

**HUMAN RIGHTS SITUATION IN TIBET**

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Tibetan Centre for Human Rights and Democracy



**Chinese People Armed Police prepare to surround Kirti Monastery on 16 March 2011 after monk Phuntsog set himself alight in protest.**

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# EXECUTIVE SUMMARY

2011 was a year of increasing tensions between the Tibetan people and the Chinese government. The Jasmine Revolution in the Middle East and the third anniversary of the Tibetan uprising in 2008 set the tone for the events in Tibet. After Mohamed Bouazizi self-immolated in Tunisia leading to the Arab Spring, the Chinese government ramped up efforts to control dissent at home in an effort to prevent its spread onto Chinese controlled soil.

On 16 March 2011, coinciding with the third anniversary of the Tibetan uprising in 2008, Phuntsog, a 21-yr-old monk self-immolated. The Chinese government preemptively instigated some of the toughest security measures that Tibetans have faced in some time. Since then, a total of twelve Tibetans have self-immolated within a span of 9 months in protest. The self-immolations are symptomatic of the greater plight that Tibetans find themselves in throughout the Tibetan plateau.

Despite the increasing frequency of self-immolations, the Chinese government refuses to admit any responsibility and has instead increased the level of oppression in Tibet, especially in monasteries, all the while continuing to violate its international human rights obligations. China is a party to five of the eight major international human rights treaties, and has an obligation to fulfill in good faith its international obligations. However, international organizations continue to rank the PRC as one of the worst human rights offenders, even as the Chinese government continues to refuse cooperation with international human rights bodies. When the Chinese government does implement new laws or policies, designed to

alleviate human rights abuses, these unfortunately only amount to window-dressing.

In China, the government does not serve the people, but rather the people serve the government. Tibetans have no meaningful way to influence official decisions. When local Tibetans are installed with decision-making powers, these powers are mere puppetry. Within the Chinese leadership, there is a culture of homogeneity, where no one questions the decisions of one's superior, leading to a country ruled by only a handful of men. In the end, "unity" and "stability" become more important than the livelihoods of individual Tibetans, or even Chinese for that matter. Freedom of expression, access to justice, and many other inalienable rights are denied.

When the authorities are not ignoring the grievances of Tibetans, it is outright suppressing them. The claim of "state secrets" is used liberally to violate the rights of individuals. "State secrets" lead to the suppression of exculpatory evidence, detention without cause, the silencing of media and academics, and the quelling of any criticism of official activities, such as corruption, collusion, and other abuses of power.

It is no wonder then that press and academic freedom are foreign concepts in China. Domestic journalists are mere mouthpieces of the government, with the imposition of ideological study a prerequisite for continued employment. Detention, imprisonment, and torture are not uncommon fates for those journalists and writers who dare to resist the party line. Foreign journalists are frequently denied access

to sensitive places such as Tibet, and even find themselves detained with their work confiscated.

When the Chinese government cannot dictate to the media, it turns to censorship to suppress facts inconvenient for the party. The Great Firewall of China is an effective tool to ensure only a select perspective on the world and China is shared with people inside the country. Some foreign companies assist China in denying their citizens the basic right of freedom of expression, a right that the owners of these companies enjoy at home.

When people peacefully assemble on the streets, the Chinese government sends out its security forces. Under international standards, security forces are only allowed when strictly necessary, but in China, the government directs its security forces to suppress any show of peaceful dissent, often beating peaceful, unarmed protestors.

When a Tibetan is picked up and brought through the official justice system, their rights are circumscribed. Lawyers are intimidated into not representing sensitive cases, lest they become a case themselves. When lawyers are available, the rights of the accused are limited, being subject to interrogations before representation, and not allowed private meetings once representation begins. Meanwhile, local government officials influence judges by controlling appointments, influencing funding, and engaging in other forms of collusion. The PRC justice system takes more pride in its 98 percent conviction rate than its ability to determine the truth.

The number of known prisoners of conscience in Tibet, as of 2011, is estimated to be 830, out of which 403 are known to be legally convicted by courts. In year 2011, (as of 15 December) 230 known Tibetans have been arrested and detained.

Torture is an ongoing problem in Tibet, as evidenced by the past experiences of Tibetans who flee into exile each year. While the Chinese government

has proposed a new law to make evidence from torture inadmissible in court, there are still many loopholes that allow for torture to occur unchecked. Torture is often used as a punishment in itself, more to dissuade future dissent than to gain any new “evidence” from the past. The PRC has now drafted new laws to legalize enforced disappearances of those deemed security threats.

Historically, the clergy has played the leadership role in Tibetan society. Before China invaded Tibet, monks and nuns were political, social, and spiritual leaders. Because of this, the Chinese government looks to Tibetan Buddhism with a great deal of suspicion. As a result, Tibetan Buddhism is one of the biggest targets of official oppression. The Tibetan people still look up to their religious leaders, thus it is no wonder that it is monks and nuns who have led most of the protests that occurred in Tibet this year.

The Chinese government looks to Tibetan Buddhism, as it does to all religions, with complete disdain. Seen as a backward mode of thinking, the government does everything it can to suppress and shape Tibetan Buddhism so that it can more closely fit its own political ends. The government believes that it can educate the Tibetan people out of religion and doesn't understand why Tibetans protest when the government tries to dictate what can and cannot be understood as a part of Buddhism. Though the Chinese government is atheist, it supports its own Buddhist Association of China, which it uses as its main tool to shape Buddhism to fit its ideology.

International law allows for the manifestation of one's religious belief to be placed under certain limitations, but the Chinese government ignores the line where protections start. Like other rights in PRC, religious rights are also subservient to patriotic duty. The government allows “normal” religious activity, which it then limits to anything that goes against official thinking.

While the Chinese government has spent over a quarter of a billion US dollars restoring temples and other cultural sites in Tibet, it has done so mainly for tourism. These renovations merely support the façade of religious freedom in Tibet. When tourists visit Tibet, their whole experience is carefully orchestrated, and monks who do not cooperate are punished.

The government controls the movement of monks and nuns. It installs security cameras in some monasteries and police stations either next to or inside others. The authorities direct monks and nuns what they may do with their daily lives, often placing party cadres in management positions at monasteries. All but three monasteries have thus far undergone the strict patriotic reeducation program, which forces monks and nuns to denounce the Dalai Lama and imposes ideological strictures on Tibetan Buddhism. Some areas impose an identity card system that makes it easy for security forces to determine how cooperative a particular monk or nun has been. Monks and nuns must obtain permission to perform certain public ceremonies.

The authorities continue to interfere with the reincarnation process for religious leaders in Tibet. While the Panchen Lama has perhaps been the most obvious example, the authorities interfere in many monasteries that are home to a *tulku*, who is a holder of thousands of years of knowledge and skills passed on through an ancient lineage system and reincarnates every generation. The Chinese government has insisted that it will pick the next Dalai Lama.

The Chinese government sees its actions as justifiable because it sees Tibetan Buddhism and the Buddhist clergy as direct threat to Communist ideology and the Communist Party. With this point of view, the government couches all its actions on national security grounds, invoking national security exceptions to any human rights commitments it has made. The reality is these exceptions cannot be invoked to violate one's basic religious rights.

Religious education is also heavily proscribed in Tibet. Monks and nuns are unable to travel, making it difficult to seek education in Buddhist concepts not available at their home monasteries. Further, the Tibetan cadres are pressured into not giving their children a religious education. Where religious education is allowed, the government controls the curriculum. Chinese law on religious education is full of qualifications that undermine any true independence for religious teaching in Tibet.

The educational atmosphere fostered by the government stifles critical thinking, innovation, and opportunities for learning. It closely monitors activities in schools and universities, increasingly limits the availability of the Tibetan language as a medium of education, and restricts the rights of Tibetans to seek religious education. Chinese is already being introduced in rural preschools in an attempt to relegate the Tibetan language to a mere subject. A culture is one step closer to extinction if its language is rendered irrelevant.

Tibet's best and brightest students are sent to universities in China where their exposure to Tibetan ideas can be limited and controlled. Instead of building schools in rural areas, the Tibetan children are taken away children to schools far from their families. Not only is education subservient to official ideology, but also the official education policy can be seen as one that tries to replace Tibetan culture with Chinese culture.

The PRC is expanding its Student Informant System, which monitors activities in schools and universities across PRC. By using informants, the government hopes to divert discussion in schools and universities away from criticism of government policy by imposing an atmosphere of white terror, where students and teachers never know if what they say can be used against them.

At universities, students and professors must attend political indoctrination sessions. Curriculum is often controlled by the government to ensure

a sanitized version of controversial topics such as history and politics, and students must pass ideological tests in order to graduate. Meanwhile, the Chinese government places pressure on foreign universities through the spread of its Confucius Institutes, whose Chinese staff is directed to not allow Tibetan related events or curriculum.

The PRC plans to spend USD 47 billion in Tibet over the next five years, most of which is earmarked for infrastructure. However, the Tibetan people are not consulted, instead the government decides what it thinks is best for Tibetans. The result is that while economic indicators in Tibet sometimes look good, the benefits largely accrue to Chinese migrants and Chinese companies – not the Tibetans, who are being increasingly marginalized in their own land.

The only chance that Tibetans have to voice their concerns is often through public protest. But the Chinese government does all it can to intimidate and harass Tibetans into not voicing their concerns. Because authorities consider these protests to be political in nature, it is not uncommon for them to be beaten, arrested, and even shot at.

Tourism is largely orchestrated in Tibet, with most proceeds benefitting Chinese companies. Tour guides are vetted through an ideological screening process, which tests their knowledge of the Chinese version of Tibetan history. Tibetans with education abroad are often automatically excluded from work as guides because they are deemed corrupted by foreign influences.

Tibetan nomads are forcibly relocated, or tricked into moving off their land, in the name of protecting the grasslands and forests. While the Chinese government uses environmentalism as an excuse when real reasons lie elsewhere. The government ignores the fact that for many millennia, nomads have been an integral part of the natural environment. It ignores the decades of failed policies that have damaged the natural environment.

The official solution to environmental problems is to replace the traditional nomadic pastoral way of life with industrial husbandry. This solution requires the destruction of Tibetan nomadic culture that has existed for thousands of years. As a result, thousands of nomads are forced to make a living in an environment that is completely foreign to them, and with no choice to return to the life that they know. If the Chinese government to find a real answer to environmental problems on the Tibetan plateaus, it needs to embrace the knowledge and experience of Tibetan nomads instead of eliminating it.

Like many Chinese government policies and practices, proclaimed benefits for Tibetans are really doublespeak to disguise the slow, methodical attempt to replace the Tibetan way of life with one that is more dominant and familiar to party cadres that live in Beijing.



# CIVIL AND POLITICAL LIBERTIES

## INTRODUCTION

“After sixty years of misrule, Tibet is not the Socialist Paradise that Chinese officials promised. There is no “socialism” in Tibet, but rather colonialism.”

*-Inaugural Speech of  
Kalon Tripa Dr. Lobsang Sangay, 8 August 2011<sup>1</sup>*

In 2011, some of the worst incidents of government crackdown in recent years happened in China.<sup>2</sup> In Beijing, government officials responded swiftly to rumors of a pro-democracy movement sparked by the Jasmine Revolution that recently tore through North Africa and the Middle East. In mid-February, the government arrested dozens of lawyers, activists, journalists, and artists on trumped-up charges. “No reporting” zones were created in Shanghai and Beijing as journalists, foreign and domestic, were harassed and in some cases, assaulted. In the end, the protests amounted small, nonviolent groups of individuals, “strolling” in public spaces.

The pattern of recent events in Beijing, Shanghai, and other parts of China shed some light on the Tibetan plight. The Chinese government is even more proactive in preventing the development of any dissent to Chinese rule within Tibet. For example, in anticipation protests of sensitive anniversaries, such as the Party’s 90th anniversary on 1 July, the Chinese authorities preemptively sent security troops into Tibet.<sup>3</sup>

After the Chinese invasion of the Tibetan Plateau, the traditional Tibetan territory had been divided into the so-called “Tibet Autonomous Region” (TAR) and other Tibetan areas were incorporated into Chinese provinces of Qinghai, Sichuan, Gansu, and Yunnan. Located in the outermost western region of People’s Republic of China (PRC) and traditionally populated with people of a distinct religion and culture, the Chinese government has failed to integrate the Tibetan people into its culture and ideology. Yet, official rhetoric paints a different picture: Tibetan dissent is to be blamed on “foreign influences.” Tibet is now perceived by the authorities as key to maintaining territorial integrity of China as a whole, and by extension, the State’s power. During his visit to the US, Chinese president Hu Jintao reiterated that Tibet, along with Taiwan, is an issue “that concern[s] China’s territorial integrity and China’s core interests.”<sup>4</sup>

One of the most disturbing events of 2011 began with the self-immolation protest of a Kirti Monastery monk in March that subsequently led to the deaths of laypeople and the incommunicado detention of 300 monks. Since the Kirti Monastery self-immolation in March, 11 other monks and nuns have set themselves on fire in protest (as of 15 December 2011). The government has responded with severe crackdown against the Tibetan population. While the cost of exercising one’s rights in China may be great, it is increasingly apparent that the cost of remaining under Chinese rule can be, for some, far greater.

## INTERNATIONAL LAW

[R]ecognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

*-Universal Declaration of Human Rights (1948), Preamble<sup>5</sup>*

Civil and political rights are understood as basic human rights under international law. Indeed, civil and political rights were among the first class of rights to be codified.<sup>6</sup> The UN Charter (1945), which established the United Nations (UN), outlines civil and political rights as the international community now generally accepts. PRC, as a member of the UN, is bound to “fulfill in good faith” its obligations under the UN Charter.<sup>7</sup> This includes an obligation to promote and respect human rights and to co-operate with the United Nations and other nations to attain this aim.<sup>8</sup>

Three years after the creation of the UN, it adopted the Universal Declaration of Human Rights (UDHR). The UDHR elaborated on the UN Charter by detailing specific civil and political rights.

Key articles of the UDHR include the following rights:

1. To be free from torture or other cruel, inhuman or degrading treatment or punishment (Article 5);
2. To receive equal protection against discrimination (Article 7);
3. To be treated without distinction on the basis of, inter alia, religion, or political or other opinion (Article 2);
4. To be granted a fair and public hearing by an independent and impartial tribunal (Article 10);
5. To freedom of thought, conscience and religion, and the freedom to manifest one’s religion or belief in teaching, practice, worship, and observance (Article 18), and;

6. To freedom of opinion and expression, including the right to hold opinions without interference (Article 19).

The Chinese government has violated each of these articles relating to the Tibetan situation. While the UDHR is not a legally binding treaty, it has the force of a binding treaty under customary international law.<sup>9</sup> Therefore, as a member of the United Nations, China is bound to promote respect for the rights and freedoms enumerated in the UDHR.

Along with UDHR, there are two legally-binding agreements that comprise the International Bill of Rights: the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Right (ICESCR). Both Covenants introduce formal requirements. Currently, the PRC has ratified the ICESCR but has only signed the ICCPR. Since the PRC has only signed but not ratified the ICCPR, no affirmative legal obligations are imposed. It is simply an indication that the PRC intends to take steps to be bound by the treaty. However, though the PRC has not signed the ICCPR it is still under obligation to refrain from acts that will “defeat the object and purpose of the treaty.”<sup>10</sup>

Of particular note within the ICCPR are the following rights:

1. Freedom from torture or cruel, inhuman, or degrading treatment or punishment (Article 7);
2. Freedom from arbitrary arrest or detention (Article 9); and
3. Freedom of thought, conscience, and religion, including the right to manifest one’s beliefs, and the right to be free from coercion (Article 18).

It is notable that, in signing the treaty, the PRC did not lodge any reservations to the ICCPR. Nonetheless, even in assuming the relatively minimal role as a signatory, the PRC continues to “defeat the object and purpose of the treaty.”

The PRC is a party to five of the eight major international human rights treaties.<sup>11</sup> This includes the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) of which PRC's violation is particularly relevant to the situation of many Tibetans. The ICERD prohibits "any distinction, exclusion, or preference made on the basis of race ... religion, [or] political opinion ... which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."<sup>12</sup> The PRC only entered into the Treaty, however, with the reservation that the International Court of Justice does not have jurisdiction to adjudicate disputes with the PRC with regard to the ICERD. Even though this particular reservation helps insulate the PRC from certain aspects of independent scrutiny, the Chinese government is expected to not violate the treaty.

Lastly, as a member of the UN Human Rights Council, the Chinese government has the obligation to "uphold the highest standard in the promotion and protection of human rights" and to "fully cooperate with the Council."<sup>13</sup> This "highest standard" means that the Chinese government must at least fulfill its international law obligations and cooperate with the international community to ensure that the people who live within its proclaimed territory receive the basic civil and political rights to which each person is entitled.

## INTERNATIONAL CRITICISM

In 2011, Freedom House, an independent U.S. based watchdog organization, conferred the lowest possible score to Tibet for the tenth year in a row with regard to political and civil rights in its yearly 'Worst of the Worst 2011: The World's Most Repressive Societies' report.<sup>14</sup> This report notes that the Tibetans suffer "intense repression" and, along with countries such as Sudan and North Korea, it is a place where "state control over daily life is pervasive."<sup>15</sup>

Additionally, Chinese cooperation with UN missions is limited. For example, in 2006, the UN Special Rapporteur Manfred Nowak wrote in his 'Report on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment' that Chinese government security and intelligence officials attempted to obstruct or restrict his attempts at fact-finding during his visit to China.<sup>16</sup> As a result of Nowak's visit to China, lawyers and human rights defenders were intimidated, detained, placed under surveillance, or just simply instructed not to communicate with the UN Special Rapporteur.<sup>17</sup>

In other instances, the Chinese government has repeatedly rejected requests for an independent international investigation into the Tibetan situation and denied requests for visits to Tibet by the UN High Commissioner for Human Rights and six Special Rapporteurs.<sup>18</sup> Human Rights Watch (HRW), an international non-governmental organization, alleged that the Chinese government made false statements, such as "there is no censorship in the country" and "no individual or press has been penalized for voicing their opinions or views," in its first Universal Periodic Review at the UN Human Rights Council in 2009.<sup>19</sup>

Over the past three years, PRC has comprised one third of the world's economic growth.<sup>20</sup> Likely as a result of its greater confidence as an economic power, the PRC has not only been violating international law but also repeatedly threatened economic and political retaliation against other countries that have criticized its human rights record.<sup>21</sup> Additionally, the Chinese government has gone even further and now repeatedly threatens governments each time a Head of State meets with the Dalai Lama whom the Chinese government considers a "separatist".<sup>22</sup> Reports are also increasing of forced repatriation to China of political dissidents from countries such as Thailand and Nepal. Recent cases of Chinese government involvement in the suppression of Tibetan religious activities in Nepal have aroused international concern.

However, the Chinese government is not entirely immune to international opinion. Recently, Danish publication *Information* reported a leaked document issued by the Central Committee of the Communist Party of China (CPC) in June 2011. The document emphasized the need to implement stricter censorship controls, particularly those that may influence international opinions on China. It also stated the need for new mechanisms to prevent “regime enemies from speaking their mind in foreign media.”<sup>23</sup> Following massive international pressure, the dissident Chinese artist Ai Weiwei, a critic of the official Chinese policies including Tibet, was released from formal detention in July 2011.<sup>24</sup> The Chinese government is simply attempting to walk a fine line between grasping onto power through strong-arm tactics, and attempting to minimize international repercussions.

The self-immolation protests in 2011 and the subsequent government crackdown have been a source of renewed international criticism. On 27 October 2011, the European Parliament adopted

an emergency resolution regarding the twelve self-immolations that have occurred in Tibet in 2011 (as of 15 December 2011).<sup>25</sup> The Parliament condemned the Chinese response to the protests, particularly the treatment of monks in Tibetan monasteries, lack of due process in the sentencing of Tibetans, and arbitrary detention and disappearance of monks. Other governments have individually expressed concern. Germany appealed for China to ensure greater transparency in the current situation in Tibet.<sup>26</sup> In a written statement on 19 October 2011, the U.S. State Department commented on the recent self-immolations in Tibet by pointing out that “these acts clearly represent anger and frustration with regard to Tibetan human rights, including religious freedom, inside China.”<sup>27</sup> Despite such criticism, China continues its heavy-handed crackdown on Tibetans. Yet, if the PRC wants to play a legitimate role in the international community in a manner commensurate with its rising status as an economic power, it will have to cease being a consistent violator of international law.



On 27 September 2011, the Regional Party Committee of Tibetan Autonomous Region (TAR) and the TAR government held a conference in Lhasa to launch a “Third Battle Campaign in Tibet.

## DOMESTIC LAW

There are many provisions under the Chinese Constitution compatible with international law. Article 33 of the Chinese Constitution guarantees its citizens equal treatment before the law. In 2004, China amended Article 33 of the Constitution to add the provision that “the State respects and preserves human rights.”<sup>28</sup> Article 4 notably holds that “the State protects the lawful rights and interests of the minority nationalities and upholds and develops the relationship of equality, unity and mutual assistance among all of China’s nationalities.” Further, it states, “discrimination against and oppression of any nationality are prohibited.” Other rights provided by the Chinese Constitution include freedom of speech (Article 35), freedom of religious belief (Article 36), and freedom from unlawful detention or arrest (Article 36). But these provisions are overbroad and vaguely-worded. The lack of precision coupled with scant implementation and enforcement of the Constitution provide considerable room for abuse.

Certain provisions of the Constitution are especially problematic. For example, under Article 51, a person’s freedoms and rights “may not infringe upon the interests of the State [and/or] of society.” This provision is so vaguely-worded that it leaves this limitation of an individual freedom or right to the discretion of government authorities. The Constitution places equally vague affirmative duties upon the Chinese citizen. These duties include to “safeguard the unification of the country and the unity of all its nationalities” (Article 52), “observe ... public order and respect social ethics” (Article 53), safeguard the “security, honor and interests of the motherland” (Article 54), and the duty to keep state secrets (Article 53). The vagueness of these provisions has permitted many human rights abuses in Tibet to occur.

There have been four separate constitutions (promulgated in 1954, 1975, 1978, and 1982). The most recent manifestation, the 1982 Constitution, is distinct in part because of its emphasis on the rule of law. According to the Constitution, China “practices ruling the country in accordance with the law” and “(t)he state upholds the uniformity and dignity of the socialist legal system.” Despite the language regarding “rule of law,” scholars have argued that “socialist constitutions like China’s serve as barometers of the state’s policies and values and reflect the current social condition.”<sup>29</sup> This perspective makes the Constitution appear little more than a political tool. Indeed, the fact that there is no state organ or body established for the enforcement of the Constitution may support this viewpoint. Further, the Constitution rejects the separation of powers approach. In China, the judiciary does not have general power of judicial review. There is no government body that can provide a counter balance to legislative power.

Under the Constitution, the National People’s Congress (NPC) and its Standing Committee have the power to review law and determine whether it has been violated. Article 2 of the Constitution states that “all power in the People’s Republic ... belongs to the people,” and that “(t)he organs through which the people exercise state power are the National People’s Congress and the local people’s congresses.” Since 2002, there has been a special committee of the Standing Committee of the NPC that has reviewed laws and regulations for constitutionality. This Committee has not yet explicitly ruled that a law or regulation is unconstitutional; however, after media outcry over the death of a man named Sun Zhigang while in police custody, the State Council rescinded regulations that allowed police to detain persons without residency permits. This change came once the Standing Committee of the National People’s Congress (NPCSC) made it clear that it would rule such regulations unconstitutional if they were not rescinded.

## CHINA'S HUMAN RIGHTS ACTION PLAN

In tune with the call for all states to create a national human rights action plan at the 1993 UN World Conference on Human Rights,<sup>30</sup> the Chinese State Council launched its first National Human Rights Action Plan (NHRAP) for the 2009-2011 period. The purpose of the action plan is to create a means to identify and resolve domestic human rights problems.

NHRAP embodies many of the standards in the UDHR, the ICCPR, and the Chinese Constitution.<sup>31</sup> Specifically, the government acknowledged that “all kinds of human rights are interdependent and inseparable.” Human rights were no longer just a matter of prioritizing economic development but also realizing the importance of civil and political rights. It provided a specific time frame on issues ranging from torture in custody and illegal detention to the “overall promotion of digitalized movie, radio and TV service.”<sup>32</sup> Existing provisions in Chinese law, including the right to a fair trial, the right to petition the government for redress of grievances, and protection from torture and illegal detention, were to be strengthened.<sup>33</sup>

Two years later, official assessment of the Plan was glowing. Wang Chen, the head of China's State Council Information Office and director of the ruling Chinese government's External Propaganda Department, announced that “the cause of human rights in China has entered a new stage.”<sup>34</sup> Wang stated that “[b]y the end of 2010, China had formulated 236 laws ... 690 administrative regulations and more than 8,600 local rules and regulations,”<sup>35</sup> and “perfected” laws and regulations to protect the rights and interests of ethnic minorities.” Additionally, “extorting confession by torture and illegal detention by law enforcement personnel has been strictly forbidden.”

Without substantive benchmarks and independent means of review, it is impossible to determine whether or not the NHRAP has led to meaningful

progress. Indeed, Wang appears to completely ignore reports of widespread abuse during the action plan period. Despite a specific commitment to “take further measures to protect the rights of ethnic minorities,” over the past two years Beijing broadened controls on Uyghurs and Tibetans.<sup>36</sup> Sophie Richardson, Asia advocacy director at Human Rights Watch, stated that “the government's failure to implement the Action Plan makes clear it is more of a public relations exercise than a meaningful tool for protecting and promoting human rights for the people of China.”<sup>37</sup> This does not bode well for the next plan, slated to run from 2012-2015.

## THE RIGHT OF CITIZENS TO CHANGE THEIR GOVERNMENT

In stark contrast to the recent democratic election of the new *Kalon Tripa* (commonly translated as Prime Minister) of the Central Tibetan Administration (CTA),<sup>38</sup> Tibetans in Tibet cannot freely elect a leader.<sup>39</sup> So while the Constitution states that “all power in the People's Republic of China belongs to the people,” it is the NPC and the congresses at the provincial, district, and local levels that actually exercise state power. The PRC governs the TAR and other Tibetan areas in Qinghai, Sichuan, Gansu, and Yunnan provinces through appointed officials. The few Tibetans with political positions are believed to be merely “figureheads” that simply tow the party line.<sup>40</sup>

In 2010, a Tibetan, Pema Trinley (referred to by PRC as Padma Choling, and as “*Pang-khu*” or “beggar” by Lhasa residents)<sup>41</sup> was appointed governor of the TAR in the wake of 2008 Tibet uprising. As TAR Deputy Party Secretary Trinley made it clear that he planned to keep in line with hardline policies stating, “stability is of overwhelming importance. We will firmly oppose all attempts at secession, safeguard national unification and security, and maintain unity among different ethnic groups in Tibet.”<sup>42</sup> He also promised “swift and quick judicial proceedings” for those involved in the

March protest.<sup>43</sup> Like all other Chinese officials in the TAR, he pledged that whoever was labeled a threat to “stability” and “unity” should be harshly dealt with at all costs.

Despite Trinley’s position, he is not in charge of the TAR. The most powerful ranking official is the party secretary of the TAR, Chen Quanguo. Chen replaced another Chinese, Zhang Qingli, in August 2011. In his acceptance speech, Chen promised to “resolutely carry on the Central Party Committee’s instructions and policies regarding Tibet.”<sup>44</sup> Whether the government is composed of Chinese-appointed Tibetans or Chinese, the fact remains that everyday Tibetans have no meaningful way to participate in the decision-making process.

## FREEDOM OF ASSOCIATION

Since the PRC does not permit Tibetans to elect their own leaders, it is not surprising that the government also makes great effort to prevent the development of any nongovernmental associations that may offer a vital counterbalance to the one-party political system. Although the freedom to associate is a fundamental international human right, there are many restrictions on one’s right to freely associate under Chinese law. For one, associations must legally register with the Ministry of Civil Affairs (MCA). Many obstacles are faced before an association may be deemed “legal.” Associations that are critical of the government are rarely approved and organizations supporting Tibetan causes are particularly targeted.<sup>45</sup> Once deemed “legal,” an association is under the constant threat of losing its official status. For example, an association that “falls out of line” can easily be deemed “illegal” under the vague and broad-reaching terms of “inciting subversion of state power” or “subversion of state power” under Article 105 of the Criminal Law.

## RIGHT TO PEACEFUL PROTESTS

Freedom of association, assembly, opinion, and expression are closely related; all are fundamental for a free and just society. In 2008, the Tibetans who participated in the largest series of protests in decades to erupt across the Tibetan plateau invoked all of these basic rights.<sup>46</sup> The ramifications of the 2008 protests can still be felt to this day as the PRC has tightened security and intensified restrictions on the Tibetans. Nonetheless, the year 2011 has led to a series of protests. Despite the known danger of protesting against Chinese rule, many Tibetans are willing to risk being beaten, tortured, kidnapped, imprisoned, and sometimes, even die for their basic freedoms.

As a member of the UN, the PRC is obligated to uphold the principles of international law. This includes Article 20 of the UDHR, which states that “[e]veryone has the right to freedom of peaceful assembly and association.” Under international law, no restrictions are to be placed on this right unless stated by law and deemed absolutely necessary under international law. So while the freedom of participation in peaceful demonstrations against a government comes with limitations, even under international law (see Article 19 of the ICCPR), the Chinese government has extended the “national security” limitation in practice to virtually all peaceful protests by Tibetans.

Article 35 of the Chinese Constitution provides that citizens “enjoy freedom of speech, of the press, of assembly, of association, of procession, and of demonstration.” But, two key regulations undermine freedom of assembly in China: the 1989 Law on Assembly, Procession, and Demonstration, and the 1992 Implementing Regulations. For one, the Public Security Bureau (PSB) must authorize demonstrations. Further, the PSB is statutorily entitled to apply political and ideological standards when reviewing applications.<sup>47</sup> According to Human Rights Watch, there is no known case of a Tibetan demonstration having ever been approved by the government.<sup>48</sup> The most egregious violation



Security crackdown in Kandze County, in June 2011. Kandze has witnessed a series of peaceful protests since 2008., which was brutally crushed down by the Chinese security officials.

under Chinese law falls under Article 12 of the Law on Assembly, Procession, and Demonstration.<sup>49</sup> This article states that no permission for assembly or demonstration will be granted when it involves opposition to the Chinese government or socialism. The article also bans protests deemed to harm state unity or instigate division among minorities. The PRC Constitution imposes duties on its citizens that, in conjunction with the above-listed regulations, erode further the rights of assembly and expression. These include the duty on Chinese citizens to safeguard the “unity of the country,” and to “safeguard the security honor and interests of the motherland.” Similarly, the exigencies of “state unity” and “stability” have justified the use of Article 53 of the Constitution, which obliges citizens to keep “state secrets”. The charge of “state secrets” is also a criminal offense and, as such, has been used by the government to conceal information from the public while, at the same time, use the law as a means to punish dissidents.<sup>50</sup>

The idea of the supremacy of “state unity” is a common rhetorical tool used to silence dissent. “Stability” is a notion that has been ill-defined

under Chinese law. In practice, “state unity” and the “interests of the motherland” appear to be always synonymous with the interests of the Chinese government. The notion of “stability” is particularly abused when it comes to freedom of assembly and speech issues. It is not unusual to hear official statements that brand any Tibetan opposition to the government as the result of “foreign terrorists” or “separatists.” Due to his popularity among Tibetans and his support for Tibetan autonomy, the Dalai Lama and his followers (referred to by the Chinese government as the “Dalai clique”) are nearly always accused of being the source of Tibetan dissent. Chinese Vice-President Xi Jinping, who is expected to become president in 2012, reiterated a common government refrain when he stated: “[we] should thoroughly fight against separatist activities by the Dalai clique ... and completely smash any plot to destroy stability in Tibet and jeopardize national unity.”<sup>51</sup> The Dalai Lama has repeatedly stated that he does not seek independence for Tibet, but rather, just an effective implementation of Tibetan autonomy that affords Tibetans basic rights and freedoms in China.<sup>52</sup>



In a 2009 speech to the Beijing Lawyers Association, Yu Jianrong, a professor at the China Academy of Social Sciences, stated that the Chinese government promotes “rigid stability.” The key characteristic of “rigid stability,” according to Yu, is the importance of maintaining a monopoly on political power. True stability, on the other hand, is long-term stability that focuses on the rule of law. In maintaining rigid stability, any challenge to the monopoly must be prevented, including peaceful protest. Further, “things that would ordinarily be considered regular social activities can all be seen [by the government] as ‘elements of instability’ .... Once the local government says that something implicates ‘stability, then forget whatever views you may have held. Social stability has now become the highest goal of the nation’s politics.”<sup>53</sup> China’s planned internal security budget, including police, state security, courts and jails, stands at \$95 billion, surpassing the military budget of \$91.5 billion.<sup>54</sup>

## FREEDOM OF OPINION AND EXPRESSION

The right to freedom of expression can be described as an essential test right, the enjoyment of which illustrates the degree of enjoyment of all human rights enshrined in the International Bill of Human Rights, and that respect for this right reflects a country’s standards of fair play, justice and integrity.

- *UN Special Rapporteur Abid Hussain*<sup>55</sup>

Under Article 19 of the ICCPR, freedom of opinion and expression comprises “the right to hold opinions without interference.”<sup>56</sup> It also includes the right to seek and receive information, access information, and to impart information regardless of national boundaries. Although the freedom of opinion is absolute, freedom of expression comes with restrictions under both international and Chinese law. The ICCPR recognizes that freedom of expression may be limited but only to the extent that is provided by law and where it is *necessary* to “respect the rights and reputation of others” and

“for the protection of national security, public order, or of public health or morals.” The vagueness and over-breadth of the limitations have been particularly problematic. And the duties imposed upon Chinese citizens to safeguard the “unity of the country,” “the security, honor, and interests of the motherland,” and “to keep state secrets” undermines the free speech protections that exist under the Constitution.

An international concern about the vagueness and scope of restrictions on freedom of expression and of information gave rise to the *Johannesburg Principles on National Security, Freedom of Expression, and Access to Information* (hereinafter “Johannesburg Principles”) in 1995.<sup>57</sup> While not formally implemented into international law, the Principles have been noted in annual resolutions of UN human rights bodies and in courts around the world. Arguably, the Principles carry the force of customary international law.

Under the Johannesburg principles, laws that restrict the freedom of expression must be “unambiguous and narrowly-drawn” with the genuine purpose of protecting against legitimate national security interests. In other words, freedom of expression must only be restricted in the most serious cases of a direct political or military threat to the entire nation.<sup>58</sup> But the PRC pays little heed to the Johannesburg standard, as the frequent instances of detention, arrest, and imprisonment of peaceful protestors detailed in this report.

## SENSITIVE ANNIVERSARIES

Security was especially tight this year around sensitive anniversaries. Foreign tourists were barred from Tibet in the month of March (anniversary of the 2008 uprising), as well as in June and July (particularly in anticipation of the 90th anniversary of the founding of the CPC in July). The ban demonstrates the government’s nervousness towards foreign visitors as foreign tourists have the potential to serve as independent observers to the treatment

meted out to Tibetans during acts of dissent, and as observers to official efforts to clear the streets of any dissenters during such sensitive anniversaries.

For example, the government clamped down on Tibetans with heavy restrictions imposed in anticipation of the 90<sup>th</sup> Anniversary of the founding of the Chinese Communist Party (CCP) and on 1 July in particular. Prior to the day, several Tibetans were arrested and increased surveillance of monasteries was carried out.<sup>59</sup> Special meetings were held in the TAR to ensure stability during celebrations. Hotels and other businesses were subjected to government inspection and monks in the Lhasa area reported greater restrictions on their movements. On 12 July 2011, eight monks from the TAR were arrested because they refused to participate in the celebration of the founding of the CCP.<sup>60</sup>

## PROTESTS

In 2011, a series of self-immolations in protest against the Chinese government occurred in Ngaba and Kardze Tibetan Autonomous Prefectures (TAP). As a result, the government has heightened security and severely restricted freedoms in these areas.<sup>61</sup> As Kalon Trip6eyc a Lobsang Sangay wrote in the *Washington Post* that neither the leadership-in-exile nor the Dalai Lama encourage self-immolations.<sup>62</sup> At the same time, it is clear, that these acts are a desperate, last attempt to convey to the world the unbearable conditions in Tibet.

Both inside and outside of the monasteries, the current human rights situation continues to sharply deteriorate. Reports of torture, disappearances, arbitrary detentions, trials without due process, among other forms of governmental retribution against its critics, keep coming.

The most peaceful protests in Tibet follow a similar pattern. A recent incident in a Kardze County market provided the classic pattern of both protest and government response: On 10

July 2011, Lobsang Phuntsok, Samphel Dhondup and Lobsang Lhundup shouted slogans and disseminated pamphlets in the Kardze County Market. The pamphlets contained phrases such as “freedom in Tibet,” “long live the Dalai Lama,” “return of the Dalai Lama,” and “may the Dalai Lama and all Tibetans unite soon.”<sup>63</sup> Police arrived on the scene immediately and severely beat all three before taking them into custody. Lobsang Phuntsok and Lobsang Lhundup were released on the day of their arrest. On 20 August 2011, Samphel Dhondup was sentenced to three years’ imprisonment by a court in Kandze county in Sichuan province. He was subsequently transferred to a prison in Loyen.<sup>64</sup> For more than a month, Samphel Dhondup’s whereabouts remained unknown.

Both Kardze and Ngaba regions in Sichuan province are under exceptionally severe restrictions as a result of high profile self-immolations. The first self-immolation by Phuntsog, a 21-yr-old monk from Kirti Monastery, sparked an unprecedented number of self-immolation protests in Tibet. Official response to the Tibetan self-immolations was marked by severe government crackdowns as hundreds of security forces were sent in to reassert government control in the area. In Ngaba, in addition to Phuntsog, Tenzin Wangmo (Ngaba Mamae Dechen Choekorling Nunnery), Kelsang Wangchuk (Kirti Monastery) and former Kirti Monastery monks Norbu Damdul, Choepel and Khaying, Lobsang Kelsang and Lobsang Kunchok set themselves on fire in protest in 2011 (as of 15 December 2011). Ngaba remains under intense government control. In Kardze, Dawa Tsering (Kardze Monastery), Choesang (Dakar Choeling Nunnery), and Tsewang Norbu (Tawu Nyatso Monastery) set themselves on fire (as of 15 December 2011). As a result, large numbers of security forces have been stationed and are patrolling these counties. The government has largely acted preemptively and, in doing so, has created a greater backlash as Tibetans join together in response to government repression. If the Chinese government had adhered to international



Ngaba region was completely lockdown by Chinese security forces since March 16, 2011, after a 21-year old monk Phuntsog set himself on fire. Since then hundreds of security forces were seen patrolling the street.

standards in the first place, 12 more Tibetans would likely be alive today.

But the Chinese government refuses to address the fundamental issues behind these protests. Instead, the government's response is in line with politicians such as Li Dao Ping, Kardze Prefecture Party Secretary, who has announced that "there is a need to resolutely crack down on separatist activities. Any damage and interference with normal social order of the acts are condemned." Li Dao Ping also pointed out that, "for anyone who dare to undermine the stability, we must not be soft and resolutely combat them. Any harm to national security, and undermining the public safety and social order, against violations of life and property of all ethnic groups are to be bound by the law."<sup>65</sup> The Chinese governments' recent actions, in Kardze and Ngaba in particular, fail to meet international standards that permit some degree of interference in protests where it meets the most serious cases of direct political or military threat.

Human Rights Watch has documented a dramatic increase in spending on "public security" in Tibetan areas of Sichuan (most notably Kardze and Ngaba) which includes spending on the civilian police force, the People's Armed Police (PAP), and cost associated with running local prisons and courts, which are much higher than the rest of Sichuan. The report points out that since 2006, per capita government spending on security in Ngaba alone has been 4.5 times higher than spending in non-Tibetan areas in Sichuan.<sup>66</sup>

## FREEDOM OF THE PRESS

This year has seen over one hundred journalists, dissidents, lawyers, activists, bloggers, writers, and artists harassed, interrogated, imprisoned, and fined. Other than Article 35 of the Chinese Constitution that guarantees freedom of publication, there are no meaningful provisions that protect journalists.<sup>67</sup> Instead, legal means, such as "state secret" charges, are being used to intimidate and punish members of the media. China has one of the heaviest penalties in the world for defamation, with a prison sentence

of up to three years.<sup>68</sup> The charge of defamation has become an increasingly common way to threaten or silence whistleblowers.<sup>69</sup>

Beside many other regulations to which journalists are subjected to including possession of press cards that are constantly at risk of being revoked if content restrictions are violated, they are also subject to affirmative duties to “guide” the public.<sup>70</sup> Media has traditionally been a tool for the Chinese government to disseminated political propaganda. The government controls news coverage through its Central Propaganda Department (CPD).<sup>71</sup> The CPD issues directives daily that restrict coverage of certain news topics such as criticism of party leaders, acknowledgement of accidents inconvenient to party leaders, and violations of minority rights in Tibet. In 2011, the CPD released a series of new directives to the media. According to *Reporters Without Borders*, these directives require journalists to “reassure” the public and defend the government’s version of the concept of “fair growth.”<sup>72</sup> It also lists many issues that are automatically prohibited such as political corruption and anti-government demonstrations. The directives also place affirmative duties upon journalists, requiring them to undergo six-month training that will teach them how to “eradicate false news, improve the feeling of social responsibility and reinforce journalistic ethics.” One of the goals of the training program is to allow journalists to “recognize and avoid politically sensitive topics.”<sup>73</sup> Journalists who do not “fall in line” are subject to punishment, such as termination of employment, fines, and worse, criminal charges and imprisonment.

The CPD directives released in 2011 are just one of many known cases in which the Propaganda Department has effectively “written the news.”<sup>74</sup> In May 2010, during the Shanghai World Expo, the Department sent explicit instructions to news outlets on how to handle the subject.<sup>75</sup> When Chen Jieren, the chief editor of *People’s Daily* online edition, was dismissed in November 2011, he publicly explained that: “It [was] because I have criticized the government too much, and I am

viewed as an informer.”<sup>76</sup> He further elaborated that “the CCP’s propaganda machine cannot hire those who don’t cooperate.” On the situation of media freedom in China, Huang Liangtian, former chief editor of *Baixing Magazine* has said: “The Communist Party completely acknowledges its propaganda, and all media serves as propaganda tools. If you’re in this industry, you’ll become a tool too, you’ll be its mouthpiece—not its brain or its heart. So you cannot have a conscience, or have your own independent thoughts.”<sup>77</sup> Even President Hu Jintao warned journalists to “promote the development and causes of the Party and the state.”<sup>78</sup> The role of a journalist in China is to be part of the official propaganda machine.<sup>79</sup>

Conditions for foreign journalists are also severely restricted. Tibet, in particular, remains off-limits with the exception of government-organized visits and can only be accessed by the foreign press with a special permit.<sup>80</sup> A survey by the Foreign Correspondents’ Club of China found that 94 percent of foreign correspondents working in China believe that the working conditions have worsened in 2011.<sup>81</sup> Forty percent of respondents also said their sources had been harassed, detained, questioned by officials, or suffered other repercussions after contact with foreign reporters. Fearing protests in response to the Jasmine Revolution in the Middle East, last March the authorities even physically harassed foreign reporters, detaining some and confiscating the film of others.<sup>82</sup>

## TARGETING TIBETAN INTELLECTUALS, ARTISTS AND ACTIVISTS

Since 2008, over seventy Tibetan writers and intellectuals have been arrested if not already sentenced to imprisonment. Like journalists, academics, artists, and writers are subjected to numerous regulations. For one, licensing requirements make it illegal to publish a book, newspaper, or magazine without permission from the government specifically the General

Administration of Press and Publication.<sup>83</sup> Other means of stifling intellectual freedom involves regulations that require photocopy services to monitor and document the contents of any documents copied, in addition to the maintenance of detailed identification records of all clients.<sup>84</sup> This law effectively enables the government to track the reproduction of politically sensitive materials.

The following are a series of examples of the government crackdown on intellectuals, artists, and activists in 2011:

- During a winter “Strike Hard” campaign in the TAR, more than 20 Tibetans were taken into custody for allegedly downloading “reactionary” songs, including *Sound of Unity*, *My Lama*, *I Miss the Sun, the Moon, and the Stars*.<sup>85</sup> These songs are perceived as a threat because they call for unity among Tibetans and talks about Tibetan culture, religion, and identity. Individuals discovered with these music CDs face 10 to 15 days in jail and heavy fines.
- Sherab Gyatso, a writer and monk from Kirti monastery, disappeared on 16 March when Phuntsog, also from Kirti Monastery, set himself on fire.<sup>86</sup> As a result of the incident, Gyatso, who was in the process of traveling elsewhere, changed his plans and headed back to the monastery in Ngaba county but disappeared before he reached there. It is now believed that he is being held in Chengdu. Gyatso is also a researcher and has travelled extensively around China, India, and Nepal and lectured on Tibetan culture and education of Tibetans. In 2009, he published his first book titled *Time To Wake Up*, a book which became hugely popular all over Tibet. He has, in the past, been arrested for leading protests and posting information critical of the local authorities. According to some sources, it is believed that Gyatso has actually been released from Chengdu prison but is denied the right to travel outside of Chengdu.
- On 2 June 2011, Tashi Rabten, writer and editor of banned literary journal, *Shar Dugri*, was sentenced to four years imprisonment for “separatist activities.”<sup>87</sup> Tashi Rabten wrote and published *Written in Blood*, a book about the 2008 uprisings. On 30 December, 2010, three other writers who worked with Tashi Rabten were sentenced to four years: Dhonkho (pen name: Nyen) and Buddha (pen name: Buddha the Destitute), while Kelsang Jinpa (pen name: Garmi) was sentenced to three years. All three were convicted of “incitement to split the nation.”
- On 5 July 2011, monk and writer Pema Rinchen was arrested for suspicion of inciting hatred among minorities and encouraging separatism. He has self-published a book titled *Look* which is critical of the Chinese policies. Pema Rinchen distributed the book to various places in Tibet. A day later he had to be hospitalized for emergency treatment due to reportedly severe beatings by the police while in custody. Police prevented family members from visiting him while he was in the hospital.
- Jolep Dawa, a teacher from Ngaba County Middle School for Nationalities, was sentenced to three years in prison in October 2011.<sup>88</sup> He was detained at the Jinchuan County Detention Centre for over a year before receiving his sentence. The nature of his charges and his sentence remain unknown although many suspect that it is related to his work as founder, editor, and writer of *Du-rab Kyi Nga*, a Tibetan magazine.
- Choepa Lugyal (penname Meychek) a writer for the National Publication in Gansu province was arrested on 19 October 2011.<sup>89</sup> There is no information on why he was arrested. Meychek was also a writer of the banned literary magazine *Shar Dugri* (Eastern Snow Mountain). He wrote a few books in Tibetan including *Gye-Choe Gyang- Gel* (Seeing Gedun Choepel from Afar)

and *Me-sem Nying-top* (Power of the Human Heart). He also wrote many articles and blogs.

- On 19 March, on suspicion of passing on information about the situation in Ngaba to the outside world, a man named Gerik was arrested after he had reported on the death of Phuntsog, the Kirti Monastery monk who died of self-immolation on 16 March 2011.<sup>90</sup> Gerik's family members were also subjected to harassment following his arrest, including the beatings of his wife and daughter in detention. His 23-year-old daughter in need of medical treatment was not allowed to go to a hospital. At the time of this publication Gerik's current condition and whereabouts remain unknown.

## CENSORSHIP OF THE INTERNET

China has a reputation for being a “world leader in censorship.”<sup>91</sup> According to the *Reporters Without Borders*, China is listed among the five worst countries in the world in terms of press freedom.<sup>92</sup> As one member of the media noted: “the whole media environment is changing. It has become tighter since the Nobel Peace Prize [in 2010, when Liu Xiaobo won for his peaceful activism against the CCP].”<sup>93</sup>

While increased Internet penetration has made it harder for the government to censor information, all websites in China must be registered with the Ministry of Information Industry.<sup>94</sup> Further, online restrictions and cybercafé surveillance are strictly enforced, especially in the TAR.<sup>95</sup> The so-called Great Firewall refers to the PRC's elaborate means of technological censorship that includes blocking access to websites, content filtering, and keyword search alerts. The Chinese government is estimated to currently employ over 40,000 people to censor the internet within China.<sup>96</sup>

On 19 February 2011, President Hu Jintao called for new censorship as part of a social monitoring strategy at a conference for provincial leaders. Microblogs and social networking sites are of particular concern because of the medium's relative speed in relaying information, popularity, and, thus far, their ability to avoid government control. The Central Committee of the CCP, in October 2011 meeting, discussed “Internet management system” to regulate social network and instant-message systems and, additionally, mechanisms to punish those responsible for the dissemination of “harmful information.”<sup>97</sup> The Internet has the potential in China of arousing dissent through the education of people on their basic rights. In 2008, after protests erupted in Tibet, the government completely cut off the Internet.<sup>98</sup>

Many large corporations have become complicit in China's censorship. Microsoft and Yahoo! search engines continue to follow Chinese government requirements to censor user search results. The social networking site, Facebook, with more than 800 million active users worldwide has also made motions to fall in line with the PRC.<sup>99</sup> While currently blocked in China, Facebook has indicated it may censor its site in order to gain access to the Chinese market. A Facebook lobbyist, Adam Conner, told *Wall Street Journal* in April 2011 that Facebook may “block content in some countries” due to its concerns that “now we're allowing too much, maybe, free speech in countries that haven't experienced it before.”<sup>100</sup> Conner further stated that “... different countries have their different standards around that. ... My view on this is that you want to be really culturally sensitive and understand the way that people actually think ...”<sup>101</sup> It seems, however, that *Facebook* is simply being sensitive to its own pocketbook. The Chinese government is using the Internet to control its monopoly on power. If Facebook decides to comply in maintaining the status quo, then it is not particularly sensitive to the needs of any individuals with the exception of government officials.

Even more disturbing is the recent proliferation of companies that design and sell intelligence gathering technology to governments around the world. This technology allows governments to monitor individuals within their borders by intercepting those individuals' internet activities. Companies within this industry even claim that they can defeat encryption and hack into devices to access information that never reaches the Internet.<sup>102</sup> According to the *Wall Street Journal*, California based Net Optics Inc. is one such company, "tout[ing] a product the company says was used by a Chinese telecom to help it monitor and filter the Internet on mobile phones."<sup>103</sup> While these companies state that they are careful not to sell products to any governments that are on embargo lists, such a floor for determining who to sell to is extremely inadequate. The level of concern that this industry displays is even lower. Jerry Lucas, president of TeleStrategies Inc. stated that his industry does not worry itself with political questions nor whether their operations are even in the public interest.<sup>104</sup>

According to IMS Research, a global electronics consulting firm, more than 12 million cameras were installed this year in China and over 10 million cameras were put in place in 2010 to monitor any actions of dissidents.<sup>105</sup> Like people all over the world, Chinese people are entitled to the same basic freedoms that ensure transparent governance accountable to its people. When a government does not respect international law as it applies to its citizens, corporations have responsibility not to aid such governments.

## SECURITY FORCES

As revealed by the profiles of protests in 2011, it is clear that the government security forces are willing to crack down on civilians. Article 3 of the UN Code of Conduct for Law Enforcement Officials (hereinafter, "Code") requires that "[l]aw enforcement officials may use force only when strictly necessary and to the extent required for the

performance of their duty."<sup>106</sup> Principle 5 of the Code calls for proportionality in the amount of force used. Also, under the Code, law enforcement officials shall "as far as possible, apply non-violent means before resorting to the use of force and firearms."<sup>107</sup>

Certainly, the beatings of unarmed protestors, for example, do not fall under the category of "strictly necessary." While governments have the right to use force to establish order during violent protests, under international law, they are obliged to adhere to the basic standards in the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, which, together with the UN Code of Conduct for Law Enforcement Officials, provide international standards governing the use of force in law enforcement. Although not legally binding, these principles reflect basic international standards.

## CRIMINAL LAW

In February 2011, China's National People's Congress Standing Committee (NPCSC) approved an amendment that included 50 revisions to the Chinese Criminal Law code. One of the main changes is that there are 13 less offenses eligible for the death penalty (although 55 remain).<sup>108</sup> The charge of funding domestic organizations or individuals that endanger state security under Article 107 was broadened in scope to include organizations or individuals regardless of whether or not they are domestic or foreign. Article 293, the crime of "creating a serious disturbance," now specifically targets those who petition en masse, while the maximum sentence increased from five to ten years as it applies to "gathering others on numerous occasions to commit the crime." Despite its overall harshness, the changes in the Criminal Law code have also been modified to require more lenient treatment of offenders aged 75 and older. To handle such matters, judges have been given more specific instructions about how "lenient punishment" should be applied in

sentencing.<sup>109</sup> Even though there are substantive legislative reforms, there is lack of mechanisms to enforce them.

Lack of judicial independence becomes a tool with which to crackdown on peaceful dissent. Local government officials can and do influence judges by controlling judicial appointments and funding.<sup>110</sup> In politically sensitive cases, there are often collusions between police, prosecutors, and judges.<sup>111</sup> In such cases, as is the case with Tibetan dissidents, the lack of judicial independence often means the trial is nothing more than a “show trial” and due process is not followed.

The ability of defense lawyers in China to represent clients is severely hindered by political influences within the judicial system. Due process is especially stifled in cases in which “state secrets” are charged. For one, lawyers must obtain approval of the investigating organ to defend a client. Meetings between lawyers and detainees are subject to time limits and are closely supervised by the authorities. Under Article 45 of the Criminal Procedure Law, “[e]vidence involving state secrets shall be kept confidential.” This includes guarding evidence that a defense attorney may need for trial.<sup>112</sup> Prosecutors are also authorized to send people to be present at a meeting in which a lawyer meets with a suspect.<sup>113</sup> Finally, the charge of “state secrets” allows the government to refuse a public trial, which is often the only means in which due process can be assured because the government is accountable to courtroom witnesses.

China is reputed to have a conviction rate as high as 98 percent.<sup>114</sup> Given the readiness of the authorities to detain and prosecute individuals, and the lack of safeguards within the system, it strongly indicates that there is a strong presumption of guilt. As noted by Sophie Richardson of Human Rights Watch, “prison is only one way of losing one’s freedom ... [h]ouse arrest, restrictions on movements, and enforced disappearances are often what awaits them upon release.”<sup>115</sup> Such mechanisms can be used as

a means in which the government can avoid the safeguards required of an official prison sentence.

Lawyers in politically sensitive cases are under constant threat of conviction if they vigorously take the side of a client disfavored by the government. Under Criminal Procedure Law Article 36, for example, “interfering with the proceedings before judicial organs” is a criminal offence. This particular provision has been commonly used to intimidate and punish lawyers. Lack of access to meaningful legal representation has exacerbated the injustice directed towards Tibetan dissidents. For example, in the trials of 30 Tibetans accused of participating in the 2008 protests, all the Chinese lawyers who had pledged their willingness to support the protestors were forced to withdraw their offer or face disciplinary procedures and even suspension their professional license.<sup>116</sup> This effectively denied the protestors the right to counsel. The authorities justified their discriminatory treatment towards the Tibetan protestors in their legal cases as a matter of state security because the Tibetan cases were “not ordinary cases, but sensitive cases.” Indeed, when a case is politically controversial, it is common to hear reports of government threats to discipline lawyers by suspending or revoking license to practice. As Chinese human rights lawyer, Gao Zhisheng, once said: “You cannot be a rights lawyer in this country without becoming a rights case yourself.”<sup>117</sup> Gao has become a “rights’ case” himself as he is currently in custody in an unknown location at the time of publication of this Report. Lawyers may also be victims of physical mistreatment by authorities. In 2010, Zhang Kai, a lawyer seeking to represent jailed Tibetan monks, was detained and mistreated while in custody.<sup>118</sup> The punishment of lawyers has become a means to discourage a meaningful legal defense against government charges.

The occurrence of government abuses such as torture and enforced disappearances implicate “multiple human rights violations.”<sup>119</sup> These include the right to liberty and security of the person, the right to recognition as a person before the law, the right to



a fair and public trial, and the right to life. These rights are embodied in international law under the UDHR and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Additionally, the PRC, in signing the ICCPR is required to make steps towards ensuring that basic human rights violations, such as those that are often associated with the occurrence of torture or enforced disappearances.

The practice of enforced disappearances or torture often begins with an unlawful arrest. Individuals who are unlawfully arrested are more vulnerable to torture and other illegal practices. The Chinese Constitution contains a safeguard against arbitrary arrests stipulating that arrests must be conducted “with the approval or by decision of a people’s procuratorate or by decision of a people’s court and arrests must be made by a public security organ”<sup>120</sup> in order to ensure that the police or related enforcement authorities do not abuse their position. Certain cases permit initial detention without a warrant but require official approval within three days of detention.<sup>121</sup> There are also many regulations ensuring that, once a person is detained, that person’s rights continue to be properly protected, including the right to challenge his or her detention. Additionally, families are to be promptly informed of the detainee’s arrest and whereabouts.

In practice, where a case is political in nature, the entire procedure can be side stepped through a series of loopholes. This is especially the case with acts that can be placed under the broad and vague “state secrets” law umbrella. From start to finish, an unlawful arrest can morph into little more than a “show trial.” The “state secrets” law permits withholding of information to the detainee, family, and even the detainee’s lawyer.

A key aspect of insuring the rights of anyone within the criminal justice system is access to a lawyer. The presence of a lawyer not only serves as a means to ensure the enforcement of a clients’ rights but

also as a witness to the treatment of a detainee. Article 96 of the Criminal Procedure Law holds that access by a lawyer is possible only following the first interrogation. Further, visit requests by a lawyer must be arranged days in advance, often with guards or opposition counsel at the meeting. Access to a genuine advocate is severely limited.

## POLITICAL CRIMES

The fact that the current crackdown on even peaceful political dissent can be carried out “in accordance with the law” is in part because of the vagueness of many of the terms within the Criminal Law statutes. While “organizing a counter-revolutionary group” and “counter-revolutionary propaganda and incitement” are examples of many political crimes that were abolished in 1997, similar statutes have taken their place. These include: “endangering national security” (Articles. 102-123, which could be applied to a broad range of offences); “splitting the State or undermining the unity of the country” (Article 103); “armed rebellion or armed riot” (Article 104); “subverting the State power or overthrowing the socialist system” (Article 105); “espionage” (Article 110); and “stealing, spying, buying or unlawfully supplying State secrets or intelligence to individuals outside the territory of China” (Article 111). The Working Group on Arbitrary Detention recommended in its 2004 Annual Report that the definitions under Chinese criminal law should be in precise terms and an exception should be introduced into the law to the effect that peaceful activity in the exercise of the fundamental rights guaranteed by the UDHR not be considered criminal. To date, this recommendation has not been implemented.<sup>122</sup>

Recognizing that governments justify human rights violations on the grounds of national security, the Johannesburg Principles requires that laws restricting the right to freedom of expression and information must be “unambiguous and narrowly drawn.”<sup>123</sup> Further, they must have the “genuine purpose” of protecting against “legitimate



Tibetans being arbitrarily taken away by Chinese security forces in Dordhe Township, north Lhasa in April 2008, for alleged participation in pan Tibet uprising in 2008 .

government national security interests.” For a state to criminalize expression on national security grounds, the expression must be intended to incite imminent violence and have a direct and immediate connection between speech and the violence. Like the vague affirmative duties placed on Chinese citizens under the Constitution to safeguard the unity of the country and to keep “state secrets”, the criminalization of free speech activity through the use of vague, overbroad terms allows great room for abuse of discretion at all levels of government and thereby undermines any international and domestic protections provided under the law.

## TORTURE

The Chinese criminal justice system emphasizes admission of culpability.<sup>124</sup> However, these “admissions” or “confessions” are often “retrieved” at the expense of due process and even the truth itself. When confessions are coerced, through torture or otherwise, the reliability of a victim’s statements is questionable. The phenomenon of torture has been closely linked to the reliance of the criminal justice system upon confessions. Although

under Chinese law the extraction of a confession by torture is prohibited, the confession itself can be used in court as evidence thus rendering the prohibition largely ineffective.<sup>125</sup>

The ban on torture is one of the most fundamental prohibitions in international human rights law. One of the founding international law documents, the UDHR, holds that “[n]o one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment.”<sup>126</sup> Treaty and customary international law prohibits torture and cruel or inhuman treatment. In 1988, China was among the first States to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the key instrument under international law regarding torture. According to the CAT, torture is “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person ... by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.” The prohibition against torture applies at all times, even during recognized states of emergency.<sup>127</sup>

Torture is also illegal under Chinese law.<sup>128</sup> But the Chinese definition of torture does not fully comply with the international standards embodied in Article 1 of the CAT. For one, the Chinese definition does not include severe mental torture. Another problem is that domestic law does not cover various personnel that might be involved in inflicting torture. Article 247 of the Criminal Law prohibits extortion of a confession under torture by a judicial officer. The statute defines “judicial officers” as “persons who exercise the functions of investigation, prosecution, adjudication and supervision or control.” This definition neglects many other individuals involved in the criminal justice system who may have the opportunity to torture detainees, including those hired temporarily.<sup>129</sup> Article 248 prohibits “beating or physically ill-treating” detainees but applies only for police or other officers of an institution of detention or by other detainees at the instigation of these officers.<sup>130</sup> The vagueness of the terms affords the police, lawyers, and judges considerable discretion and leaves the law more susceptible to abuse.

There has at least been some promising news. One of the main problems with regard to the prohibition against torture under the Chinese Criminal Procedure Law (CPL) has been the fact that the law permits the admission of illegally-obtained evidence, including evidence retrieved by means of torture. New proposed revisions to the CPL, however, include the prohibition of judges from accepting tortured confessions into evidence, in addition to a proposition that “[p]rocuratorial organs should investigate allegations of collecting evidence through illegal methods” and criminally prosecuting those suspected of collecting confessions or other evidence illegally.<sup>131</sup> Adoption of the revisions is expected to occur as early as 2012. However, if past practice is any indication, these new laws will be largely ignored by the authorities when it is politically expedient.

Despite failings within domestic law, the main issue remains a lack of enforcement of the prohibition against torture. Under the Public Security Organ’s “Regulations on Pursuing Responsibility for Policemen’s Errors in Implementing the Law,” the “responsibility for ‘errors,’ like a confession extracted by torture, “will not be pursued where the law is unclear or judicial interpretations inconsistent; where errors are made as a result of unforeseen or irresistible reasons; where the policeman was carrying out an order from a superior; or where the policeman was handling a case according to regulations on cooperation with other units”. Several aspects of this regulation are problematic including the exception for “carrying out an order from a superior” or for errors made for “irresistible reasons,” none of which are available exceptions under international law. Even worse, institutional pressures such as quotas are a rigid gauge for staff or department performance that make police eager to be seen as solving cases,<sup>132</sup> thereby exacerbating the problem.

The PRC also made some key reservations to the CAT. Namely, it refused to recognize the authority of the CAT and the International Court of Justice to investigate and arbitrate any alleged violations. China has made reservations on Articles 20 (the investigative function of the CAT) and 30(1) (the individual complaints and arbitration power of the CAT). PRC has also not agreed to sign OPCAT, the Convention’s Optional Protocol, which would require its prisons to be regularly inspected by independent officials. Without a source independent of the Chinese government, it is difficult to get a clear picture of the degree to which PRC is even complying with the CAT. Thus, the CAT’s relationship with PRC is essentially through its Article 19 powers obliging a state party to report in full the state of torture in that country.

The lack of independent monitoring mechanisms makes it difficult to determine the full severity and scope of torture in Tibet. The Supreme People’s Procuratorate (SPP) is directly responsible for

investigating and prosecuting torture in China, yet it is reportedly not independent and is closely intertwined with the authorities.<sup>133</sup> Further, the pressure on the SPP to resolve cases often conflicts with its ability to properly investigate the cases before it. “Without a court system that judges cases fairly and independently according to law, thereby redressing grievances in a timely manner, the problem of torture cannot be brought under effective control.”<sup>134</sup>

There are other domestic laws which enhance an individual’s vulnerability to torture. These include long periods of pre-trial detention,<sup>135</sup> a defendant’s limited access to family and legal representatives,<sup>136</sup> and limitations on access to a lawyer, particularly outside of the presence of police investigators.<sup>137</sup> Of course, where cases are especially politically sensitive, such as “state secret” cases, then considerable discretion is permitted due in part to the veil of secrecy surrounding such cases. In such cases, legal safeguards protections are not particularly meaningful.<sup>138</sup>

## TORTURE CASES OF 2011:

- Prisoners are often in poor condition upon release related to abuses that at the very least support reports of severe beatings. There are allegations that prisoners are in fact poisoned prior to release. For example, in December 2010, Yeshe Tenzin, a monk from the Tsenden monastery in Nagchu prefecture, died on 7 September 2011 after being bedridden and in extremely poor health following his release.<sup>139</sup> He had served ten years in prison with hard labor during which he also suffered severe beatings. He had been convicted of copying and distributing posters calling for Tibet’s freedom. His death following his release is not an uncommon incident for many political prisoners, leading some to believe that political prisoners are poisoned before they are released. Others contend that the government releases prisoners when it seems that their death is imminent so that these prisoners cannot be said to have died while in prison, especially when death results from torture-related injuries.
- On 3 April 2011, Jamyang Jinpa, a monk from the Labrang Monastery in northeastern Tibet, died as a result of his injuries related to torture.<sup>140</sup> Jinpa had spoken openly to a group of foreign journalists about the situation in Tibet and participated in peaceful protests in 2008. He was severely tortured during ten days of interrogation before his release to his family. After three years of suffering with his injuries, which made it difficult for him to even walk, he died of his injuries.
- On 8 October 2011, a Tibetan man named Thinlay died after enduring severe torture during his imprisonment since his 2009 arrest for the distribution of pamphlets calling for “Freedom in Tibet.” While in the Kandze Detention Center for seven months, he was tortured to the extent that he continued to suffer from a serious head injury and psychological trauma even after his release.<sup>141</sup>
- Reports are also surfacing of the torture of monks of the Kirti Monastery since the self-immolation of a monk named Phuntsog in March 2011.<sup>142</sup> Two monks from Kirti’s sister monastery in India, Kanyag Tsering and Lobsang Yeshe, whose monastery is in regular contact with monks and residents of Ngaba, have reported that a group of Kirti monastery monks who were taken into police custody and subsequently released in 2011 were “severely beaten and assaulted, and exposed to extreme heat radiation for a long period of time.” Torture methods also included having “their hands and legs ... tied to electric poles, and ... then tortured with electric batons.” Further, “the intensity of torture was so severe that the pain and agony felt by the monks were the same as if they were being skinned alive. Many of them fainted under the torture and violence.”

- On 8 August 2011, Pema Gonpo was released after being charged of sending information on the conditions of the current crackdown in Kardze to contacts in India.<sup>143</sup> During his detention he was severely tortured including beatings and being hung from the ceiling.
- Lobsang Gonpo a Tibetan monk living in exile in India citing contacts in Kandze reported that of the 17 Tibetans who were released by the Kardze Intermediate Court on 11 August 2011, “most carried bruises and cuts on their bodies from severe beatings and torture ... their health conditions are bad.”<sup>144</sup>
- On 20 August 2011, Jigme Guri, a scholar and monk from Labrang Monastery, was taken into custody by the police.<sup>145</sup> The charges against him and his whereabouts are unknown at the time of this publication. There is some speculation that his current detention is related to his video testimony regarding his treatment while previously in police custody.<sup>146</sup> In the video, Labrang Jigme gives a detailed description of torture and general mistreatment by the authorities. He reported that “monks who spoke to some reporters were beaten with batons and had their legs broken; on some, they used electric batons on their heads and in their mouths - the electric baton affected their brains and some have become disabled ... driven to a type of insanity.”

## ENFORCED DISAPPEARANCES

The International Convention for the Protection of All Persons from Enforced Disappearances (ICPPED) was an important addition to human rights law that came into force in December 2010.<sup>147</sup> The Declaration specifically enjoins States from committing enforced disappearances and obliges States to take proactive measures to prevent such occurrences. An enforced disappearance is defined under the Convention as:

the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.

Enforced disappearances are yet another mechanism used by the government and security forces to discourage dissent. Like international rules against torture, there are no exceptions allowing for government use of this technique.

Although China has yet to sign the ICPPED, freedom from enforced disappearances is a basic human right. The ICPPED described enforced disappearances as “a denial of the purposes of the Charter of the United Nations” and a “grave violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights.”<sup>148</sup> U.N. Secretary-General Ban Ki-moon has referred to enforced disappearances as “another manifestation of torture.” Further, those who have “disappeared” are also more vulnerable to other forms of physical and mental torture. In many ways, it is a reiteration of a basic international human rights standard of which China is in complete violation. Even if the government is not directly involved in the majority of the cases of involving enforced disappearances, by simply ignoring the acts of local security forces it amounts to tacit approval. In 2011, the UN Working Group on Enforced or Involuntary Disappearances called on China to sign the ICPPED, and it urged China to ratify the ICCPR. The ICCPR includes rights that reinforce principles related to enforced disappearances.<sup>149</sup>

On 8 April 2011, the UN Working Group on Enforced or Involuntary Disappearances expressed concern regarding “the continuation of a

disturbing trend in the suppression of dissidents.” In particular, the Working Group was concerned about instances of suppression that resulted in enforced disappearances in China.<sup>150</sup> Less than two weeks later, on 21 April 2011, after a series of protests sparked by self-immolation of a 21-year-old monk named Phuntsog of Kirti Monastery, 300 monks from Kirti Monastery were taken into custody by paramilitary police and disappeared.<sup>151</sup> This led to a UN human rights panel request that the Chinese government provide information about the “the fate and whereabouts” of the 300 monks. Rather than provide details to family members and the press, a Chinese Foreign Ministry spokesperson reported that local authorities were “conducting legal education” for the monks to “maintain religious order.”<sup>152</sup> At the time of this publication, while some have been released, the whereabouts of the majority of the 300 monks remain unknown despite repeated requests of UN bodies and nongovernment organizations for more information.

On 30 August 2011, the National People’s Congress published a draft of new revisions to the Criminal Procedure Law. Most troubling are the proposed provisions that would permit security forces to detain suspects without trial in undisclosed locations for up to six months in cases considered a matter of terrorism, state security, or serious corruption.<sup>153</sup> Such detention could be conducted secretly if the notification to relatives or a lawyer would “hinder the investigation.” A decision on the new provisions is expected to be determined in early 2012. These proposed revisions are just fresh examples of the PRC’s continued refusal to cooperate with the international human rights community.

## CONCLUSION

While the situation in Tibet is grave, citizens around the world can play a role in helping the Tibetan people overcome these abuses. While one may not be able to directly convince the Chinese government to mend its ways, one can speak to one’s own government to place pressure on the Chinese government, such as through linking the Tibetan situation with bilateral agreements. Additionally, as the PRC allows more foreign businesses to engage in Tibet, one can pressure those businesses to seek a higher standard than the one that the Chinese government imposes in Tibet. With foreign companies helping the PRC infringe the rights of its people, such as through censorship and invasion of privacy, it is time to pressure companies not to help foreign governments violate their own international human rights commitments. The Tibetan people are standing up for human dignity and human rights. It is the moral responsibility of people in the free world to stand up with them and help in any way they can.

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# EDUCATION

## INTRODUCTION

While the Peoples' Republic of China (PRC) is committed to providing a culturally relevant education for all its citizens, the Chinese Communist Party (CCP) continues to sidestep these commitments in order to further achieve its political aims, acting rashly when it perceives a threat. In 2011, the CCP seized books and burned others. It imprisoned teachers and fired principals. The CCP literally held students captive in their schools. Tibetans are restricted in what they can say and do, where they can live and travel, and how they can practice their own beliefs. This all leads to pent up frustration that only gains strength, undermining the plans that the CCP has in assimilating Tibetans into Chinese culture.

Like other issues in Tibet, the restriction on educational rights for Tibetans is symptomatic of the CCP's greater desire to maintain power in Beijing. China's unofficial education strategy can be seen as being one of push and pull. First, the CCP uses intimidation and fear in its schools as a means to push away political and cultural dissent, ensuring the containment of ideas that Beijing finds inconvenient. Second, the CCP uses language as a means to create a more homogeneous society that is more easily pulled in to look favorably towards Beijing.

## REPRESSIVE

## LEARNING ENVIRONMENTS

Centers of education are centers of new ideas, and new ideas often disrupt the status quo. Centers of education are also repositories of old ideas. Old ideas, when not convenient for the powers that be, can also disrupt the status quo. In a free society with limited governmental intrusion, ideas that challenge the status quo normally leave the government alone – and even when they do challenge the government, the government embraces those that challenge it.

In China, the government does not serve the people. Rather, the people serve the government. The CCP's hand is very heavy, imposing controls and generally turning a blind eye to the desires of Tibetan people.<sup>1</sup> It is no wonder then that China is seeing an upsurge in ideas challenging the legitimacy of the CCP. Accustomed to using a heavy hand, the CCP expends a lot of energy in its attempt to silence these ideas before they have a chance to stoke popular dissent.

The CCP has gone back to its Cultural Revolution playbook, delicately revamping its system of subjective and unreliable information gathering through the use of informants, recruiting students and teachers in the process. The impact this has on the intellectual environment that schools need in order to create the bright innovators of tomorrow will only hurt China in the long run.

While there is no *formal* proof that the CCP's Student Informant System (SIS) is in Tibet today, its existence is highly suspected, and the CCP has

committed to expanding the program across the whole of the country, which it acknowledges exists in other parts of China. More troublesome is the rise of the Student Security Informant System (SSIS). Recruited by security personnel, and acting much like special security agents, these students act within a covert security operation aimed at ensuring campus safety.<sup>2</sup> Unfortunately, it is easy to see how such a system could be abused, especially in Tibet where unfounded accusations by the CCP of Tibetan terrorists are not uncommon.<sup>3</sup> Considering the headaches that public opposition in Tibet already brings to the CCP, there is little doubt that students in Tibet face a more stark future when it comes to learning in an open environment.

In Sichuan Province, Tibetan teachers have already been arrested and sentenced to prison terms for their roles in discussing the 2008 Tibetan uprising. According to Woesser, the Beijing-based Tibetan blogger, these teachers include Choephel, Tamey, Kirti Kyab, Sonam, Dorje Tsering, and Dawa, all of whom happened to have taught at the Ngaba Prefecture Middle School for Nationalities.<sup>4</sup> Though teachers are vetted by the CCP before they can take positions in local schools, the situation in certain parts of Tibet is so repressive that even teachers whose livelihood depends on maintaining the permission of the CCP to continue teaching have no choice but to speak out against the injustices committed by the CCP.

The CCP also places a clear incentive for school administrators to ensure that their students don't get out of hand. At Machu Tibetan Middle School, the school's headmaster, Kyabchen Dedrol, and two Tibetan assistants, Do Re and Choekyong Tseten, were fired after students at their school staged a protest.<sup>5</sup> This also acts as a disincentive to students who then realize that the livelihoods of their teachers can be connected to their unsupervised political activities at school.

Following the self-immolation of Phunstok on 16 March 2011, students at Ngaba Prefecture Middle School for Nationalities started a hunger strike in support of him.<sup>6</sup> In response, the CCP decided to detain these students at the school, seizing and burning books that did not have an official stamp of approval by the CCP.<sup>7</sup> The CCP also seized cell phones from teachers and students. Students were held incommunicado for close to two months,<sup>8</sup> after which unconfirmed sources have stated that the students were later released. These same sources also state that no reprisals or incriminations from the CCP in relation to this protest are known. It is however, no coincidence that students who have watched their teachers being arrested were also prone to show support for other members of the Tibetan community who constantly experience oppression at the hands of the CCP.

## THOUGHT POLICE — THE STUDENT INFORMANT SYSTEM

The United States Central Intelligence Agency (CIA) recently outlined how the CCP is using students to control dissent, and how the CCP is expanding the system to lower level schools across China.

Chinese educators and Communist Party officials are expanding the student informant system (SIS) to a growing number of Chinese universities, colleges, vocational institutes, and lower level schools. Students designated as student-informants, who report to an academic affairs department, engage in political spying on both professors and fellow students and denounce professors and students for politically subversive or unconventional views.

...

Most colleges and universities have set up a "student teaching information center" specializing in student informant-related work, and an official from the academic affairs office serves as director of the center.

The academic affairs office in each college and university usually is the department that manages student informants and regulates their work requirements. Each class has one recommended student informant who reports directly to the information center through e-mail, telephone, written reports, or information feedback forms. Some universities have dedicated e-mail boxes and instant message groups on the popular QQ group messaging service for student informants.

...

The government appears determined to continue to use the SIS as a tool to ensure political stability on Chinese campuses. The gradual expansion of the program now underway will bring the SIS to provincial and local-level universities, colleges, and other types of schools in other regions of China.<sup>9</sup>

This information has been confirmed by the Dutch newspaper, *Information*, which acquired secret documents of the CCP that outlined the system of informants the CCP uses throughout China and abroad. In one document, dated 22 January 2011, the central propaganda bureau declared that the “the daily monitoring of the population is to be extended,” expanding its network of informants that has existed in all facets of society, including schools and universities.<sup>10</sup> The same document states that this declaration originates from and has the blessing of the central party leadership.

*Information* interviewed Jean-Philippe Beja, a China researcher at the Centre for International Studies and Research in Paris, to understand further the implications of the CCP’s new push. Beja suggests that “the regime now will again begin to penetrate deeper into people’s lives, even cracking down on opinions that are voiced privately. To a large extent, the authorities had evolved a habit of closing their ears to the honest opinions that Chinese people expressed in small gatherings. Obviously they now

intend to prevent this kind of outspokenness. It is a frightening development.”<sup>11</sup>

While the SIS is debated among administrators and academics, who question the effectiveness of the system, its possible negative effects on the learning environment and creation of a culture of denunciation, students in many universities are unaware of the existence of the program. At China University of Mining and Technology, fewer than ten percent of the student body knew of the program.<sup>12</sup> If ten percent is representative of universities around the nation, then this suggests that the negative effects on the learning environment might be overstated.

However, students have been known to be punished for expressing their own thoughts openly in class discussion.<sup>13</sup> Thus, even if relatively few students are aware of the program, the effects of the program will likely change the behavior of those most likely to voice alternative ideas, leading to a more closed discussion on campuses and a general suppression of the types of learning opportunities that arise from debate. Furthermore, if only ten percent of students knew about the SIS, this also suggests that many informants prefer to operate under the radar, as opposed to working as denunciators during class discussion. For those who have had bad experiences with the SIS, this under-the-radar approach is very effective at stifling any contributions they may bring to class. In Tibet, where objections to CCP policy is more widespread than other parts of China, the existence of the SIS will be even more stifling to the development of critical thinking and other necessary skills, discouraging even remarks that are not related to the traditional problems between the CCP and the Tibetan population.

Taken together, administrators are in a bind. Administrators may have ideas on how to control student political dissent that don’t incorporate the SIS, but administrators must also be concerned of the SIS and not seen as political sympathizers.<sup>14</sup> Fearing their own security and that of their families,

administrators are more likely to acquiesce to the use of informants and denunciators in the classroom.

## CONTROLLING ACADEMIC FREEDOM

The use of informants is only one tool for the control of dissent in the classrooms in Tibet. According to a United States government report on human rights in China, students and professors at institutions of higher education in Tibet are commonly forced to attend political education sessions.<sup>15</sup> Cooperation by academics with political education campaigns, which includes public support for CCP policies, is often a prerequisite for promotion, while public disagreement is often reason for reprisal.<sup>16</sup> Curriculum is also controlled, with Tibetan teachers and professors having limited choices in regards to what aspects of history they can talk about, which textbooks they can choose, and what scholarly works they can publish.<sup>17</sup>

In Tibet, the CCP takes political indoctrination to the extreme. Since 1983, the CCP has sent Tibet's brightest students to Beijing each year for their higher studies. While the CCP maintains that this is so that they have better access to educational resources, the CCP's real reason for sending these students inland China is that they can be more closely watched, and so that what they are exposed to is more closely controlled. By doing this, the CCP won't have to worry about Tibet's brightest children becoming "infected" with home-grown Tibetan ideas about the role of the government in Tibet. Instead, the CCP tries to make these children supporters of the CCP's own policies.

In Tibet, this also leads to two tiers of graduates. Tibetans who are sent to Beijing are practically guaranteed work while those who stay in Tibet languish in relative unemployment. This provides a stark incentive for students who might be bright enough to score high on the examinations that decide who will and will not go to Beijing's special

universities for Tibetans. Find guaranteed work at the risk of indoctrination or a life of political control, or maintain one's freedom while risking one's future prospects at employment. Studying in Beijing also opens one up to better employment opportunities with the rising Chinese population in Tibet. Lobsang Sangay, the current Kalon Tripa of the Central Tibetan Administration in exile, states that "around 70 percent of private-sector firms are owned or run by Chinese, more than 50 percent of government officials are Chinese, and approximately 40 percent of Tibetans with university and high school degrees are unemployed."<sup>18</sup>

## THE CCP AND EDUCATION ABROAD

The CCP's attempts to control thought in education is further extending beyond China's borders. It has started implementing an informal "No Tibet" policy to its funding of Confucius Institutes,<sup>19</sup> which are centers for language and culture located all over the world.<sup>20</sup> Even though they operate abroad, these institutes are still subject to Chinese law, thus Tibet issues and other sensitive topics are tightly censored. There have even been some reports of directors using the financial incentives that Confucius Institutes bring to pressure University administrators to make certain decisions favorable to the CCP.<sup>21</sup>

Confucius Institutes supply their own language teachers from China, and among the criteria for vetting is prior involvement with the Falun Gong and other "illegal" organizations within China.<sup>22</sup> Since language and culture are closely interlinked, this control by the CCP will make it more difficult for language students to learn more about uncomfortable topics, such as Tibet, and even when they do learn about it, language students are more likely to be exposed to the sanitized version of Tibetan history.

In Australia, where lawmakers are considering introducing Confucius Institutes to public schools, citizens are concerned that freedom of opinion and expression would be limited because teachers at these Institutes must be politically vetted to ensure compliance with Beijing policies. These concerns do not exist in Australia alone but are debated wherever Confucius Institutes are established.<sup>23</sup>

The CCP also regularly denies international travel for Tibetan students and academics. Professors often are not allowed to attend conferences abroad<sup>24</sup> while students are denied passports, even when they have already received scholarships for study overseas.<sup>25</sup> The CCP even denies visas to foreign scholars who have published works that the Party finds inconvenient.<sup>26</sup> This places serious pressure on academics, foreign and domestic, where one's livelihood is best summed up as "publish or perish."

## DOMESTIC LAW

When it comes to freedom of expression, thought, and the development of ideas, China's education laws are found wanting. Most laws impose more duties than rights upon students and teachers, with the imposition of proper political ideology a constant theme.<sup>27</sup> Students generally have less to worry about politically during the early years of schooling, but by the time they reach higher education, the law is almost oppressive. According to Chinese domestic law, what the CCP is doing in regards to thought policing in schools is entirely legal.

This duty starts in primary school, where teachers are required to "raise their own ideological and cultural levels."<sup>28</sup> Even during the early years, students must be sensitive to doing anything that the CCP does not like. Just as in Ngaba Prefecture Upper Middle School, if students "make troubles to the extent of disturbing the educational or teaching/ learning order of schools ... the public security organ shall impose administrative penalties for

public security."<sup>29</sup> Once the security organs have a reason for taking control, there is very little to stop them from doing what they think is appropriate. This is precisely what has occurred in Ngaba, and according to Chinese domestic law, there is little that the students there can do.

The PRC Higher Education Law, written in 1998,<sup>30</sup> appears as though it's a holdover from the PRC's earlier years, providing a clear mandate for control of political thought on campuses. The overriding duty of all students is to be good socialists and followers of CCP party line, with any other reasons for study being merely secondary. The overriding purpose of institutions of higher education even includes the training of the "successors of the socialist cause" as one of its primary goals.<sup>31</sup>

The ideological and political responsibilities of students and teachers are best outlined in Articles 51 and 53 of the Higher Education Law. Article 51 states that universities should "check up the ideological and political performance" of teachers, weighing this performance with other factors when deciding matters of dismissal, promotion, rewards, or penalty.<sup>32</sup> Article 53 provides for the duties of students, not least of which includes fostering "ideas of patriotism, collectivism and socialism," striving "to learn Marxism-Leninism, Mao Zedong Thought and Deng Xiaoping's Theory," and to "have good ideological morality."<sup>33</sup> Success in adhering to these duties is a prerequisite for graduation.<sup>34</sup>

Article 39 of the Higher Education Law outlines the responsibilities of university administrators. It is telling that of the five main responsibilities listed, the first three have to do with adhering to CCP leadership. They are "to implement the line and policies of the Chinese Communist Party, adhere to the socialist orientation of running the institutions, [and] exercise leadership over ideological and political work and work related to morality in the institutions ...."<sup>35</sup> While the remaining two responsibilities appear more benign, they must fit with and in accordance to the first three.

Taken together, it is easy to see how the implementation of the SIS was an inevitable outgrowth of the PRC's education laws.

## INTERNATIONAL LAW

In relation to the rights of students and teachers to learn in an environment free from thought police and ideological intimidation, China's domestic laws and practice completely fail to live up to its international obligations.

Article 13.1 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR) clearly outlines the rights and freedoms, much of which are echoed in the Universal Declaration of Human Rights (UDHR),<sup>36</sup> that students and teachers have when pursuing or giving an education:

The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.<sup>37</sup>

The CCP clearly displays no tolerance for anything that does not promote the "good ideology" of socialism with Chinese characteristics. Students who are denounced in class are treated with a complete lack of dignity. Students who live in fear of who might inform upon them for something as simple as their facial expression<sup>38</sup> aren't able to strive for their full development of personality. When students are not free in the classroom, how can the classroom strengthen the respect for human rights and fundamental freedoms? The CCP acts

as though Article 13.1 of the ICESCR was missing from the copy that it signed and ratified.

As mentioned earlier in this Annual Report, China, as a mere signatory, is not completely bound to the International Covenant on Civil and Political Rights (ICCPR). However, it is bound to refrain from acts that would defeat the object and purpose of the treaty.<sup>39</sup> Furthermore, many of the Articles in the ICCPR are restatements of Articles in the Universal Declaration of Human Rights. Although the PRC is not a signatory of the Universal Declaration of Human Rights, the UDHR has significant legal standing and many of its provisions are considered part of customary international law.<sup>40</sup> Taken together, the CCP is doubly obliged not to defeat the object and purpose of the rights in the ICCPR and UDHR.

In relation to the rights of students and teachers, the ICCPR and UDHR share many common features. Article 18 of both the ICCPR and UDHR protects the right to freedom of thought, conscience, and religion. Article 19 of both the ICCPR and the UDHR protect the right to hold opinions without interference. Article 21 of the ICCPR and Article 20 of the UDHR protect the right to peacefully assemble.

The use of thought police in schools and universities defeats the object and purpose of the right to freedom of thought, conscience, and religion. The use of thought police in schools defeats the right to hold opinions without interference. The liberal imposition of security personnel against any gathering of students trying to protect their freedom of thought, conscience, religion, and the holding of opinions without interference defeats the object and purpose of the right to peacefully assemble. As a signatory of the ICCPR, it is clear that the CCP is violating its duty.



The CCP may point to Article 4 of the ICCPR, which allows for the derogation from one's obligations under the ICCPR in times "of public emergency which threaten the life of the nation and the existence of which is officially proclaimed ...."<sup>41</sup> This means that the CCP can ignore its duties under the ICCPR only when it has declared a state of emergency, and only when the existence of the nation is threatened. Neither voicing dissenting ideas nor holding peaceful protests fit the requirements for meeting this exception.

The CCP may also point to the Convention on the Rights of the Child (CRC). Article 13 proclaims certain rights, similar to the ones outlined above, but then includes a catch-all provision that allows a country to restrict these rights "for the protection . . . of public health or morals." However, the CRC cannot trump the ICESCR, ICCPR, UDHR, or any other international legal instrument that China has signed or ratified. Precisely to the point, the CRC states in Article 41:

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

- (a) The law of a State party; or
- (b) International law in force for that State.

While the laws in the PRC may allow for the disposal of rights to protect public morals, international law in force for the PRC does not. It is clear that the PRC's education laws and practice do not live up to its international commitments. The international community has the responsibility to pressure the CCP to bring the PRC's domestic laws and practice in line with international standards.

What the CCP doesn't realize is that its effort to create a homogeneous society that never questions the status quo will never lead to a country known for innovation – a key ingredient to long term economic power. So long as the CCP clings to political power by clamping down on dissent, subverting creativity, or imposing homogeneity

on its population, it will never become a leading nation in the world, and its legitimacy will continue to suffer.

## REPLACING THE TIBETAN LANGUAGE WITH MANDARIN

Language is one of the pillars of any culture. By slowly replacing ethnic languages with Mandarin, the CCP is hoping to erode the cultural foundations of its predominantly ethnic areas, replacing ethnic cultural norms with Chinese ones. Because of the fast influx of Mandarin speaking Chinese into Tibet, Tibetans will soon find themselves as not only a minority in China, but in Tibet as well. This influx is placing pressures on the survival of the Tibetan language. In Tibet, signs are predominantly in Chinese, not Tibetan.<sup>42</sup> When Tibetan is there, it is small and hard to see, with a Mandarin translation taking up a larger space. While the CCP is expanding its use of Tibetan in popular media,<sup>43</sup> it still needs to do more to ensure the long term viability of one of the world's richest literary languages.

Tibet needs only to look to its neighbor to the north, Xinjiang, to see the threat that the CCP imposes upon the Tibetan language. Since 2010, over 1,000 primary school and kindergarten teachers were fired merely because they could not speak fluent Chinese.<sup>44</sup> This is a continuation of the CCP policy to introduce Mandarin language education at the most basic levels, thereby eliminating any possibility of later education in ethnic languages. It is a stark warning to Tibetans that they must remain vigilant in standing up for their linguistic and cultural rights.

Tibet has a history of peacefully standing up for itself that continues to this day. In October, 2010, Tibetans in Qinghai Province stood up for their right to use the Tibetan language when studying various subjects in school. The aftermath of their petitions and protests initially met strong resistance from the CCP, but eventually the CCP relaxed its



In October 2010, huge demonstration by Tibetan high school students broke out in Qinghai Province against the proposed reform in education and called for “Equality for Nationalities, Freedom for Language”.

proposed language laws, allowing these Tibetans to continue using their language while in school, albeit in the same restricted manner that had existed before. That “same restricted manner,” however, is still the slow introduction of Mandarin to earlier years of schooling.

Less than a year later, the CCP introduced to some rural areas Mandarin as the medium of instruction in preschool, with Tibetan merely being offered as a separate subject.<sup>45</sup> The idea behind this is that too often, students reach the first year of primary school education with not enough understanding of Chinese to in turn understand Chinese text books and teaching materials. As a result, teachers use Tibetan to explain the Chinese language based curriculum. By introducing Mandarin as the main medium of education in preschool, the CCP is hoping that it can end the practice of using Tibetan in primary school education. This introduction is uneven throughout the Tibetan plateau, but

in Qinghai province, Chinese became the main medium of instruction in October of 2011, saving Tibetan for Tibetan language classes.

By using Mandarin as the medium of instruction, the CCP is also attempting to undermine Tibetan culture, and it is violating its domestic and international commitments to ensure a culturally relevant education for its minority citizens, not least of which are the Tibetan people.<sup>46</sup> If it were not for the mass migration of Chinese into the Tibetan plateau, Tibetan students would find adequate education using only Tibetan and English; the former as the local language and the latter as the world language. But since the CCP has encouraged Chinese migration into Tibet, the use of Mandarin has become increasingly a necessity for Tibetan students to find work after their formal education is over. This is especially true in urban areas where Chinese migrants make up the majority of the economy.<sup>47</sup>

For students who are already past preschool, the further along one progresses in receiving her/his education, the more classes she or he will be taught in Mandarin Chinese. Additionally, the further east a Tibetan student lives, the more likely her/his classes will be taught in Mandarin, even in elementary schools.<sup>48</sup> While some schools teach in Tibetan during the first years of education, others have no curriculum in the Tibetan language.<sup>49</sup> Even when the Tibetan language is used, the curriculum is translated from Mandarin, importing CCP approved notions of Tibetan history and culture.<sup>50</sup>

While it is acknowledged that mastery in Mandarin is necessary for any person to succeed in China, the use of Mandarin does not need to occur at the expense of Tibet's mother tongue. In India, the Central Tibetan Administration (CTA) faces a similar challenge – using Tibetan language as a medium of education while also preparing students for an advanced education in Indian universities that requires mastery of English. The CTA has chosen to focus on lower level education using the Tibetan language while developing a mastery of other languages during later years.<sup>51</sup> The idea is that at the youngest ages, children should focus on learning the subject matter and not be distracted by having to learn multiple languages. Since learning in one's mother tongue is the best way to ensure comprehension, the Tibetan language is used in primary education. Such a policy is a sensible solution to the problem of trying to maintain a culture while also preparing children for success in today's globalized world. It strikes a balance between ensuring comprehension in children, the protection of a culture and its language, and preparing students for more advanced education in later years.

The CCP performs very poorly at ensuring that the Tibetan language is used as the medium of education, in many parts of Tibet. Often, the CCP acts to undermine this right. For example, in a country where fake Apple stores proliferate

unbothered, the Chinese authorities decided to apply their intellectual property rights laws to seize “counterfeit” Tibetan language textbooks.<sup>52</sup> The CCP needs to strive towards more consistency in ensuring that Tibetan children are taught using the Tibetan language.

## DOMESTIC LAW

A cursory look at Chinese law makes it seem as though the rights of minorities to use and develop their own languages are strong. For example, Article 4 of the PRC Constitution states that “[t]he state helps the areas inhabited by minority nationalities speed up their economic and cultural development in accordance with the peculiarities and needs of the different minority nationalities” and that “[t]he people of all nationalities have the freedom to use and develop their own spoken and written languages, and to preserve or reform their own ways and customs.” Similarly, Article 10 of the Regional Ethnic Minority Law states, “Autonomous agencies in ethnic autonomous areas guarantee the freedom of the nationalities in these areas to use and develop their own spoken and written languages and their freedom to preserve or reform their own folkways and customs.”

However, Chinese law is often dualistic, giving certain rights in one area, but granting opposing rights or duties in another. Article 33 of the PRC Constitution admits this fact: “Every citizen enjoys the rights and at the same time must perform the duties prescribed by the Constitution and the law.” If a law is not dualistic, then it is aspirational, merely stating some rights as options, not guarantees. Combined with the fact that Chinese law is positivist, it is often the mandatory duties that trump the optional rights of Tibetan citizens.<sup>53</sup> Finally, some laws are not even aspirational, but merely form of encouragement.

A perfect example of this is Article 49 of the Regional Ethnic Minority Law. Under Article 49, cadres are “encouraged” to either learn the local language or

Mandarin, depending on which language is their mother tongue. To spur this encouragement, awards “should” be granted to those that can skillfully use both the local and national languages.<sup>54</sup> While a one-month Tibetan language and culture training is available for Chinese officials, it is entirely optional and rarely used.<sup>55</sup> Unfortunately, the practical implication of this in Tibet is that cadres from Mandarin speaking parts of China dictate what policies are most appropriate for the Tibetan people without having any understanding of what the Tibetan people want from their government.

The existence of legal provisions that limit the use of ethnic languages actually outnumbers those that protect them. Article 19 of the Constitution states that “[t]he state promotes the nationwide use of Putonghua.” Putonghua is the Beijing dialect of Mandarin Chinese. Article 12 of the PRC Education Law goes further:

The Chinese language, both oral and written, shall be the basic oral and written language for education in schools and other educational institutions. Schools or other educational institutions which mainly consist of students from minority nationalities may use in education the language of the respective nationality or the native language commonly adopted in that region. Schools and other educational institutions shall in their educational activities popularize the nationally common spoken Chinese and the standard written characters.

What is important to note is that educational institutions in minority areas *may* use the native language, whereas they *shall* use Mandarin Chinese. This duality is repeated in Article 6 of the PRC Compulsory Education Law.<sup>56</sup> Therefore, the use of Tibetan is merely optional and not guaranteed, whereas the use of Mandarin is mandatory. Furthermore, as the influx of Mandarin speaking migrants enters Tibet, schools will less and less “mainly consist of students from

minority nationalities,” resulting in the CCP’s conceivable striking of Tibetan from the curriculum altogether.

The use of teaching materials is similar. Article 37 of the Regional Ethnic Minority Law states:

Schools (classes) and other educational organizations recruiting mostly ethnic minority students should, whenever possible, use textbooks in their own languages and use these languages as the media of instruction. Beginning in the lower or senior grades of primary school, Han language and literature courses should be taught to popularize the common language used throughout the country and the use of Han Chinese characters.

Article 37 implies that Mandarin (the “common language”) would only be taught as a language course, allowing for other classes to be taught in the local language. This actually sounds very similar to the policy of the Central Tibetan Administration (CTA) in exile, using one’s mother tongue in the earliest years of education. However, as mentioned above, some schools that recruit mostly Tibetans don’t use the Tibetan language at all while the CCP arbitrarily applies its intellectual property laws to defeat the ability of schools to use textbooks in the Tibetan language. Furthermore, the CCP’s drive to start using Mandarin as the medium of education in preschool will only further undermine the right to learn in Tibetan, the mother tongue of Tibetans.

## INTERNATIONAL LAW

In regards to education, the CCP has steered clear of any binding obligations that are enforceable by the international community. In fact, the CCP carefully placed a reservation against the one article in the one convention that called for a possible remedy in the International Court of Justice, which would have the power to enforce its decision on the PRC.<sup>57</sup>

The PRC has, however, signed many international conventions, treaties, and resolutions that provide some protection for minorities in using local languages in education. While these commitments are not enforceable by the international community, they do provide a moral obligation, and the ignorance of any of these commitments calls into question the CCP's sincerity in negotiating human rights treaties. These two factors alone are enough for countries the world over to apply pressure on the Chinese government to fulfill its commitments, lest the CCP's promises become meaningless.

Furthermore, it should also be noted that many of these agreements are in theory available in domestic courts. However, the CCP does not look kindly on human rights attorneys, and the CCP has a sore history of abusing petitioners, denying them their rights as enshrined in the law.<sup>58</sup>

The PRC ratified the Convention on the Rights of the Child, article 30 of which states, "In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language."

Furthermore, the PRC agreed to the United Nations General Assembly Resolution on the Rights of Persons Belonging to Ethnic, Religious, and Linguistic Minorities. In it, Article 4 gives strong rights to ethnic minorities, including the commitment to "take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue."<sup>59</sup>

While the CTA considers Tibetans to be an occupied people, and thus not an indigenous people,<sup>60</sup> the CCP does not. Therefore, according to CCP's point of view, it should follow its international

commitments regarding Indigenous Peoples. Under Article 14 of the UN General Assembly Resolution on the Rights of Indigenous Peoples, "Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning," and "States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language."<sup>61</sup>

The Committee on the Elimination of All Forms of Racial Discrimination, a body of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), considers the right to education in one's own language a human right. While the convention does not explicitly state this right, the Committee recognizes the "rights of persons belonging to minorities to enjoy their own culture, profess and practice their own religion and use their own language."<sup>62</sup> It further states that "[s]uch rights are permanent rights, recognized as such in human rights instruments, including those adopted in the context of the United Nations and its agencies."<sup>63</sup>

However, this will not carry much weight. Not only is the PRC not bound by any suggestions that the ICERD Committee makes, but the ICERD is also the convention mentioned above that China placed its careful reservation in. When signing the ICERD, China made the following reservation: "The People's Republic of China has reservations on the provisions of article 22 of the Convention and will not be bound by it." Article 22 states:

Any dispute between two or more States Parties with respect to the interpretation or application of this Convention, which is not settled by negotiation or by the procedures expressly provided for in this Convention, shall, at the request of any

of the parties to the dispute, be referred to the International Court of Justice for decision, unless the disputants agree to another mode of settlement.

None of the other applicable human rights conventions that China is a member of has language nearly as strong, and none of the other Committees to conventions that China is a member of has language as clear on the right of ethnic minorities to receive an education in their native language.

Regardless, the CCP still acts in contravention of its international commitments. Other countries should take notice of the CCP's unwillingness to practice what it preaches and either pressure the CCP to make good on its promises, or engage with the CCP knowing full well that its statements are nothing more than hollow gestures.

## RELIGIOUS EDUCATION

The Religious Freedom section contained earlier in this Report outlined many of the methods that the CCP uses to force its "legal education" on monks and nuns in Tibet. This subsection looks at how the CCP limits the ability of monks, nuns, and regular Tibetans to receive the religious education of their choice.

One of the biggest obstacles facing monks and nuns in their attempt to receive further religious education is the way in which the CCP restricts their movement.<sup>64</sup> Chinese law allows for freedom of movement and travel, but Chinese authorities restrict that freedom for those who are seeking religious education.<sup>65</sup> At highway checkpoints, monks and nuns are especially targeted, facing tighter security because of their religious garb.<sup>66</sup> Furthermore, officials frequently deny permission to monks and nuns from outside provinces to temporarily stay at local monasteries for the furtherance of religious education, even for one night.<sup>67</sup> Since different monasteries are known for certain aspects of Tibetan Buddhism, this restriction

on travel denies Tibetan monks and nuns their right to seek religious education when that education is not available to them in their home monastery.<sup>68</sup> One of the side effects of these restrictions is the decline in the availability and quality of religious teachers in Tibet.<sup>69</sup>

For Tibetans who join the local government, the CCP pressures them to not place their kids in monasteries, in private schools attached to monasteries, or in schools in India where a better education might be found.<sup>70</sup> Those who try to challenge the CCP are threatened with their jobs.<sup>71</sup> This is a serious disincentive for Tibetans to join the PRC government, dissuading many Tibetans who otherwise would be very useful for the Chinese in figuring out how to better govern Tibet. For pupils whose parents are not associated with the PRC, the CCP has also been known to simply force children to leave religious schools and attend state schools instead.<sup>72</sup>

Finally, just as the CCP tries to actively influence how monasteries can and cannot practice Tibetan Buddhism, the CCP actively regulates what aspects of Tibetan Buddhism can and cannot be taught.<sup>73</sup> Even in regular schools, the CCP disallows any dress that may be deemed religious, such as the wearing of prayer beads. In some cases, the CCP forces students to leave religious schools and attend state-sanctioned ones instead.<sup>74</sup>

## DOMESTIC LAW

Article 36 of the Constitution and Article 11 of the Regional Ethnic Minority Law each provide guarantees of religious freedom. However, this freedom is qualified, disallowing individuals from making "use of religion to engage in activities that disrupt the public order, impair the health of citizens or interfere with the educational system of the state."<sup>75</sup> Furthermore, both Articles state that "religious bodies and religious affairs shall not be subject to any foreign domination."<sup>76</sup> This final provision is designed in part for the purpose of

countering any influence that might be exerted from the Dalai Lama, and it expresses the spirit that is behind much of the CCP's actions in regard to restriction the freedom of religious education in Tibet.

The CCP enforces a separation of religion and education, as found in Article 8 of the Education Law.<sup>77</sup> This is not a complete bar on any religious education whatsoever – only against education sponsored by the state. However, even though the CCP may not fund religious education, it does maintain the right to regulate it.<sup>78</sup> While this regulation might seem to be guided by Articles 15 and 16 of the Compulsory Education Law, which merely states that a child may not be excused from compulsory education for religious reasons,<sup>79</sup> the CCP is extending this power to carefully control what monasteries can and cannot teach to students of Buddhism in Tibet. The CCP's attempts to regulate monasteries are more thoroughly described in the Religious Freedom Section of this Report.

## INTERNATIONAL LAW

The limits imposed by the CCP on the freedom of movement for monks and nuns are in direct contravention of the ICCPR and UDHR.<sup>80</sup> For the CCP, it must only ensure that it does not contravene the object and purpose of this right. Since the CCP primarily limits this control to monks and nuns, and considering its belief that monasteries are centers of Tibetan political dissent, including guidance from the Dalai Lama, it will be able to point out concerns over security as a reason for its controls,<sup>81</sup> sidestepping any accusations of religious intolerance or discrimination. However, China abuses its power to ensure security, making its targeting of monks and nuns more akin to harassment than the checking of a credible security threat.

The CCP's efforts at ensuring that Tibetan children do not receive a religious education are in direct contravention of its obligations under the ICESCR. Article 13 states that parents have the liberty to “ensure the religious and moral education of their children in conformity with their own convictions.”<sup>82</sup> This obligation is also mirrored in the ICCPR.<sup>83</sup> Finally, the Convention on the Rights of the Child provides special protections for children who are part of minority groups in a state, including the right “to profess and practice his or her own religion.”<sup>84</sup> Without a religious education, this right to practice is circumscribed.

International Law does not merely protect religion that is convenient to the government. It protects all serious forms of religion, including Tibetan Buddhism. The CCP's efforts at containing the right of Tibetans to seek education in Tibetan Buddhism, while perhaps legal according to its domestic law, stand in direct opposition to its obligations under international treaties.

## CONCLUSION

The Chinese government is using Education in an attempt to mold a homogeneous society. To the Chinese government's thinking, this will lead to a country that is easier to govern. However, what the Chinese government does not understand is that cultural diversity will help it solve problems, create new ideas, be more innovative, and be more competitive in the world economy. By trying to suppress Tibetan culture through educational law and policy, China will only succeed in alienating itself in the world community. The world community, for its part, must pay more attention to the way in which the Chinese government uses education in Tibet to infringe the rights of Tibetans, and the international community needs to do much more to pressure the Chinese government to respect the cultural and educational rights of the Tibetan people.

ENDNOTES:

- 1 China embraces the desires of Tibetan people when it is politically expedient, but overall does not try to consult with local Tibetans.
- 2 UNITED STATES CENTRAL INTELLIGENCE AGENCY, CIA-DI-10-05021: CHINA: STUDENT INFORMANT SYSTEM TO EXPAND, LIMITING STUDENT AUTONOMY, FREE EXPRESSION 93 (23 November 2010), <http://www.fas.org/irp/world/china/docs/cia-sis.pdf> [hereinafter CIA].
- 3 Lobsang Yeshe, *Dragon's Terrorist Designs- Part-I*, PHAYUL, 18 March 2011, <http://phayul.com/news/article.aspx?id=29274&t=1>.
- 4 Woesser, *Documenting 10 Tibetan Writers and Teachers Arrested, Detained or Sentenced By Sichuan Local Authorities*, HIGH PEAKS PURE EARTH, 14 June 2011, <http://www.highpeakspureearth.com/2011/06/documenting-10-tibetan-writers-and.html>.
- 5 UNITED STATES DEPARTMENT OF STATE, 2010 HUMAN RIGHTS REPORT: CHINA (INCLUDES TIBET, HONG KONG, AND MACAU) 93 (2011), <http://www.state.gov/documents/organization/160451.pdf>.
- 6 Kalsang Rinchen, *Brother, uncle of monk who set himself ablaze arrested*, PHAYUL, 28 March 2011, <http://www.phayul.com/news/article.aspx?id=29309>.
- 7 *China: Tibetan students held in school*, RADIO FREE ASIA, 9 May 2011, <http://www.unhcr.org/refworld/docid/4dd288f423.html>.
- 8 *Id.*
- 9 CIA, *supra* note 2.
- 10 Martin Gøttske, *A Party that smiles to the world, but tightens its grip at home*, INFORMATION, 27 June 2011, <http://www.information.dk/272094>.
- 11 *Id.*
- 12 CIA, *supra* note 2.
- 13 *Id.*
- 14 This does not suggest that these are the only organizations that administrators need to be concerned about.
- 15 UNITED STATES DEPARTMENT OF STATE, *supra* note 5, at 89.
- 16 *Id.* at 89-90.
- 17 *Id.* at 90.
- 18 Lobsang Sangay, *The Myth of Socialist Paradise*, THE NEW YORK TIMES, 16 August 2011, <http://www.nytimes.com/2011/08/17/opinion/the-myth-of-socialist-paradise-in-tibet.html?ref=tibet>.
- 19 Daniel Golden, *China Says No Talking Tibet as Confucius Funds U.S. Universities*, BLOOMBERG, 02 November 2011, <http://www.bloomberg.com/news/2011-11-01/china-says-no-talking-tibet-as-confucius-funds-u-s-universities.html>.
- 20 See generally Hanban Home Page, <http://english.hanban.org/> (Hanban is the Chinese name for the Confucius Institute Headquarters).
- 21 Golden, *supra* note 16.
- 22 Sonya Bryskine, *State Government in Australia Debates Confucius Institute*, THE EPOCH TIMES, 13 October 2011, <http://www.theepochtimes.com/n2/australia/state-government-in-australia-debates-confucius-institute-62817.html>.
- 23 See Melissa von Mayrhauser, *China-funded institute tests Columbia's commitment to academic integrity*, COLUMBIA SPECTATOR, 11 November 2011, <http://www.columbiaspectator.com/2011/11/11/china-government-bankrolls-culture-institute-columbia>; see also Ulara Nakagawa, *Confucius Controversy*, THE DIPLOMAT, 7 March 2011, <http://the-diplomat.com/new-emissary/2011/03/07/confucius-controversy/>.
- 24 UNITED STATES DEPARTMENT OF STATE, *supra* note 5, at 90.
- 25 *Id.* at 93.
- 26 Daniel de Vise, *U.S. scholars say their book on China led to travel ban*, THE WASHINGTON POST, 21 August 2011, [http://www.washingtonpost.com/local/education/us-scholars-say-their-book-on-china-led-to-travel-ban/2011/08/17/gIQAN3C9SJ\\_story.html](http://www.washingtonpost.com/local/education/us-scholars-say-their-book-on-china-led-to-travel-ban/2011/08/17/gIQAN3C9SJ_story.html).
- 27 E.g. P.R.C. EDUCATION LAW, art. 43 (which imposes upon students the duty to “develop “good ideology, proper morale and behaviour habit.”).
- 28 P.R.C. COMPULSORY EDUCATION LAW, art. 14.
- 29 P.R.C. EDUCATION LAW, art. 74.
- 30 The Higher Education Law of the Peoples' Republic of China was adopted at the 4th Meeting of the Standing Committee of the 9th National People's Congress on August 29, 1998, and promulgated by Order No.7 of the President of the People's Republic of China on August 29, 1998.
- 31 P.R.C. HIGHER EDUCATION LAW, art. 4.
- 32 *Id.* art. 51.
- 33 *Id.* art. 53.
- 34 *Id.* art. 58.
- 35 *Id.* art. 39 (“The state-run institutions of higher learning practice the president responsibility system under the leadership of the grass-roots committees of the Chinese Communist Party in institutions of higher learning. In accordance with the Constitution of the Chinese Communist Party, the grass-roots committees of the Chinese Communist Party in institutions of higher learning exercise unified leadership over school work and support the presidents in independently and responsibly discharging their duties, their responsibilities of leadership are mainly as follows: to implement the line and policies of the Chinese Communist Party, adhere to the socialist orientation of running the institutions, exercise leadership over ideological and political work and work related to morality in the institutions, hold discussions and take decisions on the set-up of internal organizational structures and candidates for the persons-in-charge of internal organizational structures, hold discussions and take decisions on such major matters as the reform, development and basic administrative rules of the institutions to ensure the completion of various tasks centered round training of talents. Internal management system of institutions of higher learning run by social forces shall be determined in accordance with the provision of the state concerning running of schools by social forces.”).



- 36 *E.g.* Universal Declaration of Human Rights art. 26, 10 December 1948, 217A (III) [hereinafter UDHR] (stating in pertinent part, “Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms.”); *e.g.* UDHR art. 22 (stating that everyone is entitled to the realization of “economic, social and cultural rights indispensable for his dignity and the free development of his personality.”).
- 37 International Covenant on Economic, Social, and Cultural Rights art. 13.1, 16 December 1966, 2200A (XXI).
- 38 *See* CIA, *supra* note 2 (When Liu Xiaobo received the Nobel Prize on 8 October 2010, students who appeared to react with approval of the news were reported to authorities as being suspected sympathizers).
- 39 Vienna Convention on the Law of Treaties art. 18, 23 May 1969, ?United Nations Treaty Series, vol. 1155, p. 331; *see* Civil and Political Rights section, *supra*.
- 40 Thomas Buergerthal, *Human Rights* para. 9, THE MAX PLANCK ENCYCLOPEDIA OF PUBLIC INTERNATIONAL LAW (R Wolfrum online ed. Oxford University Press 2008), <http://www.mpepil.com>, (last visited on 21 September 2011).
- 41 International Covenant on Civil and Political Rights art. 4, 16 December 1966, 2200A (XXI) (there are certain rights that a country may never derogate from, however these rights do not apply to those related to education. Article 4 is produced in whole: “1 . In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin. 2. No derogation from articles 6, 7, 8 (paragraphs I and 2), 11, 15, 16 and 18 may be made under this provision.”).
- 42 Woesser, *Impoverished Matö County*, HIGH PEAKS PURE EARTH, 12 October 2011, <http://www.highpeakspureearth.com/2011/10/impoverished-mato-county-by-woesser.html>.
- 43 *Tibet’s all news media to be bilingual in five years: official*, PEOPLE’S DAILY ONLINE, 14 November 2011, <http://english.peopledaily.com.cn/90882/7643438.html>. (The CCP is not doing this to help the Tibetan language, but rather as an attempt to more efficiently disseminate its propaganda to a population that it is having a hard time convincing).
- 44 *Teachers Fired Over Mandarin Ability*, RADIO FREE ASIA, 23 September 2011, <http://www.rfa.org/english/news/uyghur/teachers-09232011160635.html>.
- 45 *Chinese medium teaching begun for preschool rural Tibetans*, TIBETAN REVIEW, 17 November 2011, <http://www.tibetanreview.net/news.php?id=9883>.
- 46 *See* P.R.C. EDUCATION LAW, art. 10 (stating in part, “The state shall help all minority nationality regions develop educational undertakings in light of the characteristics and requirements of different minority nationalities.”).
- 47 *See* Peter Hessler, *Tibet Through Chinese Eyes*, THE ATLANTIC MONTHLY, February 1999, [http://www.theatlantic.com/magazine/archive/1999/02/tibet-through-chinese-eyes/6395/?single\\_page=true](http://www.theatlantic.com/magazine/archive/1999/02/tibet-through-chinese-eyes/6395/?single_page=true).
- 48 UNITED STATES DEPARTMENT OF STATE, *supra* note 5, at 92
- 49 *Id.*
- 50 *Id.*
- 51 Central Tibetan Administration, Department of Education, Article 8.4, Basic Education Policy for Tibetans in Exile. CTA’s Department of Education is slowly working to increase the number of years where the Tibetan Language is used as the primary medium of instruction.
- 52 <http://phayul.com/news/article.aspx?id=29857&t=1>. In one instance alone, 20,000 Tibetan language textbooks were seized.
- 53 *See* Introduction, *Supra*, page X for a greater explanation on the effects of positivism on Chinese law.
- 54 PRC Regional Ethnic Minority Law, Article 49. “Autonomous agencies of an ethnic autonomous area persuade and encourage cadres of the various nationalities to learn each other’s spoken and written languages. Cadres of Han nationality will learn the spoken and written languages of the local minority nationalities. While learning and using the spoken and written languages of their own nationalities, cadres of minority nationalities should also learn the spoken and written Chinese language commonly used throughout the country. Awards should be given to state functionaries in ethnic autonomous areas who can use skillfully two or more spoken or written languages that are commonly used in the locality.” *See* also the TAR Regulations on the Study of Tibetan
- 55 Senate committee report, or perhaps one of the other US G reports.
- 56 PRC Compulsory Education Law, Article 6, which states: “Schools shall promote the use of Putonghua (common speech based on Beijing pronunciation), which is in common use throughout the nation. Schools in which the majority of students are of minority nationalities may use the spoken and written languages of those nationalities in instruction.”
- 57 Article 22, ICERD. *See* discussion *infra*.
- 58 There may be a internal reference here to another part of the report. If not, put it in the appropriate place to create the internal reference. The information is in Endnote.
- 59 UN Resolution, United Nations General Assembly Resolution on the Rights of Persons Belonging to Ethnic, Religious, and Linguistic Minorities, Article 4.
- 60 Explain contrast.
- 61 A/RES/61/295 Rights of Indigenous Peoples.
- 62 Committee on the Elimination of Racial Discriminaion, General Comment No. 32, para. 14. *See* also MPEPIL, “Minorities, international protection of,” para. 71.
- 63 Committee on the Elimination of Racial Discriminaion, General Comment No. 32, para. 14. *See* also MPEPIL, “Minorities, international protection of,” para. 71.
- 64 The restriction on movement also restricts monks and nuns’ ability to perform religious ceremonies at people’s homes or in other unregulated settings.

- 65 The CCP also has in the Hukou system, which restricts where Chinese citizens can live.
- 66 Human Rights Report, US Gov, page 93
- 67 Human Rights Report, US Gov, page 93
- 68 Religious Freedom in China
- 69 Religious Freedom in China
- 70 Religious Freedom in China
- 71 Religious Freedom in China
- 72 Religious Freedom in China
- 73 Religious Freedom in China
- 74 US Gov – Human rights in China report, page 26.
- 75 Article 36 of the Constitution and Article 11 of the Regional Ethnic Minority Law share the exact same text
- 76 *Id.* Again, both share the exact same text.
- 77 Education Law, Article 8.
- 78 Education Law, Article 82.
- 79 Compulsory Education Law, Article 15, 16.
- 80 Article 13 and 18 of the UDHR and Article 12 of the ICCPR
- 81 China has strong Criminal laws used for this purpose. See Part 2, Chapter 1 of the PRC Criminal code regarding “Crimes of Endangering National Security.”
- 82 ICESCR, Article 13.3
- 83 ICCPR, Article 18.4
- 84 CRC, Article 30.1

# RELIGIOUS FREEDOM

## INTRODUCTION

On 27 September 2011, the Regional Party Committee of the Tibetan Autonomous Region (TAR) and the TAR government launched the “Third Battle Campaign” to maintain stability at a conference in preparation for the founding anniversary of the Chinese Communist Party (CCP).<sup>1</sup> TAR Party Secretary Chen Quanguo stressed key strategies to ensure the stability of the country. Aside from the obvious political points, such as the role of officials and the importance of the continued struggle against “separatist” forces, Chen stated that the “Third Battle Campaign” will ensure that “all the monasteries shall be closely watched” and promised there will be “intensified patriotic re-education sessions” in the monasteries. He further reminded officials at the conference that religious activities and religious affairs must be carried out “according to the law.” In a case where “stability” of a nation more accurately refers to the stability of the regime in Beijing, the strategy of the “Third Battle Campaign” reveals that Tibetan Buddhism and its followers continue to be perceived as major threat to the Party.

For over the last half-century, the Chinese government has attempted to alienate Tibetans from their religion as part of a process of subordinating all forms of belief to official ideology. Even before the horrors of Cultural Revolution were underway in the 1960’s and 70’s, China’s attitude towards Tibetan Buddhism had been hostile. During his last meeting with the Dalai Lama in 1959, Chairman Mao said: “religion is very harmful to the development of a nation. First of all, it acts

as a hindrance to material progress and secondly, it weakens the race.”<sup>2</sup> Mao then summed up his feelings with the phrase: “religion is poison.” Although Chairman Mao is no longer alive, the same basic attitude continues to inform official policies towards Tibetan Buddhism.

The Chinese government has maintained that Tibetan religion is “backward,” “useless,” and therefore a hindrance to economic development. **Monks and nuns have been specifically lambasted for** “not contributing to economic growth,”<sup>3</sup> if not thwarting the material development of Tibetan society. Ignoring the traditional role of the clergy as valued contributors to spiritual and intellectual growth of the community, the Chinese government has used this stance to isolate the Tibetan populace from its religious institutions, as well as to justify official hostility towards religion. The authorities have taken charge of the day-to-day practice of Buddhism among religious institutions and lay people. Notably, steps are taken to change the nature of religious belief, for example, through “legal education” or, as it is more commonly known, “patriotic education”, and has established a “legal” framework in order to attempt shaping the future of the Tibetan Buddhism through control of the reincarnation process.

2011 brought another year of protests against the government’s religious policies. The most disturbing events of the year were the twelve separate instances of self-immolation protests involving monks, former monks, and nuns. The protests attempted to demonstrate to the world that Chinese policies towards Tibetan Buddhism

remain unbearably oppressive. Since the 2008 uprising in Tibet, the government has tightened its stranglehold on the Tibetan Buddhist clergy. According to a US Department of State report published in April 2011, as a result of protests in 2008, many monks and nuns remain in detention.<sup>4</sup> Those detained continue to be subject to “extrajudicial punishments,” such as enforced disappearances, beatings, and deprivation of food, water, and sleep.<sup>5</sup> In some cases, such punishments have resulted in broken bones or other serious injuries, even death.

Meanwhile, the Chinese government has continued to expand its efforts outside of its detention centers and prisons to control and discredit the religious clergy, ban religious ceremonies, and censor the distribution of religious literature.<sup>6</sup> The government continues to intimidate, and even imprison or disbar, those who support the assertion of religious freedoms, such as attorneys.

In 2011, the US Commission on International Religious Freedom (USCIRF), an independent, bipartisan U.S. federal government commission, again recommended that China be designated by the U.S. Department of State as a “country of particular concern” (CPC) based on its continued “egregious” and “systemic” violation of religious freedom.<sup>7</sup>

## **TIBETAN IDENTITY AND RELIGION**

Buddhism was first introduced to Tibet in the late 6<sup>th</sup> Century. By the 8<sup>th</sup> Century, Buddhism was adopted as the official religion of the state.<sup>8</sup> Since that time, Buddhism not only became the dominant religion of the Tibetan people but also a fundamental part of Tibetan identity. Before the Chinese invasion in 1949, religion influenced all spheres of Tibetan life, public and private. It is estimated that twenty percent of the population were either monks or nuns.<sup>9</sup>

Despite Buddhism’s long history in Tibet, the Chinese government has made curious attempts to define Tibetan Buddhism as an outside influence while at the same time maintaining that the Tibetan populace is part of the Chinese nation. In 1997, Chen Kuiyuan, a TAR Party Secretary, labeled Buddhism a foreign import, distinct from Tibetan culture.<sup>10</sup> The Tibetan spiritual leader the Dalai Lama has been framed as a separatist and an ally of foreign forces who are attempting to “split” the country.<sup>11</sup> In fact, mere disagreement with the way in which the authorities want Buddhism to be practiced is often labeled a separatist attitude.<sup>12</sup> Such propaganda, however, has proved fruitless because it ignores centuries of development that has inextricably linked Tibetan identity with Buddhism.

Monasteries were crucial in developing the socio-economic structure of Tibetan society. Clergy would travel between monasteries to share and transmit knowledge, developing networks throughout Tibet. In part because of this situation, the monastery evolved into its multi-faceted role as not just a spiritual and educational centre but also as a point of political power. The clergy played a role in shaping political affairs and many monks even held political posts.<sup>13</sup> Before he gave up his formal political authority in March 2011, the Dalai Lama acted as both the spiritual and political leader of the Tibetan people. Even without a formal political position, religious clergy have always garnered great respect and devotion from the populace.<sup>14</sup> Aside from the role of clergy in informing political power, religious leaders played a key role in public life, especially when it involved issues of moral authority, such as local dispute resolution. As a result, the Chinese government has come to equate Tibetan Buddhism with particular suspicion leading to greater crackdowns on religious practice. The majority of political prisoners in Tibet have always been Tibetan monks and nuns.<sup>15</sup>

## INTERNATIONAL STANDARDS

The Universal Declaration of Human Rights (UDHR) sets out the fundamental international standard for freedom of religion. Under the Article 18 of the UDHR “[e]veryone has the right to freedom of ... religion; this right includes freedom to change ... [one’s] religion or belief, and freedom ... to manifest his religion or belief in teaching, practice, worship and observance.” Article 18 of the International Covenant on Civil and Political Rights (ICCPR) adds to the international standard in also holding that “no one should be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.”<sup>16</sup> In the General Comments on “The Right to Freedom of Thought, Conscience, Religion” (“General Comments”), the UN Human Rights Committee (HRC) elaborated on the international standard created by the ICCPR, holding that the right to freedom of religion and belief is absolute and cannot be subject to derogation, “even in time of public emergency.”<sup>17</sup>

While the right to freedom of belief is absolute, the right to manifest one’s belief through action is qualified, though the right is still broad in scope. According to the UDHR, everyone has the right “to manifest his religion or belief in teaching, practice, worship, and observance.” In 1993, the HRC’s General Comments extended the right to manifest religion to include a broad range of acts, including “ceremonial acts giving direct expression of belief,” such as, the display of symbols, the observance of holidays, as well as customs associated with such beliefs, like a particular style of clothing or use of a certain language. Additionally, the practice and teaching of religion include the protection of “acts integral to the conduct by religious groups of their basic affairs,” such as the freedom to choose religious leaders, establish institutions for religious learning, and the freedom to prepare and distribute religious literature. The ICCPR does, however, recognize that the right to manifest (in other words, practice) one’s beliefs may be subject to limitations. According to the General Comments, limitations

on the manifestation of religion must abide by each of the following:

1. Be proscribed by law.
2. Be necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.
3. Be directly-related and proportionate to the specific needs on which the limitation is predicated.
4. Not be imposed for discriminatory purposes or applied in a discriminatory manner.

Under the General Comments even the justification of national security is not necessarily enough. The limitation must also not be applied in a manner that would vitiate the rights already guaranteed in Article 18 of the ICCPR. In other words, a state cannot create a system of legal limitations that effectively undermine the religious freedoms protected under international law.

## RELIGION WITH PATRIOTISM

‘In Tibet, people can believe whatever they want as long as it is legal.’

*-Lhasa mayor Dorje Tsedrub in March 2010<sup>18</sup>*

Domestic Chinese law that guarantees freedom of religion is limited. Under Article 36 of the Constitution, citizens of China enjoy “freedom of religious belief” such that “[n]o state organ, public organization or individual may compel citizens to believe in, or not to believe in, any religion.” Neither the government nor an individual may “discriminate against citizens who believe in, or do not believe in, any religion.” Yet such a provision must be read in the context of the entire Constitution. For example, Article 55 states:

The exercise by citizens of the People’s Republic of China of their freedoms and rights may not infringe upon the interests of the state, of society and of the collective, or upon the lawful freedoms and rights of other citizens.

In fact, Article 33 of the Constitution requires citizens to “perform the duties prescribed by the Constitution and the law.” The duties imposed include safeguarding the unity of the country and the unity of all its nationalities under Article 52, and safeguarding the security, honor, and interests of the [Chinese] motherland under Article 54. In other words, religion may be acceptable, even protected, but only to the extent that it is completely subordinate to the interests of the government.

The right to the manifestation of religious belief is protected to the extent that it is limited to “normal religious activities.” Neither the Constitution nor other laws define “normal religious activity,” except that it is required that “[n]o one may make use of religion to engage in activities that disrupt public order, impair the health of citizens or interfere with the educational system of the state.”<sup>19</sup> As with other freedoms under the Constitution, it is not possible

to sue the government on the basis of even the limited religious protections provided within the Constitution.<sup>20</sup>

The vagueness of the restriction of religious practice to “normal religious activity” confers a lot of discretion upon the various agencies that have been created by the government to manage the practice of religion. In 2010, Du Qinglin, Director of the Central United Work Front Department, stated that administrative controls relating to the management of monasteries, in particular by the Democratic Management Committees (DMCs), are “essential to the adaptation of Tibetan Buddhism and socialist society to each other.” It is within the walls of the monastery that the government has been the most invasive. Through a series of complex administrative regulations, the government is truly attempting to alter and subjugate Tibetan Buddhism while blatantly violating international law.



Monks and laypeople thronged in large number to pay last respect to the funeral 21-year old monk Phuntsog, who set himself on fire on March 16, 2011, to protest against Chinese government repression in Tibet.

## FOG OF CHINESE PROPAGANDA

“[The monasteries] have lost their function and significance as religious organizations.”

*-The 10<sup>th</sup> Panchen Lama in Gonpo Tseten*<sup>21</sup>

A casual visitor to Tibetan areas may see monks and nuns in monasteries, religious ceremonies, and daily manifestations of belief without realizing the degree to which Tibetan Buddhism has been suppressed. Such outward appearances are just one of many manifestations of the Chinese government’s propaganda war against critics who accuse China of violating religious freedoms within its borders.

According to a White Paper issued in July 2011 by the Information Office of the State Council entitled “Sixty Years Since Peaceful Liberation of Tibet,” the TAR currently has more than 1,700 religious venues with roughly 46,000 monks and nuns.<sup>22</sup> The government has funded 1.45 billion Yuan (about US\$ 224 million) to maintain the Potala Palace, in addition to monasteries and other historical sites and cultural relics. While it is clear that the restoration of temples and other material aspects of Buddhist culture are being preserved to present a positive face to the world, aside from the financial benefits of increased tourism there is no evidence that revenue is going to support anything more than a façade of religious freedom in Tibet.

Indeed, monks and nuns testify to a different story: According to some reports, visitors to Lhasa are carefully orchestrated through religious arenas.<sup>23</sup> Monks and nuns get briefings on proper behavior prior to visits by foreigners. Failure to project a positive image results in punishment.

Prior to China’s 1949 invasion of Tibet, there were over 6,000 monasteries throughout the country accommodating around 600,000 monks and nuns.<sup>24</sup> During the Cultural Revolution, a vast majority of these monasteries were looted and destroyed.<sup>25</sup> As a result, the Tibetan monastic population was reduced by an astonishing 93

percent while 95 percent of Tibet’s cultural heritage was lost.<sup>26</sup> When the Cultural Revolution ended, the Chinese government eventually realized that the recognizing some religious freedoms would be a more practical.

In 1982, the Chinese government announced in a policy statement (“Document 19: The Basic Viewpoint and Policy on the Religious Question during Our Country’s Socialist Period”) that its approach of “direct coercion” during the Cultural Revolution was an “inappropriate and ineffective approach to addressing religious issues.”<sup>27</sup> Instead, the government announced a basic policy of “respect” for and “protection” of religious belief but reaffirmed its long-held position that religion is a “backwards” belief system. In its policy statement, the government announced a long-term plan to end religious practice through government policies such as education reform.<sup>28</sup> So although the government appeared to relax its grip on Tibetan Buddhism during the 1980’s and early 90’s as China attempted to establish itself as a legitimate world power, the fundamental governmental hostility towards religion remained the same. In 1996, a series of rigorous implementation policies were introduced in order to bring Tibetan monasteries under greater government control.<sup>29</sup> Since then, the government has continued in its attempts to minimize the influence of religion through active suppression, surveillance, intervention, and guidance of religious life.

The lack of bona fide Tibetan religious leadership, particularly in the public sphere, is one of the most troublesome developments of Chinese control because it prevents the dissemination of religious education and, fundamentally, interferes with religious belief and practice. Without genuine religious leadership, formal religious institutions are rendered increasingly meaningless in the eyes of the Tibetan people. Many religious leaders have been forced to flee into exile for various reasons. For example, Ugyen Trinley Dorje, the 17th Karmapa and head of the Kagyu School of Buddhism,

explained his escape into exile at 14 years of age in 1999 as a result of his fear that “the Chinese government would have assigned [him] political duties as [he] became older.”<sup>30</sup> The heads of all four traditions of Tibetan Buddhism and the indigenous Bon remain in exile.<sup>31</sup>

The number of monks and nuns in monasteries remains difficult to calculate due to a fluctuating population. Enforced disappearances, imprisonment, and monks and nuns who have fled into exile have depleted the monastic population, and the “widespread practice” of unregistered monks and nuns residing at monasteries distorts official estimates of the actual number of residents in a monastery.<sup>32</sup> As it stands, the Tibetan monastic population is believed to be significantly lower than before the March 2008 crackdown.

What one cannot observe on a simple visit to Tibetan areas are the various systems of administrative controls that prevent meaningful religious activity in and outside of the monasteries. Nor can a visitor hear from the monks and nuns who are in prison for freely exercising their beliefs. Yet, every so often, the world is given a glimpse into the plight of Tibetan monks and nuns in the form of self-immolation protests, publications, and oral and physical testimonies of those who have fled into exile.

## ADMINISTRATIVE CONTROL OF BUDDHIST MONASTERIES

Tibetan Buddhist groups are required to register with the Buddhist Association of China (BAC). In 2010, the BAC issued the “Measures for Confirming the Credentials of Tibetan Buddhist Professional Religious Personnel,” further demanding the registration (or in some cases, the re-registration) of religious personnel according to unspecified personal, professional, and political criteria. This law is yet another means to ensure that religious practitioners comply with official ideology. In the government’s own words, the BAC is a “patriotic

religious organization” under the leadership of the Chinese Communist Party (CCP), serving as a link between the government and believers.<sup>33</sup> The BAC, however, is one of many links set up within the system to connect the government and religious believers.

At the national level the State Administration for Religious Affairs (SARA) was created in 1998 with the primary function being to “ensure that citizens with religious belief conduct normal religious behavior.” Along with the United Front Work Department (UFWD), SARA is primarily responsible for developing religious management policies.

At the local level, branches of UFWD, SARA, and the BAC coordinate the implementation of religious administration policies with the Democratic Management Committees (DMC), which is instituted in every monastery and nunnery.<sup>34</sup> Rather than traditional monastic bodies governing the administrative aspects of the monastery, only “patriotic monks” fully vetted by the government are appointed. Often these individuals maintain close political relationships with government officials. In some places, Communist party cadres and government officials are installed instead of a religious practitioner.<sup>35</sup> Given its close contact with daily monastic life, the DMC is one of the key ways through which the government asserts its control of institutionalized religious practice in Tibetan.

The National Regulations on Religious Affairs (NRRA), which governs religious activity, is a set of regulations that are responsible for many of the current conditions that violate religious freedom in PRC today.<sup>36</sup> First issued in March 2005, the NRRA was primarily enacted to establish greater control over religious practice through extensive administrative regulations. Inclusive in the measures was the establishment of religious associations and educational institutions, as well as the regulation of religious activities, personnel, property, outdoor religious ceremonies, and public events.



Consistent with the Chinese Constitution, the NRRA protects “normal religious activity.” It also contains national security provisions that could be used to justify crackdowns on even peaceful religious activity. In 2007, the TAR Implementation of the Religious Affairs Regulations (hereinafter “Implementing Regulations”) was enacted to enhance the 2005 NRAA regulations in the TAR. The Implementing Regulations also went a step further by placing an affirmative duty on government officials to lead religious followers and organizations to be patriotic and protect the State by guiding religion in a manner deemed “appropriate” for a socialist country.<sup>37</sup> In January 2011, SARA issued a document outlining its goals for the upcoming year, affirming the continuing strategy of maintaining extensive government supervision and control over religious communities.<sup>38</sup>

## **CONTROLLING THE MONASTIC POPULATION**

Through a series of policies, the Chinese government has attempted to control the monastic population by limiting its size and keeping records on each individual. Each monastery is required to comply with an annual government quota on the issuance of permits for new monks. Authorities have also instituted the practice of issuing identification cards for monks and nuns in some monasteries.<sup>39</sup> These cards help the authorities keep track of the monastic population. The identification cards also serve as a way to more easily label and punish those who refuse to cooperate with the government. In some cases, the identification cards are categorized by color, indicating the degree to which a monastic resident has been politically compliant. Successful participation in legal education campaigns leads to the issuance of a red card indicating a “permanent” status at the monastery. This leads to benefits such as less travel restrictions and the right to receive traditional donations from laypeople.

Police frequently patrol the inside of monasteries.<sup>40</sup> Some monasteries have reported that the government has installed security cameras in common areas,<sup>41</sup> and in some monks’ living quarters.<sup>42</sup> Police stations have been built directly next to, and in some cases, inside, monasteries to maintain closer control.<sup>43</sup> During sensitive anniversaries or following demonstrations, police block the entrances to local monasteries so that no one and nothing can enter or leave, even food.<sup>44</sup>

Human Rights Watch reports the dramatic increase in police presence in Ngaba as one of the main reasons that have led to an escalation of tensions and self-immolations by the local monastic community.<sup>45</sup>

The policy to ban anyone under the age of 18 from joining a monastery has proved particularly disruptive. Early religious life is key to a monk’s or nun’s development. The process of becoming a proficient practitioner traditionally requires intensive study and practice. The age-ban has been used as yet another tool to discourage Tibetans from joining a monastery and hinder the religious development of religious practitioners.

Despite various regulations, however, there are many “unofficial” monks and nuns who comprise the monastic population. These “unregistered” monks and nuns are limited in their degree of participation in monastic life, including being unable to attend more conspicuous religious ceremonies such as the prayer assemblies. Such individuals are forced to leave the monastery when there is a risk of government detection.<sup>46</sup>

## THE “LEGAL EDUCATION” CAMPAIGNS

Until recently, “legal education” campaigns were more commonly known as “patriotic re-education.”<sup>47</sup> While a barrage of international criticism regarding the campaigns led to a change in name, the substantive core of the program remains the same. Also known as “love your country, love your religion,” campaign, the “legal education” programs refer to a series of aggressive “educational” sessions, aimed primarily at monks and nuns, with the goal of subordinating Buddhist belief to official ideology.

As the slogan “love your country, love your religion” suggests, the key objective of each campaign is to instill love “for the Chinese motherland.” In practice, participants are forced to manifest assent to government ideology through various activities, such as destroying a picture of the Dalai Lama and passing ideological exams. Past sessions have involved the study of four sections: Law, The History of Tibet, Crushing the Separatist, and Contemporary Policies. These sessions include following pledges: (1) to oppose separatism; (2) to agree that Tibet has never been, nor should it be, independent of China; (3) to agree that the Dalai Lama is destroying the “unity of the Motherland;” and (4) to recognize the Chinese-appointed Panchen Lama, Gyaltzen Norbu, as the true Panchen Lama.<sup>48</sup> Those who refuse to participate may be subject to a variety of punishments including fines, further patriotic education sessions, beatings, detention, imprisonment, and even expulsion from one’s monastery.<sup>49</sup>

First implemented in 1996, the “patriotic re-education” campaign was established under the aegis of the “Strike Hard” campaign.<sup>50</sup> The latter was touted as a crackdown down on crime and corruption but was more commonly used to stamp out political dissent. In 1997, the campaign was extended within agricultural communities, towns, cities, government organs, and schools with the belief that “if the patriotic re-education is carried

out only in the temples, then the instability will continue.”<sup>51</sup>

Although now being implemented among lay people, “legal education” campaigns are still primarily directed at monasteries to reshape institutional Buddhist belief and practice. A single campaign may last from five days to four months, depending on the degree to which a monastery has been deemed a political threat. The campaigns can be so disruptive and traumatic that monks and nuns have fled or gone into hiding or suffered punishments including imprisonment. Some have even committed suicide to protest the campaign, as was the case on 20 July 2010 when a 70-year-old monk named Ngawang Gyatso, from Rongpo monastery in the TAR, committed suicide due to pressure from continuous “legal education” sessions at the monastery.<sup>52</sup>

China reports that so far some 30,000 of Tibet’s 46,000 Buddhist monks and nuns have received “patriotic re-education,” and out of 1,787 monasteries and temples, 1,780 monasteries and temples have been covered by the work-teams.<sup>53</sup> The campaigns have intensified throughout Tibet after a series of self-immolation protests.

The Chinese government justifies the campaigns on the grounds of “national security.”<sup>54</sup> Each program aims to promote “unity” and “love for the Chinese motherland.” Under international law, legal education is clear infringement of religious freedoms without a legally acceptable justification. In fact, the HRC has stated that “[i]f a set of beliefs is treated as official ideology ... this shall not result in any impairment of the [religious] freedoms... nor in any discrimination against persons who do not accept the official ideology or who oppose it.” The PRC’s “legal education” campaigns not only serve to “impair” Tibetan Buddhist practice, but go a step further in the attempt to coerce religious believers to accept the State’s political ideology.

For those who do not comply with the requirements of campaigns, severe punishments such as enforced disappearance and detention can result in direct physical torture. Notably, “legal education” has become a form of punishment in and of itself. It often necessitates the use of enforced confinement and coercion. Even under the label “education,” the manner in which it is implemented still violates international law as well as the Chinese Constitution. Article 37 of the Constitution prohibits “[u]nlawful deprivation or restriction of citizens’ freedom of the person by detention or other means.” Particularly brutal instances of the “education sessions” can result in severe psychological effects, easily amounting to a violation of the prohibition against cruel, inhuman or degrading treatment, and even torture.

Even though “legal education” campaigns can be considered a mechanism to secure the compliance of religious believers, it should not be underestimated as an ideological attempt to completely transform, if not ultimately end, the practice of Tibetan Buddhism.

## MODEL MONASTERY

On 30 October 2011, in a TAR Communist Party meeting, a new strategy to further intensify official control over Tibetan monasteries and nunneries in TAR, along with the law-abiding patriotic re-education principles, was approved.<sup>55</sup> In addition to holding an annual contest for the “Model Monastery” in TAR, the meeting decided on principles that prohibit all monasteries and nunneries to engage in any activities deemed to create social disturbances. Further, all monks and nuns “should oppose strongly against the Dalai cliques.”

Half-yearly assessment will be carried out in all monasteries and nunneries and an annual award is promised to be given to the one that best obeys all rules set by the Chinese government.<sup>56</sup> That “winner” shall be labeled the “Model Monastery” whose students will be given certificates and monetary rewards. This “Model Monastery” will stand as an example for the others to follow and strive for.



Chinese armed forces patrolling the street of Ngaba County, Sichuan Province.



TAR Party Secretary Chen Quanguo meeting the Tibetan lamas and trulkus during the meeting of Democratic Management Committee ( DMC) members on September 2011.

Ten days earlier (on 20 October), the Tibetan Buddhism Institute was inaugurated in Chushul County, Lhasa (TAR). During his visit there, the TAR Party Secretary Chen Quanguo said that the university should “aim high in producing monks who are well educated about “Dalai clique” and other “other national splittist plots”.

On 28 October, during the Buddhist Association Forum held in Lhasa, Chen reaffirmed official stand for criticizing the “Dalai Cliques” and to “resolutely eliminate the 14<sup>th</sup> Dalai Lama in Tibetan Buddhism”, adding more emphasis on strengthening the management and to deploy ideas for building “harmonious Model Monastery”.<sup>57</sup>

### ANTI-DALAI LAMA CAMPAIGN

One of the most traumatizing aspects of the “legal education” sessions is the requirement that Tibetans denounce their spiritual leader: the Dalai Lama. Tibetans have been forced to violate a fundamental aspect of their religious beliefs in being compelled to denounce their religious leader. This includes such acts as stepping on a picture of the Dalai Lama or otherwise desecrating his image. Since 1994, images of the Dalai Lama have been banned from display, and in many cases, even the personal possession of his image is prohibited.<sup>58</sup> The possession of the Dalai Lama’s image could result in a fine and even a prison sentence.<sup>59</sup> Similarly, religious practices, such as the observance of the Dalai Lama’s birthday or prayers for his long life have also been subject to the same charges typically reserved for political dissent, such as, “disrupting the unity of the country” or “splittism.”

For example, Dorgay, a monk from Shabten Monastery in Nagchu County, was arrested on 6 July 2011.<sup>60</sup> The events that led to his arrest included praying for the long life of the Dalai Lama and tying white scarves on trees, electric poles, and other objects in the area in celebration of the 76th birthday of the Dalai Lama.

For hundreds of years, the Tibetan people have revered the Dalai Lama as the reincarnation of the Buddha of Compassion, *Chenrezig*, who continues to reincarnate in human form for the benefit of all sentient beings. The 14<sup>th</sup> Dalai Lama became the leader of the Tibetan people long before the Chinese invasion. The present Dalai Lama, Tenzin Gyatso, was recognized as the fourteenth reincarnation at two years old in eastern Tibet. He assumed his position as the head of the Tibetan government in 1950 but was forced to escape into exile following Chinese invasion in 1959.<sup>61</sup> In exile, the Dalai Lama has become known internationally for his role in promoting nonviolence, inter-faith understanding, and world peace. In 1989, he received the Nobel Peace Prize “for his consistent resistance to the use of violence in his people’s struggle to regain their liberty.”<sup>62</sup> The Dalai Lama has repeatedly stated that he does not seek Tibetan independence from China but rather genuine autonomy.<sup>63</sup> While the Dalai Lama has served as the political head of the exiled Tibetan administration for decades, he formally renounced his political authority in March 2011. The Dalai Lama’s recent decision to devolve political power to a democratically-elected Kalon Tripa (Prime Minister) will serve only to highlight the Dalai Lama’s role as spiritual, rather than political, leader in the future.

**Meanwhile, the Chinese government** has repeatedly attacked the Dalai Lama, calling him a “monk in wolf’s robes” and “a monster with human face.”<sup>64</sup> Since the Dalai Lama lives in exile and is supported in his quest for Tibetan autonomy by the majority of the international community, he is often framed as being an “outsider” or subject to “foreign influences.” Even though the Dalai

Lama has repeatedly stated that he is not seeking independence but a “middle way” involving genuine autonomy for the Tibetan people, the Chinese government maintains that the Dalai Lama is a “separatist.” Former TAR Communist Party Secretary Zhang Qingli toed the party line by stating that the Dalai Lama is “the main source of harm to the stability of Tibetan society.”<sup>65</sup>

China has constantly attempted to highlight the role of the Dalai Lama as a political figure while downplaying his traditional position as spiritual leader. In 2009, the “Tibet Branch” of the BAC amended its charter with a description of the Dalai Lama as “the ringleader of the separatist political association” that seeks “independence for Tibet” and is a “loyal tool of anti-China Western forces.”<sup>66</sup> When China refers to the Dalai Lama’s political associates, this specifically refers to the Tibetan organizations based in exile with the Dalai Lama in India (also known as “the Dalai Clique”). It is the “Dalai Clique” that is blamed for being the “very root that causes social unrest in Tibet and the biggest obstacle for Tibetan Buddhism to build up its order.”<sup>67</sup>

The “Dalai Clique” is often accused of being an instigating party to any protests that occur in Tibet. In 2008, China was quick to blame the “Dalai Clique” for inciting the protestors despite lack of evidence to support this opinion. This over-politicization of the Dalai Lama provides a convenient tool to criminalize political opposition to the Chinese government and to dismiss Tibetan dissent as the result of “outside influences.”

However, the attempts to demonize and alienate the Dalai Lama within the Tibetan population have met with little success. During an important Buddhist ceremony (*Kalachakra*) in India in 2006, the Dalai Lama appealed for the end of the common practice of hunting or purchasing of animals skins to decorate clothing in Tibet.<sup>68</sup> Reports of his statement reached Tibet and resulted in the mass burning of fur and other animal products on a

grand scale by Tibetans all over Tibet. The response was so spontaneous, sudden, and widespread that it revealed the considerable moral authority the Dalai Lama still commands among the Tibetan people. The “Anti-Dalai Lama” campaign has further distanced the Chinese government from the Tibetan people. In 2008, almost all protestors used slogans that demonstrated support for the Dalai Lama. In 2011, the common slogans shouted by the self-immolating Tibetans included the “Return of the Dalai Lama to Tibet”.

## REINCARNATION

Since the 12<sup>th</sup> century, Tibetan Buddhists have maintained a lineage system of important religious practitioners who choose the manner of his or her rebirth (or reincarnation). These reincarnated practitioners, often high-ranking religious practitioners, such as the Dalai Lama, are known as “*tulkus*.” They are reborn in order to transmit key teachings from one generation to the next. Each monastery desires to have at least one *tulku* in residence. Since the Chinese invasion of Tibet, the Chinese government has interfered with the process of the reincarnation of important teachers. In 2007, SARA passed the “Management Measures for the Reincarnation of Living Buddhas” (hereinafter “Order Number Five”), formalizing the practice of government intervention in the installation of Tibetan Buddhist reincarnations.

### Order Number Five establishes a legal framework for the government to determine the following:

1. Whether a particular individual who dies can be reincarnated.
2. Whether a monastery is entitled to have a *tulku* in residence.
3. Whether an individual is to be recognized as a *tulku*.

Additionally, the regulation establishes government control of the following:

1. Conducting the search for the *tulku*.
2. The installation ceremony of the *tulku* at a particular monastery.

3. Providing future religious training for the *tulku*.

Even without affiliation with a specific monastery, a *tulku* is prohibited from functioning without government permission. They must also follow basic political requirements in order to be accepted. Under Article 2 of Order Number Five, involved parties must consider the selection of a *tulku* in light of preserving “national unity” and the “solidarity of all ethnic groups.”

Order Number Five is yet another means to subordinate Tibetan Buddhism to the State authority. The requirement that the selection process must not involve the influence of any individual or group outside of the country isolates Tibetan Buddhists in China from the traditional religious practitioners who have escaped official influence by living abroad.

According to China’s official narrative, from which the government derives its authority, in 1793, the government of the Qing Empire established a procedure of drawing names from a golden urn.<sup>69</sup> In the case of high-profile *tulkus*, the name of the individual drawn from the urn further had to be approved by the central government before being officially recognized as a *tulku*. The Chinese government maintains that where appropriate, it has the authority to exempt a *tulku* from the golden urn ritual.

Despite the legal framework and historical precedent, Tibetans have used the traditional religious methods since the 12<sup>th</sup> Century. *Tulkus* are traditionally identified by their main disciples. The Tibetan reincarnation process involves the interpretation of predictions made by the last human manifestation of the sought-after *tulku*; the conducting of tests on possible candidates; and the consultation of oracles.<sup>70</sup> Tibetan Buddhists do not rely on the bureaucratic procedures of an atheist government. Where China relies on historical events, it only serves to highlight how it has failed

to co-opt the selection process in the hearts and minds of Tibetans for over two hundred years.

According to the HRC, “the ability to freely choose religious leaders, priests and teachers is a core element of the ability to manifest religious belief through practice and teaching.”<sup>71</sup> Nonetheless the Chinese government continues to intervene in the search, recognition, installation, and education of reincarnated Tibetan Buddhist teachers.

### **Case Study: The Panchen Lama**

The Panchen Lama is a high-profile example of the Chinese government’s involvement in the reincarnation process. After the Dalai Lama, the Panchen Lama is the most important figure in the Gelug school of Tibetan Buddhism. When the Dalai Lama escaped to India, the government focused on grooming the previous 10<sup>th</sup> Panchen Lama, placing him in political positions, including as a member of the Standing Committee of the National People’s Congress.<sup>72</sup> Efforts to control the 10<sup>th</sup> Panchen Lama failed, however, as he eventually spoke out against the government. As a result, he suffered over a decade of imprisonment.

When the 10<sup>th</sup> Panchen Lama died in 1989, the Dalai Lama recognized the reincarnation as Gedhun Choekyi Nyima, a five-year-old boy in Tibet in 1995. The Chinese government declared the Dalai Lama’s choice to be invalid. Just days after the recognition, the Chinese authorities took the 11<sup>th</sup> Panchen Lama and his family to an undisclosed location. Despite attempts from the international community to confirm their well-being, their whereabouts remain unknown.

According to Pema Trinley, the Chairman of the TAR government, Gedhun Choekyi Nyima and his family “are now living a very good life in Tibet. He and his family are reluctant to be disturbed. They want to live an ordinary life.”<sup>73</sup>

Gedhun Choekyi Nyima is one of the highest-profile cases of enforced disappearance in Tibet.

Meanwhile, the Chinese government installed Gyaltzen Norbu as the 11<sup>th</sup> Panchen Lama in December 1995. As the state-sponsored choice, Norbu became known among Tibetans as the “Panchen zuma” (translated as the “fake Panchen”).<sup>74</sup> This perception has been further affirmed as he consistently makes public statements in favor of the Chinese government. In March 2009, Norbu stated that: “Tibetan people could only achieve progress and have a bright future under the leadership of [the] Communist Party of China.”<sup>75</sup> The fact that Gyaltzen Norbu is the son of two Communist Party members and was raised and educated in Beijing has only hindered his struggle for acceptance among the Tibetan people as anything other than a government puppet.

Norbu’s occasional visits to Tibet are carefully stage-managed and heavily-policed. On 11 August 2011, during a visit to the northwestern province of Gansu, a crowd was allegedly forced to greet Norbu with “prayer flags and smiles.”<sup>76</sup> Prior to Norbu’s arrival, foreign tourists were told to leave the area and police were stationed across town. One scholar, who requested to remain anonymous, commented on this event by noting that: “if this was the real Panchen Lama, the whole town would have lined up for hours just to see him.”<sup>77</sup> According to senior Lamas at Labrang Monastery, monks were ordered to receive the Panchen Lama at a reception hall. Although he was welcomed, monks allegedly showed their disagreement by speaking loudly during his reception. The difficulties that the government has faced in legitimizing its choice of the 11<sup>th</sup> Panchen Lama underscore how little credence is given to the Chinese process of selecting and installing a reincarnation.

The reincarnation of the 11<sup>th</sup> Panchen Lama became a crucial issue for the authorities not only because he is an important religious figure but also because the Panchen Lama traditionally recognizes the Dalai Lama’s next reincarnation. The two figures have been linked together for centuries; the Panchen Lama is considered the “moon” and the

Dalai Lama the “sun.” Historically, the two leaders would interact, with the elder of the two playing key roles in the recognition and education of the other. Thus, one of the major controversies surrounding the missing Panchen Lama is the fact that the Panchen Lama is supposed to play a decisive role in the recognition of the next religious leader of all of the Tibetan people.

### The Dalai Lama’s Reincarnation

“The Chinese government most probably will appoint another Dalai Lama, like it did with the Panchen Lama. Then there will be two Dalai Lamas: one, the Dalai Lama in Tibetan heart, and one that is officially appointed.”

-*The 14th Dalai Lama*<sup>78</sup>

For years, the Chinese government has been laying the foundation for the recognition of the next Dalai Lama. Nonetheless, in keeping with the Tibetan tradition, the Dalai Lama affirms that he has the “sole legitimate authority” over his reincarnation. The Dalai Lama has rejected China’s “enforcement of various inappropriate methods for recognizing reincarnations” as a “detailed strategy to deceive Tibetans, followers of Tibetan Buddhist tradition and the world community.”<sup>79</sup> The Dalai Lama has announced his intention to “consult the high lamas of the Tibetan Buddhist traditions, the Tibetan public, and other concerned people who follow Tibetan Buddhism” in order to “re-evaluate whether the institution of the Dalai Lama should continue or not.”

Meanwhile, China continues to maintain that it “will never approve” a Dalai Lama unless the government supervises the Dalai Lama’s selection. In 2009, Jampa Phuntsog, Chairman of the TAR government, stated publicly that the Dalai Lama must not interfere with the so-called “historical conventions and required religious rituals” in selecting reincarnated Buddhist teachers.<sup>80</sup> It is possible, given the government’s reaction to the 11<sup>th</sup> Panchen Lama and the Tibetan people’s reaction

to the “Panchen zuma,” that the future may bring two Dalai Lama’s, one genuinely supported by the Tibetan people and one that is imposed by the Chinese government.

### RESTRICTIONS ON THE OBSERVANCE OF RELIGIOUS EVENTS

The basic freedom to worship is limited in various ways. Monasteries are required to seek permission for large or important religious events. But the Chinese government has refused to authorize permits for major religious events out of concern that larger gatherings would lead to protests. Not only is this rationale a violation of the freedom of association, it is an infringement on one’s freedom to worship. International law permits restrictions on public gatherings, but not to the extent of a total ban.<sup>81</sup> The restrictions on worship even extend to the rights of monks and nuns to observe key religious practices within monastic walls.

### Case Study: The Saka Dawa Protests

*Saka Dawa* is one of the holiest Buddhist festivals that celebrates the birth, enlightenment, and *parinirvana* (death) of Lord Buddha. Tibetan Buddhists observe the sacred *Saka Dawa* month as “the month of merits”. The 15th day of *Saka Dawa* is traditionally observed by fasting (*Nyung Ne*). At the Drepung Monastery in central Tibet, despite the prohibition against the observance of *Saka Dawa*-related events since 2008, this year people flocked to the monastery to prepare for the observance of *Nyung Ne*.<sup>82</sup> Official Work Teams and the monastery police soon arrived and ordered monks, nuns, and laypeople to cease their preparations. Police were stationed inside and around the monastery. It was reported that roughly 60 officials were stationed in the monastery to conduct “legal education.”

In 2011, in Kardze Tibetan Autonomous Prefecture, a series of protests erupted during *Saka Dawa*. At least 39 Tibetans were arrested for calling for a “free Tibet” as well as for the “long life the Dalai Lama”



and the “return of the Dalai Lama to Tibet.”<sup>83</sup> Thousands of security troops in riot gear were deployed in Kardze following the protests.

A foreign tourist in Kardze at the time describes the tense situation:<sup>84</sup>

I was in Ganzi (Tibetan: Kardze) twice. The first time, there were half the numbers of police/army. The second time, a week later, it was quite tense. There were rumors of monks calling for “free Tibet” so perhaps that’s why the numbers had increased. On the way back into Ganzi the second time, our vehicle was stopped twice on the outskirts ... looking for monks/nuns and foreigners. They were taking down identification card details of all monks/nuns entering Ganzi.

There is a large prison in town full of Tibetan political prisoners. In the evenings, they show a segment on TV of the prisoners repenting their crimes, after being beaten into submission. One was an old nomad lady ... [of] about 80, crippled and bent over. Her three sons had been killed and she came into town to shout ‘free Tibet.’

The Office of the High Commissioner for Human Rights (OHCHR) has specifically noted that the freedom to manifest religion encompasses “a broad range of acts” including ceremonial acts that both give direct expression to belief and those acts which are integral to the expression of belief.<sup>85</sup> The OHCHR also specifically listed that the observance of holidays and customs, like dietary restrictions,



His Holiness the Dalai Lama portrait being placed in Lighthang, during the religious festival (Tib: Jang Gondchen) in May 2011.

should be protected. As noted before, international law does not accept vague legal framework that permits a crackdown on protected religious acts without sufficient justification.

The justification of “instability” does not mean that a government can issue a total ban on religious ceremonies where it is not strictly *necessary* to maintain order. The convenience of banning religious practice altogether is astounding and incomprehensible when the practice, such as *Saka Dawa*, poses no direct political threat.

should not require the suffering of countless monks, nuns, and laypeople to demonstrate that the official attempt to destroy Tibetan Buddhism in the hearts and minds of the Tibetan people is not working, nor will it ever work.

## CONCLUSION

In addition to the dramatic protests involving self-immolations in Tibet, 2011 brought many other forms of protest against religious policies within China, often initiated by a few monks and nuns. The government continues to try to isolate, punish, and blame those who do not cooperate, all under the guise of the law. Indeed, the constitutional protection of religious practice, limited to only the “normal order” of religious activity, may sound good on paper, but remains, in reality, elusive, if not nonexistent. Even worse, the phrase “normal order” is so poorly defined under Chinese law that it can be, and has been, used as a loophole to permit the suppression of virtually any kind of opposition to the government.

The development of a complex and extensive use of legal and administrative framework relating to Tibetan Buddhism should not be underestimated. While in the past China had visibly destroyed monasteries and religious artifacts, the current official strategy is far less visible. Through such regulations as controlling the reincarnation process and limiting the monastic population, the Chinese government is attempting to mould Tibetan Buddhism in line with the government ideology. While many government regulations have made strides to render some religious practices in China virtually meaningless, try as they might, the government has failed to co-opt religious belief. It

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# DEVELOPMENT

## INTRODUCTION

According to the recently issued White Paper by the People's Republic of China (PRC) titled "Sixty Years Since Peaceful Liberation of Tibet," "within six decades Tibet has achieved development that would normally call for a millennium."<sup>1</sup> The Paper alleges that prior to the Chinese invasion, Tibet was a stagnant place suffering from "masses liv[ing] in dire poverty." As a result of the Chinese government's policies, Tibet has witnessed a "historic leap" in its economic and social development. The PRC claims that it has prioritized ecological conservation and environmental protection to the extent that Tibet remains "one of the areas with the best environmental quality in the world." The White Paper heralds the government's policies of protecting natural forests, converting farmland into forest, and pastures into grassland. The PRC has maintained sustainable development "with economic growth and ecological protection advancing side by side." In sum, the Chinese government claims that under its leadership "the people of Tibet have created a miracle." Like many other self-congratulatory papers released by the government, a lot of evidence is lacking and many questions remain.

While the White Paper laudably recognizes genuine environmental concerns such as desertification, soil erosion, and geological disasters, it largely ignores the human cost of economic development and environmental protection in Tibet.

The United Nations Development Program's Human Development Index (HDI) is a comparative measure of different countries in areas such as life

expectancy, education, literacy and standards of living. In 2008, the HDI of Tibet Autonomous Region (TAR) ranked lowest at 0.630 against the national average of 0.793. The HDI difference between TAR and Shanghai is a whopping 44 percent.<sup>2</sup>

Overall, the PRC has experienced skyrocketing growth as its GDP has grown at an average of 9.8 percent per annum and per capita income has increased fifty-fold.<sup>3</sup> Roughly 500 million people have been allegedly lifted out of poverty.<sup>4</sup> In the last few years, China has moved from the third largest economy to the second largest economy in the world according to the World Bank.<sup>5</sup>

At the same time, data from the Asian Development Bank (ADB) indicates that China has one of the most uneven income distributions in all of Asia.<sup>6</sup> The government has publicly recognized the problem of economic inequality throughout China. Premier Wen Jiabao recently announced a plan to "basically eradicate poverty" by 2020.<sup>7</sup> He elaborated that the State Council is drafting a ten-year "poverty-reduction" plan to lift the poverty level. In early December, the PRC raised its national poverty line to 2,300 yuan a year.

Only time will tell whether or not the government can actually carry out this lofty promise. In light of the political sensitivity of the Tibetan situation in China, it is even less clear what these promises mean in terms of the genuine betterment of the lives of the average Tibetan.

As the White Paper indicated, money will continue to flow into Tibetan projects. Recently, on 13 September 2011, the government announced that it would spend 300 billion yuan (roughly USD 47 billion) on rapid development in the TAR over the next five years.<sup>8</sup> Nearly half of this massive investment will be in developing infrastructure like railways, roads, and hydropower stations. An additional 33 percent will be allocated to developing rural areas by constructing roads, irrigation systems, and developing housing, including the provision of tap water, gas, and electricity. Some of this investment will be dedicated to adequate health care and social welfare services for the rural population. It is not clear, however, how much exactly will go specifically to the human aspect of this development. A further 8 percent will be used towards the development of tourism, mining, stock-breeding, and agriculture. The Chinese government also proposes to invest five percent on environmental protection. Although the investment scheme proposes to invest in areas concerning the livelihood of Tibetans, such as vocational training, the government has not been clear about the breakdown of expenditures, including the unaccounted percentage points.

Even if large sums of money are invested in Tibetan livelihood, the issue remains whether the Chinese government will stick to its standard governmental practice of drafting plans for large-scale projects without the input of the local Tibetan population. In fact, one major reason for the failure of Chinese government policy in Tibet is attributed to a lack of transparency and consultation with local Tibetan residents before implementing any policies. So while the government is quick to highlight rapid growth in urban areas, infrastructure expansion, and a booming tourist industry, the consequences of development are far less often discussed and addressed.

Development has led to growing Chinese migrants, the forced settlement of nomads and farmers, the corrosion of Tibetan culture, and the marginalization of Tibetan people.

## INTERNATIONAL LAW

A new international consensus is emerging that recognizes the right to development as a fundamental, “inalienable human right.”<sup>9</sup> Under the 1986 Declaration on the Right to Development (DRTD), each human being is entitled to “participate in, contribute to, and enjoy economic, social, cultural and political development” in order to “fully realize all human rights and fundamental freedoms.”<sup>10</sup>

Although the DRTD is not yet a legally-binding document, it has been widely accepted and reaffirmed through various declarations and resolutions.<sup>11</sup> The DRTD principles are derived from various sources of binding covenants such as documents that China has ratified like the ICESCR.<sup>12</sup> The DRTD is unique in that it focuses on the “human person.” The document recognizes that the human person is both the goal of development, as well as, the source of developmental policy.

The DRTD recognizes the right of people to self-determination and their right to “sovereignty over all their natural wealth and resources” with “equality of opportunity for all” in access to basic resources and services (Art. 8(1)) and “fair distribution of the benefits” of development (Art. 2(3)).

In part because “development” is a broad concept, involving everything from labor to education to cultural rights, and, in part because it often requires considerable investment of resources, it is a right that has been difficult for many countries to implement. Under the ICESCR, its provisions are to be fulfilled through the process of “progressive realization.” In other words, a state must continue to improve the rights of its residents in a manner commensurate with available state resources. The mere fact that development rights are complex and costly to implement does not diminish its place as a vital human right.

## DEVELOPMENT WITH CHINESE CHARACTERISTICS

The Chinese government has drafted a “new” strategy for governing Tibet.<sup>13</sup> Of the four main components in the plan, an “adherence to a development path with Chinese characteristics and Tibetan traits” stands out.<sup>14</sup> While it is not clear what exactly “Chinese characteristics” or “Tibetan traits” mean, the notion of “Chinese characteristics” has been persistent in Chinese politics since Deng Xiaoping announced in 1978 the reform of China’s economy as “socialism with Chinese characteristics”. The notion of “Chinese characteristics” justified a mixed ideological approach towards China’s economy. Since Deng, the term has been used in various contexts. For example, a recently published White Paper announced a plan for a “socialist legal system of laws with Chinese characteristics.”<sup>15</sup> Such law was vaguely described as “a system of laws based on the conditions and reality of China.”<sup>16</sup> In practical terms, the phrase “Chinese characteristics” has repeatedly proven to be little more than a rhetorical tool that the Chinese government can use to do what ever it wants.

The Chinese government has repeatedly taken issue with the notion of a universal standard because such a standard does not include “different national circumstances” or “Chinese characteristics.”<sup>17</sup> On a trip to Washington D.C. in 2011, President Hu Jintao remarked at a press conference that “China is a developing country with a huge population, and also a developing country in a crucial stage of reform” and, as such, may have different models for development.<sup>18</sup> According to Hu Jintao, the United States and China “should respect each other’s value systems, beliefs and development models.” While it is true that the PRC has many difficulties as a large and culturally, ethnically, and economically diverse country, that cannot be used as an overall justification for the large inequalities that exist today. In attempting to establish a different standard for China, the Chinese Government is more concerned about the survival of the regime than the survival of the people.

## Protest Cases

There have been numerous protests against large-scale projects in the Tibetan areas in recent years. In 2009, as a result of protests against a dam project at Naglha Dzamba Mountain in Driru County (TAR), protestors were thrown in jail and warned against future protests.<sup>19</sup> Local officials have forced residents to provide thumbprints on statements that promise they will not engage in future protests against the dam. Residents also report being threatened with detention, life in jail, or death if they continue to protest. Such threats should not be taken lightly as numerous stories have surfaced of protestors being shot and killed by Chinese police over public opposition against development projects. In May 2010, Tibetan protestors at a cement factory in Xiahe County in Gansu Province were fired upon by police. Fifteen sustained injuries from beatings or gunshot wounds administered by the police.<sup>20</sup> In August 2010, Chinese police in Sichuan province also fired into a crowd of Tibetans protesting a mine in Palyul County (TAR).<sup>21</sup>

In 2011, in Dzogang, Chamdo Prefecture (TAR), the police cracked down on Tibetan protestors against mine operations in the area.<sup>22</sup> According to a source on the Dzogang protest: “the local people were told that the land belongs to local and county government, and that the people have no say in how the land is used.”<sup>23</sup> County authorities have warned locals that any protest would be construed as politically motivated and, as such, could lead to criminal charges. About 50 people are currently detained in connection with the Dzogang protest.

This conflict is not uncommon. Director of the Modern Tibetan Studies Program at Columbia University Robbie Barnett described another example of Tibetan resistance to development projects in a *Radio Free Asia* interview. In the Tibetan area of Kokonor Lake in Qinghai province, where the government has moved nomads from the area “in order to build tourist sites, hotels, and golf courses,” conflict has arisen as development

continues and nomads refuse to relocate.<sup>24</sup> Despite the risks, Tibetans are responding to local and central government pressure to relocate with resistance. This statement could be applied to nearly all of the large-scale projects in Tibet.

These development schemes are not only extracting natural resources from Tibet and sending them eastward but also interfering with places of spiritual significance and causing serious environmental damage.

Even in cases where development is legitimately for the public good, international standards enshrined in the DRTD, require that a government seek the participation and informed consent of its citizens. Under the DRTD, the individual is the centre of developmental policy and, as such, the source of policy strategies should emanate from the individual.

In order for development programs to truly benefit the local communities, local individuals must have the right to meaningfully participate in the policies that affect them. In other words, individuals must be accorded civil and political rights, such as freedom of speech and assembly.

As it stands, China has ratified the ICESCR but yet to do the same for the ICCPR. But it has become increasingly clear that development issues are indivisible with political and civil rights. The PRC's top-down approach to development ignores the concerns of the local people. If China continues in this manner, conflict will continue.

## THE WESTERN DEVELOPMENT STRATEGY

The Western Development Strategy (WDS) was implemented in 2000 to develop the western interior of the PRC. The government introduced large-scale infrastructure and industrial projects in order to bring the western regions on par with PRC's prosperous east. The infrastructural components of

the strategy include the development of railway lines, hydropower plants, and mining sites. The WDS also publicize the government's environmental strategy, which it claims are aimed at repairing the damage caused by local farmers and nomads in the west, in addition to counteracting the effect of the massive new development projects.

Critics have questioned the PRC's environmental motives, particularly in cases where, after relocating Tibetan people for environmental reasons, an environmentally unfriendly mine is established in the newly cleared location.<sup>25</sup> In 2007, the TAR governor, Zhang Qingli, stated that economic development in Tibet was not the only reason for resettling Tibetan farmers and nomads.<sup>26</sup> He stated that development was also a means in which to counteract the Dalai Lama's influence.

Despite a raised GDP and massive investment under WDS, the gap between the west and the east has widened.<sup>27</sup> The official goal of stability failed in Tibet where 12 Tibetans self-immolated in a span of nine months beginning 16 March 2011 to 1 December 2011.

The Chinese government describes the Tibetans as "backwards" and "uncivilized" and maintains that the influence of the "Dalai clique" remain obstacles to growth. In reality, Tibetans are left out of investment plans. Nearly all of the investments in Tibet are made by companies from eastern China, with the benefits also flowing back to the east.<sup>28</sup> The Chinese migrants reap the bulk of the benefits from increased economic activity as a result of development projects.

The benefits of development programs such as job creation, local business activity, and the development of an infrastructure are leading to the marginalization of Tibetans. With a well-developed infrastructure it has now become easier for migrant workers to reach Tibet. These migrant workers are almost entirely Chinese lured to the region by the promise of employment.<sup>29</sup> The



employers prefer Chinese workers to Tibetans for various reasons. Companies are foreign or Chinese owned, often relying on some form of Chinese for communication.<sup>30</sup> The lack of adequate education in Tibet makes Tibetans less appealing to employees. Thirdly, but not the least important, migrant laborers are more likely to have the requisite *guanxi* (connections) to get a job with Chinese companies. Local Chinese businesses catering to these migrants benefit from the rapidly expanding migrant workforce in Tibet.

The demographic shift in Tibet as a result of WDS has not escaped international criticism. The increasing presence of Chinese migrants has led to Tibetans becoming a minority in Lhasa where there are reportedly 200,000 Chinese residing in the city with 100,000 Tibetans.<sup>31</sup> The Dalai Lama has even referred to this situation as “demographic aggression.”<sup>32</sup> The influx of Han Chinese has become a means for the government to consolidate its control and alleviate unemployment and overpopulation issues in the east.

Aside from facilitating the influx of migrant labor and tourists, the Qinghai-Tibet railway, opened in 2006, built close to mineral reserves and extraction sites. This has led to environmental damage and land confiscation, which sometimes leads to entire villages being relocated.<sup>33</sup>

However, there is a window of opportunity for improvement as global mining companies begin operations on the Tibetan plateau. While western mining companies have had a dark history in their operations, they are also becoming more susceptible to international pressure and criticism. Directing advocacy towards these companies may be one way in which development standards can be raised in Tibet.

Under the WDS, the bulk of investment that actually remains in Tibet is going towards urban areas. The government has invested little in agriculture by comparison and yet most Tibetans

subsist on agriculture and not the urban economy. The problem is not that Tibetans are “backwards”, as the government claims. In fact, many Tibetans are not against modernization at all. As one Tibetan named Karma, an English teacher, stated, “It’s true that we all want to have modern things.”<sup>34</sup> But Karma also adds a crucial observation, “This is a huge country and our houses are getting smaller. Our land is controlled by the Chinese and the government.”

Tibetans are not against development as long as they are not forced to “develop” in a way that leads to both cultural loss and socio-economic marginalization. While the government has admitted that the inequality in Tibet is a concern, it has not done enough to effectively ameliorate the situation.

## TOURISM

Having transported 10 million tourists since its opening in 2006, the Qinghai-Tibet Railway has greatly contributed to tourism in Tibet.<sup>35</sup> According to the TAR tourism bureau, 2.25 million tourists arrived in the first half of 2011, a figure up 24.8 percent from 2010.<sup>36</sup> Revenue from tourism also increased by about 40 percent to reach 7.14 billion yuan (approximately USD 1.11 billion), and it is estimated that an all-time record of 7.5 million tourists will have visited Tibet in 2011.

However, tourist revenue is generally taken out of the region as most companies are based in areas outside the TAR. Even secondary economic benefits are minimal, as tourists often demand food and other goods from outside the region.

The continued boom in tourism is remarkable despite the unrest in the region and bans on foreign tourism in advance of sensitive anniversaries. These bans on foreign tourists suggests that the government may be concerned about the presence of foreign tourists during periods in which protests are likely. T government controls the image Tibet

shows to the world. Tourists are only permitted in the TAR via an officially sanctioned group and an officially approved itinerary and guide.<sup>37</sup> This type of tourism tends to be of the mass package variety, which creates concentrated pockets of waste and pollution.<sup>38</sup> Roads built solely for tourism are contributing to deforestation and erosion problems in Tibet.

According to the US State Department, the TAR tourism bureau has a policy of denying guide positions to Tibetans educated in places such as India or Nepal.<sup>39</sup> Further, in order to be a guide, an applicant must pass a licensing exam with a political ideology component. The government has stated that it wants to ensure that none of the guides support independence or the Dalai Lama. Largely due to government nervousness regarding communications between Tibetans and the outside world, employees often come from outside of the TAR and are trained through the government-sponsored “Help Tibet” crash course before becoming guides.<sup>40</sup> Other factors such as education, *guanxi*, and Chinese language skills also play a role in exacerbating Tibetan unemployment problems in the tourist industry.

## GRASSLAND GOVERNANCE

Just as it believes it can engineer an economy, the Chinese government believes it can engineer ecology. Although the Chinese government lacks historical experience of managing the environment of the Tibetan plateau, its legislators were quick to dictate policy on grassland governance using a top-down approach and giving little credence to the wealth of knowledge developed over millennia by local Tibetans. Unfortunately it is decades of top-down policy that has played a major role in creating grassland degradation in the first place.

For thousands of years, the Tibetan nomads had kept the plateau grassland in good health. This changed dramatically following the Chinese invasion in 1950, accelerating with the imposition

of the Cultural Revolution in the 1960s and 70s. In the late 1970s, when communes finally closed, Tibetans were given some measure of control over housing, land, and property in the form of long-term land lease certificates.

The environmental damage caused by intensive use during the commune-era continued into the 1980s, especially in terms of soil erosion.<sup>41</sup> While soil erosion continues to be partly blamed on climate change as a result of the industrial activity of other countries, Tibetan nomads have been receiving the bulk of the blame for soil erosion due to overgrazing of their animals.<sup>42</sup> This all stems from when the government introduced the 1985 Grasslands Law as a means to address the environmental problems and promote “rational use” of land.

The Grasslands Law imposes a system of private property rights that works in an industrial farming society on a society that relies on pastoral husbandry. Industrial husbandry uses farming as insurance against crop failure where animal owners live, shipping in feed to keep animals fed. Pastoral husbandry uses movement as the insurance against crop failure where animal owners live.<sup>43</sup> The Law placed limits on the number of animals each herder could possess and owners were required to permanently attach themselves to plots of land by fencing in their rangeland into individual plots.

Amongst pastoral scientists, it is widely known that unanticipated climatic events are not uncommon in pastoral environments, and nomads have used generations of experience to rapidly respond to such changes by moving their herds.<sup>44</sup> As a result of the Chinese policies, environmental degradation persists, as herders are unable to move their cattle, overgrazing land that the cattle would have moved off of had the Grasslands Law not been in place.<sup>45</sup>

In calling for the modernization of animal husbandry and providing for the prosperity of residents in the “nationality autonomous areas,” the



Tibetan nomads in grassland

effect was to further commodify the lives of Tibetan nomads. A transition from pastoral husbandry to industrial husbandry would entail ending of the Tibetan nomadic life.

In response to environmental degradation, the government has developed “rational”, “scientific” solutions to environmental damage. Since 1999, two major policies, *Tuigeng Huanlin* (return farmland to forest) and *Tuimu Huancao* (remove animals to grow grass), have shaped the lives of Tibetan farmers and nomads. Both policies are a response to the government’s belief that Tibetans are responsible for environmental damage through overgrazing and over-ploughing. Based on this belief, the government has resettled farmers, nomads, and their livestock. This has resulted in the cancellation of long-term land lease certificates that had been granted to rural families in the past two decades, if not outright eviction.<sup>46</sup>

The *Tuigeng Huanlin* program requires Tibetans to plant trees on their land to reduce soil erosion. This has the result of forcing rural Tibetans to find alternative livelihood as they are dispossessed of their land. The planted trees also have the effect of hardening the topsoil making it difficult to grow crops in the future as well. Limited compensations last for a year and are distributed below the poverty line.<sup>47</sup>

The *Tuimu Huancao* program was developed after the *Tuigeng Huanlin* program as a bold approach to environmental degradation. The goal is to remove nomads and their animals so that grass may grow in order to suspend, if not reverse, the process of soil erosion. Lack of official transparency has made it difficult to determine the exact numbers of those affected but it is believed that hundreds of thousands of Tibetan nomads have been moved from their ancestral homeland.<sup>48</sup>

According to independent expert Gabriel Lafitte, almost all of Tibet's two million nomads will have become displaced persons by 2013.<sup>49</sup> Under the program, the government provides subsistence rations, which are also well below the poverty line.<sup>50</sup>

The social cost of these programs has proven considerable. Tibetan nomads are increasingly incapable of subsisting via their traditional way of life. There are numerous government regulations that include strict caps on herd size, grazing rights, and compulsory fencing. Meanwhile, the government continues to blame nomads for the ongoing environmental degradation. For example, the National Statistics Bureau Report stated that “[t]he education level of herders in our province is relatively low, they cannot scientifically cultivate land and raise livestock. They don't know how to use fertilizer and chemicals, even less how to scientifically develop their household economy.”<sup>51</sup>

Such statements, however, ignore the fact that the nomads have sustainably maintained their lifestyle for the past 9,000 years in the Tibetan Plateau.<sup>52</sup> Due to the extreme weather and high altitude, nomads moved according to the weather and as a result herds were rotated through various pastures therein avoiding overgrazing. The current division of plots of rangeland, for example, has led to the disappearance of the nomadic culture.

The UN Special Rapporteur on the Right to Food, Olivier De Schutter, in his report after a December 2010 mission to Tibet, has called for new strategies in lieu of *tuimu huancao* policy.<sup>53</sup> The report suggested new programs such as the New Rangeland Management (NRM) program, which focuses on sustainable management by combining science with the nomadic lifestyle. De Schutter observed that the measures of resettlement are overly harsh, depriving nomads of the right to subsistence in violation of the ICESCR and the 1992 Convention on Biodiversity. Both documents have been ratified by China. He pointed out that

the 1992 Convention on Biodiversity is especially apropos to the Tibetan nomad situation because China's top down approach has trampled the rights of indigenous communities as “guarantors and protectors of biodiversity.”<sup>54</sup>

Anthropologist Emily Yeh reports that the environmental benefits of *tuimu huancao* are “questionable” and recent studies to determine the extent of degradation have produced “conflicting” results.<sup>55</sup> Some evidence points to the merits of some degree of grazing being necessary to maintain a stable level of biodiversity.<sup>56</sup> The government's foundational assumption under *tuimu huancao* is that the removal of nomads and their herds will allow grass to grow and thereby help reverse the effects of desertification and soil erosion. While it is the case that grass grows in the absence of grazing, biodiversity also diminishes causing additional problems such as the reduction of medical plants and the invasion of inedible alien weeds and other vegetation.<sup>57</sup> Little attention is paid to proper treatment of the rangelands beyond moving nomads away from rangelands and into government-sanctioned communities.

The government has also downplayed the role of climate change in environmental degradation on the plateau.<sup>58</sup> Rather than blaming the nomads, the government needs to see the nomads as a group who has culturally sustained the environment for thousands of years. The environment has changed rapidly since China's invasion. The disastrous effects of the government communes increased herd size and settled them into permanent plots beyond what was appropriate for the fragile ecosystem. The land lease certificates that were subsequently granted had a similar, albeit less devastating effect on the land.

The PRC is not the only one responsible for global climate change but rather a newer and larger contributor to its current damaging effects. If the environment is a genuine concern of the Chinese government, then some degree of balance must be reached. Rather than pushing out an entire

community, creating disastrous socioeconomic and cultural effects, and negative effects on biodiversity, the Chinese government needs to reconsider its ways in managing the Tibetan environment. Choosing one that is both inclusive of modern scientific techniques and traditional Tibetan practices is an ideal way.

### ECOLOGICAL MIGRANTS

The term “ecological migrants” (*shengtai yimin*) is a term used by Chinese officials to refer to Tibetan nomads and farmers who are currently being removed from their ancestral land and resettled elsewhere, typically in permanent, urban homes in the Tibetan region.<sup>59</sup> While the official environmental justification for the resettlement of nomads and farmers is commendable, the reality is far more problematic. The difference it has made in the environment is questionable while the human cost continues to soar, leading to such livelihood issues as unemployment, lack of food security, and access to culturally adequate housing.<sup>60</sup> These problems persist even as government programs are put in place to help resettled people such as state rations.

The term “ecological migrant” is a misnomer because it implies a voluntariness of movement. If voluntariness is to be understood as “free and informed consent,” then many Tibetan nomads do not fit the definition. There are numerous reports of Tibetans “tricked” into resettling, of promised compensation withheld.<sup>61</sup> There are cases where individuals who resisted were removed with force.<sup>62</sup> Often Tibetan nomads sign contracts they can’t read while the authorities emphasize the benefits of moving, and downplaying, even ignoring any commitments that exist in the contracts.<sup>63</sup> In such cases, rendering the term “ecological migrant” is little more than a euphemism for the forced displacement of rural Tibetans.

### COMFORTABLE HOUSING PROJECT

The Comfortable Housing Program (*Anju Gongchen*) launched in 2006 is a campaign to move rural residents into concrete homes. According to *Xinhua*, roughly 1.4 million rural Tibetans have moved to into “comfortable homes.”<sup>64</sup> The projected goal is to help improve the livelihood of the rural population in impoverished areas by



Settlement in Sershul 2010, Photo source: EDD, DIIR

renovating homes or resettling rural residents into new government-subsidized homes.<sup>65</sup> The official story is that Tibetans have the freedom to choose the building site and design the new home “in order to keep the Tibetan lifestyle” for the farmers and herdsman.<sup>66</sup>

Aside from the alleged environmental benefits, the Comfortable Housing Program is intended as a measure to improve the lives of rural residents by providing easier access to facilities, education, and healthcare, yet it has become the case that the resettlements are doing more harm than good. Although in some cases the resettlement projects move rural populations short distances to improve higher quality water and electricity supply, this is often not the case.

Rural Tibetans resettled as part of the program are placed in “socialist villages” throughout the countryside, 100 or 200 kms away from traditional pastures, and these homes are rarely proximate to employment opportunities.<sup>67</sup> The “cookie-cutter” designed houses, made of concrete and with a Chinese flag attached, are a far cry from traditional Tibetan design.<sup>68</sup> The concrete homes are said to be hot in summer and cold in winter.<sup>69</sup>

Further, these homes are almost always more than rural Tibetans can afford. Tibetans are forced to take loans to cover the costs of new homes.<sup>70</sup> Far from employment opportunities and out-competed where there are Chinese migrants, resettlement has made Tibetans poorer. With land rights once granted for winter grazing terminated with resettlement and under conditions in which possession of livestock in the new villages can result in eviction, resettled Tibetans under the program are unable to return to their former sources of subsistence or income. Nearly all remain in debt with little chance of being able to pay back their debts. The cost of housing eliminates their ability to pay for higher education.<sup>71</sup>

According to Tsering Wooser (often referred to simply as “Wooser”), a Beijing-based Tibetan blogger, Tibetans from Kham province refer to these new homes as “*lagyag khangba*” which Wooser translates as “hand-raising housing.” It simply means to agree, or, in this case, give in to the demands of the Chinese government. Farmers in U-Tsang province have given the name “*palkhar lodroe khangsar*”. Wooser translates “*palkhar*” as white forehead, which she explains is a metaphor for bad luck. Meanwhile, “*lodroe*” refers to food that would be eaten by the most poverty-stricken people in Tibet (like cow’s lungs and intestines), a reference to severe impoverishment. Lastly, “*khangsar*” means new home.

The Chinese government uses seemingly benign law, such as requirements that all children attend school, in order to convince parents to move to new settlements with their families. Instead of bringing resources to rural schools, the Chinese government is bringing students to urban ones. With schools being many hours away, parents are left wondering how to get their children to school, sometimes having to pay for their children’s room and board despite Chinese law to the contrary.<sup>72</sup> Not only do most parents want to see their children have a good education, but in China, it is also a crime to fail to send one’s children to school.<sup>73</sup> Instead of bringing education to the grasslands, the government leaves little options for the nomads, knowing well the limited ability nomads have in sending their children to schools other than the ones at the new resettlement communities.<sup>74</sup>

Despite the failures of “Comfortable Housing” program in improving the livelihood of Tibetans, the government has continued to give it priority for numerous reasons, including the fact that resettlement of nomads makes land available for exploitation. Another reason that the program will continue is because the sedentarization of nomads and rural Tibetans into villages is a means with which the government can gain “the upper hand in [the] struggle with the Dalai clique.”<sup>75</sup> As the

failures of the program pile up, the government continues to justify the program. The continued promotion of the comfortable housing program is a strong indicator that the real motivation for the program is essentially to assert control over the Tibetan rural populace.

## LIVELIHOOD RIGHTS

Housing, land, and property (HLP) rights are intertwined with many other livelihood rights such as rights to food, work, and, as in the case of Tibetan nomads, even cultural identity. Land provides a source of food, shelter, income, and, in times of hardship, it can be the difference between life and death. The UN Special Rapporteur on the Right to Food has stated that “access to land is one of the key elements necessary for eradicating hunger in the world.”<sup>76</sup> Livelihood rights are enshrined in various international treaties, including treaties that PRC has ratified, such as the ICESCR and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

With regard to forced evictions, General Comment 7 of the Committee on Economic, Social and Cultural Rights points out that forced evictions are fundamentally incompatible with the requirements of the ICESCR.<sup>77</sup> Under article 2(1) of the ICESCR, states are obligated to use “all appropriate means” to realize the right to housing, which specifically includes “refrain[ing] from forced evictions and ensur[ing] that the law is enforced against its agents or third parties who carry out forced evictions.” In this case, the term “forced evictions” refers to “permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.”

It has been recognized internationally that sometimes governments have legitimate reasons to relocate individuals but that it cannot come without basic legal protections for the individuals

being removed from the land. Even though it may be the case that some Tibetans can be considered to have voluntarily agreed to relocate, the lack of transparency and basic legal procedures challenges the notion of so-called “voluntariness” or genuine *informed* consent.

Under Chinese law, land is not privately owned. Even though, the rural Tibetans hold long-term land lease certificates, they have few legal protections.<sup>78</sup> Mass relocations in Tibetan rural areas are prematurely terminating the already limited land rights, with little or no compensation. There is some indication that domestic laws may change, however, as the State Council recently promulgated land laws that allow urban property holders new rights.<sup>79</sup> Laws covering rural areas are anticipated to follow suit.

This new revision, known as the new “urban takings” law is particularly relevant to the issue of relocation of rural Tibetans because it deals with limiting the scope of government authority with regard to land confiscation. The new law also allows property owners the right to settle legal disputes in court and to apply for review of decisions on compulsory eviction. Even if this is an indication of general trends across China with regard to HLP rights, however, it is unclear how it will affect Tibet.

The Chinese government is particularly nervous about Tibetan nomads, where the government is still struggling to assert its ideological authority. Although revisions to domestic law are welcome, there must be genuine rule of law that require, at a minimum, a transparent government and an independent body to challenge violations of HLP rights and access to legal remedies. These elements are largely absent in the PRC.

Like the right to land, the right to food can be derived from many international treaties including the ICESCR. Access to land, food security and a source of subsistence, if not income, are all

interconnected. Further, with regard to all rights under the HLP umbrella, cultural considerations must be taken into account. The simple granting of land and subsistence grants for food is not the solution.

As noted previously, land has traditionally been used extensively and seasonally. The granting of individualized, permanent fenced-in plots are incompatible with such traditional use and grants for subsistence cannot sufficiently replace one's ability to earn one's own income or subsistence in a manner that is culturally desirable and sustainable.

While environmental concerns for the Tibetan plateau are well-founded, the manner in which the government has handled the situation appears to be less of a concern for the environment and more a pretext to assert control over an area that has caused a lot of concern for the Chinese government.



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# CASE STUDIES: SELF-IMMOLATION PROTESTS 2011

## 1. PHUNTSOG - 16th MARCH 2011

**Age:** 21 years old  
**Affiliation:** Kirti Monastery, Ngaba County,  
Sichuan Province  
**Date:** 16 March 2011  
**Status:** Died on 17 March 2011



Around 4 p.m. on 16 March 2011, on the third anniversary of the 2008 protests across the Tibetan plateau, Phuntsog set himself on fire.<sup>1</sup> He was a young monk of the Kirti Monastery in Ngaba County in southwestern Sichuan province and his act of self-immolation was a protest against the Chinese government and its harsh treatment of Tibetans, especially of Buddhist monks and nuns since the 2008 protests.

According to eyewitnesses, security officers quickly appeared on the scene to put out the fire that had already engulfed Phuntsog. Officers were seen severely beating the monk until local Tibetans were able to intervene and take Phuntsog inside the monastery. Later, he was taken to the hospital after receiving “permission” from government officials.<sup>2</sup> The Chinese media, however, reported a different story which said after “hours of negotiation,” the government got permission from the monks to move Phuntsog.<sup>3</sup>

As the events that ended in Phuntsog’s death unfolded, monks, nuns, and laypeople began to gather in protest in and around the Kirti Monastery. Chinese security forces were deployed to surround the monastery as a result. Authorities are reported to have beaten up unarmed protestors and unleashed attack dogs against those who have blocked government access to the monastery. At this point, security forces started to patrol the town. The authorities had also occupied the monastery to keep a tight surveillance on the monks.

On 9 April, roughly 800 additional security forces arrived at the scene, sealing off traffic access to the monastery and restricting pedestrians’ entry. Even the Tibetan Buddhist custom of bringing in food for the monks was forbidden. At this point, many people began to fear a food shortage in the monastery.

Tensions spiked on 12 April 2011, when authorities reportedly announced that monks between the ages of 18 and 40 would be forcibly removed for official “reeducation.” In response, local residents surrounded the monastery to protect its approximately 2,500 monks. During the standoff, security forces beat many

of the protesters and, in at least one instance, unleashed police dogs on the protesters. Hours later, security forces, along with several buses and trucks, were able to enter the monastery.

Around 9 p.m. on 21 April, at least 300 monks were forced onto buses or trucks. Police allegedly beat some Tibetans in a group of about 200 who attempted to block removal of the monks from the monastery, resulting in the deaths of 2 elderly Tibetans, [P2] seriously injured to some, and brief detention of many others. The next day the Ngaba County People's Government issued a notice that announced that the "mass legal education" of Kirti monastery monks is being implemented to maintain "normal religious order." The notice alleged that the monks had "disturbed the social order" for "a long time" and "[tarnished] the image of Tibetan Buddhism" by fighting, gambling, drinking, circulating pornography, and using prostitutes.<sup>4</sup> To date there has been no sufficient evidence to establish these charges. Instead, the charges appear simply to be a means to assert control and punish monks at the monastery.

This has been one of the largest recent cases of incommunicado detention as well as disappearance in a single incident in Tibet.<sup>5</sup> Of the 300 monks taken for "legal education," monks from Qinghai province have been reportedly released but prohibited from returning to the Kirti Monastery. Further information on their status is unavailable.<sup>6</sup>

The criminal system is also being used to punish monks alleged to be involved in Phuntsog's death.[P3] The self-immolation has been labeled a conspiracy to "incite other monks to create disturbances,"<sup>7</sup> To date, three monks Kirti Monastery monks have been charged. Monk Tsundue has been sentenced to 11 years of prison for "intentional homicide" because he allegedly prevented Phuntsog from receiving medical treatment after he set fire to himself.<sup>8</sup> Monk Tsering Tamding was sentenced to 13 years along with monk Tenzin (who was sentenced to 10 years) of imprisonment term for "plotting, instigating and assisting" in Phuntsog's death.<sup>9</sup> Other monks have already been arrested and sentenced to prison for Kirti Monastery-related protest. For example, Kunchok Tsultrim, manager of the Kirti Monastery, was arrested on 16 March 2011 and sentenced to three years imprisonment on 2 May 2011.<sup>10</sup> On 10 September 2011, three Kirti Monastery monks, Lobsang Dhargye, Tsekho, and Dorjee, were sentenced to 2-3 years' of "re-education through labor" as a result of their involvement in Phuntsog's death.<sup>11</sup> Rather than address the underlying issues that led to a monk's self-immolation protest against government policies in Tibet, the government has blamed a select group of Kirti Monastery monks for Phuntsog's death.<sup>12</sup>

## **2. TSEWANG NORBU - 15 AUGUST 2011**

**Age:** 29 years old  
**Affiliation:** Nyitso Monastery, Kardze County, Sichuan Province  
**Status:** Died on the spot (15 August 2011)

Tsewang Norbu of Nyitso Monastery was 29 years old when he set himself on fire in protest of Chinese rule in Tibet.<sup>13</sup> On 15 August 2011, around 12.30 pm Tsewang Norbu distributed pamphlets with the slogans like 'Freedom in Tibet' and the 'Return of His Holiness the



Dalai Lama to Tibet' in Tawu (Chinese: Daofu), a town in Sichuan province. After this protest, he drank and doused his himself with gasoline and set himself alight and died soon after.

During last rites, troops surrounded the monastery to block its entrance. Thousands of people reportedly surrounded the monastery gate attempting to enter but only a thousand were able to do so.<sup>14</sup> Those who waited outside conducted prayers. The authorities then attempted to take his body during which the performance of last rites was successfully thwarted. The army subsequently surrounded the monastery, cutting off telephone and Internet access and limiting travel in and outside of the monastery. The following day, the Party Secretary Liu Dao Ping ordered the end of religious rites and the immediate disposal of Tsewang Norbu's body. The area continues to be tense with monks being regularly interrogated and large numbers of security forces stationed within the monastery and in town itself.<sup>15</sup>

### 3. LOBSANG KUNCHOK AND LOBSANG KELSANG - 26 SEPTEMBER 2011

**Name:** Lobsang Kunchok (left)  
Lobsang Kelsang (right)

**Age:** 18 years old

**Affiliation:** Kirti Monastery,  
Ngaba County,  
Sichuan Province

**Status:** Reportedly in a  
hospital, current wellbeing unknown/  
Status – In a hospital when last heard  
about, current whereabouts and wellbeing  
unknown.



On 26 September 2011, Kirti Monastery monks Lobsang Kelsang and Lobsang Kunchok protested in the Ngaba County market by calling for the “long life of the Dalai Lama” and “religious freedom in Tibet” after which they set themselves on fire.<sup>16</sup> Security forces quickly appeared on the scene and took the two young monks.

The status of the monks remains unclear, although there were great fear and concerns regarding the two's medical condition.

#### 4. KIRTI MONASTERY MONK KELSANG WANGCHUK - 3 OCTOBER 2011

**Name:** Kelsang Wangchuk  
**Age:** 17 years old  
**Affiliation:** Kirti Monastery, Ngaba County,  
Sichuan Province  
**Status:** Unknown



On 3 October 2011 at around 2 pm (Tibet's local time) one more monk of Kirti Monastery set himself on fire in Ngaba County. A 17-yr-old monk Kelsang Wangchuk was seen on the streets of Ngaba town, holding a photograph of the Dalai Lama and raising slogans of protest against the Chinese government before he immolated himself. Chinese Public Security Bureau (PSB) police rushed at the scene to extinguish the flames and also beat him severely and then took him away to an unknown place. Due to this, no one can confirm Kelsang's current condition. The PSB also dispersed people nearby who tried to join the protest by shouting slogans.

The situation at Kirti Monastery has only worsened though what the residents asked for was improvement of human rights condition in the area. Tibet has not yet witnessed any sign of constructive development nor has the Chinese government shown interest to do so. Instead, the area has been deployed with large numbers of PSB police and People's Armed Police (PAP). Restrictions have been only intensified with severely tightened traffic. The situation is described as a "war-like situation".

Another monk at the Kirti Monastery set himself on fire on 3 October 2011.<sup>17</sup> Kelsang Wangchuk, believed to be 17 years old, was spotted holding a photograph of the Dalai Lama and calling for a protest against the Chinese government on the streets of Ngaba moments prior to the incident. People attempted to join him in protest before the police arrived on the scene to control the situation. Police extinguished the fire, severely beat Kelsang Wangchuk, and took him away. His current condition is unknown as he remains missing. [P5]

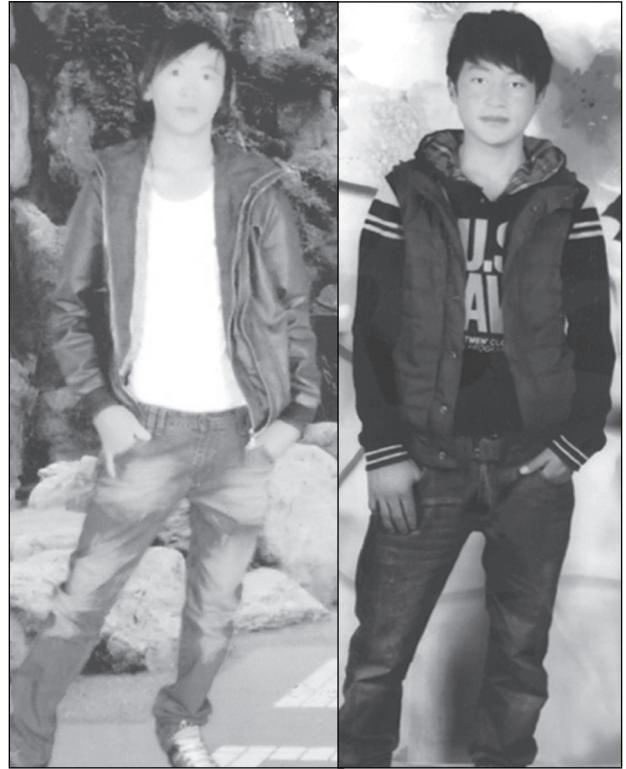
Days prior to his death, leaflets were posted in and around Kirti Monastery stating that if the current situation continued many more people are prepared to give up their lives in protest. The Ngaba area is currently being described as a "war like situation" as more security forces are being stationed throughout town.

## 5. FORMER MONKS OF KIRTI MONASTERY - KHAYING AND CHOEPHEL - 7 OCTOBER 2011

**Name:** Khaying  
**Age:** Around 18 years old  
**Name:** Choepel  
**Age:** 19 years old  
**Affiliation:** Ngaba County, Sichuan Province  
**Status:** Dead

Choepel and Khaying, both former monks at Kirti Monastery who may have been expelled, set fire to themselves along the main road of Ngaba county town. The two young men clasped their hands together and set fire to themselves before security personnel extinguished the flames and took the two to the county's government-run hospital.

Both young men died following the protest. Khaying's cousin, Tashi, was one of the Tibetans killed in the Chinese government crackdown in Ngaba in 2008.



The Chinese state media said on 8 October 8 that the two were "slightly injured" after a "self-immolation attempt." However, both died the following day.

## 6. NORBU DAMDUL - 15 OCTOBER 2011

**Name:** Norbu Damdul  
**Age:** 19 years old  
**Affiliation:** Ngaba County, Sichuan Province  
**Status:** Unknown

At around 11:50 am on 15 October 2011, one more unfortunate incident of self-immolation occurred in the Ngaba region. This is the eighth incident of self-immolation in Tibet this year.



Norbu Damdul, who is around 19 years old, set himself on fire in the Ngaba town market. He was seen shouting slogans such as 'Freedom in Tibet' and 'Return of the Dalai Lama to Tibet.' Chinese police, who routinely patrol in the area, rushed to the scene where they extinguished the fire and took him away in a police car. Eyewitnesses say that Damdul was severely burned but did not die at the scene. His current condition remains unknown.

A former Kirti monk, Damdul left his monastery in June 2010. He is from Choejey Township in Ngaba County.

## 7. TENZIN WANGMO - 7 OCTOBER 2011

**Name:** Tenzin Wangmo  
**Age:** 20 years old  
**Affiliation:** Mame Dechen Chokorling Nunnery, Ngaba County, Sichuan Province  
**Status:** Died on the spot

On 17 October 2011, at around 1 pm (Tibet local time) yet another self-immolation-related death took place in Ngaba County. Nun Tenzin Wangmo of Ngaba Mame Dechen Chokorling Nunnery set herself on fire on a crossroad bridge near her nunnery, which is about 3 kms away from the Ngaba County market.

Wangmo took to the street and marched in flames for close to 7 or 8 minutes, shouting slogans for the return of the Dalai Lama and religious freedom in Tibet. She died on the spot thereafter.

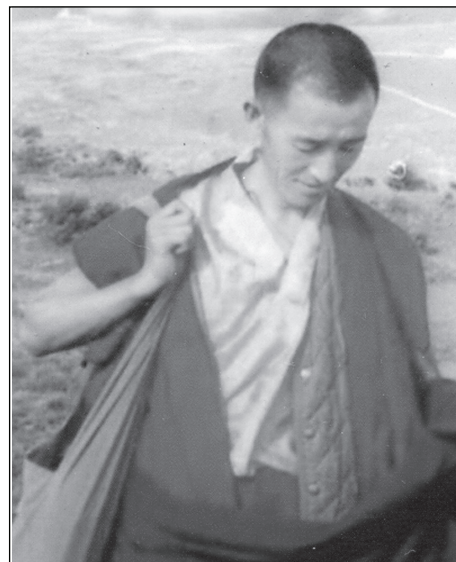
Nuns from Mame nunnery took the body of Wangmo to the nunnery. PSB officials demanded the nunnery to hand over the body yet the nuns refused. Officials then ordered the nuns to dispose off the body by that evening.

Soon after, the Mame nunnery area came under strict supervision with police patrolling everywhere, both inside and outside the nunnery. The situation remains tense.

## 8. DAWA TSERING - 25 OCTOBER 2011

**Name:** Dawa Tsering  
**Age:** 38 years old  
**Affiliation:** Kardze County, Sichuan Province  
**Status:** Unknown

On 25 October 2011 at around 9.30 am (Tibet local time), monk Dawa Tsering poured petrol on his body and set himself afire during the annual religious *Cham* dance ceremony in Kardze County, Sichuan Province. While on fire, monk Dawa Tsering raised slogans demanding, equality and freedom in Tibet, and the return of H.H the Dalai Lama. Other monks who had gathered there for the religious ceremony tried to extinguish the flames and then immediately took the injured monk to Kandze People's Hospital in the monastery car.



A Kandze Monastery monk, Dawa Tsering, aged around 38, is son of father Delek and mother Dontso. Dawa's health is described as critical. Latest reports say the chances of his survival are very slim. Monks of Kandze Monastery have brought him back to the monastery.



## 9. PALDEN CHOESANG - 17 OCTOBER 2011

**Name:** Palden Choesang  
**Age:** 20 years old  
**Affiliation:** Mame Dechen Chokorling Nunnery, Ngaba County, Sichuan Province  
**Status:** Died on the spot

At around 12.40 pm on 3 November, nun Palden Choesang set herself afire in protest, near Namgyal Stupa in Tawu County, Kardze Tibetan Autonomous Prefecture. She shouted slogans such as “Freedom in Tibet,” “Long live H.H the Dalai Lama,” and “Let the Dalai Lama return to Tibet” before she self-immolated near Namgyal Stupa, a huge stupa in Tawu County.

Reports say she died from severe burn injuries. Her body was taken to Tawu Nyatso Monastery.

Choesang was born in Drogcho Village, Geshe Township of Tawu County, Kardze. She was a nun at Dakar Choeling Nunnery in Tawu County.

It was the last day of the ‘*Nyung-ney*’ practice, a religious fast by monks of Tawu Nyatso Monastery and local Tibetans that was held in the premises of the Namgyal stupa. According to sources, nun Choesang self-immolated at a road nearby the Namgyal stupa.

Shortly after nun Choesang’s self-immolation, many police arrived, placing heavy restrictions on the area around Nyatso monastery.

## 10. TENZIN PHUNTSOK - 1 DECEMBER 2011

**Name:** Tenzin Phuntsok  
**Age:** 46 years old  
**Affiliation:** Karma Township, Chamdo, Tibet Autonomous Region  
**Status:** Died on 6 December 2011

Tenzin Phuntsok has reportedly succumbed to burns on 6 December in Chamdo Hospital in Tibet Autonomous Region (TAR) after setting himself on fire on 1 December. Some sources also say the body was handed over to his family two days later (on 8 December).

Tenzin Phuntsok, aged 46, had distributed leaflets, expressing solidarity with the local monks while



criticizing Chinese rule, before self immolating on 1 December, in protest against Chinese policies, in Karma Township, Chamdo, (TAR). He was taken to Chamdo Hospital after Chinese police extinguished the flames.

Phuntsok's wife Dolma went missing since the police detained her after Phuntsok's self immolation. There is no information on Dolma's well-being and whereabouts. The couple has two sons and a daughter.

Karma Monastery was taken over by Chinese armed police following the bombing of a nearby government building on 26 October 2011. The monastery continues to remain under severe repression. Many monks were detained and some were expelled from the monastery.

According to a source, their son Choying Nyima was among a group of young monks who were ordered to return home after Karma Monastery siege. The source also added that even after these monks reached their home, they were constantly harassed and threatened by the police in order to extract more information about the monastery and other monks.

Earlier sources reported that Phuntsok, a former monk of Karma Monastery, was very frustrated over the recent crackdown and restrictions on Karma Monastery.

## **CONCLUSION**

The incidents involving monks and nuns did not occur in a vacuum. Ever since the 2008 unrest in Tibet, government control of Tibetan life has become significantly restricted. Buddhist monasteries have been the hardest hit because of its association with political dissent. While protests regularly occur in and outside of the walls of the monasteries, the eleven incidents of self-immolation in 2011 became an unprecedented means to gain attention for the cause of freedom and human rights in Tibet.

Spokesman for the exile Tibetan administration, Mr Thubten Samphel, stated that although self-immolation is against Buddhist principles, "it's a very strong and desperate indication that the people there are totally unhappy."<sup>18</sup> The Chinese government has reacted to the situation by clamping down on the Tibetan people even further. There has been no constructive dialogue between the government and the Tibetan people or sufficient improvement on the status of basic rights in Tibet. As the government continues to perpetrate significant abuses, there is a corresponding resistance among the Tibetan people evidenced by frequent self-immolations and protests. Paradoxically, rather than ensuring stability, the government is increasing instability through its harsh crackdowns. The long-term effects of the self-immolations of 2011 remain to be seen but if the government's response to self-immolations and protests so far [t6] is any indicator, the government will crack down more harshly and the protests will continue resulting in a stalemate that will benefit no one.

Unless the local authorities ease the restrictions they have placed on local people, there are serious concerns that self-immolations may continue to occur more frequently.

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**APPENDIX: 1**  
**LIST OF KNOWN CURRENT POLITICAL PRISONERS**





















## APPENDIX 2

**Table Listing Relevant International Human Rights Instruments Signed and/or Ratified by the People's Republic of China**

Instrument	Signed on	Ratified on	Ideals
International Covenant on Economic, Social and Cultural Rights (ICESCR)	27 October 1997	27 March 2001	Recognising that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights.
International Covenant on Civil and Political Rights (ICCPR)	5 October 1998		Recognising that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights as well as his economic, social and cultural rights.
International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)		29 December 1981	Considering that all human beings are equal before the law and are entitled to equal protection of the law against any discrimination and against any incitement to discrimination.
Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	17 July 1980	4 November 1980	Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity.
Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	12 December 1986	4 October 1988	Desiring to make more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world.
United Nations Convention on the Rights of the Child (CRC)	29 August 1990	2 March 1992	Considering that the Child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the UN, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity.

## APPENDIX 3

GLOSSARY OF TERMS AND ABBREVIATIONS

“TAP”	“Tibet Autonomous Prefecture” (Tib. <i>Bod rang skyong khul</i> ); There are 10 of these administrative areas (below the level of a province or region) created outside “TAR” by the Chinese authorities, located in northern and eastern Tibet (in the Tibetan provinces of Kham and Amdo)
“TAR”	“Tibet Autonomous Region” (Tib. <i>Bod rang kyong ljongs</i> , Ch. <i>xizang Zizique</i> ); Formally created by China in 1965, this area of central and western Tibet, covering the area of west of the Yangtse River and south of the Kunlun Mountains, is the only area recognized by China as being “Tibet”
Barkhor (Tib)	The old Tibetan quarter and market area around the Jokhang Temple in Lhasa. In Tibetan it literally means the “middle circuit” or central circumambulation
Cadre	(Tib. <i>le che pa</i> , Ch. <i>gan bu</i> ) Technically applies to staff of the Chinese Government administration; also referred to those working on official projects or in state enterprises
CAT	United Nations Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
CCP	(Ch. <i>Zhon Guo Gong Chan Dang</i> ) Chinese Communist Party; founded in July 1921
CEDAW	United Nations Convention on the Elimination of All Forms of Discrimination Against Women
Circumambulation	A religious ritual circling clockwise around a holy place in order to accumulate merit
County	(Tib. <i>dzong</i> , Ch. <i>xian</i> ) The Middle level administrative unit equivalent to district
CPL	Criminal Procedure Law; the revised CPL came into effect on 1 January 1997
CPPCC	Chinese People’s Political Consultative Congress
Cultural Revolution	(Tib. <i>rigs-nas-gsar-brje</i> ); The campaign initiated in 1966 by Mao Zedong in order to regain control of the Communist Party by ordering the youth to “bombard the headquarters” (purge opponents within the Party) and to eradicate the “four olds” (old ideas, old culture, old customs and old habits). The Chinese authorities now describe it as “Ten Bad Years”, referring to the entire period of 1966 to 1979.
Detention Centre	(Tib. <i>lta srung khang</i> , Ch. <i>kanshoushuo</i> ) Place where prisoners are held without charge prior to sentencing
DMC	(Tib. <i>u-yon lhan khang</i> , Ch. <i>we yuan hi</i> ) Democratic Management Committee; Administrative organs established in 1962 in religious institutions in Tibet and reconstructed under the 1996 “patriotic re-education” campaign

<b>Drapchi Prison</b>	Officially known as “Tibet Autonomous Region” Prison
<b>Endangering State Security</b>	Charge introduced in the revised CPL to replace “counter-revolutionary”
<b>Floating population</b>	(Ch. <i>liudong renkou</i> ) Term used to refer to Chinese migrants who are unregistered permanent and temporary residents in Tibet
<b>Geshe (Tib)</b>	Spiritual title and doctorate; monk or lama who has completed the highest course in metaphysics and other academic monastic studies in the Gelugpa school
<b>Guanxi (Ch)</b>	Literally, “connection”; colloquially a connection to officialdom to acquire preferential treatment
<b>Gyama (Tib)</b>	Unit of measurement equivalent to 500 grams
<b>Hukou (Ch)</b>	Household Registration card
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>Khenpo (Tib)</b>	Literally abbot. In Nyingma and Kagyu tradition of Tibetan Buddhism, Khenpo is analogous to the Geshe degree
<b>Lama (Tib)</b>	The Tibetan term for a respected religious teacher, equivalent to the Sanskrit term guru. A lama is not necessarily a monk, although monasticism is preferred for all lamas in the Gelugpa School. Chinese politicians use the term incorrectly to refer to any monk
<b>Mu (Ch)</b>	A measure of land equal to 67 square meters
<b>NPC</b>	National People’s Congress
<b>PAP</b>	People’s Armed Police
<b>Patriotic re-education</b>	Initiated in 1996 in Tibet’s monasteries and nunneries, “patriotic re-education” campaign was designed to purge the influence of the Dalai Lama, to indoctrinate the monks and nuns with political ideology and to crackdown on dissent activities.
<b>Potala Palace</b>	Official winter residence of the Dalai Lama in Lhasa
<b>PRC</b>	People’s Republic of China
<b>Prefecture</b>	(Tib. <i>sa khul</i> , Ch. <i>diqu</i> ) The administrative area below the level of province or region and above the level of a county
<b>Procuracy</b>	(Tib. <i>zhib chu</i> , Ch. <i>jian chayan</i> ) A Chinese judicial agency responsible for investigating and prosecuting criminal cases. It also handles complaints against police, prison officials and other branches of the administration
<b>Prostrate</b>	Buddhist practice of lying face down before any sacred body
<b>PSB</b>	(Tib. <i>schī de chus</i> , Ch. <i>Gong An Ju</i> ) Public Security Bureau, local level police force responsible for detaining and arresting suspects and for pre-trial custody
<b>Re-education</b>	Indoctrination of Chinese Communist ideology and national unity; carried out extensively in religious institutions and labour camps in Tibet
<b>Rukhag (Tib)</b>	One small unit within a prison, village, school, or military etc
<b>Saga Dawa (Tib)</b>	The month of Buddha’s birth, Enlightenment and Death



<b>Splittism</b>	(Tib. <i>Khadral ringlugs</i> ) Party term for the movement for Tibetan independence or any nationalist sentiments
<b>Strike Hard</b>	(Tib. <i>dungdek tsanen</i> , Ch. <i>yanda</i> ) A PRC campaign targeted at crushing corruption and crime. Within Tibet, Chinese authorities are aiming the campaign at “splittists”
<b>Tsampa (Tib)</b>	Roasted barley flour
<b>Tsongkhul (Tib)</b>	Detention Area
<b>Tsuglhakhang (Tib)</b>	Central Cathedral in Lhasa
<b>UNWGAD</b>	United Nations Working Group on Arbitrary Detention
<b>Work Team</b>	(Tib. <i>las don ru khag</i> , Ch. <i>gongzuo dui</i> ) Specially formed units of government personnel sent to conduct “patriotic re-education” in an institution or locality
<b>Yartsa Gunbu (Tib)</b>	A Tibetan medicinal plant (Botanical name <i>cordyceps sinensis</i> )
<b>Yuan (Ch)</b>	Chinese currency (8 Yuan is equivalent to 1 dollar.)