

# Prisoners of Conscience in Tibet



*Special Report 2016*



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Tibetan Centre for Human Rights and Democracy

## **TIBETAN CENTRE FOR HUMAN RIGHTS AND DEMOCRACY**

The Tibetan Centre for Human Rights and Democracy is a registered non-governmental and a non-profit organization established in 1996 in Dharamsala in North India. TCHRD's mission is to monitor, research and document human rights situation in Tibet, and to advocate for human rights principles and democratic concepts in Tibet and in diaspora.

TCHRD conducts regular, systematic investigation of human rights situation in Tibet and monitors human rights policies of the People's Republic of China. Every year, TCHRD publishes annual report, thematic reports, and testimonies of victims of human rights violations, biweekly newsletters, press releases and briefings on human rights issues in Tibet. TCHRD maintains a political prisoners database that has been expanded into full-fledged human rights documentation and archive resources.

TCHRD attends the UN Human Rights Council sessions as well as other regional, national and international conferences. Such participation is aimed at highlighting human rights situation in Tibet and lobbying and networking on the promotion and protection of human rights in Tibet. TCHRD actively engages with the UN human rights mechanisms and special procedures by submitting reports and cases of specific human rights violations in Tibet. TCHRD organizes workshops, talk series, public discussions and campaigns on human rights and democracy in the exile Tibetan community.

TCHRD's staff members are Tsering Tsomo, Executive Director; Tenzin Dawa, Sangjie Kyab and Pema Choedon, Researchers; John Gaudette, Legal Research Officer; Sonam Dolkar, Field Officer; Tenzin Nyima and Tenzin Phuntsok, Research Associates; Phurbu Dolma, Accountant; Bugah, Office Assistant; and Veronique Dijkzeul, Intern.

Special thanks to Sophie Buck for her immense contribution to this report.

*For copies of any reports and/or for more information, please contact:*

### **Tibetan Centre for Human Rights and Democracy**

Top floor, Narthang Building, Gangchen Kyishong  
Dharamsala, H.P., 176215, India

Tel: +91 1892 223363, Telefax: = 91 1892 225874

Email: [office@tchrd.org](mailto:office@tchrd.org) Website: [www.tchrd.org](http://www.tchrd.org)

# **PRISONERS OF CONSCIENCE IN TIBET**

SPECIAL REPORT 2016

*Tibetan Centre for Human Rights & Democracy*



## *Dedication*

*To all the past and present Tibetan political prisoners, who risked their lives to exercise fundamental human rights for themselves and for all Tibetans both within Tibet, and those living in exile. And to the families, relatives and friends who are still waiting for their loved ones to return home, and to the communities that are left bereft and empty.*

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## **ABBREVIATIONS**

CAT – Convention Against Torture

CCL – Chinese Criminal Law

CCP – Chinese Communist Party

CCPL – Chinese Criminal Procedure Law

CPL – Chinese Prison Law

CTA – Central Tibetan Authority

LPSS - Law on the Protection of State Secretes

MPS – Ministry of Public Security

NGO – Non-Governmental Organization

NPC – National People’s Congress

PAP – People’s Armed Police

PRC – People’s Republic of China

PSB – Public Security Bureau

RTL – Re-Education Through Labour

SPC – Supreme People’s Court

SPP – Supreme People’s Procuratorate

TAR – Tibet Autonomous Region

UN – United Nations

UNDHRD – United Nations Declaration on Human Rights De-  
fenders

## PREFACE

The last special report compiled by the Tibetan Centre for Human Rights and Democracy (TCHRD) on political prisoners in Tibet was published in 2006. This report is as an update to the previous report and when read together may present an overview of the political prisoner crisis in Tibet since Chinese occupation. The 2006 special report, and other reports and articles, can be found on TCHRD's website, or may be ordered in hard copy directly from TCHRD.

Access to information is difficult anywhere political prisoners exist. These countries often try to hide the fact that they have taken prisoners based on their political affiliations and actions. Some countries do not want human rights violations that occur in their territory be made public to the world. One of China's top priorities is to crush any criticism and dissent in Tibet by restricting the flow of information both in and out of Tibet. The PRC restricts access to information in many ways including limiting what is accessible by internet, monitoring conversations on messaging apps or email, and restricting movement of persons in and out of Tibet.

Some Tibetans have chosen to self-immolate in protest against Chinese rule, including the state surveillance regimes, the anti-Dalai Lama campaigns, and torture within detention centers. The torture faced by political prisoners may be physical, psychological, or medical and is often brutal, resulting in long lasting injuries, diseases and medical conditions, sometimes resulting in death. These maltreated prisoners are almost always arrested without reason and held in detention facilities, or become victims of an enforced disappearance and face increased surveillance and deplorable conditions in black

jails. Women and men may both be taken prisoner, regardless of age, occupation, or religious status.

Families of political prisoners are often left in the dark following the arrest of a loved one. Prisoners are frequently taken in the dead of night, or without notification to family or friends. Some parents wait to hear from their children for years, believing that their child has gone on a long journey, or has fled Tibet, when in reality they are either dead or in Chinese detention. The families of political prisoners that are left behind struggle to bring their lives back on track in the absence of their loved ones. The consequences are greater and more devastating when a family loses its sole breadwinner and emotional anchor.

The following report refers to Tibet in reference to several regions currently occupied by the PRC. Tibet is made up of the three regions of U-Tsang, Amdo, and Kham. Since the PRC's invasion of Tibet in 1949, Tibet has been divided between five regions of the PRC. U-Tsang and parts of Amdo and Kham lay within the Tibet Autonomous Region (TAR), which has the greatest concentration of Tibetans of any region and makes up over half of the Tibetan population of the PRC. The remainder of Amdo makes up much of Qinghai Province and the western flank of Gansu Province. The remainder of Kham accounts for much of western Sichuan Province and a portion of northwestern Yunnan Province. The name "Tibet," as it is used in this report, indicates the whole of U-Tsang, Amdo, and Kham, not the TAR alone.

### *A Note on Sources*

TCHRD and other non-governmental organizations (NGOs) try to make access to information on political prisoners and the current situation in Tibet as easy as possible, but it is impossible to be en-



tirely comprehensive. The PRC's state secrets laws make it especially difficult and dangerous to collect information. There are many ambiguities in the Law on the Protection of State Secrets (LPSS) that make understanding the reasons for being detained, and providing information on those detained difficult.

There are many obstacles in assessing an exact number of political prisoners. Many have never been identified, their disappearances have not been reported to NGOs, and many have died in detention. The influx of enforced disappearances makes it increasingly difficult to know if someone has been detained, and the LPSS and the Chinese Criminal Procedure Law (CCPL) increases the difficulty for citizens wishing to obtain confirmation on the whereabouts of their loved ones.

Following release, political prisoners are not allowed to speak of what happened during their detention, and they are often monitored to ensure they do not share this information. Threats of being returned to detention as well as other community surveillance tactics are in place to silence former prisoners.. Frequently information is not known unless the prisoner escapes into exile following their sentence, or if a family or community member is able to escape. If a prisoner manages to escape into exile, long lasting trauma may make it difficult for them to discuss the circumstances of their detention, as this may cause them to relive years of brutal physical and psychological torture.

Statistics and accounts of life in detention come from many places, but most often they come from accounts and reliable sources who risk imprisonment if they are caught. We recognize those with the courage to share their stories, and those who risk their lives transmitting information in pursuit of human rights in Tibet. Statistical data on prisoners found in this report, unless cited otherwise, is data confirmed by TCHRD's Political Prisoners Desk and reflects the

most reliable information available at the cost of underreporting the actual number of political prisoner. Since 1991, TCHRD Political Prisoners Desk has documented more than 5000 cases of known arbitrary arrests and detention. The documentation process includes collecting information from primary sources (from Tibet and from relatives of victims in exile) and secondary information from different media agencies disseminating information on human rights violations in Tibet.

# INTRODUCTION

Every year since 1991 an average of 194 known Tibetans have been detained in Tibet.<sup>1</sup> Due to extreme clampdown on information and use of collective punishment against sources, the number of average detention witnessed a minor decline in the last two years (2015 and 2016) but the number was still high at 70. There are over 2,057 known Tibetans currently detained in many known and unknown detention centres and prisons across Tibet.<sup>2</sup> Their ages range from 13 to 81 and come from all levels of society including monastics, businessmen, nomads, farmers, writers, intellectuals, and artists. They were detained under vague laws that criminalized the exercise of their human rights. The PRC denies their human rights and treats them as common criminals. UN bodies, governments, and NGOs have requested access to prisons and information necessary to assess human rights claims but the PRC has denied these requests.

The PRC maintains that they have not engaged in enforced disappearances, arbitrary detention, or torture.<sup>3</sup> The PRC claims that the Tibetans who are incarcerated have committed crimes worthy of incarceration and are not there as a result of their political affiliations or ideologies. This guise is helpful to the PRC in attempting to preserve its status internationally, and in an attempt to prevent international human rights organizations and United Nations (UN) officials from interfering with the oppression of Tibetans. Despite China's attempts to silence the Tibetan struggle, many international human rights organizations, NGOs, and the UN have kept a close

1 TCHRD Political Prisoners Database.

2 As of 13 April 2017, according to TCHRD Political Prisoners Desk

3 Human Rights Watch, *World Report 2014: China* (2014), online: Events of 2013 <<https://www.hrw.org/world-report/2014/country-chapters/china-and-tibet>>.

watch on the situation in Tibet. Attempts have been made by the UN to gain access to prisons in Tibet, which have been denied or delayed, and other prominent NGOs have sent letters to the PRC demanding the release of prisoners of conscience. TCHRD calls for the immediate release of all political prisoners and prisoners of conscience detained by the PRC. TCHRD maintains that these people have been wrongfully imprisoned, and their ill treatment and unlawful detention should be terminated immediately without repercussion or conditions.

This report focuses on the mistreatment of political prisoners in Tibet. The PRC maintains that they have not taken any political prisoners, but that they are solely arresting criminals. TCHRD rejects the label of criminals to define the Tibetan imprisoned for exercising their conscience. Based on reasons given for arrests, a more accurate description would be political prisoners, or human rights defenders. A human rights defender can be an individual, or group of people, working peacefully to promote human rights in their communities, countries, internationally, or anywhere in the world. Human rights defenders can range from individuals, international NGOs, and governmental organizations.<sup>4</sup> A human rights defender who has been deprived of their liberty through detention as a result of their beliefs, their non-violent exercise of rights and freedoms as guaranteed by the International Covenant on Civil and Political Rights (ICCPR), their status in society, or for purely demonstrating their rights and freedoms.<sup>5</sup> To put it simply, a political prisoner is an

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4 “United Nations Human Rights Office of the High Commissioner” (2016) online: *Who is a Defender?* < <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Defender.aspx> >.

5 “Human Rights House”, (2016), online: Guidelines on Definition of Political Prisoner < [https://www.google.ca/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwjo2IHritnNAhUXTY8KHd2hCScQFgg8MAA&url=http%3A%2F%2Fhumanrightshouse.org%2Fnoop%2Ffile.php%3Fid%3D20050&usg=AFQjCNEsvXtDEV-zBJovLOL4i0XIoYp1yA&sig2=QeIrDc5j9A\\_GQk95pDSgrQ&cbvm=bv.126130881,d.c2I](https://www.google.ca/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwjo2IHritnNAhUXTY8KHd2hCScQFgg8MAA&url=http%3A%2F%2Fhumanrightshouse.org%2Fnoop%2Ffile.php%3Fid%3D20050&usg=AFQjCNEsvXtDEV-zBJovLOL4i0XIoYp1yA&sig2=QeIrDc5j9A_GQk95pDSgrQ&cbvm=bv.126130881,d.c2I) >.

imprisoned human rights defender. Prisoners arrested solely for expressing their human rights, may be grouped into a sub-category of political prisoners: prisoners of conscience.<sup>6</sup> Prisoners of conscience are the focus of many NGOs, and are the category of prisoners which many organizations request be set free without conditions.<sup>7</sup> The initial arrest and continuous detention of these people violates international law.

There are several international declarations that aim to protect political prisoners and human rights defenders. The UN Declaration on Human Rights Defenders (UNDHRD) “is not in itself a legally binding document, however it is based on instruments that are legally binding which are enshrined in other international treaties. UNDHRD was adopted by consensus by the General Assembly, and therefore represents a very strong commitment by member States to its implementation.”<sup>8</sup> The PRC was present for the Consensus vote. Worldwide, 127 States supported the Declaration.<sup>9</sup> China has yet created to ratify the Declaration, however it remains binding as a part of customary international law. This declaration did not create any new laws; it simply reiterated existing legal standards and emphasized their relevance and importance for the treatment of human rights defenders.

The existence of political prisoners violates the UNDHRD. Every

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6 Amnesty International, Free Prisoners of Conscience, online: (2016) <<http://www.amnestyusa.org/our-work/issues/prisoners-and-people-at-risk/prisoners-of-conscience>>.

7 Amnesty International, The Mandate, online: (2016) <<http://www.amnesty-volunteer.org/aihandbook/ch3.html#poc>>.

8 “United Nations Human Rights Office of the High Commissioner”, (2016), online: Declaration on Human Rights Defenders: General Assembly Resolution A/RES/53/144 <<http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Declaration.aspx>>.

9 “International Federation for Human Rights”, (2016), online: United Nations General Assembly Adopts Resolution on the Protection of Human Rights Defenders by Increased Majority <<https://www.fidh.org/en/issues/human-rights-defenders/united-nations-general-assembly-adopts-resolution-on-the-protection>>.

state has the responsibility to implement and respect the Declaration, in particular to promote and implement all human rights, provide legal assistance, conduct prompt investigations, and to provide a remedy for individuals who claim to be victims of a human rights violation.<sup>10</sup> Respecting fundamental freedoms is a necessary precondition for promoting and implementing all human rights because these freedoms are at the heart of what it means to have human rights. The Dalai Lama said, “Peace and freedom cannot be ensured as long as fundamental human rights are violated... there cannot be peace and stability as long as there is oppression and suppression.”<sup>11</sup> The PRC does not respect these rights. To do so they must take steps to ensure the legitimate exercise of Tibetan rights and fundamental freedoms as referred to in the UNDHRD are respected, and human rights defenders are not imprisoned. The UNDHRD expresses that the state has the responsibility to take appropriate measures. By not protecting people’s rights under the Declaration, China violates these fundamental international laws.

Many Tibetans detained by the PRC can be considered political prisoners; prisoners of conscience. Tibetans are detained for many reasons, among the most common are: acknowledging or possessing images of the Dalai Lama, possessing a Tibetan flag or drawings of it, voicing environmental concerns, suspicion of inciting homicide, suspicion of planning a self-immolation, violating state secrecy laws or advocating for the rights of other Tibetans. Reasons for detention are often political with the purpose of oppressing Tibetans and include participating in street protests, and handing out leaflets or posters that criticize the government.<sup>12</sup> Detention for these types

10 “United Nations Declaration on Human Rights Defenders”, 3rd GA (1999), A/RES/53/144.

11 “His Holiness the 14th Dalai Lama of Tibet”, (2016), online: <<http://www.dalailama.com/messages/world-peace/human-rights-democracy-and-freedom>>.

12 “Human Rights Watch”, (2016), online: Relentless: Detention and Prosecution of Tibetans Under China’s “Stability Maintenance” Campaign <<https://www.hrw.org/report/2016/05/22/relentless/detention-and-prosecution-tibetans-under-chinas>>

of crimes violates fundamental freedoms protected by international law. Detained persons are frequently arrested, or put into residential surveillance or black jails, under the guise of criminal offences, or endangering state security, when there is no actual evidence of having committed a crime.

It is important to understand semantic distinctions used throughout this report. An individual has been detained when their access to freedom has been restricted. In the instances mentioned in this report, detention is when an individual's access to their freedom has been restricted through custody by the PRC. Being in custody means to be under the care and control of a given individual or institution. Detention is distinguishable from an arrest. An arrest occurs when an authority, such as the PRC's Public Security Bureau, files criminal charges against a person and takes them into lawful custody.<sup>13</sup> Charging an individual is to formally accuse them of committing a crime. If someone has been detained without being arrested or charged, the detention may be considered arbitrary. A detention is considered arbitrary when an individual is deprived of their liberty for a reason that is inconsistent with international provisions in the Universal Declaration of Human Rights or other UN documents.<sup>14</sup> Three categories outline when an arrest may be considered arbitrary: "when it is clearly impossible to invoke any legal basis justifying the deprivation of liberty; when the deprivation... results from the exercise of the rights or freedoms guaranteed by [the UDHR]; and when the total or partial non-observance of the international norms relating to the right to a fair trial spelled out in the UDHR... is of such gravity as to give the deprivation of liberty an arbitrary character."<sup>15</sup>

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stability-maintenance>.

13 "The Law Dictionary", (2016), online: Arrest <<http://thelawdictionary.org/arrest/>>.

14 "Office of the High Commissioner of Human Rights, (2016), online: The Working Group on Arbitrary Detention <<http://www.ohchr.org/Documents/Publications/FactSheet26en.pdf>>.

15 Ibid.

## *Law on the Protection of State Secrets*

The Law on the Protection of State Secrets of the People's Republic of China (LPSS) defines state secrets as “matters that have a vital bearing on state security and national interests, being specified by legal procedures, and are permitted to be disclosed to a limited number of people during a given period of time.”<sup>16</sup> The LPSS continues with the scope of what is included under state secrets,<sup>17</sup> then classifies the state secrets into three categories: 1. Top secret and confidential, referring to vital state secrets; 2. Secret, referring to important state secrets, and; 3. Confidential, referring to common state secrets, all of which their disclosure would cause harm to state security and national interests.<sup>18</sup> The scope and classifications are listed separately and do not include guidelines which state secret falls into which category. The LPSS also states that the scope and category of each state secret is to be determined by the governing authority concerned with the matter.<sup>19</sup> Details of an individual's failure to behave in accordance with the LPSS are not often distributed. This means that following a detention, citizens are not informed of the way in which that individual violated the state secret. Citizens are left without knowing what they should refrain from engaging in to ensure that do not violate the LPSS.

The distribution of the law, lack of a clear definition as to when a governing authority may step in, as well as the lack of clear definitions on scope and category makes the LPSS ambiguous.<sup>20</sup> Many Tibetans are detained by the PRC under the guise of state secrecy

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16 The People's Republic of China, Law of the Peoples Republic of China on Protection of State Secrets (2010) art 2.

17 Ibid, art 9.

18 Ibid, art 10.

19 Ibid, art 11.

20 “White Paper, China State Secrets & U.S. Discovery”, (2016), online: Beijing YOUQI Law Firm & Amer-Asia Law llc <[http://www.amerasialaw.com/docs/ChinaStateSecretsUSDDiscovery\\_WhitePaper\\_AmerAsiaLawllc\\_October2013.pdf](http://www.amerasialaw.com/docs/ChinaStateSecretsUSDDiscovery_WhitePaper_AmerAsiaLawllc_October2013.pdf)>.



laws. Classifying a case as involving state secrets allows the governing authority to keep these cases private, or secret, which in turn allows persons to be detained in secret with the intended interest of protecting state security and other national interests. When Tibetans are arrested they are often not informed of the reason for their detention or given a fair trial. The scope of the secret must also be approved by the governing authority for the division of state secrets.<sup>21</sup> It seems that the PRC created state secrecy laws with the intention of making the system difficult to navigate for both the detained and the communities seeking answers.

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21 *Supra*, note 14, art 16.

## MAJOR EVENTS

The 2006 edition of *Prisoners in Tibet* discusses the chronological history of Tibetan political prisoners from 1987-1999. Since 2006 there have been many changes in relation to political prisoners within Tibet and the PRC. The 2008 uprising is one of the most important events in recent Tibetan history. The events of 2008 resulted in the PRC's call for more intrusive and stringent surveillance of Tibetan individuals, groups, and activities. Since the 2008 uprising, the PRC has imposed laws designed to prevent and punish dissent and criticism. Over the past eight years Tibet has seen some of the most intensive surveillance systems in the world in addition to street security officers and permanent surveillance cameras. Launched in April 2012, the grid system (also known as the "grid system of social management") allows officials to monitor persons through intelligence collected by workers watching screens and geo-tagging any concerning activities which can then be sent to security officers who can ensure that the concern does not "leave the grid."<sup>22</sup> The objective of these grids is to maintain social stability, but Human Rights Watch has reported that they have also been used to search homes for signs of dissent, such as possession of images of the Dalai Lama.<sup>23</sup>

Between the major events described below, protests against the PRC, its policies in Tibet, and the detention and arrest of Tibetans for exercising their human rights continued. The following events

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22 "The Economist", (2013), online: Grid Locked <<http://www.economist.com/news/china/21579848-help-experts-beijing-tibet-tightens-its-systems-surveillance-grid-locked>>.

23 China: Alarming New Surveillance, Security in Tibet, Human Rights Watch, 20 March 2013, Available at: <https://www.hrw.org/news/2013/03/20/china-alarming-new-surveillance-security-tibet>

are highlighted because of the large numbers of people both involved in and affected by the protests. Following these events security measures were heightened within the TAR and the resulting uprising prompted the PRC to implement increasingly strict policies, such as the grid system and the mass-line campaign, which ultimately resulted in higher rates of arrest.

## *2008 Uprising*

The 2008 uprising began in March when large protests began to take place. The 2008 uprising saw an estimated 300 protests across Tibet, ranging from solo protestors, to groups of hundreds.<sup>24</sup> The PRC detained many individuals at these protests, including protestors, onlookers, and those suspected of taking part in or inciting the protests. A total of 218 known arrests were made from 21 February to 29 December 2008 alone.<sup>25</sup>

In response, the PRC cut off communication between Tibet and the outside world. Internet and cell service was blocked, armed police patrolled the streets, surveillance cameras were installed around Lhasa to monitor the public, and travel in and out of the TAR was near impossible. Tourists and foreign journalists were barred from entering the area, and televisions and computers were confiscated. At least ten foreign correspondents in the PRC received anonymous death threats.<sup>26</sup> The Public Security Bureau (PSB) authorized police to shoot protestors by lifting the ban against it on 14 March 2008. It is estimated that across Tibet, 227 known Tibetans died, of which 153 were able to be identified.<sup>27</sup> In 2010, TCHRD published pro-

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24 Ibid.

25 Central Tibetan Administration (2011), 2008 UPRISING IN TIBET: CHRONOLOGY AND ANALYSIS, Available at: <http://tibet.net/wp-content/uploads/2011/08/tibetprotest2008.pdf>

26 Ibid.

27 Ibid.

files of 124 known Tibetans who died during the 2008 uprising.<sup>28</sup> The majority of deaths were caused by shooting, while torture and maltreatment was the second most likely cause of death. The outcome of the protests was the PRC implementing increasingly repressive policies, which lead to more opportunities for Tibetans to be arrested. Over 6,500 Tibetans were arrested and detained in 2008 alone,<sup>29</sup> of which 510 have been sentenced without a fair trial.<sup>30</sup>

The world expressed outrage at the events that took place across Tibet in 2008. The United Nations High Commissioner for Human Rights expressed concern and requested to visit Tibet to analyze the situation on the ground, but was denied.<sup>31</sup> Prime Ministers, Congresses, Presidents, Senates, and Parliaments from around the world showed concern for the Tibetan people. Those living within China were given misrepresentations of the facts on mandatory closed-circuit television (CCTV) and not advised of how many political prisoners had been detained. Chinese authorities created the notion that Tibetans were rioting, not protesting, and only confirmed a small portion of deaths while condemning the Western world for their sympathies towards Tibet.<sup>32</sup> No news source within China reported on the facts of the situation or on the number of political prisoners being taken for fear of retaliation from the authorities, or fear that their news source would be shut down. Although it was near impossible to gain access to accurate information within China, some intellectuals and writers recognized the Chinese representation of Tibet as “one sided propaganda” and called for dialogue to “fundamentally change the failed nationality policies.”<sup>33</sup>

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29 Tibet Protests in 2008-2009: Profiles of Known Tibetans Who Died in the Protests, TCHRD (2010), Available at: [http://tchrd.org/wp-content/uploads/2013/03/tibet\\_protest\\_2010.pdf](http://tchrd.org/wp-content/uploads/2013/03/tibet_protest_2010.pdf)

30 *supra* note 25

31 *Ibid.*

32 *Ibid.*

33 *Ibid.*

On 20 March 2008, at Drepung Monastery in Lhasa, an estimated 300 monks attempted a peaceful march to commemorate the 49<sup>th</sup> anniversary of the people’s uprising of 1959 and to press the PRC for the release of detained monks.<sup>34</sup> Several attempts to forcibly stop the march by the PSB were unsuccessful. The PSB did succeed in corralling the monks to one area, where the monks sat and began a peaceful sit-in. Police responded to the sit-in by firing tear gas into the crowd and beating demonstrators. In the end, 60 monks were detained. After the peaceful protest was broken up, the monastery’s water supply was cut off and the leaders of the march were detained.<sup>35</sup>



Defining image of 16 March Massacre: Local Tibetans in Ngaba surround the bodies of Tibetan protesters shot dead by Chinese armed police on 16 March 2008.

34 Ibid.  
 35 Ibid.

On 20 March 2008, at Sera Monastery in Lhasa, 15 monks and two laypeople held a non-violent demonstration that called for Tibetan independence. Demonstrators carried Tibetan flags and pro-independence pamphlets. Onlookers attempted to block the armed police from gaining access to the demonstrators, but plain clothes police officers made their way to the front of the crowd and filmed faces of demonstrators, a method used to instill fear and to easily identify the protesters for nighttime arrests.<sup>36</sup> Police arrived, beat and dragged the 15 monks and three onlookers.<sup>37</sup>

As a result of such widespread discontent and resistance against Chinese rule in Tibet, the repercussions of the 2008 uprising spilled into 2009. In April 2009 two Tibetans were sentenced to death for what Chinese state media deemed “arson cases that left seven people dead and five shops burned to the ground in Lhasa.”<sup>38</sup> Two others were given suspended death sentences. What was missing was any explanation or accountability for the death of over 200 Tibetans killed by the PRC in the course of the 2008 uprising. Tibetans across the world were overwhelmingly outraged by the outcome of these cases, largely because the individuals did not have a fair trial.

## *Self-Immolations*

On 27 February 2009, the first self-immolation within Tibet took place at Kirti Monastery when a monk, Tapey, set himself ablaze while holding a homemade Tibetan flag, with an image of the Dalai Lama in the centre, and shouted slogans calling for the freedom of

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36 “The International Campaign for Tibet”, (2016), online: Second Day of Protests in Lhasa: Monks Dispersed by Tear-Gas <<http://www.savetibet.org/media-%20center/ict-news-reports/second-day-protests-lhasa-monks-dispersed-tear-gas>>.

37 Supra, note 22.

38 Kalsang Rinchen, “2 Tibetans Sentenced to Death by Chinese Court”, (2016), online: Phayul <<http://www.phayul.com/news/article.aspx?id=24419>>.

Tibet.<sup>39</sup> While he burned, the armed police opened fire on Tapey. Once he was shot and had fallen to the ground, the armed police extinguished the fire and arrested him. Following the self-immolation, Tapey was left with severe burn injuries and had to undergo surgery under the strict watch of Chinese security personnel. Details of his case remain unknown but he is confirmed to be in Mianyang Prison by multiple sources.<sup>40</sup> He was likely charged of ‘endangering public security’. The PRC labels self-immolators as violent, drunk, and seeking to become heroes to draw attention to PRC’s governance in Tibet.<sup>41</sup> Others see the self-immolators as human rights defenders who pay the ultimate sacrifice in pursuit of human rights. There were 84 self-immolation protests in 2012 and the total number of self-immolations had nearly reached 100 by the time the PRC made attempts to deter and prevent further self-immolations. In December 2012 the PRC wanted to put an end to self-immolations.<sup>42</sup> To implement this, PRC sought out any person who they felt would self-immolate or anyone who they feared might be inciting self-immolations, and detained them.<sup>43</sup> Many of these detentions were not authorized by Chinese law.<sup>44</sup> The PRC was unsuccessful in this sweep, and in 2013 there were a total of 26 known self-immolations, making 2013 the year with the second highest self-immolation rate.<sup>45</sup>

39 “International Campaign for Tibet”, (2016), online: Tibetan Survivors of Self-Immolation: Repression and Disappearance <<http://www.savetibet.org/newsroom/tibetan-survivors-of-self-immolation-repression-and-disappearance/>>.

40 2016 Annual Report: Human Rights Situation in Tibet, TCHRD, available at: <http://tchrd.org/wp-content/uploads/2017/02/TCHRD-Annual-Rep-English-final.pdf>

41 Li Huizi, Jiang Weichao and Zhang Chunxiao, (2013), “Xinhua Insight” online: Truth Behind Blaze: How Self-Immolations Affect Tibetans <[http://news.xinhuanet.com/english/indepth/2013-02/02/c\\_132147044.htm](http://news.xinhuanet.com/english/indepth/2013-02/02/c_132147044.htm)>.

42 Supra, note 10.

43 Ibid.

44 Ibid.

45 Central Tibetan Administration, (2016), online: Fact Sheet on Tibetan Self-Immolation Protests in Tibet Since February 2009 <<http://tibet.net/situation-in-tibet/factsheet-immolation-2011-2012/>>.

## *Political Campaigns*

Authorized by the PSB, TAR Party Committee, and Lhasa City Party, the PRC launched the “Strike Hard” campaign on 3 March 2010. The campaign came as a clamp down on the TAR days before the anniversary of 10 March and 2008 Uprising. The campaign was launched across all seven prefectures in the TAR to ‘strike hard’ according to law against all kinds of criminal activity and to vigorously uphold the social order and stability.<sup>46</sup> The campaign deployed security forces in full combat gear, implemented 24 hour intense security measures, vehicles were searched, and anyone entering or leaving Lhasa was required to present identification. 70 people were detained as a result of lack of identification. It is speculated that the campaign was implemented in advance of the Uprising anniversary to instill fear in the minds of Tibetans so they wouldn’t cause a disturbance, during the upcoming significant days.<sup>47</sup>

In 2013, Chinese authorities intensified anti-religious campaigns by systematically converting Tibetan monastic institutions into Chinese government offices and the monastic population into Chinese Communist Party members.<sup>48</sup> Document no. 224 was issued by the Diru County government in September 2015 calling for the intensification and deepening of the campaign to purge and reform religious institutions. The document identified 24 activities to be purged and reformed in Diru County. These included keeping an account of all monastic properties and retaining the sole authority to authorize their storage and repair, monitoring and controlling all

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46 TCHRD, (2016), online: China Launches “Strike Hard” Campaign Ahead of Sensitive Anniversary <<http://www.tchrd.org/china-launches-strike-hard-campaign-ahead-of-sensitive-anniversary-2/>>.

47 Ibid. s 016) al-Executive Commission on Chinat-Sanctions RELigious ction of Human Rights Defenders by Increased Majority < [fundraisin](http://www.fundraisin.org/)

48 TCHRD, (2015), online: Document Exposes Intensification of State-Sanctions Religious Repression in Troubled Tibetan County <<http://tchrd.org/document-exposes-intensification-of-state-sanctioned-religious-repression-in-troubled-tibetan-county/>>.



religious gatherings and ceremonies while restricting Tibetans from organizing or participating in religious rituals, controlling all financial activities of religious institutions (including limiting donations for victims of natural disasters and offering loans to poor Tibetans), and requiring all monastics to attend political education sessions. The political education sessions introduced political propaganda with the intention of replacing their Buddhist vows. As a result of the document many Tibetans lost their jobs or had their wages cut. Subsidies and benefits were cut as well. Refusing to comply with the new regulations could result in expulsion, detention, or imprisonment.

2013 witnessed a white paper issued by the PRC titled “Development and Progress of Tibet” which claimed that the situation inside Tibet had drastically improved.<sup>49</sup> The white paper was strategically issued on the day of China’s second Universal Periodic Review at the UN Human Rights Council. This paper denied Tibet’s distinct history as a nation and civilization and suggested that economic development is the sole indicator of China’s respect for human rights in Tibet. The paper did not acknowledge the past and present human rights violations in China while making gross overstatements that Tibetans are the masters of their own fate and that rural democracy exists in Tibet. Such gross overstatements created further unrest in Tibet, as Tibetans saw that China was not producing honest accounts of life inside Tibet.

26 August 2015 introduced the “Clean Sweep and Strike” campaign days before the 50<sup>th</sup> anniversary of the TAR. This meant heightened security within the TAR including monitoring postal service, restrictions on Tibetan movement, and increased internet surveillance. Implications of the campaign meant that to post a let-

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49 TCHRD, (2013), online: China’s White Paper on Tibet Suffers from Human Rights Doublespeak <<http://tchrd.org/chinas-white-paper-on-tibet-suffers-from-human-rights-doublespeak-2/>>.

ter going to or from the TAR, both the sender and receiver had to be registered and investigated, and all post would be opened and thoroughly searched.<sup>50</sup>



*Map of 143 confirmed self-immolations within Tibet, 2009-2015*<sup>51</sup>

More than 130 Tibetans have lit themselves in Tibet and China since 2009.<sup>52</sup> Tibetans are setting themselves ablaze in protest of the repressive environment in Tibet, in hopes that their death will evoke discussions within and outside of the PRC about policy changes towards Tibetan citizens, Tibetan freedom, and the return of the Dalai Lama. Surviving a self-immolation is undesirable. If someone survives an immolation and is caught by the police, the PRC will take them into custody often without alerting their friends and

50 TCHRD, (2015), online: New Crackdown Campaign Introduced in Tibet ahead of Sensitive Anniversary Celebrations <<http://www.tchrd.org/new-crackdown-campaign-introduced-in-tibet-ahead-of-sensitive-anniversary-celebrations/>>.

51 International Campaign for Tibet, online: Map: Tibetan Self-Immolations from 2009-2016 <<http://www.savetibet.org/resources/fact-sheets/self-immolations-by-tibetans/map-tibetan-self-immolations-from-2009-2013/>>.

52 Supra, note 37.

families on their health or whereabouts. Once self-immolators have been detained, they often “face extreme physical and psychological suffering due to repressive measures against them by the Chinese authorities.”<sup>53</sup> Self-immolators will go to many lengths to ensure they do not survive immolation. Some have bound their bodies with wire, drank and covered themselves with flammable liquids. From what is known, 20 Tibetans have survived self-immolation within Tibet, and three in exile.<sup>54</sup>

Thupten Ngodup was the first Tibetan to self-immolate in 1998. Ngodup set himself ablaze in Delhi at the Tibetan Youth Congress led Hunger Strike in Delhi while shouting “Victory to Tibet.”<sup>55</sup> This event raised global awareness to the situation in Tibet. Eleven years later, Tapey, a Kirti Monastery Monk, became the first Tibetan to self-immolate within Tibet in 2009. Tapey was the first of over 141 Tibetans to self-immolate within Tibet. During his self-immolation he was shot and arrested by police. He remains in PRC custody.

The PRC responded to the self-immolations by declaring all surrounding information state secrets and publicizing the information a criminal offense. Tristan, a monk at Tongkyap Monastery, was detained for two years for writing a book containing biographies and essays on self-immolation. While the PRC did not make the charges against Tristan public, sources in Tibet said he was convicted of ‘causing social disputes’ and “inciting separatism.”<sup>56</sup> Tibetans self-immolate for many reasons, but one reason is to demand change for themselves, their families, Tibet, and to raise the global profile of Tibet issue to have the international community come to

53 Ibid.

54 Ibid.

55 Jamyang Norbu, online: Rite of Freedom: The Life and Sacrifice of Thupten Ngodup, <<http://www.jamyangnorbu.com/blog/2008/05/12/remembering-thupten-ngodup/>>.

56 TCHRD, (2016), online: Tibetan Monk Detained for Writing book on Self-immolation Released after two years <<http://www.tchrd.org/tibetan-monk-detained-for-writing-book-on-self-immolation-released-after-two-years/>>.

their aid. A goal of the PRC is to keep the Tibet situation as hidden as possible, and they will go to great lengths to ensure the outside world does not know about the practices within Tibet. Following one woman's self-immolation the PRC arrested her husband and relative, destroyed all evidence they had collected on their phones regarding her self-immolation, and repeatedly interrogated them. Their current whereabouts remain unknown.<sup>57</sup>

### *China's Laws Against Self-Immolations*

On 3 December 2012, the Supreme People's Procuratorate, Supreme People's Court, and the Ministry of Public Security issued a report detailing that self-immolations and self-immolation related activities could be prosecuted.<sup>58</sup> The report referenced an official Opinion, but did not make the Opinion available to the public. "The Opinion states that acts by persons who organize, direct, and plot [self-immolations], as well as those who actively participate in inciting, coercing, abetting, or assisting others to carry out self-immolations, will be held criminally liable for intentional homicide in accordance with [the PRC Criminal Law]."<sup>59</sup> The Opinion set out additional crimes that included "creating a 'serious' disturbance where a self-immolation occurred" and "gathering a group to mourn"<sup>60</sup> along with minimum sentences of 3, to a maximum of 10 years.<sup>61</sup> In effect, the PRC banned any kind of funerals rites

57 TCHRD, (2016) online: Chinese Government Destroys Evidence of Tibetan Woman's Self-Immolation <<http://www.tchrd.org/chinese-government-destroys-evidence-of-tibetan-womans-self-immolation/>>.

58 Congressional-Executive Commission on China, (2013), online: Official Opinion Urges Criminal Prosecution of Persons Linked to Self Immolation <<http://www.cecc.gov/publications/commission-analysis/official-opinion-urges-criminal-prosecution-of-persons-linked-to>>.

59 Ibid.

60 Ibid.

61 Criminal Law of the Peoples Republic of China, RS 2011, Article 232, online: Congressional-Executive Commission on China <<http://www.cecc.gov/resources/>>

and prayer meetings for the deceased self-immolator. A number of Tibetans have been imprisoned for offering condolences or material help to the self-immolators' families.

The PRC justifies prosecution of self-immolators under Crimes of Endangering Public Security in the CCL. Self-immolators can be classified as committing arson causing death, a crime that carries a term of imprisonment of not less than 10 years, life imprisonment, or death.<sup>62</sup> Arson is harmful to the community and the Chinese may see this act as endangering the lives of the public. In addition, self-immolations themselves are seen as endangering state security. Although these charges are available, self-immolators are frequently held in detention without being charged.

PRC' are top priorities are to ensure that there is no dissent or opposition to the PRC's policies in Tibet and that no information reaches the outside world. The definition of splitting the state is very broad. Courageous individuals in Tibet risk their lives and freedom every time they communicate with the outside world to discuss the PRC's strict rule within Tibet, to bear witness to the detained, or release names and stories of self-immolators. The government frequently charges people with splitting the state or sharing state secrets to punish people for dissent or sending information abroad. Inciting splittism can result in up to five years if the crimes were relatively minor, and not less than five years if the accused is considered a ringleader who has committed major crimes.<sup>63</sup> In practice, inciting someone to split the state includes mourning the death of a loved one. China views Tibetans as a threat to the stability and security of the Party by advocating for the return of the Dalai Lama and Tibet to be an independent nation.

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legal-provisions/criminal-law-of-the-peoples-republic-of-china>.

62 Ibid, Article 115.

63 Ibid, Article 103.

## *Preemptive detention*

Tibetans are arbitrarily detained in preemptive detention to stop self-immolation. On 18 May 2016, Jampa Gelek was arrested while walking in a park after taking a photo of himself with the Tibetan flag in the background and telling his friends that he would self-immolate for the sake of Tibet. Tibetans in Tibet believe that Gelek was detained to prevent his immolation. His detention was criticized internationally.<sup>64</sup> No actual violation of the CCL was committed for Gelek to be arrested. Tibetans who survive self-immolation are regularly detained following their attempt. Once detained, their whereabouts commonly remain unknown.<sup>65</sup>

Chinese police regularly subject Tibetans to arbitrary detention and arrest in order to suppress free expression, religious belief and peaceful dissent. In violation of the Universal Declaration of Human Rights (UDHR), the ICCPR, and the International Covenant on Economic Social and Cultural Rights<sup>66</sup> (ICESCR), together considered the International Bill of Human Rights, the government of the PRC arbitrarily detains Tibetans for inordinate periods without charge and without informing the public of their whereabouts. Tibetan detainees are routinely subjected to beatings, torture and other inhumane treatment. PRC ratified the ICESCR on 27 March 2001, thereby signifying its consent to be bound by the terms of the Convention. The PRC signed, but did not ratify the ICCPR. As such, the PRC is not bound to the specific provisions of the IC-

64 TCHRD, (2016) online: Chinese Police Arbitrarily Detain Tibetan Monk to Prevent Self Immolation Protest <<http://www.tchrd.org/chinese-police-arbitrarily-detain-tibetan-monk-to-prevent-self-immolation-protest/>>.

65 The Telegraph, (2012), online: China Detains Hundreds in Tibet over Self-Immolation Protests <<http://www.telegraph.co.uk/news/worldnews/asia/tibet/9301849/China-detains-hundreds-in-Tibet-over-self-immolation-protests.html>>.

66 UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, United Nations, Treaty Series, articles 12.1; 12.2(d); 15.1(a), available at: <<http://www.ohchr.org/EN/ProfessionalInterest/Pages/ICESCR.aspx>> [accessed 1 March 2017].

CPR, however, the prohibition of arbitrary detention and the right to a fair trial are binding on the PRC under customary international law. In addition to being bound by customary international law, the PRC's signature constitutes a preliminary endorsement of the Convention and obliges the PRC to refrain from acts that would defeat or undermine the treaty's objective and purpose. The arbitrary detention of peaceful Tibetans is a violation of the prohibition of arbitrary detention.

Similarly, Article 9, paragraph 3 of the ICCPR stipulates: "Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time, or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial." Tibetans who have since been released and have fled into exile have reported that they were detained and tortured without trial. Thinlay, a peaceful protestor, was detained and tortured for seven months without a trial. Upon his release he suffered from paralysis and psychological trauma which ultimately resulted in death from irreversible brain damage.<sup>67</sup> The prolonged detention of Tibetans for arbitrary reasons is incompatible with Article 9 of the ICCPR which requires specific justification and periodic review.

The Office of the United Nations High Commissioner for Human Rights (UNHCR), the Working Group on Arbitrary Detention, in addition to six other Special Procedures experts voiced its concern over PRC's authoritarian practices in Tibet. Most recently, in a 2014 correspondence inquiring on ten Tibetan artists facing arbitrary detention.<sup>68</sup>

67 "International Campaign for Tibet", (2016), online: Torture and Impunity: 20 Cases of Tibetan Political Prisoners <<http://www.savetibet.org/newsroom/torture-and-impunity-29-cases-of-tibetan-political-prisoners/>>.

68 "TCHRD, (2016) online: Chinese Police Arbitrarily Detain Tibetan Monk to Prevent Self Immolation Protest <<http://www.tchrd.org/chinese-police-arbitrarily-detain-tibetan-monk-to-prevent-self-immolation-protest/>>.

In its formal appeal to PRC, the UN Special Procedures experts reminded PRC authorities of Human Rights Council resolution 24/5, and in particular operative paragraph 2, which reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons with minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”<sup>69</sup>

PRC attempted to end self-immolations in December 2012 by arresting Tibetans who the PRC saw as dangerous, those who they believed were going to attempt to self-immolate, and those with perceived connections to self-immolators.<sup>70</sup> A local source was quoted as saying about 600 Tibetans had been detained as a result of two self-immolations within the TAR’s capital, Lhasa.<sup>71</sup>

### *Political Prisoners: Inciting/intentional Homicide*

Intentional homicide can be considered endangering national security if it undermines public order.<sup>72</sup> People can be charged with inciting homicide under the Opinion, or through the CCL which criminalizes people who incite others “to resist through violence the implementation of the laws and administration rules and regulations of the state.”<sup>73</sup> Under the CCL, offenders may be given a 3-7 year detention term, or be subject to public surveillance or depriva-

69 Supra, note 66.

70 Supra, note 10.

71 Supra, note 63.

72 Supra, note 59, Article 56.

73 Supra, note 59, Article 278.



tion of political rights. In addition, children between the ages of 14-16 may be tried as an adult and hold criminal responsibility<sup>74</sup> for their perceived role in someone else's self-immolation. The UN Convention on the Rights of the Child classifies a child as someone who is under the age of 18, unless the age of majority is achieved earlier by the laws in the place where the child comes from.<sup>75</sup> Under the PRC's Protection of Minors, minors under the age of 16 should not be subject to criminal punishment for committing crimes. Minors between 14 and 16 are to be punished by their parents, or taken for rehabilitation by the government.<sup>76</sup> In this case, the state laws would apply as according to the Convention on the Rights of the Child. However, under Chinese law, these minors should not be tried as adults, and should be punished by their parents.

The broad range of activities criminalized by the PRC poses an increased risk for Tibetans, especially the family members and friends of self-immolators.<sup>77</sup> Individuals close to self-immolators are often investigated for intentional homicide when they played no part in the immolation and are grieving the loss of a loved one. Restrictions on mourning a self-immolator are difficult for families and friends to follow, and creates a hostile environment within Tibet. Families and communities are destroyed by losing their loved one, and need time to grieve. Strict policies within Tibet create an environment of psychological oppression which have the potential to cause intergenerational effects in youth. Torture is most frequent during pretrial detention.<sup>78</sup> Their arrest is likely to lead to interrogations or

74 *Supra*, note 59, Article 17.

75 Convention on the Rights of the Child, 44/25, United Nations Human Rights Office of the High Commissioner, 1989 (1990) Article 1, online: <<http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>>.

76 Law of the Peoples Republic of China on Protection of Minors, Article 39, online: (2016) <<http://www.china.org.cn/english/government/207411.htm>>.

77 TCHRD, (2015), online: Crackdown Widens as Chinese Government Detains Husband of Dead Tibetan Self-Immolator <<http://www.tchrd.org/crackdown-widens-as-chinese-government-detains-husband-of-dead-tibetan-self-immolator/>>.

78 gulags

arbitrary detention, both of which often involve torture, ill treatment and suffering. Detainees who refuse to cooperate with police can be charged with a crime of Impairing Judicial Administration or Obstructing State Security,<sup>79</sup> which can be punished by up to three years: criminal detention, or public surveillance.<sup>80</sup>

As with many detained Tibetans, those who are arrested on charges of inciting homicide are not often given a fair trial. Many are detained without cause, held for long periods of time without being informed of the charges they are facing, and not given access to lawyers. In the event a detainee is given access to a lawyer, the PRC determines that the protection of state secrets is at risk, a closed court session will be held where it is unlikely the lawyer will be allowed in the court.<sup>81</sup> In many cases the verdict is pre-determined. Those found guilty of intentional homicide may be given suspended death sentences, long terms of detention, or residential surveillance.<sup>82</sup>

Tsundue, 46, was sentenced to 11 years imprisonment following charges of intentional homicide for hiding an individual who had attempted to self-immolate.<sup>83</sup> In another case, after being detained for ten months, Tsultrim Kalsang, 25, was sentenced to 10 years imprisonment on charges of intentional homicide. Local sources say that it is likely Tsultrim was arrested as a result of the PRC's perceived connection of him to twin self-immolations that took place the previous month.<sup>84</sup> Lobsang Kunchok, 40, received the death penalty with two years reprieve and deprivation of political rights

79 *Supra*, note 59, Article 277.

80 *Supra*, note 59, Article 311.

81 Criminal Procedure Law Of The Peoples Republic of China, ED 2012, Article 183.

82 BBC News, (2013) online: Tibetans Guilty of Murder for 'Inciting Immolations' <<http://www.bbc.com/news/world-asia-china-21271854>>.

83 TCHRD, (2011), online: Tibetan Monk Sentenced to 11 Years Term in Immolation Case <<http://www.tchrd.org/tibetan-monk-sentenced-to-11-yrs-term-in-immolation-case/>>.

84 TCHRD, (2013), online: China Sentences Tibetan Monk to 10 Years in Prison <<http://www.tchrd.org/china-sentences-tibetan-monk-to-10-yrs-in-prison/>>.

for life. His nephew Lobsang Tsering, 31, was sentenced to 10-year imprisonment with deprivation on political rights for three years. Both were sentenced four months after their detention in August 2012, and both were charged with intentional homicide. Lobsang Kunchok was the first Tibetan to receive the death penalty following charges of intentional homicide.<sup>85</sup> Dolma Kyab, 32, was sentenced to death for murdering his wife and later burning her body to make it appear as though she had self-immolated. Sources in Tibet deny these charges and insist that Kyab's wife died of her own self-immolation on 13 March 2013, and that Kyab's charges are a direct result of his refusal to say she did not commit a self-immolation and that she killed herself as a result of domestic problems.<sup>86</sup> On 15 July 2015, Sonam Topgyal's parents and siblings went to the police office to retrieve his body, following his self-immolation. The request for Sonam's remains was denied and the family was arrested. Sources say that following Sonam's self-immolation the authorities placed restrictions on the purchasing of gasoline. Those who wish to purchase gasoline for their vehicles must have a permit from the local authorities.<sup>87</sup>

These are just a few of the many examples of those arrested on charges of inciting homicide. Chinese authorities frequently misrepresent the facts when arresting and prosecuting Tibetans. Everyday Tibetans face danger from existing in the territory they were born in. If a family member were to self-immolate, their lives would immediately be in jeopardy under intentional homicide legislation.

85 TCHRD, (2013), online: Tibetans Sentenced for 'Murder' at Show Trial to Discredit Self-Immolation Protests <<http://www.tchrd.org/tibetans-sentenced-for-murder-at-show-trial-to-discredit-self-immolation-protests/>>.

86 TCHRD, (2013), online: Tibetan Man Sentenced to Death Over Wife's Self-Immolation <<http://www.tchrd.org/tibetan-man-sentenced-to-death-over-wifes-self-immolation/>>.

87 Sonam Wangdue, Chinese Police Detain Family Members of Monk who Self-Immolated, (2015), online: Radio Free Asia <<http://www.rfa.org/english/news/tibet/chinese-police-detain-family-members-of-monk-who-self-immolated-07152015170404.html>>.

## INTERNET INTERFERENCE

The PRC is creative in its attempts to stop the free flow of information about Tibet from reaching the outside world. Since the 2006 report on Prisoners of Tibet, blocking internet access within Tibet and the PRC in general has become exceedingly common. The PRC controls the internet at three different levels: general access to certain sites, scanning information shared over the email, and restricting smart phone app downloads to those that all the PRC to scan user content and share user information. In some areas, access to the internet has been blocked altogether, while in others certain sites are blocked. For example, major search engines such as Google have been blocked, in addition to Facebook and YouTube.<sup>88</sup> The internet can also be completely blocked for a specific area to prevent people sending out sensitive information. On 9 March 2017, local authorities ordered indefinite suspension of internet services in 13 of the 18 counties in Kardze Tibetan Autonomous Prefecture after Pema Gyaltzen, 24, self-immolated at around 4 pm local time on 18 March near Tsokha Monastery in Nyagrong County.<sup>89</sup> Restrictions on access to legal cases is limited, and certain internet publications have been removed. Packet Sniffers are being used by the Chinese authorities to inspect messages and online interactions passing through China. Packet Sniffers is a program that can scan internet communications, including email and the popular messaging app WeChat, designed to block texts with specific word

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88 Furio Fu, (2016), online: The List of Blocked Websites in China, <<http://www.saporedicina.com/english/list-of-blocked-websites-in-china/>>.

89 TCHRD (2017), online: In a politically sensitive month, Tibetan youth self-immolates to protest China's repression, < <http://tchrd.org/in-a-politically-sensitive-month-tibetan-youth-self-immolates-to-protest-chinas-repression/>>

combinations.<sup>90</sup> Restrictions were also put on some internet café's hours, implementation of mandatory presentation of identification to use a computer, required recording keeping of computer usage, and even forced closure.<sup>91</sup> In an April 2017 on WeChat published by the Citizen Lab, the popular Chinese social media app was found filtering and censoring the images related to sensitive events. The censorship of images, is for now applicable only to accounts registered with PRC phone numbers.<sup>92</sup>

The implementation of programs such as Packet Sniffers has made getting information in and out of Tibet increasingly difficult. Three Tibetans were detained and not allowed to contact their friends or family for allegedly discussing the election at the Tibetan Parliament in Exile on 1 April 2016.<sup>93</sup> Many Tibetans who have escaped into exile have to monitor their internet communications with their loved ones in Tibet for fear of their messages being traced and their loved ones being arrested under state secrecy laws. One Tibetan living in exile said that he cannot message his mother or sister in Tibet on certain days, such as the Dalai Lama's birthday, for fear that they will get in trouble.<sup>94</sup>

On 11 March 2016, Tashi Deyang killed himself within Tsangshul Detention.<sup>95</sup> Sources report that Tashi was tired of continuous beatings and torture leading to his death, resulting in protestors gath-

90 Human Rights Watch, (2002), online: China and Tibet <<https://www.hrw.org/legacy/wr2k3/asia4.html>>.

91 Ibid.

92 Ruan, L. Knockel, J. & Crete-Nishihata, M., (2017), online: We (can't) Chat: "709 Crackdown" Discussions Blocked on Weibo and WeChat <<https://citizenlab.org/2017/04/we-cant-chat-709-crackdown-discussions-blocked-on-weibo-and-we-chat/>>.

93 Sonam Wangdu, China Detains Three for Social Media Discussion of Tibetan Exile Election, (2016) online: Radio Free Asia <<http://www.rfa.org/english/news/tibet/chinese-arrest-three-04012016171702.html>>.

94 Tenzin Phuntsok, On Communicating with Family, ed (Dharamshala, India, 2016).

95 Dawa Dolma, Tibetan Kills Himself to End Torture in Jail, (2016), online: Radio Free Asia <<http://www.rfa.org/english/news/tibet/torture-04012016162039.html>>.

ering outside the detention centre. Protesters were filmed by the police. Everyone whose image was captured was detained.<sup>96</sup> Following the incident, prison authorities were determined to keep the accounts of Tashi's death secret. Chinese authorities blocked all internet access in the area.

The PRC is so insistent that Tibetans do not receive any news from the outside world that in June 2015 they replaced all televisions within 1,800 Tibetan Buddhist monasteries with PRC approved televisions, a project that took three and a half years to complete.<sup>97</sup> Chinese authorities reportedly burned any "illegal televisions" in bonfires.<sup>98</sup> To the international community, the PRC portrayed the giving of televisions as a positive thing that would help educate Tibetans on Chinese policy and help them become more integrated into the Chinese community. In reality, the PRC was annoyed with Tibetan access to outside channels that featured recordings of the Dalai Lama and wanted to stop any unauthorized news sources.

"Tibetans have no form of private communication; they must communicate as if everything they say is being monitored."

## *WeChat*

WeChat is a popular messaging app developed in 2011.<sup>99</sup> It allows users to send voice messages, images, and text. For Tibetans in exile, WeChat is a lifeline allowing families to stay in touch with each other.<sup>100</sup> Unlike some other messaging apps, WeChat claims

96 Ibid.

97 UCA News, (2015), online: China Tightens Access to Information in Tibetan Monasteries <<http://www.ucanews.com/news/china-tightens-access-to-information-in-tibetan-monasteries/73816>>.

98 Ibid.

99 WeChat Leads to Arrest of Fiver Tibetans in SOG, (2014), online: Phayul <<http://www.phayul.com/news/article.aspx?id=34679>>.

100 Tenzin Phuntsok, On Family, ed (Dharamshala, India, 2017).

to have end to end message encryption, however the privacy policy states that should a government body or law enforcement agency request, WeChat will “retain, preserve or disclose your personal information”<sup>101</sup> whether the requesting body is within your jurisdiction or elsewhere. This means that if an outside source, such as the PRC, wants to access the messages that are being sent on WeChat from anywhere in the world, it has the authority to do so as per the terms of its privacy policy. Sources have also alleged that WeChat’s system enables the real-time tracking of users’ movements, enabling security officials to quickly locate any user of the app.<sup>102</sup> Originally, it was thought that the app would be a safe way to communicate with those in the TAR as an alternative to having their mail gone through, or phone calls being monitored. However, Chinese authorities have reviewed material shared on WeChat, and taken political prisoners as a result of what they deemed as inappropriate messages. Kalsang was arrested following Chinese authorities alleging that she had “expressed anti China sentiments [...] and kept banned pictures of the exiled Dalai Lama”<sup>103</sup> on her cell phone, as a result of monitored communications over WeChat. Tsering Tsondue relates that when communicating with his mother in Tibet he has to be very careful in what is said. To protect his mother from unlawful arrest Tsering only talks in greeting words like “good morning, how is your day,” and refrains from talking about politics and other topics that the PRC may see as sensitive content.<sup>104</sup> Tibetans have no form of private communication; they must communicate as if everything they say is being monitored. This makes it difficult not only for families and friends to stay in touch and celebrate cultural holidays

101 “WeChat”, (2016) online: Privacy Policy <[https://www.wechat.com/en/privacy\\_policy.html](https://www.wechat.com/en/privacy_policy.html)>.

102 “Phayul”, (2013), online: WeChat Leads to Tibetan Woman’s Arrest in Driiru <<http://www.phayul.com/news/article.aspx?id=34118>>.

103 Ibid.

104 Emily Johnson, Despite Government Surveillance, Tibetans Turn to WeChat, (2016) online: Public Radio International <<http://www.pri.org/stories/2016-05-05/despite-government-surveillance-tibetans-turn-wechat>>.

together, but also makes it increasingly difficult to get information about human rights atrocities out of Tibet.

In 2006 the Dalai Lama called for Tibetans to stop wearing animal furs and skins, in a hope to be more in line with Buddhist teachings. Messages on WeChat of two Tibetans were monitored by Chinese authorities who found that Jamyang Wangtso and Namgyal Wangchuk had shared an image of two people wearing fur chupas along with text designed to shame the people in the photo. Chinese authorities arrested the two and they were subsequently convicted of “picking quarrels and provoking trouble” in violation of Article 51(1) of the SPC and SPP and applied Article 239(2) of the CCL. Namgyal received 5 years’ imprisonment, and Jamyang seven years. It was unclear why Jamyang’s sentence was beyond the maximum five year sentence.<sup>105</sup>

WeChat has even been known to disable the accounts of users at the request of the PRC. WeChat admits to being an unencrypted service and while they claim to protect user privacy, add that they must comply with local laws in the process.<sup>106</sup> This means that if PRC regulations require that user accounts be shut down, WeChat will comply.

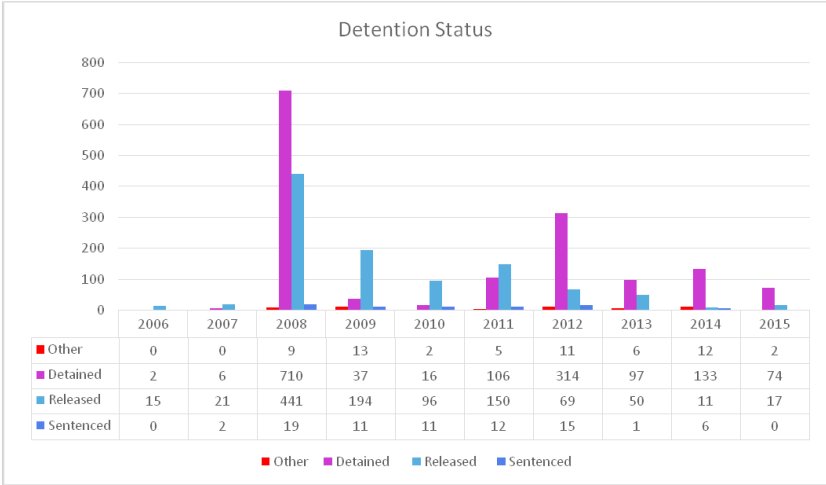
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105 TCHRD, (2014), online: Two Tibetans Receive Harsh Prison Sentences for Online Anti-Fur Campaign <<http://www.tchrd.org/two-tibetans-receive-harsh-prison-sentences-for-online-anti-fur-campaign/>>.

106 David Jones, Who’s Watching You on WeChat, online: Daily Tibetan News and Issues <<http://www.contactmagazine.net/articles/whos-watching-wechat/>>.



# POLITICAL PRISONER TRENDS



The data displayed in the above graph displays the incarceration status of Tibetans. Bar heights indicate the number of political prisoners who were either detained, released, or sentenced within the displayed year. There is also a small red bar in each year which indicates the amount of prisoners whose current status is unknown, meaning that they may remain incarcerated, deceased, or their status is otherwise unknown to TCHRD. The released bar indicates the amount of prisoners who were released in the displayed year, following an incarceration that occurred at any point prior.

In 2006 rates of Tibetan incarceration were relatively low. As a result of the 2008 uprising there were many detentions, totaling 710 confirmed to TCHRD. As a result of the 2008 uprising, the PRC implemented harsh surveillance on Tibetans, and were diligent in detaining individuals who they deemed a threat to state security –

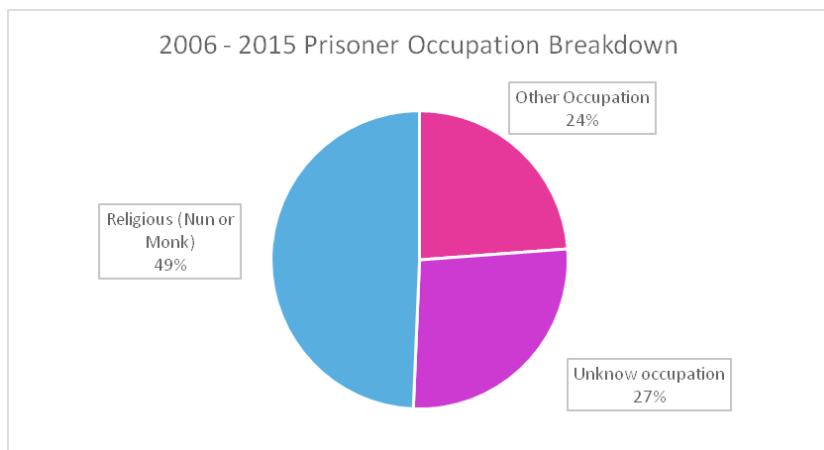
which could involve any of a broad range of activities including quietly participating in cultural practices. As a result of these strict policies, detained person rates remained higher than any point before 2008. The influx of incarceration in 2012 may be partly explained by the PRC campaign to end self-immolations. As discussed above, to follow this campaign many Tibetans were arrested on suspicion of involvement in inciting self-immolators, or suspicion to self-immolate. Since 2012 incarceration rates have remained fairly high, with relatively few releases in comparison.



Tibetan males are incarcerated at a much higher rate than females, however female incarceration rates remain present every year. Incarceration may affect men and women differently. Women are often the primary caregivers of their families and establish a strong bond with their children.<sup>107</sup> Arbitrarily incarcerating women may create problems inter-generationally. Children are very attached to their mothers and need their mothers' support throughout their young years. Women may also be responsible for caring for elderly parents and relatives. Without the support of women in family homes, there may be increased stress on families to complete daily tasks and ensure everyone is cared for. Incarceration has increased risks for

107 "Tibetan Culture" (2016), Gender Roles in Tibet, online: <<https://dross15westmo.wordpress.com/2014/10/28/gender-roles-in-tibet/>>.

women. While in prison Tibetan women have reported “sexually sadistic treatment” including being raped by cattle prods, having their breasts cut off, and having buckets of excrement dumped on them while naked.<sup>108</sup> Many female ex-prisoners leave prison with lasting psychological effects.



The majority of Tibetans within Tibet practice Tibetan Buddhism. This practice includes many customs including chanting mantras, possessing images of the Dalai Lama, and attending temples to meditate, pray and spin prayer wheels. The PRC is interested in limiting Tibetan Buddhism in Tibet to suppress Tibetan nationalism because monasteries are seen as the hotbed of Tibetan nationalism. As a result, the PRC hopes to gain increased control over the area which would ultimately increase their ability to limit and control the growth of Tibetan Buddhism. Under PRC law, those who have been permitted to practice Buddhism as a nun or monk are required to incorporate political texts into their monastic studies under the “patriotic re-education” campaign. Those who refuse to incorporate these rules may be beaten, or expelled from the monastery. In ad-

108 Acts of Violence, online: (2016) <<http://www.korubo.com/TIBETDOC/wonder-woman.htm>>.

dition, monasteries are frequently put under strict surveillance and resident nuns and monks are forced to denounce the Dalai Lama or risk expulsion. Nearly half (49%) of incarcerated Tibetans are monastics. Restrictive policies and heightened surveillance for monasteries means that nuns and monks are not able to practice their belief system as they would like. This results in many nuns and monks being at the front lines of protests, or self-immolating.

## WHAT HAPPENS WHEN SOMEONE IS DETAINED?

Tibetans are frequently detained without cause, and if they are detained with cause, prisoners are not always informed of the reasons for their detention. Many Tibetan cases are classified as involving state secrets which can include self-immolating, inciting homicide, splittism, or endangering state security. This allows the PRC to try the case in a closed court<sup>109</sup> where the public, lawyers, and sometimes even the accused are excluded. The PRC has created an environment where it is very simple for a Tibetan to become a political prisoner.

Tibetans are frequently tortured during detention. An arrest can lead to a multitude of outcomes for the political prisoner; formal arrest, compulsory legal education (a form of administrative detention), or residential surveillance. The detention can last a few hours, or carry on for an undetermined amount of time. Those arrested have the right to legal representation under domestic law,<sup>110</sup> however this right is not afforded to them until after the first time they have been interrogated.<sup>111</sup> Even then, especially if a person is arrested under state secrecy laws, the opportunity to hire a lawyer may not be afforded to them. After the initial detention, Tibetans may be formally arrested. Tibetans are denied the right to a lawyer both overtly and covertly. Some authorities have directly prohibited lawyers from representing Tibetans.<sup>112</sup> In other cases, human rights

109 *Supra*, note 79, Article 183.

110 *Supra*, note 79, Article 32.

111 *Supra*, note 79, Article 33.

112 Dolkar, Takla Gyal and Lubey, China Blocks Tibet Lawyers, (2009), online: Radio Free Asia <<http://www.rfa.org/english/news/tibet/lawyer-blocked-07202009165943.html>>.

lawyers advocating for Tibetans in the PRC have been arrested or have had their lawyers license refused to be renewed<sup>113</sup> as a disincentive to providing Tibetans with adequate legal representation.<sup>114</sup> If a lawyer engages in the defense of a Tibetan with charges involving state secrets, the lawyer is not often granted access to all evidence against the defendant, and may not be permitted to advocate for their client in court in the case of closed investigations.<sup>115</sup> Authorities claim that the reason for not allowing lawyers into the court room is to further protect state secrets.<sup>116</sup>

The lack of legal representation for Tibetans typically leads to the accused not receiving a fair trial, and cases quickly being bounced through the legal system without due process.<sup>117</sup> Lack of fair and independent trials lead to unjust sentencing. Two-thirds of detainees have not been formally arrested or tried for their crimes,<sup>118</sup> an alarming number that is only exacerbated by the lack of formal legal representation.

### *Arbitrary Detention*

Arbitrary detention is a deprivation of an individual's (or political prisoner's) right to liberty and security of the person without lawful cause.<sup>119</sup> A detained person has the right to legal defense, to be informed at the time of arrest, the reason for the arrest, and any charg-

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113 Bill Schiller, *Lawyers Pay High Price for Coming to Aid of Tibetans*, (2008), online: The Star <[https://www.thestar.com/news/2008/06/17/lawyers\\_pay\\_high\\_price\\_for\\_coming\\_to\\_aid\\_of\\_tibetans.html](https://www.thestar.com/news/2008/06/17/lawyers_pay_high_price_for_coming_to_aid_of_tibetans.html)>.

114 Ibid.

115 *Supra*, note 79, Article 183.

116 *Supra*, note 79, Article 52.

117 Kalsang Rinchen, *2 Tibetan Sentenced to Death by Chinese Court*, (2009), online: Phayul <<http://www.phayul.com/news/article.aspx?id=24419>>.

118 *Supra*, note 10.

119 The International Covenant on Civil and Political Rights, The Universal Declaration of Human Rights, OHCHR, Article 9(1).

es they are facing.<sup>120</sup> Arbitrary detention is non-derogable under customary international law.<sup>121</sup> This means that this is a right that a state may not, under any circumstances, interfere with. The ICCPR prohibits arbitrary detention and interference and establishes the right to the protection of the law against such situations.<sup>122</sup> It also determines that an “incommunicado detention of 15 days constitutes a violation of the ICCPR.”<sup>123</sup> Arbitrary detention is prohibited under international law, and as a part of customary international law, is binding on the PRC.<sup>124</sup> Many Tibetans are detained for exercising their freedom of speech, for example by saying “Tibet is an independent nation” or “long live the Dalai Lama,” a right under international law that China has denied Tibetans since 1949.<sup>125</sup> The PRC has not only arbitrarily detained adults, but 71 Tibetan children were also detained, 18 of which were detained for peacefully expressing their opinions.<sup>126</sup>

## *Enforced Disappearances*

Enforced disappearances occur when someone is taken without their consent by authorities and when the public inquires about the individuals disappearance, authorities deny the disappearance, or refuse to disclose the detainee’s location or condition.<sup>127</sup> Enforced

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120 Ibid, Article 9(2).

121 “Office of the High Commissioner of Human Rights”, online: (2017) Compilation of Deliberations <<http://www.ohchr.org/Documents/Issues/Detention/CompilationW-GADDeliberation.pdf>>.

122 Supra, note 117, Article 17 (1)-(2).

123 United Nations General Assembly, General A/HRC/13/42, 19 February 2010, online: <<http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A-HRC-13-42.pdf>>.

124 Gulags of Tibet, Dharamsala, TCHRD, 2014.

125 Supra, note 12.

126 Supra, note 10.

127 Amnesty International, Disappearances, online: (2016) <<https://www.amnesty.org/en/what-we-do/disappearances/>>.

disappearances are considered a crime against humanity when it happens as part of a widespread or systematic attack on the civilian population.<sup>128</sup> This is a common occurrence for Tibetans within Tibet. Some disappear for a short while and are eventually released with physical and psychological scarring from torture and poor prison conditions, while others are never seen or heard from again. Amnesty International described enforced disappearance as a strategy that is frequently used to spread terror within society.<sup>129</sup> Many human rights are violated as a result, including the right to a fair trial, right to a family life, and right to security and dignity of the person.<sup>130</sup> Enforced disappearances leave not only the disappeared in limbo, but leaves families and friends devastated and wondering where their loved ones are. Arbitrary detention and enforced disappearances often go hand in hand in Tibet. Those arrested are not informed of the reason for their detention, are prohibited from contacting family members and friends, and family members and communities are denied knowing that their loved ones have been detained. It is a violation of international law for prisoners to be denied communication with their families under the Mandela Rules.<sup>131</sup> Although the Mandela Rules are not legally binding international legislation, they were unanimously adopted by the UN General Assembly.<sup>132</sup>

In March 2012 China's parliament met to discuss changes to the CPL. It was hoped that the meeting would result in positive changes for the treatment of prisoners, but contrary to what was hoped, parliament approved revisions that essentially legalized enforced disappearances for people charged with perceived political crimes.<sup>133</sup>

128 Rome Statute, (International Criminal Court 2002), Article 7.

129 *Supra*, note 125.

130 *Supra*, note 125.

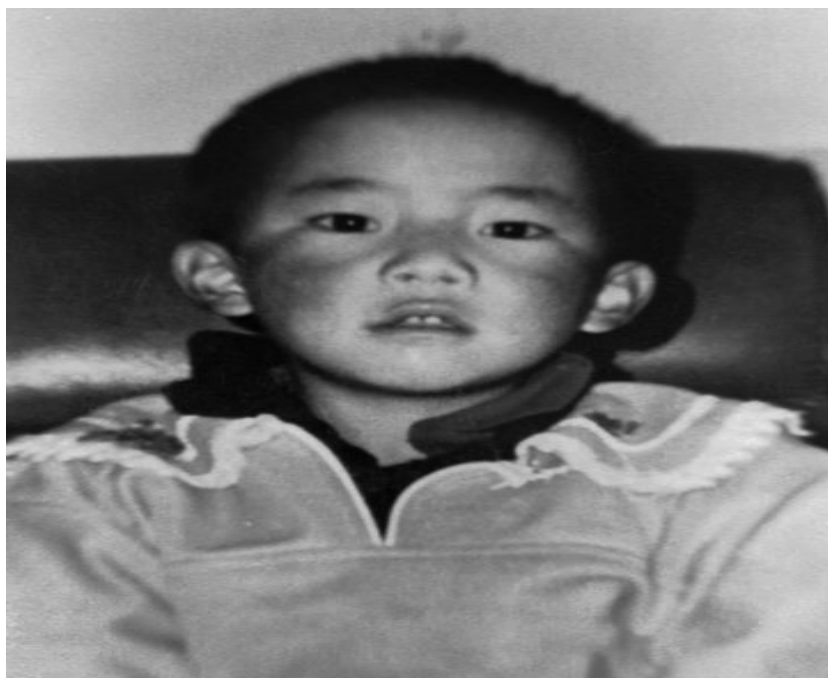
131 United Nations Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules, (United Nations, 2015), Rule 58.

132 *Ibid*.

133 TCHRD, *Into Thin Air*, online: (2016) <<http://www.tchrd.org/into-thin-air-tchrd->



Revisions were made to the CPL to take out the requirement that a relative be notified within 24 hours of an arrest,<sup>134</sup> as well as removing the requirement that the reason for and location of the arrest be communicated to a relative.<sup>135</sup> These laws violate customary international standards by limiting contact with the outside world,<sup>136</sup> not contacting a relative or designated support person upon transfer to another institution,<sup>137</sup> and the requirement that a prisoner must have the opportunity to immediately inform a contact person or relative of their arrest.<sup>138</sup>



*The 11th Panchen Lama Gedhun Choekyi Nyima was disappeared at the age of six*

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[releases-report-on-enforced-disappearances-in-tibet/>](#).

134 *Supra*, note 79, Article 83.

135 *Supra*, note 79, Article 91.

136 *Supra*, note 129, rule 58.

137 *Supra*, note 129, Rule 69.

138 *Supra*, note 129, Rule 68.

One of the most publicized cases of enforced disappearance is that of Gedhun Choekyi Nyima, the 11<sup>th</sup> Panchen Lama. The Panchen Lama, along with his parents, disappeared on 17 May 1995, only three days after the Dalai Lama recognized him as the reincarnation of the 10<sup>th</sup> Panchen Lama.<sup>139</sup> Despite requests from multiple human rights organizations, governments and the UN, information on the Panchen Lama's whereabouts have never been released. 25 April 2017 is the Panchen Lama's 28<sup>th</sup> birthday, he has been missing for 22 years. Chinese authorities have been asked to provide proof that the Panchen is alive and well, to which they have responded with a promise of photographs. These photographs or other proof of the Panchen Lama's condition have never been provided. Authorities tell those who inquire that the Panchen Lama is living a quiet life with his parents in the village he was born in, and that his parents have requested that they not be disturbed. Many people refuse to accept the Chinese assertions and insist that the Panchen Lama and his parents are held in violation of international law.

Following an enforced disappearance, detainees are at a greater risk of torture. Especially those who are held outside of formal detention centers<sup>140</sup> under residential surveillance. There are two kinds of residential surveillance, one where prisoners are required to stay in their homes and another where prisoners are sent to a black jail.<sup>141</sup> The existence of black jails was discovered in 2009. In black jails, prisoners routinely face "physical and psychological abuse, including beatings, sexual violence, food and sleep denial, and extortion."<sup>142</sup> As of September 2011 many of the 625 offices that were petitioned

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139 TCHRD, China Must End Enforced Disappearance of Tibet's 11th Panchen Lama, online: (2016) <<http://www.tchrd.org/china-must-end-enforced-disappearance-of-tibets-11th-panchen-lama/>>.

140 Human Rights Watch, China: Enforced Disappearances a Growing Threat, online: <<https://www.hrw.org/news/2011/11/09/china-enforced-disappearances-growing-threat>>.

141 *Supra*, note 79, Article 73.

142 *Supra*, note 138.

to be shut down were still in operation, and disguising their operations as hotels.<sup>143</sup> Not only Tibetan political dissidents face the fear of enforced disappearances, but foreign journalists have also been detained - one was even taken from Thailand to the PRC.<sup>144</sup> Human rights lawyers also face the potential of enforced disappearances<sup>145</sup> for their role in aiding Tibetans and other discriminated groups.

## *Torture*

The Convention Against Torture (CAT) defines torture as the intentional infliction of severe physical or mental pain or suffering by a public official as a punishment or to obtain a confession.<sup>146</sup> China is a party to this convention and is obliged to fulfill its obligations in good faith.<sup>147</sup> China has been known to use methods of torture that include: “inflicting shocks with electric batons; beating with iron bars, rifle butts and nail-studded sticks; branding with red-hot shovels; pouring boiling water over prisoners; hanging prisoners upside down or by the thumbs from the ceiling; shackling; kicking with boots; setting ferocious dogs onto prisoners; exposure to extreme temperatures; deprivation of sleep, food and water; prolonged strenuous ‘exercise’; long periods of solitary confinement; sexual violence; taunts and threats of torture and death;”<sup>148</sup> “shackling of

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143 *Supra*, note 138.

144 Amy Smith, *China: End Use of Enforced Disappearances Against Writers and Publishers*, online: (2016) <<https://pencanada.ca/news/china-end-enforced-disappearances-against-writers-and-publishers/>>.

145 Lejla Hodzic, *Enforced Disappearances in China*, (2016), online: <<http://www.icmp.int/news/enforced-disappearances-in-china/>>.

146 OHCHR, *Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*, Article 1, online: <<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>>.

147 United Nations, *Vienna Convention on the Law of Treaties*, 23 May 1969, United Nations, Treaty Series, vol. 1155, p.331, Art. 26.

148 “*Violence and Discrimination Against Tibetan Women*”, online: (2016) <<http://www.tibetjustice.org/reports/women/iii.html>>.

the hands and feet; the use of thumb locks; and the application of cattle prods to sensitive parts of the body, including the mouth and genitals.”<sup>149</sup> On 16 January 2014 the PRC made a commitment to gradually reducing torture and maltreatment,<sup>150</sup> a commitment that has yet to be seen in practice.

Torture is a *jus cogens* norm meaning that it can never be justified even in cases of war or emergency when the life of the nation is threatened.<sup>151</sup> As a *jus cogens* norm, China has a duty to comply with the prohibition of torture especially with its special status in the UN. The PRC ratified the CAT in 1988, meaning China has adopted the Convention into domestic law and they must implement the regulations in good faith.<sup>152</sup> The PRC has a duty to refrain from torturing their prisoners, yet despite numerous international conventions that they are a party to, they continue the practice. The PRC needs to actively ensure detention centers are complying with international regulations they are party to, such as eradicating the practice of torture, rather than minimizing their activities by reporting to CAT that tiger chairs used for immobilization during torture are made comfortable for victims by allowing soft cushions.<sup>153</sup> The UN Special Rapporteur for Extrajudicial, Summary or Arbitrary Executions received no response to the multiple requests to visit China.<sup>154</sup> Tibetans have suffered broken bones, removal of

149 Tenzin Choedrak, *Victim of Chinese Torture in Tibet*, online: Samsara <<http://www.subliminal.org/tibet/testimony/Choedrak-Congress.html>>.

150 “China.org”, *Decision of the Central Committee of the Communist Party of China on Some Major Issues Concerning Comprehensively Deepening the Reform*, Part 34, online: <[http://www.china.org.cn/china/third\\_plenary\\_session/2014-01/16/content\\_31212602\\_9.htm](http://www.china.org.cn/china/third_plenary_session/2014-01/16/content_31212602_9.htm)>.

151 *Responsibility of States for Internationally Wrongful Acts*, United Nations, 2008, Article 26(5).

152 *Supra*, note 145, Article 28.

153 International Campaign for Tibet, *UN Committee against Torture Calls China to Account for ‘Deeply Entrenched’ Torture and Ill-Treatment*, (2015), online: <<https://www.savetibet.org/u-n-committee-against-torture-calls-china-to-account-for-deeply-entrenched-torture-and-ill-treatment/>>.

154 “Tibet Justice Centre”, online: (2016) <<http://www.tibetjustice.org/reports/sover->

kidneys, lung conditions, flesh decay, organ failure, and death as a direct result of torture under PRC rule. Prisoners have witnessed their friends beaten to death by prison officials,<sup>155</sup> and prison officials rooting for other prisoners to beat Tibetans, causing increased psychological suffering. There have been 18 known Tibetan deaths as a direct result of torture under PRC authority since 2008.<sup>156</sup>

Torture is prohibited under domestic Chinese law. CPL states that the “human dignity of a prisoner shall not be humiliated, and his personal safety, lawful properties, and rights to defence, petition, complaint, and accusations as well as other rights which have not been deprived of or restricted according to law shall not be violated.”<sup>157</sup> The CPL also states “police of a prison shall not commit any of the following acts: to demand or seize money or goods from prisoners or their relatives; to use torture to coerce a confession, or to use corporal punishment, or to maltreat a prisoner; to humiliate the dignity of a prisoner; to beat or connive at others to beat a prisoner.”<sup>158</sup> The use of torture in China is contradictive to both international and domestic Chinese law, yet the practice still persists. The phrase “torture to coerce a confession” is one of contention between China and the CAT. CAT wants China to implement a law saying “torture is illegal”, not merely one that prohibits torture to coerce a confession. One ex-guard (PRC) estimates that about 10% of prisoners who come into RTL centers die inside.<sup>159</sup>

It has become common knowledge among Tibetans that if they

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155 *Supra*, note 65.

156 The Tibet Express, China Resorts to “Torture with Tibetan characteristics”, online: (2016) <<http://tibetexpress.net/news/chinese-resort-to-torture-with-tibetan-characteristics-tchrd/>>.

157 Prison Law of the People’s Republic of China, 1994.

158 *Ibid*, Article 14.

159 Guangxi, Torture in the Name of Treatment, (2012), online: <[https://www.hrw.org/sites/default/files/reports/HHR%20Drug%20Detention%20Brochure\\_LOWRES.pdf](https://www.hrw.org/sites/default/files/reports/HHR%20Drug%20Detention%20Brochure_LOWRES.pdf)>.

are taken into custody they will be tortured.<sup>160</sup> While incarcerated, some Tibetans undergo patriotic re-education where they are forced to participate in lessons on socialism and denouncing the Dalai Lama. These lessons denounce Tibetan culture and incorrectly portray the liberation of Tibet as having a positive effect that has empowered Tibetans to denounce their previous leaders, such as the Dalai Lama.<sup>161</sup> During the sessions Tibetans are forced to sign guarantee letters saying that they will love the communist party and protect the interest of the Chinese nation, while denouncing the Dalai Lama.<sup>162</sup>

Chinese officials have been known to release prisoners in critical condition after prolonged beatings and torture to prevent death in detention.<sup>163</sup> In rare cases, prior to release, prisoners have chosen suicide in protest of torture.<sup>164</sup> There are many stories of the torment that goes on within Chinese prisons. A Tibetan blogger recounts a few of the atrocities that a 28-year-old victim of the PRC faced in detention: “One of his legs was cut with many bloody knife wounds and a nail had been driven into a toenail on his right foot. A great deal of flesh had been cut away from his bottom, where the wound was rotting and infested with insects. Where his waist had been beaten with electric batons, the flesh had started to decay. There were many wounds on his back and on his face. One of the wounds was covered with transparent tape. Because he had not received any medical care, he was already on the verge of death.”<sup>165</sup>

Abuses within Chinese prisons do not stop at physical beatings and

160 *Supra*, note 65.

161 TCHRD, China Conducts Massive ‘Patriotic Education’ Campaign in Lihang, online: (2016) <<http://www.tchrd.org/china-conducts-massive-patriotic-education-campaign-in-lihang/>>.

162 *Ibid*.

163 Tenzin Monlam, Tibetan Prisoner Released in Severe Medical Condition, online: Radio Free Asia <<http://www.phayul.com/news/article.aspx?id=36560>>.

164 *Supra*, note 65.

165 *Supra*, note 65.

psychological torture. Recently the PRC has been known to use medical torture and involuntary extractions of bodily substances. In a Sichuan Province reeducation through labour facility Tibetans were singled out for blood donations, some were drained of so much blood that they were subsequently given injections to help build up their strength. If blood was not immediately able to be drawn, Tibetans were forced to run around to increase their blood pressure, easing the process of extracting the blood. Tibetans traditionally have lived at very high elevations, which forces the body to process oxygen more quickly. Through evolution Tibetans have come to be able to process oxygen at higher levels than the average person. When Chinese police arrived in Tibet they found that their bodies were not adjusting to the altitude as well as Tibetans, leaving them tired and unable to perform duties to their normal capabilities. One prisoner was told by the guards in Sichuan that the blood donations were being sold to Chinese border guards working in Tibet.<sup>166</sup>

Goshul Lobsang, a victim of physical, mental and medical torture, who had succumbed to his injuries following release, remembers receiving “injections designed to cause and exacerbate his pain while he was being tortured,”<sup>167</sup> a practice that has been adopted by the Chinese to inflict pain faster. In 2012 sources reported that, the first self-immolator in Tibet was still alive in Chinese detention, and that the wounds on his legs and arms from gunshots following his self-immolation are being repeatedly re-opened in the name of medical treatment.<sup>168</sup> Other prisoners have been given injections “under the pretext of medical treatment” that are designed to provide a slow

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166 *Supra*, note 122.

167 Goshul Lobsang Tortured with Pain-Inducing Injections, Leaves a Defiant note after Untimely Death, online: TCHRD (2016) <<http://www.tchrd.org/goshul-lobsang-tortured-with-pain-inducing-injections-leaves-a-defiant-note-after-untimely-death/>>.

168 *Supra*, note 37.

death.<sup>169</sup> This practice allows the PRC to release prisoners in seemingly adequate physical condition, causing them to die in the community rather than while detained. In following this regime, the PRC aims to avoid international scrutiny for deaths in detention, and enables them to claim they had no part in death outside of the prison. Furthermore, prisoners are frequently denied adequate medical care. One 64-year old woman recounts being beaten, tortured and denied medical assistance for protesting the arrest of her nephew. Following her release she was in critical condition with severe head injuries.<sup>170</sup>

### *After Detention*

Former prisoners are at an increased risk for being detained a second time as a result of heightened surveillance and the strict limitations on their movements and communications. Those released from prison are more closely monitored and as the authorities expect recidivism, former prisoners are at a higher risk for being arrested on minor or arbitrary charges. It is common place for past prisoners to be required to report to police for regular check-ins, and are frequently not allowed to discuss their time in prison, or communicate with the outside world regarding their health. In some cases following release from prison, Tibetans are subject to residential surveillance as a form of unofficially extending their sentence, to ensure they comply with their conditions.<sup>171</sup>

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169 Tenzin Gaphel, China Resorts to “Torture with Tibetan Characteristics”, online: (2016) <<http://tibetexpress.net/chinese-resort-to-torture-with-tibetan-characteristics-tchrd/>>.

170 James Tapper, Torture is the New Normal in Tibet, (2014) online: <[http://www.salon.com/2014/10/04/torture\\_is\\_the\\_new\\_normal\\_in\\_tibet\\_partner/](http://www.salon.com/2014/10/04/torture_is_the_new_normal_in_tibet_partner/)>.

171 Radio Free Asia, Inner Mongolia: Residential Surveillance Extends Dissident’s Detention, (2014), online: UNPO <<http://unpo.org/article/17781>>.



## *Death in Detention*

Death in detention is a reality for many prisoners as a result of the brutal torture and deprivation of food, water, clean living space, and lack of adequate medical care. Prison officials are under an obligation, in domestic law, to immediately investigate any abnormal deaths that occur during an imprisonment, and to inform relatives that their loved one has died.<sup>172</sup> Unfortunately this law is not frequently followed. Tibetans may not be informed that their loved one has died, and requests for information may be denied. Families can go on for years thinking their loved one is incarcerated, when in reality they have been deceased for quite some time. Following deaths in detention where families have been made aware of the death, there have been reports of authorities denying family members the opportunity to conduct Buddhist ceremonies for passage into the next life, as well as forced cremation of bodies against the wishes of relatives and communities.<sup>173</sup> Bodies may be cremated before a formal investigation into the death can be launched, even when there are suspicious signs of maltreatment, torture, or poisoning. Even after the body has been cremated and any possible evidence destroyed the authorities may refuse to give the remains to the prisoner's family. The ashes of Tenzin Delek Rinpoche<sup>174</sup> were confiscated by police in the night, as they threatened relatives that they would dump the ashes in the river if they continued to protest and fight the confiscation.<sup>175</sup> Lhakpa Tsering was shot and killed by

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172 *Supra*, note 155, Article 55.

173 Richard Finney, *Tenzin Delek Rinpoche's Body is Cremated in Prison*, (2015) online: Radio Free Asia <<http://www.rfa.org/english/news/tibet/cremated-07162015121248.html>>.

174 TCHRD (2016), online at: *Niece of Tibetan reincarnate lama says her uncle was poisoned to death in prison*, <<http://tchrd.org/niece-of-tibetan-reincarnate-lama-says-her-uncle-was-poisoned-to-death-in-prison/>>

175 Lobsang Choephel, *Chinese Authorities Snatch Tenzin Delek Rinpoche's Ashes from Tibetans*, (2015), online: Radio Free Asia <<http://www.rfa.org/english/news/tibet/tibet-lama-07202015173154.html>>.

police at a demonstration. Police forcibly took his body and cremated him without the permission of relatives. “His ashes were returned to his family in a plastic bag with his name on it.”<sup>176</sup> In rare cases, Tibetan prisoners have killed themselves in prison in protest of torture, or due to despair from being made to renounce the Dalai Lama.<sup>177</sup>

Once a Tibetan has died in prison, if his family is aware of his death, they are at a higher risk for arrest. Family member Dolkar Lhamo and her daughter Nyima Lhamo were arrested under suspicion of sharing news of Tenzin Delek Rinpoche’s death in prison with the outside world.<sup>178</sup> No information was given on the exact reason for their detention, and relatives were not informed of where they were taken.

### *The Affected Invisible*

Many Tibetans have fled their homes and families in Tibet in search of a life free from prosecution. Tenzin Phuntsok’s mother sent him, her only son, to India for a better life when he was only nine. Tenzin remembers watching his mother crying as he left, not sure if they would meet again. It has been 22 years since Tenzin left Tibet. He prays for his mother and misses her every day, but knows his mother sent him to India to escape oppressive PRC policies and ensure that he would not become a political prisoner. Tenzin says that “separating mother and son is worse than dissecting the country into two separate nations.”

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176 Supra, note 22.

177 The International Campaign for Tibet: Submission to the Committee Against Torture, online: (2016) <<https://www.savetibet.org/icts-submission-to-un-committee-against-torture-on-chinas-action-in-tibet/>>.

178 Kalden Lodoe, Tenzin Delek Rinpoche’s Sister, Niece are Detained in Sichuan, (2015), online: Radio Free Asia <<http://www.rfa.org/english/news/tibet/detained-07172015135210.html>>.

Communities and families suffer from the incarceration of a loved one. One person's arbitrary detention creates a ripple effect that damages and destroys lives of those that cared for them. These communities are left devastated by the loss, and may not be allowed to mourn under oppressive Chinese policies. Through China's strict regime communities are losing their culture, religion, and way of life. From the outside world, we hear reports of political prisoners and those who self-immolate, but those who are not visible to the outside world, those left behind in Tibet suffer high impact community loss.

Mothers, fathers, brothers, sisters and friends are left behind when a political prisoner is taken. Those left behind face many problems economically and psychologically. Family members "wait and wait for their loved ones to return home. Thinking that they won't return is kind of like killing them, so you don't want to betray the trust they have in you."<sup>179</sup> An 80-year old mother lost her son several years ago. She waits and waits for him to return home, thinking that he has gone on a great journey. No one has the heart to tell her that her son was arrested and sentenced to six years imprisonment for intentional homicide.<sup>180</sup>

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179 Tsering Tsomo, ed (Dharamshala, India, 2016).

180 TCHRD, A Year After Arrest Monk Sentenced to 6 Years in Prison, online: (2016) <<http://www.tchrd.org/a-year-after-arrest-monk-sentenced-to-6-years-in-prison-over-self-immolation/>>.

## AFTERWARD

### *Accounts of Self-immolation*

Tashi Kyi of Ngulra Village self-immolated on March 28, 2015 in protest of the demolition of her home. Passersby attempted to extinguish the fire to no avail. Tashi passed away in hospital and her body was forcibly taken by Chinese authorities.<sup>181</sup> Many other homes in Tashi's village were demolished, and protesters were present at the site. Chinese authorities claimed that the homes were demolished as a result of incorrect permits. Tibetan ground sources claim Tashi's self-immolation was a result of more than just having her home demolished. Sources claim oppressive Chinese policies and unfair practices are to blame.

Sonam Topgyal, 27, self-immolated in Kyegudo on 9 June 2015. Sonam left a message for the world in his prayer book that "slams China's brutal and repressive policy aimed at eradicating and exterminating [Tibet's] religion, customs, and cultural tradition."<sup>182</sup> Sonam also wrote, "The Tibetan people have no freedom of expression. There is nowhere we can go to lodge our complaints." Sonam addressed his letter to the PRC and the Chinese leaders of the Tibetan minority.<sup>183</sup> Sonam's parents were arrested in connection with his self-immolation, but were subsequently released.

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181 Lhuboom and Lobe Socktsang, Tibetan Woman Self-Immolates in Protest Burning in China's Gansu, (2015), online: Radio Free Asia <<http://www.rfa.org/english/news/tibet/tibetan-woman-self-immolates-in-protest-burning-in-chinas-gansu-08282015123238.html>>.

182 Sonam Wangdue, Latest Tibetan Self-Immolator Slams China's Policies in Written Final Message, (2015), online: Radio Free Asia <<http://www.rfa.org/english/news/tibet/message-07172015165543.html>>.

183 Ibid.

Lobsang Phuntsok, a Kirti Monastery monk, self-immolated in Ngaba County on 16 March 2011. Following the immolation local people attempted to extinguish the flames, while police were seen beating Phuntsok with metal batons.<sup>184</sup> Phuntsok is believed to have self-immolated to mark the third anniversary of the uprising of Tibet that saw the shooting and killing of Tibetans.<sup>185</sup> In the heat of the fight with police, several monks carried Phuntsok's body back to the monastery before ensuring he was able to receive medical treatment. The monks were aware that the hospital was very unlikely to treat Phuntsok without government approval, so they subsequently turned his body over to the police. Phuntsok died in hospital at 3:00 am local time. The police released a different statement claiming monks forcibly took Phuntsok from the hospital. Following the immolation Kirti Monastery was placed under strict lockdown and many of the monks were arrested or taken to unknown locations for "legal education."

Sonam Tso, a mother of five, self-immolated while calling for the return of His Holiness the Dalai Lama, and freedom for Tibet.<sup>186</sup> Sonam's husband and uncle attempted to extinguish the flames, but Sonam passed away before help was able to transport her to hospital. Information on Sonam's self-immolation took over a month to reach the outside world due to a clampdown of the area following her self-immolation. Sonam's uncle was arrested as a result of discussing the immolation, and was made to delete all materials of Sonam's immolation he had collected on his cell phone.

On 4 March 2016, Karmapa, a Tibetan spiritual leader encouraged all Tibetans across the world "to continue living good and

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184 "Tibet Protests", *Understanding Protest in Modern Tibet*, online: (2016) <<https://tibetprotests.wordpress.com/self-immolations/sources-on-lobsang-phuntsog/>>.

185 *Ibid.*

186 Sonam Topgyal, *Tibetan mother of Five Burns to Death to Protest Chinese Rule*, (2016), online: Radio Free Asia <<http://www.rfa.org/english/news/tibet/mother-05062016131403.html>>.

healthy lives.”<sup>187</sup> Karmapa’s address came following the self-immolation of two Tibetan youth, one in Kardze and the other in India.<sup>188</sup> Karmapa indicated that although self-immolating may be admirable within the smaller community, one reason for many of the self-immolations has been to draw international attention to seek help with their struggle in Tibet. Karmapa said that since the first self-immolation the international world has not responded to their struggle in a way that is productive and helping the Tibetan cause. He pushed the importance of having a strong community of living Tibetans and that by self-immolating there are less people to preserve their culture. Although His Holiness the Dalai Lama has not called for the end of self-immolations as of yet, he has expressed great concern for his people and his desire for them to live long, happy lives.

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187 Roseanne Gerin, *Spiritual Leader Implores Tibetans not to Self-Immolate in Protest of Chinese Rule*, (2016), online: Radio Free Asia <<http://www.rfa.org/english/news/tibet/spiritual-leader-implores-tibetans-not-to-self-immolate-in-protest-of-chinese-rule-03042016163252.html>>.

188 Ibid.

## PRISONER PROFILES

**Adruk Lopoe** (45), Monk, of Lithang County was detained on 21 August 2007. Lopoe was sentenced to 10 years on 20 November 2007 on charges of inciting separatism and espionage. Specifically for “colluding with [a] foreign separatist force to split the country and distributing political pamphlets.”<sup>189</sup> His location is presently unknown, but he was last seen at Kardze PSB Detention Centre.

Lopoe was an advocate for environmental issues such as deforestation and hunting in his hometown. He was very vocal in his home community about the need for youth education. Locals believe that Lopoe’s genuine calls for concern over the years may have infuriated the authorities and contributed to his detention. In 1998 Lopoe resigned from his appointment as Deputy Director of the Democratic Management Committee of Lithang Monastery because the PRC’s Patriotic Re-Education Campaign, where a series of political texts were introduced into monastic studies as a mandatory requirement, required that he denounce the Dalai Lama.<sup>190</sup>

On the night of his detention, Lopoe and two of his brothers had called for the release of their uncle, Ronggye A’drak, from PRC custody. Ronggye was detained after speaking out about the importance of the Dalai Lama’s return to Tibet to a large crowd. The police stormed the village and subsequently arrested the three. Lopoe’s two brothers were released six hours after their initial detention and

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189 “OMCT”, China: Sentencing of Mt Adruk Lopoe to Ten Years in Prison, (2007), online: <<http://www.omct.org/human-rights-defenders/urgent-interventions/china/2007/11/d18942/>>.

190 TCHRD, Chinese Authorities Transfer Adruk Lopoe to Unknown Location, Arrest Another Tibetan Nomad, (2007), online: <<http://tchrd.org/chinese-authorities-transfer-adruk-lopoe-to-unknown-location-arrest-another-tibetan-nomad/>>.

put under close surveillance, while Lopoe was held and later transferred to an unknown location.<sup>191</sup>

In 2004, only three years prior to his arrest, NPC amended the constitution to include that “the State respects and safeguards human rights.”<sup>192</sup> In 2006, one year prior to Lopoe’s arrest, China submitted a document to the UN dubbing this amendment as “defining the position of human rights in the overall national development strategy.”<sup>193</sup> Despite China’s amendment and declaration to the UN, Lopoe was arrested and has yet to be released. His whereabouts remain unknown.

**Thabkhay Gyatso** (34) Monk of Labrang Tashikyil Monastery, born in Sangkag Village in Labrang, was detained on 22 March 2008. Gyatso was sentenced on 21 May 2009 to 15 years on charges of endangering state security.

**Tsultrim Gyatso** (37) Monk of Labrang Tsahikyil Monastery, born in Yig-jang Village in Labrang was detained on 22 May 2008. Gyatso was sentenced on an unknown date to life imprisonment on charges of splittism.

Both Thabkhay and Tsultrim were detained for their participation in a protest occurring the year prior, on 15 March. Tsultrim attempted to avoid detention by leaving the County directly after the demonstration, but was later tracked down and detained by police. Both have been denied access to their families, and the families were not informed about their court trials. The last reports of Thabkay report him as suffering from severe appendicitis and recovering in

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191 *Supra*, note 186.

192 *Ibid.*

193 United Nations, First Department, (2006), online: <<http://www.un.org/ga/60/elect/hrc/china.pdf>>.



hospital following successful minor surgery.<sup>194</sup> No family members were allowed to visit him in the hospital.

Families of Thabkay and Tsultrim hired Chinese civil rights lawyer Li Fangping from Beijing Ruifeng Law Firm. When Li attended the prison to prepare for trial he was denied access to his clients.<sup>195</sup> Li was later informed by Gansu High People's Court that the two monks had chosen a different lawyer. Thabkay and Tsultrim were subsequently sentenced in closed trial. Li had been blocked from representing other Tibetan clients in the past.

**Wangdu** (41) HIV/AIDS Project Officer, born in Lhasa was detained on 14 March 2008. Wangdu was sentenced on 27 October 2008 to life imprisonment for Inciting Espionage. He remains in Chushur Prison.

Following a protest on 14 March, where he was initially arrested, Wangdu was accused of collecting "intelligence concerning the security and interests of the state and providing it to the Dalai Clique."<sup>196</sup> Many prisoners were taken following the protest. In an effort to silence Tibetan concerns Wangdu and six others detained were given long sentences as an implied warning to other Tibetans who may be considering protesting.<sup>197</sup> Despite the peaceful protest by Tibetans of the oppressive 50 years of Chinese rule, Chinese state media reported that the event was put together by the Dalai Clique as "Tibetan independence separatist forces... in a well orga-

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194 TCHRD, China Denies Family Access to Two Labrang Monks Serving Lengthy Prison Sentences, (2009), online: <<http://tchrd.org/china-denies-family-access-to-two-labrang-monks-serving-lengthy-prison-sentences/>>.

195 "International Campaign for Tibet", Crackdown on Lawyers, (2009), online: <<https://www.savetibet.org/crackdown-on-lawyers-legal-think-tank-shut-down-fears-for-leaving-fear-behind-film-maker-dhondup-wangchen/>>.

196 "International Campaign for Tibet", NGO Worker Sentenced to Life Imprisonment, (2008), online: <<https://www.savetibet.org/ngo-worker-sentenced-to-life-imprisonment-harsh-sentences-signal-harder-line-on-blocking-news-from-tibet/>>.

197 Ibid.

nized and pre-meditated manner.”<sup>198</sup> Lhasa News accused Wangdu of collecting intelligence concerning the security and interests of the state, establishing an underground intelligence network in Lhasa, and copying and distributing large amounts of CD’s with content inciting to split the nation.<sup>199</sup>

Wangdu previously served three years of “reform through labour” for protesting Martial Law in Tibet. This sentence was later increased to eight years imprisonment as a result of signing a petition against the PRC, along with several other prisoners.<sup>200</sup>

**Yeshe Choedon** (57) former doctor, born in Lhasa was detained on 1 March 2008. Choedon was sentenced on 7 November 2008 to 15 years on charges of Espionage.

Choedon was hospitalized for the second time for emergency treatment as a result of torture in prison and a serious health condition on 4 April 2016.<sup>201</sup> She was arrested for allegedly leaking state secrets to the outside world during protests in the March 2008 uprising. Choedon was arrested without evidence as to her charges, and she has not been allowed to meet with her family and children since her arrest.

**Kunchok Tsephel** (39) website founder, born in Machu, Amdo was detained on 26 February 2009. Tsephel was sentenced on 12 November 2009 to 15 years for leaking state secrets.

Tsephel created the website Chodme (‘Butter Lamp’), founded in 2005. Some of his charges of disclosing state secrets are believed to be in connection to posts on his website which serve to preserve

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198 Ibid.

199 Ibid, Lhasa news excerpt.

200 Ibid.

201 “The Tibet Post”, Jailed Tibetan Health Worker Hospitalized Again in a Serious Condition, (2016), online: <<http://www.thetibetpost.com/en/news/tibet/4953-jailed-tibetan-health-worker-hospitalised-again-in-a-serious-condition>>.

Tibetan culture and share information about ongoing protests.<sup>202</sup> Chodme was a self-funded website which had been censored or closed on occasion by the PRC. At the time of his arrest, Tsephel's home was searched, his computer confiscated, and he was subsequently held incommunicado at an undisclosed location until his sentencing.

Tsephel's family was not informed of his arrest until over a week later. In addition, they were not allowed to attend his closed-door trial, at which he was denied access to a lawyer. He was the backbone of his family including his mother, wife, daughter, who are now suffering as a result of financial stress. Tsephel's family are allowed to visit him every two months where they are allowed to speak with him in Chinese for 30 minutes through an intercom affixed to a glass screen.<sup>203</sup> Some of his family members, including his mother are not able to speak Chinese and are upset about not being able to communicate. New information received on Tsephel confirms that he is suffering from severe pain in his waist and legs. Prison authorities stopped Tsephel's family from delivering him traditional Tibetan medicine. Tsephel's health remains one of the biggest concerns for his family members.

**Karma Samdup** (42) environmentalist and art collector, born in Gonjo, Kham was detained on 3 January 2010. Samdup was sentenced on 24 June 2010 to 15 years for alleged robbery. He remains imprisoned in Xinjiang Province.

Samdup was well known in the community as an environmentalist and philanthropist. He was detained following a protest to release

202 "International Campaign for Tibet", Founder of Tibetan Cultural Website Sentenced to 15 Years in Closed-Door Trial in Freedom of Expression Case, (2009), online: <<https://www.savetibet.org/founder-of-tibetan-cultural-website-sentenced-to-15-years-in-closed-door-trial-in-freedom-of-expression-case/>>.

203 "Pen America", Kunchok Tsephel, online: (2016) <<https://pen.org/defending-writers/kunchok-tsephel>>.

his two brothers from prison who had been arrested for their work in wildlife conservation in Chamdo. While Samdup was detained and interrogated for over six months (without visitation) while “officers beat him, deprived him of sleep for days on end, and drugged him with a substance that made his ears and eyes bleed”.<sup>204</sup> Samdup’s wife recalled seeing him at the trial and described his appearance as “gaunt and shrunken”.<sup>205</sup> At the trial Samdup discussed some of the maltreatment he experienced while incarcerated: foreign instruments which he was tortured with, how he was forced to write an ‘IOU’ each time he wanted to use the toilet (which at the time of the trial had amounted to \$96,846), and that his ‘purchased’ food would be crushed with people’s feet.<sup>206</sup>

Samdup’s robbery charges were for excavating and robbing ancient tombs. He was initially charged for this crime in 1998, but the charges were subsequently dropped. A lawyer spoke out against the Xinjiang police for bringing the charges for a second time after announcing Samdup was not guilty and that the real offenders had been arrested and punished.<sup>207</sup>

**Thardoe Gyaltzen**, Monk-Chant Master of Drongna Monastery, born in Diru was detained on 11 December 2013. Gyaltzen was sentenced to 18 years (sentence date unknown) on charges of possessing materials related to the Dalai Lama.

Gyaltzen was secretly sentenced on an unknown date, while his whereabouts were unknown to his relatives and monastic contemporaries. It was speculated by local Tibetans that Gyaltzen was targeted as a direct result of his starting Tibetan language and culture

204 “International Campaign for Tibet”, Fears for Three Environmentalist Brothers as “Gaunt” Karma Samdrup on Trial After Torture, (2010), online: <<https://www.savetibet.org/fears-for-three-environmentalist-brothers-as-gaunt-karma-samdrup-on-trial-after-torture/>>.

205 Ibid.

206 Ibid.

207 Ibid.

classes, which around 300 students had the opportunity to attend. These classes made an enormous contribution in preserving and promoting Tibetan language and culture in the local area. PRC officials stormed the monastery and ordered all classes to be shut down, prohibited religious activities such as prayer ceremonies from occurring at the monastery, and arrested Gyaltzen on charges of committing political crimes.

**Dukar Gyal aka Shokjang**, writer, born in Labrag, Amdo was detained on 19 March 2015. Shokjang was sentenced on 17 February 2016 to 3 years on charges of “inciting splittism”.

Shokjang was arrested for sharing information with the outside world: “gun-toting soldiers have surrounded Rebkong. They are frisking the Tibetans. Is this meant to protect public security? Or is this a deliberate ploy to provoke the people? If this is how they create the so-called social stability, how extremely terrifying this act is!”<sup>208</sup> The post by Shokjang was an act of freedom of expression, a right protected by both Chinese and International law.

**Lobsang Jamyang aka Lomik** (27) Monk of Kirti Monastery, born in Ngaba, Amdo was detained on 17 April 2015. Jamyang was sentenced on 9 May 2016 to 7.5 years on charges of leaking state secrets and engaging in separatist activities.

Jamyang was held for more than a year in incommunicado detention prior to his closed door trial and sentencing. During his detention Jamyang suffered several interrogations, beatings, and torture.<sup>209</sup> Jamyang was sentenced in a closed trial, and following the sentencing the authorities did not provide any clear evidence to

208 TCHRD, TCHRD Condemns Arbitrary Detention of Tibetan Writer Shokjang, (2015), online: <<http://tchrd.org/tchrd-condemns-arbitrary-detention-of-tibetan-writer-shok-jang/>>.

209 TCHRD, Tibetan Writer Sentenced to 7.5 Years After More Than a Year of Secret Detention, (2016), online: <<http://tchrd.org/tibetan-writer-sentenced-to-7-5-years-after-more-than-a-year-of-secret-detention/>>.

corroborate the charges. Jamyang refuses to accept all charges and insists that he is not guilty of the crimes he was sentenced for. Local Tibetan authors wrote an article speculating that Jamyang had been detained for writing essays about the suppression of freedom of expression, destruction of Tibetan environment, the 2008 Uprising, self-immolation protests and for participating in a panel discussion on issues affecting Tibetans.

In addition to completing his Bachelor's of Buddhism and being a monk, Jamyang was also a writer. He has published a book called "The Yellow Fog", several articles, and has greatly contributed to Tibetan language websites. Through several debates and public panels, organized in part by Jamyang, he was able to encourage many Tibetan youth from his home town.

**Tsultrim Kalsang** (25) Monk of Nyatso Zilkar Monastery, born in Tridu, Kham was detained on 1 September 2012. Kalsang was sentenced on 12 July 2013 to 10 years in prison on charges of intentional homicide and inciting separatism.

Local Tibetans believe that Kalsang's charges may be related to the deaths following twin self-immolation protests carried out by Tibetan youth in Dzatoe township. Kalsang was arbitrarily detained for 10 months before being released to his monastery as a result of failing health. He was later called for interrogations twice and was again arbitrarily detained for four months during questioning. In February 2012 Kalsang participated in a peaceful protest calling for freedom for Tibet and the return of His Holiness the Dalai Lama. Kalsang and many others were subsequently detained, tortured and sentenced.

**Tenzin Gyamo-Kha**, Monk, born in Ngaba, Amdo was detained on 23 March 2011. Gyamo-Kha's sentence date is unknown, but it has been confirmed that she has been sentenced to 13 years on

charges of intentional homicide. She is believed to be held in Ngaba PSB Detention Centre.

**Lobsang Tenzin** (22) Monk, born in Ngaba, Amdo was detained on 22 March 2011. Tenzin's sentence date is unknown, but it has been confirmed that he has been sentenced to 10 years on charges of intentional homicide. He is believed to be held in Ngaba PSB Detention Centre.

Gyamo-Kha and Tenzin were charged with intentional homicide for allegedly aiding a 20 year old monk, Lobsang Phuntsok (profile above), to light himself on fire. The official Xinhua news agency said "the two plotted, instigated and assisted in the self-immolation... and caused his death."<sup>210</sup> Gyamo-Kha and Tenzin were held incommunicado until their sentencing, at which they denied all charges. Both were refused the right to a lawyer of their choosing, and there was an overall lack of due process in their sentencing.

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210 "Phayul", Two More Monks Served Lengthy Jail Terms for "Intentional Homicide", (2011), online: <<http://www.phayul.com/news/tools/print.aspx?id=29935&t=0>>.









## Tibetan Centre for Human Rights and Democracy

Top Floor, Narthang Building,  
Gangchen Kyishong  
Dharamsala, HP, India

Email: [director@tchrd.org](mailto:director@tchrd.org)

Tel: +91 1892 223363/229225

Web: [www.tchrd.org](http://www.tchrd.org)