

Tibet Advocacy Coalition Submission

Report for Submission to the UN Committee for
Elimination of Racial Discrimination on China's
obligations for the implementation of the Convention
on the Elimination of All Forms of Racial Discrimination

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Preparation and co-authoring of this submission has been undertaken by the **Tibet Advocacy Coalition**, a partnership of Tibet Groups working together to engage UN mechanisms. The Coalition Core Group is International Tibet Network Secretariat, Students for a Free Tibet, Tibet Justice Center, Tibet Initiative Deutschland, Tibetan Youth Association of Europe.

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I. INTRODUCTION

1. Racial discrimination by the Chinese government against the Tibetan people, by labeling a so-called “ethnic minority”, is endemic and legitimizes the use of systematic violence against them as a particular group under the Chinese law. Despite the apparent legal protections afforded “ethnic minorities”, the Tibetan people continue to suffer from racial discrimination and consequent systematic denial of human rights, by being labelled as “splittists”, as “endangering state security” and guilty of crimes related to “State Secrecy”, nullifying any rights providing legal protection.
2. Racial discrimination and state violence against Tibetans has increased significantly since the Committee’s last review, and most specifically since the violent military response against Tibetans to the 2008 uprising in Tibet¹, and since Xi Jinping’s ascension to President in 2012. Current policies implemented in Tibet violate the key provisions of the ICERD and fail to respond and make progress in the areas of concern expressed by this Committee in its Concluding Observations from 2009 and before, so that freedom of movement, land rights and housing, human rights defenders, and the suffering of torture is the status quo for Tibetans in Tibet.
3. Tibet was a sovereign state prior to the Chinese invasion in 1949/50². 40,000 People’s Liberation Army soldiers invaded the eastern part of Tibet, overcame the Tibetan army and entered Lhasa, Tibet’s capital. China’s terms for its surrender agreement required Tibet to “return to the big family of the motherland.”
4. The occupation of Tibet by the Chinese government is the overarching cause of racial discrimination in Tibet, due to the government’s refusal to honour the Tibetan people’s right to self-determination, and because it is extending rather than curtailing policies regarding economic and infrastructure development.
5. China’s invasion of Tibet violated the 1948 Charter of the United Nations, which was already in force by the time China entered Tibet. The UN Charter requires member states to “settle their international disputes by peaceful means” and explicitly prohibits “the threat or use of force against the territorial integrity or political independence of any state.” China’s use of force directly conflicted with its obligations under the U.N. Charter, making the dissolution of Tibet’s independent status an illegitimate act. The United Nations General Assembly passed three successive resolutions acknowledging Tibet’s traditional autonomy as well as the Tibetan people’s right to self-determination.³
6. Racial discrimination against Tibetans, violates China’s obligations under international and domestic law and adversely impacts the everyday lives of Tibetans. We also offer a number of recommendations for working to eradicate racial discrimination against Tibetans by the Chinese government.

¹ Our references to Tibet encompass the Tibet Autonomous Region (TAR) and Tibetan Autonomous Prefectures under the Provinces of Sichuan, Qinghai, Gansu and Yunnan. After China’s invasion of Tibet in 1949/50 the original geographical territory of Tibet has been separated into various administrative units under the Chinese state.

² In early 1913, the Thirteenth Dalai Lama formally proclaimed and reaffirmed the restoration of Tibet’s centuries-long independence. From 1911 to 1950, Tibet was an independent state with all attributes of statehood and maintained its own functioning government, one that was led by the Dalai Lama and his cabinet (Kashag). There was a system of civil service, taxation, and currency and recognition of its delegations to foreign states. Tibet and Mongolia concluded a treaty of mutual recognition and mutual assistance in 1913, while Nepal’s 1949 application to join the United Nations cited its relations with Tibet as proof of Nepal’s own statehood. Great Britain’s position as Tibet’s main diplomatic partner throughout this period was that Tibet remained an independent territory: “Tibetans are a different race from Chinese and have a different religion, language, and culture. They have never been absorbed culturally by the Chinese.”

³ UN General Assembly Resolution 1723 (XVI) of 1961
, <http://www.tibetpolicy.eu/un-general-assembly-resolution-1723-xvi-of-1961/>

II. ARTICLE 1.1: Racial Discrimination Against the Tibetan People: An “Ethnic Minority”

In this Convention, the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

7. Tibetans are systematically denied their human rights due to racial discrimination exacerbated by the Chinese government's *Zhonghua Minzhu*⁴ state concept. *Zhonghua Minzhu* signifies “Chinese nations” or “Chinese races”, which refer to the existence of 55 constructed and so-called ethnic minorities together with the majority “ethnic Han” group in a “homogeneous and harmonious society”, united under the Chinese state. Through this concept Tibet's history and people are made invisible thus legitimising the predominantly Han-Chinese state.
8. 8.49%⁵ of the population in China is classed as “ethnic minority”; Han Chinese are 91.51% of the population⁶. An estimated 5.5 - 7 million Tibetans in Tibet⁷ constitute about 5% of the “ethnic minorities”.⁸ While “ethnic minorities” are recognised as an integral part of China under the law, the Chinese government is exclusively defined by Han-Chinese values and nationalist commitment. This state policy requires complete political and social assimilation into Han culture. Policies related to Tibetans lean towards being racialized as “ethnic tension” instead of being focused on resolving Tibetan grievances caused by racial discrimination of the Chinese state, including granting Tibetans self-governing rights.
9. Any rights granted to ethnic minorities under Chinese Law and the Constitution, such as the Regional Ethnic Autonomy Law, fall under the centralized command of the CCP under Chinese law, which lacks any senior political representation of Tibetans. This centralized control of legislation concerning “ethnic minorities” nullifies recognition of political rights granted to Tibetans in practice.
10. Discriminatory racial stereotypes are widespread in China and lead to Tibetans being unable to exercise a range of basic human rights. Tibet has been portrayed across China as a “feudal society” made up of “serfs controlled by masters” before being “liberated” by the Chinese People's Liberation Army during the occupation in 1949. China describe Tibetans as ‘backward’ using a rationale that they are in need of modernization and assistance from the Chinese government and ‘talent’ in order to become civilised.
11. In this context, peaceful dissent from Tibetan civil society to the government's policies in Tibet are labeled ‘ethnic issues’, and are often also branded “terrorism”, or acts that are designed to ‘split the nation’. Through this racialised notion of the Tibetan people the

⁴ Sander, K. (2016) *One Chinese Nation? Promoting the notion of 'Zhonghua Minzu' as a means for the solution to ethnic problems in the People's Republic of China*, Available at the Student Repository of the University of Leiden, <https://openaccess.leidenuniv.nl/handle/1887/41883>.

⁵ Communiqué of the National Bureau of Statistics of People's Republic of China on Major Figures of the 2010 Population Census[1] (No. 1)." National Bureau of Statistics of China. Accessed July 11, 2018. http://www.stats.gov.cn/english/NewsEvents/201104/t20110428_26449.html

⁶ Ibid.

⁷ Beijing: Tibetan Population Actually over 7 Million." VOA. August 19, 2014. Accessed July 11, 2018. <https://www.voatibetanenglish.com/a/1940971.html>.

⁸ Ibid.

Chinese government has been carrying out oppressive policies in Tibet denying the Tibetan people the right to exercise basic rights according to the Chinese constitution and the ICERD. This has created a climate of racial discrimination, which creates a potential for further political clashes and unrest.

12. China's logic and policies in Tibet are based upon racist discourse following a colonialist rationale, which violates Article 1.1 of ICERD, and also denies self-determination committing systematic human rights violations described in this report.

III. ARTICLE 2: Self-Determination

1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end: e.g.
 - (a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;
 - (b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;
 - (c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;
2. States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

China's Claim to Compliance with Article 2

13. The right to self-determination is a *ius cogens* principle of international law, enshrined in the UN charter under art. 1, and the ICESCR article 1.1. Under UN Charter article 73 and paragraph (b) the Tibetan people's rights to internal and external self-determination as defined by the Committee's General Recommendation XXI (1996) are guaranteed. The record of severe human rights abuses in Tibet since the invasion by China reinforces the need for self-determination to enable Tibetans to "freely determine their political status and freely pursue their economic, social and cultural development"⁹.
14. China is under obligation according to Article 2.2. ICERD to ensure that Tibetans are able to pursue freely their political, economic, social and cultural development without outside interference, and take special and concrete measures to ensure the adequate development and protections of the group, or individuals belonging to the group.
15. The "Law of the People's Republic of China on Regional National Autonomy"¹⁰ guarantees "self-government"¹¹ and "autonomy power"¹² to Tibetans as a "minority nationality"¹³. In addition to article 33 of the Chinese Constitution guaranteeing equality of citizens and the protection of human rights, article 4 states: "Discrimination against and oppression of any nationality are prohibited; any act which undermines the unity of the nationalities or instigates division is prohibited.

China's Actual Compliance with Article 2

⁹ ICESCR Article 1

¹⁰ Law of the People's Republic of China on Regional National Autonomy, http://www.npc.gov.cn/englishnpc/Law/2007-12/13/content_1383908.htm

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

16. China violates Article 2 ICERD in conjunction with Article 5 (c), which guarantees political rights, and Article 5 (d), which guarantees economic, social and cultural rights. The discriminatory state-sponsored narrative of Tibet and Tibetans as ‘dark and backward’¹⁴ before the Chinese invasion constitutes a violation of Article 4 CERD and is characteristic for colonialist discourse, implies incapability of Tibetans to govern themselves and legitimises racist practices against Tibetans and the denial of their right to self-determination.
17. Since the 2008 uprising in Tibet, and Xi Jinping’s ascension to President in 2012, China has increasingly violated Tibetans’ rights to both ‘internal’ self-determination, as per article 5(c) rights under article 5(d), and ‘external’ self-determination, as per the General Recommendation XXI by the Committee.¹⁵ Tibetans are not permitted to take part in governing their public affairs and taking part in their cultural life on an equal footing, nor are do they have the right “to determine freely their political status and their place in the international community based upon the principle of equal rights and exemplified by the liberation of peoples from colonialism and by the prohibition to subject peoples to alien subjugation, domination and exploitation”¹⁶.
18. Provisions necessary to guarantee Tibetans self-determination are formally provided under China’s Regional Autonomy Law, but are nullified due to racial and ethnic discrimination. The superimposition of the Central Government, which lacks any Tibetan representation, over Tibetan public and political affairs, along with the conceptualisation of Tibetans as ‘other’ to the Chinese state, and the labelling of Tibetans as ‘splittist’ and ‘terrorist’ in Chinese propaganda, denies Tibetans the enjoyment of internal self-determination as per article 5(c), and therefore the denial of the enjoyment of rights under article 5(d).
19. There is also an indication in state propaganda and statements made by senior officials and government-endorsed academics that the current territorial-based recognition of Tibetans as an ethnic minority group geographically tied to Tibet under the Regional Autonomy Law, could be dismantled, potentially rendering Tibetans as an ethnic minority without ties to their ancestral lands. The following was stated in the Congressional-Executive Commission on China Annual Report 2012¹⁷
20. “The Communist Party United Front Work Department Executive Deputy Head Zhu Weiqun published an article in February 2012 that proposes the removal of ethnic identity information from household registration (hukou) cards in the interests of "national cohesion" and "amalgamation." Zhu suggested that the state's failure to dilute distinct ethnic identities could lead to the breakaway of ethnic minority areas from the PRC. A new webpage hosted by the State Ethnic Affairs Commission featured discussion among leading scholars regarding a "second generation" of state ethnic policies, saying that under "second generation" reforms, regional and local autonomy frameworks and corresponding policy provisions would be abandoned in favor of the uniform application of policies.””

¹⁴ Xinhua News, “Old Tibet is "dark and backward", not Shangri-La”, http://www.xinhuanet.com/english/2015-09/06/c_134595295.htm.

¹⁵ General Recommendation XXI by the Committee, https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fGEC%2f7493&Lang=en

¹⁶ Ibid.

¹⁷ Congressional-Executive Commission on China, 2012 ANNUAL REPORT, <https://www.cecc.gov/publications/annual-reports/2012-annual-report#Ethnic%20Minority%20Rights>

21. The denial of self-determination is seen reflected in the 153 self-immolations that have occurred since 2009¹⁸, which are linked to the systemic policies that highlight China's intent to dilute the identity of the Tibetan people as a means of absorbing Tibet economically, socially, and culturally into the Chinese state.

¹⁸ Self-immolations by Tibetans, International Campaign for Tibet,
<https://www.savetibet.org/resources/fact-sheets/self-immolations-by-tibetans/>

IV. ARTICLE 5 (B): Torture in Tibet

The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution;

China's claims of compliance with Article 5

22. Regarding the concerns raised by the Committee on the excessive use of force against Tibetans in 2008¹⁹, and the recommendation that China should “ensure that those detained in connection with the above events are guaranteed humane treatment while in custody and fair trial standards according to international law”, under paragraph 17 of the Concluding Observations²⁰, China responded in their CERD State report, paragraph 53, that “The trial proceedings in the relevant Chinese courts with regard to these two cases of serious criminal violence were carried out in strict accordance with the relevant provisions of the Criminal Procedure Law; except where otherwise stipulated under the law, all hearings were carried out in open court. For cases not subject to open trial according to provisions of the law, it is nonetheless ensured that the accused receives a fair trial”.²¹
23. Article 5 (b) is connected with many provisions of the Committee Against Torture (CAT) and places obligations on the State Party to restrain from usage of torture. The prohibition of torture is part of *ius cogens* and thus, a fundamental basis of international law.
24. Similarly, the CAT has addressed China's use of torture against Tibetans. During China's Review by the CAT in 2015, regarding the alleged use of ‘tiger chairs’ as a means of torture, China stated that “(...) the use of interrogation chairs could not be equated with torture”²² and that “interrogation chairs were used to prevent detainees from escaping, attacking others or self-harming and were padded for comfort and safety”.²³
25. China claimed that there were no cases of political imprisonment, and called the allegation of cruel treatment of suspects or criminals belonging to ethnic minorities as “groundless”.²⁴ China claimed that regarding the death of Tenzin Delek Rinpoche while in Chinese custody, that immediate medical attention had been granted, his family was informed, and that “in accordance with local custom, his body had been cremated and his ashes had been scattered. His rights and interests had at all times been protected by the relevant authorities.”²⁵
26. In 2012 China amended the Criminal Procedure Law²⁶ to incorporate the principles of respect for and protection of human rights. The amendment claims to prevent torture and other cruel, inhuman, or degrading treatment or punishment in criminal procedural activities, and puts in place measures that require judicial fairness and guarantee due process rights of persons subject to criminal procedures.²⁷ During the CAT review China

¹⁹ On 10 March 2008, Tibetans protested peacefully in Lhasa. When Chinese military forces cracked down, the protests spread all across Tibet leading to a historic uprising.

²⁰ CERD/C/CHN/CO/10-13

²¹ CERD/C/CHN/14-17

²² UNCAT (2015) Summary record of the 1371st meeting, CAT/C/SR.1371, paragraph 22.

²³ Ibid, at Paragraph 67.

²⁴ UNCAT (2015) Summary record of the 1371st meeting, CAT/C/SR.1371

²⁵ Ibid, at Paragraph 29.

²⁶ Criminal Procedure Law (promulgated by the Nat'l People's Cong., July 1, 1979, rev'd March 14, 2012, effective Jan. 1, 2013), P.R.C. LAWS (China).

²⁷ Ibid.

gave assurances that officials who extracted information through torture were severely punished.²⁸

27. The Standing Committee of the Chinese State Council adopted the Regulations on Administrative Detention Facilities, which went into effect in 2012. These Regulations purport to safeguard “the rights [of detainees] to be informed of their rights, the right to sustenance and respect of their ethnic dietary customs, the right to adequate medical care and prompt care for those who are ill, and the right to meet with legal counsel”.²⁹
28. The Ministry of Public Security issued a revised version of the Provisions on Procedures for Handling Criminal Cases by Public Security Organs.³⁰ These regulations stipulate that “no one may be forced to incriminate him/herself”³¹ and that “statements coerced from criminal suspects by torture or other unlawful means, as well as statements from victims or witnesses obtained by violence, threats or other unlawful means, are to be excluded.”³²

China’s Actual Compliance with Article 5

29. Since the last Review in 2009, and the last CAT review in 2015, there have been further deaths of Tibetans either in custody³³ or shortly after release³⁴, linked to torture and state violence. China’s systematic practice of torture is in violation of the ICERD, ICAT and article 5 of the UDHR, given that its laws and policies target disproportionately Tibetans as a particular ethnic group for torture and bodily harm. China’s policies of discrimination against Tibetans as an ethnic minority permit the routine use of torture when Tibetans are arrested, detained, tried, and imprisoned.³⁵ Tibetans are subject to a much higher rate of detention, child detention, and torture than Chinese.³⁶ At least 2,600 Tibetans are arbitrarily imprisoned based on their political views as of July 2018.³⁷
30. Torture is endemic in Tibet and is used systemically and routinely by Chinese authorities against Tibetans³⁸. The use of torture in detention facilities by authorities, all suggest that torture is not a punishable offense under China’s criminal law.³⁹
31. The Chinese Criminal Law, Criminal Procedural Law, and The State Secrets Law contain provisions that nullify any protection against bodily harm, as no information and standard legal procedure has to be applied or disclosed. Tibetan peaceful dissent is classified as ‘splittist’, ‘separatist’, as ‘endangering state security’ and ‘leaking state

²⁸ Id, at Paragraph 29.

²⁹ Tibetan Center for Human Rights and Democracy (2014) Annual Report 14, no.11, <http://www.tchrd.org/2015/02/annual-report-2014-human-rights-situation-in-tibet>.

³⁰ See generally Sixth Rep. of the People’s Republic of China on its Implementation of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, no. 16, U.N. Doc. CAT/C/CHN/5 (2014) [hereinafter Sixth Report].

³¹ Ibid.

³² Ibid.

³³ “Tibetan Man Who Refused to Fly Chinese Flag Dies in Prison”, Radio Free Asia, 08 February 2018, <https://www.rfa.org/english/news/tibet/tibetan-man-who-refused-to-fly-chinese-flag-dies-0208201816154201.html>

³⁴ “Tibetan Nun Dies After Years of Ill Health Following Prison Term”, Radio Free Asia, 31 January 2018, <https://www.rfa.org/english/news/tibet/nun-01312018153945.html>

³⁵ Amnesty International (2012) Urgent Action: Health of Uighur Prisoner “Critical”, <http://www.amnestyusa.org/sites/default/files/uua27112.pdf>; Tibet, Max Planck Encyclopedia of Public International Law (Oct. 23, 2015).

³⁶ International Campaign for Tibet (2001) “Jampa: The Story of Racism in Tibet”⁵ available at http://savetibet.de/fileadmin/user_upload/content/berichte/13.JampaRacism.pdf.

³⁷ Tibetan Center for Human Rights and Democracy (2018) Tibetan Political Prisoners Database, http://www.tchrd.org/tchrd_pdb/prisoners-database/

³⁸ Id at 30.

³⁹ Id at 36.

secrets⁴⁰. In a new trend, such dissent is often labeled as ‘terrorism’. People accused of such crimes have no right to a lawyer⁴¹, have no right to an open trial⁴², can be kept for prolonged periods of time in detention, and may be kept at undisclosed locations for interrogation⁴³. The family of the accused does not have to be notified about the detention⁴⁴, and family members may legally be surveilled at their homes⁴⁵. Evidence collected during the investigation process for criminal cases related to State Secrecy shall be kept undisclosed, so that redress made by Tibetans becomes difficult⁴⁶. The majority of Tibetan human rights defenders are charged with terrorism-related crimes, and held for long periods even before trial. This coincides with the disproportionate rates of torture against Tibetans, a figure that is likely to be exacerbated by detainees being held without any court supervision.

32. Under paragraph 30, the CAT Committee “remain(ed) concerned at the use of State secrecy provisions to avoid the availability of information about torture, criminal justice and related issues” and recalled previous recommendations regarding state secrecy. In 2017 in a follow-up to the CAT Review, under paragraph 2 regarding the Committee’s concerns about restrictions on the ability of detainees to meet with a lawyer, it is stated that “Article 37 [of the Criminal Procedure Law] establishes that during the investigation period for crimes against State security, related to terrorist activities or involving major cases of bribery, the defence lawyer must obtain authorization from the investigating body in order to meet with a suspect. The above provisions require meetings with a lawyer to be subject to authorization only in a very few, extraordinary cases, to ensure the rights of the detainee and to protect State security and public safety and ensure an appropriate balance in the fair administration of justice.”.
33. In 2018 it was reported that Tashi Wangchuk was tortured and suffered extreme inhuman and degrading treatment during the first week of detention. He was initially held for a lengthy period in a ‘tiger chair’ where he was subjected to arduous interrogation and was repeatedly beaten. His interrogators also threatened to harm his family.⁴⁷
34. In 2009, the CERD raised concerns under paragraph 17 about the excessive use of force against Tibetans in 2008. In 2016 the CAT Committee stated that it regretted that China had not implemented its 2008 Recommendation; it found that there was “no accountability for the events in the autonomous region of Tibet and neighbouring Tibetan prefectures and counties”.⁴⁸ Despite China’s claims to CERD that Tibetans received fair trials, following the 2008 uprising when over hundred Tibetans peacefully protested, the Chinese government reacted with a violent crackdown. Over 100 Tibetans were killed and thousands were imprisoned. Survivor and asylee Golog Jigme recalls his detention in March 2008 when he was taken to Kachu in mainland China: “I was taken to a small and remote Chinese area where there was only one building in what seemed a no man’s land. I recognized many of my fellow monks from our monastery, Labrang.

⁴⁰ Article 186 of the Criminal Law http://www.opbw.org/nat_imp/leg_reg/China/CRIMINAL_LAW.pdf and Article 31 and 32 of Law of the People's Republic of China on Guarding State Secrets <http://www.asianlii.org/cn/legis/cen/laws/gssl248/>

⁴¹ Article 37 of the Criminal Procedural Law

⁴² Article 183 of the Criminal Procedural Law

⁴³ Article 73 Criminal Procedural Law Criminal Procedural Law

<https://www.cecc.gov/resources/legal-provisions/criminal-procedure-law-of-the-peoples-republic-of-china>

⁴⁴ Article 83 of the Criminal Procedural Law

⁴⁵ Article 73 of the Criminal Procedural Law

⁴⁶ Article 52 Criminal Procedural Law

⁴⁷ Background Briefing 2018: Tibetan human rights defender Tashi Wangchuk

https://docs.google.com/document/d/1bRpAGAFoxAVfvAD5CALYnuS-lm6f6NC_86nGB6jBgvo

⁴⁸ CAT/C/CHN/CO/5

They brutally beat and tortured us. I felt as if it was completely arbitrary, as if they just tortured us without any regard of who would survive it and who would die.”

35. In reliably attested cases of Tibetans who have been tortured to obtain confessions, or at any time during the criminal process, the authorities responsible have not been investigated, tried or charged. The systematic use of torture against Tibetans that was instituted in 2008 has now become the routine response to most forms of peaceful protests by Tibetans. There is complete impunity for authorities, leaving victims and their families without any option for seeking justice, and at high risk of reprisals themselves if they challenge the officials responsible.
36. Torture has been repeatedly used on Tibetans to extract confessions. Chinese officials typically use torture methods that leave no visible injuries, and that videotaped interrogations are often manipulated. Despite evidence proving torture has been inflicted, Chinese officials are rarely held accountable.⁴⁹
37. China has failed to comply to give evidence concerning the cases of torture reported to the UNHRC. In 2015 During the CAT review, in the concluding observations and in the follow up report, China was asked to provide information on 26 Tibetan prisoner cases. CAT raised recommendations and concerns under paragraph 40 of the follow up report “Notwithstanding the delegation’s statement that “the allegations of unfair or cruel treatment to suspects or criminals from ethnic minority groups are groundless”, the Committee has received numerous reports from credible sources that document in detail cases of torture, deaths in custody, arbitrary detention and disappearances of Tibetans.”
38. Tenzin Delek Rinpoche, a highly-respected Tibetan religious Buddhist teacher renowned for his social activities and promoting Tibetan culture, was tortured in detention, denied medical treatment, and died under suspicious circumstances in detention during his detainment.⁵⁰ Tenzin Delek’s trial was held in secret, and even though he had no independent legal counsel, he received a death sentence without independent legal counsel, which was later commuted to life in prison and then to a 20-year sentence. In 2010, prison officials told relatives that he was ill with "ailments related to bones, heart, and blood pressure." Tenzin Delek Rinpoche became eligible for medical parole in 2009 but his family’s application was ignored. After seeing his body, Tenzin Delek Rinpoche’s sisters reported that “his lips and fingernails had turned black”; they believed he was murdered.”⁵¹
39. Tibetans have been exposed to bodily harm and sexual abuse during patriotic re-education programmes. Although China announced in 2013 that it had abolished labour camps, re-education camps have been forcing “patriotic re-education” on detainees. In May 2018, it was reported that Tibetan nuns, who were forcibly placed in re-education camps in Sog County (CH: Suo), Nagchu Prefecture, TAR, were sexually abused. Torture has taken place in re-education centers in Sog County by way of food deprivation, sleep deprivation, prolonged wall standing and beatings.⁵² In 2017,

⁴⁹ See *China: Torture by Police Dodges Reforms*, HUMAN RIGHTS WATCH, 2 (May 2013) (“despite several years of reform, police are torturing criminal suspects to get them to confess to crimes and courts are convicting people who confessed under torture...until suspects have lawyers at interrogations and other basic protections and until police are held accountable for abuse, these new measures are unlikely to eliminate routine torture”), p.2.

⁵⁰ Congressman McGovern, 20 July 2015, *Statement on Death of Tibetan Activist Tenzin Delek Rinpoche*, <https://mcgovern.house.gov/news/documentsingle.aspx?DocumentID=396707>.

⁵¹ Ibid.

⁵² Tibetan Center for Human Rights and Democracy, 28 May 2018, “Tibetan monk’s account reveals torture and sexual abuse rampant in China’s political re-education centers”.

<http://tchrd.org/tibetan-monks-account-reveals-torture-and-sexual-abuse-rampant-in-chinas-political-re-education-centres/>

Tibetans who arrived late for a public health lecture were beaten so severely by Chinese officials that several had to be hospitalized. Six of the Tibetans who were beaten were detained.. The authorities also raided their family's homes.⁵³

40. In 2016, Tashi Deyang was taken on unknown charges to a detention center. Tashi committed suicide to escape the brutal beating and torture inflicted upon him.. Some of those who protested his death were also taken into custody.⁵⁴
41. In 2016, Trigyal, a man who was serving a 13-year prison sentence for refusing to fly a Chinese flag, died from injuries in custody sustained through torture during his detainment.⁵⁵ Those living in Driru county were required to hang the Chinese flag in 2013 from their houses to display loyalty to China. Some protested by throwing the flags in a river, which prompted Chinese officials to fire shots into the unarmed crowd. Chinese security forces are accused of killing four Tibetan villagers and wounding 50 others.
42. Dolma Kyab was sentenced to death, with a two year reprieve, on August 15, 2013 for allegedly murdering his wife who self-immolated in March 2013; he was tortured to extract a false confession⁵⁶. During his time in custody, Dolma Kyab was taken out of his cell every two to three days and was returned to it unconscious⁵⁷.
43. Tenzin Choedrak, a Tibetan social activist , died in December 2014 two days after he had been released early from detention, having served six years of his 15-year prison sentence. His physical injuries suggest he was subjected to foot whipping, as well as beatings.⁵⁸
44. 72-year old Yama Tsering, was tortured with an electric prod in detention in Tawu in August 2013.⁵⁹ Authorities detained Yama Tsering after he was shot at during a protest. Along with Yama Tsering, who sustained an arm injury and four broken ribs by the police during the protest, twenty other injured people were arrested, tortured, and denied medical attention.
45. In 2017, a group of Tibetans who were on a picnic were surrounded by about 30 police officers and beaten, ten were injured and several, including an elderly man, needed medical attention at hospital for injuries including a broken rib. The head of the village was beaten and taken into custody after he complained to officials. No response has been given for the reasons of the assault.⁶⁰

⁵³ Radio Free Asia, 03 January 2017, "Tibetans Beaten, Detained For Coming Late to Meeting", <https://www.rfa.org/english/news/tibet/meeting-01032017142450.html?searchterm:utf8:ustring=beat>

⁵⁴ Radio Free Asia, 01 April 2016, "Tibetan Kills Himself to End Torture in Jail"
, <https://www.rfa.org/english/news/tibet/torture-04012016162039.html>

⁵⁵ Id at 33.

⁵⁶ International Campaign for Tibet, 21 August 2013, *Death Penalty For Tibetan After Death Of Wife in Ngaba*, <http://www.savetibet.org/death-penalty-for-tibetan-after-death-of-wife-in-ngaba/>.

⁵⁷ Tibet Watch (2013) *Dzoegé Thematic Report 2013*, http://www.tibetwatch.org/uploads/2/4/3/4/24348968/dzoegé_county_thematic_report.pdf.

⁵⁸ Tibetan Center for Human Rights and Democracy, 30 January 2015, *Tsewang Rigzin, Remembering the fearless 'ghost' Tenzin Choedrak*, <http://www.tchrd.org/2015/01/remembering-the-fearless-ghost-tenzin-choedrak-1981-2014/>.

⁵⁹ Free Tibet, 17 July 2013, "Tibetans Tortured After Shootings", <http://freetibet.org/news-media/na/tibetans-tortured-after-shootings>.

⁶⁰ Radio Free Asia, 28 August 2017, *Police Assault Tibetan Picnickers in Sichuan's Draggo County*, Accessed July 11, 2018. <https://www.rfa.org/english/news/tibet/picnic-08282017155855.html>

V. ARTICLE 5 (D)

(i) Freedom of Movement in Tibet: internal

The right to freedom of movement and residence within the border of the State;

China's Claims of Compliance with Article 5 (d) (i)

46. The **Chinese Constitution** guarantees the equality of all nationalities and furthermore "Discrimination against and oppression of any nationality are prohibited". Equality of citizens and protection of human rights are protected under art. 33 of the Constitution.

China's Actual Compliance with Article 5 (d) (i)

47. Tibetans in Tibet are denied the right to freedom of movement through a series of restrictive policies especially since 2008 and since 2012. These restrictions are based upon discriminatory practices and target Tibetans as an ethnic group. The denial of the right to freedom of movement violates Article 13 of UDHR⁶¹. The situation in Tibet's capital Lhasa, and in the surrounding TAR is particularly restrictive, but tight restrictions also exist in Tibetan areas beyond the TAR.
48. Tibetans are targeted collectively by both police and military, whose presence in Tibet has intensified since 2012⁶². The militarization of Tibet creates an atmosphere of fear in everyday life which hinders Tibetans from moving freely within Tibet. This is in direct contrast to Chinese settlers who are given government incentives to permanently settle and are able to move freely in Tibet⁶³, as well as Chinese tourists.
49. When Tibetans do travel in Tibet, ethnic profiling of individuals is applied and Tibetans are obliged to identify themselves through State granted administrative permissions; Chinese citizens are not required to do this.
50. According to our researchers, Tibetans have to go through police checkpoints set up between different counties, prefectures and provinces, and they are routinely body-searched, interrogated, and have their belongings checked for sensitive information (e.g. photos or information about His Holiness the Dalai Lama). If anything suspicious is found, Tibetans face detention and fines. During special occasions such as religious celebrations or political sensitive dates the police are reinforced by military personnel.⁶⁴
51. Restrictions on Tibetans' freedom of movement regarding religious gatherings violates the Tibetans' **right to freedom of religion**. Thus China is violating its obligations under ICERD art. 5 (d) (vii), ICESCR art. 2.2., UDHR art. 2 and 18, UN Charter art. 1.3. and art. 55 (c). The violation of Tibetans' right to freedom of movement makes the existence of a Tibetan civil society and a collective public life impossible, hindering Tibetans from gathering, and denying their **right to freedom of assembly and association**. China further violates following obligations: ICERD art. 5 (d) (ix), UDHR art. 20.1., UN Charter art. 1.3. and art. 55 (c), ICCPR art. 21.

⁶¹ UN member states, NGOs and parts of Chinese civil society have called upon China to ratify the ICCPR, which it signed in 1998.

⁶² Zenz, A. & Leibold, J. (2017) Chen Quanguo: The Strongman Behind Beijing's Securitization Strategy in Tibet and Xinjiang, China Brief Volume: 17 Issue: 12.

⁶³ Dorjee, Rinzin. "China's Urbancide in Tibet." The Diplomat. March 17, 2017. Accessed July 11, 2018. <https://thediplomat.com/2017/03/chinas-urbancide-in-tibet/>.

⁶⁴ Tibet Advocacy Coalition independent primary research for CERD report, carried out in June 2018.

The Situation in Lhasa (TAR)

52. Lhasa, the cultural and religious center and capital for Tibetans, is the most difficult place to access for Tibetans.⁶⁵ For Tibetans from the the provinces of Yunnan, Qinghai, Sichuan and Gansu, it has become extremely difficult to obtain permits to travel to Lhasa. In order to travel from Tibetan areas outside the TAR to Lhasa, a Tibetan is required to have a complicated set of documents, obtained from both village and county levels.⁶⁶
53. Lhasa is more inaccessible for Tibetans than for Chinese. Tibetan blogger Tsering Woesser⁶⁷ described travelling to Lhasa as a Tibetan: “*the majority of non-Tibetan passengers breeze easily through, so very excited to be heading off to various parts of Lhasa (...) Tibetan passengers, on the other hand, are stopped by armed police and their identity cards checked with a device similar to those used to swipe credit cards (...) We are all taken into the police station next to the railway station.*”⁶⁸
54. Following the self-immolation⁶⁹ of two Tibetans in Lhasa in 2012, several hundred Tibetans outside of the TAR, were arbitrarily expelled from the TAR, targeting even those who held valid residence permits for Lhasa⁷⁰. The majority of these Tibetans were expelled from the whole TAR⁷¹. There were no reports of Chinese being expelled.⁷²
55. Within Lhasa, the Chinese government has installed an extensive number of police checkpoints to surveil, harass and control Tibetans, and is considered the most sophisticated police surveillance system within the China⁷³. By 2012, there were police stations every 500 metres within the city⁷⁴.

Situation in the Tibet Autonomous Region (TAR), including, and beyond, Lhasa

56. The TAR⁷⁵ is the most inaccessible region within the PRC.⁷⁶ In 2011, the Chinese government started the 3-year ‘Benefit the Masse’ campaign to “increase rural living standards” in Tibet⁷⁷. Over 20,000 CCP officials got stationed in rural areas as part of a

⁶⁵ International Campaign for Tibet (2018), supra note 9, at Locked In, Locked Out: Tibetans Inside and Outside Tibet.

⁶⁶ Our researchers have found that when Tibetans travel from Tibetan areas outside the TAR to Lhasa, they first have to get a permit from the village council, then from the police stations of the township and the county, and then from the administrations of township and county.

⁶⁷ In June of 2013, Chinese officials placed under house arrest writer Tsering Woesser, whom the U.S. State Department called “the most prominent mainland activist speaking out publicly about human rights conditions’ for Tibetans” in a ceremony awarding her work. Boston University, Asylum & Human Rights Program, Tibet Justice Centre, and International Tibet Network: Update to the Parallel Report Submitted to the CESCR for Consideration of the Report on China Concerning the Rights of the Tibetan People <http://www.tibetjustice.org/wp-content/uploads/2013/11/CESCR-Tibet-Report-2014-Final.pdf>

⁶⁸ Radio Free Asia, 16 October 2012, 'On The Train to Lhasa', Accessed July 11, 2018. <https://www.rfa.org/english/commentaries/lhasa-10162012104608.html>

⁶⁹ From 2009 until today, 153 Tibetans have committed self-immolation in protest against the Chinese government (state: 22 June 2018). These self-immolations are seen as a consequence of the repressive policies and violent crackdown of the historic 2008 protests in Tibet by the Chinese government.

⁷⁰ “China: Arbitrary Expulsions of Tibetans from Lhasa Escalate.” Human Rights Watch. September 25, 2012. Accessed July 11, 2018. <https://www.hrw.org/news/2012/06/19/china-arbitrary-expulsions-tibetans-lhasa-escalate>.

⁷¹ Ibid.

⁷² Ibid.

⁷³ Zenz, A. & Leibold, J. (2017) supra note 10.

⁷⁴ Ibid., supra note 8.

⁷⁵ TAR was established by the Chinese government in 1965. Traditionally, this territory represents only Central Tibet, which is less than half of the actual Tibetan territory.

⁷⁶ International Campaign for Tibet (2018), supra note 9, at Locked In, Locked Out: Tibetans Inside and Outside Tibet.

⁷⁷ Human Rights Watch: “China: ‘Benefit the Masses’ Campaign Surveilling Tibetans” <https://www.hrw.org/news/2013/06/18/china-benefit-masses-campaign-surveilling-tibetans>

'grid system'⁷⁸, which allows complete surveillance of Tibetans living in these villages. Officials were reported to be interrogating Tibetans and categorizing them, according to their political views, such as loyalty to the Dalai Lama, leading to hundreds of Tibetans being detained for 're-education'^{79, 80}.

57. A former Party official confirmed that "Official reports specify that the cadre team in each village is also responsible for keeping records on all monks and nuns in their village, as well as analyzing those individuals' backgrounds and monitoring their movements."⁸¹ On February 28, 2013, the official in charge of stability maintenance in the TAR, Hao Peng, told paramilitary forces that they must "thoroughly ensure no shadows, no gaps, no cracks, not giving hostile forces even the slightest opportunity" and must "strengthen surveillance and secret intelligence."⁸²
58. The campaign was scheduled to end in 2014, however the TAR authorities announced that the measures were "long-term"⁸³. It was reported to be likely that the over 20,000 officials are indefinitely stationed in Tibet. This is unprecedented, as teams of party cadres are not sent below township level for long periods.⁸⁴
59. On 10 March 2017, the anniversary of the Tibetan Uprising against China's occupation in 1959, the Chairman of the TAR, Che Dalha, stated that "the government has sent officials to villages, introduced a 'grid management' system in cities, and effectively advanced the multi-layered social management system (...) adding the government's capacity in governing according to law has continuously improved".⁸⁵
60. This surveillance system indicates a pattern of general suspicion of Tibetans on the basis of their ethnicity and constitute a racist system. The disproportionate presence of state agents incites fear and their capacity to exercise their rights to freedom of expression and other rights associated with peaceful political dissent.

Situation in Tibetan areas outside of the TAR

61. In Tibetan areas outside the TAR, our research found that since 2009, a minimum of one new police station has been established in every township, and that in every monastic institution there has been established a police office⁸⁶. 10'000 police were sent to Tibetan villages Qinghai.⁸⁷

⁷⁸ The grid management surveillance system divides an area into "grids", neighborhoods each with 10-15 families. For each grid there is a designated person responsible for monitoring and forwarding information on the people's daily life, allowing the Chinese authorities to prevent political dissent from an early stage. This system aims at monitoring society "without gaps, without blind spots, without blanks".

<https://www.reuters.com/article/us-china-tibet-surveillance/china-deploys-mass-surveillance-to-secure-streets-around-ancient-tibetan-temple-idUSKBN0TJ13420151130>

⁷⁹ According to a witness from the region, *Human Rights Watch* reported these figures: 135 people from Chamdo Prefecture, up to 500 from Nagchu Prefecture, and 73 from Meldro Gungkar County.

⁸⁰ *Human Rights Watch*: "China: 'Benefit the Masses' Campaign Surveilling Tibetans"

<https://www.hrw.org/news/2013/06/18/china-benefit-masses-campaign-surveilling-tibetans>

⁸¹ *Human Rights Watch*: "China: 'Benefit the Masses' Campaign Surveilling Tibetans"

<https://www.hrw.org/news/2013/06/18/china-benefit-masses-campaign-surveilling-tibetans>

⁸² *Ibid.*

⁸³ *Ibid.*

⁸⁴ "China: No End to Tibet Surveillance Program." *Human Rights Watch*. March 02, 2016. Accessed July 11, 2018.

<https://www.hrw.org/news/2016/01/18/china-no-end-tibet-surveillance-program>.

⁸⁵ Xinhua News, 10 March 2017, Tibet cracks down on separatist activities by Dalai Lama clique,

http://www.xinhuanet.com/english/2017-03/10/c_136119153.htm, Accessed July 13, 2018.

⁸⁶ Tibet Advocacy Coalition independent primary research for CERD report, carried out in June 2018.

⁸⁷ "Relentless | Detention and Prosecution of Tibetans under China's "Stability Maintenance" Campaign." *Human Rights Watch*. June 06, 2017. Accessed July 11, 2018.

<https://www.hrw.org/report/2016/05/22/relentless/detention-and-prosecution-tibetans-under-chinas-stability-maintenance>.

62. On July 6, 2013, hundreds of Tibetans in Tawu county, Kardze prefecture (CH: Ganzi) celebrated the Dalai Lama's birthday publically. Chinese Armed Forces opened fire leaving 14 people wounded by gunshots. Around 20 people were detained. There has been no response from the Chinese authorities to calls for an investigation into the incident from Tibet groups. Instead, the Chinese authorities tightened security in the region by establishing five new police stations as part of a "human surveillance network".⁸⁸

Denial of Freedom of Movement linked to denial of other rights

63. Restriction to freedom of movement is linked to the denial of freedom of religion, and freedom of assembly and association, and denies the Tibetan people their right to self-determination.

64. On religious occasions, Tibetans gather at monasteries to hold prayer festivals and national celebrations. Police and military often block Tibetan pilgrims from entering the area and monasteries. On 13 February 2017, Tibetan pilgrims from Gansu province were stopped from entering Sichuan province to attend a prayer festival at Kirti Monastery in Ngaba (ch: Aba).⁸⁹

65. During dates which are deemed politically sensitive the government imposes so-called "black periods"⁹⁰ in Tibet. Shortly before and after 10 March, military presence increases in most Tibetan regions, monitoring all Tibetans. Such measures are also executed in Tibet during the Chinese Communist Party's annual Congresses in Beijing⁹¹. In October 2017, during the 19th Chinese Communist Party Congress in Beijing, foreign travelers and Tibetans from Tibetans areas of Qinghai province were barred from entering Lhasa for 10 days.⁹²

66. Our research found that Tibetan monks and nuns are disproportionately targeted by racist practices, having to obtain additional documents for travel from their monastic institutions, as well as the religious department of the county. This is a sign of racial discrimination based not only on their membership of an ethnic group, but also a religious group.

(ii) Freedom of Movement in Tibet: external

The right to leave any country, including one's own, and to return to one's country;

China's Claim to Compliance with Article 5 (d) (ii)

67. The **Chinese Constitution** guarantees the equality of all nationalities within the Chinese state and furthermore "Discrimination against and oppression of any nationality are prohibited". Equality of citizens and protection of human rights are protected under art. 33 of the Constitution.

⁸⁸ Boston University, Asylum & Human Rights Program, Tibet Justice Centre, and International Tibet Network: Update to the Parallel Report Submitted to the CESCR for Consideration of the Report on China Concerning the Rights of the Tibetan People <http://www.tibetjustice.org/wp-content/uploads/2013/11/CESCR-Tibet-Report-2014-Final.pdf>

⁸⁹ Free Tibet, 13 February 2017, Military Build-Up On Tibetan Borders As Pilgrims Prepare For Prayer Festival, <https://freetibet.org/news-media/na/military-build-tibetan-borders-pilgrims-prepare-prayer-festival>. Accessed July 11, 2018.

⁹⁰ International Campaign for Tibet (2018), "Access Denied: China's enforced isolation of Tibet, and the case for reciprocity", <https://www.savetibet.org/access-denied-chinas-enforced-isolation-of-tibet-and-the-case-for-reciprocity/#133.Chapter>. Accessed July 11, 2018.

⁹¹ International Campaign for Tibet (2018), supra note 9, at Executive Summary.

⁹² Radio Free Asia, 22 September 2017, Tibet Closes to Travelers For 10 Days in October, <https://www.rfa.org/english/news/tibet/closes-09222017153847.html>. Accessed July 11, 2018.

China's Actual Compliance with Article 5 (d) (ii)

68. Foreign travel for Tibetans is extremely restricted. While Chinese are free to travel, most Tibetans are prevented from obtaining a passport. Since 2012, Tibetans have faced intensified restrictions on the issuance of passports. The number of passports issued to Chinese by the same government has increased.⁹³
69. In 2012, the Chinese authorities in the TAR instructed all citizens to immediately hand in their passports, purportedly to replace them with electronic passports. Since 2012 there have been no reports of a single passport either replaced or issued to a Tibetan in the TAR. This marks out the TAR as the only region within the PRC where a “near total-ban” on issuance of passports was imposed, preventing three million Tibetans in the region from overseas travel.⁹⁴
70. When Tibetans have travelled abroad, they often face harsh reprisals upon their return, e.g. Tibetans from Tibet who travelled to India in July 2012 to join the Kalachakra, a religious teaching given by the Dalai Lama in India, were held by Chinese authorities on their return and forced into “re-education” camps.⁹⁵ In July 2014 there were more Chinese Buddhists participating in the Kalachakra teachings in India than Tibetans from Tibet.⁹⁶
71. In 2016, before the Kalachakra teachings of the Dalai Lama in India, Tibetan households in eastern Tibet were searched by Chinese authorities, who confiscated their passports in order to prevent them from joining the religious gathering. The authorities ordered those who had already left to return, and threatened their family members.⁹⁷ In Nepal a group of 41 Tibetan pilgrims were detained for some days.
72. In 2017, Tibetans who joined the Kalachakra religious teaching of the Dalai Lama in India were issued public threats from the Chinese authorities, who termed the reaching “illegal” and ordered the Tibetans to immediately return to Tibet.⁹⁸ This also violates Tibetans to religious freedom.

(v) Tibetan Nomads and Land Ownership

The right to own property alone as well as in association with others;

China's Claim to Compliance with Article 5 (d) (v):

73. China claims that Tibetans are afforded sufficient protection with respect to their right to property alone as well as in association, their right to housing and their right to equal

⁹³“One Passport, Two Systems | China's Restrictions on Foreign Travel by Tibetans and Others.” Human Rights Watch. July 14, 2015. Accessed July 11, 2018.

<https://www.hrw.org/report/2015/07/13/one-passport-two-systems/chinas-restrictions-foreign-travel-tibetans-and-others>.

⁹⁴Ibid.

⁹⁵ International Campaign for Tibet (2018), *Locked In, Locked Out: Tibetans Inside and Outside Tibet*.

⁹⁶ Ibid.

⁹⁷“Inside Tibet: Tightened Controls before Kalachakra; New Chinese Interpol President.” International Campaign for Tibet. September 13, 2017. Accessed July 11, 2018.

<https://www.savetibet.org/ict-inside-tibet-news-and-analysis-of-emerging-developments-in-tibet-2/>.

⁹⁸“Tibetan Pilgrims Compelled to Return from Dalai Lama Teaching in Bodh Gaya, India; China Calls the Teaching ‘illegal’.” International Campaign for Tibet. March 30, 2017. Accessed July 11, 2018.

<https://www.savetibet.org/tibetan-pilgrims-compelled-to-return-from-dalai-lama-teaching-in-bodh-gaya-india-china-calls-the-teaching-illegal/>.

participation in cultural activities under Article 27 and Article 28 of the Chinese Regional Autonomy Law.

74. Article 27 of China's Regional Autonomy Law states: "In accordance with legal stipulations, autonomous agencies in ethnic autonomous areas shall define the ownership of, and the right to use, the pastures and forests within these areas...Autonomous agencies in ethnic autonomous areas shall protect and develop grasslands and forests and organize and encourage the planting of trees and grass." ⁹⁹
75. Article 28 of China's Regional Autonomy Law states: "In accordance with legal stipulations, autonomous agencies in ethnic autonomous areas manage and protect the natural resources of these areas..." ¹⁰⁰

China's Actual Compliance with Article 2 in Conjunction with Article 5(d)(v)

76. Despite the fact that nomads have inhabited the grasslands in Tibet for close to 9,000 years¹⁰¹, China is denying Tibetan nomads the right to own property, alone as well as in association with others, due to eviction and confiscation from their ancestral lands to enable unregulated mining, infrastructure, mass hydro-power projects, and the development of tourism and so-called 'ecological conservation' purposes. While nomads have long been denied the right to hold land collectively, China's latest Belt and Road Initiative (BRI) appears to pose a final threat to Tibetan nomads' right to use their land as they have been accustomed to for millennia.
77. In May 2018, approximately 60 Tibetan nomad families from Nyimo County (CH: Nyemo County, Lhasa Prefecture, TAR), made an appeal to the Chinese authorities concerning their loss of grazing land that was seized by Chinese authorities in mid-2017 and is due to be developed by China as a tourist zone.¹⁰² A railway station was established in Nyimo County as part of the Qinghai-Lhasa line extension to Shigatse (CH: Xigaze, TAR) that was opened in 2014. Chinese Vice-Foreign Minister Kong Xuanyou has said that the link is instrumental in the BRI plans connecting to Kathmandu, Nepal.¹⁰³ The land over which the line has been constructed is ancestral Tibetan which has been used to support the livelihoods of Tibetan nomad communities and was confiscated purportedly under the pretext that it would become a farming zone or pasture. However, over the past year the land has been neglected and became unsuitable for grazing. While the exact motive for confiscation remains unknown, locals suspected the area could be used for mining. Since the land was confiscated, several thousands of animals have starved, endangering local nomads' livelihoods. Tibetan villagers have been threatened by officials after they appealed for compensation for the land to Chinese officials who were visiting the local area. Local Tibetans were told that no compensation would be given as the land belonged to the Chinese Communist Party. They were further threatened with reprisals such as arrest or jail if they did not remain silent or leave.¹⁰⁴

⁹⁹"Law of the People's Republic of China on Regional National Autonomy." NPC. Accessed July 11, 2018.

http://www.npc.gov.cn/englishnpc/Law/2007-12/13/content_1383908.htm.

¹⁰⁰*Ibid.*

¹⁰¹ Mieke, G. et al (2009) *How old is pastoralism in Tibet?*

http://www.case.edu/affil/tibet/tibetanNomads/documents/Mieke_how_old_is_pastoralism.pdf

¹⁰²"Nomads Left without Compensation after Land Grab." Free Tibet. May 17, 2018. Accessed July 11, 2018.

<https://freetibet.org/news-media/na/nomads-left-without-compensation-after-land-grab>.

¹⁰³"Railway Project to Link Tibet, Nepal." China Daily. Accessed July 11, 2018.

<http://www.chinadaily.com.cn/a/201806/22/WS5b2c3553a3103349141dda6f.html>.

¹⁰⁴ Id at 102.

78. China's mining activities have caused significant environmental destruction and pollution to Tibetan nomadic lands. Nomadic Tibetans have repeatedly appealed to the government in Lhagang (CH: Tagong), Dartsedo County (CH: Kangding), Kardze Prefecture, Sichuan province. The Ganzizhou Rongda Lithium mine was established in 2005 against the consent of Tibetans along the Lichu river, leading into the Yalong river. Tibetans protested the establishment of the mine in 2005 and then subsequent major polluting of the rivers in 2013. In 2016 a second pollution incident caused fish and other animals in the river to die en masse. Again, this mine is situated in close proximity to the proposed Chengdu-Tibet railway line, which will be part of the BRI.
79. In 2014 and 2015, in several townships across Sangchu (CH: Xiahe County), Gansu Province, large scale Tibetan nomad-led protests erupted in opposition to China's land seizure which was being carried out in order to build a highway. Concerns were also raised about linking the highway construction to mining activities. In May 2017, it was announced on a Chinese government website that a planned railway between the city of Xining and the city of Chengdu would be built and become part of the BRI. The proposed route would pass through Tongren Prefecture, reaching Chengdu via Hezuo City. While the exact route of the planned highway and railway is unclear, a passageway through Xiahe county seems practical and is further supported by reports of highways being built (as major railway lines tend to overlap with highways).
80. We kindly request the Committee to reference China's violations of Article 5(e), 5(e)(iii) and 5(e)(vi) regarding the resettlement of Tibetan nomads.

(vi) Threat to the Survival of the Tibetan Culture

The right to equal participation in cultural activities;

81. With a host of discriminatory resettlement policies, methods of evictions and the targeting of Tibetan nomads and the access and ownership to their ancestral lands via the development of the BRI, China is violating Tibetans, and in particular Tibetan nomads, the right to equal participation in cultural activities; the culture of Tibetan nomadism is tied to the grasslands of Tibet. The Tibetan nomadic lifestyle is the oldest form of civilization in Tibet dating back 9,000 years.¹⁰⁵ The Tibetan nomadic culture incorporates traditions that are central to Tibetan culture and Buddhism, through rites, language, food, and beliefs that connect the people to their land.¹⁰⁶ Forging a livelihood from the land, and being able to freely access sacred sites such as holy mountains, is predicated on being mobile, and the sedentarization of nomads therefore leads to a loss of identity.
82. The Chinese state narrative portrays Tibetan nomadic culture as "backward" and "uncivilized".¹⁰⁷ Following these narratives, Tibetan nomad resettlement has been justified by the Chinese government as a means of "environmental conservation", helping nomads to 'modernize' towards a higher living standard and towards the economic advancement of China.¹⁰⁸ In 2006-2010 China launched the setting up of 'New

¹⁰⁵ Mieke, G. et al (2009) *How old is pastoralism in Tibet?*

http://www.case.edu/affil/tibet/tibetanNomads/documents/Mieke_how_old_is_pastoralism.pdf

¹⁰⁶ George Mieke, supra note 105.

¹⁰⁷ International Campaign for Tibet, 28 February 2008, *Tracking the Steel Dragon* (2008), page 21.

¹⁰⁸ Human Rights Watch (2013) *"They Say We Should Be Grateful": Mass Rehousing and Relocation Programs in Tibetan Areas of China*, p.19, <https://www.hrw.org/report/2013/06/27/they-say-we-should-be-grateful/mass-rehousing-and-relocation-programs-tibetan>.

Socialist Villages” towards building a ‘Socialist Countryside’. Many nomads have been resettled into these villages, which have been reported to usually be located in isolated areas and lack infrastructure and public services such as hospitals and schools. They are often far away from economic centres, contradicting the claim that resettlements help Tibetans “modernize”. The Chinese government has moved to ‘sedentarize’ nomads and appropriate Tibetan grasslands for economic purposes, such as mining, infrastructure and large scale hydro-power projects.¹⁰⁹ Resettlements occur as part of the BRI, mining and other extractive projects and will take the place of the nomads.

83. In 2006 the “Comfortable Housing” policy was introduced in the TAR to aid building a socialist countryside and extended to other Tibetan areas. This policy was aimed at rural Tibetans, predominantly nomads, with the objective of helping them exchange their ‘poor’ and ‘backward’ living conditions for new permanent houses as a way to “modernize”. These new housing units are set up in ‘Socialist Villages’.¹¹⁰ In 2016 it was reported that the government stated that the Comfortable Housing project was completed in the Tibetan Autonomous Region in 2014. The governor of Kardze revealed plans to invest 30 billion dollars in Kardze in the next five years in order to complete the Comfortable Housing Project. Since 80% of the population is Tibetan, the project overwhelmingly affects Tibetans.¹¹¹
84. In 2015, Tibetan protesters including nomads were threatened with military deployment. A government sponsored mining company set up a mining operation at the sacred hill of Dragzong in Dringwa Township, Dzoegge County, Ngaba. Protests by local Tibetans to stop the mining company resulted in threats to deploy the army.¹¹²
85. In August 2017 Tibetans in Dernang Township, Darlag County, Golog (CH: Gulou), petitioned the Chinese government urging that they stop the “implementation of a new policy highly prejudicial to the ordinary people’s livelihood” to remove Tibetan nomads from grazing land, stating that the orders are illegal in the context of Chinese law.¹¹³ The appeal raised issue with policies that took “away citizens’ rights to pastureland’ as it is “against the constitution, against national and local laws, and a major cause of damage to People’s’ livelihood and way of life” and by moving “the pastoralist population into towns and cities” they would become “bereft of livelihood or life-direction”.¹¹⁴ It was reported that armed police threatened the nomads, forcing them from the land and issuing fines for failing to obey. They were reported to be told that anyone still left behind would be jailed. Darlag County is neighbouring with the area which the proposed BRI Chengdu-Golmud railway passageway location of Nian Baoyuze constitutes and could be part of the railway route.
86. We kindly request the Committee to reference China’s violations of Article 5(d)(v), 5(e) and 5(e)(iii) regarding the resettlement of Tibetan nomads.

¹⁰⁹ Human Rights Watch, *supra* note 108.

¹¹⁰ Human Rights Watch *supra* note 108.

¹¹¹ Tibet China, 07 June 201, “Tibetan herdsmen optimistic about future”, <http://m.eng.tibet.cn/news/1465265221128.shtml>

¹¹² “China to Mine Revered Tibetan Site for Uranium.” Free Tibet. August 25, 2015. Accessed July 11, 2018.

<https://freetibet.org/news-media/na/china-mine-revered-tibetan-site-uranium>.

¹¹³ Radio Free Asia, 17 May 2018, “Nomads left without compensation after land grab”, <https://freetibet.org/news-media/na/nomads-left-without-compensation-after-land-grab>

¹¹⁴ “ICT Inside Tibet: Tibetan Nomads Make Rare Appeal against Removal from Grasslands.” Save Tibet. September 19, 2017. Accessed July 11, 2018. <https://www.savetibet.org/tibetan-nomads-make-rare-appeal-against-removal-from-grasslands/>.

(viii) Tibetan Human Rights Defenders

The right to freedom of opinion and expression;

87. The Chinese state puts the Tibetan people under general suspicion as a collective, so that when Tibetan human rights defenders exercise their right to freedom of opinion and expression, any rights to protection and fair legal treatment can be nullified under the Chinese law and they are labelled ‘terrorists’ and, as no information and standard legal procedure has to be applied or disclosed, Tibetans are disproportionately arrested, held incommunicado, tortured and suffer death in detention. Tibetan human rights defenders run the severe risk of arrest because of the government clampdown on all perceived forms of dissent. Tibetans live with the knowledge that their arrest can lead to them and their family members being put at risk of detention, interrogation, surveillance and torture. This climate limits the growth and functioning of civil society in Tibet.

88. Tibetan human rights defenders are “almost systematically labeled as ‘endangering state security’, ‘terrorist’ anti-state or inspired by a ‘separatist agenda’, and their actions “immediately suppressed”¹¹⁵. Even when seeking basic rights, including language, cultural and religious rights purportedly, Tibetans can be accused by the state of “separatism”. China systematically denies Tibetans the right to Article 5(d)(viii) of the ICERD and UDHR article 19.

89. As of 2018, there were 2,600 Tibetan political prisoners in Chinese detention¹¹⁶. Tibetan writer and Buddhist monk **Lobsang Jamyang (pen-name Lomik)** was detained by Chinese authorities in April 2015 from Kirti Monastery, in Ngaba (CH: Aba Tibetan and Qiang Autonomous Prefecture, Sichuan Province), and sentenced to seven years and six months in prison on charges of “leaking state secrets” and “engaging in separatist activities”.¹¹⁷ The charges are believed to be related to his writings and open discussions involving other Tibetan writers.¹¹⁸ **Tsegon Gyal** was arrested in December 2016 without any notice for the reason behind his arrest. However, “sources in Tibet have said that his incarceration is linked to an article he posted on his blog in which he criticised the Chinese government’s policies towards ethnic minorities.”¹¹⁹ Tsegon Gyal was tried in May 2017, and sentenced eight months later in January 2018 to three years’ imprisonment on charges of separatism.¹²⁰

90. In the aftermath of Tenzin Delek Rinpoche’s death in July 2015, his niece **Nyima Lhamo** was the main source of information and publicly demanded an investigation. She was arbitrarily detained for 10 days by Chinese authorities, along with her mother Dolkar Lhamo, threatened and then put under surveillance. She fled Tibet in July 2016 and since then has briefed UN institutions on the Chinese authorities’ ongoing targeting of her and her family and called for an investigation into her uncle’s death.

¹¹⁵ Human Rights Watch *supra* note 108.

¹¹⁶ This figure includes Tibetans political prisoners who are currently detained (as in pre-trial detention), sentenced, sentence completed but no information on release, and ‘status unknown’ where there is no information on the place of detention or the condition of detainee. Tibetan Center for Human Rights and Democracy, Status: November 2017, Political Prisoner Database, http://www.tchrd.org/tchrd_pdb/prisoners-database/

¹¹⁷ Tibetan Centre for Human Rights and Democracy, 9 May 2016, *Tibetan writer sentenced to 7.5 years after more than a year of secret detention*, <http://tchrd.org/tibetan-writer-sentenced-to-7-5-years-after-more-than-a-year-of-secret-detention/>

¹¹⁸ Human Rights Watch (2016) *World Report 2017: China*, <https://www.hrw.org/world-report/2017/country-chapters/china-and-tibet>

¹¹⁹ *Ibid.*

¹²⁰ Radio Free Asia, 20 February 2018, *Tibetan Writer Handed Three-Year Prison Term For ‘Inciting Separatism’*, <https://www.rfa.org/english/news/tibet/inciting-02202018150053.html>.

91. Tibetan businessman and environmental philanthropist, **Karma Samdrup**, founded the Three Rivers Environmental Protection group. In 2006, he was named philanthropist of the year by state broadcaster China Central Television for "creating harmony between men and nature". He advocated for the release of his brothers **Rinchen Samdrup** and **Jigme Namgyal** who ran their own environmental protection groups and had been imprisoned. On 3 January 2010 Karma Samdrup was sentenced to 15 years imprisonment by the Yangqi county court in Xinjiang for what are believed to be false charges of robbing graves and stealing cultural artefacts.¹²¹
92. On 2 April 2018 Chinese authorities detained **31 Tibetans** and disappeared a village leader after they had opposed plans to mine Sebtra Zagyen, a sacred mountain with an 800 year-old history in Shakchu (CH: Shaqu) town in Diru (CH: Biru) County, Nagchu (CH: Naqu) Prefecture, TAR. Their whereabouts are currently unknown.¹²²
93. Tibetan singer **Kalsang Yarphel** was detained on 14 June 2013 in Lhasa and sentenced to four years imprisonment by the Court in Chengdu. He was released on 10 July 2017.¹²³ The reason for his imprisonment were the "political lyrics" of his songs¹²⁴ and his co-organizing of Tibetan concerts in the Lhasa area¹²⁵. His producer **Pema Rigdzin** was sentenced by the same court to 2,5 years jail and a 50'000 Yuan fine.¹²⁶
94. Tibetan online writer **Kunchok Tsephal** was arrested on 26 February 2009 in Machu County¹²⁷. He is the co-founder of the Tibetan-language website *Chomei* which promotes Tibetan arts and literature¹²⁸. In November 2009 he was sentenced to 15 years imprisonment by the Intermediate People's Court in Kanlho (CH:Gannan) Prefecture "for disclosing state secrets"¹²⁹.

(ix) Tibetan Peaceful Protests and Dissent

The right to freedom of peaceful assembly and association;

95. Chinese authorities violate the Tibetan people's right to freedom of peaceful assembly and association by criminalizing individuals and groups who take part in peaceful protests. This violates ICERD Article 5(d)(ix) and UDHR article 20.
96. In October 2014 four Tibetans were shot dead by Chinese security forces in Driru county, Nagchu prefecture (CH: Naqu), and 50 were injured after troops opened fire on a crowd of peaceful protesters who had gathered to oppose a Chinese government

¹²¹Tibetan Center for Human Rights and Democracy, 9 July 2010, Six Family Members Arbitrarily Detained and Sentenced Over Their Activism, <http://tchrd.org/six-family-members-arbitrarily-detained-and-sentenced-over-their-activism/>.

¹²² Tibetan Center for Human Rights and Democracy, 14 May 2018, Village leader among 31 Tibetans detained for opposing mining at sacred mountain, <http://tchrd.org/village-leader-among-31-tibetans-detained-for-opposing-mining-at-sacred-mountain/>.

¹²³ Tibetan Singer Released After Serving Four-Year Prison Term, Radio Free Asia, <https://www.rfa.org/english/news/tibet/singer-07112017155635.html>

¹²⁴ China jails Tibetan singer over political lyrics, The Guardian, <https://www.theguardian.com/world/2014/dec/01/china-jails-tibetan-singer-kalsang-varphel-political-lyrics>

¹²⁵ Tibetan Musician Who Produced Songs For Popular Singer is Jailed, Radio Free Asia, <https://www.rfa.org/english/news/tibet/song-12012014195105.html>

¹²⁶ *Ibid.*

¹²⁷ Tibetan website proprietor arrested in Gansu province, TCHRD, <http://tchrd.org/tibetan-website-proprietor-arrested-in-gansu-province/>

¹²⁸ KUNCHOK TSEPHAL, PEN America, <https://pen.org/advocacy-case/kunchok-tsephal/>

¹²⁹ Kunchok Tsephel Gopey Tsang, CPJ, <https://cpj.org/data/people/kunchok-tsephel-gopey-tsang/>

campaign to forced locals to display loyalty to the State.¹³⁰ Following this incident new harsh "collective punishment" regulations were implemented and are becoming a trend¹³¹.

97. In 2015, four Tibetans were sentenced for up to three years in prison in connection with reclaiming land confiscated by the state in Thangkor, Zoige County, Ngaba (CH: Aba) Tibetan Autonomous Prefecture. Authorities confiscated land of about 20 families in 2010. Settlement conditions led to a protest in Thankor .12 Tibetans have been detained and beaten¹³². Tibetans staged a protest outside a government meeting in Chengdu in 2015 demanding the return of their land. They were threatened by the local government with imprisonment if they appealed again.
98. On 7 June 2016 UN Special Rapporteur for freedom of assembly and association FAA, Maina Kiai, criticized the "excessive use of force and arbitrary arrests" and restrictions of "gatherings of individuals including for religious activities".¹³³
99. On 31 May 2016 a group of Tibetans in Amchok, Sangchu county (CH: Xiahe), Khanlo prefecture (CH: Gannan) protested peacefully to stop mining at Gong Ngon Lari mountain. The protest, which was supported by around 2,000 and lasted for a week, was quelled by an armed paramilitary police crackdown that led left at least six of the protest leaders beaten including the village leader and environmental activist Tsewang Kyab who died on 25 April, 2017 from injuries suffered from beatings and detention. Multiple other protesters were detained arbitrarily and many were reportedly beaten and tortured.¹³⁴ On 7 November 2016, six UN Special Rapporteurs issued a communication to China about the use of force by authorities in response to peaceful anti-mining protests in Amchok: "We are equally concerned about the reported arbitrary arrests, detentions and excessive use of force by local authorities against protesters in Amchok, which appear to be in violation of their right to freedom of peaceful assembly."¹³⁵
100. On 4 May 2016 over 100 Tibetans from four nomadic villages in Minyak (CH: Minya) county, Garze Prefecture, protested against a Chinese mining company in the area. The peaceful demonstration was met with heavy military presence.¹³⁶
101. On 13 June 2016 over 100 Tibetan women from Gachoe village, Lhudrub county, TAR marched outside Lhasa to protest the confiscation of their farmland. They protested out of fear that Chinese officials would crack down if men would take part.¹³⁷
102. On 18 March 2017 about 200 Tibetans from the Kardze county (CH: Ganzi) were taken into custody after protesting in solidarity with the self-immolation of Pema Gyaltsen. A Tibetan farmer, Gyaltsen self immolated in the Kardze town and his

¹³⁰ New images of deepening crackdown in Nagchu, Tibet, International Campaign for Tibet,

<https://www.savetibet.org/new-images-of-deepening-crackdown-in-nagchu-tibet/>

¹³¹ "Collective Punishment": New Regulations in Tibet, International Tibet Network,

https://docs.google.com/document/d/129FTptrAOug3Igh-kSzjhpWWeSV1k79t4BYDmrh_1fM/

'Acts of Significant Evil', International Campaign for Tibet, <http://www.savetibet.org/acts-of-significant-evil/>

¹³² Free Tibet, 14 April 2016, *Land Grab Protestors Sentenced; Torture Victim Gravely Ill*,

<https://freetibet.org/news-media/na/land-grab-protesters-sentenced-torture-victim-gravely-ill>

¹³³ Read the full report here: http://freeassembly.net/wp-content/uploads/2016/05/A.HRC_.32.36_E.pdf

¹³⁴ Tibetan Anti-Mine Protesters Assaulted, Beaten in Gansu, Radio Free Asia,

<https://www.rfa.org/english/news/tibet/beaten-06062016153101.html>

¹³⁵ Read the full letter here: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=22816>

¹³⁶ Tibetans Protest Restart of Operations by Chinese Mining Company, Radio Free Asia,

<https://www.rfa.org/english/news/tibet/tibetans-protest-restart-of-operations-by-chinese-mining-company-05092016155521.html>

¹³⁷ Tibetan Farm Women Protest Loss of Their Land, Radio Free Asia,

<https://www.rfa.org/english/news/tibet/farm-06172016165040.html>

condition remains unclear after police took him away; 153 Tibetans, have self-immolated in protest against the Chinese government since 2009. Chinese officials confiscated the mobile phones of those detained and his family were barred by Chinese officials from seeing him.

103. On 8 April 2017 a group of 29 Tibetans government employees protested against their dismissal in front of the Chinese government office in Machu (CH: Maqu) county in Kanlho (CH: Gannan) Prefecture. They were detained, beaten, had their phones confiscated by the local police. They were released after two days.¹³⁸

104. There has been an escalation in the number of solo protesters.¹³⁹ Solo protesters are known to take actions such as marching in public openly displaying images of the Dalai Lama and/or the Tibetan national flag that is banned in Tibet. They are detained, beaten¹⁴⁰ and sentenced to prison.¹⁴¹ The emergence of solo protestors is an indication of intensified restrictions on the right to freedom of assembly, freedom of speech and freedom of movement¹⁴².

¹³⁸ Detained Tibetan Protesters Are Beaten and Robbed, Then Released, Radio Free Asia,

<https://www.rfa.org/english/news/tibet/robbed-04122016143502.html>

¹³⁹ To list a few incidents: 1 March 2016 <https://www.rfa.org/english/news/tibet/protest-03032016144442.html>, 16 December 2016

<https://freetibet.org/news-media/na/18-year-old-arrested-after-solo-protest>, 18 March 2017

<https://freetibet.org/news-media/na/mother-two-seized-after-solo-protest>

¹⁴⁰ <https://www.rfa.org/english/news/tibet/protest-10192016133354.html>

¹⁴¹ Solo Protester Lobsang Tenpa was released after two years imprisonment, Free Tibet,

<https://freetibet.org/news-media/na/solo-protester-lobsang-tenpa-released>

¹⁴² Tibet Advocacy Coalition independent primary research for CERD report, carried out in June 2018.

VI. ARTICLE 5 (E): China's Belt Road Initiative and Tibetan Nomads

Economic, social and cultural rights:

105. China's plans to develop Tibet violate a host of Tibetans' economic social and cultural rights. As the Committee pointed out in its Concluding Observations under paragraph 21, "However, it also reiterates its previous observation (A/56/18, para. 243) that economic growth in minority regions, ipso facto, is not tantamount to the equal enjoyment of economic, social and cultural rights in accordance with article 5 (e) of the Convention. (art. 5 (e))". For this to lead to non-discriminatory outcomes for Tibetans, economic and social development has to reflect the cultural and social needs of Tibetans.

106. In addressing the Committee's recommendation under paragraph 21 to "intensify its efforts aimed at creating conditions for sustainable development in the western areas and to eliminate economic and social disparities", to provide information on "effectiveness of the measures taken to ensure that all minority groups benefit from the economic growth' [and] 'to intensify its efforts aimed at creating conditions for sustainable development in the western areas and to eliminate economic and social disparities', China's State report, under paragraph 17 to 47 quotes their economic and social development achievements in supporting ethnic minorities by way of high sums of economic and social subsidies, infrastructure projects, poverty alleviation programs, ecological conservation and support of herders. Most of these do not advance Tibetans' adequate standard of living, but lead to a marginalisation of Tibetans who are unable to live a life in dignity and take part in their cultural life. It also appears that achievements related to economic advancement for ethnic minorities listed in the state report by China under paragraph 17 to 47 as evidence of their implementing ICERD. However these are in fact undertaken in order to advance large scale economic and international infrastructure projects benefiting the government and in reality are damaging the environment in Tibet and the Tibetan way of life. For example the BRI project has an objective to enhance water security for mainland China in the building of water diversion projects while many villages in Tibet often lack access to safe, drinkable water.

¹⁴³

107. China's BRI is threatening Tibetans' nomadic culture and poses a threat to the remaining nomads and Tibetan culture as a whole. The BRI will have a destructive impact on Tibet and Tibetans due to an increased influx of Chinese tourists and settlers, increased risk of natural disaster such as earthquake, increased military presence, and its potential to drastically change demographics in a short period of time. The BRI plans include railway networks and highways that will pass through all of Tibet connecting China to Pakistan, Nepal and South-East Asia. It is anticipated that once the infrastructure is established, there will be an increase in mining operations, domestic and international tourist facilities, and mega dams.¹⁴⁴ Tibetans have led protests against the resettlement policies and land confiscation that can be seen to be taking place alongside railway and highway constructions.

108. Since 2008, Tibet's nomadic culture has come close to extinction. At the launch of China's 'Western Development Program' in 1998, Qi Jingfa, the then Vice-Minister of Agriculture, said that all herdsman were expected to end the nomadic way of life by the

¹⁴³ DIVERTING TIBETAN WATERS INTO THE CANAL TO THE DEEP NORTH, Rukor,

<http://rukor.org/dropping-tibet-fighting-gravity/>

¹⁴⁴ "Is hydropower exploitation of the Nu river in China 'a must'?", The Guardian,

<https://www.theguardian.com/environment/blog/2011/feb/10/hydropower-exploitation-china>

end of the century.¹⁴⁵ In 2013, Human Rights Watch estimated that over two million Tibetans had been resettled in the TAR since 2006.¹⁴⁶ The nomadic culture could face extinction by the completion of the BRI routes through Tibet. The completion of the BRI as part of the China-Pakistan route is expected in 2030, a basic framework is expected to be set up by 2020.¹⁴⁷ This route intends to connect the cities of Chengdu and Golmud¹⁴⁸ with a railway line, which would necessitate passageway through Tibet, and will affect the Tibetan autonomous prefectures of Golog, Ngaba and Yushu,¹⁴⁹ areas are inhabited by Tibetan nomads. Reports in the Chinese and Nepalese media have indicated that the construction of the railway from Shigatse to the borders Nepal is scheduled for completion by 2020.¹⁵⁰

109. Mapping shows a strong correlation between a majority of the areas targeted by resettlement programmes over the past two decades, and the planned BRI. It seems very possible that the mass resettlement that has occurred from 1998 onwards has been undertaken in order to prepare for the large scale construction of the BRI, and now only the last remaining nomads stand in its way.

We kindly request the Committee to reference China's violations of Article 5(d)(v), 5(e), 5(e)(iii) and 5(e)(vi) regarding the resettlement of Tibetan nomads.

(iii) Forced Evictions of Tibetan Nomads

The right to housing;

110. China's forced resettlement policies that target Tibetans violate Article 2 conjunction with Article 5(e)(iii), which guarantee the "right to housing"¹⁵¹ without discrimination, including forced evictions, the removal of individuals or communities against their will without "appropriate forms of legal or other protection."¹⁵² Physical force is not required for the removal to fall under the definition of a forced eviction.¹⁵³ Under Article 11 ICESCR, the right to an adequate standard of living also requires the provision of adequate housing. Adequate housing comprises "legal security of tenure," "habitability," "appropriate location" and "cultural adequacy."¹⁵⁴ 2.3 million people in the TAR have already been resettled,¹⁵⁵ many of whom have been forced into such resettlement without

¹⁴⁵ Xinhua News, *supra* note 7.

¹⁴⁶ Human Rights Watch (2013) *"They Say We Should Be Grateful": Mass Rehousing and Relocation Programs in Tibetan Areas of China*,

<https://www.hrw.org/report/2013/06/27/they-say-we-should-be-grateful/mass-rehousing-and-relocation-programs-tibetan>, p.4.

¹⁴⁷ Pakistan Today, 24 April 2016, *CPEC to be completed before schedule: Chinese official*,

<https://www.pakistantoday.com.pk/2016/04/24/cpec-to-be-completed-before-schedule-chinese-official/>

¹⁴⁸ Zhou Zhou and Ma Yong, *During the 12th Five-Year Plan a Strategic Rail Network To Be Built Through Tibet, Xinjiang* [Shier wu qijian jiang jiancheng guantong xizang xinjiang zhanlue tielu wang], Xinhua, 6 March 2011, reprinted in People's Daily, 7 March 11, <http://politics.people.com.cn/GB/1026/14072794.html>

¹⁴⁹ See Map at the bottom of the document, China Daily, 28 June 2014, China studying new Silk Road rail link to Pakistan, http://usa.chinadaily.com.cn/business/2014-06/28/content_17621848.htm

¹⁵⁰ Rai, Om Astha. "Coming Soon the Tibet Train | Nation." Nepali Times. Accessed July 11, 2018. <http://archive.nepalitimes.com/article/nation/Tibet-train-Nepal.3102>.

¹⁵¹ The International Convention on the Eliminations of All Forms of Racial Discrimination, art. 5(e)(iii), Dec. 21, 1965, 660 U.N.T.S. 195. China ratified the CERD in 1981. *International Convention on the Elimination of All Forms of Racial Discrimination*, HUMAN RIGHTS IN CHINA, <http://www.hrichina.org/en/international-convention-elimination-all-forms-racial-discrimination-cerd>.

¹⁵² UN Committee on Economic, Social and Cultural Rights (UNCESCR), General Comment No. 4 on the Right to Adequate Housing (Sixth session, 1991), para. 18, UN Doc. E/1992/23, annex III at 114 (1991), reprinted in Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, UN Doc. HRI/GEN/1/Rev.6 at 18 (2003).

¹⁵³ *Ibid.*

¹⁵⁴ HUMAN RIGHTS WATCH, *supra* note 10, at 51.

¹⁵⁵ *Ibid.* at 4.

any power to oppose or challenge the relocation.¹⁵⁶ Because these policies are targeted towards a specific group, Tibetans and specifically Tibetan nomads, China's resettlement policies are a violation of the right to non-discrimination in adequate housing and the right not to be forcibly evicted.

111. The housing to which nomads have been relocated lack habitability and built as non-durable structures.^{157 158} The lack of free and prior consent in the forced eviction of Tibetan nomads, in contrast to housing policies for the benefit of Chinese, illustrate the discrimination and exploitation of Tibet and the Tibetan people. The poorly-built and inadequate housing in which they are resettled removes Tibetan nomads from their source of food, livelihood, and cultural development. Authorities have not provided resettled Tibetans promised building material.¹⁵⁹
112. Article 2 places an obligation on China to rescind the discriminatory policies of nomad resettlement that violate and target the human rights of the one particular racial, ethnic and national group.
113. The lack of free, prior and informed consent for Tibetan nomads in the resettlement process illustrates their discriminatory nature. Tibetan farmers and herders confirm that they were never consulted.¹⁶⁰ Policies deliberately inducing reprisals have played a key role in keeping nomads from voicing their concerns about forced resettlement and the types of rehousing in which they are forced to live.¹⁶¹ Resisting eviction is treated by the authorities as breaking the law, which equates to harsh penalties for resisters.¹⁶²
114. Tibetan nomads are now most vulnerable and at the risk of becoming homeless due to China's racist resettlement policies for the benefit of Chinese tourists and settlers in Tibet. In 2014 it was reported that in the area of Domda township, Tridu (CH: Chenduo) County, Yushu Tibet Autonomous Region, Qinghai province, where a group of nomads peacefully protested the confiscation of their land were stripped of their identity documents, forced resettlement took place into housing units that were so poorly constructed, some nomads ended up selling the new housing units.¹⁶³ In the same area affected in 2017, it was reported that nomads who had been resettled forcibly were evicted by the Chinese government from the housing units back to their old lands but only after they had been forced to sell their animals and the tools necessary for their survival on the land. The nomads were forced to beg to satisfy their daily needs and it was reported that the housing units were demolished in order to create housing for Chinese settlers and Chinese tourists.¹⁶⁴
115. We kindly request the Committee to reference China's violations of Article 5(d)(v), 5(e) and 5(e)(vi) regarding the resettlement of Tibetan nomads.

¹⁵⁶ *Ibid.* at 23.

¹⁵⁷ *Ibid.* at 82.

¹⁵⁸ *Ibid.*

¹⁵⁹ HUMAN RIGHTS WATCH, *supra* note 10, at 74.

¹⁶⁰ Human Rights Watch, *supra* note 17, at 68.

¹⁶¹ Human Rights Watch, *supra* note 17, at 62.

¹⁶² Human Rights Watch, *supra* note 17, at 64.

¹⁶³ "Tibetan Nomads Resist Relocation, Are Stripped of Personal Documents." Radio Free Asia. November 10, 2014. Accessed July 11, 2018. <https://www.rfa.org/english/news/tibet/resist-11072014165412.html>.

¹⁶⁴ "Tibetan Nomads Forced to Beg After Being Evicted From Their Homes." October 06, 2017. Accessed July 11, 2018. <https://www.rfa.org/english/news/tibet/nomads-10062017153006.html>.

(v) Threat to the Tibetan Language: The “Bilingual Education System”

The right to education and training;

China’s claims of compliance with Article 5 (e) (v)

116. In the State report, under paragraph 9, China reiterates and claims compliance of ICERD Article 5 (e) (v) with Article 4.4 of the Chinese Constitution that “All nationalities have the freedom to use and develop their own spoken and written languages and to preserve or reform their own folkways and customs”.
117. Under paragraph 76 in the State report to CERD, China noted that “by 2015, some 10,000 schools throughout the country were conducting bilingual education in the scripts of 21 ethnic groups”. China also claims that “Bilingual education generally refers to education in which the national language and script (Mandarin) and the language and script of a particular ethnic group, or the ethnic languages and scripts commonly used in the locality, are used in primarily ethnic minority schools and educational institutions. The Chinese Government attaches great importance to bilingual education for ethnic minority students. (...) Because the situation is complicated by the large number and great variety of spoken and written ethnic minority languages in China, different ethnic areas are actively exploring many types of bilingual education models in line with their local conditions.
118. China’s **Thirteenth Five-Year Plan (2016-2020)** states, that “we will actively promote the development of education for ethnic minority students, appropriately move ahead with bilingual education, and strengthen bilingual teacher training”,¹⁶⁵ and notes plans to “add to bilingual teacher numbers in areas with concentrations of ethnic minorities and to secondary vocational teacher numbers in poor areas”.
119. The **Chinese Regional Ethnic Autonomy Law** makes multiple statements that should amount to protection of the Tibetan language. Article 10 guarantees the freedom of “nationalities...to use and develop their own spoken and written languages...” in ethnic autonomous areas. Article 37 provides the right to “independently develop education for the nationalities...” in ethnic autonomous areas, including the provision that “students should, whenever possible, use textbooks in their own languages and use these languages as the media of instruction”.¹⁶⁶
120. The **Chinese Education Law** guarantees education in accordance with the requirements of the ethnic minorities under Articles 10 and 12. Article 12 stipulates that “Schools or other educational institutions which mainly consist of students from minority nationalities may use in education the language of the respective nationality or the native language”.¹⁶⁷
121. In 2001, ‘Putonghua’ (standard Mandarin) was instated as China’s official language¹⁶⁸. Article 8 reiterates Article 4 of the Chinese Constitution and Article 10 of the Chinese

¹⁶⁵ *THE 13TH FIVE-YEAR PLAN FOR ECONOMIC AND SOCIAL DEVELOPMENT OF THE PEOPLE’S REPUBLIC OF CHINA*. Report. <http://en.ndrc.gov.cn/policyrelease/201612/P020161207645766966662.pdf>.

¹⁶⁶ “Regional Ethnic Autonomy Law of the People’s Republic of China (Chinese and English Text).” Freedom of Expression in China: A Privilege, Not a Right | Congressional-Executive Commission on China. Accessed July 05, 2018.

¹⁶⁷ “Education Law of the People’s Republic of China.” Accessed July 05, 2018. <http://www.china.org.cn/english/education/184669.htm>.

¹⁶⁸ “Law of the People’s Republic of China on the Standard Spoken and Written Chinese Language.” Accessed July 05, 2018. http://www.npc.gov.cn/englishnpc/Law/2007-12/11/content_1383540.htm.

Regional Ethnic Autonomy Law, saying “All the nationalities shall have the freedom to use and develop their own spoken and written languages”.

China’s actual compliance with Article 5 (e) (v)

122. The Tibetan language is completely marginalized in Tibet. “Bilingual education” is in effect a monolingual education, putting Chinese language first and alienating Tibetan students from their own language. The call for language rights is one of the key demands Tibetans make to the Chinese government. China has systematically implemented policies and measures to undermine the usage and development of the Tibetan language.
123. China violates its compliance by replacing the Tibetan language with Chinese in schools. According to our research the “bilingual education system” reduces Tibetan language into being a foreign language and an auxiliary language of instruction and, reinforces the Mandarin language and script. In Tibet there are no public schools which have Tibetan as a teaching language beyond primary level. From secondary school onwards Tibetan students are taught Tibetan as a foreign language subject, whereas the language medium is Mandarin.
124. The push for *Chinese*, as the official lingua franca has created a Tibetan language-averse environment. China is criminalizing Tibetans who are running volunteer initiatives offering free Tibetan language education. While China claims that there are different models of bilingual language education being implemented depending on the specific ‘ethnic minorities’, in Tibet, Chinese has become the main language of instruction. The so-called Bilingual language policies are one of the main threats for the survival of the Tibetan language.
125. The Committee raised concerns in paragraph 22 about “reports that in practice Mandarin is the sole language in many schools in the autonomous minority provinces” and was concerned “(A/56/18, para. 245) about remaining disparities for ethnic minority children in accessing education, which is often linked to the availability of teaching in Mandarin only. (art. 5 (e))”.
126. China violates the right to education under Article 13 of ICESCR, in particular the principles “that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms”¹⁶⁹ and to “have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities”. Both of these provisions are enshrined in the UNDHR under Article 26. China obstructs the purpose of the UN in violating the UN Charter art. 1.3. and art. 55 (c).
127. In April 2017, the Ministry of Education and the State Language Commission announced their plans to increase the Mandarin speaking population from 70% to 80% by 2020. The plan calls for improved Mandarin speaking abilities among teachers who must meet national Mandarin speaking standards before being enrolled by schools.¹⁷⁰ Such policies are proof of an intensified state effort to reinforce the Chinese language in Tibet.

¹⁶⁹OHCHR | International Covenant on Economic, Social and Cultural Rights." Convention on the Rights of the Child. Accessed July 05, 2018. <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>.

¹⁷⁰China to Increase Mandarin Speaking Rate to 80 Pct." Xinhua Net. Accessed July 05, 2018. http://www.xinhuanet.com/english/2017-04/03/c_136179843.htm.

128. In May 2016, the TAR Ministry of Education announced that they would reform primary school mathematics textbooks by replacing all Tibetan language books with Chinese language books towards “improving the efficiency of learning”.¹⁷¹ If textbooks were to be printed in Tibetan, “the [learning] procedure would become complicated”.¹⁷² According to the WeChat portal of ‘Lhasa Education’ this shift was already occurring or soon to be implemented in the districts of Chengguan, Dulong Deqin of Lhasa county and in Qushui, Nimu, Daxie, Mozhugongka, Linzhou Counties.¹⁷³ In June 2016, a photo of a Tibetan word appeared on social media with instructions of the Tibetan word in Chinese, demonstrating the Sinization of the teaching of Tibetan language¹⁷⁴
129. In May 2014 about 160 predominantly Tibetan substitute teachers from Rebgong (ch. Tongren) county held a peaceful protest outside Malho (ch. Huangnan) prefecture offices to demand equal pay and treatment. They claimed they would only be compensated with a fourth of the salary that full-time staff teachers, who are predominantly Chinese, receive. Chinese are preferentially hired over Tibetan teachers, leading to Tibetan children are being taught predominantly by Chinese teachers who settle from China to Tibet, and Tibetan language teachers struggle to find secure employment.¹⁷⁵
130. In June 2018, Tibetan students in Tsoshar Prefecture, sent a letter to local authorities demanding that they hire more teachers who are able to teach in Tibetan. The letter noted that in an area accommodating 9800 students, only 270 teachers were able to teach in Tibetan. The letter states “When there is no equality among languages, how can there be harmony and equality among [China’s] nationalities?”¹⁷⁶
131. Since 2008, volunteer-led and community-based language associations run by Tibetans in Tibet have started to offer free Tibetan language classes.¹⁷⁷ The Chinese government has cracked down on these associations by not issuing permits to run language related events,¹⁷⁸ canceling planned events at the last minute citing no or political reasons,¹⁷⁹ and by labeling them ‘illegal associations’, which Radio Free Asia has been reporting since January 2016, leading to classes being held in secret.¹⁸⁰ In 2014 a language competition was blocked at the last minute, with a police officer quoted as saying “Tibetan language contains words that can be used to express opposition to Chinese rule”.¹⁸¹ In 2016, the ‘Save the Language’ association was deemed an ‘illegal association’ and forced to shut down after 7 year long language class efforts¹⁸².

¹⁷¹ 西藏小学数学课本改版成汉文引反弹." RFA. June 15, 2016. Accessed July 05, 2018. <https://www.rfa.org/mandarin/yataibaodao/shaoshuminzu/dz-06152016102805.html>.

¹⁷² Ibid.

¹⁷³ Ibid.

¹⁷⁴ TCHRD (2017), Bilingual Education Policy in Tibet, p.54.

¹⁷⁵ "Plight of Tibetan 'substitute Teachers' in Rebkong County." TCHRD. Accessed July 05, 2018. <http://tchrd.org/plight-of-tibetan-substitute-teachers-in-rebkong-county/>.

¹⁷⁶ "Tibetan Students in Qinghai Appeal in Letter For Teaching in Tibetan." RFA. June 04, 2018. Accessed July 05, 2018. <https://www.rfa.org/english/news/tibet/students-06012018150420.html>.

¹⁷⁷ "New Controls on Tibetan Language Study in Qinghai's Pema County." Radio Free Asia. January 21, 2016. Accessed July 11, 2018. <https://www.rfa.org/english/news/tibet/controls-01202016160851.html>.

¹⁷⁸ Ibid.

¹⁷⁹ "Tibetan Language Promotion Event Blocked by China." Radio Free Asia. April 22, 2014. Accessed July 11, 2018. <https://www.rfa.org/english/news/tibet/language-04222014150658.html>.

¹⁸⁰ Ibid.

¹⁸¹ Radio Free Asia, 22 April 2014, *Tibetan Language Promotion Event Blocked by China*, <https://www.rfa.org/english/news/tibet/language-04222014150658.html>.

¹⁸² Radio Free Asian, 20 January 2016, supra note 24.

132. In 2010 and 2012 there were Tibetan student-led mass peaceful protests in response to the bilingual language system and shrinking space for Tibetan language.¹⁸³ Between October 20-27, 2010, thousands of students from middle school to university took to the streets in several locations in Tibet in Qinghai and in Gansu province, and in Beijing, asking for ‘Equality and freedom for Tibetans to use the Tibetan language’. On November 26th, 2012, armed police and paramilitary broke up a peaceful student-led protest of over 1000 individuals in Chabcha (CH: Gonghe), Tsolo Prefecture, Qinghai Province, leaving around 20 people hospitalised, many injured and five students sentenced to five years in prison.¹⁸⁴ The protest was promoted after a handbook of patriotic re-education was handed out at the schools including content denouncing the Dalai Lama and the necessity to label acts of self-immolations as terrorist activities..
133. On 22 May 2018, Tashi Wangchuk was sentenced to a 5 year prison term after he was featured in the *New York Times* about filing a complaint against Chinese officials for failing to support Tibetans’ right to Tibetan language education. He was arrested and later tried and charged on 4 January 2017 with “inciting separatism”, a charge that “criminalize(s) the legitimate exercise of freedom of expression and his defense of cultural rights”, according to UN experts.¹⁸⁵ Prior to his trial, Tashi Wangchuk was held in arbitrary detention for two years, as confirmed by the UN Working Group on Arbitrary Detention which issued an Opinion in December 2017 finding that Mr Wangchuk’s detention was arbitrary and in contravention of the Universal Declaration of Human Rights.¹⁸⁶ Tashi Wangchuk was tortured and suffered inhumane and degrading treatment in detention. His lawyer commented on Twitter that Tashi did not accept the verdict and planned to appeal. The trial was conducted in Mandarin. No update has been given as to his whereabouts or where he will serve his sentence. A group of UN Special Procedures released a statement condemning Tashi Wangchuk’s sentencing in June 2018, and asked for his immediate release. The experts had “asked the Government to provide information about specific measures undertaken to promote and protect the linguistic and cultural rights of the Tibetan minority. We regret that, to date, the Government of China has not yet provided us with a satisfactory response”¹⁸⁷.

¹⁸³ China Calls for Bilingual Policy, Crackdown on Immolations." September 08, 2017. Accessed July 11, 2018.

<http://tchrd.org/china-calls-for-bilingual-policy-crackdown-on-immolations/>.

¹⁸⁴"Tibetan Student Detentions after Protests in Chabcha, Rebkong." Save Tibet. June 03, 2013. Accessed July 11, 2018.

<https://www.savetibet.org/tibetan-student-detentions-after-protests-in-chabcha-rebkong/>.

¹⁸⁵ "China: UN Human Rights Experts Condemn 5-year Jail Term for Tibetan Activist." OHCHR. Accessed July 05, 2018.

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23176>.

¹⁸⁶ Statement by six UN experts: Mr. Philip Alston, Special Rapporteur on extreme poverty and human rights, Special Rapporteur on the situation of human rights defenders, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Special Rapporteur on the independence of judges and lawyers, Chair-Rapporteur of the Working Group on Arbitrary Detention, and Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances.; and further endorsed by Special Rapporteur on the right to health, 23 March 2018,

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=22981>.

¹⁸⁷"China: UN Human Rights Experts Condemn 5-year Jail Term for Tibetan Activist." OHCHR. Accessed July 05, 2018.

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23176>.

VII. RECOMMENDATIONS TO THE COMMITTEE¹⁸⁸

Self-determination: Article 2

1. Guarantee effective self-rule to the Tibetan people in the Tibetan autonomous regions by recognizing their rights as equal citizens granting them their full political rights according to article 5 (c) ICERD, including the right to elect their representatives at the highest level in order to guarantee Tibetan representation, as guaranteed by the Chinese Constitution, Regional Autonomy Law and international law, and practically facilitate its realisation;
2. Provide a plan to execute a referendum in Tibet giving the Tibetan people “the right to determine freely their political status and their place in the international community based upon the principle of equal rights...” as described by the Committee’s General Recommendation XXI on “self-determination” by the Committee in 1996;

Torture: Article 5 (b)

3. Recalling CAT’s recommendation under paragraph 31 in their Follow-Up issues of their Concluding Observations and recommendation under paragraph 25 of their Concluding Observations, declassify information on Tibetan human rights defenders including Tenzin Delek Rinpoche related to torture, in particular, information about the whereabouts and state of health of detained Tibetans. Regarding Tibetans, the State party should also declassify information on the numbers of deaths in custody, detainees registered, allegations of torture and ill-treatment and consequent investigations, administrative detention and death penalty cases;
4. Recalling CAT’s recommendation under paragraph 41 of their Concluding Observations and with a particular mention on Tibetan cases such as the death of Tenzin Delek Rinpoche, please provide the requested information on all Tibetan cases mentioned in paragraph 27 of the list of issues;
5. Ensure that all custodial deaths, disappearances, allegations of torture and ill-treatment and reported use of excessive force against the Tibetan people in Tibet, in particular in 2008, are promptly, impartially and effectively investigated by an independent mechanism;

Freedom of movement (internal): Article 5 (d) (i)

6. Guarantee Tibetans’ freedom of movement on equal footing with Chinese settlers and tourists within Tibet, in particular in and out of Lhasa for Tibetans from within and outside TAR, by lifting discriminatory administrative requirements placed on Tibetans having to obtain a complicated set of documents from both village and county levels;
7. Demilitarize Tibet and categorically abolish ethnic profiling and discrimination of Tibetans at police checkpoints in order to guarantee Tibetan people’s freedom of movement; whereby reducing police and military checkpoints all over Tibet; whereby withdrawing the >20,000 state security officials from Tibetan villages in the TAR and end the “Benefit the Masses”¹⁸⁹ surveillance campaign; whereby withdrawing the social grid surveillance system;

¹⁸⁸ In all our recommendations we urge the use of the specificities “Tibet” and “Tibetans” when speaking of these issues, rather than “ethnic minorities” or “religious minorities”, which are terms encouraged by the Chinese government to serve its own interests.

¹⁸⁹ China: ‘Benefit the Masses’ Campaign Surveilling Tibetans.” Human Rights Watch. June 27, 2013. Accessed July 11, 2018.

<https://www.hrw.org/news/2013/06/18/china-benefit-masses-campaign-surveilling-tibetans>.

Freedom of movement (external): Article 5 (d) (ii)

8. Guarantee the Tibetan people's right to travel abroad and their right to return; halting all reprisals against Tibetans upon their return from travels abroad; whereby ceasing the criminalization of Tibetans' religious pilgrimages, whereby presenting information to the Committee as a result of having investigated the cases of Tibetans who were detained and sent to "re-education" programs after attending the 2012 and 2017 Kalachakra Tibetan Buddhist prayer held in India by His Holiness the Dalai Lama;
9. Guarantee the Tibetan people's right to obtain a passport by reforming a non-discriminatory passport application process regarding race, ethnicity or residence towards the issuance of passports to Tibetans;
10. Return and / or replace all Tibetan passports confiscated in 2012 in the TAR to their rightful owners;

Forced Evictions of Tibetan Nomads: Article 5 (d) (iii)

11. Allow and facilitate the return of Tibetan nomads who have been resettled since the launch of the Western Development Program in 1998 to their nomadic lands;
12. Recalling the recommendations made by the CESCR¹⁹⁰ and the UN Special Rapporteur on the Right to Food¹⁹¹, immediately halt all non-voluntary resettlement of Tibetan nomads from their lands including as part of China's Belt Road Initiative, and implement a consultation process of free, prior and informed consent;

Tibetan Nomads and Tibetan Land Ownership: Article 5 (d) (v)

13. Re-establish ownership to Tibetans and Tibetan nomads over their traditional grasslands in Tibet by revising all laws that restrict the ownership by Tibetan nomads of those lands incl. the "Grassland Law"¹⁹² so that ownership is guaranteed by law and in practise and land expropriation measures by the government are immediately halted;

Tibetan Human Rights Defender and Tibetan Peaceful Protests and Dissent: Article (d) (viii), (ix)

14. Immediately release all Tibetan detainees who are held arbitrarily and cease the discriminatory targeting and criminalisation of Tibetan human rights defenders in particular regarding charges accusing Tibetan human rights defenders as "terrorists" "endangering state security" and charges related to State secrecy for solely peacefully exercising their human rights¹⁹³, including subjecting them to threats, arrest, arbitrary detention, enforced disappearance, and torture; and release all detained Tibetan human rights defenders, including language rights advocate Tashi Wangchuk;
15. Cease the use of force in response to Tibetans exercising their right to freedom of peaceful assembly;

¹⁹⁰ UN CESCR (2014) Concluding Observations China, recommendation table Appendix A, Original Text, Page 9-10, Article 30 and 31.

¹⁹¹ report of the UN Special Rapporteur on the right to food about China by Olivier De Schutter in 2012, available here: http://www.srfood.org/images/stories/pdf/officialreports/20120306_china_en.pdf

¹⁹² Grassland Law of the People's Republic of China, http://www.npc.gov.cn/englishnpc/Law/2007-12/13/content_1383951.htm

¹⁹³ (Article 186 of the Criminal Law, Article 31 and 32 of Guarding State Secrets Law, Article 37 and 183 of the Criminal Procedural Law)

16. Due to incomplete responses by China to CERD regarding the excessive use of force in response to the uprising in Tibet in 2008, reiterating the concluding observations of CERD under paragraph 17 and CAT under paragraph 23, instate a commission to investigate the cases of Tibetan protestors killed, wounded, forcibly disappeared, imprisoned, sentenced, tortured by government agencies incl. the cases charged under China's "State Secrecy Law". Start a public process of reconciliation regarding the 2008 crackdown against the Tibetan people and provide retribution to victims and their families;

China's Belt Road Initiative and Tibetan Nomads: Article 5 (e)

17. Suspend the construction of China's Belt and Road Initiative in Tibet until satisfactory information and data are provided to the Committee that it will only be carried out in full compliance with its obligations under the ICERD and without endangering the Tibetan nomadic way of life, livelihood and culture;

Threat to the Tibetan Language: The "Bilingual Education System": Article 5 (e) (v)

18. Instate Tibetan as an official language in Tibet to ensure non-discrimination of Tibetans in education, employment and public life, including reforming the bilingual education system in Tibet to make the Tibetan language the official language of instruction;
19. Expand across Tibet, the Tongren County government directive made in January 2016 to give equal status to Tibetan and Mandarin languages in public life, including the instructions that were made to government offices, schools and state-owned businesses to use both Tibetan and Mandarin on official seals, signboards, letterhead, and other forms of communication¹⁹⁴;
20. Allow voluntary and community-based Tibetan language associations to operate safely and effectively, starting by lifting the restrictions against them and the classification as 'illegal associations'.

¹⁹⁴ "Tibetan Language Made Equal With Chinese in County in China's Qinghai." RFA. January 13, 2016. Accessed July 05, 2018. <https://www.rfa.org/english/news/tibet/equal-01132016145116.html>.