely affected after China enters the WTO”.<sup>137</sup> Chinese Prime Minister Zhu Rongji expressed concern to a group of Chinese journalists about the impact of the WTO membership on China’s farmers.<sup>138</sup> A senior economist with the Chinese Academy of Social Sciences was more precise: “There’s no doubt the peasants will have it worse.”<sup>139</sup> Given that over 80 percent of Tibetans draw their sustenance from the already-marginalised rural sector, such statements are cause for serious concern.

The PRC expresses a hope that short-term suffering upon accession to the WTO will give way to long-term benefits, once Chinese (and Tibetan) producers find new markets across the world.<sup>140</sup> In the White Paper on Poverty Reduction China discusses a plan of economic restructuring in order to cope with increasingly fierce competition from foreign markets.

[I]n order to improve the competitiveness of their industries, [the developed regions] are transferring some labour-intensive industries to the less-developed areas. The poor areas, mostly situated in the central and western parts of China, have relatively rich resources and cheap labour, which place them in a locationally advantageous position to respond to such transference.<sup>141</sup>

Statements such as “cheap labour” ring alarm bells for Tibetans given the case studies showing that many Tibetans are paid less than Chinese employees. In addition, forced labour schemes such as the “re-education-through-labour” camps provide China with a substantial amount of cheap Tibetan labour. It has been argued that the increase in competition which comes with trade liberalisation and globalisation invariably puts pressure on workers’ rights.<sup>142</sup> Given that China outlaws trade unions and the collective assertion of workers rights, China’s plans to use cheap labour in the west — which inevitably will mean Tibetans — could involve increased exploitation of Tibetan people.

Accession to the WTO will also increase access to Tibet by multi-national companies whose exploits in Tibet have already come under much criticism.<sup>143</sup>

The experience of other countries who enter the WTO, or who are dealing with the economic effects of globalisation, is that groups who are already excluded from mainstream national markets become even further marginalised.<sup>144</sup> The NGO Forum Declaration at the World Conference Against Racism in 2001 noted that this type of marginalisation can deepen inequalities, particularly those based on race:

[C]urrent forms of globalisation and policies of international financial and trade institutions, as well as the activities of transnational corporations, prevent the full realisation of economic, social and cultural rights of all peoples, maintain and depend upon the social exclusion of groups that are most marginalised and heighten tension and manifestations of racism, racial discrimination, xenophobia and related intolerance.<sup>145</sup>

Given the social inequalities that currently exist in Tibet, and the PRC’s discriminatory policy of refusing to allow Tibetans to participate in their own development, the WTO accession is likely to have a detrimental and impoverishing effect on Tibet.

## *Conclusion*

It is clear from the many Tibetans interviewed by TCHRD in 2001 that their right to livelihood is being sacrificed by the Chinese government as it pursues its’ goals of resource- and labour-exploitation. These goals are targeted towards rapidly modernising urban areas of Tibet to cater for the increasing Chinese population, while doing little for rural Tibetans who constitute over 80 percent of all Tibetans. In fact, the PRC’s policies in relation to nomads appear formulated to destroy a crucial element of traditional Tibetan culture. Farmers also suffer under arbitrary taxes and an insensitive land distribution policy. Environmental policies target Tibetan agricultural and nomadic lifestyles while leaving China’s resource-exploitation strategy in Tibet largely unaffected. It is also anticipated by many experts, including the Beijing government, that China’s accession to the WTO will have a detrimental effect on the rural sector.

In urban areas, the Beijing government continues a policy of population transfer by offering preferential employment, business rates and subsidies to Chinese migrants. Tibetans are becoming rapidly marginalised in towns and cities, facing discrimination in access to employment and services.

In many cases Tibetans complained and protested about the policies affecting their livelihoods, but such concerns were either ignored by government officials or quickly repressed. The Beijing government continued to train Chinese cadres and place them into

government positions throughout the “TAR” and “TAP”s to ensure that economic and political policies are implemented under directives of the Beijing government. In 2001, many Tibetans were denied the right to livelihood while the right to participate in their own development remained just a dream.

## THE RIGHT TO EDUCATION

More than one third of the asylum seekers who escape into exile from Tibet every year are under the age of 18.<sup>1</sup> A principal motivation for many young people — and the impetus for families sending their children alone into Nepal and India — is the lack of access to high-quality, affordable education in today’s Tibet. The critical concerns identified by refugees recently arrived from Tibet are the costs of attending school, their inaccessible locations, the poor educational facilities and low quality of teachers.

The right to education is enshrined in the International Convention on the Rights of the Child (ICRC)<sup>2</sup>, where the responsibility of states in upholding the rights of its children is outlined. Of particular relevance to Tibetan children, the Convention specifies that a child’s education should be directed toward “the development of the child’s cultural identity, language and values, [and] for the national values of the country in which the child is living...”<sup>3</sup>

In violation of this, in 2001 the PRC has continued to force those Tibetans who are able to access education to receive their schooling in an alien language, in an environment which belittles and demeans their culture and heritage. Far from condemning the prevalence of under- and poorly-educated children, China continues to develop a curriculum that increasingly and openly discriminates against Tibetans in their own country.

Education is also recognised as a fundamental right in the Universal Declaration of Human Rights (UDHR).<sup>4</sup> Article 26 enshrines that “...everyone has the right to education directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms”. Similarly, the International Convention on Economic, Social and Cultural Rights (ICESCR) states that: “...education shall enable all persons to participate effectively in a free society...”<sup>5</sup> With a view to achieving this right, “...primary education shall be compulsory and available freely to all, [and] secondary education...shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education”.<sup>6</sup>

Having ratified both the ICRC and ICESCR, Beijing is bound to incorporate their Articles into its National Law. While certain articles of China’s Constitution (examined in detail later) purport to uphold these principles, reports from research conducted this year by international bodies — and recent refugee accounts — reveal the vast differences between Chinese rhetoric and the reality for children in Tibet.

China has acknowledged the right to education as fundamental in its Constitution, which states that, “...citizens of the People’s Republic of China have the duty as well as the right to receive education”.<sup>7</sup> Despite this provision, a vast number of children who belong to China’s 55 recognised minority nationalities are denied this right.<sup>8</sup> In the PRC’s 2001 White Paper on Modernisation in Tibet, Beijing proclaimed that “The state has invested enormously in developing education...in 2001 Tibet has 956 schools of all kinds, with a total enrolment of 381,100 students. The enrolment ratio of school-age children has increased to 85.8 percent, the illiteracy rate had declined to 32.5 percent...”<sup>9</sup>

However, in many rural areas there are simply no schools for children to attend, and those that exist cater only to those who can afford the fees. An estimated 80 percent of Tibetans reside in rural areas, with incomes that do not allow their children what has become the “luxury” of attending schools. A case from Keru Township, Dege Jomda County, in Chamdo Prefecture, “TAR”, exemplifies the difficulties faced by Tibetan families in attaining literacy. A nomadic mother reported that there were no schools in her area to send her children to, and at the nearest school the fees were beyond her means at 500 yuan (US\$58) per year. She claimed that in addition to the fees, parents were obliged to provide the school administration with 8 gyama (4kg) of butter and 30 gyama (15kg) of meat. She could afford to send her son to school for only four months.<sup>10</sup>

A 21-year-old youth from Tsodrung Township, Chentsa County, Malho “TAP”, Qinghai, said that there is a primary school in the township which the local government spent 10,000 yuan (US\$ 1,176) on establishing. However, the school has only around 60 to 70 students, as the fees are beyond the means of an average Tibetan family.<sup>11</sup>

A monk who has escaped to India reports that in his area of Lukhang Township, Gergye County, Ngari Prefecture, “TAR”, there are 10 villages inhabited by nomads and farmers. The school that exists for the entire area was constructed in 1997; prior to that there was no school at all. With fees of around 500 yuan (US\$59) per year, a reported 90 percent of the children are unable to attend school.<sup>12</sup> There are large disparities between education in China’s populous east, with almost 100 percent school enrolment, and the China-controlled rural west, where less than half the population has access to even six years’ schooling.<sup>13</sup>

Where educational institutions exist, the quality of facilities and standard of teaching are further impediments to quality schooling. A nomad from Rangpo Town, Sog County, in Nagchu Prefecture, “TAR”, reported that, “Owing to no incentives or facilities for the teachers and students, the attendance [at school] is only about 30 percent. The reason for poor attendance can also be attributed to a lack of proper regulations. The teachers also have little free time [to teach] since they all are engaged in their own nomad or farm work which provides them a livelihood.”<sup>14</sup>

***In the past 20 years ...only 15 students from Tingri County completed their high school studies. Those finishing higher studies were all the children of county officials***

A former town clerk from Gansu Province confirms a similar neglect of six villages, none of which has a school. He explained, “...there is only one school in the town, but even this has poor teaching, no boarding facilities and on top of that each pupil has to pay [annual] school fees of 300 yuan (US\$35). Owing to these obstacles, presently there are only 60 students.”<sup>15</sup>

A number of parents view the poor quality of education as being actively detrimental to their children. At Ponda primary school, in Jidon village, Markham County, Chamdo Prefecture, “TAR”, the standard of teaching was such that parents — mostly nomads and farmers — withdrew their children despite the risk of fines of up to 1,500 yuan (US\$176). “The school is a school in name only,” one parent complained, “after three years [my son] had hardly learnt the Tibetan alphabet, but has learnt all the vices like stealing and playing cards; the students learn nothing from school.”<sup>16</sup>

The situation for Tibetan students does not appear to improve at the secondary level of schooling. In the villages of Shekar Township, Tingri County, Shigatse Prefecture, “TAR”, a

farmer reports that the majority of children discontinue studies after completing middle school as their parents are unable to afford the “exorbitant” fees for further study. In the past 20 years, the farmer claims, only 15 students from Tingri County completed their high school studies. Those finishing higher studies were all the children of county officials.<sup>17</sup>

### *Discriminatory practices*

Tseten is a teacher in a primary school in Dhitoe County, Jyekundo “TAP”, Qinghai. According to Tseten, “...there is a well-established school in my county, but in this school there are only children of Chinese nationality, children of Tibetans who work under the Chinese, and children of rich Tibetan businessmen. There isn’t a single child from a nomadic or farming background. They go to a different school, and after they complete primary school most of them cannot opt for further studies as they are not able to pass the entrance exams, having not learnt anything. Moreover, the teachers say the nomad children are dumb, that they won’t learn anything. The teachers are all Chinese, and even if a nomad child did well in his or her exams the chance of getting a job is highly doubtful.”<sup>18</sup> Throughout 2001, many children have reported discriminatory attitudes from both pupils and teachers. This manifests in bullying and harassment of Tibetan children, condoned by Chinese teachers, and labour and chores Tibetans are expected to perform during school hours while the Chinese students are exempted.<sup>19</sup> Chinese students are also reported to have preferential access to facilities and services.

Chinese students often paid lower [school] fees, received free food and supplies that Tibetans had to purchase themselves, and at some racially mixed schools, enjoyed separate, higher quality, classrooms — or even had wholly separate schools with better facilities.<sup>20</sup>

The discriminatory attitudes extend to the derision of Tibetan culture in its entirety.

Tibetan children are taught that their cultural heritage is “feudal, backward and primitive”, whereas the alien Han culture is portrayed as “civilised and advanced”. This “doctrine of superiority” is specifically prohibited by The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), which “...condemns 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”.<sup>21</sup>

Ratified by the PRC in 1981, ICERD seeks to protect all, including children, from discrimination. “Discrimination between human beings on the ground of race, colour or ethnic origin is an offence to human dignity and shall be condemned...as a violation of the human rights and fundamental freedoms proclaimed in the UDHR.”<sup>22</sup>

But China’s current education system has the effect of creating and perpetuating racial discrimination against “minority nationalities”. Minority groups, such as the Tibetans, live in geographically remote and inaccessible areas, exacerbating the discrimination of access to facilities, and attracting adequately qualified teachers.<sup>23</sup> This is despite the PRC Constitution guaranteeing that, “...all nationalities in the PRC are equal...discrimination against and oppression of any nationality are prohibited...”<sup>24</sup>

Despite the actions that international bodies condemn, and the rosy claims of the PRC, Tibetan students feel overtly discriminated against. A 14-year-old Tibetan girl claims that the Chinese studying at her school branded the Tibetans less intelligent and poor students. “They



say that the Tibetans are of an inferior class, and consequently look down upon us with a superior attitude.”<sup>25</sup> A teacher confirmed that because Tibetan students face problems when attempting to comprehend the Chinese language, “the poor performance of Tibetan students is looked down upon and teachers make taunting remarks [toward them].”<sup>26</sup>

Children report being told that Tibetan Buddhist practice — the heart of the nation’s identity and culture — is “backward behaviour” and an “obstacle to progress”.<sup>27</sup> They are taught that their Tibetan history is but an insignificant component of Chinese history, that their language is redundant, and their religion a “mark of shame”.<sup>28</sup> From a young age Tibetans are therefore infused with a sense of inferiority and systematically denied alternate options for education.

***Children ... are taught that their Tibetan history is but an insignificant component of Chinese history, that their language is redundant, and their religion a ‘mark of shame’***

This is evidenced by the anti-religion campaign extended by Beijing in early 2001, which denies Tibetans both their right to freedom of expression, and eliminates the one remaining option for a culturally appropriate education. Tibetan children attending middle schools and some primary schools in Lhasa are now barred from performing prayers or rituals. Those below the age of 18 have also been barred from joining monasteries or nunneries.

In a Tibetan school in Rebkong County, Malho “TAP”, Qinghai, there are 300 students with a separate class for the 30 Chinese students. Although the grounds are of a reasonable size, all the buildings, both residential and educational, including toilet blocks and dining areas, are quite derelict. Many windowpanes are broken, doors damaged and the general state of the building is poor. Many areas suffer for lack of maintenance. Whereas in a Chinese school of a similar size in Barkham County, Sichuan, the facilities are in good order and the building is fairly modern. The grounds are in good repair and even have flowerbeds and facilities such as watertaps near the playing areas. There is a large U-shaped building with large windows, surrounding a basketball court, all of which are well maintained.<sup>29</sup>

### ***Studying in an alien tongue***

China’s 1984 law on Regional Autonomy and the 1995 Education Law guarantee the right of minority nationalities to use their own language in education.<sup>30</sup> However, in practice minority languages have been regarded as second-class within the Chinese education system.

Reports from Tibet indicate that the Beijing Chinese dialect, putonghua, is becoming the main language of instruction in Tibetan schools. Recent changes to the provision of education in the “TAR” involve primary level teaching of mathematics and the Chinese and English languages solely through the medium of Chinese.<sup>31</sup> If this trend continues, it will mean the only subject taught in Tibetan in the “TAR” is the Tibetan language itself.

The Chinese medium of instruction puts those Tibetans who are able to attend school at a major disadvantage. One teacher explains that at his school, in Jyekundo County, Jyekundo “TAP”, Qinghai, most of the teachers were Chinese. The Tibetan students were all from rural areas and reported difficulties in understanding Chinese.<sup>32</sup> A 14-year-old student observes that at his middle school, Chinese was the main subject and other subjects, such as Chinese history, mathematics, were all taught in Chinese<sup>33</sup>. Another 14-year-old student reveals the

bias built into the system. “The Tibetans learn Chinese but the Chinese do not learn Tibetan.”<sup>34</sup>

Because Tibetan language is not seen as being relevant to a quality education, a prosperous future is perceived as possible only with fluency in Chinese. In many cases, Tibetan students opt to study Chinese rather than Tibetan, as this appears to offer prospects for future job opportunities.<sup>35</sup>

For Tibetan students who leave school unable to fully comprehend either Tibetan or Chinese, their ability to communicate with the older generations, or understand the history of their own country, is jeopardised. A girl from Tsolho “TAP”, Qinghai, noted that in the later years of her schooling Tibetan was taught at high school, but “was not deemed important, it was taught by Chinese and contained no Tibetan aspects of religion or culture”. One 16-year-old, also from Tsolho “TAP” laments that she cannot speak or write Tibetan well as all her teachers were Chinese.<sup>36</sup>

Nepotism and corruption are also reported to be commonplace in the Chinese educational system. A Tibetan schoolteacher in Gyalkon Township, Dartsedo County, Sichuan, points out that “...as a Tibetan, there are limited educational opportunities”.<sup>37</sup> The teacher states that certain courses are open to all for applications, but a candidate with good financial standing gains entrance quicker and easier. Parents have been known to arrange admission for their children by offering bribes to the authorities that range from 5,000 to 10,000 yuan (US\$ 588-1,176). Similarly, if a candidate is connected in some way to the school principal, then it can be assumed admission is guaranteed.

## *Conclusion*

Education is the most fundamental right guaranteed in all national and international laws. But every year thousands of children are sent from occupied Tibet by their parents for education by the exile government in India, under the Dalai Lama. These children not only suffer being separated from their parents at an early age, but also risk their lives by walking across the high and cold terrain of the Himalayas. Many die en route and more have been arrested and detained by the Chinese government without trial.

The year 2001 saw the PRC celebrating the so-called 50th anniversary of its “liberation” of Tibet from a “feudal past”. Yet, in the 21st century many children on the plateau have never seen the inside of a schoolroom. For those who have access to schooling, discrimination is clearly evident in the curriculum, the treatment of Tibetan students, as well as the more tangible issues such as facilities, teaching standards, cost and location. This is certainly leading to the escalating numbers of under-educated and subsequently unemployed young Tibetans. These factors exist to the detriment not only of Tibetan children, but also to the very future of Tibet. The conditions are so critical that parents increasingly feel the only option for their children’s education is to run the risks of sending them into exile.

The world community is called upon to take stronger steps towards pressing the Chinese government to give free and equal education to Tibetan children. If the trends of the last 50 years of Chinese colonisation continue, the whole culture of Tibet will atrophy and die under Beijing’s policy of unification and assimilation.

## **THE RIGHT TO HEALTH**



"Health" is defined by the World Health Organisation as a "state of complete physical, mental and social well-being and not merely the absence of disease or infirmity". The right to a reasonable standard of health is articulated in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination, and that against Women (ICERD and CEDAW respectively), and the UN Convention on the Rights of the Child (CRC).

Both ICERD and CRC uphold the right of everyone without discrimination based on race, colour, national or ethnic origin, to enjoy "public health, medical care, social security and social services".<sup>1</sup> CEDAW similarly bars discrimination against women and ensures the right of women to access adequate healthcare facilities.<sup>2</sup>

While its Constitution does not explicitly guarantee the right to health, as a signatory the PRC is bound to standards of health enshrined in these Conventions. To this end, the PRC's Constitution lists the measures that are taken in order to advance and protect the health of its citizens, recognising the "right of everyone to an adequate standard of living, including a continuous improvement of living conditions,"<sup>3</sup> including "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health".<sup>4</sup> This right encompasses the creation of conditions that assure medical service and medical attention to all in the event of sickness. The State also 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 a mass character.<sup>5</sup>

As documented throughout this report, China consistently fails to respect the right to health as defined by International Conventions to which China is a party. A primary reason for this may be that the laws China has enacted relating to healthcare fail to specify measures relating to the implementation of the right to health. Had the laws outlined methods of effective implementation, Tibetans by now may have experienced improvements in healthcare provisions. International studies and Tibetan testimonies conducted in 2001 indicate that in contrast to their Chinese counterparts, Tibetan people are finding it increasingly difficult to receive basic medical attention.

The provision of healthcare within Tibet is found to vary widely between regions. Different regulations are found to be in force in each county, indicating a high degree of localised policies.<sup>6</sup> What Tibetans commonly experience is racial discrimination in their attempts to obtain basic health services. Those escaping occupied Tibet report access to – and provision of – services as limited, and low-level or inadequate where available. The standard of basic health education also remains low. This is a serious concern, particularly in view of the escalating incidences of confirmed HIV/AIDS now acknowledged by China. Finally, a number of international studies have identified malnutrition and several life-threatening diseases as being prevalent on the Tibetan plateau.

The PRC's November 2001 White Paper hails Tibet's March toward Modernisation: "...Tibet has kept marching forward along the road to modernisation and made significant achievements that have attracted worldwide attention".<sup>7</sup> China may not, however, wish to herald the negative attention it has received this year particularly in the field of nutrition.

Independent medical studies, and research inside Tibet by the US Embassy in Beijing, have made serious findings regarding the health status of Tibetans.<sup>8</sup> Poor levels of nutrition were highlighted in the studies, along with the prevalence of certain endemic diseases. It was found that despite extensive central government subsidies, "...the region's healthcare infrastructure still significantly lags behind the rest of China."<sup>9</sup>

### *Statistics versus reality*

It appears China is aware of the difficulties of providing a largely rural population with adequate standards of healthcare. China's November 2001 White Paper states that pre-1959 Tibet was "extremely short of doctors and medicine, and most sick people lacked both money for medical care, and access to doctors".<sup>10</sup> Now, according to China, Tibet enjoys a comprehensive "medical and health network...covering all the cities and villages in the region".<sup>11</sup> Despite injections of funds and such optimistic rhetoric, Beijing's description of Tibet's pre-1959 health infrastructure and services in fact accurately portrays the current situation. This reveals Beijing's priorities when it comes to development in Tibet, particularly when compared to other rural areas inside China.

An independent medical study published in 2001 found that over 50 percent of the 2,078 Tibetan children assessed had moderately or severely stunted growth, well above levels found in China.<sup>12</sup> Severe stunting due to malnutrition occurs at a young age, as a consequence of numerous adverse conditions. These include the poor nutritional status of women, exposure to infection and other diseases, emotional stress, and possibly the effects of high altitude living.<sup>13</sup> The proportion of children with stunted growth was found as greatest in non-urban areas, a conclusion that does not bode well for the estimated 80 percent of Tibetans who live in rural areas.

The long-term effects of growth stunting have been linked to impaired development, lower intelligence and a reduced capacity for labour. These contribute to poor academic performance and limited employment opportunities, perpetuating the cycle of discrimination faced by Tibetans.<sup>14</sup> Growth stunting reveals that the human right to adequate nutrition and access to healthcare has been denied. This will have a negative effect in Tibet for generations to come.<sup>15</sup> The international study concluded with the observation, "The larger view is that as each day passes, the children of Tibet are suffering from a silent calamity that causes many to die and that inhibits the development of the survivors."<sup>16</sup>

Tibetan refugees escaping to India from across the plateau testify to the bulk of funds that Beijing has allocated to Tibet's health sector being channelled toward developing infrastructure, most commonly in areas where a significant Chinese population has settled

China's November 2001 White Paper states that co-operative medical centres service 80 percent of Tibet's rural areas, with 8,948 professionals employed in the 1,237 medical and health facilities. Healthcare statistics and figures provided cover immunisation levels, incidences of endemic diseases, mortality rates and life expectancies. These figures aim to establish the improved standards of healthcare enjoyed by the Tibetan populace today. China maintains that campaigns and funds are continually disseminated on the Tibetan plateau to ensure the realisation of health services for all.

Contrary to the picture painted by Beijing's statistics, Tibetan refugees escaping to India from across the plateau testify to the bulk of funds that Beijing has allocated to Tibet's health sector being channelled toward developing infrastructure, most commonly in areas where a significant Chinese population has settled. This translates into the larger part of actual costs of medical treatment still being paid by the patient, while the often inaccessible hospitals and healthcare centres are improved.<sup>17</sup>

New arrivals in India are also sceptical about the utilisation of funds donated by international aid organisations. Dhimey, from Sog County, Nagchu Prefecture, "TAR", states, "Any donation that is made for the people, the authorities will take in the name of the people and actually use it for themselves – they will buy a vehicle, or a generator. Donations for the people's welfare actually does nothing for the people."<sup>18</sup>

China faces logistical difficulties and resource constraints in attempting to provide comprehensive healthcare in Tibetan regions. However, there are some obvious steps to improve the situation, such as encouraging the education and training of Tibetan healthcare workers to serve their own communities, removing restrictions on foreign agencies working inside Tibet, and the promotion of health education campaigns — all of which would have minimum costs with substantial gain.<sup>19</sup>

The ability of individuals to exercise their human rights is directly related to their awareness of the rights to which they are entitled.<sup>20</sup> Thus the importance of health education for adequate nutrition and preventable, communicable diseases is paramount. Recent research inside Tibet "did not indicate that the PRC have made efforts to disseminate basic health and sanitation information to inhabitants of rural Tibetan regions."<sup>21</sup> The lack of information provided to pregnant women about health and nutrition are indicative of the absence of general healthcare education. Excepting one recent arrival from Saga County, Shigatse prefecture, "TAR" the vast majority of refugees reported that no one gives health or nutrition advice to pregnant women.<sup>22</sup>

However, the current HIV/AIDS debate within China may result in greater educative efforts, as indicated by the secretary-general of a recent HIV/AIDS conference within China: "Since there is no way to eradicate the HIV virus at present, everyone in cities and villages should receive health education."<sup>23</sup>

### ***HIV/AIDS and the right to life***

The growth of prostitution, a birth control policy that places all responsibility upon women, and a widespread lack of preventative education sets the scene in Tibet for an HIV/AIDS crisis. Inside China — with severe repercussions for Tibet — there appears to be a general reluctance to concede the potential consequences of an HIV/AIDS epidemic. HIV/AIDS is known to thrive amongst minority groups with a widespread lack of knowledge and protective life skills, a transient population, low socio-economic status, and inequitable gender dynamics.<sup>24</sup> Many areas of Tibet fit this UN definition, and combined with the borders Tibet shares with China, India and Nepal, there is strong evidence to extrapolate the existence of HIV/AIDS in Tibet.

Official 2001 figures published by Chinese authorities, widely viewed as conservative, have placed the number of confirmed HIV/AIDS cases across China at between 600,000 to 1 million, with a 30 percent annual rate of increase.<sup>25</sup> To date, Tibet is declared to have no

confirmed HIV/AIDS cases.<sup>26</sup> In making this statement, the US Embassy in Beijing is referring to the “TAR”, excluding areas of pre-1959 Tibet that have since been claimed by China’s Yunnan and Sichuan. Both provinces register significant levels of confirmed HIV/AIDS cases, Yunnan recording the highest HIV/AIDS rate in China<sup>27</sup>. Inside the “TAR” there are no HIV/AIDS testing facilities, rendering it impossible to ascertain the level of the virus inside Tibet. The lack of confirmed HIV/AIDS cases must therefore be seen as reflecting these factors, rather than the status of health inside Tibet.

The future of HIV/AIDS within Tibet is heavily influenced by the actions the Chinese government takes in order to mitigate the epidemic, and if Beijing does not urgently begin comprehensive preventative education campaigns and establish testing and treatment facilities within Tibet, the chances of mitigating the crisis are slight.

Those exposed to HIV/AIDS are entitled to the right to life, to information and to accessing all the benefits of scientific progress. The ICESCR recognises the right of everyone to enjoy the benefits of scientific progress and its applications.<sup>28</sup> This right entitles people living with HIV/AIDS access to treatments and drugs which prolong life expectancy. All countries with poor health infrastructure face difficulties in providing these services, with China’s immense population also contributing to China’s inability to widely offer these provisions.

The lack of information currently provided to both Chinese and Tibetans surrounding preventative education constitutes a breach of the right to information for the protection of public health.<sup>29</sup> The UN Commission of Human Rights has urged states to

introduce protective legislation and appropriate education to...ensure the full enjoyment of civil, political, economic, social and cultural rights by people living with HIV/AIDS.”<sup>30</sup> UN officials continue to press China to take urgent measures, as “over the next two decades, what happens in China will determine the global burden of HIV/AIDS”.<sup>31</sup>

While policies are slowly developing, effective implementation appears an onerous task, with considerable economic and social hurdles.

Disregarding the magnitude of the potential epidemic, China has failed to incorporate recommendations by the international community into domestic law, as well as breaching the Covenants to which it is party.

Absence of strategies targeted toward HIV/AIDS awareness and prevention are reflected through the testimonies of recent exiles. The majority of new arrivals from Tibet state clearly: “No one in our country knows about it, no one in Tibet has this disease.”<sup>32</sup> The view is unanimously shared that: “We do not have AIDS in our village. It is said that there is a terrible disease in big towns. The people in the village are talking about it while the government and the hospital says nothing.”<sup>33</sup>

In China, a delay of 13 years followed the first confirmed AIDS case in 1985 and the establishment of HIV/AIDS prevention or control centres, an example of China’s inability to respond to the impending crisis.<sup>34</sup> This reluctance has translated into barriers in accepting the seriousness of the epidemic, and obstacles in the implementation of preventative campaigns. The spread of accurate preventative information in the PRC is inhibited by the “traditional morality” that accords discrimination to people living with HIV/AIDS.<sup>35</sup>

The prevalence of discriminatory attitudes are associated with a lack of awareness, and can be assuaged only by education strategies that appreciate HIV/AIDS as a complex social problem, connecting issues of conservative attitudes, gender dynamics, public health and strategies for long-term treatment. “Only recently has there been any official recognition of the problem; however, a small yet important trickle of documentation has begun to flow out of China regarding the significant HIV prevalence in both the rural and urban areas.”<sup>36</sup> Now that HIV/AIDS is entering into mainstream society, out of the “high risk categories”, attitudes and rhetoric around the issue are beginning to shift.

November 2001 saw China hold its first National HIV/AIDS Conference.<sup>37</sup> The conference was combined with the launch of a national campaign to raise awareness, and involved high-level officials, national and international specialists from China, and HIV/AIDS sufferers.<sup>38</sup> This is seen as an indication of the changing climate at the political level.<sup>39</sup> It seems the Beijing government has little choice but to begin programmes of education, policy review, project management and improving medical standards in testing, diagnosis and treatment. These measures, although promoted during the November conference, have not translated into initiatives inside Tibet.<sup>40</sup>

Although the importance of a centralised education campaign is touted, local officials inside Tibet determine what kind of information is imparted. From Tingri County, Shigatse Prefecture, “TAR”, a farmer recalls a meeting held by local leaders to warn of the dangers of visiting prostitutes:

They said that if we have sexual contact with prostitutes we would get [AIDS]. They said if you get AIDS, not only you but also the next person with whom you have sexual contact will get transmitted with the disease...I don't know whether [this information] is true or not.<sup>41</sup>

He was assured that there are no protective measures he could take against the disease. What official information is disseminated within Tibet appears to associate HIV/AIDS solely with urban areas; the assumption is that it is contained within the sex industry.

Any incidence of HIV/AIDS in Tibet will also have severe repercussions upon the already epidemic levels of tuberculosis (TB) on the plateau. As HIV/AIDS compromises the immune system, the danger of increased cases of opportunist infections such as TB is grave.<sup>42</sup>

### ***Accessing healthcare***

Recent escapees from Tibet unanimously identify key problems contributing to inadequate healthcare services. These include the cost and quality of treatment, the distant locations of facilities, and the racial discrimination faced by Tibetan patients in the urban areas. The costs of attempting to access healthcare are cited by Tibetans across the plateau as a severe prohibiting factor. The array of costs includes hospital or medical clinic deposits, diagnosis and treatment costs, “bed-fees” for accommodation in hospitals,<sup>43</sup> charges for medicines and fees for “insurance”.

***The county hospital would never treat any patient, no matter how serious the condition, unless they paid an advance of 2,000 yuan (US\$235)***

Deposits are mandatory for admission to the majority of hospitals or medical centres. The sums demanded discriminate in favour of those of a higher socio-economic status; this excludes the majority of Tibetans. Sources report that those with *guanxi*, or connections to high-level officials, are also able to negotiate the amount demanded as a deposit. Tibetan patients are less likely to be in a position to know or activate such contacts. A man from Yanag Township, Sog County, Nagchu Prefecture, “TAR” reported: “The county hospital would never treat any patient, no matter how serious the condition, unless they paid an advance of 2,000 yuan (US\$235).”<sup>44</sup> This is echoed in innumerable testimonies, the only variable being the sum demanded.<sup>45</sup> Although refundable, the cash deposits are beyond the means of an average Tibetan patient.

In some regions, “security” may be deposited in the absence of sufficient funds. From Sado Township, Chamdo Prefecture, “TAR”, families have been reported to leave precious coral or turquoise as “security”.<sup>46</sup> Security deposits in Chinese hospitals are consistently reported as waived or reduced for Chinese patients or those working for the government.<sup>47</sup> The lack of regulations to establish admission fees has resulted in widespread discrimination over access to healthcare between counties and prefectures in Tibet. Individual clinics, centres, or doctors reportedly use their own discretion in fixing the fees for their area, thereby contributing to the difficulties involved in holding the state responsible for such practices.<sup>48</sup>

A *themto* (Ch: *hukou*), or identity/birth certificate, is also required prior to admission into most medical centres. This practice discriminates against those who are born “above quota” of the permitted number of births, and therefore are denied a *themto*. Ineligible for assistance to healthcare, the family must bear the full cost of any treatment for such a child, or attempt to gain a *themto* through illicit means.<sup>49</sup>

Interviewees describe “passes”, or “cards”, as a further obstacle for those attempting to access medical treatment. Passes of different colours were publicised as entitling holders to subsidised, or free medical care.<sup>50</sup> A man from Yanag Township, Nagchu Prefecture, reported that “This year, again 20 yuan was collected from each person in the name of medical insurance (for which a card is also given). Nobody has benefited from this arbitrary collection of money”.<sup>51</sup> Tibetans therefore attempt to evade this payment.<sup>52</sup>

A government official collected 20 yuan from each person and said that we would receive a permit card for the hospital. In 2000, they collected 20 yuan from each person as well. We were supposed to get a green card but so far no one received one. They said that if you get the permit card, you don’t have to pay medical fees.<sup>53</sup>

Others interviewed were informed that the passes related to a form of insurance.

Once a deposit is paid, costs for treatment can range from 1,000-3,000 yuan (US\$117-235). To put this in perspective, a recently-exiled forestry worker reported his average annual wage was 3,000 yuan.<sup>54</sup> A man from Chungpo Township, Tengchen County, Chamdo Prefecture, “TAR”, felt that “If poor people get sick they cannot get treatment from our hospital ...if a poor person doesn’t get well on his own, he will have to die.”<sup>55</sup>

### *The distance factor*

Refugees from across the plateau testify to the lack of health facilities at village or township levels. 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. This renders the Chinese assertion that “nowadays, medical institutions can be found everywhere”<sup>56</sup> a myth of bureaucracy.

Difficulties in accessing remote medical facilities is compounded by the lack of roads or transport for many rural Tibetans, even in the case of emergencies. In Tengchen County, Chamdo Prefecture, a former agriculturist said, “There is no motorable road to our village. You have to ride a horse for two days to reach a hospital. Then, if there is a vehicle, you have to drive for about two hours.”<sup>57</sup> A man interviewed from Malho “TAP”, Qinghai, reports that if a person in his area is seriously ill, he is taken on the back of a motorbike to the closest clinic, even if the condition is serious.<sup>58</sup> Similarly, for a man from Ngamring County, “TAR”, the closest medical facility was a six-hour walk.<sup>59</sup>

### *Obstacles of race*

The International Convention on the Elimination of all forms of Racial Discrimination (ICERD) guarantees the right of everyone, without distinction as to race, colour, national or ethnic origin, to enjoy “the right to public health, medical care, social security and social services”..<sup>60</sup> China continues to cite improvements in healthcare and services as evidence of the social progress in Tibetan regions. However, the newly-established medical services are perceived by Tibetans as discriminatory, due to a lack of Tibetan healthcare workers or Tibetan medicine.

Escapees from Tibet report the allopathic style of medicine practiced in hospitals as unfamiliar, and the absence of Tibetan employees exacerbates the confusion and unease felt by many patients. One testified, “Those Tibetans who cannot speak or write Chinese face big problems in hospitals. Filling out the forms and every other process is through the Chinese medium.”<sup>61</sup> An exile from Serzhung Township, Saga County, “TAR”, recounts that in the hospital in her township, “Besides one Tibetan doctor and three Tibetan medical workers, the rest are all Chinese.”<sup>62</sup> With few Tibetan employees, communication is also difficult. The lack of Tibetan interpreters raises concerns about the possible absence of informed consent when Tibetans require, or request, medical operations.

Chinese racial imperialism continues in the professional sphere. A graduate of “TAR” Tibetan Medical College in Lhasa reported his inability to contribute to an international meeting entitled “The Discussion of Tibetan Medicine in the World”. The proceedings of the seminar, attended by representatives from India, Russia, USA, Japan and France, were conducted in Chinese. “They all talked on Tibetan medicine...Chinese was the main language. Not much could be understood, so later we did not attend.”<sup>63</sup> Clearly China enjoys promoting Tibetan medicine to an international audience, endorsement that does not extend to the Tibetan community.

In 2001, exiles have reported a number of Tibetan-run clinics that do not operate with any support from the PRC government. A monk from Ngaba County, Sichuan, reports that the clinic at his Ganden Choephel Ling Monastery provides service to the community, and “...it is accepted if you pay the medical fees later.”<sup>64</sup> A nomad from the Derge County, Chamdo Prefecture, “TAR”, spoke of the Tibetan clinic in a nearby village, where “...you can give money if you have, and you can also not give money. They don’t ask you for medical fees.”<sup>65</sup> The service received from traditional Tibetan-run clinics is said to be more accessible and

affordable, but it appears to only receive support from Beijing in light of its ability to cut expenses from the PRC healthcare budget.<sup>66</sup>

This approach contrasts to the testimonies reporting Tibetans dying outside health clinics due to their inability to pay.<sup>67</sup> The increasing use of – and trust in – Tibetan medicine is indicative of its accessibility and utility to those who are unsatisfied with, or incapable of accessing, Chinese treatment. Increased training and support for Tibetan doctors and healthcare worker is crucial to increase the number of Tibetans who are able to receive adequate healthcare. Unless Tibetans are involved in the delivery of healthcare to their own communities, it is unlikely that their health conditions will improve.

### *Uncertainty in treatment*

The 8,984 health employees claimed by China to service 80 percent of Tibet's townships<sup>68</sup> may exist on paper only, according to a December 2000 fact-finding mission by Beijing's US Embassy.<sup>69</sup> Authorities have admitted to difficulties in training and providing salaries. This leads to poor service and low levels of trust in alleged "health workers".<sup>70</sup> Exiles escaping to India are reporting a lack of confidence in the treatment received through the Chinese healthcare system.<sup>71</sup> One informant from Chungpo Township, Tengchen County, Chamdo, "TAR", explained that "if there are well qualified doctors then the public has faith in them. Some of the doctors are not well qualified"..<sup>72</sup>

Although the Chinese government claims over 8,000 healthcare workers, many employees are Tibetan villagers who may not be paid for their work and are often inadequately provided with facilities or medicine, operating rather as unskilled pharmacists. A refugee from Pomda County, Chamdo Prefecture, "TAR", told of a man in his village who "gave outdated medicine that helped very little, and not for free. He doesn't have any medical training...and is paid 30 yuan (US\$3.50) per month by the government."<sup>73</sup> International agencies noted this lack of training and low skills of healthcare workers as early as 1997.<sup>74</sup>

Trust in the healthcare provided is integral to establishing a cohesive system, but cannot be achieved without substantial improvement in services. Without trust in the system, Tibetans report an unwillingness to seek services that are found to be lacking in quality treatment, available medicine, and with poorly-trained staff. This sentiment is shared by the US Embassy delegation report: "Given the risks of transportation, and uncertainty of the quality of the treatment upon reaching a hospital, many potential emergency patients end up taking their chances at home."<sup>75</sup>

Recently-exiled Tibetans have cited the cost, availability and effectiveness of medicines as a major complaint. They report malpractice in the treatment of semi-literate, or illiterate patients. As doctors know that such patients are unable to read their prescriptions, out-of-date, or incorrect medicines are given<sup>76</sup>. Main county hospitals are found to pass on their expired medicines to the rural areas.<sup>77</sup> Medicines are sometimes found to be ineffective, or to worsen conditions.<sup>78</sup>

It is also alleged that under-funded medical centres elevate the prices of medicines to boost their income.<sup>79</sup> Hence, expensive or optional medicines are portrayed as life-saving: "If you are seriously ill and almost dying they will say that you will recover if you buy such and such medicines, and it is up to you whether you buy them. So when the person is almost dying he will buy medicines."<sup>80</sup>



Within Tibet, diseases such as tuberculosis (TB), Kashin-Beck disease,<sup>81</sup> leprosy and hepatitis are alarmingly common. One source estimated that in some areas in Tibet, TB levels are as high as 20 percent.<sup>82</sup> Other common ailments on the plateau include chest conditions, diarrheal diseases, stomach disorders, rickets, goiter, eye infections and complaints of the heart, lungs and liver<sup>83</sup>. The prevalence of these common and preventable diseases indicates that China's health treatment, or education campaigns, do not effectively extend beyond the urban centres.

The ICESCR<sup>84</sup> has recommended that in order for states to realise the highest standards of health, "The prevention, treatment and control of epidemic, endemic, occupational and other diseases", is paramount; this encompasses the need for immunisations. For many diseases, China's reported domestic immunisation levels are close to 100 percent.<sup>85</sup> Tibet's children, despite a centralised PRC policy, do not receive comparable immunisation. As with many health service, newly arrived exiles report varying levels of immunisation in different areas. Throughout most regions of Tibet, however, it seems the vaccinations — where they exist — consist of annual injections for babies or toddlers, and are not given to adults unless they display serious symptoms.<sup>86</sup>

A now-exiled doctor reports that while hospitals in larger townships routinely administer immunisations, rural and nomadic children are the responsibility of health workers who have an aversion to travelling into outlying areas.<sup>87</sup> Judging by the testimonies of new exiles this year who hail from rural areas, vaccinations in Tibet are rare: "The government does not give preventative vaccinations."<sup>88</sup> In other areas, "When children are two or three years old, Tibetan doctors are sent up from the county to give the preventative vaccinations. They are sent once a year, and do not charge medical fees."<sup>89</sup> These exceptions suggest that the medical neglect facing rural children may be less a matter of state policy than one of effective implementation.

### *The well-being of women*

A variety of international laws guarantee women special protection in regard to their health, particularly reproductive rights. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) makes it clear that birth control policies should be based not on coercion or force, but on choice, education and economic security.<sup>90</sup> China has been a signatory to CEDAW for over a decade; in ratifying this Convention, it is bound to uphold its provisions and, under Article 2 of its constitution, agrees to condemn discrimination against women.

China contravenes the CEDAW Committee's view that coerced or compulsory sterilisation and abortion are acts which adversely affect women's physical and mental health, and are therefore considered forms of violence against women.<sup>91</sup> The PRC has moreover failed to implement CEDAW's Article 10(h), which requests States to take appropriate measures to provide educational information to ensure health and well-being of families, including advice on family planning. By contrast, exiles from Tibet describe China's family planning measures as one of the most serious problems facing Tibetan women, and subsequently the Tibetan community as a whole.<sup>92</sup>

Article 25 of the PRC Constitution maintains that the State "promotes family planning so that population growth may fit the plans for economic and social development".<sup>93</sup> China states that "The family planning policy in place in Tibet...[is] encouraging few and healthy

births...[and] full respect should be shown to the Tibetan cultural tradition.”<sup>94</sup> However, the tactics employed in Tibet depart from this ideal. Testimonies from recent exiles reveal that while the present policies may fit the plans of the Chinese government, the economic and social development resulting from the current policies in Tibet does not accord with the needs — or the rights — of Tibetans.

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.<sup>95</sup> 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 three regions of Tibet. Whether the “intent” to destroy Tibetans as a group is the official motivation for these policies remains to be established. It cannot be refuted, however, that both policies are widely viewed by Tibetans as part of a deliberate means to limit and control the Tibetan population.<sup>96</sup>

Beijing’s Family Planning Policy varies greatly between regions; however, women in Tibet uniformly suffer extreme regulations and strict — if not forced — compliance. The family planning methods involve contraceptives, (oral tablets, Intra-uterine Devices, and slow-acting forearm implants) and the use of abortive and sterilisation operations.<sup>97</sup> In different areas families are subject to specific regulations which require women to reach a certain age before marriage, obtain a permit prior to conception, comply with an enforced waiting period between births, monitor their menstrual cycles and submit to periodic examinations to determine pregnancy.<sup>98</sup> In some regions women are also required to display a certificate detailing their status (number of children, spacing between children and whether a sterilisation operation had been performed).<sup>99</sup> Due to the treatment endured through family planning measures, Tibetan women are often reluctant to seek medical assistance for their own or their family’s basic health needs.<sup>100</sup> This is explored at length in the Case Studies in the Appendices.<sup>101</sup>

In their attempts to meet their quotas for numbers of women sterilised and children born with “correct” spacing, officials are found to use any means necessary to achieve their targets, including psychological pressure, economic penalties and force. If these targets are not met, officials may be penalised or lose their jobs.<sup>102</sup> These measures are imposed despite Tibet being one of the world’s least populated regions with population figures well below the target growth rate set by China for the region.<sup>103</sup> This runs counter to Beijing’s rationale for imposing stringent family planning measures.<sup>104</sup>

Among China’s family planning policies are measures that equate to eugenic control over the population. “Improving the quality of the population” is seen by China as a legitimate goal, as are measures attempting to ensure this outcome. Under China’s Mother and Infant Health Care Law, people with “serious hereditary diseases, legal contagious diseases or relative mental disorders”, are prohibited from bearing children.<sup>105</sup> Although internationally the PRC has been subjected to strong criticism for these policies, the state has not retreated from their push toward “racial purity”.<sup>106</sup> This adds another uncertain element to the oppressive family planning practices already levelled at Tibetan families.

### ***Gender bias in birth control***

Accounts given by exiles arriving in India, and Chinese official reports, reveal no information concerning family planning strategies is aimed at male family members; women bear the full brunt of China's birth control measures. All measures employed to limit Tibet's population are directed toward women, including attendance at birth control meetings, fines and penalties imposed for non-compliance.<sup>107</sup> In 1999, CEDAW's Rapporteur for China brought this concern to Beijing's attention: "...in light of the fact that vasectomy is far less intrusive and costly than tubal ligation, targeting mainly women for sterilisation may amount to discrimination", to which China has made no response either in policy or action.<sup>108</sup>

### ***Evasion of State responsibility***

China's family planning measures also absolve the state of responsibility for any children born without the consent of the authorities.<sup>109</sup> This causes discrimination against children as a matter of law. The child will not receive a birth certificate, and is therefore precluded from assistance with education, housing, rations, subsidised child day care, or medical care.<sup>110</sup>

The ICCPR articulates that "Everyone shall have the right to recognition everywhere as a person before the law". Every child shall also "...be registered immediately after birth" as part of his or her right to protection accorded due to being a minor.<sup>111</sup> By discriminating against Tibetan families, China also contravenes the ICESCR, as China clearly does not provide "protection and assistance [for] all children and young persons without any discrimination for reasons of parentage."<sup>112</sup> While the PRC has incorporated these ideals into its Constitution,<sup>113</sup> in practice they are far from being realised.

China asserts that its family planning policies take precedence over Article 6 of the Convention on the Rights of the Child in its instruction for States to "...ensure to the maximum extent possible the survival and development of the child."<sup>114</sup> China's downgrading of this Article imposes an inferior legal status on the child, placing a burden on the child's family to provide all services for the child, as well as enduring heightened surveillance and public criticism. Those families who do adhere to the regulations are said to receive preferential treatment in a number of fields, including placement in schools and consideration for employment.<sup>115</sup>

In September 2001, a new arrival spoke of families who "...if they have more children than the imposed limit, the additional child cannot go to school. If a family has an additional child they do not tell the government."<sup>116</sup> Through hiding the birth of a child born above "quota" from government officials, the family may evade a fine at the expense of the child's health care, education, employment potential and other social benefits.

In further violation of State responsibility to ensure the maximum development of the child, the vast majority of interviewees from Tibet reported that the government does not provide support or advice to pregnant women. Regarding medical advice or health and nutrition education, "No one is there who gives guidance to the pregnant women. They have to take care of themselves."<sup>117</sup>

***...if they have more children than the imposed limit, the additional child cannot go to school. If a family has an additional child they do not tell the government***

### ***Limiting births***

Through Beijing's birth control programme, Tibetan families have lost the autonomy to determine the size of their families. China defies CEDAW's Article 16, which stipulates the right of women to freely determine the number and spacing of their children. A recent exile, a former employee of Xinghai County Nursing Hospital, Tsigorthang, Tsolho "TAP", Qinghai confirmed reports of Chinese authorities setting limits on the number of children permitted per family, dependent upon a family's location and occupation. She further verified that a minimum gap of two or three years between children is strictly enforced.<sup>118</sup>

### ***Penalties as prohibition***

Interviews with recently-arrived refugees reveal the range of penalties suffered by women, their families and potentially their Work Units for non-compliance to the family planning regulations. These include fines, denial of benefits for children who exceed the "quota", confiscation of land or animals, loss of employment, reduction in pay and public criticism. The penalties work as prohibitive disincentives for Tibetan women who breach the regulations.<sup>119</sup>

Fines imposed may exceed a family's annual income, with recent exiles reporting sums ranging from 1,000-5,000 yuan (up to US\$588).<sup>120</sup> The fines may also mark the beginning of ongoing discrimination, such as public criticism, a permanent reduction in salary and increased job insecurity.<sup>121</sup>

For the Chinese authorities, the birth control fines imposed on Tibetan families create a significant income. Contrary to China's claim that encouraging new birth control concepts will "help families become richer",<sup>122</sup> it is Tibetan families who face financial hardship due to the regime, and Chinese officials who receive cash benefits and bonuses for implementing government quotas.<sup>123</sup> Bonuses include incentives offered for informing the government of any woman who disobeys the family planning regulations. An interview with an exile from Sangchu County, Gannan "TAP", Gansu, reveals the authorities are offering 300 yuan (US\$35) as a reward for reporting a woman in contempt of regulations.<sup>124</sup> For the many families facing financial hardship, such a cash incentive may prove more valuable than community cohesion.

### ***Abortion and sterilisation***

As stated, China is in direct breach of CEDAW's General Recommendation 19, which considers compulsory sterilisations and abortions as acts of violence against women.<sup>125</sup> Across Tibet such practices are frequent and show no signs of abating. Official documents from China refer to the "remedy method" as the best method of contraception – a euphemism for an abortion.<sup>126</sup>

In October 2001, an exile recounted cases of women who had been forced to abort their pregnancies at seven or eight months. In Kolug Township, Nagchu County, "TAR", an ex-party Secretary testified that orders from the county required 100 women to be sterilised: "The doctors came to the doorsteps of the women...saying that they had to undergo the operation. In one week doctors operated on 10-15 women per day, including women up to seven months' pregnant."<sup>127</sup> In March 2001, an exile told of his experience in Drayab County, Chamdo Prefecture, "TAR". The two-child policy was being strictly enforced in the area and to this end 50-60 women were operated on in one day. He claims 700 were operated on in

one instance in Drayab County alone. The operations were reportedly performed free; non-compliance resulted in a fine of 1,600 yuan (US\$188).<sup>128</sup>

A woman from Tsolho “TAP”, Qinghai, told TCHRD that she did not know of any cases where a woman consented to an abortion out of free will; all were undergone due to pressure from the authorities, or as a measure to avoid crippling fines or other penalties.<sup>129</sup> From Dowski Salar Autonomous County, Tsoshar “TAP”, Qinghai, comes a report of women who were forcibly taken for the operations by army vehicles:

Such a thing happened twice in our village. In the night, when the people were sleeping, they came [to take the women] for the operation. All the women in their thirties’ are already operated on. After the operation they charge you the cost of the vehicle, medical fees and everything.<sup>130</sup>

Costs for the operation range from 1,000-2,000 yuan (US\$180-230),<sup>131</sup> and if they cannot be met, result in additional penalties.

In Tsolho “TAP”, Qinghai, an exile described the family planning policy targeting single mothers: “If a single mother has borne a child, she is at once taken for a [sterilisation] operation.”<sup>132</sup> In Derge County, Karze “TAP”, Sichuan, single mothers are currently fined 3,000-4,000 yuan (US\$350-470) for bearing a child.<sup>133</sup> All women, including those who have not yet borne a child, are included in sterilisation “lotteries” that take place in Pang Gongma Township, Gade County, Golog “TAP”, Qinghai. Five women every year are required to undergo the operation:

The names of all the females in our area are collected and drawn in the lottery. Whoever’s name is drawn out has to undergo the operation. All the females above 20 years are put in the list for the lottery.<sup>134</sup>

From one hospital in Tsolho “TAP”, Qinghai, a now-exiled doctor reports that 300 women were sterilised during 2000-2001, of which 60 percent were Tibetan. The doctor spoke of the effects of the anti-fertility medication she prescribed to female patients; these included problems with patients eyesight, kidneys, and lower backs.<sup>135</sup> She also described giving injections that rendered women sterile for three to five years, or could terminate a woman’s menstrual cycle. The doctor states that “If the Chinese Communist Party found that 10 women had escaped to India, then 10 other women would be sterilised.”<sup>136</sup> Cases document families charged with being “opposed to socialism” if the sterilisation operation is resisted<sup>137</sup> while others are rewarded for compliance with food or other bonuses.<sup>138</sup>

Refugee testimonies recount cases of women suffering permanent disabilities and death as a consequence of involuntary and inferior procedures of sterilisation.<sup>139</sup> An informant also referred to cases of women who had their wombs removed without consent whilst undergoing abortion, causing severe pain and trauma.<sup>140</sup> Cases this year have also been described where women have given birth after undergoing sterilisation operations, or find they cannot conceive after having what they believed was an abortion.<sup>141</sup> Unsanitary conditions and lack of subsequent care contribute to medical complications.<sup>142</sup>

### *The need for justice*

Tibetan women suffer untold psychological damage by complying to birth control measures that are unwanted and, in many cases, violate cultural and religious beliefs. China's laws relating to the Protection of Women's Rights and Interests bans the use of violence against women and girls with regard to their reproductive rights.<sup>143</sup> However, while NGO's and concerned bodies may call on the Chinese government to take effective measures to ensure that officials who perpetrate, encourage or condone such human rights violations face punitive measures, as yet no cogent action or response has emerged. Until enforcement mechanisms are attached to relevant laws and conventions, any remedial action taken by — or on behalf of — Tibetan women may remain largely ineffectual.

## THE RIGHT TO HOUSING

The International Covenant on Economic, Social and Cultural Rights (ICESCR) states that parties to the Covenant must afford the right of everyone to an adequate standard of living including adequate housing.<sup>1</sup> As this was ratified by China in 2001, this guarantee becomes binding on the PRC. However, in 2001 there were many instances of Tibetans being denied this right.

The concept of “adequate housing” includes seven major principles:

- legal security of tenure including legal protection against forced evictions;
- availability of services, materials and infrastructure including sustainable access to drinking water and energy;
- affordability, so that other basic needs are not compromised; where housing is constructed by the occupier, natural materials for construction must be inexpensive and available;
- habitability, with adequate space, safety and protection against cold, heat, rain, wind;
- accessibility for disadvantaged groups such as racial minorities, women, people with disabilities;
- location within reach of employment, health care, education facilities;
- cultural adequacy, in that the housing is suited to the lifestyle of the resident's culture and allows the expression of cultural identity.<sup>2</sup>

The Chinese government has stated that “housing is a basic need for the life of human beings” and “adequate housing is a basic human right”.<sup>3</sup> Despite such pronouncements, China does not have laws that guarantee adequate housing. In the absence of specific legislation on housing, policy decisions and administrative regulations made by the Beijing government and the “TAR” People's Congress provide the basis for Tibetan housing policies and laws. Now that the ICESCR has been ratified, China should introduce national legislation which implements the seven principles defined as necessary to the provision of adequate housing.

In the year 2001 China committed several violations of the principle to provide adequate housing to Tibetans. The most glaring housing right violation was that of forced evictions and demolitions. Three other principles brought to the attention of TCHRD this year are the lack of housing infrastructure and materials in rural areas; discrimination against Tibetans in urban housing; and the cultural inappropriateness of housing being forced on Tibetans by the Chinese authorities.



## *Forced evictions*

“Forced eviction” has been defined as “the permanent or temporary removal against their will of individuals, families and/or communities from their homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.”<sup>4</sup> Governments have an obligation to implement legislation which forbids such evictions, and they also have an obligation not to approve or implement such evictions themselves. When evictions do occur, the UN Commission on Human Rights has advised that governments must offer immediate, appropriate and sufficient compensation and/or alternative accommodation in consultation with the people who have been evicted.<sup>5</sup>

“Forced evictions” have repeatedly been declared by the United Nations to be a gross violation of human rights. The testimonies that TCHRD received this year from Tibetans who were evicted from their homes or their land revealed their deep distress and trauma. It is clear therefore that the right to be protected against such evictions is one of the most important elements of the right to adequate housing in the Covenant on Economic, Social and Cultural Rights.<sup>6</sup>

The PRC Constitution does not explicitly prohibit forced evictions. Citizens have the right to own and maintain property;<sup>7</sup> the right not to have property expropriated by the State unless in the “public interest”;<sup>8</sup> the right not to suffer unlawful intrusion into one’s home;<sup>9</sup> and the right to be compensated having suffered violations of their rights.<sup>10</sup> In 2001 the Chinese government directly breached the human right against forced evictions and provisions of their own Constitution on several occasions. In addition, TCHRD received reports of several anticipated evictions.

## *Evictions from religious institutions*

Before China’s occupation of Tibet in 1950, many Tibetans lived as monks, nuns or lay people in and around religious institutions. During the Cultural Revolution, however, the Chinese authorities destroyed thousands of religious institutions and the housing around them. In the early 1980s these destructions were halted by a more liberal PRC government. People slowly rebuilt the monasteries and moved back to live in the institutions or in encampments around them. Living quarters were built by the residents themselves from stones and wood. In Tibet now there are thousands of people living in and around such institutions; the institutions are their home and their community.

However, these communities are once again under threat. In the late 1990s — and particularly in the last two years — the Chinese authorities have returned to a more repressive policy towards Tibetan Buddhism.<sup>11</sup> The Chinese government’s current policy is “re-organisation” of Tibetan Buddhism, which sees “work teams” visiting religious institutions to inspect, and impose restrictions including a ceiling on the numbers of residents.<sup>12</sup> These ceilings result in evictions of those residents who are in excess of the limit. In 2001, two particularly shocking cases of mass forced evictions occurred in Karze “TAR”, Sichuan.

They said that we had to destroy our homes ourselves and if we didn’t, then the police would come and take our belongings

The first case concerned Serthar Buddhist Institute (also known as Larung Gar) located in Serthar County, Karze “TAP”, Sichuan. In the three months of April to July 2001 over 7,000 people were



evicted and thousands of living quarters destroyed by a force of army personnel and hired workers.<sup>13</sup> In some cases household possessions and religious shrines were destroyed along with the huts; in other cases eyewitnesses saw workers lifting off roofs of huts with occupants still inside, and even physically dragging out sick and elderly people.<sup>14</sup> Evicted residents were ordered to return to their families in their home villages. No offers of alternative accommodation were made, so those who had no families to return to, or whose families had insufficient resources to house them, were rendered homeless. There have been several reports of ex-residents of Serthar being seen on the streets of Lhasa begging for a living.<sup>15</sup>

Two months later a similar mass-eviction and demolition occurred at Yachen Gar Monastery in Payul County, Sichuan. A public notice issued 1 September 2001 ordered the destruction of up to 800 living quarters by 15 September.<sup>16</sup> The reason given was “for the better maintaining and managing of the monastery”. A nun from Yachen Gar who escaped into exile gave the following account of the evictions:

They said that we had to destroy our homes ourselves and if we didn't, then the police would come and take our belongings. So most of the nuns wrecked their homes by pushing the mud walls in. We were all crying and sobbing but what else were we supposed to do? If we didn't push the walls down ourselves they would beat us and take our belongings...We were afraid of being arrested if we did not destroy our home.<sup>17</sup>

### ***Evictions for “development” projects***

The United Nations Expert Seminar on Forced Evictions issued Guidelines on Development-Based Displacement in 1997.<sup>18</sup> These guidelines relate to people who are evicted to make way for developments ranging from urban expansion programmes to infrastructure construction such as dams and railways. The guidelines apply equally to developments initiated by governments and those initiated by private companies. The guidelines entitle people 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.<sup>19</sup>

This year the Beijing government announced the development of a Special Economic Zone (SEZ) in Toelung Dechen County, Lhasa.<sup>20</sup> This has consequences for the right to housing because it is likely that farmers in this county will need to be resettled to make way for the SEZ. Reports from Tibet say that Chinese investors have already begun land speculation in the Liuwu area.<sup>21</sup> Tibetan farmers and other local people in Toelung Dechen will inevitably require resettlement for the SEZ to be created.<sup>22</sup> It is not known whether offers of compensation or alternative accommodation for these people have been made. A Tibetan former official, now living in exile, predicted that any protests against evictions resulting from this development will be dealt with severely, because “... if Tibetans oppose the railway station openly, they would be accused of being a ‘splittist’, as someone who wants to destroy the country.”<sup>23</sup>

The SEZ is the first stage in an ambitious plan to quadruple the area of urban Lhasa from its current 53 sq km to 272 sq km by 2015.<sup>24</sup> Clearly other Tibetans will also be forced to relocate for the expansion of Lhasa. Once again, there have been no announcements of compensation or offers of alternative land or housing to those people who are displaced.

In 2001 several refugees told TCHRD that a new dam and powerhouse to be built on the Machu in the Malho “TAP” and Tsolho “TAP” areas will result in the forced resettlement of many nomad families.<sup>25</sup> Although exact numbers are not yet known, up to 1,000 people could be affected by this new dam. Past experience has shown that these Tibetans are unlikely to be consulted regarding this resettlement. For example, in 1997 the Manhla Water Project in Shigatse Prefecture, “TAR”, required the resettlement of six villages.<sup>26</sup> The residents in that case were given a form written in Chinese which they did not understand. They were told to sign the form, and then discovered that the form said they had agreed to relocate. The land the villagers were moved to was greatly inferior to their traditional lands and was in an area likely to flood.<sup>27</sup> It is also unlikely that adequate compensation will be offered to those forced to resettle. The Three Gorges Project in Western China resulted in the resettlement of thousands of people large distances away from their homelands, and many now struggle to make a living.

In addition to eviction to make way for projects, the Chinese government’s policy to settle all the nomads also necessitates forceful evictions of nomads from the lands on which they traditionally herded (see chapter on The Right to Livelihood). Many testimonies provided to TCHRD in 2001 spoke of the desperate unhappiness amongst nomads whose lands were being fenced and allocated.<sup>28</sup> Protests by nomads against forced relocation are not uncommon. In Tsekhok County, Malho “TAP”, Qinghai a group of nomad families was told to relocate twice. The first time their tents and houses were demolished and security forces sent in to arrest any protestors. The families were relocated to new land. After four years, however, the same families were told they would have to move once again.<sup>29</sup>

### ***Rural housing: lack of infrastructure and services***

The fourth principle defined by the UN as being part of “adequate housing” concerns the availability of services, and the struggle of people for access to and control over basic living resources such as land, building materials, water, heating, fuel and fodder.<sup>30</sup>

Most rural Tibetans are farmers or nomads and live in houses built by the family themselves in their family’s traditional communities. Numerous arrivals in 2001 from Tibet testified to poor living standards in rural villages. The vast majority of villages do not have electricity.<sup>31</sup> A recently-arrived refugee from Do-wi Salar Autonomous County in Tsoshar “TAP”, Qinghai says that a water tax was introduced in the area in 1998 but was not accompanied by better access to water. He commented wryly, “I don’t mind paying water tax if the government has spent money in making water taps along with cement and some other constructions to it. We do not have such things.”<sup>32</sup>

***...we are forced by Chinese authorities to buy canvas tents instead of our tents of dried yak skin, which we find expensive and unnecessary***

In 2001 there were some reports of new houses being built for Tibetans under the “help-the-poor” schemes using compulsory labour. However, the programme was implemented without first ascertaining what the “poor” actually wanted. One recent arrival from Chamdo in “TAR” said “...the poor people for whom the houses and fields were being constructed often refused to leave, not wanting to be forced to leave their family’s area.”<sup>33</sup> If those Tibetans were forced to move away from their families and historical lands this would constitute a breach of the ICCPR which permits

people the right to choose the place of one's residence.<sup>34</sup> It would of course also be a breach of the right not to be forcefully evicted.

### *Discrimination in urban housing*

The fourth principle of the right to adequate housing is that it be accessible to all groups.

This principle is also supported by the International Convention on the Elimination of Racial Discrimination which prohibits discrimination on the basis of race, colour, or national or ethnic origin, in the enjoyment of the right to housing.<sup>35</sup> The Chinese Constitution also grants the right not to be discriminated against on the grounds of being of a minority nationality.<sup>36</sup> Despite such laws, in 2001 Tibetans suffered discrimination in relation to access to housing.

A recent arrival from Tibet who worked as a construction labourer and rickshaw driver in Lhasa explains another area of discrimination. "When Tibetan people from other parts of the country come to Lhasa, they have to pay a guest registration while staying in their friend or relative's house. This policy is not applied to Chinese citizens."<sup>37</sup>

This informant is referring to a discriminatory application of the Chinese housing registration (Ch: hukou) system, which states that all residents in urban areas must have registration cards. The monitoring agency Human Rights in China has pointed out that the registration scheme is intended to counter the perceived threat to social stability created by people moving into cities from rural areas.<sup>38</sup> Chinese settlers coming into Tibet are already offered incentives including guaranteed housing accommodation.<sup>39</sup> It would hardly be surprising if in addition to this they were encouraged to bring their friends and relatives to stay without having to register them as guests. If this is the case, it is a clear breach of China's constitutional guarantees against discrimination, a breach of ICERD and a breach of the ICESCR.<sup>40</sup>

### *Culturally inappropriate housing*

Housing is more than just a roof over one's head. It should be "understood as a place from which to build social relations, influence the surrounding environment and create culture — instead of purely as the physical structure of the building".<sup>41</sup> For this reason, the United Nations Committee on Economic, Social and Cultural Rights has listed the seventh component of the right to adequate housing as being the right for that housing to be culturally appropriate. Any "development or modernisation in the housing sphere should ensure that the cultural dimensions of housing are not sacrificed".<sup>42</sup>

The Tibetan people's struggle to express their identity through housing can also be seen as part of their struggle for survival within Chinese-occupied Tibet. The destruction of housing around religious institutions, for example is a breach of Tibetans' right to live in housing which is appropriate to Tibetan Buddhist culture and lifestyle.

Even the nomads have been forced to change their housing. A nomad from Darlag County, Golog "TAP", Qinghai, says "we are forced by Chinese authorities to buy canvas tents instead of our tents of dried yak skin, which we find expensive and unnecessary".<sup>43</sup> The yak skin tents are ideally suited to the Tibetan climate and are part of nomadic culture.<sup>44</sup> In forcing nomads to abandon their traditional tents, the Chinese government is once again denying Tibetans the right to express their culture through their housing.

In urban areas, many reports reveal that Tibetan-style housing is being rapidly replaced with, or outnumbered by, Chinese-style architecture. This reflects the increased numbers of Chinese settlers moving into the towns as a result of China's population transfer policies. In Lhasa, for example, the Tibetan quarter of Lhasa occupies less than one square kilometre which is only two percent of Lhasa's size.<sup>45</sup> The rest of the capital is being rapidly built up with Chinese residences. This pattern is repeated throughout the growing towns of Tibet.<sup>46</sup>

## *Conclusion*

In 2001 TCHRD documented many instances where Tibetans had their rights to adequate housing denied. Foremost among these were mass evictions from two religious institutions which affected at least 8,000 people, rendering many of them homeless. Tibetans were also denied access to the basic resources and infrastructure necessary for housing, in comparison to Chinese migrants who often receive housing as one of their government's incentives for relocating to Tibet. New housing being constructed in Tibet, particularly in Lhasa, is designed with little respect for traditional Tibetan culture, making a mockery of China's constitutional guarantees that "minorities" may retain their culture.

Although the Chinese Constitution affords some rights to its citizens, for example, the right not to suffer unlawful intrusion, there are no courts for people who have had their constitutional rights breached to take action in; so, for example, if a Tibetan believed that an action of the Chinese government were in breach of the Constitution there is nothing they can do.<sup>47</sup>

## **Chapter 2: CIVIL AND POLITICAL RIGHTS**

A signatory to the International Covenant on Civil and Political Rights (ICCPR) since 5 October 1998, the People's Republic of China (PRC) has been delaying the ratification of the Covenant. Its contention that "the right to subsistence is the most important of all human rights, without which the other rights are out of the question"<sup>1</sup> defeats the whole notion of the indivisibility of human rights as reiterated by the various UN bodies. The UN Commission on Human Rights in 2001 reaffirms, "The universality, indivisibility, interdependence and inter-relatedness of all human rights and fundamental freedoms and that promoting and protecting one category of rights should therefore never exempt or excuse States from the promotion and protection of other rights..."<sup>2</sup> The PRC government claims that granting individual freedoms jeopardises its schemes to deliver economic security. This is a facade for its real purpose, which is that of all authoritarian states: to consolidate the power of the elite in the government and to bolster the country's image on the world stage.

The Chinese government's obligation to protect and promote the Civil and Political Rights of the people under its jurisdiction includes guaranteeing the following:

- The right to self-determination, life and liberty<sup>3</sup>
- Freedom from torture, arbitrary arrest and detention<sup>4</sup>
- The right to leave and enter one's own country<sup>5</sup>
- Freedom of thought, conscience and religion, expression, assembly and opinion<sup>6</sup>
- Protection of equality before the law<sup>7</sup>
- Freedom from denial of the right to enjoy one's own culture, religion and use one's own language<sup>8</sup>

The year 2001 heralded no sign of improvement in the human rights situation in Tibet. The continuing exodus of Tibetans is germane to the repressive policies the Tibetans have been subjected to. TCHRD received reports of the deaths of 10 Tibetans due to prison abuse and 37 new arrests. Tibetans are subjected to increased restrictions, including in some cases intimidation, harassment, and detention; however, the degree of restrictions varies significantly from region to region.

The year 2001 saw a massive crackdown on two institutes of Buddhist learning and practice in rural Sichuan. A total of 9,408 religious practitioners were expelled from their institutions over the year — 8,988 of whom were studying at the two Sichuan centres. In addition, 57 monks and nuns were reportedly detained in 2001 and 11 received prison sentences of various durations.

## **Freedom of Religious Belief and Practice**

The dawn of the 21st century heralded no sign of improvement in the spheres of religious freedom in Chinese-controlled Tibet. The Beijing government's concerted efforts to assert its control over Tibetan religious belief and practice has grown in intensity during 2001 and poses an ever more serious threat to the Tibetans' right to freedom of religion and practice. Tibetans are today subjected to increase restrictions including intimidation, harassment and detention, with the degree of restrictions varying significantly from region to region.

Reports of gross human rights violations continue to emerge from Tibet and monks and nuns — the standard-bearers of Tibetan national and religious identity — were frequently the targets.<sup>1</sup> Hundreds of prisoners of conscience, most of them monks and nuns, remain imprisoned. In 2001, TCHRD has received information of the expulsion of 9,408 monks and nuns including 7,488 religious practitioners from Sichuan's Serthar Institute and 1,500 from Yachen Gar, also in Sichuan. This year 57 monks and nuns were reportedly detained out of which 11 were sentenced to imprisonment. In addition, 509 monks and nuns fled Tibet.

The continuing exodus to India of Tibetans in robes testifies to the religious repression prevalent across the plateau. The sheer number of escapees can be attributed in part to the increasingly harsh religious persecution perpetrated by the Chinese authorities and the brutalities inflicted on those defiant monks and nuns who refuse to comply with Chinese government directives. Charged under the crime of "endangering State security", the other significant factors leading to the imprisonment of religious detainees are possession and propagation of materials related to the Dalai Lama and opposition to the "work team"<sup>2</sup> diktats as well as more open political criticism of the Chinese government. ("Work teams" were first conceived to implement controls and propaganda sessions in Tibet's monasteries and nunneries under Beijing's 1996 "Patriotic Education" Campaign).

The focal point of overall religious repression this year is the massive expulsion of clergy from religious institutions, unremitting "work team" visits across Tibet with their Marxist ideological control campaigns, a heightened Dalai Lama denunciation campaign, restricted admission of clergy into religious institutions and prohibitive measures on public expression of belief and practices.

The worst attack on religious freedom is exemplified by a series of crackdowns in the summer of 2001 at Serthar Institute in Karze "TAP", Sichuan, which led to mass expulsions

among the nearly 9,000 religious practitioners; demolition of living quarters; the placement of the Institute's leader Khenpo Jigme Phuntsok<sup>3</sup> under Chinese government custody, and an official ban on religious teachings and practices. This series of crackdowns is the culmination of two years of escalating restrictions and propaganda campaigns instituted by the Beijing authorities against the Buddhist academy. Yachen Gar<sup>4</sup> also witnessed mass expulsions and demolitions this year.

Elsewhere in Tibet, prohibitions on the Dalai Lama's photo and overt displays of devotion have become a part of the "political re-education" sessions conducted by "work teams". The authorities seek to impose restrictions and closer surveillance on what Beijing terms "normal religious and cultural activities" such as the observance of Saga Dawa (the fourth month of the Tibetan lunar calendar), the Dalai Lama's birthday celebration, and Tibetan New Year or Losar. The official silence over, and interference with, the Panchen Lama reincarnation issue in recent years — and government's involvement in the recognition of other reincarnate lamas — has highly affronted the religious sensibilities of Tibetans and raised concern amongst the international community.

### *Party policy overruling religious freedom*

The legal protection of citizens' rights to freedom of religious belief in China is largely in accordance with the main contents of the relevant international documents and conventions. Some of the stipulations in the United Nations Charter, the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights, the United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities, the United Nations Convention on the Rights of the Child, the Vienna Declaration and Action Programme are all included in China's laws and legislation in explicit terms.

Under international law, all people have the right to freedom of religion. Article 18(1) of the ICCPR states,

Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

This freedom is limited in 18(3) only where "necessary to protect public safety, order, health or morals..." Article 36 of the PRC's Constitution stipulates,

Citizens of the People's Republic of China enjoy freedom of religious belief. No State organ, public organisation or individual may compel citizens to believe in, or not to believe in, any religion; nor may they discriminate against citizens who believe in, or do not believe in, any religion. The State protects normal religious activities. No one may make use of religion to engage in activities that disrupt public order, impair the health of citizens or interfere with the educational system of the State...



Chinese law at once protects and restricts religion. In the Constitution of the People's Republic of China, freedom of religious belief is a basic right enjoyed by all citizens. However, the rights guaranteed are not to be interpreted, as they would be in a liberal democracy. China insists on the socialist character of these rights and in particular emphasises the unity of the rights of individuals with their duties to the State and society.<sup>5</sup>

Within the PRC, various other legislation such as the Autonomous Regions of National Minorities Act (Articles 11 and 53), the Penal Code (Articles 147 and 165), the Civil Code (Article 77), the Military Service Code (Article 3), the Electoral Code (Article 3), the Compulsory Education Act (Article 16) and the Organisation of Rural Committees Act provide for the protection of freedom of worship and equality of rights for religious citizens. In particular, Article 147 of the Criminal Law provides that

State officials who violate the freedom of worship of citizens or the customs of national minorities are punishable in serious cases by imprisonment for not more than two years or by a short term of imprisonment. Any person who forcibly prevents legal religious activities, compels believers to abandon their religion, compels a citizen to practise any form of worship, illegally closes or demolishes legal places of worship or other religious premises is violating democratic rights and individual freedom and failing in his duty and is punishable by law.

The Chinese government has promulgated the Regulations on the Administration of Sites for Religious Activities so as to “protect the lawful rights and interests of such sites”. The Regulations specify: “Sites for religious activities shall be run independently by the administrative organisation thereof, whose lawful rights and interests and normal religious activities at the sites shall be protected by law. No organisation or individual may violate or interfere with such rights.”<sup>6</sup>

The Chinese government's policy on Tibetan Buddhism however is in complete contradiction to these regulations. In December 2001, China outlined its religious policy for the new century at the National Religious Working Conference held in Beijing. Beijing's top leaders attended the conference, which is viewed as having an “important and far-reaching influence” on religious work.<sup>7</sup> The basic tasks for this work were determined to be implementing the Party's policy on the freedom of religious belief, administering religious affairs according to law, actively guiding religions to adapt themselves to the socialist society, persisting in the principle of independent administration, consolidating and developing the patriotic United Front of the Party with the religious circle.<sup>8</sup>

### ***Establishing a Marxist outlook***

At the conference, President Jiang Zemin reiterated China's policy of protecting religious freedom but warned that nobody will be allowed to abuse religion in order to sabotage the party, socialism or national security. He also warned against “infiltration by foreign forces cloaked in the mantle of religion” and called for the “establishment of management networks pertaining to religions at the county, town and village level, in addition to better training of grassroots officials in religious policies”. The conference decided to firmly establish a Marxist outlook on religion, unswervingly implement the Party's policy on religion, closely unite with the religious believers in the common effort for the great cause of building socialism with Chinese characteristics, and to strengthen propaganda on the actual situation of China's religious policy and freedom of belief.<sup>9</sup>



China has granted a number of rights to its citizens on paper which are not legally enforceable due to the lack of a constitutional court and the existence of wide and undetermined “claw-back clauses” leaving it to the discretion of the administration whether to enforce these rights.<sup>10</sup> The two Chinese White Papers entitled Progress in China’s Human Rights Cause in 2000 and Tibet’s March Towards Modernisation released in 2001 note that China guarantees religious freedom to its citizens and pays attention to safeguarding human rights through perfecting legislation, ensuring an impartial judiciary and strictly enforcing the law. Claims such as these that international rights have been incorporated into national law have to be understood in the framework of the Chinese Constitution.

The Fourth Work Forum on Tibet held in Beijing in June this year emphasised the need “to increase control” and to “promote a Marxist outlook on culture and religion”.<sup>11</sup> Jiang Zemin, President of the Chinese Communist Party, said at the forum that it is important “...to strengthen the administration of religious affairs, strike those who use religion to carry out splittist criminal activities, and vigorously lead Tibetan Buddhism to adapt to socialism”.

The official concern over religious belief and loyalty to the Dalai Lama — especially among Tibet’s cadre contingent — has remained a priority. The cadres were instructed to recognise the significance of cultural exchange among nationalities on the one hand and oppose “cultural separatism” on the other.<sup>12</sup>

***Jiang Zemin told the forum it is important ‘to strengthen the administration of religious affairs, strike those who use religion to carry out splittist criminal activities, and vigorously lead Tibetan Buddhism to adapt to socialism’***

Hu Jintao, Vice-President of the Chinese Communist Party and Vice-Secretary to the CPPCC, told “TAR” officials in March 2001 that Beijing would stamp out separatism and curb “illegal” religious activities in Tibet. He added that to maintain stability in the region, the authorities must “crack down hard on separatist activities and enhance patriotic education of teenagers”.<sup>13</sup> He went on to say that the State will protect legal religious activities and interests of religious sectors but will strive to stop and punish illegal activities operated under the guise of religion in accordance with law.

In line with the statements made by high-ranking officials, the State propaganda machinery attempts to gloss over the religious repression unleashed on Tibetans. The People’s Daily in an editorial titled “Tibetan Buddhists Support China’s Current Religious Policy” quotes a Tibetan “Buddhist leader” as saying that Buddhists in Tibet enjoy absolute freedom of religious belief; that the current strength of lamaseries and temples in Tibet is 1,700, an increase of more than 300 from that in 1959; and the number of resident monks have risen to 46,300 since the days of the Cultural Revolution.<sup>14</sup> He further comments on the resumption and celebration of religious festivals that were previously suspended.

### ***The socialist road to suppression***

Religious repression is largely imposed through Beijing’s “Patriotic Education” Campaign. This campaign, first launched in 1996, is designed to suppress patriotic sentiments and outbursts, and to mould the monastic community along the Party’s communist line. The campaign, besides being a serious infringement on the rights of Tibetan monks and nuns in terms of their belief, practice and allegiance, has resulted in widespread arrests and expulsions. In view of its “success”, the campaign has now been officially extended into the

lay community. According to the UN High Commissioner for Refugees, Rudd Lubbers, one-third of approximately 3,000 Tibetan asylum seekers who flee Tibet every year do so to escape the “patriotic education” campaign.<sup>15</sup>

***The year 2001 witnessed regular visits by ‘work teams’ to enforce the ‘Patriotic Education’ campaign in monasteries and nunneries regarded as ‘hot-beds of dissent’***

Under the aegis of the “Patriotic Education” Campaign, regional “work teams” of the Communist Party have been attempting to control the population of monasteries and nunneries by enforcing an age limit for enrolment. “Temporary Measures for the Management of Places of Religious Activity in Lhasa Municipality” came into force on 1 February 1999, replacing the existing 1995 “Temporary Management Measures” issued by Lhasa municipal government. These “measures” give an insight into the stringent controls on monastic life and political pressure of monks and nuns in the “TAR”.

Almost all religious institutions in Tibet now have Democratic Management Committees (DMC) installed by the Chinese Communist Party to oversee admission, areas of curriculum, and in general “to set up a system of control to ensure that the clergy assume Chinese ‘socialist’ ideals in preference to traditional Tibetan Buddhist teachings”.<sup>16</sup> In recent years the DMCs at several large monasteries have begun to collect all the funds generated by sales of entrance tickets or donations by pilgrims. These funds were previously distributed to monks engaged in full-time religious study. As a result, these “scholar monks” are now engaged in income-generating activities. Several experts are concerned that fewer monks will be qualified to serve as teachers in the future as a result.<sup>17</sup>

In June 2001, Jampa Phuntsok, deputy head of the “TAR” Office for Patriotism Education for Lamaseries, said that Chinese authorities have conducted a campaign to enhance “patriotic education” in religious institutions since 1996 “to promote the concept of motherland, the awareness of law and the responsibility of a Chinese citizen, and adapting Tibetan Buddhism to modern society”. He explained that Tibet has currently launched a new round of campaigns to advance publicity of State laws and regulations in some major lamaseries, so that lamas take the initiatives to be law-abiding citizens and know how to resort to law in order to protect their legitimate rights.<sup>18</sup>

The year 2001 witnessed regular visits by “work teams” to enforce the “patriotic education” campaign in monasteries and nunneries regarded as “hot-beds of dissent”. Usually these visits aim to destroy political and religious loyalty to the Dalai Lama, give classes on laws and policies of the Beijing government and enforce stricter control in religious institutions. Such government-sponsored campaigns directly contravene international conventions — particularly ones to which China is a party. Specific reference can be made to Article 5 of the Convention on the Elimination of Racial Discrimination (CERD) which obliges State Parties to “prohibit racial discrimination in the enjoyment of the right to freedom of thought, conscience and religion.”

In an attempt to show the media that religious institutions are free from political interference, Chinese officials brought a group of foreign correspondents to Kumbum Monastery in Qinghai in December 2001. When asked about the Dalai Lama and whether they can worship freely, one monk said, “Things are bad here and the pressure is intense”.<sup>19</sup> After the 1998 defection of Agya Rinpoche, abbot of the 440-year-old monastery, Kumbum monks

underwent intensive indoctrination in communist ideology for three months and those who refused to denounce the Dalai Lama were expelled.

The correspondents remained concerned that three years after Agya Rinpoche's defection, "...dozens of para-military police armed with truncheons still patrol the temples, dormitories and religious schools of Kumbum Monastery" and security forces seemed to "outnumber the red-robed monks".<sup>20</sup> Reports state that when questioned the senior monks had to frequently consult one another in whispered Tibetan and their uneasy moments of silence "spoke volumes about the limits of religious freedom in China".<sup>21</sup>

TCHRD received reports during 2001 of intensive "work team" indoctrination sessions driving monks to the point of committing suicide. One such case is that of Phurbu Audatsang, a 40-year-old monk from Drayab Peugue Monastery, Chamdo Prefecture, "TAR", who committed suicide by jumping off a bridge into a local river as a result of pressure exerted by "work teams".<sup>22</sup> Since the late nineties, "work teams" of seven to 14 members have been making monthly visits to Kana Monastery in Dzatoe County, Jyekundo "TAP", Qinghai, to "educate" the monks politically. They enforced a ceiling of 30 monks for the monastery when 300 monks were resident, set an age bar for monks to enter of 18 years, and upheld the official ban on photos of the Dalai Lama. Approximately 45 monks from Kana Monastery have escaped to India since the start of the "patriotic education" campaign.

The authorities have introduced complex bureaucratic procedures to deter young Tibetans from joining nunneries and monasteries, especially in the capital Lhasa. It is traditional cultural practice for Tibetans to admit one son to the monkhood. Additionally, as impoverishment increases among rural communities, enrolment of a son at the local monastery can become an economic necessity. However, Chinese policy makes it illegal to admit youths under the age of 18, thus barring them from a traditional religious education. Where no schools exist, this condemns the child to no education at all.<sup>23</sup> To illustrate, a "work team" in collaboration with local policemen enforced an age limit of 18 years in Druka Monastery in Kenlho "TAP", Gansu, in 1998, leading to the expulsion of 18 monks.<sup>24</sup>

Article 14(1) of the Convention on the Rights of the Child stipulates that State Parties shall respect the right of the child to freedom of thought, conscience and religion. Article 14(3) of the same convention subjects the above provision to limitations as are prescribed by law and are "necessary to protect public safety, order, health, or morals or the fundamental rights and freedom of others."

Karma Nyandak from Tengchen County, Chamdo Prefecture, "TAR", fled Tibet in 2001 after facing a formidable array of bureaucratic procedures while attempting to join Sera Monastery in Lhasa. He had to obtain six official documents from 1) his previous monastery; 2) the township authorities; 3) the county authorities; 4) the city authorities; 5) the Department of Religious Affairs in Lhasa and 6) a government office in Lhasa which decides on the final recruitment of monks to the three major monasteries in Lhasa — Sera, Drepung and Gaden — in close association with the PSB. Even if he had been successful in obtaining all the necessary documents and secured admission, he would not have been allowed to participate in the official religious functions.

### *Crackdown, expulsions and demolitions*

Almost all expulsions from religious institutions today occur in the context of visits from “work teams”. The most common “crimes” prompting monastic expulsion are possession of photos of the Dalai Lama, cassette recordings and publications by the Dalai Lama, and suspected involvement in political activism.

The number of monks and nuns in Tibet has reduced significantly over recent years particularly since the inception of the “Patriotic Education” Campaigns. This decrease is widely attributed to the massive expulsions of clergy who refuse to obey the orders of the “work teams”, such as denouncing the Dalai Lama, parroting a Chinese version of history, and failing to vow loyalty to the Chinese motherland.

A Western tourist to Tibet in 2001 observed, “I visited many monasteries and nunneries throughout Tibet, and the overall impression I received was one of emptiness. Many temples within the larger monasteries were totally empty, and the assembly halls that were in use showed definite evidence of the restrictions in number [of monks and nuns] enforced by the Chinese authorities. The halls would only be half full, at the most... with the rest of the rooms cavernously empty. I saw very few monks in attendance at the majority of the monasteries and little evidence of study being undertaken.”<sup>25</sup>

Apart from the damaging “Patriotic Education” Campaign, the greatest current concern for the survival of Tibetan Buddhism is the prohibition on religious education. Disgruntled members of the community point out that the beautiful religious institutes are mere museum pieces. The religious freedom that only allows people to offer butter lamps and perform prostration serves only to fool foreign visitors.<sup>26</sup>

The harshest brunt of religious control in 2001 was meted out to Serthar Institute when Chinese authorities expelled over 7,488 residents of the institute (known locally as Larung Gar) and enforced a ceiling of 1,400 students.<sup>27</sup> More than 1,000 huts were razed to the ground in this crackdown to prevent the students from returning to the site. TCHRD has as yet unconfirmed information that six of the around 4,000 nuns studying at Serthar have died and many were hospitalised in the aftermath of this onslaught. Two of the nuns are reported to have committed suicide while four others died of unknown causes. It is alleged that the deaths were related to despair and desperation triggered by the recent crackdown. By year’s end, the Chinese authorities had cancelled all teaching programmes and religious ceremonies at the institute. For the few students who remain, lectures and studies have been severely disrupted.

At the time of dismantling, Serthar was the most populous institution for higher learning on the plateau. Its almost 9,000 monk, lama and nun students included 1,000 foreigners from China and South-east Asia. They were the first to be expelled. At the time of expulsion, monks and nuns were pressured to sign documents containing three points: a promise not to return; denunciation of the Dalai Lama, and a commitment to follow official policies. Article 18 (2) of the ICCPR provides that no one shall be subject to coercion, which would impair his freedom to have or to adopt a religion or belief of his choice. Clearly this has been grossly violated by the PRC’s brutal crackdown at Serthar Institute.

When the 1,000 Mainland and Overseas Chinese and other Asian nationals were expelled, they were also warned that failure to leave the institute within the specified time would be

considered illegal and could result in arrest. All the non-Tibetan students left the institute expressing deep sorrow and a wish to return. Article 1 of the Rules on Administration of Religious Activities of Aliens<sup>28</sup> in China stipulates that its purpose is to "...protect the freedom of religion of foreign nationals in China". Articles 3 and 4 of the same regulation provide that the PRC respects the freedom of religious belief of aliens within Chinese territory, and protects and administrates the religious activities of aliens within Chinese territory in accordance with the law.<sup>29</sup>

***'It is a threat to the government's idea of unity if either Tibetans or Chinese believe in the Buddha' says a Chinese doctor who studied Buddhism in Tibet***

Similar evictions and demolitions were reported at Yachen Gar shortly after the dismantling of Serthar. According to a report by the International Campaign for Tibet (ICT)<sup>30</sup>, approximately 800 living quarters were demolished<sup>31</sup> at Yachen Gar in October 2001. The destruction of accommodations and continual propaganda classes by "work teams" has disrupted the normal religious activities at Yachen Gar. The 2,500-3,000 students, including from 150 overseas, engaged in meditation and prayers. All the 150 Mainland Chinese, Taiwanese and Singaporean students were ordered to leave the encampment in September 2001 and only monks and nuns from the surrounding Pelyul County of Sichuan were allowed to remain.

A 45-year-old Chinese doctor who had studied at Yachen Gar for four months after he had been forced to leave Serthar Institute told ICT, "The authorities forbade teachers from Serthar Institute and Yachen Gar from giving vajrayana<sup>32</sup> to Chinese or to travel to China to teach. The Chinese government knows that the more people believe in the Buddha the more those people will respect the Dalai Lama. So it is a threat to the government's idea of unity if either Tibetans or Chinese believe in the Buddha."<sup>33</sup>

The expulsion and demolition operations carried out by the massive contingent of police, army personnel and "work teams" at Serthar and Yachen Gar directly contravene laws guaranteeing punishment for violation of religious freedom. Article 251 of China's Revised Criminal Law articulates that State personnel who unlawfully deprive citizens of their freedom of religious belief and infringe upon the customs and habits of minority ethnic groups, when the circumstances are serious, are to be sentenced to not more than two years of fixed-term imprisonment or criminal detention.

***Closures of religious institutions***

Resistance by Tibetan monks and nuns to the "Patriotic Education" Campaign, and officially enforced ban on traditional religious practices, has led to the closure of additional religious institutions. To date, a total of 24 religious institutions have been sealed by the Chinese authorities of which two were closed down as recently as this year.

The Beijing government clearly stipulates the penalties for the infringement of citizens' rights to freedom of religious belief. There is a specific legal reference to the "People's Procuratorate placing on file a case in which a State functionary illegally deprives anyone of his or her legitimate freedom of religious belief and put on record cases of illegally closing or destroying lawful religious sites and other facilities".<sup>34</sup>

Tawu County authorities closed down Tsalpo Nunnery in Tawu County, Karze “TAP”, Sichuan, in mid-2000 when the nuns refused to supply their identity photographs and allow inspection of their rooms. The doors of the nunnery are officially closed with red ribbon bearing the seal of the local authorities and all 300 nuns have returned to their respective families.<sup>35</sup> In February 2001, Chinese officials sealed Drakkar Nunnery in Nyalam County, Shigatse Prefecture, “TAR” and expelled all its 20 nuns. The nunnery was accused by the officials of having no permit from the government. “The nunnery received no grants from the government. The permit which the officials claimed to be mandatory, was just to legitimise their stringent and repressive crackdown on our religion,” says a nun.<sup>36</sup>

### *The Dalai Lama as the ‘enemy’*

Beijing’s policy to demean the Dalai Lama has become increasingly hardline following the 2001 Fourth Work Forum on Tibet. The Third Forum held in 1994 referred to the Dalai Lama as “the serpent’s head” that must be “chopped off” in order to kill the snake. Since then, the PRC’s rhetoric against Tibet’s leader in exile has gained momentum and senior Beijing leaders continually stress the need to step up the polemical attack against the Dalai Lama. Beijing authorities choose to equate any displays of reverence for the Dalai Lama with “separatist activities” and therefore employ and explore endless strategies to upgrade their Dalai Lama denunciation campaign.

The Dalai Lama and Tibetan Buddhism are inseparable. One Beijing analyst writes that it is the Dalai Lama’s ability to transform Tibetan religion into a political weapon, which has put Beijing in a dilemma.<sup>37</sup> It can be extrapolated that the language of the campaign against the Dalai Lama will extend to Tibetan religion. Chen Kuiyan, the former “TAR” Party Secretary, has concluded, “Monasteries are the most critical places penetrated by the Dalai clique. These are their conspiring and hiding places. These are also the places where most of their followers reside”.<sup>38</sup> Therefore, it has been decided to “...pull the monasteries out of the Dalai Lama’s control”.

Beijing claims that the Dalai Lama — in complicity with “foreign forces” — has nurtured “splittist” activities in Tibet in the monasteries. However, Tibet’s new heightened sense of nationalism is the real trigger for the heightened religious persecution devised and perpetrated by Beijing authorities.

The Chinese authorities in Tibet try to exterminate the Dalai Lama’s influence through imposing bans on his portrait, literature, cassettes (audio and video) as well as through the intensification of “patriotic education” in which denouncing the Dalai Lama constitutes one of the major components. Li Ruihuan, Standing Committee member of the CCP, and head of Nationality Affairs, describes the Dalai Lama as being not only the “...source of disturbances in Tibetan society, but also the biggest obstacle for establishing order amongst Tibetan Buddhism.”<sup>39</sup>

Over the years, the number of detentions due to possession of materials related to the Dalai Lama have been on the rise leading to harsher official reprisals in the form of torture, prolonged imprisonment and surveillance after release. These cases of detention contradict Chinese claims of unrestricted religious freedom in Tibet. In May 2001, Meng Deli, Director of the “TAR” Department of Justice stated that “...nobody was put into jail for the so-called reason of hanging the portrait of the Dalai Lama.”



In February 2001, Basang, Vice-Secretary of the Tibet Regional Committee of the CCP and Director of the “TAR” Committee for Receiving Returned Tibetans, called for clearer understanding of the denunciation campaign against the Dalai Lama. He stated, “The battle against the “Dalai clique” is not just a simple question of whether one believes in religion or not, nor a matter concerning self-government or not, but an issue which relates to safeguarding the unity of the motherland.”<sup>40</sup>

In 1994 the Chinese authorities imposed a restriction on Khenpo Jigme Phuntsok’s overseas travel because of an audience he had had with the Dalai Lama in India four years earlier. The eminent lama was interrogated four times in 1998 concerning his connection and communications with the Dalai Lama. The current whereabouts of Khenpo Jigme Phuntsok remain uncertain. It is believed that the ailing abbot of Serthar Institute is being held incommunicado under Chinese custody in Sichuan’s capital, Chengdu.

Many cases were reported to TCHRD this year of monks and nuns being arrested or otherwise punished for supporting the Dalai Lama. “Work team” officials demoted and subsequently replaced a chant master called Thopchu-la from Kirti Monastery in Ngaba County, Ngaba “TAP”, Sichuan, for allegedly offering a long-life prayer to the Dalai Lama.<sup>41</sup> In early 2001, a monk pointed out to the Chinese authorities that being in a monastery is now pointless as worship of the Dalai Lama and the Karmapa are forbidden to the Tibetans. Soon after this outburst, the monk was taken for interrogation and the details of his whereabouts and present condition remain unknown.<sup>42</sup>

A Sera Monastery monk remains incarcerated at a Lhasa detention centre — and his family has been denied visitation rights — after he was caught in January 2001 listening to an audiotape containing teachings by the Dalai Lama.<sup>43</sup>

Evidence that the “Patriotic Education” Campaign is now also being targetted at lay communities arose on March 2000, when several Chinese policemen conducted extensive raids in every Tibetan household in Tingri County and searched for photographs of the Dalai Lama. The raids created panic amongst the villagers and some of them ran away to hide in the nearby hills. After the forcible confiscation of about 700 photos collected from anxious villagers, three Tibetans were detained. For possessing and collecting the Dalai Lama’s photos, described as a “criminal act” by the local authorities, the detainees were fined 5,000 yuan each to secure their freedom or face life imprisonment.<sup>44</sup>

When Geshe Sonam Phuntsok<sup>45</sup> was granted five minutes to speak out in the courtroom after his sentencing in March 2001, he said, “My arrest and court trial belies the Chinese claim of religious freedom in Tibet and it should be made known to the public”. His major offences were “illegally conducting religious ceremonies on several occasions within Karze County, seeking an audience with the Dalai Lama in India and taking photographs with him, and conducting a long-life prayer ceremony for the Dalai Lama”. For this the Geshe was sentenced to five years’ imprisonment. Sources within Tibet speculate that due to his growing popularity and following amongst Tibetans, the Chinese authorities regard Geshe Sonam Phuntsok as an element of threat to the stability of the nation.

Lhasa witnessed renewed restrictions on the age-old traditional celebration of Trungha Yarsol (the Dalai Lama’s birthday) in July 2001.<sup>46</sup> The Chinese authorities, as part of various checkrein measures, distributed official circulars “illegalising” Trungha Yarsol, issued threats and arbitrarily arrested and detained Tibetans just two days prior to the 6 July

celebration. A circular titled “Strengthening Abolition of the Illegal Activities of Trunglha Yarsol Celebration and Protection of Social Stability”, issued by the Chinese government on 24 June 2001, lauds their success in curbing earlier birthday celebrations and re-affirms the official stand against such “illegal activities” in the future.

While the circular makes claims about guaranteeing “normal religious activities” and “protecting religious freedom”, it also has a contradictory provision prohibiting any individual or organisation from celebrating Trunglha Yarsol. Activities such as offering prayers, performing an incense-burning ceremony, and throwing tsampa (roasted barley) in the air are rendered “illegal”.

Hundreds of Tibetans were detained from Lhasa region alone two days prior to the Dalai Lama’s birthday on 4 July 2001, under the guise of the “Strike Hard” campaign. These detentions clearly demonstrate how the Beijing government attempts to curb by intimidation the cultural and religious freedoms of Tibetans.

### *Promoting atheism over religion*

Beijing focussed this year on suppressing the growth and manifestation of traditional religious activities by imposing various restrictive measures on the secular community. Tibetans are trapped in the dichotomy between the Chinese Constitution and laws guaranteeing freedom of belief to all citizens, and doctrinaire atheism of the Communist Party. The current campaign promoting atheism has gone hand-in-hand with an increasing number of restrictions on public expressions of belief such as bans on hoisting prayer flags, burning incense, and circumambulating holy sites.<sup>47</sup>

The high-level December 2001 National Religious Working Conference in Beijing called for protection of “normal religious activities” according to the law, but vowed to maintain social stability by cracking down on criminal activities carried out under the cover of religion. Under the PRC government’s broad definition of “splittism” citizens can be penalised for merely practising Buddhism in the privacy of their own homes.

To create an impression of public endorsement for its religious policy in Tibet, the “TAR” government organised a survey on religion this year and the result declared that 87 percent of the 100 households surveyed in Lhasa expressed satisfaction with the existing religious policy. Only one percent of those polled was reportedly dissatisfied. Vice-President of the Buddhist Association of China and President of the Association’s Tibet branch cited the results of the survey to bolster official claims that Buddhists in Tibet enjoy absolute freedom of religious belief.<sup>48</sup>

An editorial in Tibet Daily suggested that young children should be educated in atheism “in order to help rid them of the bad influence of religion”.<sup>49</sup> As part of the anti-religion campaign, authorities in middle and primary schools in Lhasa discourage Tibetan children from expressing religious faith and practising any devotional activities. The authorities have labelled practices associated with Tibetan Buddhism as “backward behaviour” and an obstacle to progress, and even banned people from wearing the traditional Buddhist “protection cord” received from high lamas.

Failure to observe the ban on blessed “protection cords” can result in detention, expulsion from school, payment of fines, and being “named and shamed” in front of the whole school.

Cases have also been reported of confiscated protection cords being burnt or cut to shreds in the class.<sup>50</sup> In Lhasa Middle School 2, students are completely banned from wearing such cords or visiting monasteries. Tibetan teachers at the schools are subjected to sudden raids on their homes in searches for objects of religious significance; parents are called to meetings at which they are advised not to take their children to monasteries or to attend any religious ceremonies.<sup>51</sup>

***An editorial in Tibet Daily suggested that young children should be educated in atheism ‘in order to help rid them of the bad influence of religion’***

While the Chinese Constitution permits religious believers to hold public office, the Communist Party officials state that Party membership and religious belief are incompatible. However, it is also officially stated that freedom of religious belief is acceptable among Party members from ethnic minorities. Nevertheless, since 1995 the Communist Party has reportedly issued circulars ordering Party members not to adhere to religious beliefs and ordering the expulsion of members belonging to religious organisations — whether openly or clandestinely.

High-ranking Communist Party officials, including China’s President and CCP Party Secretary Jiang Zemin, have stated that Party members cannot be religious adherents. In October 2000, Wang Lequan, secretary of the Xinjiang Party Committee, warned Party members that “...cadres at all levels should consciously adhere to Marxist atheism. Do not believe in religion; do not take part in religious activities”. Such prohibitions extend to the military. The “Routine Service Regulations” of the People’s Liberation Army (PLA) state explicitly that servicemen “may not take part in religious or superstitious activities”.<sup>52</sup>

A Beijing insider explains that while the Chinese authorities generally prohibit government-salaried Tibetans from expressions of religious belief, among non-government employees religion is tolerated to an extent.<sup>53</sup> But the authorities insist that religion must conform to socialist society,<sup>54</sup> and if a conflict develops between religion and socialism it is religion that must give way. Clear directives have been made consistently over recent years forbidding Party members, Party officials and government employees from believing in religion. The Dalai Lama should be regarded as an enemy, religious practice prohibited and the display of religious symbols such as statues, thangkas or altars, the Dalai Lama’s portrait, and performing religious ceremonies were all forbidden. Expulsion from Communist Party membership, loss of government jobs and pensions and non-promotion of students to higher classes are penalties imposed for violation of these rules.

This year, TCHRD received information on the defection of a Tibetan communist cadre in 2001 who opposed restrictive religious policies in Tibet. Wangtse had worked for the Chinese Communist government for 24 years when, in June 2000, he criticised the official ban on pilgrimages and the recitation of mantras, restrictions on Tibetan cadres to practise religion, and above all, the ongoing “Patriotic Education” Campaign in monasteries. He testifies that though Tibetans resent the prohibitions on religion, very few dissenting voices can be heard as everyone plays safe and treads cautiously when it comes to “fishing in troubled waters”. A colleague warned him that the Chinese authorities had convened a meeting to assess his loyalty to the Party and look into his alleged critical statements. For fear of being arrested and detained by the local police, Wangtse escaped from Tibet in August 2000.<sup>55</sup>

Article 19(1) of the ICCPR states that everyone shall have the right to hold opinions without interference. Article 35 of the Chinese Constitution guarantees that citizens of the PRC enjoy freedom of speech, of the Press, of assembly, of association, of procession and of demonstration. Clearly, Wangtse did not.

The Lhasa authorities tightened control over celebration of significant religious and cultural festivals during the first month of the Tibetan New Year and forbade government workers, cadres and schoolchildren from attending prayer festivals or making financial donations to monasteries.

TCHRD sources report that though restrictions on prayer rooms and shrines are now abating, those embarking on traditional pilgrimages are being subjected to new restrictions. Since the summer of 2000, Chinese authorities in Gergye County, Ngari Prefecture, are insisting upon official permits on payment of a fee, and possession of ID cards to circumambulate Mount Kailash and Manasarovar Lake. Security checkpoints have been set up along the routes to check the identity of pilgrims and about 60 Chinese security guards have been stationed at Mount Kailash. A seven-room building has been constructed for the guards indicating that this is to be a permanent station. The three-day pass costs 18 yuan but people over 50 years are charged only 14 yuan. A new permit must be purchased after every three days.

### *The politics of reincarnation*

On paper, the Chinese State recognises and respects the reincarnation of “holy men or Living Buddhas” and considers the reincarnation procedure a “religious ritual and historical convention of Tibetan Buddhism”. However, Beijing’s “continued interference in this age-old tradition is not only an act of retribution by an atheistic state against the practice of religious freedom”, it can be attributed to “Chinese reincarnation politics”.<sup>56</sup> On 16 January 2001, the PRC government gave its stamp of approval to the selection of two-year-old Sonam Phuntsog as the seventh incarnation of Reting Rinpoche. Many of the monks at Reting Monastery in Phenpo Lhundrup County, Lhasa Municipality, opposed the selection and intervention in the process by Chinese officials. The young reincarnate is reportedly under close Chinese surveillance in a residence near the monastery.

Another reincarnate lama, seven-year-old Pawo Rinpoche, who was recognised by the 17th Karmapa, is also reportedly under Chinese custody in Nenang Monastery in Toelung Dechen County, Lhasa Municipality. He has been “denied access to his religious tutor” and even foreign officials are “repeatedly denied permission to visit his monastery”.<sup>57</sup> TIN reports that morale at Nenang and Tsurphu Monastery (seat of the Karmapas) is low following the removal of Pawo Rinpoche to Lhasa and the escape of the Karmapa to exile in India. The decline in the number of monks in both monasteries is partly a result of “work teams” imposing “patriotic education” and also due to the absence of their religious leaders.

The whereabouts and well-being of Gedhun Choekyi Nyima, the 12-year-old 11th Panchen Lama recognised in 1995 by the Dalai Lama, continue to be unknown. The second highest spiritual leader of Tibet disappeared in May 1995 just days after the Dalai Lama announced his choice. All appeals from the international community for access to the boy to ascertain his state of health and circumstances have been rejected by Beijing. Conflict between the religious leadership in Tibet and Beijing over the Panchen Lama succession was highlighted when the abbot of Kumbum Monastery, Agya Rinpoche, spoke out in support of the Dalai

Lama and rejected Beijing's choice of Gyaltsen Norbu as the new Panchen Lama.<sup>58</sup> Agya Rinpoche was expelled from the CPPCC in June 2000 after defecting to the USA in 1998.

Tibetans are also expressing grave concern over the fate of Chadrel Rinpoche<sup>59</sup>, former abbot of Tashilhunpo Monastery and head of the Search Committee to identify the successor to the 10th Panchen Lama. When his six-year prison term expired in May 2001, Chadrel Rinpoche failed to make any appearance.

The 17th Karmapa, head of Tibetan Buddhism's Karma Kargyud School, decided against the career charted out for him by Beijing and at 14 years old escaped across the Himalaya into exile. A Chinese scholar reports that the popularity of the Karmapa among Tibetans, when he was seen as part of Beijing's "United Front", is nowhere compared to the popularity he has now gained after fleeing to the Dalai Lama's camp.<sup>60</sup> Following the Karmapa's escape, all Kargyud monasteries in Tibet have remained under tight control. The monks of his Tsurphu Monastery have been subjected to serious restrictions and armed police continuously scrutinise their movements and activities. The normal flow of pilgrims and tourists to Tsurphu has declined drastically and the "TAR" officials have revised the administration.

Having anointed their own candidates for Tibet's religious hierarchy, Beijing is now anticipating its role in recognition of a future Dalai Lama. Raidi, the Tibetan Deputy Secretary of the CCP, told Hong Kong journalists visiting Lhasa in August 2001 that the Dalai Lama's reincarnation would be chosen according to "historical customs and religious rituals". The choice will then be confirmed "...after being ratified by the central Chinese government", according to reports carried by the state-run Xinhua news agency.

Beijing's need to manipulate the selection of a future Dalai Lama is seen by analysts as official fear of losing control over the region's restive and highly religious people. Raidi even accuses the present Dalai Lama of "sabotaging economic growth and instigating unrest in Tibet".<sup>61</sup> The Dalai Lama, in his turn, has chosen to leave the issue of his next incarnation to be decided by the people of Tibet and all those who believe in the institution".<sup>62</sup> In an interview with Julian Gearing, (Asiaweek 10 October 2000) the Dalai Lama predicted, "If I pass away, my reincarnation will logically come outside Tibet, in a free country. That's because the main purpose of reincarnation is to continue the task not yet accomplished in this life. But China will pick a boy as the next Dalai Lama, though in reality he isn't. As with the Panchen Lama, Tibetans won't recognise him." Politics govern reincarnation and every other aspect of religious life in today's Tibet.

### *The US condemns the PRC for 'persecution'*

The International Religious Freedom Report 2001 released by the US State Department on 26 October concludes that overall repression in Tibet remains high, and the government's record of respect for religious freedom remains poor.

There is specific mention of the PRC government's "tight control on religious practices and places of worship in Tibet" and forcible suppression of those religious activities viewed as "vehicles for political dissent".<sup>63</sup> President George Bush noted in sharp terms that, "traditional religious practices in Tibet have long been the target of especially harsh and unjust persecution".<sup>64</sup>



The European Parliament's 15 February 2001 Resolution on Religious Freedom criticises the "...state control over religion" and the "...policy of repressing religious activity in China". While condemning China's delay in ratifying the ICCPR, the resolution defines the violations of human rights in Tibet as "severe" and notes the discrimination against the Tibetan people on the basis of their ethnic, religious, cultural and political origin. The resolution urges all Member States to submit a resolution to the UN Commission of Human Rights over the issue of "...violations of religious rights, and in particular, those directed against Tibetan and Mongolian monks..."<sup>65</sup>

In his address to the European Parliament's General Assembly on 24 October 2001, the Dalai Lama expressed concern that "...an entire Tibetan people with its unique culture and identity are facing the threat of extinction". Three days later, an official of the Foreign Affairs Committee of the National People's Congress (NPC) in Beijing called the Dalai Lama's statement "sheer nonsense designed to fool the world". The official boasted that Tibet has experienced "earth-shaking changes" over the years and the freedom of religious belief and all the fundamental rights and freedoms have been guaranteed to the full.<sup>66</sup>

New Zealand's Foreign Minister, Phil Goff, raised the issue of religious freedom to the Chinese authorities in Lhasa during his four-day trip to Tibet in June 2001. He was concerned that the freedom of religion in Tibet remained under "tight control".<sup>67</sup> Conversely, Legqog, Chairman of the "TAR", declared in a press conference a month earlier that the freedom of religious belief is well guaranteed according to the Chinese Constitution. But he warned, nobody is allowed to undermine social stability and economic development in Tibet under the pretext of religion.<sup>68</sup>

The UN Committee on the Elimination of Racial Discrimination concluded a two-day hearing on a Chinese government report on minority rights with a statement that it remains "concerned with regard to the ...freedom of religion by people belonging to national minorities, particularly in Xinjiang and Tibet". The UN body urged China to ensure the promotion of local and regional culture and traditions and respect for the rights of the populations.<sup>69</sup>

## Political Freedoms

At the heart of the denial of Tibetans' basic civil and political rights is the fact that they are a people under foreign occupation with no right to self-determination. This is judiciously stipulated in the International Covenant on Civil and Political Rights (ICCPR) where "all peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."<sup>1</sup> The government of the People's Republic of China (PRC) is yet to ratify the Covenant but the UN High Commissioner for Human Rights, Mary Robinson, expresses hopes that the PRC will soon follow through on its stated intention to ratify this fundamental human rights.<sup>2</sup>

The PRC lost no time in capitalising on world condemnation of terrorism in the wake of the 11 September suicide attacks in America. A foreign ministry spokesman immediately branded "separatist" activities among China's minorities as "terrorism" and called this a major national concern. During the ninth National People's Congress (NPC) meeting on 27 October 2001, the State Council approved a proposal for China to join the international campaign against terrorism, splittism



and fanaticism. Li Peng, Chairman of the NPC, praised the decision as wise in view of the global support against international terrorism in the new millennium.<sup>3</sup>

Beijing swiftly exercised this new tool of repression when several hundred Tibetans were detained in the “TAR” in November.<sup>4</sup> Western diplomats in Beijing are commenting on the significant increase in People’s Armed Police (PAP) personnel and troops in major cities in Tibet. To date it is not clear how long the Tibetans detained in Lhasa and other cities will be held. But quite evidently, the “splittist” crackdown is a strategy Beijing has employed to join the anti-terror bandwagon.<sup>5</sup>

Almost two weeks after the NPC meeting, High Commissioner Mary Robinson paid a two-day visit to the PRC. She publicly and firmly warned China against using the American-led campaign against terrorism as a pretext to suppress ethnic minority groups, while also expressing concern about the situation in Tibet. Mrs Robinson said it was difficult to see how a balance between anti-terrorism and anti-discrimination action could be struck because terrorism itself is not defined.<sup>6</sup> A political analyst maintains that this leaves the definition open to manipulation to suit a country’s political agenda as witnessed by China’s new classification of so-called “splittists” in Xinjiang and Tibet, as well as the Falun Gong, as “terrorist organisations”.<sup>7</sup>

Several international events have reinforced Beijing’s confidence in its global image and role. Despite scrutiny at this year’s United Nations Human Rights Commission in Geneva, the Chinese government managed once more to evade censorship. Success in winning its bid to host the Olympic Games in Beijing in 2008 was followed by China’s long-awaited entry to the World Trade Organisation.

The Chinese authorities are currently employing all the procedures available to them to crush any Tibetan resistance to their rule. The re-launch of the “Strike Hard” Campaign in April 2001, extending for a period of two years, has had instant implications in Tibet.<sup>8</sup> When Beijing unleashed the “Strike Hard” Campaign in the “TAR” in April 1996, the first priority was given to “crimes that endanger state security”.<sup>9</sup>

According to Shen Liang, vice president of the Higher People’s Court of “TAR”, safeguarding social stability was their bounden duty.<sup>10</sup> Under “Strike Hard” any signs of reverence for the exiled Dalai Lama are interpreted as equating to “endangering state security” or “affecting stability and unity of the motherland”. The State therefore is employing various comprehensive strategies to strengthen its denunciation campaign of the Dalai Lama and the exile government. For the Chinese government, the Dalai Lama is a political anathema. A large proportion of current arrests and detentions have a direct or indirect link to the issue of loyalty to the Dalai Lama, be it for possessing his photos, video and audio tapes, the forbidden Tibetan national flag, any materials with political overtones from exile, or simply the failure to denounce their exiled leader.

This specific targeting of the Dalai Lama and other symbols of national identity are explained by Wang Lequan, Xinjiang’s Party Secretary, “The Strike Hard campaign is a national campaign and different regions have a different focus depending on their local situations...”<sup>11</sup>

Official paranoia over stability was a hallmark of China’s presence in Tibet throughout 2001. There was an intensification of security measures during festivals and special anniversaries such as 10 March<sup>12</sup> to prevent possible celebrations by Tibetans that might manifest in

political dissent. Increased numbers of Public Security Bureau (PSB) personnel were reportedly deployed around major congregation areas in Lhasa city, and the authorities held a meeting of former political prisoners and their relatives several days prior to the 10 March anniversary, prohibiting them from indulging in any “anti-State” activities.

Government workers, cadres and schoolchildren in Lhasa were ordered to stay home to celebrate Tibetan New Year (which began this year on 24 February). In today’s political climate, making a religious offering in public during a sensitive anniversary, or failing to attend a political meeting, may be interpreted as being expressions of protest.<sup>13</sup> Reports emerging from Tibet indicated that during the 52nd anniversary of the foundation of the PRC on 1 October, Tibetans in Lhasa were compelled to buy and display the Chinese national flag as a matter of political duty.<sup>14</sup>

With its primary focus on development, Beijing held the Fourth Tibet Work Forum in June 2001, attended by all seven members of the Chinese Communist Party (CCP) Politburo Standing Committee. This meeting deliberated priorities for China’s policy implementation in the “TAR”, along with broad guidelines that “TAR” leaders and officials must follow. Analysts see the objectives of the forum as being two-fold; firstly bringing economic development, prosperity and social stability, and secondly augmenting central control by pursuing a policy allowing greater assimilation of Tibet into a more “unified” Chinese state. The authorities openly acknowledge the fact that this all out economic drive is political as well as economic; the underlying issue is Beijing’s determination to “maintain stability” in Tibet.

Premier Zhu Rongji<sup>15</sup> very clearly revealed this when he stated, “the special supportive methods and policies adopted by the Central government towards Tibet are not only in consideration of Tibet’s particular difficulties; looking at it from the perspective of protecting the unity of the nationalities, the unity of the Motherland and State security, [these methods and policies] are the requirements of [Tibet’s] situation and the needs of [China’s] overall situation.”<sup>16</sup>

A month after the Fourth Work Forum, Vice-President Hu Jintao<sup>17</sup> flew to Tibet in July amidst strict security to preside over the celebration of the 50th anniversary of the “peaceful liberation” of Tibet. Several thousand Tibetans were forced to participate during the main ceremony in the Potala Square on 19 July. Heightened surveillance and restrictive measures were imposed.

### *The right to determine one’s political future*

Tibetan people, although recognised by many international bodies as being a distinct people, have had their right to self-determination denied since China’s invasion of 1950. China of course claims that the “Autonomy” formula granted by Beijing guarantees Tibetans sufficient self-determination.

A White Paper issued by the PRC in April 2001 claims that over 70 percent of all officials in the “Tibet Autonomous Region” (TAR) are Tibetans. Entitled Progress in China’s Human Rights Cause in 2000, the document asserts this when specifying equal rights and special protection for ethnic minorities in the country. “Tibet now has over 50,000 officials from ethnic minority groups. Laws in China protect rights of ethnic minorities to participate in the

administration of State affairs on an equal footing and manage their own regions and ethnic affairs with autonomous rights.”<sup>18</sup>

Most significantly, the new White Paper fails to refer to the position of “TAR” Party Secretary, the single most powerful figure in Central Tibet. The Party Secretary is directly appointed by the Chinese Communist Party (CCP) in Beijing and a Tibetan has never held the post. The dominant members of the “TAR” administration have always been Party members and it is the Party which retains the prerogative to confer positions. Elections are held in Tibet merely to enable China to claim the existence of “democratic rights”. A former township party secretary who fled Tibet early this year from Kolug Township, Nagchu County, “TAR”, explains, “We were at first appointed by the higher levels and then the public voted for the selected candidates.”<sup>19</sup>

The system of “democratic politics at the grassroots level in rural areas, with democratic elections, decision-making, administration and supervision as the basic components”<sup>20</sup> as described in Beijing’s White Paper is profoundly at odds with the current system of governance in Tibet. There is a total absence of grievance procedures for villagers to express their concerns up to local leaders who theoretically have the responsibility to be “middlemen between the grassroots people and higher authorities”.<sup>21</sup>

A former township party secretary explains, ‘we were at first appointed by the higher levels and then the public voted for the selected candidates’

According to the same informant, now in India, “A monthly meeting was held at which I had to read out official documents which mainly condemn the ‘Dalai splittists’ and claim Chinese development in Tibet. In a way it is a form of ‘re-education’ of the masses. Other reading materials provided during the meeting are speeches of Mao, Deng Xiaoping, Jiang Zemin, Guo Jinlong and Raidi which we are expected to read out to the masses”.<sup>22</sup> However, when this former leader tried to raise serious complaints and issues of concern from the people with higher government authorities he was completely ignored.

Another party secretary also spoke of restrictions on “party members including strict instructions prohibiting them from possessing shrines, altars or pictures of the Dalai Lama, performing religious rituals or burning butter lamps.”<sup>23</sup>

Party members or officials who are seen to be inclined towards encouraging or indulging in Tibetan culture and tradition are either transferred or demoted. Shalo, the head of Karlang Township in Karze County, Karze “TAP”, Sichuan, was highly respected for his interest in preserving Tibetan culture and his work in helping the needy. In August 2001, villagers were informed that he would be transferred to Dartsedo County, Karze “TAP”, Sichuan sparking off a local protest against his removal. A local committee delegation also visited the county government requesting that Shalo should remain.<sup>24</sup>

### ***A special cadre class***

Whatever limited autonomy Tibetans might exercise is further weakened by the influx of Chinese cadres occupying local leadership positions to administer districts, prefectures and regions. Since 1995, several batches of special cadres from China were sent into Tibet. The present Chinese leadership believe that these special cadres are more reliable than their

Chinese and Tibetan counterparts in Tibet, and will work harder to build the Party work. These cadres enjoy special privileges — get triple wages and promotion within three years of their postings in Tibet.

Since these special cadres are answerable directly to the leadership in Beijing, they will definitely enjoy more power and therefore can overrule any decisions made by the local cadres, both Tibetan and Chinese, who permanently reside in Tibet. If this trend continues, it is definite that there will be more and more direct interference by Beijing in the day-to-day administration of Tibet. This will seriously jeopardise the functioning of the local cadres, in particular the Tibetans. At present approximately 70 Chinese cadres are reportedly attending Tibet University in Lhasa. This is the first time that such a large number of Chinese students have enrolled in the University's three-year Tibetan language course. Officials at the university reportedly told students that these Chinese graduates will “be particularly instrumental in consolidating and defending social stability and peace in Tibet”.<sup>25</sup>

Such surveillance evidently expands to educational institutions where departments are created specifically to keep an eye on the “discipline” of students. A young Tibetan student from Chentsa County was caught with political slogans written on the back of a notebook in Qinghai Nationalities Teachers Training University. The Chinese teacher, Tunhan Phrim, who found the scribbles, reported the matter to the head of the university who expelled the boy straightaway. The teacher was promoted to be head of the political office (Ch: zheng zhi chu).<sup>26</sup>

### *Freedom of Expression*

Article 19 of the International Covenant on Civil and Political Rights guarantees that all people

have the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

The government of the PRC has claimed that “the 1982 Constitution and other laws guarantee civil and political rights. Thus, the Constitution protects the right to participate in elections and to be elected, and the rights to freedom of expression, publication, association, assembly, demonstration and protest.”<sup>27</sup> However, while protecting the aforementioned citizens' rights, the Constitution also stipulates that the exercise of these rights must not cause harm to the State or to social and collective interests, nor infringe on the rights of other citizens, and all acts in violation of the Constitution and the law will be punished.<sup>28</sup>

In Beijing's 9 April 2001 White Paper a large section dwells on “the guarantee of citizens' political rights”<sup>29</sup> Despite its promising title, the paper makes no mention of ensuring citizens' rights to freedom of expression or opinion.

The reality is that throughout 2001 the Tibetan people's rights under Article 35 of the Constitution of the PRC were repeatedly violated.<sup>30</sup> Punitive and repressive measures are now being employed to censor, regulate and even rescind the rights of independent writers and reporters. A government-imposed Media Council in Tibet replaces independent, self-

regulating enterprises, thereby preventing any published works being which are contradictory to PRC rhetoric or encourage devotion to the Dalai Lama.

Rinchen Dhondup from Chabcha Township, Tsolho “TAP”, Qinghai, was formerly on the staff of the Chinese Research Centre for Tibetan Education based in Beijing. He said that the centre’s writers had no freedom over the content of their works.<sup>31</sup> “Anything remotely political in nature is deleted and replaced with Chinese versions or propaganda. Their intention is to bring the Chinese culture and history in harmony with Tibetan. Tibetans who are caught writing “incriminating” articles or literature are rigorously dealt with.”<sup>32</sup>

Writer and editor Jinpa Gyaltsso, 24, was arrested by the Gansu National Security Office for having distributed controversial material. This included an abridged life story of the exile martyr, Thupten Ngodup, the autobiography of the Dalai Lama, *My Land and My People*, and speeches of the Dalai Lama. Gyaltsso was detained for 15 days, refused to disclose anything, and was then released. After three days he was re-arrested and temporarily released again on 29 August 2000. He immediately escaped to India.

Gyaltsso had been an editor with a private magazine, *Guku Choepo* (A Bunch of Flowers) for five years. Although self-financed, the authorities withdrew an edition of the magazine mainly because it contained political stories.

Writers of present Tibet can be classified into three general categories. The first one are those who appease and eulogise the Chinese Communist Party to gain self-acclaim and social status. This group consists of Tibetan cadres and government employees who mainly deal with themes of the progress and development that the Party has brought into Tibet. These writers also write anniversary poems on significant occasions for the Party each year.

The second category consists of writers who are patriots with political understanding. They write critical essays and satirical poems aimed at social reform. Such writings are rarely published in any of the Tibetan magazines. The Public Security Bureau always look out for such elements in their writing and document them. The several times that I was taken to the Security Office, I found personal profiles and resumes compiled by PSB on some of my writer friends and myself.

The third group, narrow in their outlook, has no specific philosophy. They waver according to particular given circumstances. Such writers write mainly to get published in various magazines. The Chinese government does not pay much attention to these writers of the new generation who are in their budding stages. In general, these three types of writers are under direct pressure from the communist government.

In other words, I believe that Tibetan writers have absolutely no freedom of expression and it is difficult for them to produce well-written works with a Tibetan touch. Even if someone writes a meaningful article, which has political elements, there is no way in which it can reach the eyes of readers. I feel that as long as Tibet remains under Chinese occupation, Tibetan literature will never stand shoulder-to-shoulder with world literature but rather remain far behind the international standard.

As a young Tibetan writer, I represent the voice of all Tibetans in Tibet. However, I felt like a masked Tibetan for we have no freedom to express our Tibetan identity. Whatever writings are published in any of the magazines today are not true representations of Tibetan literature.

According to Gyaltso, no topic can go against Party principles and the ideologies of the Communist government. He believes that there is a need for a conducive environment and freedom to produce any well-written essay or quality writing. However, in occupied Tibet there was little or no chance for his creativity to flourish.

Tibetan people are not only suppressed with their rights to freely express their opinions and thoughts but their right to information is critically restricted by controlling media and the internet. This year a monitoring agency report revealed that the PRC is exerting considerable efforts to intercept foreign radio broadcasts reaching Tibet by running alternative programmes on the same frequency. Radio stations such as Voice of America, Radio Free Asia and Voice of Tibet have encountered jamming of their broadcasts into Tibet. These stations specialise in Tibetan language reportage on issues relating to Tibet, the Dalai Lama and the exile government, thus posing a “threat” to the Chinese government, which has a fear of “infiltration”.<sup>33</sup> The official Xinhua news agency warned of the dangers posed by these foreign broadcasting stations noting, “Infiltration by hostile radio stations from abroad into our region has lately become more serious.”

Since it is a criminal act to listen to foreign radio broadcasts in Tibet, Tibetans are reportedly extremely cautious while listening to overseas stations

Additionally, the Chinese broadcast authorities have announced an expansion of State-run Tibetan-language broadcasting and increased expenditure on sophisticated broadcast equipment. In Tibet, China has quadrupled its Tibetan-language radio staff to 80 in the last year, according to Western observers.<sup>34</sup> Since it is a criminal act to listen to foreign radio broadcasts in Tibet, Tibetans are reportedly extremely cautious while listening to overseas stations.

The internet is a decentralised global source of information which has enormous potential to provide Tibetans with access to understanding of human rights, current affairs and alternative perspectives. In late 2001 Beijing ordered the closure of more than 17,000 internet cafes across the PRC. Officials also forced thousands more to install internet surveillance software as part of a major aggression on unsupervised use of the internet.<sup>35</sup> Beijing has additionally imposed tough legal controls over political content on websites. These include regulations passed last year prohibiting “information that goes against the basic principles set in the Constitution”.<sup>36</sup> Article 15 of the PRC’s regulation for Internet Content Providers (ICP) forbids the dissemination of any information including that which endangers national security, is detrimental to the honour and interests of the State or undermines State policy for religions.<sup>37</sup> In 2001 the PRC allowed the license renewal of only half of China’s internet cafes.<sup>38</sup>

Since they are restricted from accessing independent media, thereby curbing the dissemination of criticism of the government of the PRC, Tibetans resort to traditional methods of information distribution — especially posters. In Tibet today, the political price paid for verbal or non-verbal protest or distribution of leaflets with political overtones is exceptionally harsh. This indicates the acute sensitivity the Chinese authorities have toward “splittist” sentiments being expressed by Tibetans as well as by indigenous inhabitants of other “national minority” regions.

Six Tibetans from Sog County, Nagchu Prefecture, “TAR”, were sentenced to varying prison terms ranging from seven years to life imprisonment for alleged political activities involving



expression of opinion. Four of the six detainees are monks from Sog Tsendhen Monastery in Sog County. The detainees were produced for public trial at Nagchu Intermediate People's Court in mid December 2000, nearly nine months after their initial detention. They were charged with supporting activities by the "Dalai clique and carrying out activities endangering State security"; evidence produced by the court included woodblocks prints and posters that advocated independence for Tibet, and cassette recordings of speeches by the Dalai Lama.<sup>39</sup>

According to information received from Tibet this year, PSB officials from Ngaba (Ch: Aba) and Marthang County, Ngaba "TAP", Sichuan have arrested four monks from Tsennyi Monastery. In August 2000, the four monks covertly pasted independence leaflets and posters in a city in Ngaba County. They repeated the leaflet-pasting activities in Marthang County four months later. Following the news of these pro-independence activities in the region, officials raided Tsennyi Monastery and discovered some leaflets and woodblock prints. Subsequently, Jigme (33) from Garsam Township, Jinpa (30) from Toema Township, Khedrup (45) from Tsaru Township and Kelsang (40) from Tsennyi Township were all arrested in March 2001. The present whereabouts of the four detained monks remains unknown.

Denying criticism of the authorities, Meng Deli, Director of the "TAR"'s Justice Department, argues that statements such as, "Tibet is a police state, or carries out wholesale arrests of monks, or has jailed many people under 18-year-old for political offences are utter nonsense. Such rumours are spread by the Dalai clique and other anti-China forces." He claims that "...no one has been put in jail for possessing portraits of the Dalai Lama or shouting slogans in support of the Dalai Lama."<sup>40</sup>

However, numerous cases emerging from Tibet contravene such assertions. Lhasa Public Security Bureau (PSB) officials sentenced a Tibetan woman named Migmar to six years' imprisonment after she was arrested while watching a video of the Dalai Lama at her home. On 16 February 2001, Chinese PSB personnel entered the room where Migmar and four friends were watching a video of the Dalai Lama. The officers confiscated the videotape and searched the house for additional "political evidence."<sup>41</sup>

A similar case of arrest and sentencing for screening a video of the Dalai Lama was brought against Ngawang Tsultrim, a 24-year-old returnee from exile. He was sentenced to a three-year prison term in early 2000, to be served in Drapchi Prison. While in Lhasa, he played the video-cassettes that he had brought from India to some of his friends from Chamdo "TAR". It was after the very first screening of the cassettes in July 1999 that PSB officials arrested Tsultrim and subjected him to severe beating and torture while in detention.<sup>42</sup>

### ***Campaign to win hearts and minds***

In a new strategy to whitewash their image, the Chinese authorities have stepped up their propaganda machinery by encouraging the Western media to take organised tours of Tibet to see the "real situation". This year information was obtained from a closed-door Tibetology and External Propaganda meeting held in Beijing in June 2000. Zhao Qizheng, Director of the Information Office of the State Council, outlined China's plans to alter the way it presents "facts" on Tibet, in order to win international credibility and support. Zhao also acknowledged the success of the "non-politicised propaganda of the Dalai Lama." He

reasoned that where the government has failed, the responsibility now fell on academics to utilise their non-governmental status to convince foreigners of China's position on Tibet.<sup>43</sup>

TCHRD has access to the reports of at least two foreign correspondents who have visited Tibet during 2001 under this new propaganda strategy.

The BBC's Beijing correspondent, Rupert Wingfield-Hayes, was with a group of 30 other foreign journalists who visited Tibet in September. "Such trips in China are never easy", he reported. "An army of minders accompany you everywhere. Supposedly there to help, more often their role is to obstruct. And the closer you get to Tibet, the more obstructive they become – and we were getting uncomfortably close..."<sup>44</sup>

On a later tour, correspondents were taken to Kumbum Monastery in Qinghai. Christopher Bodeen, filing for Associated Press, wrote, "By bringing foreign journalists to this citadel of Tibetan Buddhism, Chinese officials apparently hoped to demonstrate the monks' freedom from political interference. The dozens of policemen roaming the monastery halls suggested a different story."<sup>45</sup>

### *Arbitrary arrests and detentions*

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).

When the deprivation of liberty is the result of a judgement or sentence for the exercise of the rights and freedoms proclaimed in the Universal Declaration of Human Rights<sup>46</sup> and also, in respect of States parties of the International Covenant on Civil and Political Rights.<sup>47</sup>

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.<sup>48</sup>

The legal tools contained in the Constitution of the People's Republic of China, the country's Criminal Law and the Criminal Procedure Law, combine to provide the state with a multitude of options to repress, prohibit, investigate or punish almost any form of expression or activity of an individual and can justify the assertion that the State's agencies are upholding the law and constitution. This is further strengthened by the most recent amendment to the Constitution of the PRC in 1999 which enshrines the "...duty of citizens of the People's Republic of China to safeguard the unity of the country and the unity of all its nationalities".<sup>49</sup> It further stipulates, "The exercise by citizens of the PRC of their freedoms and rights may not infringe upon the interests of the State, of society and of the collective, or upon the lawful freedoms and rights of other citizens."<sup>50</sup>

According to these definitions, the majority of arrests of Tibetan political prisoners can be defined as arbitrary. Geshe Sonam Phuntsok is one such case. Information this year confirmed that this scholar-monk is incarcerated in Tranktung Prison, Dhatam, Dhartong County, Sichuan. Geshe was accused of "illegally performing a religious ceremony, and also

travelling to India ... for seeking an audience with the Dalai Lama and for taking photographs with him,” and “travelling on an illegal document procured from Lhasa”. He was charged with, and found guilty of, “endangering national security” merely for the exercise of fundamental freedoms contained in the ICCPR, specifically the right to freedom of thought, conscience or religion (Art. 18) and freedom of movement (Art. 12). As the offences Geshe was convicted of under China’s Criminal Law are in breach of International Covenants, his arrest and detention are arbitrary.

In the past, the WGAD has found that an individual arrested without a warrant can be said to have been arbitrarily detained and arrested in breach of Article 9 (2) of the ICCPR.<sup>51</sup> Article 59 of the PRC’s Criminal Procedure Law (CPL) states that “The arrest of a criminal suspect or an accused shall be approved by the people’s procuratorates or decided by the people’s courts”. Article 71 makes it mandatory for an arrest warrant to be presented at the time of arrest and Article 64 states where the person is to be detained, a detention warrant must also be presented for the location of detention. Most cases of arrest in Tibet are carried out without an arrest warrant.

Fresh information on the 26 October 1999 Karze protest demanding Geshe Sonam Phuntsok’s release as reported to TCHRD in June 2001, revealed specific information on 16 detention cases of Tibetans involved in the protest who have faced sentences ranging from two to six years’ imprisonment.<sup>52</sup> None of them were issued an arrest warrant at the time of detention.

Article 9 (3) of the ICCPR states that a person should be entitled to trial within a reasonable time. Geshe Sonam Phuntsok was kept in custody for 17 months before sentencing. The CPL provides a two-month time limit for detaining a suspect for investigation, with a one to two-month extension permitted only after approval by the people’s procuratorate.<sup>53</sup> Where there are “special reasons”, the trial of a high-profile case can be postponed only on approval of the Standing Committee of the National People’s Congress. It seems this procedure was not followed.

Lengthy detention periods are of particular concern because they provide ample opportunity for investigation authorities to “extract information” from the suspect. Testimonies from various detainees, both former and current, corroborate this concern. In the case of Geshe Sonam Phuntsok, when a relative visited him 17 months after his arrest, there were visible injury marks on his body. TCHRD can only infer that Geshe was subjected to torture while in detention in clear breach of Articles 247 and 248 of China’s Criminal Law.

The Chinese authorities, through their state-owned journal, Beijing Review, maintain that the legal rights and interests of Tibetans are fully protected. This includes the right to serve “terms outside the prison, reducing a sentence, probation, appealing a sentence, reporting the misconduct of others and pressing charges, visits by their families, meeting with visitors, getting released when their sentence is over...”<sup>54</sup> However, many cases prove these claims to be illusory. Chadrel Rinpoche, who headed the search committee for the reincarnation of the Tenth Panchen Lama, continues to be incarcerated in prison despite the expiry in 2001 of his six-year prison term. Gyaltsen Norbu, former Chairman of “TAR”, admitted to Chadrel Rinpoche’s extended detention in the face of repeated questioning by a Polish parliamentary delegation during its visit to Lhasa in August 2001.<sup>55</sup>

Ngawang Choephel, the jailed musician from India, has received visitation rights only once in seven years of detention

By keeping detainees in detention centres or prisons long distances from their home and family, and by refusing to allow them visits from family or friends, the authorities are in breach of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.<sup>56</sup>

Ngawang Choephel, the jailed musician from India, has received visitation rights only once in seven years of detention.<sup>57</sup>

Cases of Tibetan detainees being denied their right to visitation is commonplace. In November 2001 TCHRD interviewed a recent-arrival from Sog County, Nagchu Prefecture, “TAR” who confirmed that only two of six prisoners detained in March 2000, for political activities “endangering state security” were allowed visitors to date.<sup>58</sup> Ngawang Lochoe’s family was prevented from seeing her on a prison visit two weeks before her death on 5 February 2001. Reports indicated that Ngawang was suffering from acute pancreatitis for some time.<sup>59</sup>

Human Rights in China, a monitoring agency based in Hong Kong and New York, has documented many cases of lawyers being prosecuted in the PRC for defending their clients.<sup>60</sup> Similarly, political repression on the plateau results in individuals attempting to remedy an illegal arrest often becoming subject to reprisals themselves. Hou Zongbin, Chairman of the NPC Committee for Internal and Judicial Affairs, commenting on the findings of the NPC teams inspecting the implementation of the CPL in 12 provinces, autonomous regions and municipalities, admitted to lawyers, “having difficulties meeting their clients, accessing court files relating to their cases, and their reasonable petitions have more often than not been rejected”.<sup>61</sup> Appealing a sentence or remedying abuses are unprecedented in occupied Tibet. Firstly, there is no legal or possible access to lawyers; secondly, there is a fear of reprisals against those who appeal on a suspect’s behalf, or against the suspect himself. Escapees report that any attempt to challenge arrests in Tibet results in punishment.

Friends of Geshe Sonam Phuntsok approached several lawyers in Sichuan to act on Geshe’s behalf in the court proceedings. All the lawyers refused to defend Geshe’s case for the reasons stated above. Furthermore, they advised Geshe’s friends that a person charged with political activities has no hope of successfully defending the case. Geshe’s supporters were also advised that in political cases, a lawyer generally has no access to the client or to read the evidence against him, rendering the services of a lawyer futile.

The Criminal Law of the People’s Republic of China states:

Whoever organises, plots, or acts to split the country or undermine national unification, the ringleader, or the one whose crime is grave, is to be sentenced to life imprisonment or not less than ten years of fixed-term imprisonment; other active participants are to be sentenced to not less than three but not more than 10 years of fixed-term imprisonment; and other participants are to be sentenced to not more than three years of fixed-term imprisonment, criminal detention, control, or deprivation of political rights.

Whoever instigates to split the country and undermine national unification is to be sentenced to not more than five years of fixed-term imprisonment, criminal detention, control, or

deprivation of political rights; ringleaders or those whose crimes are grave are to be sentenced to not less than five years of fixed-term imprisonment.<sup>62</sup>

Various cases and the provisions within the PRC Criminal Law reveal that it contravenes international law. In 1997 the United Nations WGAD expressed concern about those articles relating to “endangering national security”. The Working Group said:

The Revised Criminal Law, in the context of the offences endangering national security, makes no attempt to establish standards to determine the quality of acts that might or could harm national security. That the Law establish such a standard is crucial, as that alone could make the Law reasonable, fair and just. Clearly, the national security law may be misused and, as long as it is part of the statute, it provides a rationale for restricting fundamental human rights and basic freedoms.<sup>63</sup>

The WGAD raised several points in their deliberations with the Chinese government following their visit to China in 1997.<sup>64</sup>

- failure in the revisions to define precisely the concept of “endangering national security”, and application of the imprecise definition to a broad range of offences;
- the fact that acts of individuals in exercise of freedom of opinion and expression may be regarded as acts endangering national security;
- the fact that institutions, organisations and individuals outside China, working with domestic organisations, may be charged with, and convicted of, “endangering national security”;
- the lack of precision in the definition of the offence of attempting to subvert political power and overthrow the socialist system, or incitement to such an offence by “spreading rumours, slander or [through] other means” (Article 105);
- and the fact that under Article 105, even communication of thoughts, ideas or opinions, without intent to commit any violent or criminal act, may be regarded as subversion.

China’s response to serious allegations by the WGAD was to change the charge “counter-revolutionary” to “endangering national security” in an attempt at clarification. “Conspiring” was deleted from the original provision of “colluding with foreign powers and conspiring” to “endanger national security, territorial integrity and security”. However, changing the legal language does not reverse the fact that anyone who expresses dissent against Chinese rule continues to be liable to severe punishment under this revised law.

In the wake of this legal exercise, Beijing announced that 21 articles of the PRC’s Criminal Law had been compressed into 12, thus reducing the number of punishable activities as compared to the previous version of the code. None of these changes significantly alter the broad range of abuse that is likely to take place under the revision.

### ***The fate of political prisoners***

There are currently 254 political prisoners in Tibet, a significant drop over recent years. The Chinese authorities link this decrease to an alleged improvement in human rights standards. Head of the “TAR” Justice Department, Meng Deli, claims that “Over the past 10 years, persons put in jail on charges of threatening state security in the Tibet Autonomous Region in south-west China has become fewer and fewer, and there are only 100 such prisoners at present.” China’s lauding of this reduced number of political inmates “...may be a valid social objective, but it does not justify the imposition of control as a punishment under which an individual is liable to lose fundamental human rights”<sup>65</sup>

Problems are not limited to the treatment of former prisoners themselves; their families, friends and other associates, can all potentially be affected. Former colleagues also often fall under official suspicion simply through association

A considerable number of prisoners have reportedly been released this year following the completion of their terms. The numbers of new detentions have lessened, as Tibetans are aware of the risks involved in open defiance and resistance, brought about by the imposition of stricter political and religious repression. Additionally, the treatment of prisoners following their detention and the pressure imposed on ex-prisoners, relatives and friends, deters Tibetans from risking arrest. The notoriety of abuse in Lhasa's Drapchi Prison, and the regular sentence extensions while in detention, are also major deterrents. At least 47 political prisoners have had their sentences extended since 1987. One of the female prisoners, Ngawang Lochoe, who had her sentence extended in 1993 died in prison in February this year. Her 10-year term was due to expire on 21 March 2002.<sup>66</sup> Two of the other most prominent detainees, Tanak Jigme Sangpo and Ngawang Sangdrol, are currently serving unbroken sentences of 41 and 22 years respectively.<sup>67</sup>

Since 1997, there is a record of 33 political prisoners dying either during or following their detention. The psychological trauma that often arises from maltreatment during imprisonment may be worsened by the circumstances following the release of political prisoners. They re-enter a hostile society in which the security forces are given extensive powers by the State to maintain security and public order, resulting in a system in which individuals retain little if any rights.

Former political prisoners face particularly intense surveillance over their daily lives and are frequently singled out by the authorities for questioning or threats before significant political anniversaries in Lhasa. A formal meeting in Lhasa of political prisoners and their relatives is unusual and is likely to have been part of the authorities' attempts to prevent dissent on 10 March this year. Problems are not limited to the treatment of former prisoners themselves; their families, friends and other associates, can all potentially be affected. Former colleagues also often fall under official suspicion simply through association.

Tsering Lhagon, from Sog County, Nagchu Prefecture, "TAR", was the sole breadwinner in his family. Following his 15-year sentence in December 2000, for carrying out activities "endangering national security", reports reaching exile this year testify that his family is facing extreme poverty and hunger.<sup>68</sup> A recent refugee from the area reports that even Tsering Lhagon's friends could not help for fear that they might be branded as "colluding with splittists".

Generally family members may experience financial hardship as they lose their means of livelihood due to their "errant" relatives' involvement in political activities. Furthermore, they have to meet high medical costs when a former prisoner is released on medical parole and requires prolonged treatment.

Thupten Tsering,<sup>69</sup> a 50-year-old from Sog County, Nagchu Prefecture, "TAR" cannot use the entire right side of his body. He was reportedly severely beaten during detention and was prohibited from rejoining his monastery upon release. Thupten is currently undergoing medical treatment in Yakhla Township as there are no hospitals in his hometown, Rawa Township. His family has been reduced to poverty through paying the bills for his medical



costs. Additionally, Thupten's brother, Tenzin Chowang, is currently serving seven years' detention.<sup>70</sup>

Tactics reminiscent of the Cultural Revolution are used to further dissuade Tibetans from expressing dissent. Parading prisoners around town in trucks, generally with placards around their necks, is intended to serve as a deterrent to witnesses: this display is appropriately described in Chinese as "killing the chicken to scare the monkeys."

### *The right to leave and return to one's own country*

The right to leave one's own country is distinctly specified in the major international laws including the Universal Declaration,<sup>71</sup> ICCPR<sup>72</sup> and Convention on the Elimination of All Forms of Racial Discrimination (ICERD).<sup>73</sup>

Tibetans seeking to travel outside their place of abode — even to another county — experience bureaucratic obstruction. If they wish to leave their place of residence, or travel to border areas, they have to acquire specific documents. With official sensitivities over borders running high, Tibetans are required to procure tong xin zhang (a travel pass) to enter restricted border areas and this pass must cite the purpose of travel. Local traders commonly use the pass for a limited period. It can be obtained from a regional government office — run either by the PSB or PAP security apparatus, mostly PAP — after paying between 10 to 50 yuan (US\$5.88). The travel document is issued only after the Chinese citizenship card shan fein zhang is produced.

The tong xin zhang travel document enables asylum seekers to approach Tibet's southern border region safely, but it is quite difficult to obtain for citizens who do not live near the Nepal border. For this reason, Tibetans who have decided to escape across the border spend some time in Lhasa seeking to obtain — by legal or illicit means — a travel pass to enable them to cross the border regions without being in danger of arrest. Generally those asylum seekers who are able to acquire a tong xin zhang are better informed, wealthier and have contacts to officials (or the black-market) and, ostensibly, a valid reason for travelling in the borderlands.

Two young monks involved in a political protest in Karze County, Karze "TAP", Sichuan in 2000, fled their monastery and hid in Lhasa for a month. With assistance from their families, they purchased tong xin zhang passes. They then travelled south along the Friendship Highway, made contact with two guides and paid them 3,000 yuan (US\$352) to be taken to Kathmandu via Dram, the Tibetan town bordering Nepal.

To leave Tibet legally, citizens have to apply for a PRC passport (hu zhao) from Lhasa PSB Passport Office. Such a passport is often difficult to obtain and the procedures are lengthy. Only those with some official contacts or leverage manage to acquire passports — and then only after resorting to bribery at different levels of officialdom.

Bukyi, a 25-year-old former monk from Kana Monastery in Dzatoe County, Jyekundo "TAP", Qinghai, who managed to acquire valid travel documents and reached Kathmandu on 1 June 2001, describes the whole process.

I decided to escape Tibet in order to access better spiritual studies and practice in India. The Chinese government never issues visa for Tibetans if the destination is revealed as being

India. However, it is a little easier to secure travel documents for Nepal, although one has to go through the usual verification process by proving the authenticity of the invitation letter and producing a photocopy of the sponsor's Nepalese passport. So I decided to apply for a visa for Nepal. I resorted to bribing officials in order to speed up the snail-paced visa procedure.

The cost of visas has greatly increased therefore it is not easy for ordinary Tibetans to afford them these days. The procedure involves obtaining three papers from the police offices at the three different levels; county, prefecture and province. This normally costs only 10 yuan each, but I spent more money on bribing the concerned officials.

I knew an official (name withheld for security reasons) from the county police station who deals with visa issuance. When I requested the officer to grant me the necessary documents to obtain a visa for India, the officer categorically stated that no visa is issued for travelling to India - especially for monks. After much persuasion, the officer finally relented on the condition that I acquire a statue for him from Lhasa costing 350 yuan (US\$43.75). I also paid 300 yuan as a surety that I would return to Tibet after the visit.

I then went to the prefectural police station at Jyekundo "TAP", Qinghai with a paper from the county police station. The official there, who is a Chinese national fluent in Tibetan language, was very reluctant to grant me the papers. After waiting patiently for four months, I bribed the official with presents of 30 gyama (15 kg) of butter (the market price for each gyama is 13 yuan), milk and a newly hand-knitted woollen pullover, altogether worth approximately 700 yuan (US\$87.50). Within two days I was given the necessary papers after a further payment of 700 yuan for which a receipt was issued.

The third step to acquire the provincial permit involved going to Xining Police Station in Qinghai's capital. This time I went with the help of a Chinese-speaking relative and got the proper five-year visa for travelling within a week to Nepal. I paid 300 yuan (US\$35) as the visa fee.

I think that had I bribed the official at Jyekundo "TAP" Police Station at the outset, I would not have had to wait so long. In Lhasa, I went to the Nepalese Consulate and paid 250 yuan for visa verification. After crossing the Friendship Bridge at the Nepal-Tibet border, on the Nepal side I finally had to pay 200 NC (US\$2.6) to a security border policeman before reaching the Tibetan Reception Centre in Kathmandu.

One informant raised 10,000 yuan (US\$1,177) by selling everything he and his family possessed and then left their hometown for Lhasa. Their passports had been acquired locally by parting with a female yak valued at around 1,000 yuan, 40kg of butter, two other small farm animals, plus a payment of 300 yuan for each of his four children. Even with passports they were interrogated by local police along the route to the Nepal border and had to pay a bribe of 130 yuan to police at Nyalam. Despite acquiring their expensive documentation, the family ended up climbing across the Himalayas, having decided at the last moment that this was safer than crossing at the Tibet-Nepal border.

Information this year also indicates that Chinese authorities warn Tibetans of confiscation of their land and imprisonment of their parents or relatives if they make attempts to flee. Such

announcements during local county meetings are used to repress Tibetans and dissuade them from fleeing their homeland.<sup>74</sup>

Most asylum seekers escaping to India do not bother to acquire travel documents, primarily because a request to the authorities to go on pilgrimage to Dharamsala to see the Dalai Lama, or to join a monastery in India, or to obtain a Tibetan-language education, would be instantly rejected and incur official wrath and punishment. Secondly, most of them are poor and cannot afford the travel documents and other “incidental” expenses involved in the procedure. But by attempting the journey without documentation they are liable to arrest. Suspicion of the intention to escape is sufficient reason to be detained, and lack of required documentation compounds and confirms the alleged offence.

This is corroborated by reports of 2,500 Tibetans being arrested while attempting to cross the border over a period of six months in 2001 by “TAR” Border Security Bureau Officials in line with the “Strike Hard” Campaign”.<sup>75</sup> According to a monk from Karze County, Sichuan Province, 300 Tibetans were arrested in June 2001 alone while trying to escape to India. They were sent to Nyari Detention Centre along with people who were arrested returning from Nepal and India. Apparently they were then all sent as labourers on the construction of the new railway line from Golmud to Lhasa.<sup>76</sup>

Arrest and imprisonment is a regular result of attempts to escape Tibet. Common locations for arrest are in, or near, major towns along the Friendship Highway to Nepal: Shigatse, Lhatse, Tingri, Nyelam and Dram on the border. For this reason, many individuals and groups who travel by bus or truck via the Friendship Highway disembark before the towns and re-board on the other side.

### ***The penalties for escape***

Tibetans apprehended while attempting to flee Tibet are rarely sent to court prior to detention. Punishment appears to mainly occur under a form of administrative detention such as “re-education-through-labour” detentions for one to three years. Trisam “re-education-through-labour” camp (located in Toelung Dechen County, 10 km west of Lhasa) is one of the biggest labour detachments in “TAR”.<sup>77</sup>

Samdup, a former Trisam inmate, testifies that when he was first imprisoned in April 1999 there were approximately 300 prisoners in the facility. By the time he was released on 31 March 2001, the number had doubled to 600. The majority of prisoners hail from all across the “TAR”.

Samdup recounts that prison conditions “were horrific”; prisoners were half starved and were prone to falling sick due to contaminated water and unclean food. Prisoners were also required to clean human excrement from the toilets and manure the prison fields with this human waste.<sup>78</sup>

Penpa, a 40-year-old from the Tsang Shalu area of “TAR” died in early 2000, just a month after he was released from Trisam labour unit on medical parole. He was six months away from completing his three-year prison term.<sup>79</sup>

Following its 1997 visit to China, the UN WGAD resolved at its 20th session to resume the consideration of cases concerning PRC, in particular the issue of “re-education through

labour”. It requested the Chinese government to take all necessary steps to implement recommendations made after its study tour emphasising that re-education through labour should not be applied to individuals who have peacefully exercised their right to freedom of opinion and expression.

In its document, the Working Group states:

During the course of the visit, the members of the Working Group delegation inquired of the authorities whether the measure of re-education through labour was applicable to persons who disturbed the public order by peacefully exercising their fundamental freedoms guaranteed by the Universal Declaration of Human Rights ... and who were not prosecuted under the criminal law. The delegation was informed that the measure of re-education through labour was only applied to those who had committed minor offences under the common law and who were not required to be formally prosecuted. The Working Group strongly believes that if the measure is applied to persons who disturb the public order as indicated, the commitment of such individuals to re-education through labour would clearly be arbitrary.<sup>80</sup>

The Human Rights High Commissioner, Mary Robinson, during her visit to China in November 2001, endorsed the WGAD’s view deeming “re-education-through-labour” as “inherently arbitrary”.<sup>81</sup> In violation of the UN body’s recommendations, the government of China continues to deny the fundamental rights of Tibetans by applying “re-education through labour” sentences arbitrarily.

Two Tibetans have reportedly died due to intensive hard labour at Xinhua “re-education-through-labour” camp (Ch: Xinhua Laojiaosuo) in Mianyang municipality (Ch: Shi), northern Sichuan. Pasang Dolma, who reached India in February 2001, gave a detailed account of her husband’s death while in custody. Tsering Wangdrak was one of the protestors in the Karze demonstration of October 1999 demanding the release of Geshe Sonam Phuntsok.<sup>82</sup> The two Tibetans reportedly collapsed in 2000 while being forced to work in hot summer weather. They were denied water or first aid and died shortly afterwards. Tibetans at Xinhua detention facility appear to suffer from lack of acclimatisation to the heat and humidity of Sichuan summers, combined with the harsh labour and appalling prison conditions.<sup>83</sup>

The standard punishment for those caught attempting to leave Tibet ranges from 10 days’ detention in a police station, to one to three months’ imprisonment in a detention centre or prison. Detainees report that Chinese police routinely torture and beat their captives. According to testimonies it is common for those arrested to be moved between several police stations, detention centres and prisons during detention. Such mobility may reflect the desire of local authorities to remove asylum seekers away from their jurisdiction and from proximity to the border, as well as to where the physical capacity exists to hold offenders. Dram Police Station at the Nepal border, for instance, is comparatively small. Samdup from Chushul County, near Lhasa, who arrived in Kathmandu in October 2001, reported to TCHRD regarding the fate of a mass freedom flight of 72 Tibetans during April 1999. Nagchu Police on 1 April 1999 detained a group of 72 Tibetan escapees in Nyima County, Nagchu, “TAR”. Twenty-five of the detainees, with ages ranging from six to 40-years-old, come from areas around Lhasa and the rest from eastern parts of Tibet. All were attempting to flee into exile.

The group was detained in Nagchu Detention Centre for eight days and then transported to Lhasa PSB Anti-Riot Department where they underwent intensive interrogation. Afterwards,

they were transported to Lhasa's Gutsa Detention Centre and detained for three months and three days. During their detention, the interrogation sessions sought to determine the purpose of their escape to India and their future plans.

Sixty-four escapees were released after four months of detention at various detention centres. However, eight Tibetans were singled out for the further punishment of "re-education through labour". This penalty in theory applies to people who commit minor offences that do not rise to the level of crimes; in practice it is widely used against political dissidents. Here, courts do not make the decision to send someone to "re-education camps". Rather they are made by administrative committees dominated by the police.

All eight of the Tibetans penalised this way were either former political prisoners, former monks who had been expelled from their monasteries by "work team" members, or current monks.

Five detainees were ordered to undertake two years' "re-education-through-labour". The other three were ordered to undertake one year of "re-education-through-labour". All eight were moved to Trisam "re-education-through-labour" camp. Repeated attempts to escape Tibet are a common story. Perhaps one in 20 refugees who reach the Tibetan Transit Centre in Nepal report having been arrested and detained in Tibet on their journey.

Tibetan exile returnees face even greater risks of being charged with illicit "espionage activities for the Western forces and the Dalai clique". Their "suspicious activities" can result in heavy prison sentences under the crime of "endangering state security" which "legalises" the punishment. The body of 27-year-old Saru Dawa, a monk of Kirti Monastery, Dharamsala was recovered by his relatives from near the Nyari Detention Centre in Shigatse in mid-February 2001. Saru Dawa had been arrested at the Tibet-Nepal border in Dram on 20 November 2000 while returning to Tibet to see his ailing mother.<sup>84</sup>

### *Prison torture and ill-treatment*

The UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment establishes the State as responsible for taking "effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction".<sup>85</sup> Despite ratifying this Convention in 1988, it is the State of China that is responsible for innumerable acts of abuse through its repressive systems of surveillance, intimidation, and persecution inside prisons.

With respect to the legal environment within which protest and punishment occur, reports from throughout Tibet indicate that the 1997 revisions to China's Criminal Law and Criminal Procedure Law have yet to bring about improvements in the treatment of Tibetans detained for political offences. Although torture as a means of coercing confessions — which once obtained generally serve as the basis for conviction — was explicitly banned by the 1997 CPL, human rights abuses against detainees, including beating and torture, have remained the norm during police investigations of Tibetans suspected of political activity.

A number of Chinese officials have spoken out about the pervasive flaws in the judicial system. Hou Zongbin, chairman of the NPC Committee for Internal and Judicial Affairs under the National People's Congress, acknowledged in December 2000 that the use of

torture to extract confessions “is rather serious in certain places, causing terrible social consequences” and must be “conscientiously dealt with rather than tolerated”.<sup>86</sup>

Two Tibetans, Tenzin Khedup and Thupten Thapkey, were severely tortured and coerced into confessions relating to an explosion incident on 11 July this year in Thandong Township, Tengchen County in Chamdo Prefecture. The two were given life sentences and fined 29,000 yuan (US\$ 3,412) and 19,000 yuan (US\$ 2,236) respectively in November 2001. A third detainee, Damdul, received a sentence of three years’ imprisonment and Sherab, the youngest of them all, was released. The four were among 16 Tibetans arrested on 18 July in relation to the Chamdo explosion. Among them was a monk, Tseta Marong, who was reportedly beaten to death while another suffered severe torture with an electric prod. Court and police officials reportedly refused to comment on this case.<sup>87</sup>

The fact that torture is a regular feature of detentions is evidenced by Amnesty International’s 12 February 2001 report on torture. According to Amnesty, reports from China in recent years, “include a high proportion of victims [who] were killed or fatally wounded by torture during interrogation within the first 24 hours of detention”.<sup>88</sup> Many report being beaten with whatever implement[s] a guard or interrogator can find at hand including gun-butt. The practice of torture is expanding in China, with growing numbers of officials inflicting pain on a wider range of victims through beatings, whippings, electric shocks and sexual abuse.

The Amnesty research revealed testimonies by witnesses and candid articles in government-controlled newspapers in describing the “widespread and systemic” use of torture against political activists, Tibetan nuns, migrant workers, criminal defendants and their lawyers. Kidney and liver ailments are common among prisoners as a result of kicking and beatings by prison guards aimed specifically at these sensitive organs.<sup>89</sup>

Apparently, when Amnesty International raised these issues with the Chinese government the human rights agency was met with silence or categorical denials. The response from the Chinese government to the Special Rapporteur on Torture<sup>90</sup> claimed that Ngawang Kyonmey is “currently serving his sentence and is in normal physical condition”. Ngawang Kyonmey, who was arrested in November 1998 and released on 18 November 2000, endured severe forms of torture. Ngawang suffered severe blows to his head, and was repeatedly banged against the wall. His wrists were handcuffed together by bending his right arm over his shoulder while the left arm was twisted behind his back. This impeded his bodily movement. He is currently in Dharamsala, India, after having fled Tibet in February 2001.<sup>91</sup>

The Amnesty research revealed ‘widespread and systemic’ use of torture against political activists, Tibetan nuns, migrant workers, criminal defendants and their lawyers

Police and prison officials conduct torture and ill treatment in a climate of impunity encouraged by incommunicado detention, ineffective supervision, and an arbitrary approach to the investigation and prosecution of such cases.<sup>92</sup>

No medical services are made available for Tibetan prisoners who suffer illness, and cases show that abuse and torture continue despite serious medical conditions. Medical assistance is sought only at a critical or terminal stage of illness. Recovery rates are low.<sup>93</sup>

A case in point is Lobsang Sherab, 30, a Sera Monastery monk, who was detained by PSB officers in October 1999 under suspicion of involvement in pro-independence activities. He



was held in the “TAR” PSB Detention Centre, Lhasa, during which time he suffered intensive torture resulting in a fractured leg. He was also subjected to head injuries. Lobsang Sherab’s condition became so critical that he had to be released before being sentenced. By the time he was released on 24 November 1999, Sherab had developed a permanent limp. Despite treatment at the Lhasa Tibetan Medical Institute, his condition deteriorated drastically and, on 20 October 2000, Lobsang passed away in Lhasa. During the sky burial it was discovered that he had suffered a brain haemorrhage.<sup>94</sup>

### ***Violence against women inmates***

Amnesty International, in its examination of women in custody, asserts that perpetrators of violence and torture are commonly found to be State officials.<sup>95</sup>

While acts of violence are not exclusively perpetrated by the State, inaction by State bodies is a major factor allowing violence against women to continue. It is the government’s responsibility to protect and ensure women’s rights are upheld. In Tibet, this ideal remains unmet. This year, sources reveal 38 known female political prisoners still in custody.

Rape, stripping women naked and inserting wires that send electric shocks to reproductive organs and wrapping electrical wires around nipples are standard forms of gender-based torture.<sup>96</sup>

Rape — or the threat of rape — may be inflicted for a range of purposes, such as to extract confessions, or to intimidate, humiliate or punish. This method of punishment inflicts not only physical, but also continuing psychological, trauma as testified by Tibetan refugees. Women in Tibetan prisons suffer rape by prison, security, and military officials. The electric cattle prod, a common instrument of torture for all inmates, is particularly utilised internally on female prisoners.

An example of this brutality is seen in the case of 28-year-old Tibetan nun Ngawang Lochoe, who died in Drapchi Prison on 5 February 2001, just one year prior to the completion of her 10-year prison sentence. Ngawang Lochoe was arrested along with five other nuns from Nyen Nunnery, for taking part in a peaceful demonstration in Lhasa on 14 May 1992. They were charged with “instigating counter-revolutionary activities and propaganda”.<sup>97</sup>

Sangmo, a 25-year-old nun from Chubsang Nunnery, originally from Meldrogungkar County in Lhasa Municipality, endured severe forms of abuse and torture in Drapchi Prison where she was incarcerated for six years. Upon her release on 1 February 2001, Sangmo complained of constant headaches and was reported to periodically lose her mental stability. Despite financial constraints, her family gave her all the required medical treatment in Lhasa. But by March 2001 her eyesight deteriorated and she became blind.<sup>98</sup>

The ICCPR states that “all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person”.<sup>99</sup> Furthering their general prohibition on gender-based discrimination to include gender-based violence, in 1994 the Committee on Elimination of Discrimination Against Women (CEDAW) adopted Recommendation 19 stating that violence toward women includes “acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty”.<sup>100</sup>

### *Conditions and rights under detention*

There are incidences where prison authorities do not inform family members or friends of the condition of detainees. Tsering Wangdrak was sentenced to almost four years for his political activism, and his wife was allowed to meet him only four weeks later. Wangdrak's wife, Pasang, who fled into exile in February 2001, alleged that she had to go through an arduous process in order to obtain visiting rights after paying a bribe of 1,000 yuan (US\$118) to see her husband. On 6 June 2000, eight months after Wangdrak was detained, a cellmate sent a message to Pasang that Wangdrak was in a grave medical condition. He passed away soon after she received this news. Four days after his death she received a telegram from the prison stating that her husband was sick. Pasang did not receive assistance in collecting her husband's body to perform last rites, as the people in her town were afraid of antagonising the Chinese officials. No official death certificate was issued.<sup>101</sup>

Chinese propaganda has exerted considerable efforts to publicise the “noteworthy” prison conditions in Tibet. During 2001 a number of foreign correspondents and delegations were taken on tours of prisons in order to show the “true picture”. Numerous articles featuring positive descriptions of prison conditions appeared in China's State-controlled media. A 22 May 2001 Xinhua report claims, “While visitors panted due to the lack of oxygen in the prison at 3,672 meters above sea level, prisoners in blue uniforms were playing basketball, shouting and laughing.” Further glorifying the conditions, Xinhua elaborates on willows and roses blooming in the courtyard, prisoners practicing music with their guitar and electronic organ, reading novels, learning Tibetan language and the highlight of the article was the prison menu of, “...butter tea and roasted barley flour for breakfast, rice, boiled meat and radish for lunch, steamed bread and cabbage vermicelli soup for supper.”<sup>102</sup>

Contrary to these glowing reports, former prisoners have complained of insufficient and unhygienic food. “While in prison, one of the most difficult problem I faced was insufficient food. I never received enough food throughout my time in prison. The food provided to us was worse than the fodder given to pigs. Meat was a rare feature in the diet, and when it was provided it was almost always pungent and spoilt,” recalls Norbu Damdul, a former political prisoner who arrived in India in early 2001. Norbu was released on 1 April 1999 after serving his three-year prison term in Ngaba Prison, Sichuan. After his release he was not allowed to return to Karze Monastery and he was prohibited from wearing monks' robes, as his monastery was not willing to take the risk of readmitting him.<sup>103</sup>

The laudatory Xinhua prison article concludes with, “Kabil Sibal, Chairperson of the WGAD who visited the prison four years ago, said that criminals here have received humanitarian treatment.”<sup>104</sup> In fact, the WGAD mentions in its 1997 report the difficulty they found in obtaining “...clearances from the Chinese government to visit specific centres of detention and particular provinces; it was not possible to prepare an agenda for the visit in advance”, thus ensuring the delegation observed only the centres specifically approved by Beijing. The group also faced obstacles in obtaining a translated version of the Chinese Laws despite repeated requests.<sup>105</sup>

The government of the PRC cannot set priorities for the Tibetan people and deny their civil, political and cultural rights by suggesting that rights to subsistence precede all other rights. The rights set forth in the two Covenants that China is a party to are universal and indivisible. The Vienna Declaration of 1993 relating to these rights endorses, “The universal nature of these rights and freedoms is beyond question...human rights and fundamental freedoms are

the birthright of all human beings; their protection and promotion is the first responsibility of governments.”<sup>106</sup>

What, then, is the point of the PRC becoming signatory to International Covenants if the leadership in Beijing continues to impose policies which contravene them?

### **Chapter 3: THE STATUS OF NEW TIBETAN REFUGEES**

The definition of a refugee, as well as the main international legal tools for protecting the human rights of refugees, are the principles contained within the 1951 Convention Relating to the Status of Refugees (or Refugee Convention), and the refinements to that Convention, made in the 1967 Protocol. Article 1. of the 1951 Refugee Convention states:

...[the term refugee shall apply to any person who] ...owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country of his former habitual residence [as a result of such events], is unable or, owing to such fear, is unwilling to return to it ...

Additionally, there are two fundamental human rights principles contained within the Universal Declaration of Human Rights and the Refugee Convention: the Right to Asylum, and the Right Not to be Forcibly Deported, the latter often known by the French term *non-refoulement*. The Right to Asylum is contained in Article 14 of the UDHR.

Everyone has the right to seek and to enjoy in other countries freedom from persecution. Such is the moral weight of the UDHR (which member states undertake to adhere to when they join the UN and sign its Charter) that the Right to Asylum has become part of international customary law — respected and practised by UN member states regardless of whether they have signed the 1951 Refugee Convention. The Refugee Convention also expressly forbids forced deportation.

No Contracting state shall expel or return (*refouler*) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion. (Article 33, Optional Protocol).

The principle of *non-refoulement*, too, has become part of international customary law, respected (in theory) regardless of whether a state has ratified the Convention or not.

The failure of Nepal to ratify the 1951 Refugee Convention and 1967 Protocol presents a real problem for Tibetans escaping to India via Nepal. The general lack of awareness of the Convention principles, and instead the use of an informal category of protection by UNHCR to assist fleeing Tibetans, is discussed further in this chapter. Despite this, the Government of Nepal has traditionally adopted a generous policy towards Tibetans transiting through its territory to asylum in India.

In this chapter, we have used the term “asylum seeker ” to refer to those Tibetans within Tibet seeking to leave and making the journey to seek “asylum” in second or third countries. The term “refugee” refers to those Tibetans who have been granted “refugee status” by second or third countries, usually Nepal and India, by some administrative process which bestows certain rights including the Right to Residency as a refugee. “China” and “Chinese”, unless otherwise stated, refers to the policies and practice of the government of the People’s Republic of China (PRC).

The Tibetan Reception Centre based in Dharamsala, India, has estimated the arrival of around 45,000 Tibetan asylum seekers in India between the 1980 and 2001. During the year 2001 as of December 1, 735 Tibetans fled Tibet across the Himalayas. This steady and continuing exodus reflects upon the situation for Tibetans living under Chinese rule.

However, compared to past annual records, 2001 has seen a considerable decrease in those fleeing occupied Tibet. The reason is not because there was less provocation to flee, but because of the increased policing and control of Tibet's border with Nepal. The re-launch of Beijing's "Strike Hard" Campaign and its directive to clamp down on fleeing Tibetans simultaneously with the Tibetans engaged in activities "endangering State security", has effected the change.<sup>1</sup> According to a 27 June 2001 Xinhua report, the "TAR" Higher People's Court passed a ruling that Tibet's version of the "Strike Hard" Campaign will focus on "striking on people's 'endangering national security', drug trafficking, and on those who are trying to flee Tibet without documents".<sup>2</sup> This court ruling has already had negative impacts on Tibetans trying to flee their country.

Stepped-up patrolling this year has resulted not only in more arrests of fleeing Tibetans along the border, but also in many reports of looting, beatings and torture

Many new checkpoints have been established along the most commonly-used escape routes and the number of security personnel along the border has considerably increased. Stepped-up patrolling this year has resulted not only in more arrests of fleeing Tibetans along the border, but also in many reports of looting, beatings and torture before the would-be escapees are handed over to Public Security Bureau officials.

Meanwhile, it is also reported that any former political prisoners who are caught attempting to escape are directly sentenced to "re-education-through-labour" and are being transferred to Trisam Labour Camp located in Toelung Dechen County, 10 km west of Lhasa. China's Xinhua reported on 16 October 2001 that in a period of six months, "TAR" border security officials had arrested 2,500 Tibetans trying to cross the Nepal border as an initiative of the "Strike Hard" Campaign.<sup>3</sup> According to a monk from Karze County, Sichuan, 300 arrests were made in the month of June alone. They were then transferred to Shigatse Prison, along with detainees arrested returning from Nepal and India. There is anecdotal evidence that these prisoners were then sent to work as labourers on the construction project laying rail track from Golmud to Lhasa.<sup>4</sup>

The decrease in 2001 figures still saw over 1,000 asylum seekers succeeding in their escape bid this year. The refugees journey for a minimum of one week on foot, traversing the highest mountains in the world in the depths of winter, experiencing hunger, exposure, injury, — frostbite — and sometimes death. They mostly seek residence in India via Nepal. They remain in danger of arrest, robbery and other ill-treatment throughout this journey, until they are formally granted asylum. If arrested at any point prior to crossing the international border and being granted asylum, escapees are subject to intensive interrogation, torture and sentenced to long-term imprisonment — often without trial.

### ***Multiple reasons for fleeing***

More than 90 percent of Tibetan asylum seekers state the desire to meet the Dalai Lama in Dharamsala as their prime motivation for flight. However, this is not the only reason; Tibetans decide to leave their homeland for a multitude of complex reasons. The decisions must be viewed in the context of China's continued occupation of Tibet, and the resultant

economic marginalisation, political repression and racial discrimination that permeates all facets of life on the plateau today.

Any Tibetan engaged in activities deemed to be “endangering state security”— the interpretation of which is left to the Chinese authorities — is arrested, detained or sentenced to varying terms of imprisonment and may be subjected to brutal torture. Activities regarded to be “endangering state security” could be anything from possessing a photo of the Dalai Lama, or political materials from exile, to pasting up leaflets and participating in demonstrations. The re-launch of the Beijing’s “Strike Hard” Campaign in April 2001 further intensified the official crackdown on Tibetans engaged in so-called political activities.<sup>5</sup>

A recently-arrived refugee, Sonam Choephel from Karze County, Sichuan, is a case in point. After distributing leaflets calling for Tibet’s independence, and showing videos of the Dalai Lama, he finally managed to evade impending arrest by fleeing his hometown.<sup>6</sup>

Similar testimonies are reported by Dorjee Sonam and Sonam Choeda, from the same eastern province, who were forced to escape to exile because of their involvement in writing and disseminating pro-independence leaflets. When the authorities suspected monks of being involved in this act, they began checking everyone’s handwriting in the monastery. The duo, for fear of being caught, decided to flee Tibet. They stayed in Lhasa for a month attempting to procure a travel permit for which they had to pay 3,000 yuan (US\$353).<sup>7</sup>

Increasingly, children dominate the age profile of refugees escaping into exile. In fact, the majority of escapees during 2001 are juveniles. This can be attributed to the lack of widespread and adequate education, discrimination against Tibetans in admission and the sinicised curricula. Parents overlook all the hardships and risks involved by continuing to send their children into exile to ensure they receive a quality modern education incorporating Tibetan culture, history and religious belief.<sup>8</sup>

With crackdowns on monasteries and nunneries gaining severity, because of Beijing’s fears that monks and nuns are engaged in “splittist” activities, the clergy also form a high proportion of those fleeing Tibet. Moreover the “Patriotic Education” Campaign, and its attempts at gaining ideological control over religious institutions, has made any sort of serious religious study and practice difficult for monks and nuns. China is severely impacting on the freedom of religious belief and expression by placing ceilings and limitations on the population of religious institutes. Even monastic education is controlled by “workteams” under the Marxist so-called “Patriotic Education” Campaign...<sup>9</sup>

Since 1996, secular Tibetans in most areas across the “TAR”, Kham and Amdo (Qinghai), have experienced renewed curbs on their freedom of worship. One regional government official and former Communist Party member cited religious restrictions as his primary reason for escaping, complaining of “...the lack of religious freedom, people not being allowed to say mantras and not being allowed to go on pilgrimage. In addition, members of the Communist Party and their family members are not allowed to pursue religion.”<sup>10</sup>

As a distinct race under occupation, Tibetans face discrimination in all walks of life — be it economically, socially, politically and culturally. With the influx of Chinese migrants, Tibetans are being discriminated against particularly in the provision of housing, access to education and employment opportunities. In the employment sphere, most markedly, the authorities are providing preferential loans, permissions and necessary official paperwork to



Chinese starting up businesses, thereby threatening the very survival of Tibetan entrepreneurs.<sup>11</sup>

### ***Hazards and hardships en route***

Approximately two thirds of all refugees arrive in Nepal in the second half of the year, during the months from August to January, and particularly the latter four winter months. Some analysts attribute this timing to fewer visible border guards patrolling on the frozen passes during the winter months, but there are other reasons.<sup>12</sup> Many refugees believe that the icy weather favours passage through the mountains in winter; visibility is good and a thick layer of ice forms on the surface of the snow which makes it possible to walk over the otherwise treacherous paths.

### ***Water and cooking fuel are scarce and the asylum seekers must press on at all costs. Hunger, dehydration and tiredness increase the risk of injury***

Typically the height reached on one popular route—the Nangpa-la Pass situated in the Mount Everest region of Nepal's Solu-Khumbu range—is 5,716 m (18,880 ft). Medical research suggests that some Tibetans have a lung capacity that allows them to trek such icy heights, where other people would be gasping and paralyzed with altitude sickness. But there are other dangers to be faced too; mountain passes experience sudden and furious storms and sometimes snow can mount so deep that the asylum seekers are wading through it waist-deep. Bad weather can result in frostbite and the constant glare causes snow blindness.

Temperatures can be as low as -40 degrees, and therefore frostbite plus snow blindness are common.

Most Tibetans consume the last of their food as they traverse the mountains and survive on tsampa (roasted barley flour). Water and cooking fuel are scarce and the asylum seekers must press on at all costs. Hunger, dehydration and tiredness increase the risk of injury, for as they reach the top of a pass they begin to walk down the slippery trails or over treacherous paths like those that traverse the Nangpa-la glacier.

Dhimey, who arrived in Nepal on 12 November 2001, said the hardest part of their journey was walking on an empty stomach across snow. His party could not light a fire to brew tea for five to six long days. This forced Dhimey and his companions to eat ice, which made them very sick. Another looming fear throughout the journey was the fear of being caught by the Chinese police.<sup>13</sup>

Many refugees embark upon the journey with scant knowledge of the weather conditions and terrain they will have to endure, and wear inappropriate clothing and footwear. Several cases of frostbite occur each year, most often affecting juveniles. There are other dangers awaiting children. A 12-year-old girl fell into a river and no trace of her could be found.<sup>14</sup>

Depending upon their chosen escape route, asylum seekers have at least a day-long bus journey ahead of them in Nepal, or at most several weeks more on foot. Asylum seekers face the further hazard of possible arrest at the numerous police checkpoints along the roads and towns leading to Nepal's capital, Kathmandu. The penalties incurred if an escapee is caught by the Nepalese police can be high. Theft of any cash or valuables is a certainty; arrest and deportation back to the Chinese border police is the asylum seeker's greatest fear.



## ***Nepal's position on refugees***

Despite not having signed the 1951 Convention Relating to the Status of Refugees or the 1967 Protocol, Nepal, by and large, has respected the human rights articles contained in them, permitting Tibetans asylum, freedom of movement and the right to a livelihood and other important principles. It is a generous response for a poor country. The official Tibetan population settled in Nepal according to the 1991 census is approximately 18,000<sup>15</sup>

The Constitution of the Kingdom of Nepal makes no distinction between citizens and aliens in regard to certain basic rights. As a result, Nepalese citizens and foreigners/aliens enjoy the following rights: the Right to Freedom (Article 12 (1)) which guarantees that “No person shall be deprived of his personal liberty except in accordance to law, and no law shall be made which provides for capital punishment”; the Right to Criminal Justice (Article 14); Rights against Preventive Detention (Article 15); Rights to Education and Culture (Article 18), the Right to Religion (Article 19); Rights against Exploitation (Article 20); the Right to Privacy (Article 22) and the Constitutional Remedy Right (Article 23).

The principles outlined in the 1951 Convention Relating to the Status of Refugees are not applied in the Nepalese Immigration Act and in some cases Nepalese Law contradicts the articles of the Refugee Convention. In 1991, the new democratic government in Nepal enacted revised immigration laws that are problematic for Tibetan asylum seekers. Nepal's Immigration Act 1992, and its Implementing Rules of 1994, makes no distinction between foreigners and asylum seekers, nor does it make specific provision for refugees. Both are considered illegal immigrants if they fail to comply with Article 3 (1) of the Act, which states: “No foreigner is allowed to enter or stay in the Kingdom of Nepal without a visa.”

Further, Art. 9 (1) of the Act states: “The Director General shall expel foreigners who have committed immigration offences, with or without time limits, upon receiving reports from the immigration office. The Director General must seek the permission from His Majesty's Government to execute such expulsion.” This article provides the legal basis for deportation of asylum seekers as “foreigners” who have broken the Nepalese Immigration Act.

The nearest that Nepal comes to supporting the principle of non-refoulement is in its Extradition Act of 1991, section 12(1) which pays lip service to the principle that political offenders are not to be extradited. This provision empowers His Majesty's Government to permit foreigners, including refugees, to stay in Nepal until such time as determined by the government. Given the lack of specificity towards asylum seekers in the above laws, Nepal deals with refugees primarily on an administrative level.

From the above legislation it can be concluded that it is inadequate to deal with individual asylum seekers or with larger refugee movements. The government has often designed practical approaches within the provisions of the law. This has allowed the necessary flexibility to deal with refugees in a manner, which is, by and large, in line with international standards.<sup>16</sup>

## ***Border dangers***

Cases of arrest and detention, coupled with beatings and looting incidents, have been commonplace in the past for Tibetan refugees all along the Nepal border. However, recently cases of indiscriminate police firing on unarmed refugees and imprisonment with heavy

sentences have emerged as a shift in policy of Nepal's government. These serious actions are in line with heightened Chinese Embassy influence on Nepal's government through the escalation of economic links between Beijing and Nepal.

Nepal's former Foreign Minister, Chakra Prasad Bastola, has pointed out that, "... Nepal-China relations are always in steady growth and constantly nurtured by the common policy of good neighbourliness and commitment not to allow respective territory to be used for activities detrimental to the interest of each other". This statement clarifies official action against Tibetan asylum seekers. The repercussions of this policy shift were first seen in November 2000 when a group of 23 asylum seekers were indiscriminately fired on with live ammunition by Nepali police in Jiri. This led to the death of Kunchok Gyatso while seven other Tibetans suffered bullet injuries.<sup>17</sup>

With increased Maoist activity across much of Nepal, and the particular vulnerability of police to ambush, the force is becoming reluctant to make such journeys to escort asylum seekers to Kathmandu

In August 2001, 10 Tibetans were arrested in Nepal for not possessing proper documents and heavily fined by Nepal's Immigration Department, operating under the Ministry of Home Affairs. Non-payment of this fine carries a default sentence of 10 years' imprisonment.<sup>18</sup>

In May 2001, a 14-year-old Tibetan asylum seeker was arrested and detained in Dili Bazaar Jail in Kathmandu. Officials ordered Phurbu to pay a fine of 17,200 NC for his release.<sup>19</sup> Following the payment of the fine, he was released in December. Although according to national law or the immigration law of Nepal, the Royal Government claims the right to detain illegal immigrants, under international human rights standards this detention is termed "arbitrary". As the Working Group on Arbitrary Detention established by the Commission on Human Rights has determined, "arbitrary detention" might arise in cases "of deprivation of freedom when the facts giving rise to the prosecution or conviction concern the exercise of the rights and freedoms protected by the Universal Declaration of Human Rights and the Civil and Political Rights [...]".

### ***The concerns of UNHCR***

To aid Tibetan asylum seekers in coping with Nepalese Immigration Law while transiting through Nepal to India, the UNHCR has an unofficial agreement with His Majesty's Government of Nepal. Dubbed as a "gentleman's agreement", this is a verbal understanding between the Department of Immigration (operating under the Home Affairs Ministry of His Majesty's Government of Nepal) and the United Nations High Commissioner for Refugees (UNHCR), Nepal. The agreement arose in the wake of the 1989 Lhasa demonstrations and the PRC's subsequent campaigns into the 1990s to step up political control over Tibetans.

Under this agreement, Tibetan asylum seekers arrested by the Nepalese police are to be brought to the Department of Immigration Detention Centre in Kathmandu. The UNHCR reimburses the police for any expenses in transporting the Tibetans from the point of arrest to the capital, pays them a daily subsistence allowance, and provides the police a chance to visit families and friends in the Kathmandu valley. The police submit a bill to the Department of Immigration (DOI) for all expenses incurred and the UNHCR pays the DOI.

The system has worked reasonably well until 2001. But, with increased Maoist activity across much of Nepal, and the particular vulnerability of police to ambush, the force is becoming

reluctant to make such journeys to escort asylum seekers to Kathmandu. In response, the UNHCR has now offered to compensate double the number of police so these parties feel secure in escorting asylum seekers to the capital.

The Tibetan Refugee Welfare Organisation (TRWO), operating under the Kathmandu Office of Tibet (representing H.H. the Dalai Lama), manages the care of asylum seekers at the UNHCR Tibetan Refugee Reception Centre (TRRC) on the outskirts of Kathmandu. The TRRC is totally funded by, and under the auspices of, the UNHCR, which in turn is funded by the United Nations' state donors. After a brief detention at the Department of Immigration holding centre in Kathmandu, asylum seekers are released into the care of TRWO and brought to the TRRC. Approximately half of the asylum seekers are arrested enroute in Nepal and handed over by the Kathmandu's police to DOI, while the remainder reach the TRRC without being detained. Many have learned of the existence of the TRRC on their journey, and upon arrival in Kathmandu are directed there by local Tibetans.

Upon arrival, staff register the Tibetans and their name, age, birthplace, occupation, next of kin and other data is recorded. Political prisoners, or people who have suffered some other human rights violations, are quickly identified. Accommodation is provided with meals three times daily and they receive medical treatment and vaccinations for common diseases (TB, measles) at the TRRC clinic, with referral to hospitals or specialists (such as trauma counselling) if necessary.

UNHCR protection officers and approved interviewers meet with all asylum seekers to assess their reasons for leaving Tibet. Interpreters in U-Tsang, Amdo and Kham dialects assist with the interviewing. The interviews are not for refugee eligibility as Nepal is not a signatory to the 1951 Convention. Rather, the UNHCR interviews the asylum seekers to determine a status prior to the granting of "Refugee Status" known as "Person of Concern". The interviews determine whether the asylum seekers are one of three categories: of concern and eligible for financial assistance; of concern, but not eligible for financial assistance; or not of concern.

A "Person of Concern" is the UNHCR's practical and generous response to the realities of the situation for Tibetan asylum seekers entering Nepal. Such status extends UNHCR's general protection to Tibetans and reduces the chance of further harm coming to them.

Even if Nepal ratified the 1951 Refugee Convention (as discussed in Appendix A), a proportion of the asylum seekers would not be eligible for refugee status under the specific and narrow Convention criteria (children seeking a Tibetan education, for instance). It is a fact that in many grave refugee situations that UNHCR handles around the world — and the Tibetans are no exception — the Convention principles are stretched beyond the strict legal wording to meet the exigencies of the crisis (regardless of whether a nation has ratified it or not).

Those of concern are facing violations of their human rights in Tibet. Financial assistance is not given to those making an onward journey to India. They are eligible for financial assistance only once. Those not of concern are journeying for reasons such as visiting family members or for business.

### ***The onward journey***

In addition to the UNHCR process, the Tibetan Refugee Welfare Office assesses what assistance the Tibetan Government-in-Exile will provide to the asylum seekers. Those monks wishing to join a monastery are registered. Children under 18 are recorded for admission to Tibetan Children's Village schools, and young adults up to the age of 30 are registered for education at the Tibetan Transit School near Dharamsala. Due to limitations of space in India, nuns are not able to enter nunneries directly and generally enrol in schools first.

Buses to India leave Kathmandu weekly and the asylum seekers granted UNHCR "Person of Concern" status are registered on a list provided to the Nepalese Department of Immigration and granted an exit pass collectively. They also carry with them a daily allowance for their journey from the TRWO; a health book detailing their vaccinations and a ration card with some bio-data. They then travel the two — to three — day journey to the Tibetan Reception Centre in New Delhi in safety, and from there take the 12-hour drive to Dharamsala.

Once they have left Nepal, UNHCR's interest in the asylum seekers ends, and responsibility is taken up by the Central Tibetan Administration of the Government-in-Exile in India. The Government of India deals bilaterally with the Tibetan Government-in-Exile on all refugee matters.

This system has worked more or less smoothly for a decade. But, given the opaque nature of the UNHCR's "understanding" with the Home Ministry in Nepal, it is liable to failures when certain political pressures are applied — as the evidence of recent arrests and deportations illustrates.

### *The rise in deportations*

TCHRD is now gravely concerned about the ad hoc forced deportation of asylum seekers to Chinese security personnel in Tibet and the probability that such cases may now be commonplace along the Nepal-Tibet border. Such forced deportations reflect an absence of understanding of the legal human rights of asylum seekers on the part of Nepali border officials, as well as ignorance of their role in the violation of the human rights of Tibetan asylum seekers. Yet, at the same time, the Centre acknowledges that most asylum seekers are allowed to enter Nepal by the authorities, and a workable arrangement exists between the Department of Immigration of His Majesty's Government of Nepal and the United Nations High Commission for Refugees (UNHCR), Nepal, to allow refugees to pass through Nepal and be processed for third country resettlement — usually to India.

'The situation is that if Tibetans coming from Tibet arrive on the border and they do not have proper papers then they are not allowed to enter Nepal.' (Home Ministry of Nepal)

"No Contracting state shall expel or return (refouler) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion." (Article 33, 1951, Convention Relating to the Status of Refugees).

Over recent years, refoulement or forced deportation, of Tibetan refugees by Nepalese officials has been a regular occurrence along the Nepal-Tibet border. Some officials — whether familiar with their government's arrangement with the UNHCR or not — regard all Tibetan refugees as illegal immigrants. Even the Home Ministry of Nepal stated in December 2000, "The situation is that if Tibetans coming from Tibet arrive on the border and they do not have proper papers then they are not allowed to enter Nepal".<sup>20</sup>

Such deportations are technically illegal under international law, and contravene an undertaking given from January 1990 onwards by the Nepalese authorities to hand over asylum seekers to the UNHCR in Kathmandu. Roland Wiel, Protection Officer for the UNHCR in Kathmandu, said in an interview with TIN “As far as the UNHCR is concerned, anyone who would ask for asylum is entitled to have their asylum claim assessed. For Tibetan refugees arriving in Nepal, this effectively means that Tibetans have the right to transit through Nepal to India...”<sup>21</sup>

However, since 25 November 2001 at least 15 asylum seekers have been handed over to border guards on the Chinese side by the Nepalese police; this figure includes several children who were being sent out of Tibet by their parents with a guide. These cases are ones where witnesses were able to pass on information; the real figure for deportations is likely to have been higher.<sup>22</sup> In mid-December 2001, a middle-aged man accompanied by two children was detained in the Tibet-Nepal border region near Barabasi and taken to Tatopani. Before the Tibetan Representative in Kathmandu could reach the region to rescue them the three were already deported back to Tibet.<sup>23</sup>

The Nepalese police arrested six more Tibetan escapees in May 2001 at Barabasi according to the Director of TRRC, Kelsang Chime. The detainees were reportedly handed over to Chinese security personnel at the Dram border. The identities and the current conditions of the detainees were still unavailable as of December 2001.

The current administrative arrangements for Tibetan refugees are vague, liable to be misinterpreted, open to abuse, and have given rise to ad hoc decision-making by local officials about the fate of refugees. Tibetans who managed to flee twice and reached Kathmandu after experiencing deportation in their first attempt reported that the Nepali border guards have friendly relations with their Chinese counterparts on the other side of the border and they are earning fees for handing back Tibetan asylum seekers. TIN in this regard reported that “police on the Tibetan side of the border give Nepali officials a high fee for handing the Tibetans over to them”.<sup>24</sup>

But as long as human rights violations and discriminations continue within Tibet, and for as long as Tibet’s spiritual leader, the Dalai Lama, remains in exile, Tibetans will continue to take the terrible risks involved in leaving their homeland under Chinese occupation and fleeing to an uncertain future as refugees in an unknown land.