

**An Alternative Report Submitted to Committee on the  
Elimination of Racial Discrimination for its Review at the  
96<sup>th</sup> Session of the fourteenth to seventeenth periodic reports  
(CERD/C/CHN/14-17) by the People's Republic of China on  
its implementation of the Convention on the Elimination of  
All Forms of Racial Discrimination**

Submitted by



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## Summary

This report is an assessment of the People's Republic of China's (PRC) compliance with the Convention on the Elimination of All Forms of Racial Discrimination (CERD) with respect to the Tibet Autonomous Region (TAR) and other Tibetan areas in the provinces of Qinghai, Sichuan, Gansu and Yunnan. Despite claims of progress made by PRC in its state party report, PRC's policies and practices have perpetuated persistent discrimination and marginalization among Tibetans, which has in turn contributed to violations of various other human rights guaranteed in the Universal Declaration of Human Rights and other international human rights treaties signed and ratified by PRC. The report highlights violations of civil and political rights as well as economic, social and cultural rights and provides a set of recommendations to the PRC to meet its obligations and duties under international law to respect, protect and fulfill human rights of all Tibetans.

## Freedom of Peaceful Assembly

The increased restrictions on the right to peaceful assembly in Tibet<sup>1</sup> coincided with the rise in PRC's internal security budget particularly since the 2008 protests.<sup>2</sup> A large part of this public security budget is allocated to provincial and local governments that enable security forces to engage in disproportionate use of force against Tibetans exercising the right to peaceful assembly in the name of "maintaining public order".<sup>3</sup> Tibetans peacefully protesting against mining operations, land grab, environmental destruction, and arbitrary demolition drives have been subjected to arbitrary arrests and detention, torture, and enforced disappearances. Protections for individuals are severely undermined, as there is no rule of law but rather rule by law. This in turn creates a climate in which summary and/or arbitrary execution can take place without sanction or consequence and further undermines the basic rights of those who are seen as a threat to "national security". Tibet is regarded as a sensitive area by PRC authorities and activities taking place there such as peaceful assembly are invariably treated as a threat to national security without any evidence.

The relentless crackdowns on peaceful assemblies are a continuation of a policy to repress peaceful protests without regard to the PRC's international legal obligations. The Tibetan Centre for Human rights and Democracy (TCHRD) in 2014 obtained evidence of the implementation of this policy during the suppression of protests in 2008.<sup>4</sup> Official autopsy

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<sup>1</sup> 'Tibet' here refers to the Tibet Autonomous Region (TAR) and other Tibetan areas in the provinces of Qinghai, Sichuan, Gansu and Yunnan.

<sup>2</sup> Translation: The Machinery of Stability Preservation, Caijing, June 6, 2011, Translated by Dui Hua Human Rights Journal, available at <https://www.duihuahrjournal.org/2011/06/translation-machinery-of-stability.html>

<sup>3</sup> Tibet Protests in 2008-2009: Profiles of known Tibetans who Died in the Protests, TCHRD, September 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)

<sup>4</sup> "Leaked internal document shows china used machine guns to kill Tibetans in March 2008 protest," TCHRD, 20 August 2014, available at: <http://tchrd.org/leaked-internal-document-shows-china-used-machine-guns-to-kill-tibetans-in-march-2008-protest/>

reports show that PRC officials knew that machine guns and lethal force were used against protesters. The reports listed 26, known and unknown, people killed during the protests.<sup>5</sup> These reports show that at the very least, 15 people, including 11 known Tibetans, died of gunshot wounds and over 100 people were killed in Lhasa during the 2008 protests. Other internal documents, like the handbook on how members of the People's Armed Police can avoid the psychological trauma of shooting unarmed protesters, directly connect the crimes committed by security personnel to the Chinese leadership.<sup>6</sup> This amounts to an admission that security forces did indeed use firearms against protesters in many other parts of Tibet such as Ngaba (Chinese: Aba), Sertha (Chinese: Seda) and Kardze (Chinese: Ganzi) in 2008, as alleged by Tibetan eyewitnesses at the time but denied by the authorities.<sup>7</sup> The handbook also tends to confirm that PRC's security forces are deployed in Tibet to wage a political struggle, rather than simply to maintain public order.

Since the outbreak of 2008 protests, most Tibetan areas have remained in a state of undeclared martial law requiring the large-scale deployment of security forces to maintain the status quo and prevent signs of dissent from reaching the outside world. In this climate mass protests have been replaced by individual acts of self-immolation. The wave of self immolations as a form of political protest that started in 2009 is not only symptomatic of fast shrinking space for free expression and free assembly in Tibet but also a strong indication that the Tibetan people are left with no other recourse to safer forms of peaceful protest. Even this manifestation is being closed down as the PRC authorities implement a policy of collective punishment on families and relatives of the protesters.<sup>8</sup>

Any permissible restriction to the right of freedom of assembly must be one of the narrow justifications in Article 21 of the ICCPR. Because the restrictions placed on freedom of assembly in Tibet are not supported by the treaty language, legality, proportionality, or necessary for a democratic society, they are not permissible restrictions to the right of freedom assembly. Further, the PRC does not provide explicit legal justification for its use of violence or arbitrary detention to suppress peaceful protests. One can examine the charges it raises against detained Tibetan protesters in order to adduce what the PRC might claim as the "legal basis in law" for its suppression of peaceful assemblies. Protesters detained and incarcerated for their participation in peaceful protests have been charged with "promoting separatism,"<sup>9</sup>

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<sup>5</sup> Ibid.

<sup>6</sup> Leaked document exposes psychological traumas faced by Chinese armed police in Tibet, TCHRD, 13 May 2013, available at: <http://tchrd.org/weakness-of-the-oppressed-leaked-document-exposes-psychological-traumas-faced-by-chinese-armed-police-in-tibet/>

<sup>7</sup> Guest Post: Placing psychiatric health manual of Chinese armed police in Tibet in context, TCHRD, 18 June 2013, available at: <http://tchrd.org/guest-post-placing-psychiatric-health-manual-of-chinese-armed-police-in-tibet-in-context/>

<sup>8</sup> 2014 Annual Report: Human Rights Situation in Tibet, TCHRD, January 2015, available at: <http://tchrd.org/annual-report-2014-human-rights-situation-in-tibet/>

<sup>9</sup> Senior Buddhist scholar arrested as repression escalates in restive Tibetan county," TCHRD, 14 July 2014, available at <http://tchrd.org/senior-buddhist-scholar-arrested-as-repression-escalates-in-restive-tibetan-county/>

“splittism,”<sup>10</sup> “creating social turmoil,”<sup>11</sup> “picking quarrels and provoking troubles”<sup>12</sup> or “illegally gathering a crowd”<sup>13</sup> among other charges.

## Freedom of Expression

In the wake of PRC’s brutal suppression of the 2008 protests, a vibrant resurgence in Tibetan nationalism has occurred across Tibet, affecting a broad cross-range of Tibetan society. Led by Tibetan writers, intellectuals, musicians, artists, teachers, students, activists, and bloggers have boldly risen up to express their views and to challenge the Chinese state media’s grossly distorted narrative of the causes and consequences of the 2008 protests. The sheer horror of the crackdown of the protests and the marked militarization of Tibetan areas has compelled many Tibetans to express their sorrow and grief over the massive losses of life and lack of freedoms in Tibet. This resurgence of cultural and dissident activity clearly undermines PRC’s efforts to influence international opinion by manipulating the media and by otherwise maintaining a chokehold on the flow of information and freedom of expression inside Tibet.

In response to the growing threat posed by peaceful expression of dissent and the development of internet, PRC authorities have exhibited a marked expansion in its strategy to maintain “social stability” in Tibet. PRC’s intimidation tactics are not only being directed at those who would take to the streets or dare to raise the banned Tibetan national flag or shout Tibetan independence slogans in public. The aim of the ongoing crackdown is to exact severe punishment on dissident voices, spreading fear among those who dare to take up their pens, keyboards, voices, or camera equipment to document events or express their views. As recently as January 2018, a former Tibetan journalist was sentenced to three years in prison in reprisal for a social media post in which he criticized the PRC authorities for failing to genuinely promote its proclaimed policy of “ethnic unity”.<sup>14</sup> His sentence came more than a year after he was taken into custody in December 2016 and despite the fact that the Working Group on Arbitrary Detention had ruled in April 2017 that Gyal’s arrest was indeed arbitrary and urged his immediate release.<sup>15</sup>

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<sup>10</sup> China jails three Tibetans over anti-mining protests, Radio Free Asia, 23 December 2013, available at: <https://www.rfa.org/english/news/tibet/jails-12232013163241.html>

<sup>11</sup> Writer among two sentenced to harsh prison terms of 10 to 13 years in Diru county, TCHRD, 4 April 2014, available at: <http://tchrd.org/writer-among-two-sentenced-to-harsh-prison-terms-of-10-to-13-years-in-diru-county/>

<sup>12</sup> Four Tibetan land right petitioners given suspended sentence, TCHRD, 14 April 2016, available at: <http://tchrd.org/four-tibetan-land-rights-petitioners-given-suspended-sentence/>

<sup>13</sup> Repression escalates in Tibet’s Diru county: Tibetan youth beaten to death, 2 others given heavy sentences and another disappeared,” TCHRD, 7 February 2014, available at: <http://tchrd.org/repression-escalates-in-tibets-diru-county-tibetan-youth-beaten-to-death-2-others-given-heavy-sentences-and-another-disappeared/>

<sup>14</sup> Prominent former political prisoner Tsegon Gyal sentenced to three years on charge of ‘inciting separatism’, TCHRD, 18 February 2018, available at: <http://tchrd.org/prominent-former-political-prisoner-tsegon-gyal-sentenced-to-three-years-on-charge-of-inciting-separatism/>

<sup>15</sup> UN Human Rights Council, Report of the Working Group on Arbitrary Detention at its 78th session, 19-28 April 2017, 11 August 2017, A/HRC/WGAD/2017/4, available at: [https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session78/A\\_HRC\\_WGAD\\_2017\\_4.pdf](https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session78/A_HRC_WGAD_2017_4.pdf)

There have been no let-up in PRC's attacks on writers,<sup>16</sup> bloggers,<sup>17</sup> singers,<sup>18</sup> and peaceful protesters<sup>19</sup> for allegedly committing the crimes of 'inciting separatism' or 'leaking state secrets'.<sup>20</sup> By characterizing virtually any form of dissent or expression of Tibetan identity as "splittist," PRC authorities are waging a ruthless political battle in Tibet using vague and overbroad "endangering state security" laws.<sup>21</sup> Articles 103 and 105 of the Criminal Procedure Law are consistently used as a tool to silence criticism and dissent from inside Tibetan areas as being "reactionary" or "splittist." Further, PRC officials grossly exploit the all-encompassing legal definition of "state secrets" to punish Tibetans for merely documenting or sharing information about environmental, social, and human rights conditions.<sup>22</sup> PRC's laws regarding 'state secrets' and 'state security' have been widely criticized as inconsistent with international norms and standards regarding the freedom of expression, providing fertile ground for flagrant abuse of power. The criminalisation of peaceful expression of dissent has resulted in disproportionately harsh penalties that in addition to the introduction and expansion of a mass surveillance program<sup>23</sup> have had a chilling effect on free speech in Tibet.

### **Freedom of Religion and Belief**

Since the 2008 protests in Tibet, PRC government's control over religious practice and the management of monastic institutions has been extraordinarily tight. The 'monastery management measures' introduced since late 2011 requires Tibetan Buddhist institutions to implement ideological campaigns among monks and nuns. Party and government officials now directly control monastic institutions. Even before this, monastic institutions have always been controlled by a variety of governmental bodies at the national, provincial, prefectural, municipal, and county level. For instance, a 2010 regulation issued in Ngaba (Chinese: Aba) and Qiang Tibetan Autonomous Prefecture in Sichuan Province listed 24 government organs, including the offices of public security, foreign affairs, and justice, as involved in managing local monasteries in 2009. This regulation has tightened and expanded existing means of

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<sup>16</sup> Tibetan writer sentenced to 5 yrs in prison for writing book on self-immolation, TCHRD, 21 May 2013, available at: <http://tchrd.org/tibetan-writer-sentenced-to-5-yrs-in-prison-for-writing-book-on-self-immolation/>

<sup>17</sup> Revoke discriminatory, unjust verdict against Tibetan writer Shokjang, TCHRD, 7 April 2016, available at: <http://tchrd.org/revoke-discriminatory-unjust-verdict-against-tibetan-writer-shokjang/>

<sup>18</sup> Tibetan singer held under tight security amid fears for failing health, TCHRD, 4 May 2015, available at: <http://tchrd.org/tibetan-singer-held-under-tight-security-amid-fears-for-failing-health/>

<sup>19</sup> China sentences four peaceful Tibetan protesters for inciting separatism, TCHRD, 14 September 2016, available at: <http://tchrd.org/china-sentences-four-peaceful-tibetan-protesters-for-inciting-separatism/>

<sup>20</sup> Tibetan writer sentenced to 7.5 years after more than a year of secret detention, TCHRD, 9 May 2016, available at: <http://tchrd.org/tibetan-writer-sentenced-to-7-5-years-after-more-than-a-year-of-secret-detention/>

<sup>21</sup> Dissenting Voices: Targeting the Intellectuals, Writers and Cultural Figures, TCHRD, September 2010, available at: <file:///Users/tseringsomo/Downloads/159903237-Dissenting-Voices-2010-Targeting-the-Intellectuals-Writers-and-Cultural-Figures.pdf>

<sup>22</sup> Senior monk sentenced to 7 years for sharing information, TCHRD, 21 August 2012, available at: <http://tchrd.org/senior-monk-sentenced-to-7-years-for-sharing-information-2/>

<sup>23</sup> China extends Tibet surveillance program for sixth year in a row, TCHRD, 30 November 2016, available at: <http://tchrd.org/china-extends-tibet-surveillance-program-for-sixth-year-in-row/>

government control and monitoring of Tibetan Buddhist institutions. It has added to an already existing set of regulations to restrict and control Buddhism such as the 2007 regulations on Tibetan Buddhist reincarnation. Due to the 2010 regulation, monasteries now require large-scale religious activities to be requested, granted, and subsequently managed by government agencies of the relevant provinces and autonomous regions. Religious activities are heavily controlled and devotees are put under surveillance.

New management committees established in monastic institutions since 2011 have strengthened and expanded their rigorous rule,<sup>24</sup> provoking many monks and nuns to leave their respective monasteries, leading to boycotts and subsequent closures.<sup>25</sup> In July 2015, the PRC introduced the new National Security Law that has further tightened controls over human rights especially the freedom of religion and belief. Article 27 of the law criminalizes any acknowledgement of the Dalai Lama including possession of his teachings, prayers dedicated to him, or celebrations of his birthday.<sup>26</sup> In December 2016, two separate directives prohibited local Tibetans from participating, either in person or remotely, in the Kalachakra religious teachings given by Dalai Lama in India.<sup>27</sup> In September 2015, Chinese authorities in Diru (Chinese: Biru) County began implementing a new regulation that called for the intensification and deepening of the campaign to “purge and reform” religious institutions.<sup>28</sup> The regulation identifies and targets 24 activities through which religious institutions including monasteries, temples and hermitages will be brought under direct government control in Diru County.

In April 2017, PRC authorities achieved its stated objective of demolishing 4725 monastic dwellings and evicting 4828 religious practitioners at the Larung Gar Tibetan Buddhist Institute in Serthar County.<sup>29</sup> PRC’s campaign to depopulate popular and influential religious institutes is part of a larger political strategy to undermine and undercut the growing influence of Tibetan Buddhism as the fountainhead of Tibetan national and cultural identity. Restrictions and surveillance have been tightened at Larung Gar and religious leaders at the institute have been warned of severe consequences if they failed to rein in the residents. Since the demolition began, monks and nuns living in the area have stated that the environment is no longer ideal for monastic study and contemplative practices. Previously the monthly curriculum consisted of more than 40 different classes of Buddhist courses at the academy. This has been replaced

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<sup>24</sup> China expands new measures to directly control Tibetan monasteries, TCHRD, 18 May 2014, available at: <http://tchrd.org/china-expands-new-measures-to-directly-control-tibetan-monasteries/>

<sup>25</sup> Increased religious repression forces monks to flee, monasteries to close, TCHRD, 29 February 2012, available at: <http://tchrd.org/increased-religious-repression-forces-monks-to-flee-monasteries-to-close/>

<sup>26</sup> China’s new National Security law a serious setback to human rights in Tibet, TCHRD, 9 Jul. 2015, available at: <http://tchrd.org/chinas-new-national-security-law-a-serious-setback-to-human-rights-in-tibet/>

<sup>27</sup> China: Stop violating right to freedom of religion and belief of Tibetans, TCHRD, 12 January 2017, available at: <http://tchrd.org/china-stop-violating-right-to-freedom-of-religion-and-belief-of-tibetans/>

<sup>28</sup> Document Exposes intensification of State- sanctioned religious repression in troubled Tibetan county, TCHRD, 9 Nov. 2015, available at: <http://tchrd.org/document-exposes-intensification-of-state-sanctioned-religious-repression-in-troubled-tibetan-county/>

<sup>29</sup> Undercover in Larung Gar: A year after demolition, world’s largest Tibetan Buddhist institute sliced like a melon, TCHRD, 11 August 2017, available at: <http://tchrd.org/undercover-in-larung-gar-a-year-after-demolition-worlds-largest-tibetan-buddhist-institute-sliced-like-a-melon/>

by 18 days of monastic study and 12 days of political education classes.<sup>30</sup>In August 2017, the PRC established direct Party control over Larung Gar as part of the overall monastery management measures that are aimed at creating politically stable ‘harmonious model monasteries’ and ‘law-abiding monks and nuns’ all over Tibet.<sup>31</sup>

The revised Regulations on Religious Affairs introduced that came into effect in February 2018 have expanded the scope of government control over religious activities and equates religious beliefs and activities with ‘extremism’ or terrorism. This would provide government authorities much discretion in branding any religious activity such as those related to worshipping Dalai Lama or celebrating his birthday as a terrorist act. Tibetan Buddhist believers and groups will face enormous restrictions and increased scrutiny in terms of how they communicate and conduct activities online, maintain contacts with foreign-based Buddhist groups, and manage their finances. Of particular concern are references to religious extremism and ethnic separatism, popular accusations used by PRC authorities to persecute Tibetan Buddhists.

As religious institutions come under direct state and Party control, the list of repressive measures imposed on Tibetan Buddhism is growing because the decrees levied originate at each level of government, beginning with the State, ending with the monastery management committees, and including every level in between. These restrictive regulations on the manner in which religious institutions conduct religious ceremonies, education, and administration result in a discriminatory outcome which greatly hinders the ability of Tibetan Buddhists to practice their faith of choice. Continued restrictions by the PRC government perpetuate discriminatory practices and aggravate a sense of marginalization among the Tibetan community.

## **Freedom of Movement**

Tibetans are subject to policies and practices that restrict their freedom of movement simply because they are Tibetan. Their right to movement is severely restricted, particularly in comparison to other Chinese citizens. They are faced with a "very complicated and difficult process" when obtaining a passport, which other Chinese nationals are not subjected to.<sup>32</sup> Passports are available to only few Tibetans officials but they need to hand them back upon their return, and regular citizens are subjected to prolonged waiting period for their applications to be processed. In 2016, Chinese authorities established tighter controls over Tibetans wishing to travel outside the country for religious and pilgrimage purposes. Thousands of Tibetans wishing to attend the Kalachakra religious teachings given by Dalai Lama had their passports

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<sup>30</sup> 2017 Annual Report: Human Rights Situation in Tibet, TCHRD, May 2018, available at: <http://tchrd.org/2017-annual-report-on-human-rights-situation-in-tibet/>

<sup>31</sup> Tightening the Noose: China appoints Communist Party members to key positions at Larung Gar Tibetan Buddhist Institute, TCHRD, 23 August 2017, available at: <http://tchrd.org/tightening-the-noose-china-appoints-communist-party-members-to-key-positions-at-larung-gar-tibetan-buddhist-institute/>

<sup>32</sup> Tibetans face passport dilemma. Radio Free Asia, 20 January 2013, available at: <https://www.rfa.org/english/news/tibet/passports-01202013213254.html>

confiscated and cancelled;<sup>33</sup> many were threatened and intimidated of dire consequences while others were forced to cut short their travel duration and report back to the authorities. The restrictions follow previous policies and practices to monitor and control movement of Tibetans in and out of Tibet. This includes the 2012 ‘guiding opinions’<sup>34</sup> issued by Tibet Autonomous Region (TAR) authorities imposing substantial restrictions on the ability of Tibetans to obtain passports, followed by 2014 regulations that further prevent Tibetans from travelling to religious ceremonies and sacred sites.<sup>35</sup>

A two-track system for obtaining passports has been in place in China since as early as 2002, with the first track system in place for areas dominated by China’s ethnic majority being straight forward and speedy, while the second track system which Tibetans are subjected to takes much longer and requires much more processing, requiring TAR resident passport applications to go through 10 separate stages.<sup>36</sup> The skewed application of PRC’s Passport Law contributes to the discrimination of Tibetans and is a violation of PRC’s Constitution that guarantees the right to equality for all nationalities.

Within Tibet, police are using checkpoints to hinder travel. The checkpoints are an inconvenience and increase travel times. The checkpoints are frequently used to restrict Tibetan’s right to travel and to extort fines.<sup>37</sup> In September 2014, there were eight checkpoints monitoring the 270-km road between Nagchu (Chinese: Naqu) County town and Diru county town in TAR. At the checkpoints, all travel documents are checked and people who express annoyance are beaten and sometimes detained. The growing number of controls over movements of Tibetans complements the policy of prohibiting Tibetans from traveling to or from the TAR. Tibetans increasingly complain that even travelling for pilgrimages or study outside their hometowns have become harder as they are required to get written permission from five different government offices before they could travel. Travelling without these permits is nearly impossible due to the number of roadblock checkpoints manned by round the clock officers monitoring travellers and recording their details.

## **Arbitrary Detention and Torture**

Since the crackdown on 2008 protests, a wide variety of authoritarian tactics, ranging from enforced disappearances to discriminatory policing of Tibetans, has resulted in human rights

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<sup>33</sup> China restricts freedom of movement of Tibetans ahead of Dalai Lama’s teachings , TCHRD, 24 November 2016, available at: <http://tchrd.org/china-restricts-freedom-of-movement-of-tibetans-ahead-of-dalai-lamas-teachings/>

<sup>34</sup> Discriminatory Chinese passport regulations violate Tibetans’ right to travel, TCHRD, 5 May 2015, available at: <http://tchrd.org/discriminatory-chinese-passport-regulations-violate-tibetans-right-to-travel/>

<sup>35</sup> Document Exposes Intensification of State-sanctioned Religious Repression in Troubled Tibetan County, TCHRD, 9 November 2015, available at: <http://tchrd.org/document-exposes-intensification-of-state-sanctioned-religious-repression-in-troubled-tibetan-county/>

<sup>36</sup> One Passport, Two Systems: China’s Restrictions on Foreign Travel by Tibetans and Others, Human Rights Watch, July 2015, available at: <https://www.hrw.org/report/2015/07/13/one-passport-two-systems/chinas-restrictions-foreign-travel-tibetans-and-others>.

<sup>37</sup> Chinese roadblocks cause hardships in a restive Tibetan county, Radio Free Asia, 5 September 2014, available at: <https://www.rfa.org/english/news/tibet/roadblocks-09052014150243.html><sup>[L]</sup><sub>[SEP]</sub>



violations defined under Working Group on Arbitrary Detention's prohibition of arbitrary detention. Night-time and early morning raids are on the rise in Tibet, resulting in secret extrajudicial deprivations of liberty without any adequate legal justification. In some cases, authorities only disclose the arrest of someone several weeks after taking the person from their home. The detention of Tibetans is frequently much more intrusive, secretive, and baseless.

Secret arbitrary detentions have been called the "ultimate silencing tactic," because a disappeared person is aware he or she has been placed outside the protection of the law, and is therefore at far greater risk of torture and other forms of cruel, inhuman, and degrading treatment and punishment. In one of his blog posts, which became a cause for his imprisonment, Shokjang recounted the terror he experienced during his arbitrary arrest: "I was in a hotel in Rebkong. Late at night, two people wearing police uniform and army uniform and carrying guns came inside saying they needed to search the place. When I asked them to show some documentary proof, they pointed their guns at me and loudly intimidated me. That was the first time I have experienced the terror of facing the barrel of a gun pointed at me. Such unspeakable, unimaginable intimidation embittered me towards the Rebkong security [forces]. Confronted with those, whether policemen or gangsters I knew not, I wrote that [account of events] in the hope of getting the protection of the security authorities and the public."<sup>38</sup>

In recent years, the PRC introduced penalties that authorize the arrest and detention of civilians under the National Security Law, Anti-Terrorism Law, and Revised Criminal Law. Under these laws, Tibetans have been arrested and charged for acts including speech making, campaigning to improve literacy in the community, and even purchasing yaks from a slaughterhouse to prevent their death.<sup>39</sup>

Arbitrary detention is also commonly used in Tibet for 'political education' purposes in the so-called "transformation through education" training centres. A former inmate recounted torture, and other cruel, inhuman or degrading treatment including sexual abuse of nuns that goes on in the name of 'legal education' at these centres that are just another form of the 'Re-education Through Labour' system (Ch: *laojiao*) that PRC claimed to have abolished in 2013.<sup>40</sup>

Arrest and deprivation of liberty are inherently associated with a risk of intimidation, torture and other ill treatment, and evidence indicates the risk is especially high in the early stages of custody and detention in Tibet. The Special Rapporteur last visited the PRC in 2005, concluding, "that torture, though on the decline particularly in urban areas, remains widespread in China."<sup>41</sup> Follow-up visits have been requested but invitations have not been

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<sup>38</sup> Popular Tibetan blogger asserts his innocence in letter from prison, International Campaign for Tibet, 4 April 2016, available at: <https://www.savetibet.org/popular-tibetan-blogger-asserts-his-innocence-in-letter-from-prison/>

<sup>39</sup> Relentless: Detention and Prosecution of Tibetans Under China's 'Stability Maintenance' Campaign, Human Rights Watch, May 2016, at pg. 74, available at: <https://www.hrw.org/report/2016/05/22/relentless/detention-and-prosecution-tibetans-under-chinas-stability-maintenance>

<sup>40</sup> Tibetan monk's account reveals torture and sexual abuse in China's 'political re-education' centres, TCHRD, 28 May 2018, available at: <http://tchrd.org/tibetan-monks-account-reveals-torture-and-sexual-abuse-rampant-in-chinas-political-re-education-centres/>

<sup>41</sup> UN Human Rights Council, Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak : Addendum, 5 February 2010, A/HRC/13/39/Add.5, available at: <http://www.refworld.org/docid/4cf8f3192.html>

made. An updated report was issued in 2010 and noted that little progress had been made in implementing the recommendations made in 2005. Further review by Committee Against Torture in 2015 concluded that the PRC had failed to implement recommendations that would end practices that amounted to torture and other cruel inhuman and degrading treatment, and protect detainees and those representing them.

The combination of brutal torture, deprivation of sleep, food, water, clean living space, and lack of adequate medical care have resulted in many deaths in prison.<sup>42</sup> Domestic legislation and lack of independent domestic or international oversight enable extra judicial detention and conditions that amount to torture, including solitary confinement, beatings, poor diets, sleep deprivation, freezing cells and denial of medical treatment<sup>43</sup>

Following are some cases of torture that resulted in death in detention:

- Tulku Tenzin Delek Rinpoche, 65, a prominent Tibetan reincarnate lama and philanthropist Tenzin Delek Rinpoche from Lithang, Kardze (Chinese: Ganzi) Tibetan Autonomous Prefecture in Sichuan Province, died in July 2015, despite repeated appeals for him to be released for urgent medical treatment. He died while serving life imprisonment at Chuandong prison near Chengdu.<sup>44</sup>
- Kunchok Dakpa, a youth from Chamram Village in Diru Township was severely beaten and tortured to death during his secret detention.<sup>45</sup>
- Bachen Gyewa, a headman of Ushung village in Gyashoe Yangshok Township in Diru County in Nagchu (Chinese: Naqu) Prefecture, died in custody on 21 November 2014.<sup>46</sup>
- In Ngawang Jamyang's case, a senior and highly respected monk, his body was returned a month after his detention which displayed visible signs of torture.<sup>47</sup>
- Yeshe Lhakdron, 25, a nun, died after suffering severe torture during detention in 2008. Her death became known 8 years after her detention.<sup>48</sup>

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<sup>42</sup> Death in Detention: TCHRD Submission to UN Committee Against Torture, TCHRD, 29 October 2010, available at: <http://tchrd.org/death-in-detention/>

<sup>43</sup> Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China, Human Rights Watch, May 2015, available at: <https://www.hrw.org/report/2015/05/13/tiger-chairs-and-cell-bosses/police-torture-criminal-suspects-china>

<sup>44</sup> Prominent Tibetan reincarnate lama Tenzin Delek Rinpoche dies in prison, TCHRD, 13 July 2015, available at: <http://tchrd.org/prominent-tibetan-reincarnate-lama-tenzin-delek-rinpoche-dies-in-prison/>

<sup>45</sup> Repression escalates in Tibet's Diru County: Tibetan youth beaten to death, 2 others given heavy sentences and another disappeared, TCHRD, 7 February 2014, available at: <http://tchrd.org/repression-escalates-in-tibets-diru-county-tibetan-youth-beaten-to-death-2-others-given-heavy-sentences-and-another-disappeared/>

<sup>46</sup> Extrajudicial killing, arbitrary detention and religious repression continue in restive Tibetan county, TCHRD, 15 December 2014, available at: <http://tchrd.org/arbitrary-arrests-extrajudicial-killing-and-religious-repression-continue-in-restive-tibetan-county/>

<sup>47</sup> Diru Crackdown: Senior Tibetan Buddhist scholar beaten to death in police custody, TCHRD, 19 December 2013, available at: <http://tchrd.org/diru-crackdown-senior-tibetan-buddhist-scholar-beaten-to-death-in-police-custody/>

<sup>48</sup> Tibetan nun disappeared since 2008 died of torture, TCHRD, 30 June 2016, available at: <http://tchrd.org/tibetan-nun-disappeared-since-2008-died-of-torture-in-chinese-police-custody/>

- Tenzin Choedak, 35, a Tibetan social activist died two days after his premature release from prison in December 2014. He died after serving less than 6 years of his 15-year prison term due to lack of medical treatment for injuries he suffered during pre-trial detention.<sup>49</sup>
- Goshul Lobsang died of torture injuries in 2014 less than four months after his premature release from prison.<sup>50</sup>

## **Right to Due Process of Law**

In Tibet, numerous rights associated with the protections afforded an individual in the criminal process are routinely denied and flagrantly violated. The PRC's Criminal Procedure Law establishes substantial barriers to a defendant's access to justice when he or she is accused of committing crimes of endangering state security (ESS), a group of vague and overbroad crimes used increasingly by Chinese authorities to silence dissent and criticism in Tibet. Majority of Tibetans arrested are charged of ESS crimes, which effectively removes numerous procedural guarantees. The derogations from procedural protections in such cases fall into three main categories: limitations on access to evidence, the right to counsel, and an open trial. Defense lawyers face enormous difficulties when advocating on behalf of defendants accused of committing national security crimes such as 'leaking state secrets', 'separatism' or 'inciting separatism'. Many Tibetans continue to be convicted of state secrets charges for sharing information with foreign media or organisations about protests and subsequent government crackdowns.

While some Chinese citizens' cases are deemed to be politically sensitive, all Tibetan cases are seen as controversial.<sup>51</sup> For example, following the 2008 Tibetan protests, 21 Chinese lawyers signed a document encouraging security forces to deal with the situation within the confines of the law. Local officials immediately informed all of these lawyers that they were not allowed to intervene in any of the Tibetan cases.

The biggest obstacle for Chinese lawyers defending Tibetans is that local security officers think they are outside of the law to stop any "anti-secession" movements. Despite domestic and international law, they do not disclose information about verdicts of closed trials or the treatment that the detainees are forced to endure while in prison.<sup>52</sup> Another obstacle is that "the Party rules everything". In order to have rule of law, a fair and impartial legal system is necessary. Likewise, there is rarely any punishment for administrative or judicial personnel

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<sup>49</sup> Former Tibetan social activist serving 15 years' sentence dead after less than 6 years in prison, 6 December 2014, available at: <http://tchrd.org/former-tibetan-social-activist-serving-15-years-sentence-dead-after-less-than-6-years-in-prison-2/>

<sup>50</sup> Goshul Lobsang tortured with pain-inducing injections, leaves a defiant note after untimely death, TCHRD, 31 March 2014, available at: <http://tchrd.org/goshul-lobsang-tortured-with-pain-inducing-injections-leaves-a-defiant-note-after-untimely-death/>

<sup>51</sup> "A Short Introduction to Chinese Human Rights Lawyers who Defend Tibetan Rights" by Woesser (2 Part Essay), High Peaks Pure Earth, 8 December 2014, available at: <http://highpeakspureearth.com/2014/a-short-introduction-to-chinese-human-rights-lawyers-who-defend-tibetan-rights-by-woesser-2-part-essay/>

<sup>52</sup> Rule by Law: Special Report on the Rule of Law with Chinese Characteristics, TCHRD, 29 October 2015, available at: <http://tchrd.org/new-report-critiques-rule-of-law-with-chinese-characteristics-amid-increased-crackdown-on-civil-society-in-china/>

who violate the law. Tibetans lack access to lawyers to defend them if they are arbitrarily arrested against their rights. The trial process for Tibetan detainees is similar to that of other sensitive cases in the PRC, where judgments do not necessarily correspond with evidence provided at trial by the defense lawyer. This usually results in Tibetan detainees being illegally convicted, based on orders from a higher-ranked judge, acting on behalf of the Party.

The ongoing large-scale arrests of Chinese human rights' lawyers and activists are at odds with the PRC's promises of rule of law and constitutionalism.<sup>53</sup> PRC authorities have ignored internationally recognized principles of due legal process, openly violated domestic criminal procedures and denied their human rights. Despite its rhetoric, the PRC rejects the rule of law, dismissing it as a western-construct and a "weapon" that is used by forces "hostile" to PRC leadership.<sup>54</sup> The attack on human rights lawyers and activists shows that the government and its officials will not be accountable under the law.

Core to the exercise of fundamental human rights and protections is the independence of the judiciary and lawyers. The primacy of the Party means that there is and can be no independent judiciary or legal profession. The overarching requirement of the security of the state and national stability leads to state intervention in the role of judges, and the ability of defence lawyers to act without fear of reprisal to uphold the human rights of their clients is compromised. PRC legal provisions allow for practices that are in breach of international law, convention and guidance in the following ways:

- Criminal detention and charges for those who are peacefully exercising their human rights;
- Lengthy periods of detention without judicial approval or oversight;
- Placing the prosecution in a superior position to the courts and fettering the independence of the judiciary through use of Political-Legal and Adjudicative Committees
- Restrictions on the right to defence and the role of effectiveness and security of lawyers
- Lack of a genuine right to challenge administrative detention

There are no safeguards in place that uphold international law, convention and guidelines such as independent challenge to detention, right to silence, presumption of innocence, privilege against self-incrimination, guarantee of prompt legal representation and inadmissibility of confessions obtained through torture. Reforms announced to the judicial system will not

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<sup>53</sup> 709 crackdown: latest Statistics and cases update as of 18:00 27 November 2015. China Human Rights Lawyers Concern Group (CHRLCG), 27 Nov. 2015, available at: <http://chrlawyers.hk/en/content/%E3%80%90%E2%80%9C709-crackdown%E2%80%9D%E3%80%91latest-statistics-and-cases-update-1800-27-november-2015> <sup>[1]</sup><sub>[SEP]</sub>

<sup>54</sup> The shoe that fits: china's "rule of law", China Media Project, 3 Feb. 2015, citing, "the Healthy road of ruling the Nation in accord with the law: How we should understand going our own road in building rule of law". People's Daily, 3 February 2015), available at: <http://chinamediaproject.org/2015/02/03/the-shoes-that-fits-chinese-rule-of-law/>

address the central issue of judicial and lawyer independence given that the security and stability of the state and the authority of the Party remain paramount.

## **Right to Privacy**

Chinese authorities routinely violate the right to privacy in a systematic manner in Tibet. Surveillance and monitoring of phone conversations, e-mails, text messages, and other online communications is the norm rather than the exception. Contents deemed sensitive are blocked and censored with alarming regularity. Tibetans are disproportionately censored on popular social media sites such as Twitter and Sina Weibo; up to 53% of messages originating from Tibet are deleted, the highest in PRC, compared to 12 percent from Beijing and 11.4 percent from Shanghai.<sup>55</sup> Users of internet, fixed line and mobile phone users in Tibet are required by law since 2011 to provide service operators with their real names.<sup>56</sup> All internet companies are held responsible for the content they host and are expected to establish entire departments devoted to surveillance and censorship of their platforms' users. Since 2012, Chinese authorities have issued new biometric ID cards to local Tibetans and all internet cafes have been installed with biometric card readers making it easier to control online activities.<sup>57</sup>

Numerous mass surveillance programs now enable local authorities to act as thought police and to collect political information.<sup>58</sup> Under these surveillance practices partisan security units have been established to monitor behaviour. Tibetans are questioned about their political and religious views, and collecting other information that could lead to political indoctrination, detention or other forms of punishment.<sup>59</sup> The Assessment Report on the Implementation of the National Human Rights Action Plan of China (2012- 2015) released in found no mention of initiatives taken to protect and promote the right to privacy.<sup>60</sup> The National Human Rights Action Plan of China (2016-2020) is silent on the subject of privacy despite the fact that it has become one of the most important human rights issues in recent years.<sup>61</sup> Instead, the plan "resolved to strengthen the development of the Internet and cyberculture and internet connection capacity in rural administrative villages." Although bringing internet connection to rural areas is a positive step, it would also enable the state censorship agencies and internet

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<sup>55</sup> D. Bamman, B. O'Connor, and N. A. Smith, 'Censorship and deletion practices in Chinese social media' First Monday, Volume 17, Number 3 - 5 March 2012, available at: <http://firstmonday.org/ojs/index.php/fm/article/view/3943/3169>

<sup>56</sup> Tibet accomplishes real-name registration of web, phone users, China Daily, 19 June 2013, available at: [http://www.chinadaily.com.cn/business/2013-06/19/content\\_16638374.htm](http://www.chinadaily.com.cn/business/2013-06/19/content_16638374.htm)

<sup>57</sup> TAR Propaganda Chief Stresses Protecting Official Secrets in Tibet, TCHRD, 27 July 2012, available at: <http://tchrd.org/tar-propaganda-chief-stresses-protecting-official-secrets-in-tibet/>

<sup>58</sup> China: 'Benefit the Masses' Campaign Surveilling Tibetans, Human Rights Watch, 18 June 2013, available at: <https://www.hrw.org/news/2013/06/18/china-benefit-masses-campaign-surveilling-tibetans>

<sup>59</sup> China: No End to Tibet Surveillance Program. Human Rights Watch. 2016. Available at: <https://www.hrw.org/news/2016/01/18/china-no-end-tibet-surveillance-program>

<sup>60</sup> Assessment Report on the Implementation of the National Human Rights Action Plan of China (2012- 2015), Xinhuanet, 14 June, 2016, available at: [http://english.gov.cn/archive/white\\_paper/2016/06/15/content\\_281475372197438.htm](http://english.gov.cn/archive/white_paper/2016/06/15/content_281475372197438.htm)

<sup>61</sup> National Human Rights Action Plan of China (2016- 2020), Xinhuanet, 29 September 2016, available at: [http://english.gov.cn/archive/publications/2016/09/29/content\\_281475454482622.htm](http://english.gov.cn/archive/publications/2016/09/29/content_281475454482622.htm)

police to monitor and surveil more people. Increased internet connectivity has little meaning if people are unable to use the internet freely without fear of compromising their right to privacy.

Despite the PRC's objections to surveillance by the US and support for the right to privacy internationally, within the PRC the government has worked to impose mass surveillance systems that violate the right to privacy. More troubling, the PRC began punishing international technology companies and pushing technology companies to facilitate more violations of the right to privacy. At the same time that the PRC was lobbying companies to give the PRC access to encrypted data and technical information, it also passed laws such as the National Security Law and the Counter Terrorism Law that establish a foundation for more systematic violations of the right to privacy. The Cyber Security Law that came into effect in June 2017 echoes the PRC's extensive efforts to manage the Internet within its boundaries, establishing the so-called concept of 'Internet sovereignty' and redefining the shared global web space. Moreover, PRC's Constitution provides limited scope for privacy rights protection due to the absence of other supporting legislation and a clear definition of privacy.<sup>62</sup>

### **Economic Development**

For decades, Chinese authorities have imposed a 'carrot and stick' policy of applying a predatory development model on the one hand and engaging in political repression on the other. The numerous development projects that the PRC has launched over the years including the long-running Western Development Strategy (Chinese: *xibu da kaifa*) are part of a political strategy aimed at winning Tibetans over to Chinese rule. But these development policies have failed because they have primarily served the interests of the Chinese state and the increasing number of Chinese migrants. Regardless of persistent Chinese government reports extolling double-digit GDP growth in Tibet, the top-down economic development model with its enduring focus on extractive industries, infrastructure construction projects including building hydro dams, railways, highways, pipelines and power pylons, urbanization, and mass tourism has had deeply disempowering effects on Tibetans and led to an artificial growth in Tibetan economy fuelled by massive state subsidies and dominance of Chinese migrants in urban centres where the double digit growth is most manifest.

Chinese migrants have notoriously dominated Tibet's economy while Tibetans continue to remain trapped in an unsustainable economy as the rest of the region grows. Government subsidies and other external investments in the TAR, for instance, go into sectors outside of agriculture and animal husbandry, which is the most common and productive form of employment for Tibetans. The financial benefits result in an economy of "extraordinary inefficiency and extreme dependence, as well as strong cultural, linguistic, and political biases stemming from characteristics of the dominant cultural and political group controlling the subsidies, such as Chinese fluency, Chinese work cultures, and connections to government or business networks in China proper".<sup>63</sup> Despite the increase in opportunities and overall growth of the region, Tibetan language, culture, and accustomed labour practices have been undermined and Tibetans compete in an unfair labour market.

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<sup>62</sup> Canatacci, J.A. (2015). *The Individual and Privacy*. UK: Ashgate Publishing

<sup>63</sup> *The Disempowered Development of Tibet in China: A Study in the Economics of Marginalisation*, 2013, Lanham, MD: Lexington Books

China's 13th five-year plan (2016-2020) follows the same ill-conceived development policies in Tibet. For instance, the plan includes "the building of the Sichuan-Tibet railway", "new hydro power plants with an aggregate capacity of 60,000 mw", "big reservoirs in Tibet and other areas", "urbanization of 100 million people in central and west China", and "ecological restoration of Qinghai-Tibet Plateau and other ecologically important areas".<sup>64</sup> But these state-sponsored and state-directed mega projects do little to benefit the ordinary Tibetans who are increasingly evicted from their ancestral lands in the name of environmental protection, infrastructure development, and poverty alleviation. Instead of achieving its national goals of improving conditions for Tibet's rural poor, these policies have impoverished and disempowered millions of rural Tibetans including farmers and nomads and the perpetuation of extreme dependence on government hand-outs.

Despite PRC's claims of economic development in TAR, the region holds the lowest Human Development Index in the country. It is TAR's poor education index that is the biggest contributor to this low score.<sup>65</sup> The 2008 data shows that employment in education in TAR was 7% against the national average of 24%, which indicates the disparity between transitioning employment patterns and education available to adapt and participate in a newly developed tertiary sector.<sup>66</sup> This rapid transition is from primary to tertiary employment, aided by PRC's large subsidisation, and its continuation is evident through national schemes such as 2014's National New Type Urbanization Plan (NUP). The primary sector share of GDP in Tibet more than halved from 1995 to 2010, falling below 15% of GDP, while the tertiary sector dramatically rose from below 35% to 55% in those 15 years.<sup>67</sup> Such rapid transformation towards the tertiary sector has demanded rapid urbanization, and therefore has resulted in changing employment patterns. Tibetan livelihood traditionally depended upon primary sector employment and facilitated rural and nomadic communities that have been considerably undermined by Chinese investment. Changes in employment pattern have shifted towards tertiary activity, most notably tourism, public management, trade and hotel and catering.<sup>68</sup> This urban-based employment tends to be dominated by Han Chinese migrants.<sup>69</sup> Unequal access to education limits Tibetans free choice of employment, as does the necessity of proficiency of the Chinese language. In addition to this, the government requires employees be loyal to the

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<sup>64</sup> China's major projects to be implemented in coming five years, China Daily, 5 March 2016, available at: [http://www.chinadaily.com.cn/business/2016-03/05/content\\_23748481.htm](http://www.chinadaily.com.cn/business/2016-03/05/content_23748481.htm)

<sup>65</sup> UNDP China and Development Research Center of the State Council of China. China National Development Report (2016), Social Innovation for Inclusive Human Development, available at: <http://www.cn.undp.org/content/dam/china/docs/Publications/UNDP-CH-%20NHDR%202016%20EN.pdf>.

<sup>66</sup> A. M. Fischer. 2010. The Great Transformation of Tibet? Rapid Labor Transitions in Times of Rapid Growth in the Tibet Autonomous Region, The Journal of the Association for Nepal and Himalayan Studies, available at: <https://case.edu/affil/tibet/moreTibetInfo/documents/TheGreatTransformationofTibet-RapidLaborTransitionsinTimesofRapidGrowthintheTibetAutonomousR.pdf>

<sup>67</sup> Ibid.

<sup>68</sup> A. M. Fischer. 2011. The Great Transformations of Tibet and Xinjiang: a comparative analysis of rapid labour transitions in times of rapid growth in two contested minority regions of China.

<sup>69</sup> A. M. Fischer. 2011. The Political Economy of Boomerang Aid in China's Tibet, available at: <https://www.boell.de/en/navigation/asia-political-economy-boomerang-aid-china-tibet-11255.html>

views and interests of the PRC.<sup>70</sup> Such a policy requiring a specific political viewpoint is inherently discriminatory.

### *Sustainable Development Goals (SDGs) and Poverty Alleviation*

The implementation of the SDGs is firmly in the hands of national governments, and PRC is determined to maintain its reputation as exemplary leader of the developing world by following up its much-acclaimed success in implementing the Millennium Development Goals (MDGs) between 2000 and 2015. Since the PRC is huge, its national statistics hide enormous regional variation. Few observers have noticed that in Tibetan areas, the PRC has struggled to fulfill key MDGs. In Tibet, illiteracy remains high, and maternal and infant mortality shockingly common.<sup>71</sup> Only if national numbers are disaggregated are such problems apparent.

Because the PRC can hide its failures in Tibet with national statistics, it remains the favorite of the global sustainable development community, and is determined to maintain its reputation. On poverty alleviation, the PRC has announced in the 13th Five-Year Plan (2016 to 2020): “China’s top leadership pledged resolute measures to help the remaining 70 million poor people shake off poverty and enjoy essential social services by 2020. President Xi Jinping told the conference that ‘no single poor region nor an individual living in poverty will be left behind’ when the country accomplishes the goal of ‘building a moderately prosperous society’ by 2020.”<sup>72</sup> PRC ignores hundreds of millions of poor peasants reliant on the urban factory incomes of their adult children while the ancestral land, for lack of available labour, withers. PRC denies that the poor are many despite its urban boom and focuses narrowly on the 70 million designated as poor by official criteria. PRC’s definition of poverty is extraordinarily low, only RMB 2300 per person per year or US\$376 (at 2010 prices). The World Bank says the poor in PRC are many more than the PRC acknowledges.<sup>73</sup>

A high proportion of the PRC’s 70 million intractable poor are Tibetans. Relocation is the primary means through which PRC aims to end extreme poverty by 2020.<sup>74</sup> The PRC will not only persist in being the exemplary state, fulfilling the new SDGs, it will go beyond its quota and physically relocate millions of human beings to towns, cities and enclaves of so-called modernity in Tibet. Studies conducted by Chinese researchers show that relocation policies cause further impoverishment, food insecurity and water scarcity. Such policies are ecologically unsustainable and aggravate local ecological and social problems.<sup>75</sup> As relocation programs accelerate, more Tibetans are also losing their land tenure rights and opportunity to

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<sup>70</sup> A. Chan. J. Unger. 2008. A Chinese State Enterprise Under the Reforms: What Model of Capitalism? available at:

<http://psc.bellschool.anu.edu.au/sites/default/files/IPS/PSC/CCC/publications/TCJ62ChanUnger.pdf>.

<sup>71</sup> In the Shadow of Development: Maternal and Child Health in Crisis in Tibet, A Special Report on the Right to Health, TCHRD, March 2015, available at: <http://tchrd.org/tchrd-report-documents-crisis-of-maternal-and-child-health-in-tibet/>

<sup>72</sup> China pledges resolute measures to root out poverty by 2020, China.org.cn, 29 November 2015, available at: [http://china.org.cn/china/2015-11/29/content\\_37188224.htm](http://china.org.cn/china/2015-11/29/content_37188224.htm)

<sup>73</sup> Xiuqing Wang, Juan Liu, et al., China’s Rural Poverty Line and the Determinants of Rural Poverty, China Agricultural Economic Review, vol. 1 No. 3, 2009, pp. 283-300

<sup>74</sup> Supra note 72.

<sup>75</sup> Fan. et. Al., (2015). Solving one problem by creating a bigger one: The consequence of ecological resettlement for grassland restoration and poverty alleviation in Northwestern, available at: <https://www.sciencedirect.com/science/article/pii/S0264837714001586>



fulfill economic and social rights. Moreover, Tibetans are not allowed to participate in the design and implementation of the poverty alleviation programs and their livelihood interests are not protected or given proper consideration. As a result, these policies have the effect of reinforcing poverty, inequality and underdevelopment in Tibetan areas.<sup>76</sup>

## Language Rights

The survival of Tibetan culture is closely linked to the protection and promotion of its cultural and linguistic heritage and traditions. Although the PRC's National Human Rights Action Plan (2016-2020) states that the right of ethnic minorities to learn, use, and develop their own spoken and written languages shall be respected and guaranteed, this is not reflected by practice on the ground. Tibetan language continues to be underrepresented in employment and education. For instance, only 12.5 per cent of all advertised positions in all Tibetan areas from 2011 to 2015 required any form of Tibetan language skills.<sup>77</sup> Regarding the availability of Tibetan-medium appointments relative to the Tibetan population, this stands at a low representativity ratio of 0.16.<sup>78</sup> New teaching systems are introducing the domination of Mandarin Chinese over Tibetan, despite widespread discontent and protests, most notably the self-immolation of Tsering Kyi, a 20-year old student in Machu (Chinese: Maqu) County.<sup>79</sup>

The current policy of promoting Mandarin Chinese as the common national language is driven by PRC's assimilationist language policy. Part of PRC's state-building project, this policy aims to integrate minority cultures and identities with the dominant Chinese majority by promising progress and opportunity in return for safeguarding "national unity and harmonious society".<sup>80</sup> Although minority languages are protected under the PRC's Constitution and the law on Regional Autonomy for Minority Nationalities, these same documents also openly promote the use and propagation of Putonghua as the national language. Indeed much of the educational issues for Tibetans begins with—and is largely an outgrowth of problems in bilingual education. Indeed for every law or clause so often quoted in support of Tibetan language or bilingual education, a parallel clause or law can be found that puts bilingualism on the back burner in favour of Mandarin Chinese.

Through these laws and their implementation, the PRC has repeatedly reiterated its stance that the national promotion of Mandarin Chinese is a prerequisite for growth and development. For a government that equates Mandarin Chinese with development and has taken it upon itself the task to "[give] financial, material and technical assistance to the minority nationalities to accelerate their economic and cultural development,"<sup>81</sup> it is

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<sup>76</sup> Poverty by Design: The Economics of Discrimination in Tibet, Canada Tibet Committee, 2002, available at: <http://www.tibet.ca>

<sup>77</sup> A. M. Fischer. A. Zenz. The Limits to Buying Stability in Tibet: Tibetan Representation and Preferentiality in China's Contemporary Public Employment System, *The China Quarterly*, Volume 234 June 2018 , pp. 527-551

<sup>78</sup> Ibid.

<sup>79</sup> Tibetans Fight to Salvage Fading Culture in China, *New York Times*, November 2015, available at: <https://www.nytimes.com/2015/11/29/world/asia/china-tibet-language-education.html>.

<sup>80</sup> Gulbahar H. Beckett and Gerard A. Postiglione (2013), *China's assimilationist language policy: The impact on indigenous/minority literacy and social harmony.* Routledge.

<sup>81</sup> CONSTITUTION OF THE PEOPLE'S REPUBLIC OF CHINA, available at: [http://www.npc.gov.cn/englishnpc/Constitution/node\\_2825.htm](http://www.npc.gov.cn/englishnpc/Constitution/node_2825.htm)

hardly surprising that the primary goal of bilingual education appears to be improving students' Mandarin Chinese.

Moreover, the dominant discourse on minority education is national unity and stability. In Tibet, the government associates Tibetan Buddhism and language with local nationalism. Thus, deliberate attempts are being made to exclude Tibetan culture, including religion and language, from education. But the exclusionary policy model hasn't diminished minority nationalism, but rather increased alienation and sense of exclusion. The policy has become a major cause of instability and protests in Tibet. The 2008 protests in Tibet followed by 2010 Tibetan students' protests<sup>82</sup> and numerous other protests<sup>83</sup> including self-immolations have called for language freedom as one of their main demands.

There have been substantial grassroots movements to develop and promote Tibetan by setting up private schools and local organizations. These initiatives include schools founded by local Tibetans, mostly monks, who organize classes on Tibetan language, history, culture, etc., for local children especially during winter vacations. However, acting under laws which restrict the action of non-government approved NGOs, authorities have shut down many of these local initiatives or arrested their founders and members on charges of engaging in "splittist" activities.<sup>84</sup> This reaction towards Tibetan language instruction arises from its association with "separatism."<sup>85</sup> The sentencing of Tibetan language rights advocate Tashi Wangchuk in early 2018 on the charges of "inciting separatism" made evident PRC's concerns regarding language rights.<sup>86</sup>

## Recommendations

- Guarantee Tibetans right to peaceful assembly and immediately end its policy of allowing security officials to resort to lethal force to suppress peaceful protesters.
- Release all Tibetans charged for exercising their right to peaceful assembly, association, expression and religious belief, and provide compensation as guaranteed by Chinese law.
- Strengthen legislation to protect those who peacefully assemble and introduce restrictions and accountability for the refusal of permission to assemble and the use of force.

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<sup>82</sup> Tibetan students in China protest over language policy, BBC, 20 October 2010, available at: <https://www.bbc.com/news/world-asia-pacific-11581189>

<sup>83</sup> Thousands of Tibetan students and schoolchildren gather for peaceful demonstration in Rebkong, International Campaign for Tibet, 9 November 2012, available at : <https://www.savetibet.org/thousands-of-tibetan-students-and-schoolchildren-gather-for-peaceful-demonstration-in-rebkong/>

<sup>84</sup> Chinese Government Notification Restricts Tibetan NGOs in Kardze, TCHRD, 2 May 2012, available at <http://tchrd.org/chinese-government-notification-restricts-tibetan-ngos-in-kardze/>. See also NGO's forcible closure drives founder into exile, TCHRD, 27 August 2012, available at: <http://tchrd.org/ngos-forcible-closure-drives-founder-into-exile/>

<sup>85</sup> Tsering Topgyal, The Securitisation of Tibetan Buddhism in Communist China, *Politics and Religion in Contemporary China* 6, No. 2 (2012): 230.

<sup>86</sup> Human Rights Council - Opinions adopted by the Working Group on Arbitrary Detention at its eightieth session, 20-24 November 2017. A/HRC/WGAD/2017/69.

- Repeal all legislation and practice that enables extra judicial detention, including “residential surveillance at a designated place” and the use of “black jails”.
- Enact changes in laws and regulations that protect the rights of lawyers to practice law in conformity with international standards.
- Revise the Criminal Procedure Law to remove abuses to the right to a fair trial and adequate defence that impact lawyers, removing restrictions and delays on lawyers to meet with their clients promptly following detention, and to meet with clients in private regardless of the charge involved; providing for notice of detention and arrest to family and legal counsel in all cases.
- Cease the repression of lawyers who act for defendants in sensitive cases and adhere to International obligations including the UN Basic Principles on the Role of Lawyers.
- Stop using intrusive management and legal measures to infringe upon and repress Tibetan Buddhists’ right to freedom of religion. <sup>[SEP]</sup>
- Immediately ratify the International Covenant on Civil and Political Rights.
- Sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance.
- Introduce and strengthen legislation to prohibit torture and make it a criminal offence with proper independent investigation and sanction.
- Immediately cease treating the Dalai Lama as a security threat instead of as the spiritual leader of Tibetan people. <sup>[SEP]</sup>
- Publicly publish information as requested by the Committee Against Torture on the number of disappearances and deaths of Tibetans since 2008.
- Immediately discontinue programs of mass surveillance and in particular the Stability Maintenance program.
- Strengthen privacy rights by explicitly guaranteeing the right to privacy as a constitutional right.
- Introduce internationally accepted best practice and standards and safeguards in relation to the promotion and protection of the right to privacy with particular reference to the work of the International Intelligence Oversight Forum as relevant
- Allow active participation of Tibetans in the design and implementation of development projects and programs.
- Implement a culturally relevant education or a genuine bilingual education rooted in minority culture by promoting Tibetan as the first language.
- Adopt anti-eviction laws imposing strict conditions for interference with the rights of land users, and to ensure the security of tenure for people who do not have formal titles to home and land.
- Hold meaningful consultation with Tibetan stakeholders including nomads and farmers on forging a new way managing Tibetan grasslands and review of existing grassland policy that is ineffective, negative and improper.
- Discontinue all resource extraction in Tibet that damages the local ecosystem and allow an independent inquiry to assess environmental damage in Tibet.
- Abolish the discriminatory passport regulations and allow Tibetans the right to movement and to access pilgrimages abroad.

--Ends--