

BRIEFING PAPER
TORTURE AND ILL-TREATMENT IN TIBET

*An Assessment of the People's Republic of China's Compliance with the
Convention Against Torture*

A Report Submitted by

The Tibetan Centre for Human Rights and Democracy

to the

UN Special Rapporteur on Torture

June 2004

INDEX

	PAGE
Executive Summary	3
Background	4
Legislative Compliance	5
Practical Compliance	6
- Patterns of Abuse	8
Some Recent Cases	8
- Tenzin Phuntsok	8
- Tsering Dhondup	9
- Repatriated Tibetans	9
- Lobsang Dhondup	10
- Nyima Drakpa	11
- Drapchi-Detention Area Nine	12
Conclusion	13
Recommendations	14
Definitions and Sources	15

EXECUTIVE SUMMARY

This briefing paper has been compiled to assist the UN Special Rapporteur on Torture in his preparation for his June 2004 visit to China.

It evaluates China's compliance with the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), relative to Tibet, and updates the April 2000 paper of the Tibetan Centre for Human Rights and Democracy (TCHRD) on the issue of torture.

TCHRD submits that, despite continuing Chinese denials, torture of Tibetan prisoners remains a regular occurrence in Chinese administered prisons.

Due to increased vigilance on the border and restrictions on the outflow of information, it has become more difficult in recent years to obtain detailed information from Tibet. However, the work of organisations such as TCHRD, the Tibetan Information Network, Amnesty International and other human rights groups, as well as government agencies and the Special Rapporteur, provides sufficient material to confirm the systemic prevalence of torture in the Chinese jail system.

The atmosphere of fear and intimidation which now prevails has given less scope for getting reliable information out of the region. The atmosphere of fear has been described most succinctly by a senior monk, now in exile, "These days, when people are arrested often nobody knows except the immediate family, and sometimes they don't even know for sometime. Once all of us in a monastery would hear very quickly if a monk from our monastery died in prison or after release, but now the families are generally too scared to talk about it, are often warned not to do so by prison officials. So, it sometimes took months for the news to reach us when this happened."

TCHRD acknowledges reports of a decline in the rate of political imprisonment of Tibetans from 2000 until 2002, but notes that the decline appears to have halted in the last two years and there remain a significant number of political detainees as well as ongoing reports of illegal treatment, particularly during arrest and detention.

In addition to the continuing *practice* of torture, TCHRD has serious concerns about the continued failure of China to tighten its *legislative* framework, as recommended by the Committee against Torture, including:

- incorporating a definition of torture that fully complies with the Convention's definition in its own legislation;
- changing the current legal provisions with respect to suspect access to legal representation; and
- removing China's Article 28 Declaration refusing to acknowledge the competence of the Committee.

This briefing paper discusses some of the legislative steps yet to be put in place, documents the practices of Chinese law enforcement officials, including types of torture used, and sets out a number of recent cases to support the view that China remains non-compliant with the CAT.

It ends with a series of recommendations for the Special Rapporteur to consider in his discussions with the Chinese government.

The Tibetan Centre for Human Rights and Democracy, Dharamsala
June 2004

BACKGROUND

United Nations Convention Against Torture

The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was adopted and opened for signature, ratification and accession by General Assembly resolution 39/46 of 10 December 1984.

State Party Compliance – China

The Convention requires, under Article 2, that “each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.”

China ratified the Convention in 1988 but has made a declaration, under Article 28, that it does not recognise the competence of the Committee against Torture to investigate allegations of widespread torture within its boundaries.

As a State Party to the Convention, it has an obligation to implement the provisions of the Convention and to report periodically to the UN Committee Against Torture (CAT), which monitors implementation of the Convention, on the measures it has taken to ensure implementation. Since ratification, China has submitted three periodic reports to CAT. The last report submitted by China was examined by CAT in May 2000. In its concluding observations on this report, CAT made eight recommendations to China, including:

- that the State party incorporate in its domestic law a definition of torture that fully complies with the definition contained in the Convention;
- that the State party continue the process of reform, monitor the uniform and effective implementation of new laws and practices and take other measures as appropriate to this end;
- that the State party consider abolishing the requirement of applying for permission before a suspect can have access for any reason to a lawyer whilst in custody;
- that the State party consider abolishing all forms of administrative detention, in accordance with the relevant international standards;
- that the State party ensure the prompt, thorough, effective and impartial investigation of all allegations of torture;
- that the State party continue to intensify its efforts to provide training courses on international human rights standards for law enforcement officers.

Despite this, the Chinese Government has yet to fully comply, either legislatively or in practice, with the requirements of the Convention.

Legislative Compliance

The failure of the People's Republic of China to fully incorporate the crime of torture into domestic legislation in terms consistent with the Convention has yet to be satisfactorily addressed by the Chinese Government, despite being raised by the Committee in its 2000 review of Chinese compliance. The Government has failed to act in the following ways that, either explicitly or implicitly, support the continued use of torture:

In respect of Article 1, there remains no explicit definition of torture in domestic legislation, and attempts to define torture are vague and incomplete. In addition, Chinese law also fails to mention psychological torture, prohibited under the Convention.

In respect of Article 2, Articles 232, 234 and 247 of the Criminal Law of China (Revised) stipulate that judicial, supervisory and management workers who extort confessions by torture or who use force to extract testimony from witnesses are to be punished. However, no provision is made regarding torture by these personnel unrelated to extracting a confession or testimony (i.e. in respect of punishment, intimidation and coercion), there is no definition of judicial workers, nor any provision to distinguish them from "supervisory and management personnel".

The use of illegally gathered evidence is prohibited under Article 15 of the Convention. However, legislative provisions on inadmissible evidence and dismissals include only limited definitions of torture and coercive measures as grounds. Article 15 of the CPL (Revised) lists the six circumstances in which criminal investigations shall be squashed and fails to include torture or other forms of ill treatments as grounds for dismissal.

Legislative provisions allow for an individual to retain counsel only after a public prosecution has been initiated after being first interrogated by an investigating organ, or from the day coercive measure are taken against him. Not only does this do little to deter illegal measures against an individual suspected of criminal activities but as the UN Special Rapporteur noted in his 1994 report, "In these circumstances, it is almost impossible for detainees to make complaints about torture." In addition, Article 96 of the CPL (Revised) further curtails the right to legal representation by stipulating that in cases involving state secrets, the investigative organ shall approve the criminal suspect's application.

Trials involving state secrets remain "closed". Noting that the vast majority of Tibetan political prisoners are charged with "endangering state security" (or "counter revolutionary crimes" as it was referred to previous to the 1997 revisions) their trials are closed, and often outside any legal process.

Under the revised law, suspects can be held up to seven months (Articles 124, 126, 127) before formal charges are filed and can be denied access to a lawyer, placing them in danger of abuse or ill treatment. In addition, there are no reported cases of Tibetans accused of crimes "endangering state security" being granted any form of non-custodial, pre-trial detention or release on bail.

In respect of Article 10, the failure to incorporate the crime of torture into domestic legislation in terms consistent with the Convention guarantees that education and training regarding the prohibition of torture are inadequate. There is no indication that personnel in Tibet are being educated, trained, or required to incorporate the revised laws in the areas of torture and other illegal treatment.

In respect of Articles 12, 13 & 14, effective remedies against rights violations are a fundamental tool in safeguarding the rights of all people from torture and other cruel, inhumane or degrading treatment. The

Revised CPL confines redress during the investigation stage to cases of investigation that have exceeded the legal (time) limits. It is not clear what remedies or forms of redress are available to suspects who have been tortured.

Practical Compliance-Torture in Tibet

For some years, there have been increased Chinese efforts to prevent information from reaching the outside world about both political imprisonment and torture while in detention. As the Tibetan Information Network emphasises in its publication *In the Interests of the State*, “As security apparatus becomes more sophisticated and far-reaching, the successes Tibetans achieved in the early 1990s at sending illuminating information abroad are repeated less often.”

TCHRD notes that increased border activity and more sophisticated means of preventing the flow of information have severely restricted the availability of recent testimony on experiences of imprisonment and torture. However, a variety of supporting information, including case studies, NGO reports and corroborative testimonies, confirms the view that the situation has not significantly changed and that torture remains prevalent.

Amnesty International’s 2003 report on China states:

*Serious human rights violations continued and in some respects the situation deteriorated. Tens of thousands of people continued to be arbitrarily detained or imprisoned for peacefully exercising their rights to freedom of expression, association or belief. Some were sentenced to prison terms; many others were administratively detained without charge or trial. The "strike hard" campaign against crime launched in April 2001 was renewed for a further year. According to interim figures available, the crackdown led to at least 1,921 death sentences, many imposed after unfair trials, and 1,060 executions. **Torture and ill treatment remained widespread and appeared to increase as a result of the campaign.** The anti-crime crackdown also extended to people accused of being "ethnic separatists", "terrorists" and "religious extremists" in the Xinjiang Uighur Autonomous Region (XUAR) and members of the Falun Gong spiritual movement. Further regulations were introduced to control access to the Internet. Labour protests increased and were frequently met with excessive use of force and arbitrary detentions. In Xinjiang, restrictions increased on the cultural and religious rights of the mainly Muslim Uighur minority. In Tibet, freedom of expression and religion continued to be severely restricted, although seven prisoners of conscience were released before the end of their sentences.*

On 4 February 2004, U.S. House Democratic Leader Nancy Pelosi entered a statement on Tibet in the Congressional Record on the House floor in strong support of House Resolution 157, which was later passed by a vote of 398 to 0. Included in her remarks was the following statement:

The Chinese government continues to impose severely repressive measures against any display of support for an independent Tibet.

We know the facts. The State Department’s Annual Country Report on Human Rights states: ...'[Chinese] authorities continued to commit serious human rights abuses, including instances of torture, arbitrary arrest, detention without public trial, and lengthy detention of Tibetan nationalists for peacefully expressing their political or religious views.'

...Tibetans are routinely imprisoned and tortured for non-violently expressing their views. Beatings, prolonged exposure to extreme heat and cold, electroshock, sleep and food deprivation, and forced labour are among the techniques used to torture Tibetan political prisoners. “

Given China's record on torture and the continuation of its use across a number of political areas, it is clear that China continues to commit acts of cruel, inhuman and degrading treatment and punishment towards detained Tibetans. In addition to well-used forms of torture, since the early 1990s the methods of torture have become less visible outwardly because the Chinese authorities in Tibet have become aware that forms of abuse that leave physical evidence are difficult to deny. The use of prolonged, forced exercise and labour are standard in prisons and detention centres, regardless of the prisoner's physical condition. Deprivation of food, water, and sleep are routinely used against political prisoners, as are prolonged periods of solitary confinement and extended exposure to extreme temperatures. Acts intentionally committed to humiliate prisoners, including urinating in prisoners' mouths and sexual assault of nuns, are reported.

Patterns of Abuse

According to former political prisoners, police and judicial personnel in Tibet, cases in which torture, beatings and other forms of excessive maltreatment do not occur are unusual.

In a letter dated 10 August 2000, the Special Rapporteur advised the Chinese Government that he continued to receive information according to which the use of torture and other forms of ill treatment, in particular in Tibet and in the Xinjiang Uighur Autonomous Region (XUAR) is widespread. In that letter, and in addition to methods reported in previous years, he transmitted information on *'the use of trained dogs to attack prisoners; the use of live electric wires to give electric shocks, inter alia, to the mouth and genitals; the insertion of sticks or needles under the nails or having fingernails pulled out with pliers; the hanging of prisoners from a rail with one foot and one hand for 24 hours; the shoving of paper into the anus of detained persons and the setting on fire of this paper.'* He transmitted further information on *'prisoners being made to run in the "flying aeroplane" position, arms spread out and bent forward; having their hands tied behind their back and having them pulled up behind them, causing intense pain; and on prisoners being made to stand barefoot in the snow and having cold water poured over them in freezing winter temperatures.'*

Torture occurs primarily during arrest, transport to detention facilities, in detention centres and prisons. During arrest and transport to detention centres or police stations, suspects report that initial beatings are done with whatever weapons are at hand including sticks, iron bars and plastic cords filled with sand. Kicking and punching are also reported. Suspects are held in police stations anywhere from a few hours to weeks. Torture and other coercive measures are employed in order to obtain confessions and names of accomplices or foreign associates. In police stations, methods of torture include punching and kicking, beating with sticks having nails, dog attacks, electric shocks and sleep deprivation. In detention centres, Tibetans can be held for several years without a judicial adjudication; either through administrative sentencing or through prolonged periods of pre-trial detention that exceed the legal limit.

More sophisticated methods of torture are employed in detention centres indicating extensive training in methods designed to extract information. These methods include: the use of electric shocks applied to sensitive parts of the body including the genitals, anus, face, feet, mouth and breasts; the use of handcuffs,

shackle or ropes to secure prisoners in positions intended to maximise pain; self-tightening cuffs designed to cut into the victim's skin; prolonged periods of exposure to extreme temperatures; extended periods of solitary confinement; being made to adopt exhausting physical postures, including standing for hours on end; and beatings to the kidneys and genitals with a variety of instruments including sticks, iron bars and plastic cords filled with sand.

The use of rape and sexual assault, particularly against nuns has been documented since the late 1980s. In 1998, the International Commission of Jurists (ICJ) reported that,

Nuns appear to be subjected to some of the harshest torture and ill treatment in detention centres, reform through labour camps, police stations and prisons; some young nuns have died in prison as a result of ill treatment. They are subjected to gender-specific torture, including rape by inserting electric cattle prods into their sexual organs. Other forms of torture frequently used against women, particularly nuns, include stripping them naked, targeting breasts for physical ill treatment and the use of trained dogs to bite them.

Once a sentence is passed (through judicial, administrative or other means), torture is employed through forced labour and exertion, extended periods of solitary confinement, lack of adequate food, denial of medical care, and forced blood and fluid extraction.

According to Physicians for Human Rights, the frequency of torture including psychological abuse, beatings, rape, the use of electric cattle prods, and prolonged periods of starvation suggest that torture is part of a widespread pattern of abuse. Their report concluded that the Chinese authorities in Tibet use torture as a means of political repression, punishment and intimidation.

SOME RECENT CASES

Tenzin Phuntsok

Tibetan political prisoner Tenzin Phuntsok (aka Nenyang Kharpa Tenzin Phuntsok), aged 64, died at a hospital in Shigatse on the morning of 8 September, 2003, after imprisonment by the Chinese authorities.

A native of Khangmar area of Shigatse prefecture in present-day "Tibet Autonomous Region", Tenzin Phuntsok was arrested on 21 February 2003, over "suspected" political activities, following a raid at his home. Sources confirmed that he succumbed to prison atrocities, including torture that he had been subjected to during his detention at Nyari Prison in Shigatse. He was a healthy man before his imprisonment and had visited India in 2000, 2001 and 2002 to meet relatives and for pilgrimage to Buddhist sites in the country. Tibetans in Khangmar believe that the main reason for his poor health and sudden hospitalisation was torture and ill treatment during intensive interrogation sessions.

Tenzin Phuntsok, respected by Tibetans in the region, was earlier detained with his father in 1959 for five years at a prison in Gyantse region. It is widely held that during this period he and his family suffered tremendously at the hands of the Chinese authorities.

Tsering Dhondup

Tsering Dhondup, head of Othok Village in Nyakchuka County, Karze "TAP", Sichuan Province, is reportedly in a critical health condition in Dartsedo Detention Centre. He is one of the four detainees

currently held in connection with Trulku Tenzin Delek's case, and suffered brutal beatings and torture. It is reported that he had lost sight in one eye and that he cannot walk as both his legs are broken. Following his sentencing, Tsering was transferred to a prison in Nyakchuka County, possibly Maowan Prison in Karze "TAP". However, due to his critical condition, prison authorities of Nyakchuka refused to accept him under their custody. Therefore, Tsering continues to be detained in Dartsedo Detention Centre. He was in good condition and had no health complications prior to his arrest.

Torture of 18 Tibetans forcibly repatriated from Nepal to China

The International Campaign for Tibet reports that 18 Tibetans forcibly repatriated from Nepal to China in April/May 2003 experienced extensive beatings and torture while held at Nyalam and Shigatse prisons.

It is alleged by former Nyalam prisoners that 14 of the Tibetans (four were quarantined on suspicion of SARS) received extensive beatings and torture with electric batons while held at Nyalam. It is also reported that some of the 18 deported refugees were subjected to torture methods that included having sewing needles inserted in between their fingernails and flesh including in one case when it was reportedly done to revive someone who was unconscious.

Former inmates from the prison cells in Shigatse, "TAR", have recounted incidents where the deportees were shocked with electric batons, repeatedly kicked in the genitals and forced to stand naked outside for four to five hours at a time, three to four times a week. One former inmate recalled prison guards beating members of the group while yelling, "Think about why you tried to go and see the Dalai Lama."

It is believed that as of mid-October 2003, two of the 18 Tibetans deported were still in prison.

A Tibetan who spent time in Shigatse Prison last year after being caught while trying to flee Tibet told ICT, "The cruellest person in prison is a Tibetan they call Phuntsok. He would beat us without any reason whatsoever and I was told that he killed a prisoner a few years back." Former prisoners have told ICT that Chinese are more likely to be present during interrogation sessions but those carrying out the torture are more often ethnic Tibetans. The identities of Tibetan prison guards regarded as particularly sadistic are known in Tibetan communities but reprisals against them are apparently rare.

Note:

According to former inmates, refugees who are caught coming back from India or Nepal are reportedly treated much more harshly and receive longer sentences than those who are caught trying to leave Tibet, according to former inmates. Tibetans who have served sentences in the New Reception Centre or at Nyari prison in Shigatse report that most individuals caught at the border serve a prison sentence of three to five months, receive beatings and torture regularly (most commonly being hit with an electric baton), and must perform hard labour, usually road building in and around Shigatse.

Lobsang Dhondup

Lobsang Dhondup was executed on 28 January 2003, following his conviction in a secret trial on account of alleged involvement in a series of bombings in Sichuan province.

Amnesty International reports that he appeared to have been held for several months incommunicado, he was not given full and adequate legal representation and his trial was held in secret.

This is the first known case of the execution of a Tibetan for alleged political offences in some time. Until now, the Xinjiang Uighur Autonomous Region (XUAR), home to the mainly Muslim Uighur minority, was the only place where Amnesty International had recorded executions of political prisoners in recent years.

Lobsang Dhondup was arrested on 3 April 2002 after a bombing incident in Chengdu, the capital of Sichuan Province. Trulku's arrest came four days later on 7 April 2002. According to official reports, "separatist" leaflets calling for Tibet's independence from China were found at the scene of the blast.

On 2 December 2002, the Kardze (Ganzi) Intermediate People's Court in the Kardze Tibetan Autonomous Prefecture of Sichuan Province sentenced Lobsang Dhondup to death for "inciting separatism", "causing explosions" and "illegal possession of guns and ammunition". Trulku Tenzin Delek received a death sentence with a two-year suspension for "causing explosions" and "inciting separatism". According to official sources, Trulku Tenzin Delek appealed against the sentence.

Around 80 Tibetans were feared arbitrarily arrested and detained for varying time period in connection with the case of Trulku Tenzin Delek. Among them, TCHRD received confirmed information on eight Tibetans who were held for almost a year without charges and trial. More arrests were carried out after Lobsang Dhondup's execution.

Four monks were reportedly arrested along with Tenzin Deleg Rinpoche on 7 April 2002 at Jamyang Choekhorling Monastery, Nyagchukha County (in Chinese: Yajiang county), Sichuan Province. One has since been released, but the four others, Tsultrim Dargye, Tamdring Tsering and Ashar (or Aka) Dhargye may remain in detention. It is not known whether they have been charged or sentenced. Tamdring Tsering was allegedly severely beaten by police on arrest.

Choetsom and Pasang are also thought to be monks at Jamyang Choekhorling Monastery. They reportedly went missing on 8 April 2002 after being interrogated and beaten by the police during a raid on the monastery the day before. They have not been seen since. It is unclear whether they are in hiding or in police custody.

Tashi Phuntsok, from the same monastery, was arrested on or around 21 April 2002 while he was in Nyagchukha hospital undergoing treatment for tuberculosis. It is unclear whether he has since been released or remains in detention. There is no information about his current state of health.

Two other men were arrested on or around 7 May 2002 after collecting 20,000 signatures on a petition to deter an earlier apparent attempt to arrest Tenzin Deleg Rinpoche. Whilst one has since been released, the other, Tserang Dondrup (also known as Jortse or Jotse), was tried in Nyagchukha and sentenced to five years' imprisonment. He is reported to have lost most movement or flexibility in his legs since his arrest, possibly as a result of torture or ill treatment. Three others are also known to have been arrested in connection with this case, but have since been released.

Nyima Drakpa

Nyima Drakpa, a Tibetan monk, died on 1 October 2003 at his home in Tawo County, Sichuan Province after he was released from Tawo County Detention Centre in early September on medical parole. He was serving a nine-year prison term as a result of his involvement in pro-independence activities. The cause of his death pointed clearly to his deteriorating health, and a letter written by him outlines his experience during his prison years:

My name is Keri Nyima Drakpa (sked ri'i nyima grags pa) and I'm a Tibetan youth from Tawu County of the Kham region of Tibet. Just as the saying goes: "Although small, a marmot has all his physical attributes complete", similarly, though I am neither a scholar full of wisdom, nor a man known for his wealth, I'm someone with a boundless love and concern for my own nationality. I have always been concerned with, and given much thought to, our nationality's state of absolute backwardness and that under the oppression of the ruling classes, we don't even have the right to use our own language etc. This represents a denial of human rights and deprives us of any degree of political authority.

At the same time, having studied and absorbed the glorious historical accounts of how our ancestors had exercised political authority and ruled the country, I made a firm resolution that, if necessary, I would definitely sacrifice my own life for the sake of my nationality. Thus, with unfeigned sincerity, wishing that my fellow Tibetan nationals could enjoy proper freedom, and desperately hoping that a separate Tibetan country could be established, I wrote many posters demanding that, " All Chinese should return to their hometowns and allow Tibet to be independent." I put them up on the end as well as side walls of the District Government buildings on 7th January 2000, 9th April 1998, 10th November 1999, 12th November 1999, 19th November 1999, 6th December 1999 and 29th December 1999.

At the end of each poster I signed my name clearly. However, ill fated that I am, before I had managed to accomplish a single objective, my precious life seemed doomed to be ended at the hands of the cruel and repressive Chinese.

Last year, on the 22nd of March, when I was in Lhasa, four members of the Dawu Public Security Bureau officers arrived and arrested me immediately. Right from the start, without even asking me a single question, they started beating me like beating a drum and rendered me incapable of uttering even a word. They gave me neither a mouthful of food nor a drop of water to drink, and immediately took me in a plane back to Chengdu. Upon arrival in Chengdu, they let a few Chinese police officers beat me up. Those reincarnations of the black devil himself, in the form of Chinese cadres, pinned me down and beat me so mercilessly that I became half dead and half alive. At the time, I fell unconscious. When I regained consciousness, it was around eleven at night. I sensed that my whole body hurt with excruciating pain and it was impossible to move properly. In particular, I realised that both my legs had turned numb and were devoid of any sensation. Ten days after we had arrived in Tawu, they started interrogating me. Despite the intense and excruciating pain all over my body, ill fated though I was, I managed to tell them exactly everything that I deeply believe and feel in my heart, and acknowledged that I had indeed written all those posters.

Therefore, last year on October 5th, the Court in Kardze Tibet Autonomous Prefecture, sentenced me to a prison term of nine years. However, I'm now in such a decrepit state that I cannot eat even a mouthful of food, and my legs, too, are rendered lame by the cruel Chinese. As such, I know that before long I am going to die. I am certainly not afraid to die. As the last breath of the life of this ruddy-faced Tibetan is about to cease, let this appeal be relayed to my maternal uncle, Jowo Kyab, or to fellow Tibetan brethren who cherish and value the interest and cause of our Tibetan nationality, to ensure that through the good offices of His Holiness the Dalai Lama, China's bullying, cruel treatment and legal punishments of Tibetan people like me is made widely known among the international community of the world. And besides, I appeal to my fellow Tibetan brethren with whom I share the same flesh and bone, you must know and understand the truth about how China mistreats us through unreserved bullying, illegal and immoral actions. We must unite at all costs and rise up against China.

*Keri Nyima Drakpa
Dated 1st April 2001*

Drapchi – Detention Area Nine

According to a news update of the Tibet Information Network of 16 August 2002, Drapchi Prison is already well known for the large number of deaths of Tibetan prisoners attributed to abuse or maltreatment. The construction of a new block at Drapchi Prison in 2000, apparently designed as a means of delivering excessive punishment through severely restrictive conditions, is of serious concern in respect of the CAT.

The new cellblock was built at the Tibet Autonomous Region Prison Number One, Drapchi, to hold prisoners undergoing stricter punishment than the normal regime, and new male arrivals. It appears to have become operational in late summer 2000. Conditions in the block, known as "Tsonkhul" (Detention Area) Nine, are the harshest in the prison. It has a total of 24 cells. One is used as a storeroom, two are for solitary confinement, and 21 are two-person cells. The two-person cells measure roughly three by three metres. Approximately 30 prisoners are reportedly held in Detention Area Nine at any one time. While some are new arrivals to the prison, the majority, including criminal prisoners, are reportedly undergoing the strict regime in Detention Area Nine as punishment, including for giving unsatisfactory answers to political reviews.

Prisoners in Detention Area Nine are reportedly not allowed to do any work. A tiny walled courtyard adjoins each cell in the block. Prisoners under the most severely restricted regime are not given access to that space or allowed any activity or exercise outside their cells. Other prisoners are allowed access to Detention Area Nine's main courtyard that can be used for exercising or jogging. All cells are poorly ventilated; a hole was knocked into the wall of prisoner Tagna Jigme Zangpo's cell as a concession to his age and poor health and to ease the suffering caused by his respiratory problems. The inner door is left unlocked in some cells, but not others, preventing some prisoners from being able to access the light switch and darken their cells at night.

Tagna Jigme Zangpo, the elderly schoolteacher who served a total of 32 years in prison before his release on medical parole in March, was held in the block for most of his last eight months of detention as a result of a protest he made at Drapchi in August 2001. Throughout his imprisonment there, a Tibetan criminal prisoner was placed in the cell to act as a monitor. In his 2003 testimony to the 59th UN Human Rights Commission, Takna Jigme Sangpo spoke of the harsh conditions, including solitary confinement and long-term isolation punishments still being practised at Drapchi. He told the Tibetan Information Network that prisoners are transferred to the block for punishment if they do not give satisfactory responses during "political investigation" sessions. "They hold them there for between six months and one year to break their spirit," he said.

As of 31 March 2002, prisoners in Detention Area Nine include Tringa and Sonam Tsewang, the two Tibetans involved in protests associated with the visit of the United Nations Working Group on Arbitrary Detention to Drapchi Prison on 11 October 1997. They were confined to Area Nine in November 2000, each confined in a two-person cell. Lodroe Gyatso, a 37-year old member of a dance troupe who was serving a 15-year sentence in Drapchi Prison for murder, and whose sentence was extended by six years after he took part in a prison protest in 1995, was also reportedly confined to Detention Area Nine in November 2000. Karma Sonam, another criminal prisoner who took part in a political protest at Drapchi in May 1998, was also confined to Detention Area Nine soon after it opened. The sentence of Karma Sonam, from Kardze (Chinese: Ganzi) in Sichuan Province, was reportedly extended after he was involved in initiating a major protest by prisoners at Drapchi on 1 May 1998. Karma Sonam was one of two prisoners to begin the protest by shouting slogans such as "Free Tibet" and "Long live the Dalai Lama" at a flag-raising ceremony convened by the prison authorities.

Two monks, Ngawang Nyima (from Pema) and Ngawang Sungrab (a Drepung monk in his mid-thirties from Lhundrub county in Lhasa municipality), were also transferred to Detention Area Nine in spring 2001 for giving unsatisfactory responses during political investigation sessions.

Nyima and Nyidron's testimonies on torture

Phenpo Podo Nunnery is a small nunnery in Phenpo Lhundup County, Lhasa Municipality, "TAR", established by Geshe Podowa before the Chinese invasion of Tibet in 1959. In its initial years, the nunnery housed around 200 nuns. In the aftermath of the People's Liberation Army's occupation of Tibet, and the Cultural Revolution thereafter, the nunnery was totally destroyed. In 1992, through the generous donation of Lobsang Tsundue and with funds collected by the nuns through begging, the nunnery was reconstructed.

Nyima and Nyidron joined the nunnery in 1992 when there were 130 nuns. However, they couldn't stay for long in the nunnery as both were arrested by Public Security Bureau officials for protesting against the Chinese government and were subsequently sentenced to five years imprisonment.

After their release from prison and escape to India, the Tibetan Centre for Human Rights and Democracy met the nuns.

Nyima recounts, "In September 1993, the nuns at Potoe Nunnery were called for a meeting at Sumpang Township by the local authorities. During the meeting, the authorities issued a directive whereby nuns below the age of 18 were banned from attending the nunnery and an enrolment ceiling of sixty nuns in the nunnery was imposed. Failing to follow the directive, the nunnery was threatened with imposition of heavy fines. Most of the nuns, out of the total 130 nuns in the nunnery, failed to meet the age regulation. A week later, an official notice was sent to the village head and accordingly Nyidron and I and other nuns below eighteen years of age were dismissed from the nunnery. Many elderly nuns were also expelled to meet the enrolment ceiling of sixty nuns."

"The nuns were depressed and anxious about their fate. In order to protest the curtailment of religious rights, Nyidron and I, along with another nun, Nyichung, secretly crossed the hill separating Lhasa from Phenpo County on foot and reached Lhasa on the morning of 22 March 1999. Three of us straight away proceeded to the busy Barkhor market and shouted slogans calling for "Freedom in Tibet", " Chinese out of Tibet" and "Human Rights in Tibet". Barkhor Public Security Bureau ("PSB") officials immediately took us into custody and detained us for about fifteen minutes in the local Detention Centre, we were then shifted to Lhasa City PSB Detention Centre in the east of Lhasa. We were separated in different cells for interrogation. A team of PSB officials was sent to the nunnery in Phenpo County to search for any incriminating evidence. The officers, on ransacking our quarters and other nuns quarters, found a pamphlet calling for Tibetan Independence in a neighbouring nun's quarter. Suspecting a huge undercover protest, the three of us were beaten, had boiling water splashed on our bodies, were lashed with belts and our bodies were pricked with cigarette butts. In September, Lhasa People's Intermediate Court sentenced us to five years' imprisonment term on the alleged charges of "counter revolutionary" activities. We continued to be detained in Gutsa Detention Centre for one year and five months. In August 1995, we were transferred to Drapchi Prison where a new unit for female political prisoners had been built which housed around sixty inmates. On reaching Drapchi Prison, we were made to perform exercise drills and study prison rules and regulations."

One year and eight months in solitary confinement cell for singing in praise of the Dalai Lama

"On the third day of Tibetan New Year in 1997, the female inmates from both the old and new units were allowed to gather together. To the disturbance of the political prisoners, a female criminal prisoner began to sing a song in praise of Mao Zedong and the Communist Party. I and Jamdron of Phenpo Gyara Nunnery stood up and began to sing loudly in praise of the Dalai Lama. The prison guards immediately got hold of us and dragged us towards the prison office. However, we continued to sing defiantly. Once we reached the office, the officers beat us mercilessly while the other prisoners shouted for our release from the outside and threatened the officers that they would not get up from the floor until we were released. A team of People's Armed Police ("PAP") was called to the spot to quell the prisoner protest. The PAP officers began to beat the prisoners when all of a sudden a PAP officer fell down on the ground due to the commotion. Chel Chel, a female prisoner, was accused of tripping the officer and she received a severe beating and was made to kneel before the officer and apologise. Later she was put in solitary confinement for a month because of the incident. During that time, Nyidron, Sangmo, Choekyi and others were beaten severely. Pema Bhuti, the female prisoner warden arrived and started to interrogate the prisoners and beat them. Jamdron and I were knocked down with an electric baton. We gained consciousness when the officers splashed water on us, and the beatings continued until our body became numb. We were then placed in solitary confinement cells. A small dumpling and a bowl of hot water was all that was fed to us for the next one year and eight months while in the solitary confinement cell."

Non-compliance in singing the Chinese national anthem lands Nyidron in a solitary confinement cell for eleven months with broken teeth

Nyidron lost two front teeth due to prison officials' severe beatings and was also put in a solitary confinement cell for a long time.

Nyidron recounts, "In the aftermath of 1 and 4 May 1998 prisoner protests in Drapchi, I was called to the prison office and asked about the key man who led the protests. I didn't give any answer. I, along with eight other female political prisoners, were taken to watch the trial of two criminal prisoners who were sentenced to death. The officers intimidated us that we would meet the same fate if we didn't reform. "

"After eight days, all the political prisoners threw their bowls out of the prison in protest at not feeding the political prisoners in the solitary confinement cells. The prisoners stayed on a hunger strike for a week. The prison officers promised that the prisoners in solitary confinement would be fed and asked us to eat as well. After a few days, all the prisoners were assembled and told that we should learn the Chinese national anthem and we were required to sing it simultaneously. None of the prisoners complied with the order, as a result of which the officials started to beat us one by one. Nevertheless none of us agreed to sing the anthem. The officials then called the PAP crack commandos to teach us a lesson. The PAP officers began to hit every prisoner and one of them hit me on my mouth with a metallic rod. My two front teeth came out and I started to bleed profusely. I spat the blood on the officer's face. He was angry and beat me even more. I lost consciousness and when I regained my senses, I had been in the prison clinic for seven days in a coma. I was then put in a solitary confinement cell for eleven months in a half-dead, half-alive condition. On 20 March 1999, when my five years' imprisonment term expired, I was taken out of the solitary confinement cell and led to the prison office. The prison officials intimidated that I must not speak about the prison incidents to the outside world. They made me write a letter agreeing to their terms and they put my thumbprint at the end of it. They continued to intimidate me with talk of the consequences if I failed to comply with their instructions. Around noon, two PSB officers from Phenpo County came to fetch me. They dropped me at my house and told my brother that I was not allowed to move around and made him sign a paper in compliance with the order."

"I was admitted to a hospital for a long duration but, before I could recover fully, my family had to pull me out as they couldn't afford the exorbitant medical expenses. My nunnery had been instructed that I couldn't rejoin and I couldn't get any work for sustenance. In 2002, I, along with Nyima, ran a small food stall at Lhasa Ramoche but, after a month, three PSB officers from Lhasa City PSB ordered us to close the stall saying that it was a meeting point for "reactionaries". Life is very difficult for former political prisoners. They don't get jobs in any co-operatives and private businesses. The authorities won't issue registration certificates or other permits if they wish to run small business of their own. It's the end of a person in Tibet if he or she has any political incidents in their background."

Not able to withstand the state agencies constant monitoring and harassment, Nyima and Nyidron left Lhasa on 9 March 2004 and trekked past the Solukhumbu frontier village to reach Kathmandu Tibetan Refugee Reception Centre. They subsequently reached Dharamsala, India, on 20 April 2004.

CONCLUSION

The consistent and continued prevalence of torture in Tibet remains of paramount concern.

International organisations report that torture continues to be used against dissident groups in China, including Tibetans. The failure of China to tighten its domestic legislation, or acknowledge and punish reported incidents of severe maltreatment in custody, promotes an environment where such maltreatment can flourish.

In addition, the continued policy of suppressing all activities linked to Tibetan nationalism encourages officials in the prison-judicial system to treat political prisoners as beyond the protection of even the most basic legal safeguards set out in China's criminal legislation.

Specific case studies have become harder to document over the last four years, but there remains sufficient information from a variety of sources to confirm that the detention environment has not significantly changed in regards to illegal and inhumane treatment.

The Tibetan Centre for Human Rights and Democracy is deeply troubled by reports concerning treatment of Tibetans in jails, prisons and detention centres. It believes that Chinese legislation and practice requires urgent reform to bring it in line with international norms and encourages the Special Rapporteur to raise these matters with the Chinese Government in his upcoming visit.

Recommendations

- Urge the Chinese Government to remove its declaration under Article 28 and recognise the competence of the Committee on Torture.

- Urge the Chinese Government to undertake the legislative changes recommended by the CAT in response to China's third Periodic Report particularly by:
 - incorporating in its domestic law a definition of torture that fully complies with the definition contained in the Convention;
 - abolishing the requirement of applying for permission before a suspect can have access for any reason to a lawyer whilst in custody;
 - abolishing all forms of administrative detention, in accordance with the relevant international standards;
 - ensuring the prompt, thorough, effective and impartial investigation of all allegations of torture.

- Urge the Chinese Government to undertake all necessary steps to actively discourage, and where appropriate, punish all incidents of torture within its judicial and prison systems.

Definitions and sources

Tibet

“Tibet”, as used in this report, refers to “ethnographic” Tibet and encompasses the entire plateau, including what is now referred to as the “Tibetan Autonomous Region” (TAR) as well as Tibetan-inhabited areas (Kham and Amdo) incorporated into the Chinese provinces of Gansu, Qinghai, Sichuan, and Yunnan. Please note that the Chinese Government’s references to “Tibet” include the “TAR” and omit the aforementioned Tibetan areas.

Torture

The UN Convention on Torture defines torture as follows:

“... any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing

him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

Sources

The information in this report is gathered from a variety of sources including the Chinese Government, internationally recognised non-governmental organisations, United Nations reports and information compiled by the Tibetan Centre for Human Rights and Democracy, particularly:

Amnesty International 2003 Report on China

Amnesty International Resource on Torture

In The Interests of the State, Hostile Elements III – Political Imprisonment in Tibet, 1987-2001 (Tibet Information Network Publication)

Physicians for Human Rights

Report of the Special Rapporteur, Sir Nigel Rodley, submitted to the 57th session of the Commission on Human Rights

TCHRD 2000 Report on Torture and Ill-Treatment in Tibet

The International Campaign for Tibet

Tibet Information Network
