
Human Rights Situation in Tibet

Annual Report

2018



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Tibetan Centre for Human Rights and Democracy (TCHRD) is a registered non-governmental human rights organisation established in January 1996 in Dharamsala (India) with the mission to protect the human rights of the Tibetan people in Tibet and promote the principles of democracy in the exile Tibetan community.

The centre is entirely run and staffed by Tibetans in exile. TCHRD's work entails monitoring, research, translation and documentation of human rights violations in Tibet. The centre conducts regular, systematic investigation of human rights abuses in Tibet and brings out annual report, thematic reports, testimonies of victims of human rights violations, electronic newsletters, and briefings on human rights issues that confront Tibetans inside Tibet.

The centre engenders awareness on a wide range of issues relating to human rights and democracy through both grassroots and diplomatic means, using regional and international human rights mechanisms as well as community based awareness campaigns.

TCHRD logo features the image of a white dove rising out of flames. The dove and olive branch are universal emblems of peace. The flames, drawn in traditional Tibetan style, represent the suffering of the Tibetan people, as well as the devastating and purifying force of truth.

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Cover photo: Photos of Mao Zedong and Xi Jinping adorn the shrine of a Tibetan home in Tsoe City, Kanlho Tibetan Autonomous Prefecture, Gansu Province (WeChat)

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List of Abbreviations

Abbreviation

CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CERD	Committee on the Elimination of Racial Discrimination
CPL	Criminal Procedure Law
CPPCC	Chinese People's Political Consultative Conference
CRC	Committee on the Rights of the Child
ECOSOC	Economic and Social Council
FCCC	Foreign Correspondents Club of China
GONGO	Government Organised NGO
HRC	Human Rights Council
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
OHCHR	Office of the High Commissioner on Human Rights
PRC	People's Republic of China
PSB	Public Security Bureau
RTL	Reeducation Through Labour
RSDL	Residential Surveillance at Designated Locations
TAP	Tibetan Autonomous Prefecture
TAR	Tibet Autonomous Region
UDHR	Universal Declaration of Human Rights
UFWD	United Front Work Department
UN	United Nations
UPR	Universal Periodic Review
WEOG	Western European and Others Group

Executive Summary

2018 was a crucial year for human rights in Tibet and elsewhere in the People's Republic of China (PRC). The PRC's return to totalitarian ideology has led to increased Party control over grass roots institutions and greater surveillance over the lives of ordinary people. New regulations require all grass roots organisations to expand Party membership and networks in order to build the Party's 'fortress in the grass roots'. The 2018 annual session of the PRC's rubber stamp parliament resulted in the appointment of Xi Jinping as PRC's lifetime president or paramount leader and increased the concentration of power in the hands of the Party.

The year began on a grim note with the announcement of a three-year nationwide crackdown on the vaguely-defined crimes of 'organised crime', 'underworld forces', and 'black and evil forces'. As feared, the crackdown resulted in the arbitrary arrest, detention and torture of human rights defenders and activists calling for the right to sustainable development, environmental protection, land rights, language freedom, and cultural rights in Tibet. Peaceful dissent of any kind and degree was met with harsh penalties.

The arbitrary arrest and detention of peaceful Tibetan protesters and other human rights activists continued unabated. In particular, extended criminal detention preceding arrest has increased, providing more latitude to law enforcement officers to engage in violent interrogation and torture methods to obtain forced confessions. Other forms of illegal detention such as confinement in 'legal education centers' have increased after the abolition of Reeducation Through Labour camps and the acceleration of political reeducation campaigns in many parts of Tibet. Tibetans suspected of criminal offences, particularly those pertaining to political matters, are almost always denied the right to fair trial or a hearing. Very few Tibetans, if any, manage to exercise any rights to a fair trial.

Restrictions on the freedom of peaceful assembly remained severe as Chinese police and paramilitary troops engaged in violent suppression of peaceful protesters calling for the return of the Tibetans' spiritual leader, His Holiness the Dalai Lama, freedom and human rights.

Executive Summary

Tibetans are being arrested for protesting harmful development projects such as mining, water diversion and land expropriation, prompting six UN Special Rapporteurs and Working Groups to note with concern, in an official communication sent to the Chinese authorities, that “violations of the civil and political rights of Tibetans tend to be inter-related with overarching violations of their economic, social and cultural rights”.

Despite calls from the international community for access to and freedom of movement in Tibet, Tibetans faced barriers to obtaining passports and restrictions on their movements and travel within and outside the country. The pervasive surveillance apparatus, along with numerous checkpoints and roadblocks, further intensified the restrictions on movement and travel in Tibet, with some experts noting that circumambulating around the Potala Palace in Lhasa is now more difficult than getting into an airport.

Similarly, the right to freedom of religion and belief was subjected to heightened levels of control and restriction, through the enforcement of the revised regulations on religious affairs, the implementation of the campaign against ‘organised crime’ particularly targeting religious institutions and practitioners, and the issuance of local directives to ban Tibetan schoolchildren from participating in religious activities. The policies known as ‘adapting religion to socialism with Chinese characteristics’ and ‘sinicising Tibetan Buddhism’ have led to an increase in compulsory political reeducation campaigns and an erosion of flexibility at the local level to control the religious education of minors, and limitations on informal places of worship.

Tibetan religious institutions were also targeted for their role in promoting Tibetan language education, as evidenced by the issuance of local directives forbidding monastic institutions from holding Tibetan language workshops. The sentencing of Tibetan language activist Tashi Wangchuk to five years on 22 May showed that Chinese authorities have no qualms about criminalizing peaceful advocacy of Tibetan language and culture.

Executive Summary

The systematic attempts to undermine Tibetan cultural and religious education violate the rights of a child to receive an education rooted in his or her own language, culture and values.

As a result of the PRC's ill-conceived development and conservation policies, more Tibetans are unable to exercise their rights to an adequate standard of living and a healthy environment. In Tibet, problems including grassland degradation and desertification, river pollution and excessive resource extraction, jeopardize the ability of the Tibetan environment to provide the material and cultural services essential to human rights. Access to clean water and sanitation in Tibet and the rest of the PRC is being compromised by industrialisation and urbanization; infrastructure and mining; hydroelectric power projects; water diversion projects; and glacial water bottling.

Local Tibetans impacted by pollution and man-made disasters are unable to influence policy decisions concerning environmental protection in their areas. Even after the mines are exhausted and closed, local Tibetans still have to bear the environmental costs, but are not permitted to establish civil society organisations to give voice to environmental concerns. Negligent mining practices and dumping of waste have polluted water in many Tibetan areas, further increasing the risk of soil erosion, landslides and other natural disasters.

Recommendations

The international community is urged to engage with the PRC authorities and exert pressure on the PRC to:

- Ratify the International Covenant on Civil and Political Rights and the International Convention for the Protection of All Persons from Enforced Disappearance
 - Introduce the right to not incriminate oneself, prohibit the admissibility of confessions obtained through torture and establish the presumption of innocence
 - Access to immediate legal representation and medical treatment for all detainees held in any form of detention
 - Provide information as requested by the UN Committee Against Torture on the number of disappearances and deaths of Tibetans since 2008
 - Review and repeal or amend all legislation that indirectly authorizes the use of torture and other forms of inhumane treatment; in particular the use of Residential Surveillance in a Designated Location
 - Establish an independent tribunal to investigate claims of torture and sanction law enforcement officers who are found guilty
 - Introduce legislation to make enforced disappearances a criminal offence, strengthen the independence of the Judiciary and lawyers, and guarantee the right to legal representation and judicial oversight for all detained persons
 - Invite a representative of an international organization to meet with Gedhun Choekyi Nyima, the 11th Panchen Lama whom the Dalai Lama recognized in 1995
 - Cease implementing political reeducation programs and close all facilities for arbitrary detention including 'legal education centres' and 'vocational centres'
 - Review and repeal national laws that perpetuate religious repression including the revised regulations on religious affairs and the 2007 'Measures on the Management of the Reincarnation of Living Buddhas'
 - Release detained or imprisoned human rights defenders including human rights lawyers and activists
 - Review and repeal national legislation that prevents the exercise by Tibetans of the right to peaceful assembly and association
-

Recommendations

- Host an independent visit by the UN or other relevant international agencies to assess the quality and availability of mother tongue-based education for schools in Tibet.
 - Repeal policies that undermine mother tongue-based education in Tibet
 - Allow Tibetans to determine their own educational and cultural affairs as provided for in the PRC's Constitution and Law on Regional National Autonomy.
 - Review and reform PRC policy and law including land tenure rights and grassland policies to provide greater protection for PRC citizens,
 - Adopt anti-eviction laws imposing strict conditions for interference with the rights of land users, and to ensure security of tenure for people who do not have formal title to home and land
 - Cease construction of new hydro dams and assess the environmental and social impact at the local, regional and national levels.
 - Cease financial incentives for mining companies and implement compensation for the affected population
 - Cease 'tuimu huancao' on the grounds of unclear results and poor implementation, and in light of research showing that moderate grazing pressure and herd mobility are beneficial to grassland biodiversity and that conversely, grazing bans and herd mobility restrictions are detrimental to grassland biodiversity;
-

Striking Hard on Human Rights

In January 2018, Chinese authorities announced a three-year nationwide campaign to eliminate ‘organised crime’ and other ‘evil forces’ including corruption, prostitution, gambling, drug trafficking, and human trafficking.[1] The announcement appeared in a notice issued by the State Council (China’s cabinet) and the Central Committee of the Chinese Communist Party. Around the same time, China’s highest court, the Supreme People’s Court, announced that the campaign would also target those who threaten ‘political security’ and ‘social stability’[2], leading long-time China watchers and human rights activists to fear that the campaign would be used to crush peaceful protest and dissent. To lend a semblance of legality, a notice about the campaign was issued jointly in February by the Supreme People’s Court, the Central People’s Procuratorate, the Ministry of Public Security and the Political Legal Commission. It said that the authorities would ‘strike hard’ on all illegal activities related to organised crime in accordance with the law.

The official Tibetan translation of the joint notice adopts the language usually associated with numerous ‘strike hard’ (Tib: Dungdek Tsenen; Ch: Yanda) campaigns of the recent past[3] that resulted in human rights violations. Later government notices and official media reports confirmed that the ‘war on organised crime’ was being waged to expand and strengthen Party influence and networks at lower-level jurisdictions and primarily in rural areas.[4] As we have seen in the past several years, the increased efforts to “strengthen political power at the grassroots level”[5] have led to an unprecedented tightening of control and political repression in Tibetan areas[6], turning Tibet into a human rights black hole.

[1] China to begin nationwide crackdown on organised crime, *Global Times*, 25 January 2018, Available at <https://gbtimes.com/china-to-begin-nationwide-crackdown-on-organised-crime>

[2] Punish the crime of black and evil forces, *People’s Daily*, 1 February 2018, Available at http://paper.people.com.cn/rmrb/html/2018-02/01/nw.D110000renmrb_20180201_2-11.htm

[3] China launches ‘strike hard’ campaign in Tibetan areas, *TCHRD*, 4 April 2012, available at <http://tchrd.org/china-launches-strike-hard-campaign-in-tibetan-areas/>

[4] CPC meeting reviews work rules of rural organizations, disciplinary inspection agencies, *Xinhua*, 26 November 2018, available at http://www.xinhuanet.com/english/2018-11/26/c_137632863.htm

[5] New China ‘crime’ crackdown targets threats to party rule, *Indian Express*, 16 March 2018, available at <https://indianexpress.com/article/world/new-china-crime-crackdown-targets-threats-to-party-rule-5099764/>

[6] 2017 Annual report on human rights situation in Tibet, *TCHRD*, May 2018, available at <http://tchrd.org/2017-annual-report-on-human-rights-situation-in-tibet/>

Striking Hard on Human Rights

Taking their cue from the nationwide campaign, the police in Tibet Autonomous Region (TAR) issued a notice in February asking the general public to report cases of violations or crimes by underworld forces. The notice, containing 22 articles, essentially renders illegal almost all activities related to peaceful dissent and government criticism in TAR.[7]

Notice Issued by Police in Tibet Autonomous Region (TAR)

Article 1	Threaten “political security, especially regime security and institutional security”
Article 2	Connections with the ‘Dalai Clique’[8] or participation in “separatist and disruptive activities”
Article 3	Temples “using religion to control, to confuse, to incite, or coerce the masses to resist the Party and government”
Article 4	Connections with illegal organisations that indoctrinate the masses with “reactionary ideology and narrow nationalism” such as advocating greater autonomy or freedom to use one’s language
Article 5	Local activists espousing causes like economic freedom, right to livelihood, environmental protection, cultural freedom
Article 6	Community fundraising or providing donations to the ‘Dalai Clique’
Article 9 and 10	The role and influence of native leadership systems in mediating community conflicts
Article 11	Resisting land grabs, demolitions, infrastructure projects and other related development projects
Article 17 and 18	Posting or commenting on social media platforms and other online platforms to “carry out illegal or criminal activities offline”

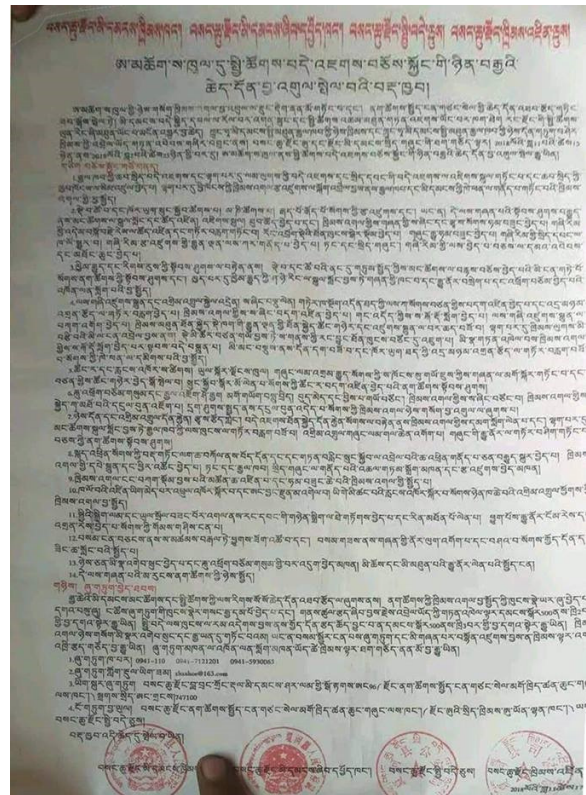
[7] “Illegal Organizations”: China’s Crackdown on Tibetan Social Groups, *Human Rights Watch*, 30 July 2018, available at <https://www.hrw.org/report/2018/07/30/illegal-organizations/chinas-crackdown-tibetan-social-groups#>

[8] “The Dalai Clique” is a derogatory term used by Chinese authorities to support its propaganda that the Tibetan cause for freedom is just a handiwork of a small group of Tibetan exiles led by the Dalai Lama.

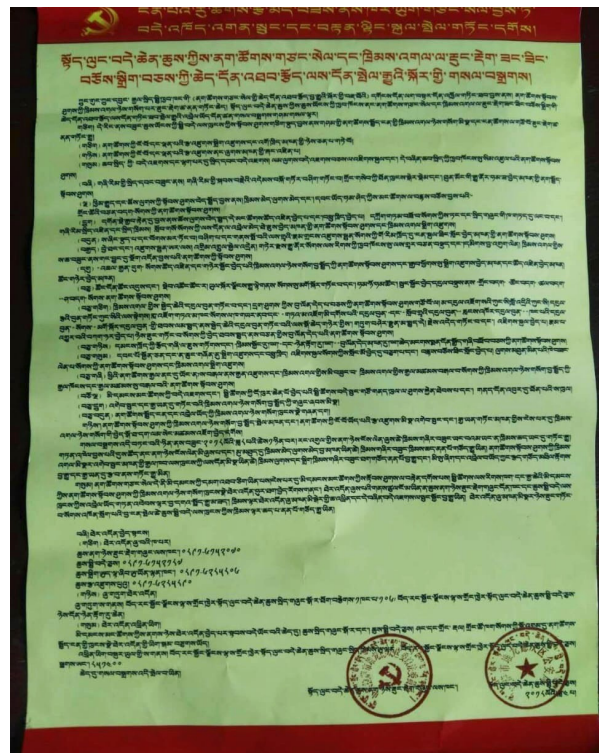
Striking Hard on Human Rights

In March, authorities in Nagchu (Ch: Naqu) County announced varying cash prizes of up to 100,000 yuan for tip-offs about the activities listed in the TAR notice.[9]

Police departments and other relevant government and Party departments issued similar notices in other Tibetan areas located in Qinghai, Gansu, Sichuan and Yunnan provinces. Although these notices did not specifically mention the 'Dalai Clique', they identified by and large the same activities that were criminalised in the TAR notice; criminal offences were couched in vague terms that are often used to persecute activists and critics of government policies. For instance, the notice issued on 29 January by the Public Security Bureau (PSB) in Kangtsa (Ch: Gangcha) County, Tsojang (Ch: Haibei) 'Tibetan Autonomous Prefecture' (TAP) mentions 'picking quarrels and provoking troubles' as one of the illegal activities (Article 8). Likewise, Article 10 of a joint notice issued by the Malho (Ch: Huangnan) Intermediate People's Court and Malho People's Procuratorate in February barred anyone from "organising or inciting illegal activities such as separatism and self-immolation" or "celebrating 'Losar' [Tibetan New Year]" as it harmed "ethnic unity". A notice issued on 8 February by the agency tasked with implementing the campaign against organised crime in Tsolho (Ch: Hainan) TAP explicitly bans the "display of thanangka paintings depicting the Dalai Lama" and forming of "motor vehicle unions" (Article 13). In some areas such as Amchok Town in Sangchu (Ch: Xiahe) County, the campaign was announced in November through a notice issued by the Sangchu County People's Court, People's Procuratorate, PSB and Political and Legal Committee. In both Amchok and Yushu Town, it was announced that the campaign would be implemented for 100 days.



Notice issued in Amchok County



Notice issued in Toelung Dechen County

[9] "Police in Tibet Offer Cash Rewards for Tips on Crime, Disloyal Behavior," Radio Free Asia, April 4, 2018 <https://www.rfa.org/english/news/tibet/rewards-04042018162659.html>

Striking Hard on Human Rights

Although a campaign of this nature is not new in Tibet, the scope of the activities it publicly criminalises is unprecedented, as it covers activities related to social welfare and Tibetan cultural practices, and other civil society initiatives to improve the lives of ordinary Tibetans. At the same time, the campaign codified long-standing instances of human rights violations in Tibet because all the activities targeted by the campaign have been criminalised at least since 2012.[10]

In November 2018, the Chinese government media reported the arrest of nine Tibetans for setting up an illegal group of ‘khagovas’[11] in Horgya village in Rongwo Town, Rebkong County. They were charged with using an “evil organisation” to “disturb social order”, “coerce people to engage in business transaction”, and “engage in extortion and deceit”. [12] The local authorities claimed that the arrests were made in connection with the campaign against ‘organised crime’ and that the accused had engaged in the unlawful activities of “controlling grassroots governance and interfering with political and other affairs of the village” through the “evil organisation” that was founded on 21 February 2017. [13] At the time of the report’s publication, the arrested Tibetans were awaiting further investigation from the county and prefecture-level police and the ‘organised crime’ unit after being detained in July and arrested formally in August.

[10] “Illegal Organizations”: China’s Crackdown on Tibetan Social Groups, *Human Rights Watch*, 30 July 2018, available at <https://www.hrw.org/report/2018/07/30/illegal-organizations/chinas-crackdown-tibetan-social-groups#>

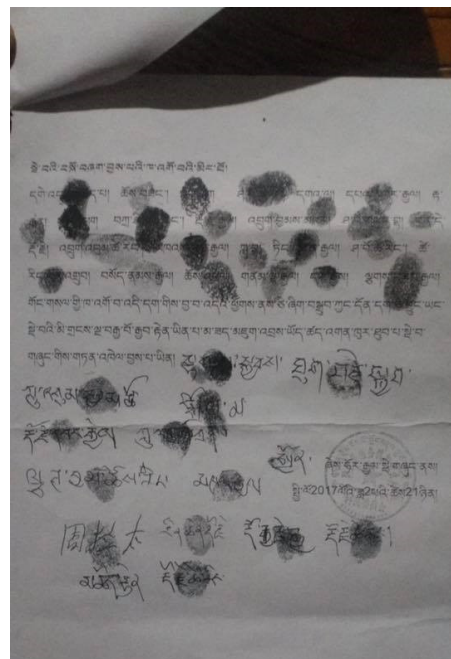
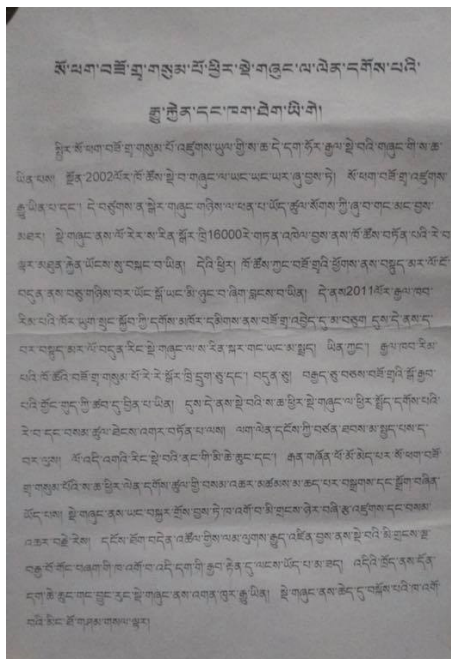
[11] A local parlance used to refer to senior and knowledgeable members of the community that are usually consulted on important affairs. The community members value their advices and suggestions. They are part of the traditional Tibetan leadership system.

[12] Malho police crush illegal organisation, *Malho Tibetan Newspaper*, 29 November 2018, https://mp.weixin.qq.com/s?__biz=MzAwNzk2ODM0NA==&mid=2247488996&idx=1&sn=5004ce5ecb53fc51395d66fc1731b3fa&chksm=9b7756d3ac00dfc5259e08d9fe07c59366beb4dae2b7fe30cd712c356530d73864676e20aa5c&mpshare=1&scene=1&srcid=0110G194BlifPxIWFR9PkBin&pass_ticket=G6XQuMWdnYVFcHoXKQcXj4Mdkqwa eIm7NAPsxnbnSNvww2GfQ%2FcdZFAGsB9pAwARU#rd

[13] Ibid.

Striking Hard on Human Rights

However, information obtained from local sources indicates that the arrests were made to suppress a long-running campaign by villagers to reclaim community land expropriated by local government for a failed business enterprise, and to neutralise the influence and authority of traditional leadership. In a petition submitted on behalf of 500 villagers on 21 February 2017, a total of 24 'khagovas' backed by the villagers and the Village Committee (Ch: cunmin weiyuanhui)[14] complained that their land had been used to open three brick factories that were then closed in 2011 when the policy of environmental conservation was announced. While the government paid substantial monetary compensation to the factory owners, the villagers had not received their share of compensation for seven years. The petition carried not only the signatures of the 24 khagovas' but also the stamp of support from the Village Committee, thereby debunking claims made in the abovementioned official media report that the khagovas' actions challenged the authority of the Village Committee.



[14] Under the PRC's Organic Law of the Villagers' Committee, villagers can theoretically elect members to the Village Committee that is authorised to manage the public affairs of the village taking into account the interests of the villagers. See http://www.npc.gov.cn/englishnpc/Law/2007-12/11/content_1383542.htm

[PETITION SUBMITTED BY HORGYA
VILLAGE RESIDENTS]

**Reasons and Guarantee Letter for Returning
Brick Factories to Village Government**

In general, the land on which the three brick factories are built belongs to the government of Hor Gyal village. In 2002, [Chinese authorities] made repeated appeals to the village government office to build the brick factories claiming that it would benefit both the people and the government. The village government office relented and settled on an annual land lease amount of yuan 16000 to be given to the village committee. Thereupon, for 7 to 12 years, the factories paid their taxes to the village government. In 2011, the local government closed the brick factories to implement the policy of environmental protection. For the next seven years, the factories no longer paid their taxes to the village government. Nevertheless, the factories received compensation worth 60,000, 70,000 and 80,000 yuan respectively after the closure of the factories. Since then, we have appealed for the return of community land to the village government but there has been no action taken to address this issue. For the past many years, all including the big and small, the old and young, in the village have called for the return of community land. The village government, after much discussion with the local people, appointed 24 people to head the khagova group, to exchange views and continue the system of seeking truth from facts.

The village government has appointed the following persons to the 'khagova' group:

Takchey Gyal, Kubum Gyatso, Thukje Kyab, Gendun Soepa, Choesang, Palsang Gyal, Tashi, Dorjee Wangyal, Lubum Tashi, Rinchen Dorje, Orgyen, Shawo Tsering, Tsering Samdup, Sonam Gyal, Choephel, Namlha Gyal, Chakjam, Tseten, Dolma, Dhargye, Paljor Gyal, Tagyen.
[The last two names are not clear.]

While dispensing their duties, the abovementioned khagovas will have support from 500 villagers. And whatever issues arise, big or small, the village government will take full responsibility.

Hor Gyal Villagers Committee
21 February 2017

Freedom from Arbitrary Arrest and Detention

The right to freedom from arbitrary arrest and detention is protected in Article 9 of the International Covenant on Civil and Political Rights (ICCPR)[15], which recognises and guarantees both liberty and security of person. A person's liberty and security involves "freedom from confinement of the body", "freedom from injury to the body and the mind, or bodily and mental integrity".[16] In violation of these provisions, Chinese authorities in Tibet continued to subject persons peacefully exercising their human rights to lengthy periods of detention without judicial approval or oversight. With the expansion of police powers of detention in recent years, criminal detention preceding arrest has increased, particularly after the abolition of Re-education Through Labour, and is mostly targeted at human rights activists and critics of government policies. Under China's Criminal Procedure Law (CPL), criminal detention can be allowed for up to 37 days before seeking approval for arrest, but in practice both the duration and the conditions under which the measure may be employed have been expanded broadly owing to a lack of rigorous institutional oversight or any significant consequences for improper application. Other forms of extra-legal detention exist, such as in 'legal education centres' where torture and other abuses are common. When an arrest is made, there are a number of provisions that enable time limits to be extended, in some cases for as long as six months. Police will also release and re-arrest a political prisoner for the purpose of intimidation or 're-education'. People whose whereabouts were unknown while they were in detention report they were routinely denied the right to a judicial proceeding, including examination of the legitimacy of their arrest or detention.

[15] International Covenant on Civil and Political Rights,
<https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

[16] UN Human Rights Committee (HRC), General comment no. 35, Article 9 (Liberty and security of person), 16 December 2014, CCPR/C/GC/35, available at:
<https://www.refworld.org/docid/553e0f984.html> [accessed 5 March 2019]

Freedom from Arbitrary Arrest and Detention

Chinese legislation supports and enables enforced disappearance and the Chinese government justifies this as a necessary means to ensure “social stability” and “state security”. The introduction of ‘Residential Surveillance at Designated Locations (RSDL) in 2012 in the revised CPL made it possible for law enforcement agencies to hold national security suspects in secret detention for months at a time. In a communication sent to the Chinese government in August 2018, a group of 10 UN human rights experts ruled that the practice of RSDL was comparable to “incommunicado and secret detention” and “tantamount to enforced disappearance”, adding that those subjected to RSDL are exposed to the “risk of torture and other inhuman and degrading treatment and other human rights violations.”^[17]In 2018, Chinese authorities in Tibet continued to subject Tibetans to severe forms of arbitrary detention including the illegal practice of holding innocent Tibetans in ‘re-education camps’:

- An anonymous Tibetan monk was detained at a political re-education facility in Sog (Ch: Suo) County, Nagchu (Ch: Naqu) Prefecture, TAR in 2017 where he and many other monks and nuns were held for months without charge or trial.^[18] They were held for political ‘re-education’ by the Chinese State Security Bureau in conjunction with the Chinese Public Security Bureau and the Political Legal Committee.

[17] Mandates of the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the right to privacy; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. 24 August 2018. OL CHN 15/2018.

[18] Tibetan monk’s account reveals torture and sexual abuse rampant in China’s ‘political re-education’ centres, *TCHRD*, 28 May 2018, available at <http://tchrd.org/tibetan-monks-account-reveals-torture-and-sexual-abuse-rampant-in-chinas-political-re-education-centres/>

Freedom from Arbitrary Arrest and Detention

Euphemistically known as “transformation through education” centres, these extralegal detention centres are used for political indoctrination programs to enforce loyalty to the Chinese Communist Party. Sexual abuse, torture and other inhumane treatments are pervasive in these detention facilities, quite similar to the dreaded Re-education Through Labour system that China claimed to have abolished in 2013.[19]

- A-nya Sengdra, 47, continues to remain in arbitrary detention without trial since local police took him into custody in September 2018 in Kyangche (Ch: Jiangqian) Township, Gade (Ch: Gande) County, Golok (Ch: Guoluo) TAP.[20] The popular anti-corruption activist has been charged with ‘picking quarrels and provoking trouble’, a vaguely worded offence under Article 293 of Chinese Criminal Law that has been increasingly used in recent years, particularly since Xi Jinping’s presidency, to persecute and launch reprisals against human rights defenders and other activists critical of government policies and practices.[21]



- Tenzin Choephel, a businessman from Nagchu disappeared after being taken into custody by police at Gongkar airport on a return flight from Chengdu in March 2018. Almost five months after his arrest, his family members have no clue about his whereabouts. It is still not officially known where and why he is being held. A police search conducted afterwards at Choephel’s residence found photos of the Dalai Lama and some ‘political literature’.[22]

[19] Special Report: Gulags of Tibet, *TCHRD*, 20 January 2014, available at <http://tchrd.org/tchrd-releases-2013-annual-report-and-special-report-on-re-education-through-labor/>

[20] China detains Tibetan anti-corruption activist on politicised charge of ‘provoking trouble’, *TCHRD*, 20 December 2018, available at <http://tchrd.org/china-detains-tibetan-anti-corruption-activist-on-politicised-charge-of-provoking-trouble/>

[21] Stanley Lubman, ‘Picking quarrels’ casts shadow over Chinese law, *Wall Street Journal*, 30 June 2014, available at <https://blogs.wsj.com/chinarealtime/2014/06/30/picking-quarrels-casts-shadow-over-chinese-law/>

[22] Tibetan Businessman Detained by China Still Missing After Five Months, *Radio Free Asia*, 6 August 2018, available at <https://www.rfa.org/english/news/tibet/missing-08062018152928.html>

Freedom of Peaceful Assembly

The right to freedom of peaceful assembly is indispensable for building peaceful, prosperous, and democratic societies.[23] This is accomplished by strengthening civil society's involvement in ensuring transparency, accountability, and ultimately good governance.[24] The right to peaceful assembly is not absolute and a State is permitted to impose restrictions. But this can only be justified if provided for by law, in a proportionate manner and as necessary in a democratic society. National security should not be invoked as a reason for imposing limitations to prevent local or relatively isolated threats to law and order. The measures that have been implemented by the PRC go beyond what is proportionate and effectively negate the right to peaceful assembly in the Tibetan context. Although Chinese Constitution [25] provides the right to freedom of peaceful assembly, recent Chinese legislation and practice have made it virtually impossible for Tibetans to peacefully assemble, given the high risk of assault, detention, torture and in some cases death. PRC legislation and practice go beyond reasonable and proportionate limits to the right to peaceful assembly.

Tibet is viewed by the PRC as a sensitive area and dissent is regarded as separatist activity and a threat to state security. For instance, Article 4 of the PRC Constitution prohibits "any act which undermines the unity of the nationalities or instigates division". Article 12 of the Law of the PRCs on Assemblies, Processions and Demonstrations provides that permission must be sought to protest and can be refused if it is seen as "harming the unity, sovereignty and territorial integrity of the state", "instigating division among the nationalities" or would "directly endanger public security or seriously undermine public order." The cumulative barriers to protest begin with the requirement to seek permission, which can be refused if it is considered that it would damage state, public or collective interests. The grounds for refusal are very loosely drafted thereby allowing a wide range of discretion. Protests that go ahead without permission are unlawful and carry custodial penalties.

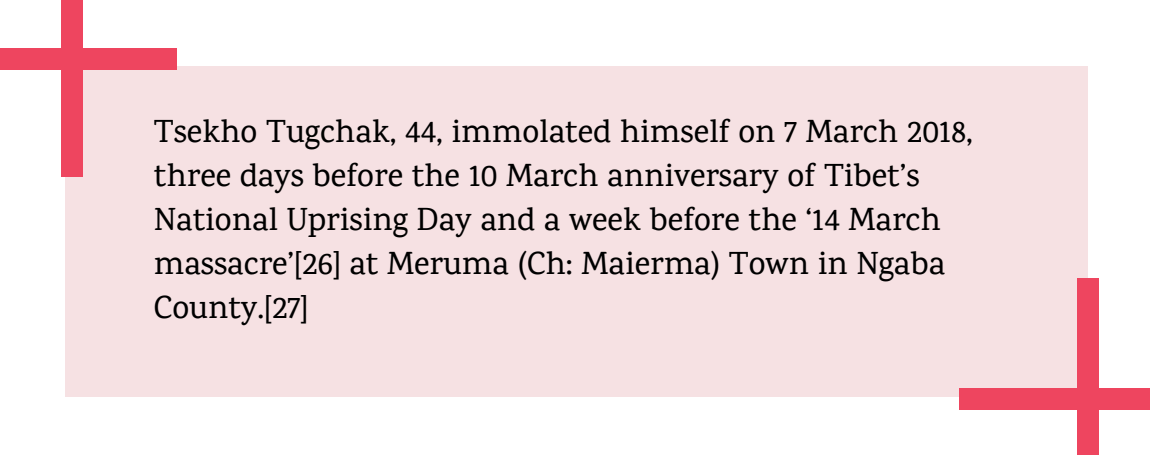
[23] The right to freedom of peaceful assembly and of association, UN Doc. No. A/HRC/RES/24/5 (8 Oct. 2005).

[24] Ibid.

[25] Article 35 of Chinese Constitution provides that "Citizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration."

Freedom of Peaceful Assembly

The wave of self-immolations as a form of political protest that started in Tibet in 2009 and continues at a reduced rate is not only symptomatic of the fast-shrinking space for free expression and free assembly in Tibet but also a strong indication that the Tibetan people are left with no other recourse to safer forms of peaceful protest. With the implementation of collective punishment and other forms of crackdown against self-immolation protests, an increasing number of Tibetans have resorted to staging lone protests in market squares, usually holding a portrait of the Dalai Lama and shouting slogans calling for the 'return of Dalai Lama' or 'freedom' and 'human rights' in Tibet. Despite massive surveillance and increased risks of enforced disappearance, torture and extrajudicial killings, Tibetans continued to immolate themselves and carry out lone protests albeit with lesser frequency in 2018.



Tsekho Tugchak, 44, immolated himself on 7 March 2018, three days before the 10 March anniversary of Tibet's National Uprising Day and a week before the '14 March massacre'[26] at Meruma (Ch: Maierma) Town in Ngaba County.[27]

[26] Solitary Tibetan protests continue in Ngaba to commemorate '16 March Massacre', *TCHRD*, 21 March 2017, available at <http://tchrd.org/solitary-tibetan-protests-continue-in-ngaba-to-commemorate-16-march-massacre/>

[27] Tibetan nomad dies of self-immolation protest ahead of sensitive political anniversary, *TCHRD*, 8 March 2018, available at <http://tchrd.org/tibetan-nomad-dies-of-self-immolation-protest-ahead-of-sensitive-political-anniversary/>

Freedom of Peaceful Assembly



Dupo, 23, died on 4 November after staging a self-immolation protest against the repressive policies of the Chinese government in Chojema (Ch: Qiujima) Township in Ngaba County.[28] He died shouting, “May His Holiness the Dalai Lama live long! May we soon behold his golden countenance!”

Drugkho, a young Tibetan man whose age remains unknown immolated himself on 8 December at Soruma in Ngaba County.[29] His condition remains unknown.


Sangye Gyatso, 17, was severely beaten up and detained incommunicado on 10 December when he protested against Chinese government calling for “Freedom in Tibet” at the main road of Ngaba County Town that is now known among local Tibetans as ‘Martyrs Road’.[30] Like many other protesters before him, his protest lasted a few minutes before he was taken into custody by the ever-present security forces in the area and placed in undisclosed detention.

[28] Another Tibetan dead after staging self-immolation protest against Chinese government repression, *TCHRD*, 9 November 2018, available at <http://tchrd.org/another-tibetan-dead-after-staging-self-immolation-protest-against-chinese-government-repression/>

[29] Self-immolation in Ngaba, *Tibet Times*, 8 December 2018, available at <http://tibettimes.net/2018/12/08/174091/> [Tibetan language newspaper]

[30] Teen monk disappears into Chinese police custody after staging a solo protest calling for freedom in Tibet, *TCHRD*, 15 December 2018, available at <http://tchrd.org/teen-monk-disappears-into-chinese-police-custody-after-staging-a-solo-protest-calling-for-freedom-in-tibet/>

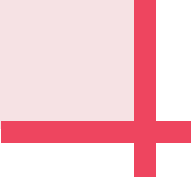
Freedom of Peaceful Assembly



Dorjee Rabten, 23, a native of Meruma Town in Ngaba County, carried out a similar protest at the same location on 5 September and was subsequently detained at an undisclosed location.[31]

Tenzin Gelek, 18, carried out a lone protest on 6 September calling for 'Freedom in Tibet' at 'Martyrs Road'. [32] His condition and whereabouts remain unknown since security forces took him away. Days before the protest, he had posted writings that were critical of Chinese government policies on his private WeChat account.

Other cases have been reported, but with insufficient data.[33]



[31] China: Release Tibetan monks from incommunicado detention, *TCHRD*, 25 September 2018, available at <http://tchrd.org/china-release-tibetan-monks-from-incommunicado-detention/>

[32] Teenage monk and blogger detained at undisclosed location after staging solo protest, *TCHRD*, 25 September 2018, available at <http://tchrd.org/teenage-monk-and-blogger-detained-at-undisclosed-location-after-staging-solo-protest/>

[33] Ibid.

Freedom of Peaceful Assembly

In August 2018, in a communication sent to the Chinese government on the violation of the freedom of peaceful assembly in Tibet, six UN human rights experts noted with concern that “violations of the civil and political rights of Tibetans tend to be inter-related with overarching violations of their economic, social and cultural rights” and demanded explanations about the excessive use of force by Chinese security forces to suppress an anti-mining protest in Yulshul (Ch: Yushu) Tibetan Autonomous Prefecture.[34] On 7 July 2018, Chinese security forces had engaged in indiscriminate beatings and tear gas assaults to disperse a crowd of 100 protesters in an attempt to crush the two-month old anti-mining protest in Upper Dechung area in Yulshul.[35] Many were injured and later hospitalized.

On 12 November 2018, Chinese security forces beat and detained an unknown number of Tibetans peacefully protesting against a water diversion project in Sertsang (Ch: Shenzang) Township in Chone (Ch: Zhouni/Jone) County in Kanlho (Ch: Gannan) TAP.[36] Local officials and security forces reportedly told village residents to behave or be jailed.[37]

[34] Communication sent by the mandates of the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on minority issues on 28 August 2018. AL CHN 17/2018.

[35] Tibetan Villagers Tear-Gassed, Beaten For Mine Protest, *Radio Free Asia*, 11 July 2018, available at <https://www.rfa.org/english/news/tibet/beaten-07112018161718.html>

[36] Local Tibetans in Chone County protest diversion of drinking water, *Boxun.com*, 13 November 2018, available at <https://www.boxun.com/news/gb/china/2018/11/201811131912.shtml>

[37] Ibid.

Freedom of Peaceful Assembly

On 10 July 2018, in a preemptive move to suppress protests from villagers against a water diversion project, Chinese authorities deployed a large number of security forces including police and intelligence officers at the site of the project.[38] Video footage showed bulldozers digging up villagers' farmland while a heavy posse of uniformed security forces stood guard under a huge red banner emblazoned with the slogan: 'Manage water resources in accordance with law, assist the administration in accordance with law', a veiled threat that any opposition to the project would be punished 'in accordance with law'.



'Manage water resources in accordance with law, assist the administration in accordance with law'

[38] China deploys security forces to prevent Tibetans from protesting water diversion project, *TCHRD*, 20 July 2018, available at <http://tchrd.org/china-deploys-security-forces-to-prevent-tibetans-from-protesting-water-diversion-project/>

Freedom of Movement

The right to freedom of movement covers the right to liberty of movement and the freedom to choose one's residence, as guaranteed in Article 12 (1) of the ICCPR. Everyone living lawfully within the territory of a state has the right to move around freely and to choose his or her place of residence.[39] Restrictions imposed on this right “must be based on clear legal grounds and meet the test of necessity and the requirements of proportionality.”[40] For instance, restricting a person's movement merely on the ground of potential leakage of “state secrets” or barring a person from travelling internally without a special permit is not legitimate. Further, restrictions must be consistent with other rights guaranteed in the ICCPR and the fundamental principles of equality and non-discrimination.[41] In blatant violation of these provisions, Chinese authorities continued to restrict the movement and travel of Tibetans.

Tibetans travelling from other Tibetan areas outside TAR to Lhasa have to surrender their personal ID cards in exchange for a temporary permit before entering the city.[42] Without the special permit, it is impossible to hire accommodation or gain access to the sacred Jokhang Temple and nearby areas, owing to a series of checkpoints. The checkpoints manned by Chinese security forces particularly target Tibetans for detailed searching and frisking. Aided by the pervasive surveillance devices, Chinese armed police patrol every nook and corner of the city to monitor the movement of local Tibetans. Experts note that the level of surveillance in the Tibetan capital Lhasa is so high that even circumambulating around the Potala Palace is now more difficult than getting into an airport.[43]

Tibetans continued to face barriers to obtaining or renewing their passports. Persons wishing to travel to Nepal and India for religious purposes were particularly targeted for interrogation and punishment.[44]

[39] CCPR General Comment No. 27: Article 12 (Freedom of Movement). CCPR/C/21/Rev.1/Add.9.

[40] Article 12 (3) of ICCPR.

[41] CCPR General Comment No. 27: Article 12 (Freedom of Movement). CCPR/C/21/Rev.1/Add.9.

[42] Tibetan Pilgrim Sees Restrictions, Heavy Police Presence in Lhasa, *Radio Free Asia*, 31 August 2018, available at <https://www.rfa.org/english/news/tibet/lhasa-08312018165307.html>

[43] Sinica Podcast: Tashi Rabgey And Jim Millward On China's Ethnic Policy In Xinjiang And Tibet , *SupChina*, 14 February 2019, available at <https://supchina.com/2019/02/14/sinica-podcast-tashi-rabgey-and-jim-millward-on-chinas-ethnic-policy-in-xinjiang-and-tibet/>

[44] Interview with a pilgrim visiting India from Ba Dzung (Ch: Tongde) County in Tsolho Tibetan Autonomous Prefecture. Conducted by TCHRD researcher Pema Gyal in December 2018. Dharamsala, India.

Freedom of Movement

The punishment includes increased surveillance, cancellation of passports, dismissal from government jobs, and cutting off benefits. Compared to previous years, the number of Tibetans travelling to India to attend the winter religious teachings of Dalai Lama dwindled as a result of travel restrictions imposed by various local authorities in Tibet. Some Tibetans in Tsolho (Ch: Hainan) TAP had their passports cancelled and some were stopped at Chengdu airport despite carrying valid passports.[45] Those who had their passports revoked at the airport had to forfeit their flight tickets without refund.[46] Some Tibetans in Machu County in Kanlho TAP complained that they had to hand over their passports on their return.[47]

The right to freedom of movement includes the right of a person to enter his or her own country. Whether Tibetans are living in other countries as refugees or as citizens of other countries, they have the right to visit or return to Tibet because of the “special ties to or claims” in relation to their homeland. But in some areas of Tibet, Chinese authorities were seen implementing an undeclared policy that barred Tibetan refugees from returning to their hometowns. Although temporary permits to visit family and relatives are still issued selectively to some Tibetan refugees living in India, they are not allowed to move back permanently. A visiting Tibetan refugee from India was told by Chinese authorities in Dowa Township in Rebkong County, Malho (Ch: Huangnan) TAP that a new policy enforced since January 2018 no longer allows returning Tibetans to live permanently in their hometowns.[48] There is no known evidence, either in written or oral form, of such policy promulgated by Chinese authorities. It appears to be one of the numerous ad-hoc measures imposed by local authorities as part of the ‘stability maintenance’ policy.

[45] Tibetan Passport Restrictions Limit Attendance at Dalai Lama Prayer Gathering, *Radio Free Asia*, 26 December 2018, available at <https://www.rfa.org/english/news/tibet/passport-12262018155928.html>

[46] Interview with a pilgrim visiting India from Ba Dzong (Ch: Tongde) County in Tsolho Tibetan Autonomous Prefecture. Conducted by TCHRD researcher Pema Gyal in December 2018. Dharamsala, India.

[47] Ibid.

[48] Interview conducted by TCHRD researcher Pema Gyal in November 2018. Dharamsala, India.

Freedom of Movement

Some local Tibetans suspect that it could be related to the three-year nationwide campaign against organised crime that, as is often the case, has morphed into a political campaign to crush the ‘separatists’ and the ‘Dalai Clique’ in Tibetan areas. In Machu County, a Tibetan monk returning from India was asked in October by the regional United Front Work Department officials to leave after the expiration of his 90-day permit even though the monk had applied for permanent return.[49] Previously it was easier for Tibetans to visit Tibet on a 90-day permit and then apply for permanent return on the expiration of the permit. The 90-day permit is the standard permit issued to almost all Tibetan applicants at least since 2018. In consistent with the policy of restricting travel to TAR, a Tibetan living in India who was granted this permit in late 2018 found that Tibetans from Gansu Province were allowed to enter and exit TAR only once within the 90-day duration.[50] In February, three Tibetans holding foreign passports with valid visas were interrogated for hours by immigration authorities at Chengdu airport and deported without explanation.[51] The Tibetans had their social media, web chat records and notebooks searched and their telephone contacts copied by airport authorities. Unable to meet their relatives in Tibet, the three Tibetans felt mistreated and discriminated “because of their Tibetan origins”.[52]

In August 2018, in a communication sent to the Chinese government, a group of four UN Special Procedures mandate-holders including the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance expressed serious concern about the policies and legislation of the discriminatory passport system that specifically targeted and discriminated against Tibetans on the basis of their ethnicity, race and religion.[53]

[49] Interview conducted by TCHRD researcher Pema Gyal in November 2018. Dharamsala, India.

[50] Interview with an anonymous monk from Machu County (Gansu Province) and a layman from Rebkong who visited Tibet 2018. Interview conducted by TCHRD researcher Pema Gyal in December 2018 in Dharamsala, India.

[51] Three Tibetans Holding Valid Passports Are Refused Entry to China, *Radio Free Asia*, 23 February 2018, available at <https://www.rfa.org/english/news/tibet/refused-02232018162202.html>

[52] Ibid.

[53] Communication from the Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on minority issues; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; and the Special Rapporteur on freedom of religion or belief. 6 August 2018. Reference: OL CHN 14/2018.

Freedom of Movement

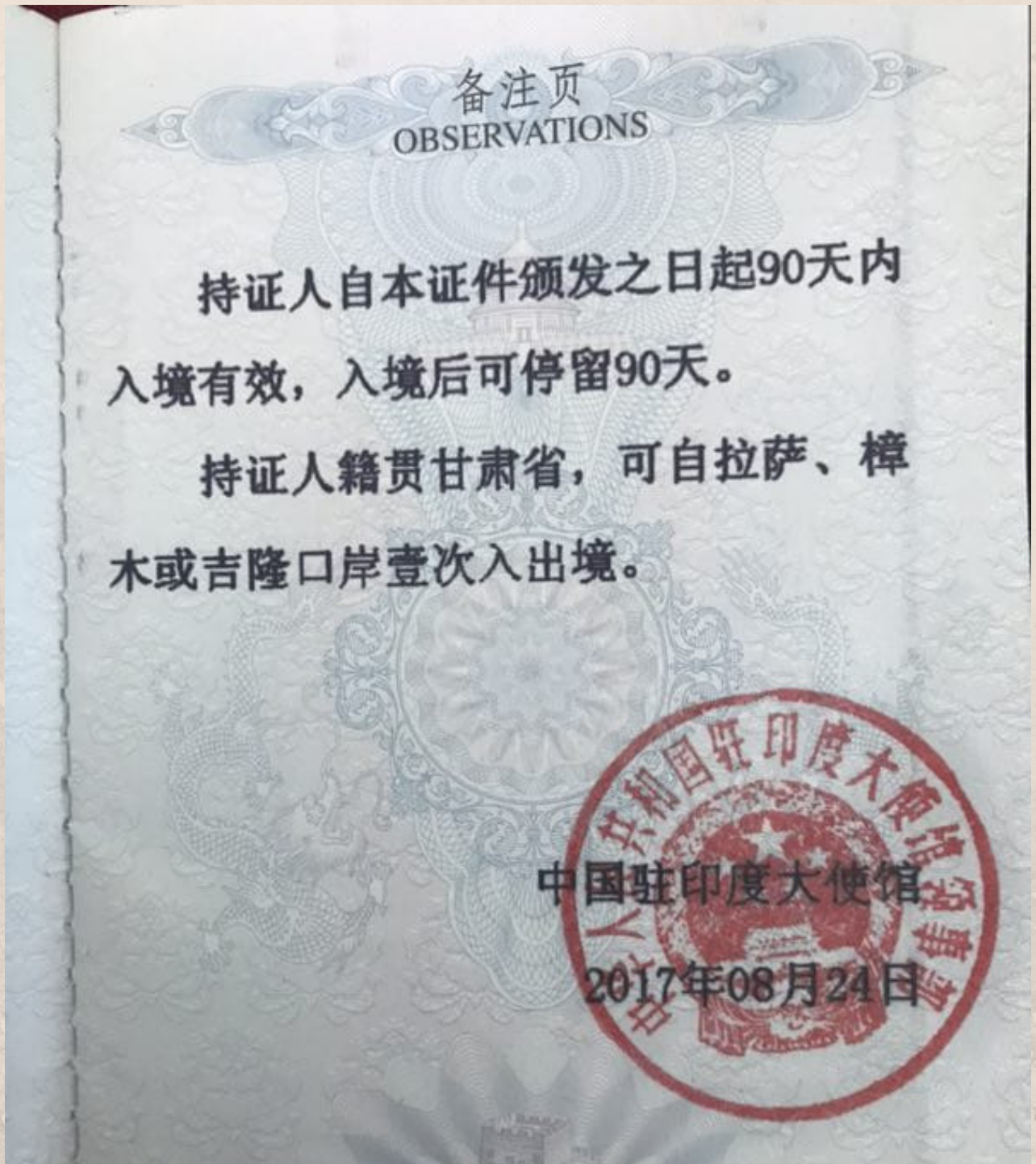
OBSERVATIONS

A person granted this certificate has the power to enter the border within 90 days. A 90-day stay is allowed after entering the border. Anyone from Gansu Province holding this permit is allowed to enter and exit from the checkpoints in Lhasa, Dram and Kyirong.[54]

Embassy of the PRC in India
Chinese Consulate in India

[54] Translation of the note provided to all Tibetans issued with the 90-day permit.

Freedom of Movement



Right To a Fair Trial

The right to a fair and public hearing is explicitly provided for in Articles 6, 7, 8, 10 and 11 of the UDHR and protected in Article 14 and 16 of the ICCPR. It pertains to the proper administration of justice as well as to upholding the rights of a person charged with a criminal offence to an independent challenge to detention, the right to silence, presumption of innocence, privilege against self-incrimination, guarantee of prompt legal representation and the inadmissibility of confessions obtained through torture. Fair trial guarantees also require the trial to be held within a reasonable time and to be heard by a competent, independent and impartial tribunal. Moreover, the right to equality before the law and to a fair trial “serves as a procedural means to safeguard the rule of law” and is indispensable for human rights protection.[55] The guarantees provided in Article 14 of the ICCPR provide no exception for a country’s specific legal traditions or domestic law.[56]

[55] UN Human Rights Committee (HRC), General comment no. 32, Article 14: Right to equality before courts and tribunals and to a fair trial, 23 August 2007, CCPR/C/GC/32, available at: <https://www.refworld.org/docid/478b2b2f2.html>

[56] *ibid.*

Right To a Fair Trial

Chinese law recognises the importance of independent and public court proceedings. Article 130 of Chinese Constitution requires all cases to be heard in public and guarantees the “right to defence” to all accused.[57] Article 131 further stipulates that “(c)ourts exercise judicial power independently, in accordance with the provisions of law, and not subject to interference by any administrative organ, public organization or individual.”[58] Other fair trial rights are established in Articles 3,[59] 5,[60] 6,[61] and 12[62] of the Chinese Criminal Procedure Law. At the same time, the structure of the PRC judicial system does not comply with Article 14 of the ICCPR or with the UN basic guidelines for judges and prosecutors. There is an inherent contradiction between the ‘Socialist Rule of Law with Chinese Characteristics’, as formulated by PRC authorities, and the independence of the judiciary and lawyers, as set out in the well-established international legal framework. The PRC constitution prevails over the PRC hierarchy of laws and provides for the rule of law, but the constitution also provides that the Party takes precedence and is above all else. There are no safeguards in place that uphold international law, convention and guidelines.

[57] Revised Constitution of the People’s Republic of China (March 2018), *Xinhuanet*, available at http://www.xinhuanet.com/politics/2018lh/2018-03/22/c_1122572202.htm

[58] *ibid.*

[59] Article 3 of CPL: “In conducting criminal proceedings, the People’s Courts, the People’s Procuratorates and the public security organs must strictly observe this Law and any relevant stipulations of other laws.”

[60] Article 5 of the CPL: “The People’s Courts shall exercise judicial power independently in accordance with law and the People’s Procuratorates shall exercise procuratorial power independently in accordance with law, and they shall be free from interference by any administrative organ, public organization or individual.”

[61] Article 6 of the CPL: “In conducting criminal proceedings, the People’s Courts, the People’s Procuratorates and the public security organs must rely on the masses, base themselves on facts and take law as the criterion. The law applies equally to all citizens and no privilege whatsoever is permissible before law.”

[62] Article 12 of the CPL: “No person shall be found guilty without being judged as such by a People’s Court according to law.”

Right To a Fair Trial

Tibetans suspected of criminal offences, particularly those pertaining to political matters, are almost always denied the right to fair trial or a hearing. Very few Tibetans, if any, manage to exercise any fair trial rights. In a delayed verdict in May 2018, Tibetan language advocate Tashi Wangchuk was sentenced to five years on trumped-up charges of inciting separatism after prolonged pretrial detention.[63] Although his case attracted international attention leading to the issuance of urgent appeals[64] by numerous UN experts and governments, he eventually failed to get justice. This is hardly surprising when the PRC's criminal justice system has always been discriminatory towards Tibetans for historical and political reasons.

Many other Tibetans like the monk Lobsang Sangye are routinely denied access to a fair trial and imprisoned. Sangye, 36, was sentenced on 28 March 2018 to five years in prison in a closed trial, on vague charges related to “a Tibetan self-immolation and for engaging in political activities”[65]. The verdict came after about seven months of incommunicado detention in Ngaba County. Long after the trial, his family and relatives have no information about the exact charges for which the monk was imprisoned. In January 2018, a former journalist named Tsegon Gyal was sentenced to three years imprisonment on charges of ‘inciting separatism’, after more than a year of pretrial detention during which his family and relatives were denied visits.[66]

[63] Tashi Wangchuk's sentencing exposes China's assimilationist agenda to annihilate Tibetan cultural identity, *TCHRD*, 23 May 2018, available at <http://tchrd.org/tashi-wangchuks-sentencing-exposes-chinas-assimilationist-agenda-to-annihilate-tibetan-cultural-identity/>

[64] China: UN experts denounce the criminalization of linguistic and cultural rights advocacy, 21 February 2018, OHCHR, available at

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22683>

[65] Tibetan Monk Jailed Five Years on Charges ‘Related to Self-Immolation’ Protest, *Radio Free Asia*, 30 March 2018, available at <https://www.rfa.org/english/news/tibet/monk-03302018145246.html>

[66] Prominent former political prisoner Tsegon Gyal sentenced to three years on charge of ‘inciting separatism’, *TCHRD*, 18 February <http://tchrd.org/prominent-former-political-prisoner-tsegon-gyal-sentenced-to-three-years-on-charge-of-inciting-separatism/> 2018, available at

Freedom of Religion and Belief



Hundreds of nuns coming back from a retreat ceremony, Tibet 2018. Photo: Drog-ga

Freedom of Religion and Belief

One of the most flagrant violations of Chinese constitutional provisions concerns Article 36, which grants citizens the right to “enjoy freedom of religious belief” and bans discrimination based on religion and prohibits state organs, public organizations, or individuals from compelling citizens to believe in—or not believe in—any particular faith. These provisions however become meaningless due to their abuse and misuse by PRC authorities such as interpreting ‘normal religious activities’ [Article 36 (3)] or criminalising religious activities “that disrupt public order, impair the health of citizens or interfere with the educational system of the State”. The violation of the right to freedom of religion and belief is further enabled by the authoritarian policies and practices of the Chinese Communist Party, which promotes atheism as one of its core tenets and forbids about 90 million Party members from holding religious beliefs.[67] More recently, intensified attempts to impose Party ideology on ordinary people have been witnessed in Tibet especially since the reinvigoration of the totalitarian ideology under Xi Jinping.[68]

The heightened control over Tibetan religious institutions reveals the broader goal of increasing legal control over grass roots social organizations such as NGOs and other civil society organisations.[70] It has eroded the space for alternative systems of education, ideology and worldview and removed the last pretense of autonomy particularly for religious practitioners who had hitherto exercised certain flexibility at the local level to control the religious education of minors, the religious practice of Party members or the existence of informal places of worship.

[67] Eleanor Albert. Backgrounder: Religion in China, *Council for Foreign Relations*, 11 October 2018, available at <https://www.cfr.org/backgrounder/religion-china#chapter-title-0-3>

[68] Engineers of the Soul: Ideology in Xi Jinping's China by John Garnaut, *Sinocism*, 17 January 2019, available at <https://sinocism.com/p/engineers-of-the-soul-ideology-in>

[69] Rémi Castets, The Modern Chinese State and Strategies of Control over Uyghur Islam, *Central Asian Affairs*, 29 May 2015, Volume 2: Issue 3, <https://doi.org/10.1163/22142290-00203001>

[70] Jérôme Doyon., Actively Guiding Religion under Xi Jinping, June 21, 2018, *Asia Dialogue*, <http://theasiadialogue.com/2018/06/21/actively-guiding-religion-under-xi-jinping/>

Freedom of Religion and Belief

The right to freedom of religion and belief was subjected to heightened levels of control and restrictions in 2018 with the enforcement in February of the revised regulations on religious affairs, the implementation of the campaign against 'organised crime' particularly targeting religious institutions and practitioners, and issuance of local directives to ban Tibetan schoolchildren from participating in religious activities. Despite questions from foreign lawmakers, Chinese authorities refused to divulge credible information on the enforced disappearance of the 11th Panchen Lama, Gendun Choekyi Nyima. In an attempt to reduce the monastic population, Chinese authorities also evicted underage monks and forced them to enroll in Chinese government-run schools.

Local authorities in Tibet issued directives to forbid Tibetan schoolchildren including in nurseries, and the staff and parents, from taking part in religious activities or visiting monasteries. The Chinese authorities claim that the directives align with national laws and regulations on education. This only goes to show that the crackdown is part of a systematic policy to deprive Tibetan children of the right to practice their religious beliefs. Although restrictions of this kind are not new, it is particularly concerning that the directives cover not only Party members and their children but also ordinary Tibetans.



Inauguration ceremony of TAR reeducation workshops for Tibetan Buddhist personnel and government cadres stationed at monastic institutions, December 2018.

Freedom of Religion and Belief

a) Underage Monks Evicted and Forcibly Enrolled in Government Schools

In July 2018, Chinese authorities launched a sweeping countywide crackdown on Tibetan monasteries to expel 'novice' monks and enroll them in Chinese government-run schools in Sershul (Dzachuka) County, Kardze TAP. On 10 July 2018, Chinese authorities forced more than 200 'novice' monks to leave Sershul Monastery and join Chinese government schools. Local authorities ordered all monks below 18 years of age in the Dzachuka region to return to the government schools in which they were previously enrolled.[71] Sershul monastery is the biggest monastery in the Dzachuka region. Figures in 2012 put the monastery's total population at 500[72] while other more recent figures put the number at more than 1200 monks divided into six colleges.[73]

The same month, 20 novice monks below 15 years were removed from Jowo Ganden Shedrub Palgyeling monastery in Dzachuka.[74] Many of the evicted monks were students of Buddhist logic and philosophy, and some were exceptional students. Chinese authorities in Sershul ordered the enrollment of novice monks at Chinese government run schools or face closure of the monasteries and detention of monastic heads, staff, teachers, and parents of the young monks.[75]

On 10 July 2018, Chinese authorities forced more than 200 'novice' monks to leave Sershul Monastery and join Chinese government schools.

[71] Young Tibetan Monks Must Leave Their Monasteries, 'Serve Society', *Radio Free Asia*, 23 July 2018, available at <https://www.rfa.org/english/news/tibet/leave-07232018164231.html>

[72] Sershul (Shiqu), SnowLion Tours, 30 June 2012, available at <http://blog.snowliontours.com/2012/06/sershul-shiqu/>

[73] Jan Reurink, FLICKR Photo Account, March 2019.

[74] China Forces Young Tibetan Monks From Their Monasteries, *Radio Free Asia*, available at <https://www.rfa.org/english/news/tibet/forces-07102018170431.html>

[75] [Comment] Why does the CCP prohibit Tibetans from participating in religious activities? 'ucanews.com', 15 August 2018,

<https://china.ucanews.com/2018/08/15/%E3%80%90%E8%A9%95%E8%AB%96%E3%80%91%E7%82%BA%E4%BB%80%E9%BA%BC%E4%B8%AD%E5%85%B1%E7%A6%81%E6%AD%A2%E8%97%8F%E4%BA%BA%E5%8F%83%E8%88%87%E5%AE%97%E6%95%99%E6%B4%BB%E5%8B%95%EF%BC%9F/>

Freedom of Religion and Belief

Defending the eviction of underage monks, Chinese authorities cited government regulations on education that ‘separate education from religious influences’.[76] Chinese authorities in TAR had issued school regulations in July 2018 that forbid students from participating in religious activities during the summer vacation. Students and their parents were made to sign an agreement with school authorities pledging not to engage in religious activities during the summer vacation.

In the PRC’s Law on the Protection of Minors, ‘minors’ are defined as citizens less than 18 years old.[77] It states that the age of criminal responsibility is 14 and above. The PRC’s juvenile justice system does not allow children aged 13 and below to bear criminal responsibility, and 14- and 15-year-olds are considered conditionally liable.[78] But the minimum age for criminal responsibility may be lowered in light of a recent proposal submitted by 30 Chinese lawmakers to the National People’s Congress (PRC’s rubber stamp parliament) to hold children above 12 accountable for crimes they commit.[79]

[76] Tibet underage students banned from religious activities in accordance with law, *Global Times*, 23 July 2018, available at <http://www.globaltimes.cn/content/1112052.shtml>

[77] Law of the People’s Republic of China on the Protection of Minors, National People’s Congress, available at

http://www.npc.gov.cn/englishnpc/Law/2007-12/12/content_1383869.htm

[78] Criminal Law of the People’s Republic of China, CECC, available at <https://www.cecc.gov/resources/legal-provisions/criminal-law-of-the-peoples-republic-of-china>

[79] Chinese Lawmakers Propose Lower Age of Criminal Responsibility, *Sixth Tone*, 14 March 2019, available at <https://www.sixthtone.com/news/1003676/chinese-lawmakers-propose-lower-age-of-criminal-responsibility>

Freedom of Religion and Belief

The UN Committee on the Rights of the Child recommends the age of 12 years as the absolute minimum age for criminal responsibility but at the same time encouraged states parties not to lower their minimum age to 12.[80] Because a higher minimum age of 14 or 16 years contributes to the juvenile justice system by providing an enabling environment for Article 40 (3) (b) of the CRC, which requires the protection of the child's human rights and legal safeguards when dealing with "children in conflict with the law without resorting to judicial proceedings."

b) Schoolchildren and Parents Banned from Engaging in Religious activities

A notice issued by the Chamdo City Kindergarten no. 2 on 14 May 2018 prohibited the parents and their children from visiting monasteries or participating in religious activities during the holy Buddhist month of Saga Dawa. Those failing to comply were warned of strict measures and would be reported directly to the city education bureau for further action. The notice, addressed to the parents, contained five points:

1. In order to advance children's ideological education, children should not be taken to monasteries and religious activities.
2. As guardians of their children, parents should not go to monasteries and religious events.
3. As the higher authorities will be carefully watching, those who break the regulations will be dealt with.
4. If daily checks on absent children reveal that they have been secretly taken to monasteries and religious activities, they will be reported to the Education Bureau.
5. Parents are requested to manage the safety of their children and should comply with school demands.[81]

[80] Committee on the Rights and the Child, Forty-fourth session, United Nations, 25 April 2007, CRC/C/GC/10.

[81] Translation by Human Rights Watch, available at https://www.hrw.org/sites/default/files/supporting_resources/chamdo_kg_201901.pdf

Freedom of Religion and Belief



Child monks at Sershul Monastery, 2018. Photo: Drog-ga.

For Tibetan Buddhists, Saga Dawa is the most important month in the Tibetan lunar calendar. Known as the month of merits, Tibetans make extra efforts during this month to practice more generosity, virtue, compassion, and conduct, in order to accumulate greater merit.[82]It commemorates the birth, enlightenment, and parinirvana (death) of Buddha.

[82] About Saga Dawa, Tibetan Nuns Project, <https://tnp.org/about-saga-dawa/>

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c) Saga Dawa ‘Stability Maintenance’ Campaign

To enforce ‘strict political discipline’ during the Saga Dawa month, Chinese authorities launched a ‘Stability Maintenance’ campaign in May 2018 in TAR that prohibited Party members, workers and cadres as well as their children and relatives from participating in religious activities. The campaign was publicised in a joint notice issued by the Organization Department of the Lhasa Municipal Committee of the Communist Party of China and the Lhasa Municipal Committee of the Communist Party.[83]

At the Lhasa City Audit Bureau, the campaign required all Party members, workers and government cadres to observe strict political discipline and forgo religious activities during the Saga Dawa period, as well as to ‘guide’ and ‘educate’ their children and relatives. Publicity and instruction in Party ideology were organised, in the form of political education sessions, particularly for retired government cadres. There was 24-hour monitoring of the situation along with inspection patrols at key targets, restrictions on movement and transportation, and increased checkpoints.[84]

One of the objectives of the ‘Stability Maintenance’ policy is to ‘strengthen supervision and inspection of political discipline violations’ and ‘accurately identify party members’ belief in religion’ so as to expose the ‘two-faced people’, “who claim loyalty to the party while secretly sympathising and even working for separatists.”[85] The deputy secretary of the TAR Discipline Inspection Commission and deputy director of the TAR Supervisory Committee Laba Tsering (Lhakpa Tsering) complained that some party members and government cadres do not join the Party mentally and called for intensified re-education and re-training of ‘unqualified’ Party members. He attributed this to strong religious influence among Tibetans that enables “the Dalai Lama’s separatist forces to engage in separatism, infiltration and sabotage activities” and “provoke troubles” on the basis of “ethnic and religious issues” in Tibet.[86]

[83] The Lhasa City Audit Bureau made careful arrangement for the deployment of the stability maintenance during “Saga Dawa” period [Chinese Language], *Sina News*, 16 May 2018, available at <http://news.sina.com.cn/c/2018-05-21/doc-ihaturft6010361.shtml>

[84] Ibid.

[85] Ibid.

[86] Ibid.

Freedom of Religion and Belief

d) Party Members Investigated and Punished under Saga Dawa Crackdown

Under an emergency crackdown implemented during the 2018 Saga Dawa period, the TAR Public Security Department and the Lhasa City Commission for Discipline Inspection created two supervision and inspection teams that conducted 97 inspections at key locations. The crackdown resulted in the investigation of 167 persons suspected of participating in religious activities. Out of them, 18 Party members were punished nine of whom were retired cadres.[87]

The abovementioned investigation was one of the cases publicised in a four-episode documentary film jointly produced by the Propaganda Department of the TAR Commission for Discipline Inspection and the TAR Radio and Television Station. Broadcast in January 2019 on the Chinese government-run Tibet TV, the documentary also included the closure of a holy cave named Woesser Phug in Nyalam County in Shigatse (Ch: Xigaze) City, TAR. Local Tibetans had since 2009 secretly sought blessings from the photos and albums of the 14th Dalai Lama hidden inside the cave. A police inspection in December 2016 took the lid off the 'illegal objects' in the cave prompting

The crackdown resulted in the investigation of 167 persons suspected of participating in religious activities. Out of them, 18 Party members were punished nine of whom were retired cadres

the TAR Discipline Inspection Commission to file a case in April 2017 that resulted in the expulsion of village Party secretary Tsering Dorjee from the Party and disqualification of two village residents Tashi Phuntsok and Lobsang Passang from obtaining Party membership. Ten others including Tenzin Nyima were given stern warnings.[88]

[87] Strict political discipline and political rules to strengthen discipline construction [Chinese Language], Tibet Discipline Inspection and Supervision Network, 22 October 2018, available at www.xzjjw.gov.cn/vcd_detail.php?id=47315

[88] The CCP propaganda film shows Tibetans worshipping the Dalai Lama, *Radio Free Asia*, [Chinese Language], 31 January 2019, available at <https://www.rfa.org/mandarin/yataibaodao/shaoshuminzu/dz-01312019114503.html>

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In August 2018, Wang Yang, a Politburo Standing Committee member and Chairman of the Chinese People's Political Consultative Conference (CPPCC) stressed the importance of tight control over Tibet's Buddhist institutions and called on religious figures "to battle all separatist elements" in the name of preserving national unity and social stability". Wang's remarks came with the release of a revised rules on Party internal discipline that requires Party members with religious beliefs to "undergo thought education" or face expulsion from the party."^[89] Party members are also forbidden from criticizing central Party policies or decisions, and spreading "political rumours or damaging the Party's unity".

e) Ban on Dalai Lama pictures outside TAR

In December 2018, the local government in Dzoerge Toema Township government in Tsoe (Ch: Hezuo) City in Kanlho TAP announced the implementation of a notice issued by the Organization Department of the Party Committee on the 'Specialized Cleanup of the 14th Dalai Lama's Portraits'. The notice requires all Temple Offices, villages and village cadres to destroy photos of the Dalai Lama and replace them with photos of Mao Zedong and Xi Jinping.^[90] It emphasizes the importance of political reeducation in "strengthening the socialist road with Chinese characteristics, enhance national awareness, continuously improve the sensitivity and discernment of dealing with complex issues, and resolutely fight against the Dalai clique, foreign hostile forces and religious extremists".

The campaign will run in six townships and towns and 249 villages. By the end of 2018 in Dzeoge Toema, local authorities had removed Dalai Lama's portraits in four Buddhist temples and six Mani rooms to ensure the full coverage of all Tibetan homes in the nomadic community with Chinese leaders' portraits.

[89] Chinese leader urges fresh push against 'separatist elements' in Tibet, *The Guardian*, 27 August 2018, available at <https://www.theguardian.com/world/2018/aug/27/china-tibet-fresh-push-against-separatist-elements-religion>

[90] The link has been taken down and the account deleted by the township government due to the public outcry caused by the directive on social media.
https://mp.weixin.qq.com/s/1OTEAlueXtsbKa_ZQrr5LQ

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In Lithang County, married couple Tsering and Lhamo from Tsosang village in Shungpa Township had been denied poverty alleviation benefits after being initially declared eligible.[90] A random inspection the officials found a photo of the Dalai Lama displayed in the couple's house leading to the cancellation of the benefits. Unannounced inspections to destroy Dalai Lama's photos are becoming more frequent in the Tibetan homes in the county. At Lithang monastery, all monks were sent away in mid-June on a three-week vacation to preempt the collective celebration of the Dalai Lama's birthday on 6 July 2018.



Chinese officials inspecting a Tibetan prayer shrine for illegal Dalai Lama photos in Tsoe, Tibet, 2018.

[91] Tibetan Family Denied State Benefits Over Dalai Lama Photo, *Radio Free Asia*, 15 August 2018, available at <https://www.rfa.org/english/news/tibet/benefits-08152018152214.html>

Freedom of Religion and Belief

f) Criminalising contacts with foreign organisations

The enforcement of the revised regulations on religious affairs on 1 February 2018 further expanded the scope of crimes related to the belief and practice of Tibetan Buddhism through the use of vague and overbroad charges. More worryingly, the restrictions on maintaining relationships with foreign religious groups, soliciting donations, discussing religion on the internet increase the vulnerability of Tibetans to accusations of 'inciting separatism' and 'religious extremism' due to their loyalty to the exiled Tibetan spiritual leader the Dalai Lama and other revered Buddhist leaders. The regulations highlight the state's paranoia of foreign influences as is evidenced by the requirement of all religions to avoid foreign ties.

The TAR notice on eliminating organised crime and evil forces criminalises contacts with the 'separatists' and 'Dalai Clique'. Sending donation or offerings to the 'Dalai Clique' is made illegal. In February 2018, a notice issued by the Qinghai Police identified 11 main targets of crackdown in which "villages misusing authority to destroy public order through family and clan relations" would be prosecuted. The Tsolho (Ch: Hainan) Prefecture notice on the campaign focuses on "cracking down on the use of family, clan, religious forces to dominate one party, oppressing the 'village hegemony' and 'clan hegemony' of the people". The notice specifically criminalizes the "use of clan and religious (temple) forces to intervene in grassroots social management, law enforcement and justice, organizing, inciting the masses"; "hanging "Dalai portrait"; the "use of religious and clan powers to manipulate and coerce the masses to intervene in local administrative management, to interfere with the operation of grassroots political power, and to weaken grassroots organizations".

In May 2018, monks that had returned to Lithang monastery in Tibet with Geshe (equivalent to PhD in Tibetan Buddhism) degree from India were not permitted to join the monastery and banned from teaching to the public. The monks can only teach after passing the county "patriotic education class" organised every year for monks who had obtained their geshe degree in India.

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Zhu Weiqun, former head of the Ethnic and Religious Affairs Committee of the National Committee of the Chinese People's Political Consultative Conference said that the geshe degrees awarded in India are not recognised by China, the monks educated in India are not allowed to teach to the public. Since 2004, Chinese authorities have awarded the Chinese Buddhist version of the geshe degree to some 105 monks in TAR.[92]

g) Ban on religious festival at Larung Gar Tibetan Buddhist Institute

In October 2018, one of the four largest prayer festivals of Larung Gar Buddhist Institute was cancelled for the third time in a row. The eight-day Dechen Shedrub prayer festival that fell on 22 September was cancelled through a directive issued by the Larung Gar Monastery Management Committee, the Serthar Five Sciences Buddhist Academy Management Committee, and the Serthar County Ethnic and Religious Affairs Bureau. The festival cancellation is one of the many restrictions introduced since 2016 when the institute was partly demolished and depopulated despite global outcry and condemnation. [93]

Citing the revised regulations on religious affairs and the 'Kardze Tibetan Autonomous Prefecture Method of Administering Religious Activities', the notice announced the cancellation of the festival and added that being a middle level training centre for Nyingma school of Tibetan Buddhism Kardze Prefecture, the Larung Buddhist Institute is 'responsible for Tibetan language instruction work and cannot host any Buddhist activities'.

[92] Sichuan county bans some India-educated monks from teaching Buddhism to avoid separatism, 2018/5/14, *Global Times*, available at <http://www.globaltimes.cn/content/1102208.shtml>

[93] Undercover in Larung Gar: A year after demolition, world's largest Tibetan Buddhist institute sliced like a melon, *TCHRD*, 11 August 2017, available at <http://tchrd.org/undercover-in-larung-gar-a-year-after-demolition-worlds-largest-tibetan-buddhist-institute-sliced-like-a-melon/>

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h) Adapting religion to socialism with Chinese characteristics

The two-pronged approach of the Party's basic policy on religion is the requirement that religions must 'sinicize' and imbibe the socialism with Chinese characteristics in their core teachings and ideology. The need to make religion compatible with Chinese socialist society was announced during the National United Front Work Conference in November 1993.

On 17 October 2018, at a seminar held on the Adaptation of Tibetan Buddhism and Socialist Society titled 'Promote sinicization and the Chinese Dream' by the Sichuan Provincial UFW and the Sichuan Province Tibetan affairs Committee, Ms Tian Xiangli, minister of the Sichuan provincial UFW insisted that religion should conform with the new era and uphold the Party's leadership as the most fundamental guarantee, firmly grasp the correct direction of Tibetan Buddhism; the respect for the rule of law as the cornerstone of the development of Tibetan Buddhism.[94] Tian also emphasized the importance of monitoring the higher echelons of Tibetan Buddhism that is the highly learned geshe to raise the banner of patriotism high and pledge their loyalty to the Party. This explains the aforementioned crackdown on geshe educated in India who were forbidden from teaching at Lithang Monastery in August.

There is little to believe in the emphasis on the socialist ideology because adapting religion to socialism practically means increased control and restriction over religion under the Party. This will contribute to the gradual hollowing out of Tibetan Buddhism of its basic nature and purpose. The goal is to destroy the centre of Tibetan cultural and national identity and to promote loyalty to the Party and a unified China.

[94] Seminar on the adaptation of Tibetan Buddhism to socialist society in our province
Www.scol.com.cn (2018-10-18 07:04:54) Source: *Sichuan Daily*, available at
<https://sichuan.scol.com.cn/gcdt/201810/56598998.html>

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To adapt religion to socialist ideology, Chinese authorities have in recent years funded research groups to systematically document a report on the socialist interpretation of Tibetan Buddhism. In 2012, the Beijing-based government-funded China Tibetology Research Center published an experimental report on 'Interpretation of the Teachings of Tibetan Buddhism'.^[95] The interpretation was based on patriotic ideology, moral construction, rules and regulation and harmonious progress. The three aspects of patriotism – the protection of country, the loyalty of the country and the idea of serving the country – are interpreted in the teachings of Tibetan Buddhism.

Since 2011, the seminar on the interpretation of Tibetan Buddhism Affairs has been held every year. On 9 November 2018, the annual seminar on the interpretation of the Tibetan Buddhism was concluded at the China Tibetology Research Center. The importance of this seminar was evidenced by the presence of Gyaltzen Norbu, the Chinese appointed Panchen Lama in 2016. The organisers of the seminars are Tibetan Buddhism Academy and the Tibetology Research Center.

In Lhasa, the seminar was held for the third time in July 2017. Organised by the TAR Buddhism Academy and attended by around 500 Tibetologists from all over PRC, the focus of the seminar was making efforts to learn holy teachings, strive to become new generation monks, preciousness of human existence, respect for life.

[95] Interpretation of Tibetan Buddhism, *China Tibetology Research Centre*, June 2012, available at <https://baike.baidu.com/item/%E8%97%8F%E4%BC%A0%E4%BD%9B%E6%95%99%E6%95%99%E4%B9%89%E9%98%90%E9%87%8A>

Freedom of Religion and Belief

On 16 October 2018, a two-day symposium was held to assess the results of the interpretation of teachings of Tibetan Buddhism at Qinghai Tibetan Buddhism Academy. It was co-sponsored by China's Tibetan Buddhism University and Tibetan Buddhism Academy in TAR, Sichuan, Gansu and Qinghai.[96] The objectives of the conference were to adapt Tibetan Buddhism to socialist society and promote a socialist religion with Chinese characteristics. One of the major subjects discussed at the event was how to use Buddhism to serve the Belt and Road initiative and resist separatism. Xiong Kunxin, an ethnic studies professor at Tibet University in Lhasa, was quoted as saying that "Buddhism has a significant role in curbing separatism, religious extremism and terrorism while implementing BRI, because it pursues harmony and opposes violence".



'Promote Sinicization and the Chinese Dream' seminar

[96] Buddhism encouraged to serve BRI, *Global Times*, 17 October 2018, available at <http://www.globaltimes.cn/content/1123430.shtml>

Freedom of Religion and Belief

i) Tibetan Buddhist officials and cadres sent for 3-5 years of re-education workshops

On 10 December 2018, the TAR Party Committee convened a ceremony at the Tibet Socialism Institute to announce the opening of the first mass political re-education workshop for TAR religious personnel and the permanently stationed cadres at monastic institutions. The first workshop that will last for five years requires the participation of all Tibetan Buddhist personnel and officials to study China's policies, legal system, history, contemporary knowledge, and religious knowledge. The second workshop is organised for permanently stationed cadres at monastic institutions or work teams instituted by the TAR UFWD under which the work teams from all counties in TAR will have to attend the three-year workshop.

The work of the permanently stationed cadres at monastic institutions is complemented by the rewards and punishment system that penalises dissent of any kind and rewards cooperation and absolute loyalty to the Party and the government. Since 2012, the TAR Party committee and the government have held annual awards ceremony to commend the "model monasteries, the outstanding monks, management committees, offices and staffs". On 21 December 2018, the TAR commendation ceremony was held to reward the model temples, outstanding monks and nuns, outstanding organizational units and

The first workshop that will last for five years requires the participation of all Tibetan Buddhist personnel and officials to study 'China's policies, legal system, history, contemporary knowledge, and religious knowledge'.

representatives of advanced temple management officers.[97] The ceremony emphasized the importance of re-education workshops for monks and nuns as an important 'measure to actively guide religion and socialist society', which is 'inevitable requirement for adhering to the direction of China's sinicisation of religion'.

[97] Solemnly presided over the convening of the district's "conforms four standards to strive for advanced monks and nuns" education practice activities model temple excellent monks and nun commendation conference, Tibet Autonomous Region People's Government, 22 December 2018, available at http://www.xizang.gov.cn/xwzx/jdxw/201812/t20181222_173244.html

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Chinese officials reported at the ceremony that the re-education workshops had “effectively enhanced the political consciousness of loyalty and support of the people's leaders, the conscious consciousness of safeguarding the unity of the motherland, the conscious consciousness of strengthening national unity, the conscious self-consciousness of cultivating the faculty, and the conscious consciousness of building a harmonious harmony with each other, achieving religious harmony. “Similar awards ceremonies were organised in other provinces such as the 13 December event where the Qinghai provincial government and Qinghai UFWD awarded 20 harmonious monasteries, 40 outstanding monks and 12 monastic management committee of various counties.[98] The UFWD also selected ‘ten star monasteries’, ‘civilized monasteries’ and ‘five best monasteries’. 20 districts of Tibetan Buddhism Harmony Temple, 40 outstanding monks and nuns and 12 Tibetan Buddhist temples have been commended for their special assessments.

j) Chinese statistics on religious freedom

The PRC claims there are 1700 places for religious activities and 46000 resident monks and nuns in TAR to prove that religious freedom is thriving in Tibet. But there are many monastic institutions that have witnessed a steep fall in their population particularly since 2008. For example, in the three most popular monasteries of Drepung, Sera and Ganden in Lhasa, the total number of monks is 1,000. At its peak before Chinese invasion, they used to enroll 20,000 monks.

While the number of monastic population has been steadily dwindling, the TAR's total number of Party members in 2017 was 364,000, a net increase of 18,000 over the previous year.[99] It includes 179,000 farmers and nomads, in addition to 73,000 Party and government organs. The number of grassroots Party organizations was more than 19,000, an increase of more than 2,600 over the previous year. Among them, more than 1500 are grassroots Party committees.

[98] 40 outstanding monks of the Tibetan Buddhist Harmony Temple in Qinghai were commended, *China News Service*, 14 December 2018, available at

<http://www.qh.chinanews.com/sh/news/2018/1214/61589.html>

[99] 2017 Statistical Bulletin of the Communist Party of China, Tibet Autonomous Region Party, Organization Department of the CPC Tibet Autonomous Regional Committee, 2018/07/04

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TAR's 12 city streets, 685 towns, 214 neighborhood, 5264 administrative villages have also formed party organizations. Party organs have been established in more than 1,700 institutions, accounting for 99.2% of the total number of institutions in TAR. More than 470 large-scale non-public enterprises have established party organizations, representing 100% of the total number of non-public enterprises above designated size. Party organizations have been established in more than 320 social organizations, accounting for 88.4% of the total social organizations in TAR.

In April 2018, in a white paper titled "China's Policies and Practices on Protecting Freedom of Religious Belief" issued by the State Council Information Office, the Chinese authorities noted the improvement of religious education system by establishing 91 religious schools, six national level religious colleges, and more than 10,000 students study in these religious schools whose graduates total more than 47,000.

The increase in the number of government-monitored and funded religious schools and colleges coincides with the intensification of the 'thought control' political re-education campaign. Students at these institutions are taught 'patriotic education' and Chinese policies more than religious studies. Chinese authorities promote these institutions to undermine the traditional Tibetan monastic education system and a means to control the monastic population. Religious freedom can only be improved, not by building re-education facilities, but by providing the rights necessary to exercise it and creating an enabling environment in the Tibetan monastic institutions.

Right to Education and Language

The right to education is ‘both a human right in itself and an indispensable means of realizing other human rights’.[100] It is guaranteed in numerous international conventions and covenants including the ICCPR, International Covenant on Economic, Social, and Cultural Rights (ICESCR), Convention on the Rights of the Child (CRC), International Convention on the Elimination of Racial Discrimination (ICERD) and International Convention on the Elimination of Discrimination Against Women (CEDAW).

In particular, the CRC recognizes the importance of education in preserving a child’s cultural identity, language and values. Article 29(c) of the CRC states that: “States Parties agree that the education of the child shall be directed to: ... The development of respect for the child’s parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own.”

Article 30 of the CRC, which is identical to Article 27 of the International Covenant on Civil and Political Rights (ICCPR) states: “In those States in which ethnic, religious, or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language.”

The substantive articles in both of the CRC and the ICCPR are fundamental parts of the human rights system and binding on the PRC as part of customary international law.

[100] General Comment No. 13: The right to education (article 13) (Adopted by the Committee on Economic, Social and Cultural Rights at the Twenty-first Session, E/C.12/1999/10, 8 December 1999), available at [https://www.ohchr.org/EN/Issues/Education/Training/Compilation/Pages/d\)GeneralCommentN013TheRighttoEducation\(article13\)\(1999\).aspx](https://www.ohchr.org/EN/Issues/Education/Training/Compilation/Pages/d)GeneralCommentN013TheRighttoEducation(article13)(1999).aspx)

Right to Education and Language

The PRC is a State party to the CRC.[101] Thus, the CRC is legally binding on the PRC. Also as a signatory to the ICCPR, the PRC is required not to defeat the object and purpose of the ICCPR.[102] The substantive articles in both of the CRC and the ICCPR are fundamental parts of the human rights system and binding on the PRC as part of customary international law.

The right to education is underpinned by the fundamental principles of non-discrimination and equality. The application of the right to equality without discrimination in education is particularly crucial in the use of a minority language in education.[103]

Although the PRC's National Human Rights Action Plan (2016-2020) states that the right of ethnic minorities to learn, use, and develop their own spoken and written languages shall be respected and guaranteed,[104] this is not reflected by practice on the ground. Moreover, the PRC's National Plan for Medium and Long-term Education Reform and Development (2010-2020) aims to reorient its education towards prioritizing "moral education", a euphemism for "patriotic education".[105]

[101] University of Minnesota, Human Rights Library, "Ratification of Human Rights Treaties – China." <http://www1.umn.edu/humanrts/research/ratification-china.html>.

[102] Vienna Convention on the Law of Treaties, Article 18(a): "A State is obliged to refrain from acts which would defeat the object and purpose of a treaty when: (a) it has signed the treaty or exchanged instruments constituting the treaty subject to ratification, acceptance or approval..."

[103] Language Rights of Linguistic Minorities: A Practical Guide for Implementation, UN Special Rapporteur on minority issues, March 2017, available at https://www.ohchr.org/Documents/Issues/Minorities/SR/LanguageRightsLinguisticMinorities_EN.pdf

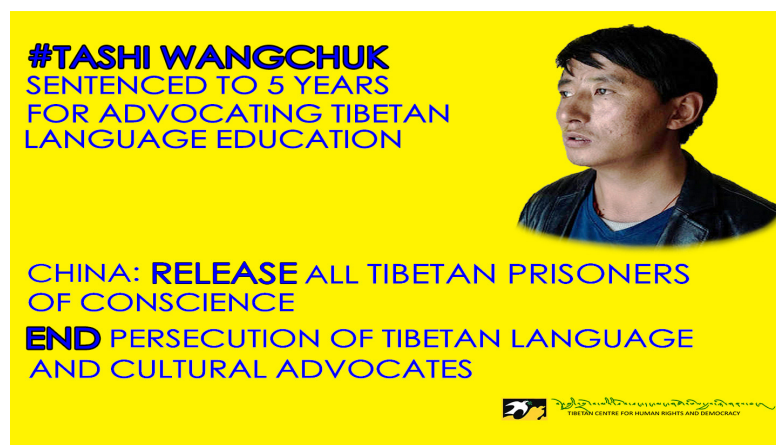
[104] Full text: National Human Rights Action Plan of China (2016-2020), Xinhua, 29 September 2016, available at http://english.gov.cn/archive/publications/2016/09/29/content_281475454482622.htm

[105] Outline of China's National Plan for Medium and Long-term Education Reform and Development (2010-2020), s4, para 4. (2010), Available at

Right to Education and Language

It states that the primary goal of “moral education” is to “fortify students’ faith and confidence in the Party’s leadership and the socialist system.”[106] In theory, Tibetans’ right to govern their own educational and cultural affairs is protected under Chapter 3, Section 6, Article 119 of the PRC’s constitution and article 12 of the Chinese Education law of 1995, which encourages the use of minority languages in schools. In practice, these rights do not exist.

In breach of its international legal obligations, the PRC’s long-running policy and practice of discrimination and hostility against Tibetan language education intensified in 2018. The sentencing of Tibetan language activist Tashi



Wangchuk to five years on 22 May showed that Chinese authorities have no qualms about criminalizing peaceful advocacy of Tibetan language and culture. [107] Condemning the verdict, a group of six UN human rights experts called for Wangchuk’s release and reiterated their call to China to “provide information about specific measures undertaken to promote and protect the linguistic and cultural rights” of the Tibetans.[108]

[106] Outline of China’s National Plan for Medium and Long-term Education Reform and Development

(2010-2020), s4, para 4. (2010), Available at

https://internationaleducation.gov.au/News/newsarchive/2010/Documents/China_Education_Reform_pdf.pdf

[107] Tibetan language rights advocate Tashi Wangchuk sentenced to five years in prison,

International Campaign for Tibet, 22 May 2018, available at <https://www.savetibet.org/tibetan-language-rights-advocate-tashi-wangchuk-sentenced-to-five-years-in-prison/>

[108] China: UN human rights experts condemn 5-year jail term for Tibetan activist, OHCHR, 6 June 2018, available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23176>

NewsID=23176

Right to Education and Language

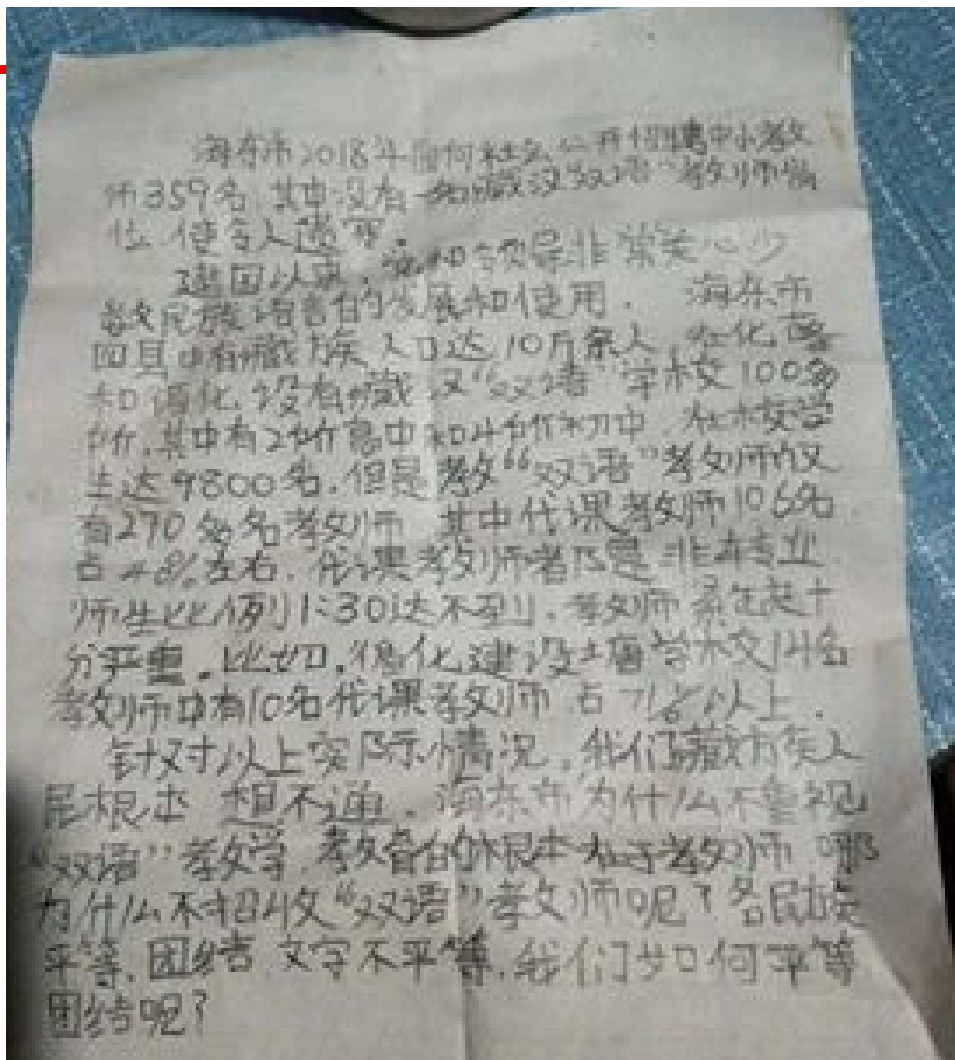
Wangchuk's concerns about the lack of qualified bilingual (Tibetan and Chinese) teachers [109] were reiterated by Tibetan students in Tsoshar (Ch: Haidong) Prefecture in an appeal submitted to local Chinese authorities.[110] The letter that surfaced on social media platforms in late May 2018 bemoaned the dismal state of Tibetan language education and educational standards in schools and called for the recruitment of more qualified bilingual teachers. Handwritten in Chinese, the letter raised important issues related to the persistent neglect of Tibetan-medium education, which along with the shoddy implementation of the bilingual education policy were responsible for the overall deterioration of the educational standards of Tibetan children. It clearly showed that the failure of the current model of bilingual education system is endemic across Tibetan areas located in Qinghai Province. This is a frightening prospect given that the Tibetan areas of Qinghai were known for their high level and standard of Tibetan language education compared to Tibetan areas located in other provinces and TAR.

[109] China: Drop Charges Against Tibetan Education Activist, Human Rights Watch, 15 January 2017, available at <https://www.hrw.org/news/2017/01/15/china-drop-charges-against-tibetan-education-activist>

[110] Tibetan Students in Qinghai Appeal in Letter For Teaching in Tibetan, Radio Free Asia, 1 June 2018, available at <https://www.rfa.org/english/news/tibet/students-06012018150420.html>

LETTER ON BILINGUAL EDUCATION SUBMITTED BY TIBETAN STUDENTS IN TSOSHAR

In 2018, out of 359 teachers recruited for primary and secondary schools in Tsoshar Prefecture, there is not a single one who is proficient in both Tibetan and Chinese. This is highly disappointing. Since the founding of the nation, the party and its leaders have expressed great concern for the use and development of languages of minority nationalities. In the four counties of Tsoshar, the total Tibetan population is about 100,000. In Xunhua [Tib: Yadzi] County and Hualong [Tib: Bayan Khar] County, there are 100 bilingual schools, of which two are senior secondary schools and four are junior secondary schools. In these schools, there are 9800 students and only about 270 bilingual teachers, 106 of which are substitute teachers. This means that substitute teachers form almost 40% of the total teacher population. Substitute teachers are not qualified teachers. For instance, at the Jianshe Tang school in Hualong, there are 14 teachers, 10 of which are substitute teachers, which is about 71 percent. As teachers are the foundation of education, why has the people's government not recruited qualified bilingual teachers? Much as we talk about the necessity of ethnic equality and unity, without equality of languages, how can we ensure equality and unity?



Tsolho Tibetan Student petition in Chinese language

The systematic attempts to undermine Tibetan cultural and religious education, as previously discussed in the section on freedom of religion and belief, including the expulsion of monks under the age of 15 from monastic institutions and their forcible enrollment in state schools, violate the rights of a child to receive an education rooted in his or her own language, culture and values, as guaranteed in the CRC. Since Tibetan language is intricately linked to Tibetan religion, denying Tibetan children access to religious education or religious activities results in violation of cultural rights. [111]

Monks below the age of 15 have been forced to enroll in government schools in a countywide crackdown. A notice issued on 25 December 2018 by Chinese government and party authorities in Nangchen (Ch: Nangqian) County in Yulshul TAP provides detailed evidence of the intensified attacks on Tibetan language education in monastic institutions.[112]

[111] The right to culture is provided in Articles 27 of the UDHR and ICCPR; Articles 1 of ICCPR and ICESCR ('freely pursue their cultural development'); and Article 15 of ICESCR (the right to take part in cultural life).

[112] China: Tibetan Children Banned from Classes, *Human Rights Watch*, January 30, 2019, available at <https://www.hrw.org/news/2019/01/30/china-tibetan-children-banned-classes>

Right to Education and Language

As the PRC accelerates its assimilationist campaign in the Tibetan school system, it is the monastic institutions and other community-run schools that are increasingly targeted for harassment and closure.[113] Since Tibetan Buddhism has played an integral role in the education of young Tibetans, Chinese authorities have always pursued policies that undermine Tibetan religious and cultural education, such as closing religious education facilities and imposing stringent quotas on the number of students allowed in monastic schools.

While the PRC's 'compulsory school education'[114] system is aimed at increasing educational access in Tibetan areas, it has also served as a tool of forced cultural and linguistic assimilation wherein all alternative and traditional forms of education are discouraged and criminalised. In July 2018, local Chinese authorities referred to the PRC's 'compulsory education law'[115] to justify the forcible expulsion of 200 monks under 15 from Sershul Monastery in Dzachukha in Sershul (Ch: Shiqu) County in Kardze Tibetan Autonomous Prefecture.[116] Around the same time in Lhasa, Chinese school authorities cited the 'compulsory education law' to provide a "legal basis" for the implementation of a regulation banning Tibetan children from participating in religious activities during summer vacation.[117]

With the explicit criminalization of 'mother tongue education' and education used as a tool of assimilation and indoctrination, there is little room left for local initiatives to protect and promote Tibetan language education without the fear of persecution and retaliation.

[113] Tibetan school forcibly closed, teachers arrested, *TCHRD*, 19 April 2012, available at <http://tchrd.org/tibetan-school-forcibly-closed-teachers-arrested/>

[114] Compulsory Education Law of the People's Republic of China (2006), available at http://www.npc.gov.cn/englishnpc/Law/2007-12/12/content_1383936.htm

[115] Tibetan county sends underage monks back to public schools, *Global Times*, 12 July 2018, available at <http://www.globaltimes.cn/content/1110564.shtml>

[116] Young Tibetan Monks Must Leave Their Monasteries, 'Serve Society', *Radio Free Asia*, 23 July 2018, available at <https://www.rfa.org/english/news/tibet/leave-07232018164231.html>

[117] Tibet underage students banned from religious activities in accordance with law, *Global Times*, 23 July 2018, available at <http://www.globaltimes.cn/content/1112052.shtml>

Right to Education and Language

Criminalizing Advocacy of Mother Tongue Education

- Comprehensive and strict investigations must be conducted against monasteries gathering primary and secondary school students in the name of organising extra classes or Tibetan language classes.

[Paragraph 2, Sentence 2 of Notice issued by the Nangchen County Party Committee United Front Department on 25 December 2018.]

- Underworld forces with close relations and interconnections to all kinds of illegal organizations, instilling reactionary ideology and narrow nationalism in the masses, such as the “Middle Way” and “protecting the mother tongue”.

[Article 4 of the Notice issued by the Tibet Autonomous Region Public Security Department on Reporting Leads on Crimes and violations by Underworld Forces on 7 February 2018]

- Engaging in separatism; organising or inciting illegal activities such as self-immolation; harming ethnic unity and endangering state security in the name of practicing traditional activities such as ‘environment protection’ and ‘safeguarding mother tongue’

[Article 10 of the joint notice issued by Malho Intermediate People’s Court and Malho People’s Procuratorate

- In the name of ‘cultural preservation’, ‘safeguarding mother tongue’ and ‘ecological preservation’, one must not incite disputes between different doctrines; extort money by organizing illegal religious activities; interfere with the state’s excellent education [system] and development [projects].

[Article 12 of the notice issued in Tsolho (Ch: Hainan) Tibetan Autonomous Prefecture issued on 8 February 2018]

中共襄謙县委统战部文件

Numbered header text in Chinese characters.

Notice title in Chinese characters.

Main body of the notice on the left page, containing several paragraphs of text.

Main body of the notice on the right page, containing several paragraphs of text.



Signature and date information at the bottom of the right page.

Notice issued by the Nangchen County Party Committee United Front Department

Right to Adequate Standard of Living

The right to an adequate standard of living requires that everyone shall have the necessary conditions for subsistence, including but not limited to adequate food and nutrition, water, health and housing. The right to an adequate standard of living is contained in Article 25 (1) of the UDHR, Article 11(1) of the ICESCR, Articles 5(e)(iii) and 7 of the CERD, Article 14(2)(h) of the CEDAW, and Articles 24(2)(c) and 27 of CRC. Together, these international legal standards require states to take appropriate measures, without discrimination of any kind, to provide adequate supply of nutritious food; access to clean drinking water and water for personal and domestic uses; affordable housing with certain degree of tenure security, and the right to safe, clean, healthy and sustainable environment.

The PRC's top-down development policy with its primary focus on expanding industrialisation, urbanisation, and mining has contributed to the steady disempowerment of local Tibetans from exercising their economic, social and cultural rights. In the name of alleviating poverty and protecting the environment, the PRC continues to enforce policies that are producing forced evictions and mass displacement of the Tibetan population. The collective economic and social rights of Tibetan nomads and farmers, specifically their rights to food security, land tenure, and access to a sustainable traditional livelihood, are all compromised by their being made to leave their land. As relocation is a major means used by the Chinese government to ostensibly end extreme poverty in Tibetan areas,[118] more Tibetans are losing access to their ancestral land, the primary condition for them to achieve an adequate standard of living.[119]

The UN Special Rapporteur on the Right to Food in his 2010 report on his mission to China had warned about the consequences of nomad resettlement and said that the nomads should not be left with no option but to sell their herd and resettle as a result of the measures adopted under the 'retire livestock and restore grassland' policy (Ch: tuimu huancao) [120].

[118] China to lift 10 million people out of poverty in 2019, CGTN.com, available at https://news.cgtn.com/news/3d3d414f79516a4e31457a6333566d54/share_p.htmls

[119] Tibet's poverty alleviation: New life on the 'roof of the world', CGTN.com, 3 September 2018, available at https://news.cgtn.com/news/3d3d414e7a51544f79457a6333566d54/share_p.html

[120] "Report of the Special Rapporteur on the right to food, Olivier De Schutter." January 20, 2012. Available at: http://www.srfood.org/images/stories/pdf/officialreports/20120306_china_en.pdf

Right to Adequate Standard of Living

Tibetan peoples' access to, and control over, plant and animal genetic resources such as seeds traditionally cultivated by local communities and community knowledge passed down over many generations, are in jeopardy.

Evidence generally suggests that eviction from traditional farm- and rangelands exposes the displaced to the risks of landlessness, joblessness, homelessness, marginalization, food insecurity, increased morbidity and mortality, loss of access to common resources and social disintegration.[121] Depopulated Tibetan production landscapes are now open for use and exploitation by Chinese government and private companies. Mining companies and damming operations have replaced pastures in many areas, leading to environmental degradation.

A number of failed development projects and unsustainable land use have increased landlessness and poverty especially in the rural areas where the bulk of Tibetan population resides. In May 2018, frustrated by futile attempts at petitioning, about 60 Tibetan nomad families protested the expropriation of their grazing land in Lhadul village in Markyang Township in Nyemo County, TAR.[122] The nomads were demanding the restoration of their grazing rights on the land previously

Mining companies and damming operations have replaced pastures in many areas, leading to environmental degradation.

seized by local authorities to launch a farming enterprise that failed to produce any results. The grazing ban had caused the death of thousands of sheep and goats pushing the nomads into poverty.

[121] Cernea, Michael M. (2000), 'Risks, Safeguards and Reconstruction A Model for Population Displacement and Resettlement'. *Economic and Political Weekly* 35: 3659-3678, Oct. 7-13, 2000
Ben Hillman, "The Causes and Consequences of Rapid Urbanisation in an Ethnically Diverse Region: Case study of a county town in Yunnan," *China Perspectives* No. 2013/3, 2013, available at: <http://www.cefc.com.hk/issue/china-perspectives-2013-3/>.

[122] Tibetan Nomads Appeal For Return of Land Seized For Tourist Project, *Radio Free Asia*, 14 May 2018, available at <https://www.rfa.org/english/news/tibet/appeal-05142018153133.html>

Right to Adequate Standard of Living

On 13 October 2018, local Tibetan nomads launched a sit-in protest outside the Nyinpa (Ch: Niba) Township office in Chone (Ch: Zuoni) County, Kanlho (Ch: Gannan) Tibetan Autonomous Prefecture.[123] Since 2015, township officials had not paid compensation to 100 families that were ordered to either reduce or sell their livestock under the policy of tuimu huancao.[124] The non-payment of the compensation money and the control over livestock numbers has had adverse impacts on local livelihoods. At the time information about the protest became public, the protesters had spent several days sitting outside the township government office without getting any response to their demands. Their current condition remains unknown.

Even as land tenure is rapidly being restored in the forestlands of PRC, it is being taken away in the grasslands.[125] About 70 percent of the Tibetan Plateau is made up of grassland, vast tracts of production landscape closely linked to Tibetan livelihood and culture. [126] Not only are Tibetans losing their land security at a time when forest dwellers are gaining it, they gain nothing from the miners who move in. Moreover, the role of the state as the sole legal owner of rural land compounds the problem.

Since 2015, township officials had not paid compensation to 100 families that were ordered to either reduce or sell their livestock under the policy of tuimu huancao

[123] Tibetans in Gansu Protest Lack of Compensation for Livestock Loss, *Radio Free Asia*, 18 October 2018, available at <https://www.rfa.org/english/news/tibet/livestock-10182018150050.html>

[124] Emily Yeh. Restoring the grasslands? *China Dialogue*, 26 January 2010, available at <https://www.chinadialogue.net/article/show/single/en/3470-restoring-the-grasslands->

[125] Forest Tenure Reform in China: Results and Lessons from The Eu-Sfa-Fao China Forest Tenure Project, UN Food & Agriculture Organisation, 2013, <http://www.fao.org/docrep/018/mi285e/mi285e.pdf>

[126] Tenzin Norbu. A Culture Endangered: Depopulating the Grasslands of the Tibetan Plateau, Central Tibetan Administration, 13 July 2012, available at <https://tibet.net/2012/07/a-culture-endangered-depopulating-the-grasslands-of-the-tibetan-plateau/>

Right to Adequate Standard of Living

In October 2018, residents of nine villages in resource-rich Gonjo County in Chamdo (Ch: Changdu) Prefecture, TAR, were ordered to relocate to the distant towns of Meldro Gongkar (1,295 km away) and Toelung Dechen (1,379 km) in Lhasa municipality and Lhoka (1,369 km) Prefecture.[127] It is the latest in the series of relocation programs implemented in Gonjo County. Although the relocation is ostensibly done in the name of poverty alleviation, residents believe that their land will be used for mining or other infrastructure to support mining activities such as hydropower projects. In a seeming concession, the villagers would be allowed to harvest caterpillar fungus for the next 20 years. But this does not amount to much when scientists have warned that the demise of the fungus is certain and near, from overexploitation and climate change.[128]

Although Chinese authorities claim that all resettlement and relocation programs are voluntary, it is impossible for local Tibetans to refuse to comply.[129] There is no opportunity for local Tibetans to contribute their expertise to policy development or to be consulted on implementation, or to raise concerns through any formal channels. Peaceful protest is met with harsh sanctions.

A local Tibetan activist named A-nya Sengdra, 47, has been in arbitrary detention since September 2018 for exposing local authorities responsible for siphoning off the housing subsidies and other benefits meant for relocated nomads in Gade (Ch: Gande) County, Golok (Ch: Guoluo) Tibetan Autonomous Prefecture.[130] Hundreds of local Tibetans have not been paid relocation compensation, housing and other subsidies after they were made to relocate or fence off their pastures to support the tuimu huancao policy.

[127] Tibetan Villagers Forced From Their Homes in Chamdo's Gonjo County, *Radio Free Asia*, 1 October 2018, available at <https://www.rfa.org/english/news/tibet/villagers-10012018151232.html>

[128] Kelly A. Hopping, Stephen M. Chignell, and Eric F. Lambin. The demise of caterpillar fungus in the Himalayan region due to climate change and overharvesting, *Proceedings of the National Academy of Sciences* Nov 2018, 115 (45) 11489-11494; DOI: 10.1073/pnas.1811591115

[129] Tsering Bum (2018) Translating ecological migration policy: a conjunctural analysis of Tibetan pastoralist resettlement in China, *Critical Asian Studies*, 50:4, 518-536, DOI: 10.1080/14672715.2018.1515028

[130] China detains Tibetan anti-corruption activist on politicised charge of 'provoking trouble', TCHRD, 20 December 2018, available at <http://tchrd.org/china-detains-tibetan-anti-corruption-activist-on-politicised-charge-of-provoking-trouble/>

Right to Adequate Standard of Living

Instead of investigating the corrupt government and party officials responsible for impoverishing the nomads, A-nya Sengdra was arrested on baseless charges of ‘picking quarrels and provoking trouble’ and ordered to remain in pretrial detention until 12 January 2019.

The human right to safe, accessible, affordable and clean drinking water and sanitation is essential to the realisation of all human rights^[131] and indispensable for leading a life in human dignity.^[132] In Tibet, access to clean and adequate drinking water and sanitation is being compromised by mining, hydroelectric power projects,^[133] water diversion projects^[134], and glacial water bottling^[135] in Tibet. With the PRC’s 13th Five-Year Plan (2016-2020) unleashing large-scale projects to exploit Tibet’s hydropower resources, more and more Tibetans are being relocated or deprived of an adequate water supply to make way for dams and water diversion projects. Despite warnings from some Chinese officials that water diversion projects could aggravate ecological problems and sustainability issues,^[136] Chinese authorities in November 2018 announced a project to divert water from a local river in Sertsang (Ch: Shenzang) Township in Chone (Ch: Zhouni) County in Kanlho TAP to Shintsang Township and Batse (Ch: Lintan) County despite protests from local Tibetans that it threatens their drinking water sources.^[137] A large number of security forces were deployed in the area and local Tibetans were warned of arrest if they continued to protest. On 12 November, security forces beat and detained some protesters although it is not known how many were injured or detained.

[131] Resolution A/RES/64/292. United Nations General Assembly, July 2010

[132] General Comment No. 15. The right to water. UN Committee on Economic, Social and Cultural Rights, November 2002

[133] Beth Walker. China’s shift from coal to hydro comes at a heavy price, *The Third Pole*, 28 July 2018, available at <https://www.thethirdpole.net/en/2015/07/28/chinas-shift-from-coal-to-hydro-comes-at-a-heavy-price/>

[134] Gabriele Lafitte. “Dropping Tibet, Fighting Gravity”, 23 May 2016, Rukor blog, <http://rukor.org/dropping-tibet-fighting-gravity/>

[135] Liu Hongqiao. “China’s bottled water industry eyes up the Tibetan plateau.” *The Guardian*. November 16, 2015. Available at: <https://www.theguardian.com/sustainable-business/2015/nov/16/chinas-bottled-water-industry-eyes-up-the-tibetan-plateau>

[136] Wang Yue, South-North water transfer project not sustainable, says Chinese official, *China Dialogue*, 20 February 2014, available at <https://www.chinadialogue.net/blog/6737-South-North-water-transfer-project-not-sustainable-says-Chinese-official/en>

[137] Tibetans protest diversion of drinking water Zhuoni County, *Boxun.com*, 13 November 2018, available at <https://www.boxun.com/news/gb/china/2018/11/201811131912.shtml>

Right to Adequate Standard of Living

ONLINE PETITION LAUNCHED BY SERTSANG TOWNSHIP RESIDENTS [138]

“Have the authorities considered what will happen to those living in our township, and to our cattle, if our water is diverted to another township and county?”

“What is the reason for the diversion? Have they finished all the drinking water in their own township and county?”

“Why can’t we have the right to protect the water that belongs to our area?”

“What secrets lie behind this decision that cannot be disclosed?”

[138] Tibetan Residents of Gansu Protest Water Diversion Scheme, Radio Free Asia, 12 November 2018, available at <https://www.rfa.org/english/news/tibet/water-11122018160255.html>

Right to Adequate Standard of Living

The huge spike in water diversion projects threatens drinking water sources for farming and nomadic communities and has become a major source of conflict. In Bayan Khar Hui Autonomous County, Tsoshar Prefecture, water diversion has caused much distress and hardship to local Tibetan farmers as well as discord between different communities living there. In September 2018, official Chinese media reported that a group of 13 Tibetans had been put on trial at the Gonlung (Ch: Huzhu) County court for “stoning and violently assaulting police officers” and “obstructing officials from performing their duties”.^[139] The defendants had been detained on 1 June 2017 for resisting the diversion of the local river, which was the only source of water for Tibetan farmers living in the villages of Shardha (Ch: Xiangta), Lakha (Ch: Laka), and Goyog (Ch: Gaoyue) in Takstang (Ch: Shidakang) Township. The verdict of the two-day trial remains unknown. In breach of international standards and domestic legal provisions, the defendants had been kept in pretrial detention for more than a year and their trial was not held in Hualong County, where the alleged crime occurred. The official report did not mention the beatings and tear gas used by the paramilitary police on protesting villagers. Eyewitness accounts of the incident had reported the violent suppression of the villagers’ protest in which about 40 Tibetans were injured and at least seven had to be taken for emergency treatment.^[140] Some were detained. Among the detained were two Tibetan village leaders. This was followed by widespread restrictions on movement and communication for local Tibetans whose vehicles, motorcycles and mobile phones were confiscated.

[139] The trial of “6.1 case of violent attack on police” in Hualong County opens at Huzhu County Court. Qinghai High Court, 6 September 2018, available at <https://mp.weixin.qq.com/s/fUYfBZtbgvX5xqiGa-iinQ>

[140] Fight breaks out in connection with river water diversion in Hualong County, Qinghai Province; armed police violently beat and detain Tibetans [Chinese language], *Boxun*, 3 June 2017, available at <https://www.boxun.com/news/gb/china/2017/06/201706030556.shtml>



On 10 July 2018, less than two months before the trial in Huzhu County, Chinese authorities had deployed a large number of security forces including police and intelligence officers to divert water from the Chakchu river, which would cause water scarcity for farmers living in Traseng, Dro, Gonpo Gyu, Achok and Adhey villages in Chumar (Ch: Quma) Township.[141] Video footage showed bulldozers digging up villagers' farmland as uniformed security forces stood guard under a huge red banner emblazoned with a slogan in Chinese read: 'Manage water resources in accordance with law, assist the administration in accordance with law', a veiled warning that any resistance would be severely punished 'in accordance with law'. There was no public consultation or assessment done to take into consideration the environmental and livelihood costs.

[141] China deploys security forces to prevent Tibetans from protesting water diversion project, 20 July 2018, available at <http://tchrd.org/china-deploys-security-forces-to-prevent-tibetans-from-protesting-water-diversion-project/>

Right to a Healthy Environment

A safe, clean, healthy and sustainable environment is essential to the full enjoyment of a wide range of human rights including the rights to life, health, food, water and development. The right to a healthy environment has gained widespread recognition around the world as is evidenced by the number of countries that have incorporated it into their constitutions and environmental legislation as well as regional human rights agreements and regional environmental treaties.[142] Further cementing the intrinsic links between human rights and the environment,[143] the UN Special Rapporteur on human rights and the environment in July 2018 called on the UN General Assembly to formally recognize the right to a healthy environment as a human right, stating that the recognition of this right in a global human rights instrument “would raise awareness of and reinforce the understanding that human rights norms require protection of the environment and that environmental protection depends on the exercise of human rights”.[144] In addition, it would highlight the importance of according the same level of importance to environmental

protection “as other interests that are fundamental to human dignity, equality and freedom”.[145] Despite worldwide recognition, the key UN human rights instruments such as the UDHR, ICCPR and ICESCR do not include an explicit right to a healthy environment.[146]

Despite worldwide recognition, the key UN human rights instruments such as the UDHR, ICCPR and ICESCR do not include an explicit right to a healthy environment.

[142] Latin American countries sign legally binding pact to protect land defenders, *The Guardian*, 5 March 2018, available at <https://www.theguardian.com/environment/2018/mar/05/latin-american-countries-sign-legally-binding-pact-to-protect-land-defenders>

[143] Human Rights and the Environment, OHCHR, <https://www.ohchr.org/EN/Issues/Environment/HREnvironment/Pages/HRandEnvironmentIndex.aspx>

[144] Human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, 73rd Session, General Assembly, 19 July 2018, A/73/188.

[144] A/73/188.

[146] A/73/188.

Right to a Healthy Environment

In the Framework Principles on Human Rights and the Environment ('framework principles') presented to the Human Rights Council in January 2018, the Special Rapporteur underscored the importance of specific procedural obligations, such as "the duty of States to respect and protect the rights to freedom of expression, association and peaceful assembly in relation to environmental matters, provide for environmental education and public awareness, provide public access to environmental information, require the prior assessment of the possible environmental and human rights impacts of proposed projects and policies, provide for and facilitate public participation in decision-making related to the environment and provide for access to effective remedies for violations of human rights and domestic laws relating to the environment."^[147] Furthermore, the framework principles highlight the obligations of States to: "(a) recognize and protect the rights of indigenous peoples and traditional communities to the lands, territories and resources that they have traditionally owned, occupied or used; (b) consult with them and obtain their free, prior and informed consent before relocating them or taking or approving any other measures that may affect their lands, territories or resources; (c) respect and protect their traditional knowledge and practices in relation to the conservation and sustainable use of their lands, territories and resources; and (d) ensure that they fairly and equitably share the benefits from activities relating to their lands, territories or resources."^[148] While the framework principles and corresponding commentary set out basic obligations of States in the protection of environment, they do not create new obligations, because they invoke existing human rights obligations in the environmental context.

The obligation of States under human rights law as they relate to the enjoyment of a healthy environment is of paramount importance, especially in places such as Tibet where the PRC's authoritarian governance system makes it impossible for Tibetans to exercise basic human rights.

[147] Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, 37th session, Human Rights Council, 24 January 2018, A/HRC/37/59.

[148] A/HRC/37/59.

Right to a Healthy Environment

As the PRC projects itself as the champion of climate change mitigation,[149] environmentalists are turning a blind eye to the travails of displaced Tibetan nomads and farmers who are forced to leave their ancestral lands and reduce their livestock in the name of carbon capture and watershed protection.[150] As the Tibetan Plateau suffers from the irreversible impacts of climate change,[151] the PRC is resorting to the counterproductive policy of removing the traditional guardians of Tibet's environment and destroying centuries of received wisdom in environmental protection strategy. China's conservation efforts unnecessarily sideline and sedentarise the nomads who could be working on their land to fix degradation and watershed protection. The propaganda success of PRC's climate change narratives in Tibet has led to plans to turn Tibetan grasslands into tradable commodities through carbon trading.[152]

While the Chinese authorities agree that the ecosystem of the Tibetan Plateau is highly susceptible to climate change, the solution they have adopted to reverse the situation is driven mainly by political and economic factors rather than any genuine concern for the general health and wellbeing of the Tibetan people or to fulfill the obligation to respect and protect the human right to a healthy environment. Ignoring the fact that Tibetan nomads are bearing the brunt of climate change in the form of degraded pastures, melting glaciers and increased desertification, Chinese authorities blame the nomads for damaging the grassland through overgrazing and threatening the watershed protection area. The primary value and usefulness of Tibetan land for the PRC is its abundant water and mineral resources that serves the contradictory needs of the world's biggest emitter of greenhouse gases: to fuel its rapid economic growth and to improve its climate credentials.

[149] Patricia Adams, China was the climate champion of Paris. Now it's doing a complete U-turn, *The Financial Post*, 12 December 2018, available at <https://business.financialpost.com/opinion/china-was-the-climate-champion-of-paris-now-its-doing-a-complete-u-turn>

[150] Gabriel Lafitte. Wasted Lives: A Critical Analysis of China's Campaign to End Tibetan Pastoral Lifeways, *TCHRD*, 30 May 2015, available at <http://tchrd.org/wasted-lives-new-report-offer-fresh-insights-on-travails-of-tibetan-nomads/>

[151] Global warming could destroy Tibetan economy, *Yale Environment Review*, 2 January 2018, available at <https://environment-review.yale.edu/global-warming-could-destroy-tibetan-economy>

[152] Gabriel Lafitte. Katowice, climate, Tibet, rukor.org, 18 December 2018, available at

Right to a Healthy Environment

In December 2018, Chinese government claimed that it had devised “a solution with a combination of grassland construction, ecological protection and poverty alleviation.”[153] In practice, it has proved to be a vicious circle in which Tibetans are deprived of their sources of livelihood to protect the grassland and the environment. In the process, they are paid inadequate compensation, sometimes none at all, to alleviate the poverty former herders and farmers suffer once their land is taken away and their livestock holdings reduced or sold off and they find themselves leading an impoverished life on the margins of the new and upcoming urban enclaves populated by Chinese migrants. This vicious circle ensures a win-win situation for Chinese authorities and the losers are Tibetans.

More scholars are now questioning the efficacy of the PRC’s grassland policy of removing nomads to grow more grass (tuimu huancao) as it becomes apparent that there are other political, economic and social factors that determine the environmental policy of promoting ‘grassland construction’ and ‘ecological protection’.[154]A recent case study by Dr Yonten Nyima of Sichuan University found that for over two decades in TAR, Chinese authorities had issued inherently contrasting statistics and statements about the scale and extent of grassland degradation that were influenced by political-economic factors rather than any objective assessment.[155] With a land area of over 1.2 million km², the TAR has the largest grassland area in PRC, accounting for 25% of PRC’s usable grassland area.

The TAR has the largest grassland area in PRC, accounting for 25% of PRC’s usable grassland area.

[153] QinghaiTibet Plateau adopts measures to address climate change, *China Daily*, 10 December 2018, available at

<http://www.chinadaily.com.cn/a/201812/10/WS5c0dfcf1a310eff303290185.html>

[154] Dismantling Assumptions About Grassland Degradation On The Tibetan Plateau Sept. 26, 2018

by Kelly Hopping & Emily Yeh, University of Colorado, available at

<https://www.colorado.edu/geography/2018/09/26/dismantling-assumptions-about-grassland-degradation-tibetan-plateau>

[155] Yonten Nyima. Political-economic factors in official reports on rangeland degradation: A critical case study from the Tibet Autonomous Region, Area - Wiley Online Library, Volume 51, Issue 1, 2 April 2018, available at

Right to a Healthy Environment

Of the 2.5 million km² of Tibetan Plateau that consists of TAR and other Tibetan areas located outside TAR, more than two-thirds is made up of grassland.[156] In 2017, Chinese state media, citing the TAR agriculture department, reported that grazing ban had been effective on 8.6 million hectares of grassland, about 10 percent of TAR's total grassland area.[157] The number of livestock had also dwindled from 23 million in 2010 to 18 million.[158]

In July 2018, in its white paper on the state of environment in TAR, Chinese authorities claimed that “[t]he Communist Party of China and the Chinese government have made ecological conservation a top priority, and believe protecting the Plateau is a vital task for China's survival and development. [159] It further stated that “[f]rom 2008 to 2017, the central government made transfer payments of 16.29 billion yuan (2.44 billion U.S. dollars) and 8.35 billion yuan to key ecological function zones in Qinghai and Tibet,

respectively, covering 77 key counties and all areas prohibited to development by the state.” But the experiences of local Tibetans on the ground and the overall situation of the Tibetan environment in recent years present a contrasting picture. Along with ‘maintaining stability’, rapid economic growth is still the top priority.[160] The billions of yuan that PRC claimed to have spent on ‘key ecological function zones’ in Qinghai and TAR in its white paper primarily include the amount it spent on displacing and impoverishing Tibetan

The number of livestock had also dwindled from 23 million in 2010 to 18 million in 2017

[156] Rising temperatures threaten stability of Tibetan alpine grasslands, Georgia Institute of Technology, 10 May 2017, available at <https://phys.org/news/2017-05-temperatures-threaten-stability-tibetan-alpine.html>

[157] Tibet sees expanding grassland, *Xinhua*, 25 December 2017, available at http://www.xinhuanet.com/english/2017-12/25/c_136850815.htm

[158] Ibid.

[159] Full Text: Ecological Progress on the Qinghai-Tibet Plateau, *Xinhua*, 18 July 2018, available at http://english.gov.cn/archive/white_paper/2018/07/18/content_281476227186598.htm

[160] Joshua Stowell, The Chinese Communist Party's Biggest Fears are Separatism and an Economic Crisis, 5 October 2018, available at <https://globalsecurityreview.com/threats-legitimacy-power-chinese-communist-party/>

Right to a Healthy Environment

nomads and farmers to implement tuimu huancao and the destocking policy under a Compensation for Ecosystem Services program.[161] Likewise the amount of RMB10.9 billion that the white paper claimed was spent in TAR during the 12th Five-year Plan period (2011-2015) in ‘grassland conservation subsidy and rewards’ contributed towards displacement and impoverishment of local Tibetans. Despite Chinese president Xi Jinping’s declared commitment to ‘ecological progress as a cornerstone for sustainable development’,[162] economic policies in Tibet have largely remained unchanged in that the focus is more on financing large-scale infrastructure projects with serious environmental consequences and maintaining the double-digit GDP growth rate that purportedly benefits local Tibetans.[163]

For decades, extractive industries such as mining and hydropower projects have been the backbone of Chinese development projects in Tibet.[164] The repeated prioritization of natural resource exploitation in Tibetan areas in the PRC’s successive Five-Year Plans, combined with little environmental oversight, has taken its toll on the fragile ecology of the Tibetan Plateau. But Tibetans have no way of exercising their right to a safe, clean, healthy and sustainable environment, which is indispensable for the effective realization of a wide range of human rights, including the rights to life, health, food, water and sanitation. Local Tibetans impacted by pollution and man-made disasters are unable to influence policy decisions concerning environmental protection in their areas. Even after the mines are exhausted and closed, local Tibetans will have to bear the environmental costs, but are not permitted to establish civil society organisations to give voice to environmental concerns.

[161] Yundannima, "From "Retire Livestock, Restore Rangeland" to the Compensation for Ecological Services: State Interventions into Rangeland Ecosystems and Pastoralism in Tibet" (2012). Geography Graduate Theses & Dissertations. 30.

https://scholar.colorado.edu/geog_gradetds/30

[162] Full Text: Ecological Progress on the Qinghai-Tibet Plateau, *Xinhua*, 18 July 2018, available at http://english.gov.cn/archive/white_paper/2018/07/18/content_281476227186598.htm

[163] Tibet records double-digit GDP growth for 26 consecutive years, *Global Times*, 11 January 2019, available at <http://www.globaltimes.cn/content/1135465.shtml>

[164] China pumped \$550 billion into transport, utilities in western region since 2012, *Reuters*, 30 August 2018, available at <https://www.reuters.com/article/us-china-economy-infrastructure/china-pumped-550-billion-into-transport-utilities-in-western-region-since-2012-idUSKCN1LF08Y>

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In some cases, human rights violations are the effect of environmental harm: mining projects have poisoned water sources and desecrated sites considered sacred to local Tibetans. In other cases, the relationship between human rights violations and environmental harm is more complex, arising from the broader aim of the PRC to consolidate control over traditionally Tibetan lands through massive non-voluntary resettlement and relocation programs.

Tibetans beaten up and detained for protesting mining on sacred mountain

In April 2018, Chinese authorities detained scores of Tibetans and abducted a village leader after they opposed plans to mine Sebtra Zagyen, a sacred mountain with an 800 year-old history that overlooks several villages located in Shakchu (Ch: Shaqu) Town in Diru (Ch: Biru) County, Nagchu (Ch: Naqu) Prefecture, TAR. The 30 Tibetans from the villages of Markor, Wathang and Gochu were all beaten up and detained after news was leaked to exile Tibetan sources about the detention of Karma, leader of Markor Village, and the mining project.

Karma was detained in late February 2018 for challenging an official order that forced all residents of Markor, Wathang and Gochu to sign a document that allowed local authorities to conduct mining activities at Sebtra Zagyen. The villagers were told that not signing the document would be considered as 'separatist' act and punished accordingly. Karma had openly confronted government officials telling them that he would sign the document provided they produced evidence of approval to the mining project from veteran party leaders such as Tenzin and Ragdi. When news of Karma's detention became available to exile Tibetan sources, local authorities immediately called a meeting during which Tibetans suspected for their involvement in leaking the information were detained.

Local authorities had built roads at the foothills of Sebtra Zagyen to facilitate mining activities. Makeshift shelters for labourers started appearing around the mining site along with small Chinese national flags that were hoisted in and around the area. Local Tibetans are concerned that mining would destroy the sacred Sebtra Zagyen Mountain, which is also home to endangered animals such as Tsoe (Tibetan antelope), Nah (Blue Sheep) and Gowa (Tibetan gazelle).

There are fears that mining would also cause landslides at another sacred mountain called Drakar that lies to the right of Sebtra Zagyen. An earthquake would potentially block the water supply to the local villagers. The Shakchu river and the Khechu river flow alongside Sebtra Zagyen.

Located on the north side of Diru County, Sebtra Zagyen is one of the three “secret, supreme places” made sacred by the spiritual practice of the first Drong Ngur Choje Gyalwa Gangpa Rinchen Woser who founded the Drong Ngur Kagyu Phelgyeling Monastery in 1248.

Representing the Buddhist practice of taming the body, mind and speech, the Drong Ngur monastery is considered the supreme sacred place of body, followed by the secret, supreme place of speech of Drakar Mountain and the supreme sacred place of mind represented by Sebtra Zagyen.

Sebtra Zagyen is part of a series of sacred mountain ranges including the Naglha Zambha where, on 24 May 2013, armed police suppressed an anti-mining protest staged by 4500 Tibetans. Protesters managed to put a temporary halt to mining at Naglha Zambha but persecution of those involved in the protest continued long after the protest.

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The PRC's mining companies, which are mostly state-owned, benefit from state financing of railways, power stations and other infrastructure, and they receive financial incentives such as low interest rates, tax holidays, no royalty payments to local communities and subsidised rail freight rates. This incentivises the development of medium-scale mines in Tibet.[165] The Chinese Academy of Sciences report in 2015 concluded that infrastructure construction resulted in "serious impacts on the eco-system" and that the stability of the infrastructure being constructed was undermined, resulting in further soil erosions and degradation.[166] Negligent mining practices and dumping of waste have polluted water[167] in many Tibetan areas further increasing the risk of soil erosion, landslides and other natural disasters.[168]

Even after the mines are exhausted and closed, local Tibetans will have to bear the environmental costs, but are not permitted to establish civil society organisations to give voice to environmental concerns.

[165] Gabriel Lafitte. "Spoiling Tibet: China and Resource Nationalism on the Roof of the World", 2013, Zed Books Ltd.

[166] "Tibetan Plateau turning to desert, says Chinese Academy of Science." The Third Pole, 7 December 2015, available at: <https://www.thethirdpole.net/2015/12/07/tibetan-plateau-turning-to-desert-says-chinese-academy-of-science/>

[167] Richard Finney, "Chinese Mines Pollute Tibet's Rivers, Streams", 6 May 2013, *Radio Free Asia*, <http://www.rfa.org/english/news/tibet/mines-05062013154914.html>. See also "Lichu River Poisoned – Case of Minyak Lhagang Lithium Mine Protest", 6 June 2016, Tibet.net, <http://tibet.net/2016/06/lichu-river-poisoned-case-of-minyak-lhagang-lithium-mine-protest/>. And "Tibetans Protest Rivers Polluted by Chinese Mines—Using Dead Fish", 16 May 2016, Epoch Times, https://www.theepochtimes.com/tibetans-protest-rivers-polluted-by-chinese-mines-using-dead-fish_2067412.html

[168] "Tibetan Plateau turning to desert, says Chinese Academy of Science." Ibid.

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In October and November 2018, geological disasters at the Yarlung Tsangpo (Brahmaputra River) and Dri Chu (Yangtze River) led to the displacement of thousands of local residents and destruction of property and livestock in TAR and other Tibetan areas in Sichuan and Yunnan provinces. According to state media reports, two successive landslides on 17 and 18 October blocked the Yarlung Tsangpo, creating a barrier lake near Gyalha village in Menling County, Nyingtri (Ch: Lingzhi) City, TAR. By 18 October, the rising water level had forced the evacuation of over 7100 people in the area.[169] By 19 October, there were reports in the state media about the risk of the barrier lake bursting and the possible evacuation of more people. Furthermore, over 20000 people in Menling and Metok counties were reportedly 'affected' by the barrier lake but there were no details.[170]

Massive flooding induced by two valley-blocking landslides inundated Polu (Ch: Bolo) Township in Jomda (Ch: Jiangda) County, Chamdo (Ch: Changdu) Prefecture, TAR. The first landslide on 11 October forced more than 30,000 people[171] to evacuate while the second landslide on 3 November displaced 25,000 residents[172] including 2,548 in Palyul County, 2,320 in Bathang County, 1,086 in Derong County, and 116 in Derge County.[173] Water from the barrier lake flooded and submerged the ancient Polu (Ch: Bolo) Monastery. [174] Polu Township is home to 8,325 residents in eight villages.[175]

[169] Water level in Tibet barrier lake drops after overflow, *Xinhua*, 19 October 2018, available at http://www.xinhuanet.com/english/2018-10/19/c_137544918.htm

[170] Residents moved as landslide plugs river, *China Daily*, 19 October 2018, available at <http://www.chinadaily.com.cn/a/201810/19/WS5bc928e8a310eff30328344e.html>

[171] Danger from Drichu barrier lake ends, Gangjong Nyishon ('Tibet Sunshine'), 16 October 2018, available at <http://ti.zangdiyig.com/article/detail/id/11923.html>

[172] Tibet evacuates 25,000 people from landslide-formed barrier lake, *Global Times*, 11 November 2018, available at <http://www.globaltimes.cn/content/1126942.shtml>

[173] Rescue vehicle reaches the site of Drichu barrier lake, *People's Daily* [Tibetan Language], 10 November 2018, available at <http://tibet.people.com.cn/15741586.html>

[174] Internet cut off in Jomda County's Polu Town, *Tibet Times* [Tibetan language], 4 November 2018, available at <http://tibettimes.net/2018/11/14/173499/>

[175] Barrier lake forms following landslide in Sichuan-Tibet border area, *Xinhua*, 11 October 2018, available at http://www.xinhuanet.com/english/2018-10/11/c_137526314.htm



*Monks from Polu Monastery survey the disaster site in November 2018.
Photo: WeChat*

Four months after the disaster, a former monk of Polu Monastery, who now lives in exile in India, said local authorities have made no attempts to rebuild the town. “The government has told local Tibetans that it would take anywhere between five and eight years to decide on a project to rebuild the houses and other reconstruction work.”^[176] This could mean long periods of displacement for Tibetans living in makeshift camps. All residents of Polu Town have been living in tents at a place called Shuktsa Shi in Jomda County since November 2018. The Polu Monastery is temporarily housed in a military camp located in a place called Bharthang. The statues and scriptures from the monastery are stored in nearby tents. The status of the Monastery Management Office, staffed with seven officials, which was responsible for policing the monastery, remains unknown. With the local school destroyed, some educated members of the community are giving informal classes to the children in the tents. A large majority of local Tibetans in this region make their living from harvesting caterpillar fungus. The local government had announced that each relocated person would be given RMB 300 per month for basic necessities. But many local Tibetans had not received anything except for the makeshift shelter and meager amount of basic foodstuff. Local authorities have passed stringent orders to block attempts by other Tibetans to offer help and donations, failing which the responsible officials would be fired or demoted. Tibetans living in areas outside Chamdo, as well as outside Tibet, are unable to offer help to the victims.

[176] The monk has requested anonymity to protect his family and relatives in Tibet. Interview conducted by TCHRD researcher Pema Gyal in January 2019 in Dharamsala, India.

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An anonymous local Tibetan is heard in a video footage appealing for help and intervention from the Chinese government, and reporting on the damage wrought on his hometown in Palyul County.[177] The video appeal was recorded one week after the flooding in November. He can be heard saying that flooding had ravaged more than 300 mu of farmland (One mu is equal to 666.7 square meters) owned by 56 Tibetan households and that more than 10,000 mu of local nomads' pastureland had been submerged. Roads and grain storage facilities were also destroyed. He added that the houses of 30 nomad families that used to live in the vicinity of the area vanished without a trace.

Local Tibetans in Polu Township believe that the landslide was caused by long periods of mining gold, silver, copper, and coal at Bhurang and Goring, two prominent soul mountains revered and worshipped as protector deities by the local people.[178] For years, Chinese miners have hollowed out the sacred mountains and destroyed the natural environment, which led to the disruption of the balance of the four elements of the universe: fire, earth, air, and water. Tibetan Buddhists believe that all natural disasters are caused by disruption of the natural elements.

The Yulong Copper Mine, known as one of the world's largest copper reserves, is located in Jomda County. Large deposits of gold, silver and other valuable metals have also been found at Yulong mine, which is owned by the Qinghai-based Western Mining and Zijin. Zijin was responsible for the 2011 toxic spill that poisoned fish and polluted the drinking water of tens of thousands of people.[179]

[177] Lhase Sonam, Facebook Post, November 2018, available at <https://www.facebook.com/Lhase7/videos/1848206328610752/>

[178] Ibid.

[179] Gabriel Lafitte. Copper and gold mining in Tibet, rukor.org, 11 October 2011 available at <http://rukor.org/copper-and-gold-mining-in-tibet/>



Dalin bridge, damaged by rushing water from a landslide-caused barrier lake on the Yarlung Tsangpo River in Menling County (Xinhua/Chogo)



Scene of an overflow from a landslide-caused barrier lake on the Yarlung Tsangpo (Xinhua/Purbu Zhaxi)



A damaged road after an overflow from a landslide-caused barrier lake on the Yarlung Tsangpo River in Menling County (Xinhua)

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Indications that the landslides were man-made can be found in the experiences of local Tibetans and a preliminary assessment made by Yang Fuqiang, senior advisor on climate and energy at the PRC's Natural Resources Defense Council who said, "The incident could be a lesson for authorities. They should pay more attention when designing mega-projects, which could be a factor that changes regional weather in a geologically fragile area, bringing more rainfall that causes landslides." [180]



Before they were relocated, each resident was given a photo of the five Chinese leaders and a Chinese flag that they were required to fly on the mountain. Strict warnings were issued that failure to do so would result in automatic cancellation of relief materials.

[Above] Tibetans taking refuge in a government tent following massive flooding in Polu Township. November 2018, Photo: Xinhua

[180] Tibet evacuates 25,000 people from landslide-formed barrier lake, *Global Times*, 11 November 2018, available at <http://www.globaltimes.cn/content/1126942.shtml>

Undermining the International Human Rights System

In recent years, the PRC has led an aggressive campaign at the UN to mute criticism against its egregious human rights record and weaken the international human rights system by asserting the importance of national sovereignty and non-interference in domestic affairs.[181] As part of this strategy, Chinese authorities have prioritized the right to development and subsistence above all other human rights[182], precluding transparency, accountability and civil society participation or monitoring.[183] The adoption of the PRC's resolution in June 2017 was seen a revolutionary step and victory for developing nations by some states and media channels.[184] An editorial in the Party mouthpiece People's Daily stated that "for a long time Western governments have monopolized the international human rights agenda and discourse, and that some people in the West often use human rights as a pretense to export their values, even to the extent of using them as an excuse to interfere in the domestic affairs of other countries." [185]

In March 2018, PRC managed to pass another resolution at the Human Rights Council titled "Promoting mutually beneficial cooperation in the field of human rights" that was aimed at "the gradual disembowelment of the existing UN human rights framework".[186]

Chinese authorities have prioritized the right to development and subsistence above all other human rights.

[181] Ted Piccone, China's long game on human rights at the United Nations, Brookings, September 2018, available at <https://www.brookings.edu/research/chinas-long-game-on-human-rights-at-the-united-nations/>

[182] Full text: The Right to Development: China's Philosophy, Practice and Contribution, English.gov.cn, 1 December 2016, available at http://english.gov.cn/archive/white_paper/2016/12/01/content_281475505407672.htm

[183] China should end restrictions on civil society participation in anti-poverty policies, and cooperate with UN mandate-holders without interference, Human Rights Watch, 9 June 2017, available at <https://www.hrw.org/news/2017/06/09/china-should-end-restrictions-civil-society-participation-anti-poverty-policies-and>

[184] Andrea Worden, China Pushes 'Human Rights With Chinese Characteristics' at the UN, China Change, 9 October 2017, available at <https://chinachange.org/2017/10/09/china-pushes-human-rights-with-chinese-characteristics-at-the-un/>

[185] <http://opinion.people.com.cn/n1/2017/0624/c1003-29359770.html>

[186] Andrea Worden, With Its Latest Human Rights Council Resolution, China Continues Its Assault on the UN Human Rights Framework, China Change, 9 April 2018, available at <https://chinachange.org/2018/04/09/with-its-latest-human-rights-council-resolution-china-continues-its-assault-on-the-un-human-rights-framework/>

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Using obfuscating language found in many of the PRC's propaganda documents discussing human rights such as 'mutually beneficial', 'cooperation' and 'dialogue',^[187] the resolution primarily calls for the protection of State interests rather than the individual.^[188] But the PRC's promotion of 'human rights with Chinese characteristics' seems out of place when the 2017 resolution put forth by the PRC itself "reaffirms that all human rights are universal, indivisible, interdependent and interrelated and that the international community must treat human rights globally in a fair and equal manner, on the same footing and with the same emphasis."^[189] The most likely explanation is that the PRC is paying lip service to the universal nature of human rights as a mask for its more insidious agenda to infiltrate and coopt the international human rights system.^[190]

One of the ways the PRC attempts to further its anti-human rights agenda at the UN is by misusing its membership in the NGO Committee of the UN Economic and Social Council (ECOSOC).^[191] As a member of the NGO Committee, the PRC has blocked NGOs critical of its policies from being granted accreditation.^[192] It has also sought to blacklist accredited activists to preclude their attendance.^[193]

[187] Full text: The Right to Development: China's Philosophy, Practice and Contribution, English.gov.cn, 1 December 2016, available at

http://english.gov.cn/archive/white_paper/2016/12/01/content_281475505407672.htm

[188] Andrea Worden, With Its Latest Human Rights Council Resolution, China Continues Its Assault on the UN Human Rights Framework, China Change, 9 April 2018, available at

<https://chinachange.org/2018/04/09/with-its-latest-human-rights-council-resolution-china-continues-its-assault-on-the-un-human-rights-framework/>

[189] The contribution of development to the enjoyment of all human rights, Human Rights Council Thirty-fifth session, 20 June 2017, A/HRC/35/L.33/Rev.1

[190] The Costs of International Advocacy: China's Interference in United Nations Human Rights Mechanisms, Human Rights Watch, September 5, 2017, available at

<https://www.hrw.org/report/2017/09/05/costs-international-advocacy/chinas-interference-united-nations-human-rights>

[191] About ECOSOC: ECOSOC at a Glance, available at <https://www.un.org/en/ecosoc/about/>

[192] A UN accreditation or NGO consultative status from ECOSOC's NGO Committee provides NGOs with access to not only ECOSOC, but also to its many subsidiary bodies, to the various human rights mechanisms of the United Nations, ad-hoc processes on small arms, as well as special events organized by the President of the General Assembly. See Working with ECOSOC: an NGOs Guide to Consultative Status, United Nations, New York, 2018, available at

<http://csonet.org/index.php?menu=134>

[193] *supra note* 190

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At a regular session of the NGO Committee in January 2019, applications from 110 NGOs were reviewed; 70 were granted accreditation while 40 were deferred with comments provided. The five Chinese NGOs that received accreditation were all government-organised NGOs (GONGOs)[194] that are created, sponsored and/or overseen by PRC authorities. Five NGOs that were denied accreditation were asked separately by the PRC representative to ‘correct [...] its description of the Dalai Lama as “the Tibetan leader”’; ‘correctly refer to Tibet as an autonomous region of China’; ‘adhere to the one-China policy and recognize Taiwan as a province of China’.[195] The recent explosion of Chinese GONGOs at the UN[196] and in countries where the PRC invests [197] has been a cause of concern for human rights activists and civil society organisations. The GONGOs help promote the PRC’s national and political interests instead of safeguarding human rights and fundamental freedoms. Since their creation after the end of the Cultural Revolution, GONGOs have helped to preserve the Chinese Communist Party’s “hegemonic position by exerting control over pockets of civil society that were beginning to form through the forced registration of NGOs beginning in the early 1990s”.[198] Even as GONGOs increase their presence and influence at international human rights bodies, civil society voices are routinely suppressed in the PRC. In 2018, UN experts noted with concern the drastic decrease in the number of NGOs and other civil society organisations in the PRC due to the misuse of various laws such as the Law on Administration of Activities of Overseas Nongovernmental Organizations in the Mainland of China and the Charity Law.[199]

[194] Andrea Worden, Twitter Post, 21 January 2019.

<https://twitter.com/i/web/status/1087378788399353856>

[195] <https://www.un.org/press/en/2019/ecosoc6954.doc.htm>

[196] At U.N., China uses intimidation tactics to silence its critics, Reuters, 6 October 2015, available at <https://www.reuters.com/investigates/special-report/china-softpower-rights/>

[197] Reza Hasmath. China’s NGOs Go Global, The Diplomat, 23 March 2016, available at <https://thediplomat.com/2016/03/chinas-ngos-go-global/>

[198] The International Center for Not-for-Profit Law. “NGO Law Monitor: China.” The International Center for Not-for-Profit Law, available at <http://www.icnl.org/news/2013/11-Apr.html>, available at

https://digital.library.unt.edu/ark:/67531/metadc500183/m2/1/high_res_d/thesis.pdf

[199] UN Committee on racial discrimination concerned about human rights situation of Tibetans, TCHRD, 4 September 2018, available at <http://tchrd.org/un-committee-on-racial-discrimination-concerned-about-human-rights-situation-of-tibetans/>

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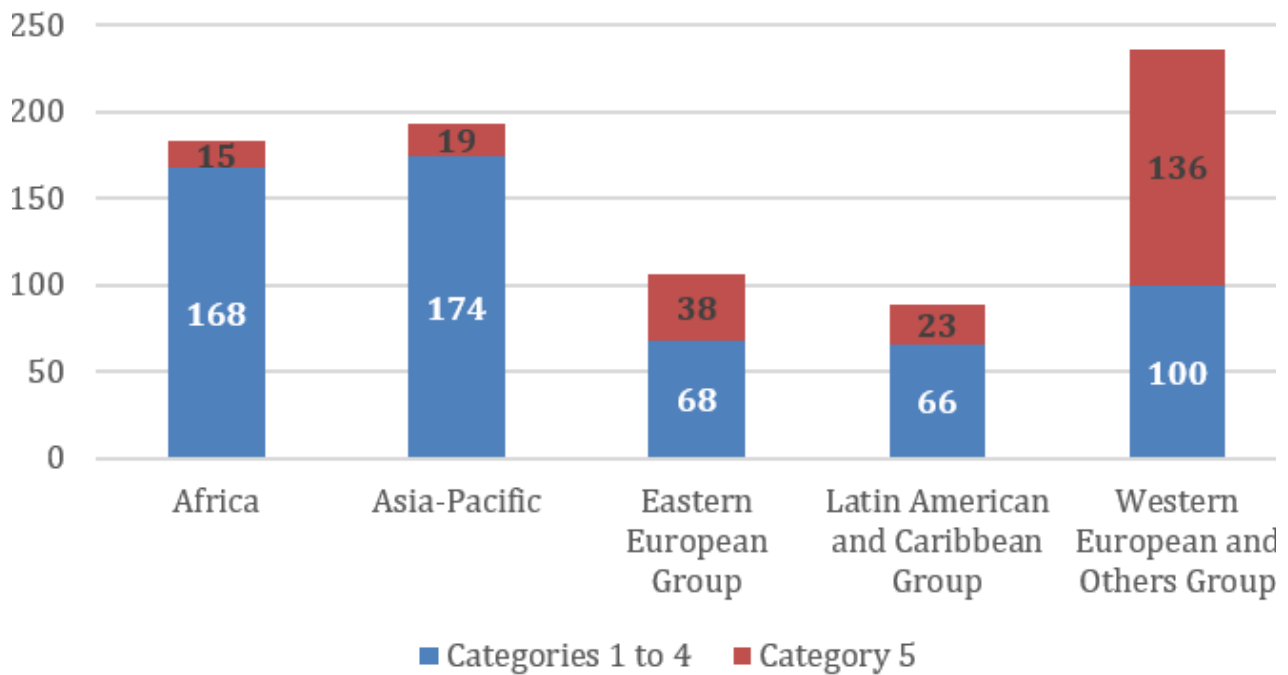
The PRC's actions leading up to its third Universal Periodic Review (UPR) held in November 2018 indicate that it used the UPR mechanism merely as a platform to bolster its leadership role in the HRC. The PRC's growing clout was apparent as the 'right to development' made its way into 39 recommendations, all of which the PRC accepted. Seventy percent of the total 389 recommendations the PRC received fell under categories 1-4, meaning they did not call for specific action or carry a sense of urgency. [200] The PRC accepted 92% of all recommendations in categories 1-4, whereas only 34% of recommendations in category 5 were supported. Recommendations in category 5 have been the most important for the promotion and protection of universal human rights. Unsurprisingly the PRC has found these recommendations hardest to accept, as these have often tended to be the ones that challenge the PRC's so-called sovereignty and territorial integrity, PRC national laws and the notion of 'human rights with Chinese characteristics'.

There is a clear pattern to the PRC's engagement with the UPR system as is evident in the large number of soft recommendations under category 1-4 the PRC accepted in the last three reviews. In its first review, 93% of all accepted recommendations fell in categories 1 through 4. In the second review, 87% of accepted recommendations fell in categories 1 through 4. In the third review, the number of recommendations not only increased to 389 with the participation of 138 states but a spike in category 2 and 5 recommendations was witnessed. Still 87% of the accepted recommendations fell in categories 2 through 4. Furthermore, 292 recommendations were either accepted or noted as 'accepted and already implemented' despite persistent reports of human rights abuses.

The PRC accepted 92% of all recommendations in categories 1-4, whereas only 34% of recommendations in category 5 were supported. Recommendations in category 5 have been the most important for the promotion and protection of universal human rights.

[200] According to McMahon and Ascherio, recommendations at the UPR can be assessed objectively using a scale of 1 to 5, which provides a characterization by level of action as stated by verbs contained in the recommendation. In general, category 1 requires the least cost and effort to the State under Review (SuR) while category 5 represents the greatest potential cost because specific and tangible actions are being requested. See Edward McMahon and Marta Ascherio, 'A Step Ahead in Promoting Human Rights? The Universal Periodic Review of the UN Human Rights Council', *Global Governance*, Vol. 18, No. 2 (April-June 2012), pp. 231-248.

Cumulative Data: Action Categories by Regional Group



Clear regional patterns can be seen that reflect the polarized nature of the international community and politicization of the UPR. Generally States from Asian and African regions with less developed democratic practices and which are reliant on Chinese investment tend to make soft recommendations that align with the PRC's official stand on human rights issues. In the three UPR cycles, the PRC accepted 92% of Asia and Africa's 346 recommendations, 325 of which fell into categories 1, 2, 3 and 4. In contrast, the PRC accepted 83 recommendations out of the 236 made by States in the Western European and Others Group (WEOG), 58% of which were in category 5.

In TCHRD's civil society submission for the PRC's Third UPR,[201] the rights to freedom of religion and belief, freedom of opinion and expression, freedom of movement, and freedom of peaceful assembly were included as priority issues. On the freedom of religion and belief, the PRC received 21 recommendations out of which it accepted six, all of which were in action categories 2 and 4. The majority of these accepted recommendations started off with verbs such as 'continue', while two referred to promoting freedom of religion and belief in accordance with national laws instead of international law.

[201] Civil Society Submission on Tibet for China's UN Universal Periodic Review, TCHRD, 20 October 2018, available at <http://tchrd.org/civil-society-submission-on-tibet-for-chinas-un-universal-periodic-review/>

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To recommendations calling for full respect for the rights of ethnic minorities, freedom of religion and expressions of cultural identity[202] the PRC responded with ‘accepted and already implemented’ although the facts speak otherwise. The PRC also rejected calls from the United States to ‘cease interference in the selection and education of religious leaders, such as Tibetan Buddhist lamas’ citing that “religious affairs must be run in accordance with laws and regulations. The reincarnation of Living Buddhas should be consistent with religious rituals, historical conventions and China’s laws and regulations”.[203] Since its first UPR in 2009, the PRC has accepted 62% of recommendations related to freedom of religion and belief. But 75% of these recommendations that were in category 5 were rejected. Three of the rejected recommendations repeated at every review include ending prosecution or persecution of Tibetans and Uyghurs based on religion, release of those in arbitrary detention due to their religion or belief, and allowing the Special Rapporteur on freedom of religion or belief to visit the PRC.

The right to freedom of expression and opinion has emerged as one of the most important human rights issues in Tibet due to the expansion and intensification of the censorship and surveillance regime. Despite this, there were only 13 recommendations, some of which included:

- Enable unrestricted use of the Internet by all members of society by ensuring cybersecurity and the safe flow of information without violating freedom of expression
- Respect the rights to freedom of religion or belief, opinion and expression, peaceful assembly and culture, including for Tibetans, Uyghurs and other minorities
- Guarantee freedom of opinion and expression, enhancing efforts to create an environment in which journalists, human rights defenders and NGOs can freely operate in accordance with international standards

[202] Report of the Working Group on the Universal Periodic Review, Human Rights Council Fortieth session, 15 February 2019, A/HRC/40/6/Add.1

[203] Ibid.

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The Czech Republic's recommendation calling on the PRC to "repeal or amend laws and practices, such as censorship, which prevent the right to freedom of expression and free access to information was rejected with the explanation that the PRC "protects its citizens' freedom of speech in accordance with law, and deals with people who violate the law and illegal information in accordance with law."

Since the PRC's 2009 UPR, the right to freedom of movement has been mentioned in five recommendations, three of which had references to Xinjiang and Tibet. None of these recommendations was accepted. In the 2018 UPR, Australia was the only state that called on the PRC to "cease restrictions on the freedom of movement of Uighurs and Tibetans and allow the media and United Nations and foreign officials access to Xinjiang and Tibet".^[204] It was rejected with the explanation that "Chinese government guarantees, in accordance with law, the right to reside and travel of people of all ethnic groups, and their entry into and exit from the country. The Chinese government also ensures social order and sound port administration in accordance with laws and regulations to prevent violent terrorists at home and abroad from committing crimes. China welcomes visits to the Xinjiang Uygur Autonomous Region and the Tibet Autonomous Region by foreigners in accordance with relevant laws and regulations, but firmly opposes the practice of using the visits as an excuse to pressure the Chinese government and interfere in China's internal affairs."^[205] The standard response to specific requests for access to Tibet and Uyghur areas is almost always that it is "an excuse to pressure the Chinese government and interfere in China's internal affairs" as was seen with the rejection of Denmark's recommendation to "facilitate full access to Xinjiang and Tibet for all relevant United Nations special procedures". The recommendations reiterated from earlier reviews calling for unfettered access to all areas of the PRC by UN human rights monitors were also rejected because "China firmly opposes interference in its sovereignty and internal affairs under any pretext".

[204] Ibid.

[205] Ibid.

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Germany and Hungary's calls for unhindered access for independent observers, including special procedures, to all regions of the PRC met with same response. To Croatia's recommendation to "cooperate with and allow unimpeded access to international monitors, such as the relevant special procedures, to investigate alleged related rights violations", the PRC responded that state sovereignty must be respected and that special procedures carried out their work "based on thorough consultation with countries". The blanket rejection of all recommendations related to freedom of movement and access is hardly surprisingly when viewed from the dire necessity of the regime to perpetuate its narrative of a 'happy, prosperous and developed' Tibet and hide the reality of human rights situation particularly in Tibetan and Uyghur areas.

The issue of access and movement in Tibet has been raised numerous times by international media organisations such as the Foreign Correspondents Club of China (FCCC) that released a 'position paper' on Tibet in March 2019 calling for unfettered access to the Tibet Autonomous Region and all Tibetan-inhabited regions.[206] Among other things, the FCCC called for "elimination of the requirement for pre-approval of reporting trips to the TAR by 2021, one year before the 2022 Olympics" and "allow journalists to speak to whoever accepts an interview" and "ease intimidation of sources or would-be sources."

The freedom of association and peaceful assembly was raised in six recommendations that also included references to human rights defenders, minorities, civil society, freedom of religion and belief and/or freedom of opinion and expression. The response to five out of six recommendations was that they were 'accepted and already implemented'.

The issue of access and movement in Tibet has been raised numerous times by international media organisations

[206] FOREIGN CORRESPONDENTS' CLUB OF CHINA POSITION PAPER, Foreign Journalist Access to Tibet, March 2019, available at <https://www.dropbox.com/s/prcupbzyvi33kdf/FCCC%20Tibet%20Position%20Paper%20March%202019.pdf?dl=0>

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But Sweden's recommendation to "take urgent steps to respect the rights of persons belonging to ethnic minorities, including the rights to peaceful assembly and to manifest religion and culture, in particular in Xinjiang and Tibet"⁴⁹ was rejected with the deceptive claim that there was "no need for urgent steps" since "Chinese government always guarantees, in accordance with law, the freedom of assembly and religious belief and the cultural rights of people of ethnic minorities."^[207]

In an apparent effort by PRC agents to exert pressure on the Office of the High Commissioner on Human Rights (OHCHR), alternative reports submitted by seven civil society organisations including TCHRD were removed for consideration from the stakeholders' summary for PRC's Third UPR.^[208] The information from civil society groups is imperative for States who are willing to hold the PRC accountable for its failure to meet its human rights commitments and obligations. When asked for an explanation for the removal of key stakeholder information, the UPR branch of the OHCHR told the affected NGO's: "As a subsidiary body of the United Nations General Assembly, the HRC and the UPR Working Group (UPR WG), must adhere to the official United Nations position and terminology as reflected in relevant General Assembly resolutions and within the context of the UN Charter, and therefore, must respect the sovereignty, independence, and territorial integrity of the State concerned." In some cases, the OHCHR acknowledged that there were no real issues with the content of the submissions, instead, the organizations were scrutinized for their logos, flags and/or constitutions which contained mentions of the PRC as an occupying power. On 2 November 2018, the OHCHR did issue a corrigendum document, including previously removed citations from reports of TCHRD and other groups. The revision came a little too late as the PRC's review was held on 6 November. Since the statements and recommendations of delegations participating in the review are drafted weeks in advance, withholding NGO inputs until less than two working days before the review effectively precludes this input from being considered by participating States.^[209]

[207] Ibid.

[208] Human Rights Council Working Group on the Universal Periodic Review, 3 September 2018, A/HRC/WG.6/31/CHN/3.

[209] Joint Press Statement: China UPR. Civil Society Deeply Concerned by Removal of Key Stakeholder Information by the UN Office of the High Commissioner for Human Rights for Upcoming Universal Periodic Review of China, Human Rights Watch, 5 November 2018, available at <https://www.hrw.org/news/2018/11/05/joint-press-statement-china-upr>

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In August 2018, the members of the UN Committee on the Elimination of Racial Discrimination (CERD) expressed concern about freedom of movement and language rights of Tibetans as part of their findings following the periodic review of the PRC.[210] In its Concluding Observations, the CERD highlighted 21 key areas of concern and made relevant recommendations, including development and poverty reduction, resettlement and land expropriation, education, health, civil society, definitions of terrorism and separatism, torture and ill treatment, and the situation of Tibetans, Uyghurs and Mongolians.[211] Specifically the CERD recommended that the PRC:

- Revise its regulations and practices to ensure non-discriminatory determinations on passport applications and freedom of movement for Tibetans who would like to travel within and beyond Tibet Autonomous Region and abroad;
- Preserve the Tibetan language in the Tibet Autonomous Region by, inter alia, encouraging and promoting its use in the fields of education, the judicial system, and the media; and
- Provide information regarding the promotion of, and any restrictions on, the use of ethnic minority languages.

During the interactive dialogue on 13 August, CERD experts raised concerns over the detrimental effect of the PRC's implementation of bilingual education on minority languages. The experts were equally concerned about the quality of and access to education in minority areas.

The CERD also raised the issue of the large numbers of farmers and nomads losing their traditional lands and livelihoods due to “aggressive development models” such as “poverty-alleviation and ecological restoration resettlement measures” and urged PRC authorities to “work closely and effectively with ethnic minority government officials and communities, and provide financial allowances that ensure an adequate standard of living, as well as livelihood restoration measures and, where needed, linguistic and cultural integration assistance.”

[210] UN Committee on racial discrimination concerned about human rights situation of Tibetans, TCHRD, 4 September 2018, available at <http://tchrd.org/un-committee-on-racial-discrimination-concerned-about-human-rights-situation-of-tibetans/>

[211] Concluding observations on the combined fourteenth to seventeenth periodic reports of China (including Hong Kong, China and Macao, China). Committee on the Elimination of Racial Discrimination. 19 September 2018, CERD/C/CHN/CO/14-17.

