

Tibet Watch submission to the Universal Periodic Review of China 17th session (21 October – 1 November, 2013)

Executive Summary

Tibet Watch provides information for sections B and C of *the summary of stakeholders' information*. Drawing on Tibet Watch research and interviews, this submission highlights concerns regarding China's compliance with its international human rights obligations and the recommendations made during the Universal Periodic Review (UPR) in 2009 in relation to: the rights to peaceful assembly and association; the right to life; freedom of expression and information; thought and religion; torture and lack of due process in Tibet.

All of the evidence in this submission has been independently sourced by Tibet Watch, a human rights monitoring charity. Tibet Watch works with contacts both inside Tibet and in exile, collating and corroborating reports (testimonies and eye-witness accounts) of human rights violations. All information contained in the submission has been extensively checked for accuracy. In some cases the names and locations of individuals involved have been withheld in an effort to safeguard their or their family's identity.ⁱ

B. Developments since the previous review

China's human rights record has shown no sign of improvement since the 2009 UPR, casting serious doubt on the government's willingness to fulfil its international human rights obligations. While China accepted some recommendations at the first UPR, relating to minority rights, Tibet Watch has not documented any progress on the human rights situation in Tibet. The oppressive atmosphere facing Tibetans remained acutely hostile. Authorities use arbitrary detention and imprisonment as a tool to silence dissent, clamp down on freedom of assembly and association, breaking up peaceful demonstrations with violence and lethal force. Excessive restrictions on freedom of expression and religion persist, as does torture and ill-treatment of detainees. The nature of arrest and the judicial system are illustrative of the lack of rule of law and a culture of impunity operating in Tibet. Ongoing rights violations, the lack of political or legal redress, discrimination, and the failure to protect minority rights has resulted in increasing numbers of Tibetans protesting against Chinese rule by setting themselves on fire (more than 100 at the time of writing).

Cooperation with human rights mechanisms

Tibet remains closed off to foreign media and independent human rights monitors. At the time of reporting the UN High Commissioner for Human Rights had not visited China, despite China accepting the recommendation in 2009 to facilitate an early visit by the High Commissioner. With the exception of the Special Rapporteur on the Right to Food, no other mandate holder visited China, despite the Chinese government accepting recommendations to step up cooperation with the special procedures, and repeated requests from the offices of various mandate holders. China has yet to ratify the International Covenant on Civil and Political Rights (ICCPR), despite agreeing to at the first cycle of the UPR.

C. Promotion and Protection of Human Rights on the Ground

Freedom of Assembly and Association

Since March 2011, Tibet Watch has documented an increasing number of peaceful protests against Chinese rule across a widening geographic area. Some involving more than a thousand Tibetans; others involved lone individuals.ⁱⁱ Evidence shows that Tibetans routinely face strict limitations on their right to freedom of expression, assembly and association. While international law allows for

limitations, including on grounds of national security, public order and morals, any such limitation must be limited to the exigency of the situation, provided for by law and proportionate. In most cases in Tibet, authorities violently break up peaceful protests, including with disproportionate and sometimes lethal force (see below for cases).

Regulations for legally demonstrating in China and Tibet are contained in the 1989 Law on Assembly, Procession, and Demonstration, and the 1992 implementing regulations. These laws, which effectively deny any right to peaceful protest, arguably exceed the exigency limitation and are disproportionate and article 12(3), which denies permission for an assembly, a procession or a demonstration which 'instigates division among the nationalities' has a *de facto* discriminatory effect as it is used to prohibit all acts of protest by Tibetans on the sole grounds of ethnicity.

In one case, 17-year-old Jigme Dolma walked through her county town calling for the release of political prisoners and the return of the Dalai Lama. She was severely beaten, detained and sentenced to three years' imprisonment for 'splitting China'.ⁱⁱⁱ

The right to life and security of person: use of excessive force, including lethal force

In the period under review Tibetans involved in non-violent protests were subject to violence, including the use of lethal force by state actors.

Between 23 and 26 January 2012, Tibet Watch documented three cases of the use of lethal force by Chinese security forces against Tibetans peacefully exercising their basic rights. At least six individuals were killed. On 23 January in Drango county (Ch: Luhuo), 36 Tibetans sustained gunshot wounds; the largest reported shooting of Tibetans since 2008. Two died. Tibet Watch has photographic evidence of individuals with bullet wounds in Drango, including one head wound. In Dzamthang county (Ch: Rangtang) on 26 January, Urgen, 19, was shot dead while protesting for the release of his school friend. Photographs reveal that Urgen sustained a bullet wound to the head.^{iv}

On at least two occasions in 2012, lethal force was used in the process of arrest. In one case, Chinese security forces opened fire on the home of a monk, Yeshe Rigsel, who was suspected of participating in the 23 January protest in Drango. The monk and his brother were shot dead. Nine children between the ages of 5 and 16 were in the house at the time; five sustained gunshot wounds.^v

In at least four other incidents in 2012, security forces used brutal force to disperse or punish protestors resulting in hospitalisation:

- In Ngaba, 14 January, a woman was wounded after security forces opened fire on a crowd following a self-immolation. Another woman was blinded in one eye. An eyewitness described the situation as "terrifying", that a strong gas was used on the crowd and 'many had fallen to the ground'.
- In Ba County in March, as many as 10 were injured when tear gas was thrown and protesters were "brutally beaten". One protester suffered a serious head injury and died nine months later.
- A large number of Tibetans were beaten and arrested on 14 April in Ngaba following a protest about land confiscation. 13 people were hospitalised. Three are described as permanently disabled and one is suffering from 'brain damage'
- In November, 20 students were hospitalised in Chabcha county (Ch: Gonghe), following a large student protest which was violently suppressed by state security forces.

The authorities detain and punish not only those suspected of participating in protests but also the wider community. In some cases, simply being in the vicinity of the protest resulted in arbitrary detention. Security forces conduct arbitrary raids of houses and monasteries. During these attacks they often loot homes, ransack property and indiscriminately beat civilians.^{vi}

Collective punishment and reprisals following self immolations

Following an increased number of self immolations in Tibet in October and November 2012, the central government authorised increasingly aggressive and punitive measures against both individual Tibetans and Tibetan communities where immolations have taken place. Tibet Watch documented the use of collective punishments, mass arrests, disproportionate sentencing, bribes, propaganda, increased deployment of security forces and restrictions on communications and travel.

Collective punishments have taken the form of cutting financial assistance to communities. On 14 November, officials in Malho Tibetan Autonomous Prefecture through a State TV broadcast announced the cancellation of all “benefits received by the households of self-immolators under public benefit policies” and announced that “all projects running on state funds in self-immolators’ villages must be stopped.” Cancellations were extended to any families, monks, or monasteries who took part in “greeting and making contributions to family members of self-immolators.”^{vii}

Substantial rewards are offered for information on the whereabouts of suspected protesters. Since October 2012, the PSB offered large rewards in exchange for information on those 'planning, instigating and luring for self-immolation'. The sum of money on offer is more than a Chinese government official makes in a year. Given the lack of legal safeguards in Tibet, such rewards put individuals at high risk of being falsely accused.^{viii}

Right to information and expression

The government of China continues to impose draconian restrictions on the right to freedom of expression and information. It enforces this by monitoring the use of the internet; blocking access to some websites; and disappearing and imprisoning those who share information, via email, social media, or over the phone. These detentions instil fear and lead to self-censorship in the population. In December 2012 alone, at least 18 Tibetans were detained for sharing information about protests in their communities.

Telecommunication blackouts by the Chinese authorities in protest locations have also occurred. For example, telecommunications were completely cut in Drango, from 23 January to 20 April 2012. The internet blackout remained until May. In Ngaba, reports indicate that the internet has been routinely cut since March 2011 and phone lines are cut and reconnected intermittently.

Internet and mobile communications are essential tools for the rights of expression, assembly and association, and to access information. By cutting off telecommunications, and harshly punishing those who communicate with the outside world, the Chinese government can take unmonitored action against Tibetans; presenting a dire threat to their human rights and inhibiting accountability.

Torture, ill-Treatment and Deaths in Custody

In the period under review torture and ill-treatment continued with impunity. Torture in Tibet cannot be dismissed as aberrant behaviour by individual officials. There is a concerted policy of torture by the Chinese administration in response to opposition to state policies, as represented by: the number of credible reports of cases of torture; the routine employment of torture; the generalised impunity exercised by state officials who commit torture; and Chinese state policies which create conditions that actually encourage the use of torture by Chinese officials.

Tibet Watch can confirm that the methods of torture identified by the UN Special Rapporteur on torture, in 2006^{ix}, continue to be used routinely in Tibet, more than six years later. Data is emerging of sexual violence being used as a form of torture. In 2009 a nun reported being stripped naked during interrogation.

Some detainees are subject to extreme physical assaults resulting in internal bleeding, unconsciousness and sometimes death. Tibet Watch has documented cases of individuals who died shortly after being released from detention as well as two confirmed cases of death in custody in 2012.

In one incident, Karwang, a monk, 36 years of age, from Ngakrong (ch: Xinlong) died after eight days in detention in May 2012. He was detained for spreading posters/pamphlets calling for 'religious rights', and 'independence'. His family received a call from the Dartsedo PSB and were told to collect his body.

In Tibet victims of torture have included child detainees. A 16-year-old girl was held without trial for over one year and tortured brutally during three days of interrogation.

In addition to individuals being subjected to torture for their alleged participation in opposition activities, Tibet Watch has also documented cases of individuals being tortured as a result of the presumed political activities of family members. In March 2012, a mother of three, the sister of a protestor who went into hiding, was held incommunicado for more than one month; during her detention she was brutally tortured, in an effort to obtain information on her brother's whereabouts.

Administration of Justice and the lack of due process

Under China's Criminal Procedure Law, law enforcement agencies have the power to detain national security or terrorism suspects in a designated location of the agencies' choice for up to six months.^x The impact of this law for Tibetans is very serious as China defines "national security" crimes loosely, including criticism of the ruling Communist Party as well as peaceful advocacy for self determination by Tibetans.

Equally, the crime of 'splittism' is undefined in Chinese law; and is applied arbitrarily to criminalise a wide range of acts including possessing a Tibetan flag. The penalties for the crime of "organizing, scheming and carrying out activities to split the nation and sabotage national unity" are severe and include life imprisonment or the death penalty.

In Tibet the legal safeguards which do exist, for example the right of an employer or a family member to be informed of the whereabouts of a detainee are routinely violated. During the reporting period, Tibet Watch has also documented a large number cases of Tibetans being held without charge, incommunicado, without access to any legal representation. In many cases Tibetans are not aware of the evidence against them. Tibet Watch has also documented very large numbers, in some cases hundreds, of Tibetans being held in informal places of detention including military camps, hotels and government buildings. There is no independent judiciary in China and the judicial system is subordinate to the ruling Communist Party and its role is to maintain so called "social stability". During the reporting period, the state has implemented amendments to legislation which (from January 2013) make confessions obtained by torture illegal. Given that the use of confessions obtained through torture as evidenced in court proceedings has been widespread and routine in Tibet, these amendments must be effected immediately and any violation investigated and acted upon.

The right to freedom of thought, conscience and religion

Despite its official policy of respect for the freedom of religion, China's overarching concern is ensuring the adaptation of religion in order to "safeguard the security, honour and interests of the motherland", a requirement which renders the freedom of religion illusory.^{xi} China requires that religious belief is practised in a way that accepts the leadership of the Party above all else.

Many Tibetan religious practices are suppressed and banned. China engages in persecution of religious leaders; controls the affairs of monasteries and nunneries, including admission, training,

movement, and discipline of the clergy; and restricts publication of religious texts and ceremonies and events. Peaceful expressions of support for the Dalai Lama are punished and possession of his image is illegal; the degree to which this is enforced varies but punishments can be severe.

On 24 January 2012, in Pema county (Ch: Banma), six Tibetans held up a portrait of the Dalai Lama and shouted slogans in support. They were detained by PSB and military. Eyewitnesses said they were “brutally beaten” and seriously injured.

Patriotic re-education

Patriotic re-education (PRE), a compulsory programme, which aims to quash loyalty to the Dalai Lama and Tibetan nationalist feelings, was used throughout the period under review. It seeks to change fundamental elements of thought, conscience and religious belief. Historically, patriotic re-education campaigns were aimed at monasteries and nunneries, but it has been extended to schools, institutions of higher education and locations of protest since 2008. After the Drango protest in January 2012, thousands of individuals from Drango and neighbouring Tawu (Ch: Daofu) county were arbitrarily detained and subjected to PRE. People were detained for periods of one week to two months in informal places of detention, such as government office buildings.^{xii}

The UN Special Rapporteur on Torture in 2006, stated that re-education aimed at “breaking the will of detainees and altering their personality” violated the right to “personal integrity, dignity and humanity” and forced re-education leads “to intimidation, submissiveness, self-censorship and a culture of fear.” PRE causes severe mental anguish among Tibetans. Refusal to participate often results in detention but there is evidence of more serious consequences including physical abuse, and imprisonment. In Kirti monastery in Ngaba county (Aba) monks were required to step on a photograph of the Dalai Lama. Monks who refused were beaten.^{xiii} In April 2008, protests against patriotic re-education in Tongkhor monastery resulted in the shooting of at least eight unarmed civilians^{xiv}.

Recommendations to the Government of China:

1. Provide official figures, including details of their location, of Tibetans arrested, detained and sentenced in relation to protests, including self immolations;
2. Allow independent human rights monitors access to Tibet to investigate allegations of torture and excessive use of force against protestors;
3. Amend domestic law regarding peaceful assembly and freedom of expression, so that it is in line with international human rights standards and is non-discriminatory;
4. Immediately abolish its patriotic re-education campaign, as its elements qualify as inhumane and degrading treatment, if not torture;
5. Immediately abolish the use of incommunicado detention and ensure detainees are promptly brought before an independent authority to examine the legality of their deprivation; ensure immediate access to legal representation, and their family is informed of their whereabouts;
6. Immediately facilitate a visit by the UN High Commissioner for Human Rights to Tibet and allow unfettered access to Tibet by journalists;
7. Issue a standing invitation to all UN Special Procedures to visit the country, including re-opening the invitation extended to the UN Special Rapporteur on Freedom of Religion.

ⁱ The cases highlighted in this submission are not a complete record of our archive, and more information and additional case studies are available on request.

ⁱⁱ For documented cases of protests in Tibet since March 2011, see Free Tibet press releases <http://freetibet.org/news-media/press-releases>

iii Information secured by Tibet Watch contact and included in Tibet Watch and Free Tibet's report to the UNCRRC, 2012, p. 7.

iv <http://www.freetibet.org/news-media/na/picture-tibetan-shot-dead-chinese-forces>
<http://www.freetibet.org/news-media/pr/tibetan-shot-dead-ngaba-prefecture>

v <http://www.freetibet.org/news-media/pr/two-tibetans-shot-following-protest-drango>

vi Information secured by Tibet Watch, details found in Free Tibet media release, 2012:
<http://www.freetibet.org/news-media/na/cash-rewards-informants>

vii Tibet Watch has on record a full translation of the TV broadcast.

viii Tibet Watch has on record a full translation of the reward notices.

ix Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, 10 March 2006 (E/CN.4/2006/6/Add.6).

x Stanley Lubman . <http://blogs.wsj.com/chinarealtime/2012/03/21/chinas-criminal-procedure-law-good-bad-and-ugly/> and the Law Library of Congress http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205403080_text

xi Free Tibet's Submission to the Conservative Party Human Rights Commission
Freedom to Believe: Protecting and Promoting Article 18, July 2010.

xii Tibet Watch interview, 2012.

xiii Free Tibet, The Tortured Truth, December 2009

xiv Free Tibet, The Tortured Truth, December 2009, pg. 13.