
Human Rights Situation in Tibet

2019 Annual Report



2019 ANNUAL REPORT:

**HUMAN RIGHTS
SITUATION IN TIBET**



Tibetan Centre for Human Rights and Democracy

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

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

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

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

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Staff members at TCHRD-North America, are Tenzin Sonam, director and Dolma Sinon, intern.

Cover photo: A Chinese government poster on the three-year nationwide anti-crime campaign implemented since 2018 in the People's Republic of China, 2019.

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EXECUTIVE SUMMARY

The International Human Rights Day on 10 December 2019 was significant for people who work to raise awareness and seek accountability for human rights violations in Tibet. In a year that focussed international attention on the People's Republic of China (PRC) for its brutal revocation of freedoms in Hong Kong and shocking treatment of the Uyghurs, that day also reminded us that exactly 30 years earlier, Tibet's spiritual leader His Holiness the Dalai Lama had received the Nobel Peace Prize in Oslo.

Despite international condemnation of human rights situation in Tibet, the PRC continues with its policy of crushing any political dissent while steadily using policies and legislation to chip away at the pillars of Tibetan political and cultural identity. The PRC demonstrated no intention of following through on its international obligations. PRC's actions in Tibet run directly counter to the international agreements it has signed and ratified. To protect and defend human rights in Tibet, it is important for the international community to acknowledge the PRC's betrayal of its international human rights obligations.

Since 2018, Chinese authorities in TAR and other Tibetan areas have used the veil of a nationwide anti-crime campaign to hide the widespread and systematic persecution and oppression of Tibetan activists and human rights defenders. The campaign has exacerbated the chilling effect caused by the persistent criminalisation of activities undertaken in defense of human rights.

The lack of any right to a fair trial and the deeply flawed Chinese criminal justice system make it harder for suspects to invoke and exercise their human rights. Of equal concern are the broad discretionary powers enabling law enforcement officers to engage in extralegal practices such as arbitrary detention, torture, and extracting forced confessions without any independent oversight.

China has been increasingly successful in promoting its own version of human rights. Whether it is passing resolutions at the UN to stifle the voice of civil society or banning pop stars for having met the Dalai Lama, the PRC's intimidation tactics have led the world to become increasingly reticent to discuss China's human rights violations. The PRC considers the 84 year-old Tibetan spiritual leader a dangerous political opposition leader and a secessionist, and people are worried that the PRC will punish them for meeting with or speaking about the Dalai Lama.

To deflect international criticism, the PRC has been limiting foreign contact and saturating the region with surveillance forces and technology. It has also brought in economic initiatives backed by Chinese cities and provinces, neglecting to mention that they also involve a great influx of economic migrants. There are strict limitations on the mode of travel and itinerary of foreign tourists and outright bans on activists and any journalists not invited by Beijing. It has become nearly impossible for Tibetans to go into exile, as the PRC has deeded up securit along its border with Nepal.

The much-touted economic development has been achieved by bringing in Chinese workers and allowing more people from China to move into Tibet and set up their own businesses. The

government investment in a greater police presence and surveillance teams reaches inside villages and monasteries to more thoroughly monitor the locals. Along with organizational tactics designed to anticipate and dissuade dissenters, facial-recognition software and careful monitoring of digital spaces are deployed to suppress potential protests against the increased clampdowns on civil and political rights.

Massive detention, facial recognition surveillance technology, the PRC government's insistence that it has the right to approve the Dalai Lama's successor, all serve to incite fear and insecurity among Tibetans.

In addition to mass surveillance programs, Chinese authorities used targeted surveillance to violate the right to freedom of expression and the privacy of ordinary Tibetans as well as journalists, bloggers, and human rights defenders.

In the name of improving education outcomes, bans and decrees have been passed and enforced to further violate Tibetans' right to use their language and teach it to their children. The policies and practices of 2019 suggest a future where Tibetans will be forcibly estranged from their own language, and as consequence, their own culture. The "bilingual education" policy is replacing Tibetan language with Mandarin Chinese as the medium of instruction starting in primary school.

The right to freedom of peaceful assembly continued to be curtailed through the criminalization of all types of public protest including self-immolation. Chinese authorities made use of various domestic legal provisions to impose disproportionate and unjustified restrictions on the right to freedom of assembly.

Chinese authorities must repeal all laws and regulations that restrict and violate basic human rights and fundamental freedoms. All repressive policies and practices that allow extrajudicial detention, political indoctrination campaigns, encroachment on the Tibetan autonomy and agency, and targeted surveillance must be discontinued immediately. The PRC must uphold and fulfill its human rights obligations by virtue of being a party to numerous international human rights treaties. In particular, the PRC must ratify the International Covenant on Civil and Political Rights and the International Convention for the Protection of All Persons from Enforced Disappearance.

RECOMMENDATIONS

The international community of UN member states and civil society at large are urged to exert pressure on and exhort the Chinese government to:

- Repeal laws and policies that violate the human rights to education, language, free speech, religion and belief, fair trial, and peaceful assembly
- Provide free access to Tibet to qualified observers including journalists, human rights monitors, and UN Rapporteurs and special procedures to facilitate an independent assessment of the human rights situation
- End political campaigns that violate human rights in the name of cracking down on crime
- Protect the possibility for ethnic minorities to engage in peaceful political expression without any violation of their corresponding human rights.
- Release all activists and human rights defenders detained for exercising their human rights and political freedoms in the political, economic, social, cultural or any other areas of public life
- Stop using domestic legal provisions on education to violate the freedom of religious belief and linguistic freedom
- Implement a culturally relevant educational policies or provide a genuinely bilingual education rooted in minority culture by promoting Tibetan as the first language.
- Allow Tibetans to determine their own educational and cultural affairs as provided for in the PRC's Constitution and its Law on Regional National Autonomy.
- Allow independent visits by the UN or other relevant international agencies to assess the quality and availability of mother tongue-based education in schools in Tibet
- End all political indoctrination campaigns that promotes the PRC's assimilationist project to establish a single collective Chinese identity in the name of ethnic unity and sinicization policy
- Repeal all laws and regulations that enable government censorship and surveillance including targeted surveillance
- Review, repeal, and amend legislation and policies that go beyond the reasonable requirements of state security prevention of crime in breach of the right to privacy and other linked human rights
- Invite the UN Special Rapporteur on the right to freedom of peaceful assembly and of association to visit the PRC in pursuance of the requests made in 2011 and 2013.
- Ratify the International Covenant on Civil and Political Rights, and the International Convention for the Protection of All Persons from Enforced Disappearance

- Invite an independent international organization to meet with Gedun Choekyi Nyima, the 11th Panchen Lama
- Implement a trial-centered litigation system designed to ensure the legality of evidence obtained during the pre-trial process. Strengthen fair trial guarantees, such as providing for a public trial in all cases
- Introduce the right to silence, put an end to the admissibility of confessions obtained through torture, and establish the presumption of innocence
- Review, amend, and repeal all legislation and practice that fetter the independence of the judiciary, in breach of the UN Basic Principles on the Independence of the Judiciary
- Enact changes in laws and regulations to protect the rights of lawyers to practice law in conformity with international standards
- Invite the UN Special Rapporteur on the independence of judges and lawyers for a visit to examine relevant laws, regulations, and practices, and make recommendations for improvement
- Uphold its obligations under the UN Declaration on Human Rights Defenders and fulfill its responsibility to implement and respect all of its provisions, particularly the duty to protect human rights defenders from any harm arising as a consequence of their work
- Cease demolition of Tibetan Buddhist institutions and harassment of the practitioners at Yachen Gar and Larung Gar
- Release all Tibetans detained without charges in extrajudicial detention facilities for the state's political indoctrination campaign
- Repeal all legislation and cease all practices that enable extra judicial detention, including "residential surveillance at a designated place" and the use of "black jails"

METHODOLOGY

Researching human rights violations in a closed society, like the PRC, is extremely challenging and presents risks to both researchers and any individuals or groups willing to provide information. As information is scarce, the TCHRD's team of researchers goes to great lengths to verify and fact-check with different sources before documenting specific cases of human rights abuses.

TCHRD reviews media reports, domestic legislation, international law, policy papers, trials, conviction and sentencing materials, UN proceedings, academic reports and reports from civil society organizations throughout the research process. Having said that, it is not always possible to verify all the other sources information due to resource scarcity and dangers faced by Tibetan informants inside Tibet. TCHRD stands by the veracity and accuracy of all the reports it has published relying on direct contacts with sources inside Tibet.

TCHRD researchers conduct interviews and collect testimony from primary sources, which are then cross-checked by monitoring media and other reliable secondary sources and then used to conduct in-depth investigations and verification of all data and information collected.

TCHRD researchers document and systematize the data and draft data analyses by looking at the pattern of the information gathered before finally embarking on the editing and dissemination of the data and information in special, thematic and annual reports.

LIST OF ACRONYMS

BAC	-Buddhist Association of China
CEDAW	-Convention on the Elimination of Discrimination Against Women
CCP	- Chinese Communist Party
CRC	-Convention on the Rights of the Child
CPL	- Criminal Procedure Law
CYL	- Communist Youth League
FCCC	-Foreign Correspondents' Club of China
ICCPR	-International Covenant of Civil and Political Rights
ICERD	-International Convention on the Elimination of all forms of Racial Discrimination
ICESCR	-International Convention on Economic and Social Rights
RAB	- Religious Affairs Bureau
RATA	- Reciprocal Access to Tibet Act
TAR	- Tibet Autonomous Region
TAP	- Tibetan Autonomous Prefecture
UDHR	-Universal Declaration of Human Rights
UFWD	-United Front Work Department
UN	- United Nations
XUAR	-Xinjiang Uyghur Autonomous Region
YP	- Young Pioneers

ANTI-CRIME CAMPAIGN VIOLATING HUMAN RIGHTS

The three-year nationwide political campaign China launched in 2018 to destroy “black and evil forces” has resulted in the extrajudicial detention of Tibetan activists and human rights defenders for “inciting separatism” and other vaguely-worded criminal charges. Promoted as an anti-crime campaign by the government, the “Special Struggle Against Black and Evil Forces” targets obscure and excessively broadly-defined crimes such as "Challenging China's territorial claims over Tibet", "Participating in separatist activities," “Calling for the 'middle way'", “Advocacy of mother tongue ", and "Using religion to interfere in grassroots-level administrative affairs or education".¹

There is growing concern that Chinese authorities are using the campaign to engage in a witchhunt to crush peaceful dissent in Tibet. The lack of fair trial rights and the extreme secrecy of the Chinese criminal justice system makes it harder for suspects and detainees to protect and exercise their human rights. Equally preoccupying are the broad discretionary powers enabling law enforcement officers to engage in extralegal practices such as arbitrary detention, torture, and the use of forced confessions with no independent oversight.

The intensified crackdown under the campaign was announced in June 2019 by Zhu Weiqun, the head of an inspection team sent by central government authorities to assess the campaign. He was quoted as saying that the “anti-crime crackdown in Tibet should be integrated with the fight against separatist forces”.² A hardline Han Chinese Party expert on Tibetan affairs, Zhu called for “strong opposition and a resolute crack down on any separatist forces in the name of ethnicity or religion, which are mainly organized by the Dalai clique.”³ Numerous expressions of loyalty to the Dalai Lama, local advocacy initiatives for environmental protection, language preservation or community mediation as well as other traditional or informal social activities are criminalised under the campaign.⁴ At a November meeting to review the progress of the campaign in TAR, Zhu vowed to “root out elements connected to the separatist activities of the Dalai Clique” and emphasized “enhancing political positions” so that the “thoughts and deeds are in line with the strategy determined by the Party”.⁵

The intensification of the crackdown was most visible in TAR and Qinghai Province in May and June 2019, as both regions underwent the first periodic inspections by central government authorities to assess the effectiveness of the campaign. Chinese state media reports accused the “local gangs of colluding with and receiving support from overseas separatist forces”, adding, “These gangs differ from normal ones because they aim to disturb the region's social stability and prosperity rather than make money.”

¹Chinese authorities crushing freedom of expression in the name of internet security, TCHRD, 5 August 2019, available at <https://tchrd.org/chinese-authorities-crushing-freedom-of-expression-in-the-name-of-internet-security/>

²Tibet to integrate anti-separatism drive with gang crime crackdown, Global Times, 18 June 2019, available at <http://www.globaltimes.cn/content/1154766.shtml>

³China to intensify “struggles against Dalai clique and evil forces” in Tibet Autonomous Region, TCHRD, 24 September 2019, available at <https://tchrd.org/china-to-intensify-struggles-against-dalai-clique-and-evil-forces-in-tibet-autonomous-region/>

⁴Campaign against “evil forces” targets Tibetans who resist Chinese rule, leads to 21 arrests, International Campaign for Tibet, 11 July 2019, available at <https://savetibet.org/campaign-against-evil-forces-targets-tibetans-who-resist-chinese-rule-leads-to-21-arrests/#1>

⁵Review meeting on the campaign to crush black and evil forces held, Tibet Daily, 10 November 2019, available at <https://mp.weixin.qq.com/s/a3Mi8YoghvUgvCm6yklUw>

The inspection team to TAR was among the 10 sent by central authorities from late May to early June 2019 to provincial-level regions, including Beijing, Shaanxi and Heilongjiang, marking the completion of inspection coverage of all provincial-level regions in PRC.

The campaign was first announced in January 2018 by the Central Committee of the Communist Party of China and the State Council in the "Notice on Launching a Special Campaign to Combat the Evil and Eliminate Evil", which stated that the government would “strike hard against the underworld forces to consolidate the Party's ruling foundation, and strengthen its grassroots political power, to maintain the long-term stability of the country.”

In the list of 10 illegal activities targeted by the campaign, the top mentions are the threats posed to “political security, especially regime security, system security, and the evil forces that penetrate into the political field.”⁶ Police investigation into people with "negative behaviours" such as those with previous criminal record, partaking in “unreasonable petitions or organizing and confusing the masses to petition to destroy social stability”, participate in “cult organizations, underground religious activities, and organize feudal superstition activities. Ostensibly to "comprehensively and thoroughly eliminate evil forces", Chinese authorities wield discretionary powers to crack down on whatever activities it deem illegal. Based on the three-year plan, the campaign witnessed extensive investigation and propaganda into the “illegal violations of evil activities” in 2018 followed by 2019 when prosecutions were initiated against those detained in connection with the campaign.

Detention of activists and human rights defenders

In its annual work report released in January 2019, the TAR Higher People's Court revealed that 360 accused in 268 cases had been found guilty during the anti-crime campaign in 2018. Another 25 people had been punished 'for inciting separatism or financing others to jeopardize national security'. No other details were made available, raising fears that the number includes Tibetan activists and human rights defenders.

In Qinghai, a Chinese government directive issued in August 2019 announced that all chat groups and individual online users found posting and sharing “illegal contents” would be imprisoned for a maximum of eight years under the anti-crime campaign. In June, local authorities reported the arrest of 333 criminal suspects and public prosecution was initiated against 408 people in the province.

Crackdown on environmental activism

After nine Tibetan land rights defenders were jailed in April 2019 under the anti-crime campaign in Rebkong County, another group of 21 Tibetans were sentenced to prison in May in connection with the campaign, including two village heads and a nomadic camp leader, accused of founding an illegal environmental protection organization in Shordha town, Nangchen (Ch:Nangqin) County,

⁶Ma Qiang and CirenYouzhen, The special fight against evil, [Ganzi Online], Sohu.com, 1 August 2018, available at https://www.sohu.com/a/251304713_100020718?sec=wd

Kyegudo (Ch: Yushu) Tibetan Autonomous Prefecture, Qinghai Province.⁷

One of the 21 defendants, Dugkar, was imprisoned for his successful movement to resist government appropriation of his land for environmentally destructive development projects. Another defendant named Tendar, about 32, had been held in pretrial detention in the WenchuanPSB detention centre in Ngaba County. Tendar's family members were not allowed to visit him.

Imprisonment of anti-corruption activists

A-nyaSengdra, a popular Tibetan community leader and anti-corruption activist, was sentenced to seven years in prison under the anti-crime campaign on charges of “picking quarrels and provoking trouble” and “gathering a crowd to disrupt social order” in Gade (Ch: Gande) County, Golok (Ch: Guoluo) Tibetan Autonomous Prefecture, Qinghai Province.⁸ Eight other Tibetans were sentenced to varying prison terms along with Sengdra. All of them had been held in pretrial detention for more than 14 months.

⁷China: Stop the witch-hunt in the campaign to crush ‘black and evil’ crimes; Release all Tibetans unjustly held in detention, TCHRD, 27 June 2019, available at <https://tchrd.org/china-stop-the-witchhunt-in-the-campaign-to-crush-black-and-evil-crimes-release-all-tibetans-unjustly-held-in-detention/>

⁸China: Tibetan anti-graft campaigners sentenced on bogus charges in a show trial, TCHRD, 16 December 2019, available at <https://tchrd.org/china-tibetan-anti-graft-campaigners-sentenced-on-bogus-charges-in-a-show-trial/>

RIGHT TO EDUCATION AND LANGUAGE RIGHTS

Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace...Parents have a prior right to choose the kind of education that shall be given to their children.

--Article 26, Universal Declaration of Human Rights

In 2019, the government of the PRC continued to violate social and cultural rights of the Tibetan people, such as the freedom of language and education, in violation of the cross-cutting principles of nondiscrimination and equality.⁹

With the implementation of the PRC's "bilingual education" policy, the Tibetan language is being replaced with Mandarin Chinese as the medium of instruction in primary schools (it has already ceased to be the language of instruction in higher levels of education). Instead of in their mother tongue, children are taught all the subjects in Chinese, except when studying Tibetan itself.

Related bans and decrees that were passed and enforced in the name of improving education outcomes further violate Tibetans' right to use their language and teach it to their children.

These policies and practices of 2019 suggest a future where Tibetans will be forcibly estranged from their own language, and as consequence, their own culture.

Legal Standards

Having ratified numerous international human rights treaties including the International Covenant on Economic and Social Rights (ICESCR), the International Convention on the Elimination of all forms of Racial Discrimination (CERD), the Convention on the Elimination of Discrimination Against Women (CEDAW), and the Convention on the Rights of the Child (CRC), the PRC is legally bound to observe the responsibilities to protect the right to education.

The CRC, which the PRC has ratified, protects the right to education and recognizes the role of education in preserving a child's cultural identity, language and values.

⁹The right to equality and non-discrimination is recognised in Article 2 of the UDHR and is addressed in different UN human rights instruments, such as Articles 2 and 26 of ICCPR, Article 2(2) of ICESCR, Article 2 of CRC, Article 7 of CMW and Article 5 of CRPD .

Although the PRC has not ratified the ICCPR, as a signatory to the covenant, the PRC is required “not to defeat its object and purpose” .¹⁰ The ICCPR also protects education and language rights, especially in Article 27, which is identical to ICESCR, states: “In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.”

Article 27 of the ICCPR is the first and only universal, treaty-based protection for religious, ethnic, or linguistic minorities. It guarantees rights distinct from and additional to all the other rights which individuals are entitled to enjoy under the ICCPR. It also protects the use of one’s own language in community with other members of the minority group.

The protection of culture in Article 27 requires the state parties to not only protect immaterial aspects of the minority culture but also offer legal protection for the material foundation of such culture.

Article 2 of the ICCPR adds to the prohibition of discrimination in Article 27. In its authoritative interpretation of Article 27, the Human Rights Committee noted the importance of positive measures by states to “protect the identity of a minority and the rights of its members to enjoy and develop their culture and language and to practice their religion, in community with the other members of the group”.¹¹

The PRC has also ratified ICERD, which further protects the right to education and the right to speak one’s own language. These two rights are interconnected, in part because the right to education is strengthened by the fundamental principles of non-discrimination and equality. The right to education without discrimination is especially important for protecting the use of a minority language in schools.¹²

The PRC’s legal system appears to respect international human rights standards of education and language protection for minority groups. In theory, the right of Tibetans to govern their own educational and cultural affairs is protected under Chapter 3, Section 6, Article 119 of the PRC’s constitution and Article 12 of the Chinese Education law of 1995, which encourages the use of minority languages in schools.

In practice, these laws including the Law on Regional National Autonomy(1984) do little to protect education and language rights. In fact, the laws that should protect social and cultural rights are sometimes used to justify human rights violations. For example, government officials managed to

¹⁰Vienna Convention on the Law of the Treaties, Vienna, 23 May 1969. UN, Treaty Series, vol. 1155, p. 331, available at https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf

¹¹ UN Human Rights Committee (HRC), CCPR General Comment No. 23: Article 27 (Rights of Minorities), 8 April

¹²

Language Rights of Linguistic Minorities: A Practical Guide for Implementation, UN Special Rapporteur on minority issues, March 2017, available at

use a ‘compulsory education law’¹³ to justify prohibiting Tibetan children from participating in religious activities during their summer vacation.¹⁴

Restrictions on Tibetan language education

Chinese authorities in Nangchen county had issued an “Urgent notice concerning stopping illegal study classes in monasteries” in Dec 2018. By January 2019, the CCP’s United Front Work Department (UFWD), which issued the ban, had effectively ended the tradition of Tibetan children in Qinghai province attending classes in local monasteries. The Tibetan language is the most common subject taught in monasteries during school holidays.¹⁵

The Nangchen notice confirms earlier reports of similar bans in other Tibetan areas. The ban is another official regulation that restricts contact between children and monks even for non-religious activities like Tibetan language classes. It is the first of its kind banning children’s religious activities in historically Tibetan areas further east, like Qinghai Province. In the past, authorities had applied such bans only within TAR, where restrictions on Tibetan culture are typically tighter.¹⁶

Similar threats to Tibetan religious and linguistic education followed in 2019. Authorities in the Golog (Ch: Guoluo) Tibetan Autonomous Prefecture ordered schools to stop teaching any subjects in Tibetan except the Tibetan language in the first grade.¹⁷ The Tibet Minzu University in Shaanxi province, the PRC’s oldest university for Tibetans and other minority students, ended classroom instruction in Tibetan¹⁸, making it difficult to meet the standard of proficiency in Mandarin Chinese and pass the tests for consideration for employment in the Chinese civil service.

Criminalising Tibetan cultural expressions

The Nangchen ban is also the first known document issued by the UFWD to tighten policy concerning minorities and restrict the participation of Tibetan children from participating in religious activities.¹⁹ It demonstrates how the PRC interprets almost all expressions of Tibetan culture as veiled political dissent. Previously, these types of bans had been issued by individual

¹³Compulsory Education Law of the People's Republic of China (2006), available at http://www.npc.gov.cn/englishnpc/Law/2007-12/12/content_1383936.htm

¹⁴Tibet underage students banned from religious activities in accordance with law, Global Times, 23 July 2018, available at <http://www.globaltimes.cn/content/1112052.shtml>

¹⁵China: Tibetan Children Banned from Classes, Human Rights Watch, 30 January 2019 by Human Rights Watch, available at <https://www.hrw.org/news/2019/01/30/china-tibetan-children-banned-classes> ¹⁶Ibid.

¹⁷Prefecture in Qinghai to Drastically Cut Tibetan Language Education, Radio Free Asia, 16 May 2019, available at <https://www.rfa.org/english/news/tibet/tibetan-language-05162019211809.html>

¹⁸China’s Oldest University for Tibetan Students Ends Instruction in Tibetan, Radio Free Asia, 10 January 2019, available at <https://www.rfa.org/english/news/tibet/university>

¹⁹Supra note 17.

schools or local education bureaus. The decree hints that the provincial Tibetan language classes are disguised, organized political opposition to the CCP and it describes informal language classes run by monks as “dangerous”, “harmful”, “ideological infiltration among the young”.²⁰ Classes taught at local monasteries in any subject are forbidden under the ban, including Tibetan language classes, and officials are told to expel monks from monasteries if they are caught organizing even informal classes for local children.

To enforce “bilingual education” in minority areas, the PRC forces Tibetan parents to enroll their toddlers in kindergartens that immerse them in Chinese language and state propaganda in the name of ‘strengthening national unity’. Rather than foster a robust education, this policy challenges minority rights and, as evidence suggests, makes it difficult for Tibetan children to compete academically with native speakers of Mandarin Chinese. In March 2019, all local primary schools in six rural townships in Nagchu (Ch: Naqu) Prefecture, Tibet Autonomous Region (TAR) had switched to using Mandarin Chinese as the language of instruction.²¹

Deployment of government propagandists

In 2019, the PRC authorities intensified its assimilationist policies through what is called the ‘Group Form’ education aid program. In August 2019, 400 teachers from 17 Chinese provinces and municipalities began work as teachers and administrators in 21 schools as part of the program in TAR.²² Chinese state media reported that 86 participants in the program’s ninth installment were principals, academic directors, and “moral education” directors while the remaining 314 were teachers.²³ The program is one of the two major programs introduced by Chinese authorities to purportedly equalize educational outcomes between Chinese and Tibetans.²⁴

The program’s curriculum design and distribution of carefully-vetted “inland” teachers and administrators is part of the long term efforts to create “a new generation of Tibetans who are patriotic and loyal to the Party”.²⁵

Each year, 800 teachers from inland China are divided into groups and sent to 20 Tibetan primary and middle schools to boost local education. While the majority of them are STEM teachers, some educators are sent to survey the “moral and ideological education” courses or to work as principals and administrators.

²⁰Ibid.

²¹Tibetan Children Denied Mother Tongue Classes, Human Rights Watch, 5 March 2020, available at <https://www.hrw.org/news/2020/03/05/china-tibetan-children-denied-mother-tongue-classes>

²²400 Chinese cadres take posts in 21 Tibetan schools under controversial educational aid program, TCHRD, 1 November 2019, available at <https://tchrd.org/400-chinese-cadres-take-posts-in-21-tibetan-schools-under-controversial-educational-aid-program/>

²³400 “group-form” aid teachers arrive in Tibet to work in 21 schools, China Tibet Network, 11 September 2019, available at http://www.tibet.cn/cn/news/zx/201909/t20190911_6680037.html

²⁴The other program is the Tibet Inland Schools and Classes, or “neidiban”, which has been in existence since the 1980’s.

²⁵China promotes assimilation under the guise of education aid program in Tibet Autonomous Region, TCHRD, 6 August 2019, available at <https://tchrd.org/china-promotes-assimilation-under-the-guise-of-education-aid-program-in-tibet-autonomous-region/>

Students from inland PRC are also sent to Tibetan schools, a policy reminiscent of similar acts during the PRC's Cultural Revolution when millions of Chinese youth volunteers were reportedly sent to work rural and "ethnic minority areas," to "spread civilization".²⁶

A new political campaign called "Thousands for Promotion" [of the Party state's agenda], launched March in Dechen (Ch: Diqin) Tibetan Autonomous Prefecture, Yunnan Province, prioritized the deployment of thousands of Party cadres to Tibetan homes, schools and monasteries to carry out political education campaigns in the guise of 'legal education activities of 'opposing separatism and maintaining stability'. In a 22 March document²⁷, the Chinese Communist Youth League said it was sending more than 10 million vocational school and university students to rural areas as volunteers by 2022 in order to "increase their skills, spread civilization and promote science and technology."²⁸

Conclusion

The right to speak one's mother tongue and receive a culturally sensitive education are basic rights and fundamental freedoms universally protected in numerous treaties and agreements, along with the cross-cutting principles of equality and non-discrimination. Accordingly, the Chinese Constitution and other laws also include protections for Tibetans' right to an education in their mother tongue. The provisions are nullified by the imposition of contradictory laws and policies that eliminate Tibetan language and religious education with the pretense of boosting educational outcomes. The banning of private classes during the holidays, coupled with official and unofficial phasing out of Tibetan language in primary schools and the ongoing integration of inland Chinese teachers in Tibetan schools is contributing to the steady obliteration of Tibetan language.

The PRC's version of bilingual education contravenes international human rights law, particularly the CRC and the ICCPR. UN committees such as those on the CRC; CESCR; and the Elimination of Racial Discrimination have all expressed concern over the rights of Tibetans' right to education in their own language and culture in the PRC.

The right to education is 'both a human right in itself and an indispensable means of realizing other human rights'.²⁹ The deprivation of mother tongue education has harmful effects on Tibetans' ability to exercise and fulfil their economic and social rights, and fulfill their aspirations.

²⁶Millions of Chinese Students to Be Sent to 'Minority Areas'; China Doubles down on Tibet Control during Anniversary Period." International Campaign for Tibet, 15 April 2019, available at <https://savetibet.org/millions-of-chinese-students-to-be-sent-to-minority-areas-china-doubles-down-on-tibet-control-during-anniversary-period/>

²⁷Ibid.

²⁸Millions of Chinese youth 'volunteers' to be sent to villages in echo of Maoist policy, The Guardian, 12 April 2019, available at <https://www.theguardian.com/world/2019/apr/12/millions-of-chinese-youth-volunteers-to-be-sent-to-villages-in-echo-of-mao-policy>

²⁹CESCR General Comment No. 13: The Right to Education (Art. 13), Adopted at the Twenty-first Session of the Committee on Economic, Social and Cultural Rights, on 8 December 1999, available at <https://www.refworld.org/pdfid/4538838c22.pdf>

RIGHTS TO FREEDOM OF EXPRESSION AND PRIVACY

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

-- Article 19, Universal Declaration of Human Rights

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

-- Article 12, Universal Declaration of Human Rights

The PRC continued to violate the rights to freedom of expression and privacy throughout Tibet in 2019. A host domestic laws and policies are enforced to ostensibly counter terrorism, secure the Internet, and protect state security were intensified with local authorities in Tibetan areas issuing punitive measures for vaguely defined online offenses.

Tibet remained inaccessible to foreign journalists, human rights monitors and visitors making it easier for Chinese authorities to maintain the information blackout.

Restrictions on communication channels such as the internet remained severe during the months leading up to sensitive political anniversaries such as 10 March Tibet Uprising Day or the Dalai Lama's birthday on 6 July.

Chinese authorities in TAR and other Tibetan areas continued to use a nationwide campaign, ostensibly designed to fight organised crime and criminal gangs, to persecute and oppress Tibetans for engaging in so-called separatist activities. Tibetan human rights defenders and community activists fighting official apathy and corruption were falsely prosecuted under this campaign, exacerbating the chilling effect caused by persistent criminalisation of activities undertaken in defense of human rights.

In addition to mass surveillance programs, Chinese authorities used targeted surveillance to violate the rights to freedom of expression and privacy of ordinary Tibetans as well as journalists, bloggers and human rights defenders. The widespread use of surveillance and censorship by the Chinese authorities is aimed at crushing dissent, penalizing criticism and silencing human rights informants in Tibet.

The violation of privacy through unlawful surveillance and censorship measures further restricts Tibetans capacity to exercise their freedom of expression and a host of other rights including but not

limited to freedom of opinion, association, religion, and culture.³⁰

Legal Standards

Because the UDHR is a fundamental constitutive document of the UN, its principles count as international customary law,³¹ and are therefore binding on all states including the PRC. The rights to freedom of expression and privacy are recognized respectively in Articles 19 and 12, respectively, of the UDHR. Further, Article 19 of the ICCPR, signed but not ratified by the PRC, protects the right to express and hold opinions without interference and to seek, receive and impart information and ideas of all kinds, regardless of frontiers and through any media.

Article 17 (1) of the ICCPR, echoing Article 12 of the UDHR, provides that “[n]o one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence”. Article 17 of the ICESCR, which the PRC has ratified, protects the right to privacy.

Freedom of speech, press, assembly, association, procession and demonstration is protected in Article 35 of the Chinese Constitution.³² Article 41 further protects the right to criticize any state organ or functionary. But these provisions are negated by other provisions in Articles 52, 53 and 54 that impose vague affirmative duties on citizens to safeguard “the unity of the country; “the security, honor and interests of the motherland; and to “keep state secrets.

The right to privacy is neither defined in clear terms nor specifically guaranteed in the Chinese Constitution. Yet some form of “freedom and privacy in communication” is provided in Article 40 although this provision is again qualified by the requirements of the broadly defined “state security”, “public security” and “investigation into criminal offences”. This vague provision is reiterated in Article 4 of China’s Postal Law (1987) and the General Principles of Civil Law (1986).³³

The rights to freedom of expression and privacy have been subjected to increased restrictions after the enforcement of the National Security Law (2015), the Counterterrorism Law (2016) and the Cyber security Law (2017). Numerous regulations and directives have since been imposed at the local level to implement the aforementioned laws.

³⁰Surveillance and Human Rights, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Human Rights Council Forty-first session, 28 May 2019, A/HRC/41/35.

³¹Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Frank La Rue, UN Doc. A/HRC/14/23. 20 April 2010, available at: <http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.23.pdf>

³²Constitution of the People’s Republic of China, Article 35, available at: http://www.npc.gov.cn/englishnpc/Constitution/node_2825.htm

³³The Right to Privacy in China, Privacy International, and the Law and Technology Centre of the University of Hong Kong, UPR Stakeholder Submission to the 17th Session – China, March 2013, available at: https://www.privacyinternational.org/sites/default/files/ChinaUPR_2013.pdf

Information Blackout

In 2019, Chinese authorities closed TAR to all foreigners from 1 February to 1 April. For a decade since 2008, the TAR has been closed to non-Chinese visitors from about mid-February through the whole of March owing to the 10 March anniversary of the 1959 Tibetan National Uprising in Lhasa. The earlier than usual closure of TAR was followed by a sudden announcement on 26 February allowing some TAR-based travel companies to process permits in March.³⁴ Foreign travellers to TAR require special permits that typically take about three weeks to process. The long, drawn-out process to obtain the permits meant that foreigners would not have been able to visit in March.

As the TAR remained closed to foreigners, Tibetans were arrested or imprisoned for posting ‘illegal’ contents online or discussing ‘politically sensitive’ topics on phone.

- Tsering Dorjee, 45, was detained on 20 February after he was caught talking on the phone with his younger brother about the importance of teaching Tibetan to their children.³⁵ He is a resident of Peleb village in TashiZom Township, Dingri (Ch: Tingri) County, Shigatse (Ch: Xigaze) City, TAR. The Dingri County Public Security Bureau (PSB) held him in a ‘political re-education’ facility for over a month.
- PemaSamdup, 26, was detained on 9 March in Lhasa for sharing ‘illegal’ contents on his WeChat account.³⁶ After being held in Lhasa for sometime, he was handed over to the PSB authorities in Chamdo (Ch: Qamdo) Prefecture, where he is originally from. Samdup’s relatives expressed fears for his life given that the detention facilities in Chamdo are notorious for using brutal torture on political detainees.³⁷
- Wangchuk, 45, was detained around 8 March in Shigatse city for sharing on his WeChat account books authored by Tibetan spiritual leader His Holiness the Dalai Lama and a Tibetan translation of ‘The Noodle Maker of Kalimpong’, a memoir by the Dalai Lama’s older brother Gyalo Thondup.³⁸

In its 2018 report on PRC’s media freedoms released in January 2019, the Foreign Correspondents’ Club of China (FCCC) revealed extremely tough reporting conditions suggesting the use of surveillance by Chinese authorities “to silence sources within China and outside its borders”.³⁹ More

³⁴When is Tibet Closed to Foreigners (2019 Update), YoWangdu Experience Tibet, available at <https://www.yowangdu.com/tibet-travel/when-is-tibet-closed-to-foreigners.html>

³⁵Tibetan man criminally detained for phone conversation about Tibetan language education, TCHRD, 20 December 2019, available at <https://tchrd.org/tibetan-man-criminally-detained-for-phone-conversation-about-tibetan-language-education/>

³⁶Fears for the life of a Tibetan man detained for sharing photos ahead of sensitive political anniversary, TCHRD, 12 November 2019, available at <https://tchrd.org/fears-for-the-life-of-a-tibetan-man-detained-for-sharing-photos-ahead-of-sensitive-political-anniversary/>

³⁷Ibid.

³⁸Tibetan man sentenced to prison for sharing books on WeChat, TCHRD, 7 November 2019, available <https://tchrd.org/tibetan-man-sentenced-to-prison-for-sharing-books-on-wechat/>

³⁹It’s Getting Harder to Report in China, Foreign Journalists Say, Bloomberg, 29 January 2019, available at <https://www.bloomberg.com/news/articles/2019-01-29/it-s-getting-harder-for-foreign-journalists-to-report-in-china>

than half of the respondents to the FCCC’s survey who were journalists working in PRC reported that both human and digital surveillance negatively impacted their work.

The report quoted FCCC president Hanna Sahlbergas saying: “What correspondents in China experienced in 2018 shows that authorities are becoming more sophisticated in their use of surveillance. The wider monitoring and pressure on sources stop journalists even before they can reach the news site.”⁴⁰

TAR remained off-limits to foreign reporters without prior permission. In other Tibetan areas outside TAR, reporting conditions deteriorated with increasing instances of restrictions and prohibitions on reporting from areas deemed sensitive by the authorities.⁴¹

Paul Mooney, a freelance journalist from the US, who worked in China from 1994 to 2012 before he was refused a visa to return, recounted the challenges he had faced while working on sensitive topics. “In the 18 years, I was in Beijing, I planned to go to [TAR] seven times, and I was rejected each time. It was very difficult for foreign journalists to go to [TAR]. There were a few cases when foreign journalists were invited, but their movements were restricted and they were followed around. It was very difficult to speak to anyone and if you did manage to sneak away from the minders and if you talked to someone, that person would probably get in trouble for talking to you and of course especially since [TAR] requires a special pass for foreigners to travel, we just couldn’t get into an airplane to go there and even if we did, we wouldn’t even be able to check into a hotel because we didn’t have a special permit to travel there.”⁴²

Mooney’s account showed that reporting conditions in TAR and other Tibetan areas were severely restricted back in 2012 as they are now. “I had one friend who did reporting in Tibetan areas outside of [TAR] and he rode into the area in the back of a truck covered in blankets so that no one would see him going there. Whatever reporting I did on Tibet issues, I had to do in Sichuan Province, Yunnan, Gansu or Qinghai, even there I had to be very careful about what I was doing.”⁴³

PRC’s claims of accelerating the process of obtaining travel permits for foreign tourists to TAR,⁴⁴ weeks after the the US President Donald Trump signed into law the Reciprocal Access to Tibet Act (RATA), proved baseless and misleading.⁴⁵ The RATA aims to address a broad spectrum of restrictions faced by US citizens including Tibetan-Americanstravelling to TAR. Among others, it aims to make it easier for American journalists and diplomats to enter TAR and report on the situation

⁴⁰Ibid.

⁴¹Ibid.

⁴²Veteran Journalist Paul Mooney sharing his experience of working as a journalist in China, World Press Freedom Day Campaign, May 2019, TCHRD/ATJ, available at

⁴³Ibid.

⁴⁴Tibet travel to become easier for foreigners, China Daily, 10 January 2019, available at https://news.cgtn.com/news/3d3d414f324d544f31457a6333566d54/share_p.html

⁴⁵China’s claims about easing Tibet travel are an insufficient response to Reciprocal Access to Tibet Act, International Campaign for Tibet, 11 January 2019, available at <https://savetibet.org/chi>

of the Tibetan people. The PRC attempted to frame the issue of movement and travel in TAR solely in terms of ordinary foreign tourists' ability to visit TAR on group tours and failed to address the long-standing bureaucratic requirements, state surveillance and other human rights violations that hinder the capacity of foreign visitors to freely travel and interact with local residents in TAR.

Surveillance and Censorship

The PRC's use of collective punishment and mass surveillance requiring members of the public to inform on others in their social circles has intensified the climate of self-censorship and an overall decline in freedom of expression in Tibet.⁴⁶

Coercive directives disguised as anti-crime measures were again issued again this year in TAR as part of the so-called "social supervision strategy to mobilize the general public to effectively prevent and combat illegal and criminal online contents".⁴⁷ A notice issued on 28 February promised cash prizes of upto 300,000 yuan in return for anyone reporting illegal online activities to the police.

The extensive and vague crimes listed in the notice leave little to no room for Tibetans to peacefully express dissent or criticism of government policy.⁴⁸ Tibetans were banned from using computers and mobile phones to "collect, produce, download, store, publish, disseminate, and publicize malicious attacks against the Chinese Communist Party and the Chinese government, the socialist system, the regional ethnic autonomy system, and the party and the government's policy of managing TAR."

The notice further prohibited the "fabrication or deliberate dissemination of information that damages the image of the country, seriously jeopardizes the interests of the country, and distorts the history of the party, the nation and the army."

Additionally, online activities deemed as "challenging China's territorial claims over Tibet", "participating in separatist activities", "calling for the 'middle way'", "advocacy of mother tongue", and "using religion to interfere in grassroots-level administrative affairs or education", "subverting state power", "overthrowing the socialist system", and "splitting the country" are criminalized.

Other communication viewed by the state as "illegal sharing of information about the country's political, economic, social, military, cultural, religious and other state secrets or intelligence information with overseas organizations, institutions and individuals" came under the purview of the ban, as did "provoking and creating ethnic conflicts", "inciting ethnic hatred and discrimination", "provoking and inciting hostility, confrontation, and conflict between various religious beliefs and religious ideologies."

⁴⁶2017 Annual Report: Human Rights Situation in Tibet, TCHRD, May 2018, available at <https://tchrd.org/2017-annual-report-on-human-rights-situation-in-tibet/>

⁴⁷China Raises Reward for Informants in Tibet, Radio Free Asia, 8 August 2019, available at <https://www.rfa.org/english/news/tibet/reward-08082019170949.html>

⁴⁸Chinese authorities crushing freedom of expression in the name of internet security, TCHRD, 5 August 2019, available at <https://tchrd.org/chinese-authorities-crushing-freedom-of-expression-in-the-name-of-internet-security/nas-claims-about-easing-tibet-travel-are-an-insufficient-response-to-reciprocal-access-to-tibet-act/>

Online users were threatened with “severe consequences” if they used network communication tools to “organize or form illegal organizations in the name of ‘public welfare’, ‘environmental protection’, ‘education’, ‘medical’ and ‘poverty alleviation’ in order to distort and attack party and government policies”.

The ban was imposed on “browsing, disseminating, downloading, and storing information published by organizations and individuals related to “domestic and foreign national separatist forces, religious extremist forces, and violent terrorist organizations.”

Online banking transactions including the use of electronic checks and credit cards to send donations to organizations and personnel related to “ethnic separatist forces, religious extremist forces, and violent terrorist forces” were criminalized.

In August 2019, Chinese authorities in Qinghai Province announced fixed term imprisonment of one to eight years for posting or sharing illegal content online.⁴⁹ The “urgent” announcement called for increased monitoring and management of online chat groups and individual users “at all times and in all places”.⁵⁰

The announcement criminalized posting and sharing information that “harms the nation and the Chinese Communist Party”, in addition to targeting online groups with more than 10 members. It requires all members of such group to “exercise self-restraint, keep a tight lip by not sharing rumours and stop sharing sensitive information.”

The moderators of online chat groups were required to manage the behavior of their group members and the content they shared. Various relevant government departments including the internet police authorities were tasked with “closely monitoring” all chat groups and individual status updates or ‘moments’ (a feature on WeChat that enables users to post text-based updates, upload images, and share videos and articles).

Under the widening umbrella of online information deemed politically sensitive, Tibetans were detained and persecuted for posting essays online that criticize growing unemployment among Tibetan youths,⁵¹ and the discriminatory policy of marginalizing the Tibetan language⁵² or posting photos of His Holiness the Dalai Lama on their personal WeChat accounts.⁵³

⁴⁹China announces fixed-term imprisonment of up to eight years for ‘illegal’ online content, TCHRD, 30 August 2019, available at <https://tchrd.org/china-announces-fixed-term-imprisonment-of-up-to-eight-years-for-illegal-online-content/>

⁵⁰Listen to this urgent notice and share it widely, Weixin, 27 August 2019, available at https://mp.weixin.qq.com/mp/audio?_wxindex_=0&scene=104&__biz=MzAxNDA0NjA0Nw==&mid=2247488882&idx=1&voice_id=MzAxNDA0NjA0N18yMjQ3NDg4ODgx&sn=20867a5c6b390b79dd0ca2689eb51ac5#wechat_redirect

⁵¹China Questions Classmates, Friends of Tibetan Student Who Posted Politically Sensitive Essay, Radio Free Asia, 3 May 2019, available at <https://www.rfa.org/english/news/tibet/questions-05032019145934.html>

⁵²Monk detained for criticising China’s policy on Tibetan language at high risk of torture, TCHRD, 11 November 2019, available at <https://tchrd.org/monk-detained-for-criticising-chinas-policy-on-tibetan-language-at-high-risk-of-torture/> ⁵³Tibetan Man Detained For Sharing Dalai Lama Photo on WeChat, Radio Free Asia, 26 August 2019, available at <https://www.rfa.org/english/news/tibet/photo-08262019142526.html>

In addition, digital laws that enlist Chinese internet companies into the hierarchy of surveillance and the grid management system distribute the power of the Party-state across Tibet. Grassroots surveillance mechanisms such as the Advanced Double-linked Households that compel individuals to report suspicious activity bring the entire population into the hierarchy of control and surveillance, forcing Tibetans to report and betray one another or face consequences.

Masspolitical indoctrination

The expansion and acceleration of the ‘patriotic education’ campaign, also known as ‘political reeducation’, to promote Party ideology and enforce allegiance to the president of the Party-state Xi Jinping has led to a steady decline in freedom of expression and opinion in Tibet and elsewhere in the PRC.

For decades, the political indoctrination campaign has been implemented under various banners such as ‘legal education’ or ‘national unity’ campaigns to mask the element of coercion inherent in its implementation. Apart from monitoring and crushing any kind of dissent and critical views, the impact of the campaign has been particularly devastating to Tibetans and other ‘ethnic minorities’ owing to the consistent requirement to adopt a “Chinese national identity” and to “love the Chinese Motherland and the Party”.

The Chinese national identity as understood and promoted through the campaign implicitly rejects the relevance and importance of the other distinct cultural identities that make up the multi-ethnic and multi-lingual nation-state of the PRC. Prioritizing the propagation of ‘traditional Chinese culture’ in the revised guideline on patriotic education, when viewed alongside the ongoing policy of aggressive cultural and linguistic assimilation, leads to further erosion of the right to freedom of expression and opinion guaranteed to Tibetans under Chinese law, particularly in the Regional National Autonomy Law, as well as by international instruments.

The political indoctrination campaign, implemented since 1994, has more recently been targeted at all segments of the society and not just Party cadres, government officials or the Tibetan monastic population.⁵⁴ The contents of patriotic education efforts have become increasingly institutionalized in the political bodies and education systems of the PRC as a means of boosting the political legitimacy of the Party.

The release of the revised guidelines on patriotic education in November 2019 entitled “Implementation Outlines for Patriotic Education in the New Era” represented the culmination of years of hardline policies under president Xi Jinping designed to achieve absolute allegiance to the Party. Although the major themes of mandatory loyalty and allegiance to the Party and the “Chinese

⁵⁴More on the intensification of patriotic education campaigns in the Tibetan monastic communities in the following sections of this report.

motherland”, as highlighted in the 1994 implementation outlines,⁵⁵ are still the main focus, the revised outlines specifically “stressed the importance of lasting, in-depth and lively patriotic education among young people”.⁵⁶ The revised outlines emphasized that “patriotic education is education for all the people,” and that these programs must be expanded throughout Chinese society.⁵⁷

The revised outlines further required that “patriotic education in [Xi Jinping’s] new era” be made “the faith, spiritual strength and conscious action of all Chinese people”⁵⁸ allowing the Party-state to promote its one-sided political ideology and indoctrinate the entire citizenry. At the review meeting of the revised outlines in September 2019, Xi Jinping’s description of “the state and legal system of socialism with Chinese characteristics” as “practicable, workable and efficient” reinforces the Party’s determination to destroy the “malignant virus of Western-style liberal democracy” and other universal values such as democracy and free speech.⁵⁹ Other political duties that the patriotic education imposes such as “guiding people to safeguard national reunification and ethnic unity”⁶⁰ have had disastrous consequences on the human rights situation in Tibet.⁶¹

The revised outlines stressed using schools and other “innovative methods like online classes, music and drama works” to promote patriotic education among the young.⁶² The use of Xuexi Qiangguo, an online application widely used to teach Party theory, mainly “Xi Jinping Thought”, has been emphasized in the revised guidelines.⁶³ The introduction of the app in January 2019 coincided with the launch of a “special nationwide four-month rectification campaign” against ‘illegal’ mobile educational apps.⁶⁴ The crackdown resulted in the closure of 12,100 social media apps used mainly by young people and the removal of more than 55,000 articles with “bad and unrelated learning contents”.⁶⁵

⁵⁵Zheng Wang, National Humiliation, History Education, and the Politics of Historical Memory: Patriotic Education Campaign in China, *International Studies Quarterly* (2008) 52, 783–806, available at http://www.cctr.ust.hk/materials/library/isq_Zheng_Wang_12-08.pdf

⁵⁶ Top Party leadership highlights patriotic education, *China Daily*, 25 September 2019, available at <https://www.chinadaily.com.cn/a/201909/25/WS5d8a7e4ca310cf3e3556d425.html>

⁵⁷John Dotson, The CCP’s Renewed Focus on Ideological Indoctrination, Part 1: The 2019 Guidelines for “Patriotic Education”, The Jamestown Foundation, 10 December 2019, available at <https://jamestown.org/program/the-ccps-renewed-focus-on-ideological-indoctrination-part-1-the-2019-guidelines-for-patriotic-education/>

⁵⁸Supra note 59.

⁵⁹Patriotic education needs to improve in Hong Kong, *China Daily*, 6 November 2019, available at http://www.chinadaily.com.cn/global/2019-11/06/content_37521037.htm

⁶⁰China unveils outline for strengthening patriotic education, *Xinhua*, 13 November 2019, available at http://www.xinhuanet.com/english/2019-11/13/c_138549930.htm

⁶¹Prominent former political prisoner Tsegon Gyal sentenced to three years on charge of ‘inciting separatism’, TCHRD, 18 February 2018, available at <https://tchrd.org/prominent-former-political-prisoner-tsegon-gyal-sentenced-to-three-years-on-charge-of-inciting-separatism/>

⁶²China issues patriotism education guideline, *Global Times*, 13 November 2019, available at <http://www.globaltimes.cn/content/1169959.shtml>

⁶³China’s most popular app is a propaganda tool teaching Xi Jinping Thought, *South China Morning Post*, 14 February 2019, available at <https://www.scmp.com/tech/apps-social/article/2186037/chinas-most-popular-app-propaganda-tool-teaching-xi-jinping-thought>

⁶⁴Special four-month rectification campaign against mobile educational apps, TCHRD Monthly Translation and Analyses Digest, May 2019, available at <https://tchrd.org/may-monthly-translation-and-analyses-digest/>

⁶⁵Ibid.

The Xuexi Qiangguo smart phone app serves not only as a mass indoctrination, but also as a surveillance tool.⁶⁶

In a clear indication of the expansion of the state-led political indoctrination campaigns among young Tibetans, Chinese authorities in TAR opened a “Tibet Youth Palace” in May 2019 in Lhasa to “carry out extracurricular activities, inherit traditional culture and strengthen patriotism education.”⁶⁷ By November 2019, Chinese authorities had built 17 “Rural Youth Palaces” targeting more than 3,200 students in Kardze County, outside TAR in Tibet’s Kham province. Primarily tasked with promoting ‘Xi Jinping Thought’, these patriotic education bases are ostensibly promoted as after-school activity centres for children.⁶⁸

Another variation of the patriotic education campaign known as the ‘Four Emphases and Four Loves’, extensively used in Tibet since 2016, had its annual launch in April 2019 in Lhasa where the campaign’s rigorous implementation methods of “systematic educational approach and periodic workshops to promote guidance to all ethnic groups and cadres to feel gratitude for the Party and follow the Party’s lead” was emphasized.⁶⁹ The primary focus of the campaign in Tibetan areas is to “strengthen the ideological and political education of the masses, consolidate the grassroots foundation, and respond to the new challenges of the anti-separatist struggle”.⁷⁰

In Amdo (Ch: Anduo) County in Nagchu Prefecture in TAR, the ‘Four Loves’ campaign was incorporated into the county’s educational system in 2018 with the introduction of the “Implementation Plan for the Four Emphases and Four Loves in the Educational Practice Activities of Amdo County”.⁷¹ All teachers, students, and parents are required to “learn, publicize, and practice” campaign activities, the most important of which is to “hold firmly the correct political positions, directions, principles and paths, by closely uniting around the Chinese Communist Party with Comrade Xi Jinping as the core.”⁷²

⁶⁶STUDYING “STUDY THE GREAT NATION”, Open Technology Fund, 12 October 2019, available at <https://www.opentech.fund/news/studying-study-the-great-nation/>

⁶⁷New training camp for Party cadres in Tibet demonstrates tougher approach and challenges in ensuring loyalty, International Campaign for Tibet, 14 February 2019, available at <https://savetibet.org/new-training-camp-for-party-cadres-in-tibet-demonstrates-tougher-approach-and-challenges-in-ensuring-loyalty/#5>

⁶⁸Seventeen rural youth palaces serve as a new paradise for children in Sichuan's Ganzi County, China Tibet Network, 13 November 2019, available

⁶⁹The 2019 "Four Emphases and Four Loves" Mass Education Practice in Tibet's Lhasa City, China Tibet Network, 13 April 2019, available at http://www.tibet.cn/cn/news/yc/201904/t20190413_6552899.html

⁷⁰Ibid.

⁷¹‘Four Loves’ propaganda campaign incorporated into state education institutions, TCHRD Monthly Translation and Analyses Digest, May 2019, available at <https://tchrd.org/may-monthly-translation-and-analyses-digest/>

⁷²Ibid.

The year also saw a continued tightening of ideological control among young people as signaled by the TAR branches of the Communist Youth League (CYL) and the Young Pioneers (YP) at their meetings held in April 2019 in Lhasa. Apart from highlighting Xi Jinping’s speeches on promoting the Party’s ideological and political theory in schools, the YP meeting announced that in 2019 all YP branches at all levels in TAR would focus on educational activities aka ideological and political education by strictly integrating school education, family education and social education. The CYL meeting decided to “reverse its weak grassroots influence in TAR and significantly enhance its role in Party building” by setting up eight special committees to “further develop party building, strictly govern the CYL, deepen the reform of CYL, build grassroots youth organizations, promote ideological and political leadership of youth”.⁷³

Conclusion

The rights to freedom of expression and privacy are two sides of the same coin in the age of the internet. Without protecting online privacy, the right to freedom of opinion and expression cannot be exercised fully and securely.⁷⁴

The PRC’s concept of “internet sovereignty” results in widespread and systematic violation of online privacy and expression. Its orthodox view and understanding of state sovereignty are antithetical to universal human rights. Any dissenting opinions or behavior that contradict state propaganda including expressions of Tibetan culture are criminalised and punished.

By once again shutting down foreign access to Tibet during major anniversaries, the PRC demonstrated its unwillingness both to uphold human rights standards and to implement the principle of reciprocity in its relations with other nations.

The use of nearly omnipresent surveillance to silence dissent, sanction criticism or punish independent reporting (and sources for that reporting) goes well beyond normal security measures. The surveillance measures are rarely used to respond to crime or other security threats, but instead to try to anticipate and plan for possible “security breaches” that challenge the Party’s control overall aspects of a citizen’s life.

The PRC’s relentless efforts to turn members of the public into government spies in the name of a ‘social supervision strategy’ is yet another example of the police state that exists in Tibet.

⁷³Tibet Communist Youth League will set up 8 new special committees to fully promote the work of achieving new development, China Tibet Network, 12 April 2019, available at http://www.tibet.cn/cn/news/yc/201904/t20190412_6552778.html

⁷⁴ UN Human Rights Council, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, 22 May 2015, available at:

RIGHTS TO FREEDOM OF PEACEFUL ASSEMBLY

Everyone has the right to freedom of peaceful assembly and association.

- Article 20 (1), Universal Declaration of Human Rights

The right to freedom of peaceful assembly remained severely restricted in Tibet with the continued criminalization of all kinds of public protests including self-immolation and other protests. The freedom to assemble and publicly express grievances against the state does not exist in Tibet given the PRC's authoritarian system.

The brutal and sweeping crackdown on the 2008 Tibetan uprising that lasted for several years. The result has been the near-absence of any large political protests or demonstrations, and a dwindling number of protests carried by lone Tibetans. All protesters were given harsh sentences to deter others from following suit.

A plethora of repressive laws and policies continued to impose disproportionate and unjustified restrictions on the right to freedom of assembly. The successful operation of a mass surveillance system based on high definition CCTV cameras scanning streets, restaurants, and public transportation, along with the use of increasingly accurate artificial intelligence, has left no space for the expression of public grievances. This has led to the steady erosion of the most basic elements of the right to assembly, that is, the right to think for oneself and express opinions freely. Self-censorship has become even more of an indispensable quality of daily life in Tibet.

Legal Standards

The right to freedom of peaceful assembly is a fundamental human right recognised in numerous international human rights treaties including Article 20 of ICCPR and Article 8 of ICESCR, which the PRC has ratified. The PRC has ratified other notable treaties that recognize the right to freedom of peaceful assembly, including CERD in Articles 4 and 5(ix) of I; CEDAW in Article 7(c); and Article 15 of the CRC.

The right to freedom of peaceful assembly covers not only the right to hold and participate in peaceful assemblies but also the right to be protected from undue interference. The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association has described the right to protest as a fundamental right that is necessary for the exercise of other human rights.⁷⁵

Although Article 35 in the Chinese Constitution guarantees the right to freedom of peaceful assembly, Chinese law enforcement authorities use excessive force against protesters before holding the protesters in undisclosed location for interrogation, torture and intimidation. In violation of constitutional guarantees, unnecessary or disproportionately harsh penalties are imposed on Tibetans peacefully exercising the right to freedom of assembly.

⁷⁵What Are The Rights To Freedom Of Peaceful Assembly And Of Association? Former UN Special Rapporteur On the rights to freedom of peaceful assembly and of association, available at <http://freeassembly.net/about/freedoms/>

Imprisonment of Land Rights Defenders

Nine Tibetan land rights defenders were sentenced to prison terms ranging between three and seven years under the campaign to crush “black and evil forces” after being detained in July 2018⁷⁶ in Rebkong (Ch: Tongren) County in Malho (Ch: Huangnan) Tibetan Autonomous Prefecture, Qinghai Province.⁷⁷ They were falsely charged with founding an “evil organization,” engaging in “forced business transactions,” “extortion and deceit” and mobilizing the public to “disturb social order”.⁷⁸

The nine Tibetans are: Gendun Soepa, Choesang, Bhende Dorje, Tashi Tsering, SonamGyal, Dhargye, Shawo Tsering, KhajamGyal and Dukbum Tsering, from Horgyal village in Rebkong County. They are among the 24 signatories to a February 2017 petition, demanding the return of Horgyal village land that had been expropriated by the government to build three brick factories in exchange for lease payments to the village. The Chinese government continued to the owners of the brick factories for seven years after building site was closed down in 2011, but failed to compensate the villagers, prompting them to organize to demand the return of their land.

The land rights defenders who were also local community leaders were charged under the nationwide campaign to crush “black and evil forces” implemented in Tibet since 2018 to criminalize vague and broadly defined activities such as advocating economic freedom, the right to a livelihood, environmental protection and cultural freedom; community fundraising or providing donations to the “Dalai Clique”; the role and influence of indigenous leadership systems in mediating community conflicts; resisting land grabs, demolitions, infrastructure projects and other related development projects.⁷⁹

Anti-corruption Movement Criminalized

In a well-laid conspiracy to discredit and disband a successful grassroots campaign against corruption, Chinese authorities imprisoned popular Tibetan community leader A-nyaSengdra and his associates in Gade (Ch: Gande) County court after a two-day trial in Golok (Ch: Guoluo) Tibetan Autonomous Prefecture (TAP), Qinghai Province.⁸⁰ In December 2019, Sengdra, along with eight of

⁷⁶Malho police crush illegal organisation, Malho Tibetan Daily, 29 November 2018, available at

https://mp.weixin.qq.com/s?__biz=MzAwNzk2ODM0NA==&mid=2247488996&idx=1&sn=5004ce5ecb53fc51395d66fc1731b3fa&chksm=9b7756d3ac00dfc5259e08d9fe07c59366beb4dae2b7fe30cd712c356530d73864676e20aa5c&mpshare=1&scene=1&srcid=0110GI94BlifPxIWFR9PkBin&pass_ticket=G6XQuMWdnYVFcHoXKQcXj4MdkqwaeIm7NApsxnbSNvww2GfQ%2FcdZFAGsB9pAwARU#rd

⁷⁷Nine Tibetans sentenced up to 7 years in prison under China's organised crime crackdown, TCHRD, 19 April 2019, available at <https://tchrd.org/nine-tibetans-sentenced-up-to-7-years-in-prison-under-chinas-organised-crime-crackdown/>

⁷⁸Tongren County People's Court holds public hearing of the case of criminal group of ‘khagovas’, Tongren County Court, 16 April 2019, available at <http://hntrfy.chinacourt.gov.cn/article/detail/2019/04/id/3827757.shtml>

⁷⁹“Illegal Organizations”: China’s Crackdown on Tibetan Social Groups, Human Rights Watch, 30 July 2018, available at <https://www.hrw.org/report/2018/07/30/illegal-organizations/chinas-crackdown-tibetan-social-groups#>

⁸⁰China: Tibetan anti-graft campaigners sentenced on bogus charges in a show trial, TCHRD, 16 December 2019, available at <https://tchrd.org/china-tibetan-anti-graft-campaigners-sentenced-on-bogus-charges-in-a-show-trial/>

his associates, was sentenced to seven years of imprisonment after being held in pretrial detention for more than 14 months.

The 6 December court verdict was based on loosely defined criminal charges such as “picking quarrels and provoking trouble” and “gathering a crowd to disrupt social order” as well as an unsubstantiated charge of having connections with “black and evil forces”. All of these charges have been weaponized in recent years to silence dissent and critics of government policies in Tibet.

Sengdra was detained in September 2018 to preempt a protest planned by more than 200 local Tibetans who had joined Sengdra’s campaign to lodge a petition with the Provincial Discipline and Inspection Bureau against the embezzlement of poverty alleviation funds in various townships in Gade County.

Peaceful Protestors Imprisoned

Tibetans holding non-violent protests were sentenced to harsh prison terms in violation of both domestic and international law guaranteeing freedom of assembly and expression. A former political prisoner, Lodoe Gyatso and his wife Gakyi, were sentenced to 18 and two years respectively for holding a peaceful protest against the Chinese government sometime in late 2018 in Sog (Ch: Suo) County in Nagchu Prefecture, TAR.⁸¹ Gyatso’s protest in front of the Potala Palace lasted for about four minutes, which involved circumambulating the monument and shouting slogans against the Chinese government.

Gyatso was likely sentenced to criminal offences related to ‘state secrets’⁸² a vague provision in the Chinese Criminal Procedure Law that is frequently used against outspoken critics of government policies and other human rights defenders.

In May 2019, a 20-yr old Tibetan man named Wangchen was sentenced to four years and six months for leading a protest “calling for the release of the Panchen Lama and for the reunion of the Panchen Lama and the Dalai Lama in Tibet” in Sershul (Ch: Serxu) County in Kardze Tibetan Autonomous Prefecture.⁸³ Two other Tibetans, Lobsang and Yonten, who had participated in the protest were ordered to attend a six-month political reeducation classes on “national security” and pay monetary fines. Wangchen’s aunt Dolkar was sentenced to one year and three months in prison for sharing the news of Wangchen’s detention with outsiders.

⁸¹Former Tibetan political prisoner sentenced to 18 years for protest; wife given 2 years for filming video, TCHRD, 15 March 2019, available at <https://tchrd.org/former-tibetan-political-prisoner-sentenced-to-18-years-for-protest-wife-given-2-years-for-filming-video/>

⁸²Tibet Dissident's Long Jail Sentence Called 'State Secret', Voice of America, 5 April 2019, available at <https://www.voanews.com/east-asia/tibet-dissidents-long-jail-sentence-called-state-secret>

⁸³Tibetan Man, Aunt Sentenced For Panchen Lama Protest in Sichuan, Radio Free Asia, 8 May 2019, available at <https://www.rfa.org/english/news/tibet/sentenced-05082019143525.html>

Suppressing Tibetan Independence protests

In November 2019, protests calling for Tibetan independence resulted in a sweeping crackdown in Dzachuka Township in Sershul County.⁸⁴ By early December 2019, more than 30 monks and lay persons had been detained for over two weeks for various reasons ranging from maintaining contacts with outsiders to keeping photos of His Holiness the Dalai Lama.⁸⁵ Monk detainees were subjected to daily political education classes for two weeks. The police searched the cellphone data of local villagers and other Tibetans in neighboring villages, following which some residents were called for interrogation in the police stations and forced to sign various documents.⁸⁶ Armed police with rifles and riot shields conducted daily drills in an effort to intimidate local residents.

The extensive crackdown was triggered by the detention of seven Tibetans in three separate incidents in November. Police detained four monks from Dza Wonpo Ganden Shedrub Monastery on 7 November for throwing leaflets calling for Tibetan independence in front of the Chinese government office in Sershul County. Police also took into custody Shergyam Yang, a religious instructor at the monastery. He was interrogated for 11 days and released. Police then detained another monk named Nyime on 18 November after the monk had posted online expressions of support for the four detained monks. Nyime's detention was followed by his brother Choegyul's detention along with another layman named Yonten, both of whom had staged a protest on 21 November scattering leaflets calling for Tibetan independence in front of the police station in Dza Wonpo village.⁸⁷ The whereabouts and condition of all seven detainees remain unknown and their families and friends have been refused permission to see them.

Self-immolation

A former monk named Yonten, 24, set his body on fire on 26 November to protest the repressive policies of the Chinese government taking the total number of known self-immolation protests to 156 in Tibet. Local police lost no time in taking possession of Yonten's burned body and later detained his family members for interrogation.⁸⁸ Yonten's fatal protest in Meruma village in Ngaba County in Ngaba Tibetan and Qiang Autonomous Prefecture was the only self-immolation witnessed in 2019.

The wave of self-immolations as a form of political protest started in 2009, following a wide-ranging clampdown on freedom of expression and assembly in Tibet. The number of self-immolation has decreased in recent times as a result of provisions imposing collective punishment on self-

⁸⁴Chinese Police Swarm Tibetan Township After Independence Protests, Radio Free Asia, 25 November 2019, available at <https://www.rfa.org/english/news/tibet/police-11252019133807.html>

⁸⁵Information provided to TCHRD by Jampa Yonten, a monk in South India on 6 January 2020.

⁸⁶Ibid.

⁸⁷Two Tibetans Detained Following Independence Protest in Sershul, Radio Free Asia, 21 November 2019, available at <https://www.rfa.org/english/news/tibet/protest-11212019170525.html>

⁸⁸Tibetan Self-Immolator's Family Are Held by Police For Questioning, Radio Free Asia, 5 December 2019, available at <https://www.rfa.org/english/news/tibet/questioning-12052019171838.html>

immolators' family members or communities deterring potential self-immolators from putting persons close to them at risk.⁸⁹

Conclusion

A series of domestic legal provisions and some unlawful practices employed by law enforcement agencies have systematically and cumulatively made it virtually impossible for Tibetans to peacefully assemble and associate, in direct contravention of international law and convention. Given the political sensitivity with which Chinese authorities view all activities occurring in Tibet, Tibetans exercising basic human rights such as peaceful assembly and protest are treated as a threat to 'national security' or 'social stability' without any evidence of a threat.

Although the right to peaceful assembly is not absolute, its restriction can only be justified if provided for by a law, when proportionate and necessary in a democratic society.⁹⁰ **National security or disruption** of 'public order' should not be invoked as a reason for imposing limitations to prevent local or relatively isolated threats to law and order. The measures implemented by the PRC go beyond a proportionate response and effectively negate any right to peaceful assembly in the Tibetan context.

⁸⁹China announces unprecedented harsh measures to deter self-immolations in Tibet's Dzoegge County, TCHRD, 14 February 2014, available at: <https://tchrd.org/china-announces-unprecedented-harsh-measures-to-deter-self-immolations-in-tibets-dzoegge-county/>

⁹⁰International Law And Best Practices On Peaceful Assembly And Association Rights, Former UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, available at <http://freeassembly.net/about/best-practices/>

RIGHT TO A FAIR TRIAL

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

-- Article 10, Universal Declaration of Human Rights

The Chinese criminal justice system has consistently failed to comply with international standards for the right to a fair trial in contrast to claims made by the PRC government in its September 2019 white paper that it had “continuously strengthened the rule of law for human rights” to “ensure independent and impartial exercise of judicial and procuratorial powers, guarantee the right to fair trial for all parties and the legitimate rights and interests of criminal suspects, defendants, prisoners”.

The lack of fair trial rights is a routine reality for Tibetan political detainees, which results in the torture and imprisonment of Tibetan human rights defenders and activists, as well as harassment and intimidation of the lawyers who chose to represent them. Many remain in prolonged pretrial detention powerless to challenge unjust charges or treatment. Many more are deprived of their liberty without warrants or charges and denied access to due process in the Chinese legal system.

Chinese legal provisions allow for practices that are in breach of international law including but not limited to criminal detention and charges against people who peacefully exercise their human rights; lengthy periods of detention without judicial approval or oversight; placing the prosecution in a superior position within the courts and fettering the independence of the judiciary; and restrictions on the right to defence and the role of effectiveness and security of lawyers.

There are no safeguards in place that uphold international law, convention and guidelines such as the right to an independent challenge to detention, right to silence, presumption of innocence, privilege against self incrimination, guarantee of prompt legal representation and inadmissibility of confessions obtained through torture.

Legal Standards

The right to a fair and public trial has been established in multiple international treaties and provisions. Article 11 of the UDHR provides that “[e]veryone is entitled in full equality to a fair and public hearing . . . of any criminal charge against him.”⁹¹ Article 14 of the ICCPR further provides that “[I]n the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.”

Article 9 (1) of the ICCPR is pertinent because it stipulates that “[e]veryone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be

⁹¹ United Nations Human Rights Office of the High Commissioner, Universal Declaration of Human Rights, online

deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”⁹² Thus, any arrests made contrary to provisions in the domestic law, i.e. without a warrant, without lawful justification or resulting in prolonged custody, are a violation of both domestic and international standards, and may constitute arbitrary detention.⁹³

The UN Working Group on Arbitrary Detention has ruled that regardless of domestic law, holding individuals in secret locations or ‘black sites’ as a form of detention without access to legal assistance, visitation rights and a formal charge or hearing violates human rights and the right to a fair trial.⁹⁴ Article 9(2) in the ICCPR requires that, “anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.”⁹⁵

In violation of international standards, the PRC’s Criminal Procedure Law establishes substantial barriers to a defendant’s access to justice when accused of committing vaguely defined crimes of ‘endangering state security’. Moreover, the overarching importance attached to preserving “state security” or “social stability” leads to state intervention in the role of judges and compromises the ability of defence lawyers to uphold the human rights of their clients without fear of reprisal.

The PRC’s ‘Socialist Rule of Law with Chinese Characteristics’ subjects the judiciary to a variety of internal and external controls that significantly limit its ability to engage in independent decision-making. Both the procuratorate and the local people’s congresses have the power to supervise the work of judges and the courts and to call for the reconsideration of cases. Because the procuratorate has a dual role as both prosecutor and supervisor of the legal process, it has a conflict of interest in exercising its function of supervising the courts.

Right to Appeal Denied

The imprisoned Tibetan language rights advocate Tashi Wangchuk was denied the right to appeal his sentence throughout 2019. Wangchuk’s five-year prison term on the charge of “inciting separatism” caused widespread criticism from the international community including a statement of condemnation from a group of six UN human rights experts in 2018.⁹⁶

Wangchuk’s lawyers, Lin Qilei and Liang Xiaojun, attempted to meet with their client to initiate the appeal process in January and again in August. On both occasions, officers at Dongchuan Prison in Xining, where Wangchuk is imprisoned, created barriers aimed at obstructing the appeal process. In

⁹²Article 14, ICCPR, available at <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

⁹³United Nations High Commissioner for Human Rights, International Human Rights Standards for Law Enforcement:

an Rights for the Police (2009), available at <https://www.un.org/ruleoflaw/files/training5Add1en.pdf>

⁹⁴Amnesty International, Fair Trial Manual (2014), available at <https://www.amnesty.org/download/Documents/8000/pol300022014en.pdf>

⁹⁵Supra, note 2

⁹⁶China: UN human rights experts condemn 5-year jail term for Tibetan activist, Office of the UN High Commissioner for Human Rights, 6 June 2018, available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23176>

August 2019, prison authorities asked the lawyers to produce a “letter of introduction” from the Beijing Justice Bureau before they could meet Wangchuk.⁹⁷

Earlier in January when Lin made a similar attempt to meet his client, prison authorities asked him to obtain approval from the provincial Political and Legal Committee alleging that the case was “sensitive”.⁹⁸

Wangchuk’s lawyers had attested to his innocence indicating in a brief statement after the sentencing in May 2018 that the conviction was unjust.⁹⁹

Although provided in the Chinese Criminal Procedure Law, the right to appeal is undermined by the flawed criminal justice system, which is subservient to the political and ideological considerations of the Party-state. The right to appeal is no more than words on paper practice.¹⁰⁰

Prolonged Pretrial Detention

It is a common practice for Chinese authorities to hold Tibetan suspects in detention for prolonged periods before making a formal arrest owing to a lack of rigorous institutional oversight or significant consequences for improper application.

The prolonged pretrial detention, which is almost always unjustifiable in the case of Tibetan political detainees, not only violates their right to liberty, but it also has negative ramifications on the exercise of the right to a fair trial. Tibetan detainees are often held in undisclosed and distant locations, thus making it difficult for their family members and lawyers to make contact. Prohibiting visits to persons in pretrial detention is another common practice employed by Chinese authorities to obstruct communication between the lawyer and the client thus making it difficult to determine the charges and prepare a defense.

The opaque and incommunicado nature of pretrial detention is intentional and it allows the law enforcement officials to extract forced confessions from detainees. Neither the presumption of innocence nor the right to remain silent exists. Many Tibetan political detainees have recounted nightmarish experiences of physical and psychological torture in pretrial detention for weeks and months in pretrial detention before they were forced to sign a false confession, which was then used to condemn and sentence them. The use of brutal and inhumane torture is a defining feature of pretrial detention for all political detainees.

⁹⁷Imprisoned Tibetan language advocate continues to face barriers appealing against unjust verdict, TCHRD, 2 August 2019, available at <https://tchrd.org/imprisoned-tibetan-language-advocate-continues-to-face-barriers-in-appealing-against-unjust-verdict/>

⁹⁸Imprisoned Tibetan language advocate refuses to plead guilty, denied right to appeal, TCHRD, 29 January 2019, available at <https://tchrd.org/imprisoned-tibetan-language-advocate-refuses-to-plead-guilty-denied-right-to-appeal/>

⁹⁹Tashi Wangchuk's sentencing exposes China's assimilationist agenda to annihilate Tibetan cultural identity, TCHRD, 23 May 2018, available at <https://tchrd.org/tashi-wangchuks-sentencing-exposes-chinas-assimilationist-agenda-to-annihilate-tibetan-cultural-identity/>

¹⁰⁰Mike McConville, *Criminal Justice in China: An Empirical Inquiry* (2011), Edward Elgar Publishing (UK), Print.

The popular Tibetan anti-corruption activist, A-nyaSengdra, was sentenced to seven years on politicized charges after more than 14 months of pretrial detention. Sengdra's pretrial detention was marred by a series of fair trial rights violation beginning from his arbitrary detention in a distant town to imposing restrictions on visits from his family members and lawyers.¹⁰¹ The events leading up to his closed-door trial and eventual sentencing in December 2019 including pressure exerted on his lawyer point to a deliberate attempt by the Chinese authorities to destroy his reputation as an efficient and fearless community leader and discredit the successful grassroots movement he had led.¹⁰² Sengdra's case, hardly unique, is a common reality for all political detainees. In September 2019, Chinese authorities sentenced a monk from the local Kirti Monastery, Lobsang Dorjee, 36, to three years' imprisonment on the suspected charge of disclosing state secrets in Ngaba County.¹⁰³ Since his detention in July 2018, Dorjee's whereabouts had remained unknown to family and friends prompting fears of permanent enforced disappearance of the monk. The exact charges for which he was imprisoned remain unknown.

On 30 July 2019, another monk named Lobsang Thabkey, 37, was sentenced on unknown charges to four years in prison in Ngaba County.¹⁰⁴ Thabkey had been detained in 2018, exact date unknown.

Almost two months after Thabkey's detention, family members of Sonam Palden, 22, had still been unable to meet him. The monk had been held at the Ngaba County Public Security Bureau detention centre since September 2019 for posting critical views about China's Tibetan language policy on his WeChat account.¹⁰⁵ The effort to deny visitation rights has prompted fears that the monk is subjected to torture and other inhumane treatment. At the time of this report going to print, there is no information on a possible trial date for him, and it is likely that he has been denied due process rights like many other Tibetan detainees.

Harassment of Defense Lawyers

For the negligible number of Tibetan detainees who manage to hire a lawyer, it is always an impossible task to ensure a fair trial given that the defence lawyers themselves are subjected to various pressures and restrictions. The overarching requirement of maintaining stability and preserving the authority of the Party precludes lawyers from properly representing and protecting their clients' rights and interests. The central issue of the independence of the judiciary, and lawyers in particular, remains unaddressed because the security and stability of the Party-state always enjoys

¹⁰¹China detains Tibetan anti-corruption activist on politicised charge of 'provoking trouble', TCHRD, 20 December 2018, available at <https://tchrd.org/china-detains-tibetan-anti-corruption-activist-on-politicised-charge-of-provoking-trouble/>

¹⁰²China: Tibetan anti-graft campaigners sentenced on bogus charges in a show trial, TCHRD, 16 December 2019, available at <https://tchrd.org/china-tibetan-anti-graft-campaigners-sentenced-on-bogus-charges-in-a-show-trial/>

¹⁰³Monk sentenced to three years after more than a year of incommunicado detention, TCHRD, 6 September 2019, available at <https://tchrd.org/monk-sentenced-to-three-years-after-more-than-a-year-of-incommunicado-detention/>

¹⁰⁴China: Cease political persecution and disclose information about missing Tibetan monks, TCHRD, 17 August 2019, available at <https://tchrd.org/china-cease-political-persecution-and-disclose-information-about-missing-tibetan-monks/>

unchallenged precedence. This is compounded by the lack of domestic laws and regulations to protect the right of lawyers to practice law in conformity with international standards.

Chinese authorities are now using the justice departments and the Lawyers' Associations¹⁰⁶ to punish lawyers deviating from the Party line.¹⁰⁷ For instance, the annual lawyer licensing framework ensures that a lawyer's ability to obtain or retain his or her law practicing license is tied to the type of case that he or she undertakes, which means that lawyers are identified with their clients or their clients' causes.

In 2018, the Beijing Municipal Bureau of Justice revoked the business license of Lin Qilei's law firm after he ignored pressure from the authorities to not represent sensitive cases. Lin recounted the persistent challenges he faced in meeting with his clients and how the rare meetings only ensued after repeated attempts had been made and many hours and a great deal of money spent to get authorization.¹⁰⁸

More recently, access to evidence files against defendants has become a significant hurdle for Lin and other lawyers, particularly as a result of the nationwide campaign to destroy 'organised crime' and 'gang crimes'. Before the campaign, Lin used to receive evidence files when the police investigation had concluded and the case transferred to the procuratorate. However, the procuratorate began creating unnecessary problems that slow down the process, in the name of the anti-crime campaign. Lin faced similar challenges when defending imprisoned anti-corruption activist A-nyaSengdra because the latter was an accused under the anti-crime campaign.

More than half of the criminal cases Lin had represented involved confessions obtained through torture.

According to Lin, the trial process is just a formality, the outcome of which has already been decided. Defence lawyers are unable to cross-examine witnesses because they rarely appear in court.¹⁰⁹ The Criminal Procedure Law outlines many instances where a witness is allowed to miss the trial, but Lin stated that Party-affiliated bodies do not allow many witnesses to attend trial.

¹⁰⁵Monk detained for criticising China's policy on Tibetan language at high risk of torture, TCHRD, 11 November 2019, available at <https://tchrd.org/monk-detained-for-criticising-chinas-policy-on-tibetan-language-at-high-risk-of-torture/> ¹⁰⁶Chinese justice minister stresses CPC leadership of lawyers, China Daily, 19 January 2018, available at <http://www.chinadaily.com.cn/a/201801/19/WS5a61956ca3106e7dcc13555d.html>

¹⁰⁷China Has Invited 600 International Lawyers and Judicial Officials to its 'Global Lawyers Forum,' But These Chinese Lawyers Won't Be Welcome, China Change, 4 December 2019, available at <https://chinachange.org/2019/12/04/china-has-invited-600-international-lawyers-and-judicial-officials-to-its-global-lawyers-forum-but-these-chinese-lawyers-wont-be-welcome/>

¹⁰⁸Interview with Lin Qilei conducted by TCHRD's Chinese researcher Sangjie Kyab on 18 July 2019 for TCHRD's forthcoming report on the state of due process rights in Tibet

¹⁰⁹Ibid.

Conclusion

Tibetans are routinely denied the right to a fair trial and subjected to unlawful deprivation of liberty. During extended periods of pretrial detention, police and state security officers frequently torture Tibetan political detainees to extract forced confessions, which are then used to convict them at closed-door trials. A small number of Tibetan detainees who manages to hire lawyers of their choice find it harder than ever before to mount a strong defence due to the pressure exerted on defence lawyers.

Chinese authorities use vague domestic legal provisions to withhold the right to a fair trial. They deny an adequate defence to the accused; impose restrictions and delays on lawyers wishing to meet promptly with their clients following detention, or to meet them in private regardless of the charges involved; not providing notice of detention and arrest to family and legal counsel. While the authorities may claim that their actions are within the law, the laws they invoke undermine the country's Constitution and remain in breach of its international treaty obligations.

The coercive and abusive legal and political systems of the PRC, variously promoted as “socialist rule of law with Chinese characteristics” or "socialist consultative democracy", act as serious impediments to the independent and impartial judiciary that is fundamental to the protection of human rights. Judicial independence not only guarantees respect for the right to a fair trial but it is also an essential component in any country that has adopted the principle of the rule of law – accountability of government officials; clear and publicized laws; a fair process of enacting law; and justice delivered by an independent representative.

RIGHT TO FREEDOM OF RELIGION AND BELIEF

In 2019, the situation of freedom of religion and belief deteriorated further, with an intensification of controls and restrictions on Tibetan Buddhist institutions and religious practitioners even as the Buddhist Association of China (BAC), the PRC's supervisory body controlled by the Party's United Front Work Department, approved a five-year plan to "sinicize Buddhism in the new era".

The plan requires all Buddhist practitioners and personnel to prioritize the promotion and implementation of Party policies on religion in order to make religions 'Chinese' and compatible with the "socialist values" determined by the Party-state. The plan is an amalgam of existing and new repressive measures and campaigns that have been implemented since 2011 to tighten control over monastic institutions and to cultivate monks and nuns that are "politically reliable" and capable of "drawing a clear line from the Dalai Clique".

The sinicization policy is complemented by the revised "Regulations on Religious Affairs", implemented since February 2018, which reserves the sole authority to adjudicate what is legal and illegal in "suppressing extremism, resisting infiltration, and combating crime". Religious groups and activities not sanctioned by the government are banned, and heavy fines imposed in addition to stricter registration procedures, and harsher controls and punishments. Religious activity on the internet was subjected to tighter controls under the "Rules to Regulate Online Religious Messaging Services". Introduced in September 2018, the regulation bans the broadcast of text, photo, audio, or video of religious activities like worshiping, teaching, or burning incense on the internet without official permission.

The "Four Standards" policy, implemented since 2017, has resulted in political indoctrination campaigns conducted with alarming frequency to force monks and nuns to prove their political allegiance and loyalty to the Chinese Party-state or risk imprisonment and forfeiture of state welfare benefits.

Amid an increase in political indoctrination campaigns focusing mainly on the Dalai Lama, there were systematic attempts to promote the Chinese government narrative on the vexed issue of the Tibetan reincarnation system and to shore up legitimacy for highly repressive regulations such as the 2007 "Management Measures for the Reincarnation of Living Buddhas in Tibetan Buddhism", sending a worrying signal that Chinese authorities have no intention of repealing the policies and practices that serve as the basis for religious freedom violations in Tibet.

The rising profile of the China-appointed Panchen Lama Gyaltzen Norbu, who was promoted to the post of president of the Tibet Autonomous Region branch of the BAC in June 2019, again demonstrated PRC resolve to control and manipulate the reincarnation of the Dalai Lama. Despite concerns raised by the international community, the PRC continued to maintain silence on the enforced disappearance of Gedhun Choekyi Nyima, the Panchen Lama's reincarnation recognised by the current Dalai Lama.

Restrictions remained severe at Yachen Gar, one of the largest Tibetan Buddhist institutions, where Chinese authorities continued to evict thousands of monastic and lay practitioners ostensibly to

better manage and develop the religious institution. Evicted monks and nuns were held in extrajudicial facilities for political indoctrination programs and barred from joining other monastic institutions to continue their religious studies. Travel and movement of both foreign and domestic visitors to Yachen Gar and neighbouring Larung Gar remained restricted throughout 2019.

Legal Standards

As a UN member state, PRC must demonstrate its commitment to the UDHR, the foundational document of international human rights law, which stipulates in Article 18 "Everyone shall have the right to freedom of thought, conscience and religion." Article 2 of the UDHR prohibits discrimination or deprivation of human rights by any State, institution, group, or individual on the grounds of religion or other. Furthermore, intolerance and discrimination based on religion or belief is defined as: "any distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis." The UDHR is widely accepted as customary international law, and adopted and respected as an international legal standard to which all nations are subject.

As in the ICCPR, the religious and moral education of children is left to parents and legal guardians with Article 5 (2) of the Declaration providing that: "Every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his parents or, as the case may be, legal guardians, and shall not be compelled to receive teaching on religion or belief against the wishes of his parents or legal guardians, the best interests of the child being the guiding principle."

As a signatory to the ICCPR, PRC has obligations to refrain from acts that would undermine the object and purpose of the covenant, as required by Article 18 of the Interim Obligation of the Vienna Convention on the Law of Treaties,¹¹⁰ an instrument to which China is a party. Article 18 of the ICCPR reiterates the UDHR's guarantee of the right to freedom of thought, conscience and religion, which includes the freedom to have or adopt a religion or belief of one's choice, as well as the freedom "either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice, and teaching."

The PRC's domestic legal provisions grant freedom of religion to all citizens, and protect against religious discrimination, stipulating that all citizens are equal before the law, enjoying the same rights and responsible for the same duties prescribed by the Constitution and other laws. Article 11 of the Law on Regional National Autonomy states, "The organs of self-government of national autonomous areas shall guarantee the freedom of religious belief to citizens of various nationalities." Article 36 of the constitution specifically affirms that all citizens are granted freedom of religious belief, and that "[n]o state organ, public organization or individual may compel citizens to believe in,

¹¹⁰Vienna Convention on the law of treaties, available at <https://treaties.un.org/doc/Publication/UNTS/Volume%201155/volume-1155-I-18232-English.pdf>

or not to believe in, any religion; nor may they discriminate against citizens who believe in, or do not believe in, any religion."

Despite international and national commitments to freedom of minorities to speak and teach their own language, in practice Chinese authorities limit worship to what they define as "normal" religious activities that do not interfere with state education programs, which the PRC claims are only legal if carried out by certain state-sanctioned congregations and institutions. Restrictions are far more intrusive in regions with populations that mostly practice one faith such as Uyghur Muslims or Tibetan Buddhists.

Enforced Disappearance of Panchen Lama

2019 marks the 24th year of the enforced disappearance of Gedhun Choekyi Nyima, detained in May 1995 by Chinese authorities when he was only six years old. He had been recognised as the reincarnation of the previous 10th Panchen Lama by the Dalai Lama, the Tibetan spiritual leader and Nobel Prize laureate whom Beijing fears as a threat to its rule in Tibet. Despite repeated concerns expressed by UN human rights experts, Chinese authorities continued to claim, without providing any evidence, that Gedhun Choekyi Nyima was leading a "healthy and happy life" and that he and his parents "did not want to be disturbed".

Ordinary Tibetans who call for the release of Gedhun Choekyi Nyima are subjected to arbitrary detention and torture. The imprisonment of the 20-year old Wangchen and his aunt Dolkar in connection with a spontaneous protest staged for the release of Gedhun Choekyi Nyima is the most recent in a long list of Tibetans punished for exercising their right to freedom of peaceful assembly and religious belief. Eyewitness accounts indicate that Wangchen was tortured in detention before his court appearance on 7 May 2019.¹¹¹ Two other Tibetans identified as Lobsang and Yonten were each fined 15,000 yuan (around U.S. \$2,211) and ordered to attend political indoctrination classes for six months.¹¹²

Even as the enforced disappearance of Gedhun Choekyi Nyima remained unresolved, Chinese authorities continued to raise the profile of China's candidate Gyaltsen Norbu, appointed in 1995 to replace the Dalai Lama's choice for Panchen Lama, one of the highest spiritual ranks in Tibetan Buddhism. The July 2019 ascension of Norbu to the post of president of the TAR branch of BAC is clearly intended to provide legitimacy to the Party-state's policy and practice of religious repression, which specifically requires high-ranking Tibetan Buddhist personnel and reincarnated lamas to "follow Party guidelines, deepen the spirit of patriotism in Tibetan Buddhism, hold the banner high to oppose separatism, prevent foreign infiltration, and strive hard to adapt religion to socialist society."¹¹³

¹¹¹ Tibetan man, aunt, sentenced for Panchen Lama protest in Sichuan, Radio Free Asia, 8 May 2019, available at <https://www.rfa.org/english/news/tibet/sentenced-05082019143525.html>

¹¹² Ibid.

¹¹³ China appoints its choice of Panchen Lama as head of party's religious body, ignores calls for release of the other disappeared Panchen Lama, TCHRD, 1 July 2019, available at <https://tchrd.org/china-appoints-its-choice-of-panchen-lama-as-head-of-partys-religious-body-ignores-calls-for-release-of-the-other-disappeared-panchen-lama/>

Tibetan reincarnated lamas are coming under increased pressure to demonstrate their political allegiance and act as a conduit for repressive government policies implemented in the name of ‘maintaining stability’ in monastic institutions.¹¹⁴ The lamas featured on the official reincarnation database are forced to undergo “political training” that teaches sinicization and “anti-separatism”. At a seminar held at Sera Monastery in Lhasa in September 2019, Tibetan reincarnated lamas were ordered to “resolutely safeguard the unity of the motherland and national unity” by demonstrating “a clear stand on major issues that concern the Chinese nation”; “maintaining a clear vision in times of big winds and high tides”; and drawing a “clear line from the Dalai clique”.¹¹⁵

Given their popularity and moral authority among the Tibetan public, reincarnated lamas are viewed as a tool to control and manage Buddhism and its practitioners. They are deployed among their followers to shore up support for a repressive regulatory framework that restricts the exercise of the right to freedom of religion and belief.¹¹⁶

At a special training course focused on the subject of reincarnation, held in August in Lhasa, the monks and other high-ranking religious personnel were ordered to “adhere to the direction of sinicization and never allow monastery management affairs to be controlled by the Dalai clique” because “[reincarnation] has never been a simple religious matter, nor a living Buddha’s individual right, but an important embodiment of implementing the Party’s strategy of managing Tibet.”¹¹⁷

Sinicization of Tibetan Buddhism

Chinese president Xi Jinping’s goal, to ‘sinicize religions in the new era’, which imposes increased political and ideological constraints on freedom of religion and belief, was formally approved as “Guidelines on the Five-Year Work Plan for the Sinicization of Buddhism (2019-2023)” at the 19th Standing Committee meeting of the Buddhist Association of China (BAC) on 24 July in Beijing.¹¹⁸

In his report to the Party’s 19th Congress in October 2017, Xi Jinping had proclaimed that “We will fully implement the Party’s basic policy on religious affairs, uphold the principle that religions in China must be Chinese in orientation [zhongguohua] and provide active guidance to religions so that they can adapt themselves to socialist society.”¹¹⁹ The report also required the integration of socialist values into the “emotional identity and the behavioral habits of each person” with Chinese Classics and the Marxist heritage considered as the two sources of morality and religion.¹²⁰

¹¹⁴ China steps up discredited attempts to control Dalai Lama's succession, International Campaign for Tibet, 12 September 2019, available at <https://savetibet.org/china-steps-up-discredited-attempts-to-control-dalai-lamas-succession/>

¹¹⁵http://www.tibet.cn/cn/religion/201909/t20190927_6687180.html

¹¹⁶ Tibetan monks attend training, Global Times, 25 August 2019, <http://www.globaltimes.cn/content/1162625.shtml>

¹¹⁷ *Tibet Daily* 24 August http://www.tibet.cn/cn/news/zx/201908/t20190824_6668885.html

¹¹⁸ http://www.tibet.cn/cn/religion/201907/t20190725_6644729.html

¹¹⁹ Benoît Vermander, 'Sinicizing Religions, Sinicizing Religious Studies', *Religions* 2019, available at www.mdpi.com/journal/religions

¹²⁰ *Ibid.*

Seen by many as an extensive effort to mold and shape Tibetan Buddhism to the Party's diktats¹²¹, the sinicization policy is one of the four broad categories of duties and responsibilities imposed on the BAC to establish a 'modern, socialist system of Buddhism' that meets the requirements of the Party's stability maintenance goals. Absolute compliance is expected from all quarters of the society, in promoting the cultivation of politically loyal monks and nuns; exercising stricter control over monastic recruitment and disciplinary systems; setting up patriotic education bases in Buddhist colleges and other institutions; co-opting religious teachings for political purposes; and enforcing stricter rules and regulations to control Buddhism.¹²²

A broader ramification of the sinicization policy is the attack on the very idea of ethnic regional autonomy enshrined in a 1984 law. The insistence on having everything and everyone in China display Chinese characteristics is in itself a dangerous signal to the larger minorities they better work on forging their own path or they'll be assimilated.¹²³

Political indoctrination is incorporated into numerous government-organised events, disseminated at an increasing number of religious seminars, workshops, and other related events, where attendance is mandatory.

Political indoctrination campaigns

Under president Xi Jinping's rule, Chinese authorities have intensified the political indoctrination campaigns to an extent not seen for a decade, when monastic institutions were targeted for "patriotic education" campaigns that resulted in imprisonment and suicides.¹²⁴ The political indoctrination campaigns are inherently coercive and religiously blasphemous. Monks and nuns are punished for exercising their beliefs and following their conscience, and left with no option but to denounce their root spiritual teachers such as the Dalai Lama.

China's political indoctrination campaigns, "an engineering project of the soul", are now conducted on a mass scale in every village, where permanently stationed Party cadres and government officials are required to "carry out religious work in [their] own jurisdiction in accordance with the '[2018] Regulations on Religious Affairs'" and must "grasp the correct methods in religious work, earnestly regard religious work as mass work, and accurately carry out ideological education so that the masses can correctly understand the party's principles and policies on religious work."¹²⁵

¹²¹

Sinicization poses new threats to the survival of Tibetan Buddhist culture and values in Tibet, International Campaign for Tibet, 12 July 2019, available at

¹²²http://www.tibet.cn/cn/religion/201907/t20190725_6644729.html

¹²³Interview with Gabriel Lafitte, author of rukor.org, TCHRD, 2019.

¹²⁴Monk suicides on the rise in Buddhist Tibet, TCHRD, 7 June 2009, available at <https://tchrd.org/monk-suicides-on-the-rise-in-buddhist-tibet/>

¹²⁵Lhasa's Chushur County in Tibet Autonomous Region holds a lecture on "Reincarnation of Living Buddha" in Tibetan Buddhism, China Tibet Network, 22 August 2019, available at http://www.tibet.cn/cn/religion/201908/t20190822_6667654.html

Systematically organised under the guise of ‘legal education’ or ‘national security’ via training sessions, educational activities or mass exams, such campaigns are aimed at promoting the Party-state’s political ideology and inculcating patriotism as an antidote to religion. Under the ‘Four Standards’ policy, Chinese authorities hold periodic inspections other propaganda activities in monastic institutions, so that the monks and nuns can fulfill the four key requirements of “political reliability, religious accomplishment, moral integrity capable of impressing the public, and willingness to play an active role at critical moments.”¹²⁶

In March 2019, counties in Shannan Prefecture launched the annual “lecture tour to promote legal and policy awareness among monks and nuns and safeguard national unity”, which requires monks and nuns “to firmly uphold the leadership of the Communist Party of China and unswervingly follow the road of socialism with Chinese characteristics”¹²⁷ Chinese authorities in Gongkar County announced plans to make the campaign to promote the ‘four standards’ policy “a regular activity”.¹²⁸ The same month, all 30000 religious administrative personnel in TAR were made to sit for an exam that tested their knowledge about the “Constitution, National Security Law, Anti-terrorism Law, Anti-espionage Act, Cyber Security Law as well as regulations related to religious affairs”.¹²⁹

Traditional Tibetan Buddhist universities and monasteries have been appropriated and turned into the Party’s “foundation of patriotic education”¹³⁰, while other, new Buddhist institutes of higher learning are established to further tighten control over the Tibetan Buddhist belief system.

On 17 August 2019, TAR Party Standing Committee member and secretary of the Lhasa Municipal Party Committee Pema Wangdu (Baima Wangdui), while inspecting the implementation of the ‘four standards’ policy, called on the monks and religious personnel to “fight against the separatist activities of the 14th Dalai Lama and the Dalai clique by consciously safeguarding the motherland” and “always be grateful to the Party and loyal to the Chinese motherland”. The PRC’s promotion of ‘religion with socialist characteristics’ prioritizes intensified attacks on the Dalai Lama, who, despite efforts to discredit him, maintains his popularity with Tibetans. In July, a group of UN human rights experts had criticised China’s use of the anti-separatism law to suppress freedom of expression, religion, assembly and association and the cultural rights of the Tibetan people, as part of their call for the release of nine Tibetans who had been imprisoned for five to 14 years for celebrating the Dalai Lama’s 80th birthday in 2015.¹³¹

¹²⁶China: New Political Requirements for Tibetan Monastics, Human Rights Watch, 30 October 2018, available at <https://www.hrw.org/news/2018/10/30/china-new-political-requirements-tibetan-monastics>

¹²⁷Tibet holds lectures to strengthen monks' legal, political knowledge, Global Times, 21 March 2019, available at <http://www.globaltimes.cn/content/1143037.shtml>

¹²⁸Ibid.

¹²⁹30,000 monks and nuns in Tibet take exams on laws, Global Times, 26 March 2019, available at <http://www.globaltimes.cn/content/1143544.shtml>

¹³⁰Original Chinese language report can be accessed here:

¹³¹United Nations experts question China's jailing of nine Tibetans for celebrating Dalai Lama's birthday, Tibetan Review, 21 July 2019, available at <https://www.tibetanreview.net/united-nations-experts-question-chinas-jailing-of-nine-tibetans-for-celebrating-dalai-lamas-birthday/>

Crackdown on government retirees

In August 2019, a Party directive announced that retired Tibetan government employees including retired school teachers were prohibited from taking part in religious activities as basic as visiting temples and monasteries, making religious donations, and participating in prayer ceremonies. Any transgression by former government employees or Party members is penalised by instantly canceling applicable pensions and medical insurance.¹³² All government and Party offices in charge of retired government employees were ordered to submit a list of any “retired personnel performing the kora [the ritual of circumambulating temples or sacred places].¹³³

The same month, top TAR officials called on all Party members to follow “strict political discipline and political rules” and “focus on solving the religious problems of party members”, criticising the “inadequate” implementation of the anti-crime campaign and lax oversight of retired government employees.¹³⁴

Depopulation of Buddhist Institutions

Throughout 2019, Chinese authorities engaged in the expulsion and extralegal detention of thousands of monks and nuns intensifying a government-organised drive introduced in August 2017 at Yachen Gar, one of the largest Buddhist institutions located in Pelyul County, Kardze Tibetan Autonomous Prefecture.¹³⁵ Starting in June 2019, more than 3500 monks and nuns were evicted from Yachen Gar, during a new campaign that also resulted in the deployment of Chinese security forces.¹³⁶

In 2007, Yachen Gar comprised about 6,000 nuns and 4,000 monks, along with lay practitioners.¹³⁷ As of 2016, it housed approximately 12,000 practitioners, of whom more than 10,000 were Tibetan nuns. Yachen Gar officially follows the Rimed (ris med) tradition, a movement emphasizing non-sectarian and inclusive perspectives on practices and teachings. Until the demolition policy, many practitioners viewed it as the last remaining institutions where they could receive living and authentic Buddhist teachings.

¹³²China: Ban on Tibet Religious Activity Toughened, Human Rights Watch, available at <https://www.hrw.org/news/2019/09/11/china-ban-tibet-religious-activity-toughened> 133 HRW 2019

¹³⁵New phase of expulsions at important Buddhist institute leads to rounding up of monks and nuns for “re-education”, International Campaign for Tibet, 15 July 2019, available at <https://savetibet.org/new-phase-of-expulsions-at-important-buddhist-institute-leads-to-rounding-up-of-monks-and-nuns-for-re-education/>

¹³⁶Thousands of Monks, Nuns Evicted From Sichuan's Yachen Gar, Radio Free Asia, 11 June 2019, available at <https://www.rfa.org/english/news/tibet/EVICTED-06112019163506.html>

¹³⁷MitraHärkönen (2017). Tibetan Nuns between Oppression and Opportunities: An Intersectional Study (academic dissertation), University of Helsinki, available at <https://helda.helsinki.fi/bitstream/handle/10138/172341/TibetanN.pdf?sequence=1&isAllowed=y>

In September 2019, sources indicated that local Chinese authorities had plans to build a police garrison and a detention centre in each of the nine lings (religious sections) at Yachen Gar.¹³⁸ Currently, there is only one police station and a police checkpoint.

Upon return to their hometowns, evicted monks and nuns were held in extralegal detention centres akin to those that have been found operating in Xinjiang Uyghur Autonomous Region¹³⁹. The duration of detention varies with some held for six months and others for up to a year and a half.¹⁴⁰

In August and September 2019, unspecified numbers of evicted monks and nuns were released from these illegal detention centres in the counties of Jomda, Riwoche and Chamdo in TAR. There were still others at the time who were ordered to remain in detention for a month more. Sources had confirmed the detention of at least 1500 monks and nuns in Jomda and Chamdo.¹⁴¹ The released evictees were ordered to remain in their respective homes and not seek to travel anywhere to join other monastic institutions. Another supplementary punishment requires them to attend compulsory political re-education campaigns conducted by local authorities. More expulsions are feared, because the remaining half of those included in the list for expulsions prepared by Chinese authorities will be evacuated in 2020.¹⁴²

In mid-June, exile Tibetan sources reported the detention for reeducation of about 70 monks and nuns for reeducation in Jomda County. They were forced to wear lay clothing and denounce the 'Dalai clique', memorize political slogans, and pass political examinations held every 2 or 3 months, in addition to the restrictions placed on their travel and movement to other places or ability to join other monastic institutions.¹⁴³

In April 2019, increased restrictions were imposed on all visitors to Yachen Gar including domestic Chinese tourists to Yachen Gar.¹⁴⁴ Restrictions remained in force throughout the following months. Travellers met with blockades on the roads leading to or by Yachen Gar and from Kardze County to Pelyul County in October. Between Kardze and Yachen Gar, there were three checkpoints in June 2019. Registration with a local police station is mandatory for all visitors renting accommodation in Pelyul. Visitors were required to submit their information including itineraries with the local police before getting hotel accommodation.

Severe restrictions on the movement and travel of local Tibetans were enforced in and around the surrounding villages in Pelyul County. In September 2019, a Tibetan man living in exile and his

¹³⁸ Anonymous interview with TCHRD's researcher PemaGyal in September 2019, Dharamsala, India

¹³⁹ Tibetan monk's account reveals rampant torture and sexual abuse in China's 'political re-education' centres, TCHRD, [chinas-political-re-education-centres/](https://www.tchrd.org/2019/08/28/180058/)

¹⁴⁰ Supra note 143

¹⁴¹ Anonymous interview with TCHRD's researcher PemaGyal in September 2019, Dharamsala, India

¹⁴² Ibid.

¹⁴³ Half of Yachen Gar has been demolished, Tibet Times, 29 June 2019, available at <http://tibettimes.net/2019/08/28/180058/>

¹⁴⁴ Yachen Gar closed to foreigners, Trip Advisor [online discussion thread], available at https://www.tripadvisor.in/ShowTopic-g294222-i6446-k10509355-o40-Yachen_Gar_closed_to_foreigners-Tibet.html

sister who is a nun at Yachen Gar was denied permission to visit their ailing mother, who lives just 7 to 8 kms away.¹⁴⁵

Restrictions were also tightened at the neighbouring Larung Gar Buddhist Institute, another famous monastic center of Buddhist and ethical study, where over four thousand dwellings of the monastic and lay practitioners have been demolished since 2016. A government order issued in April 2019 banned new enrolment at Larung Gar, adding to the reinforced security infrastructure in the form of walls built around the institute and three checkpoints to prevent unauthorized entry.¹⁴⁶

Conclusion

By deliberately misinterpreting the vague wording of China's domestic laws and regulations, the authorities criminalise religious activities and practitioners to detain and prosecute Tibetans engaging in peaceful protests against official policies on charges of "disrupting public order", "impairing the health of citizens" and "inciting separatism".

China's policy of using the state educational law to prevent Tibetan children from enrolling in a monastery gravely threatens the future development and survival of Tibetan Buddhist scholarship, thought, culture and practice. It enables the Chinese government to justify the numerous restrictions placed on traditional Tibetan monastic education, such as the coercive "patriotic education" sessions that disrupt customary Buddhist studies; a law barring monks below the age of 16 from joining monasteries; and regulations enacted to control the monasteries and education system in general. The provision in the revised 2018 regulations on religious affairs stipulating that religious bodies and religious affairs are not subject to any foreign domination appears to be a direct reference to the Dalai Lama and the "Dalai Clique" thus allowing the Chinese authorities to enact laws specifically prohibiting any contact with exiled Tibetan religious figures.

Any form of discrimination on the grounds of religion or belief is considered "an affront to human dignity and a disavowal of the principles of the UN Charter." This means that all UN member states, including the PRC, must enact legislation to prevent and eliminate discrimination based on religion or belief, and must also proactively promote the freedom of religion and belief within their borders.

The PRC is failing to meet its international obligation to respect religious freedom. Despite the provisions on religious freedom in its constitution, the atheist Party-state maintains an iron grip over all forms of religious expression within its territories. Those constitutional provisions exist alongside an intricate administrative system to set the policy on the definition, scope, and character of religious activity and criminalize so-called abnormal or superstitious religious activities. The state-approved administrative organizations and associations such as the Religious Affairs Bureaus (RAB) and BAC act as state agents responsible for interpreting and adapting the teachings of

¹⁴⁵ Interview with TCHRD's researcher PemaGyal on 10 September 2019, Dharamsala, India.

¹⁴⁶ Larung Gar Buddhist Academy Closes to New Enrollment as China Tightens Controls, Radio Free Asia, 19 April

Buddhism to suit the party's religious policy. In Tibet, the BAC has built brand-new Buddhist institutes and colleges to cultivate 'patriotic' Buddhist monks and nuns, focusing particularly on reincarnated lamas.

The extrajudicial detention for extended periods without charge or trial of thousands of monks and nuns evicted from Yachen Gar is reminiscent of the illegal internment camps in Xinjiang Uyghur AR.

Any improvement in the situation of religious freedom in Tibet will require the immediate discontinuation of the repressive laws and regulations designed to curtail the rights and freedoms associated with freedom of thought, conscience and religion, as enshrined in the different international human rights instruments and treaties. Chinese authorities must delink religious activities and groups from the oppressive "stability maintenance" measures in force and cease persecuting Tibetans for expressing their faith and respect for the Dalai Lama.



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