



The effects of China's campaign against 'organised crime' in Tibet, 2018-2019 A UN Special Procedures Briefing September 2019

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1. Summary and key areas of concern:

- In January 2018, the People's Republic of China (PRC) launched a countrywide campaign against "underworld forces" and "organised crime". This included the Tibet Autonomous Region (TAR) and other parts of Tibet.¹
- From February 2018 onwards, local authorities across Tibet, ranging from provincial and county Public Security Bureaus to county courts, have issued a series of notifications requesting support in identifying and detaining members of criminal gangs.
- These notifications conflate activities such as protesting against the destruction of Tibet's environment, trying to preserve Tibet's language and customs and advocating for Tibetan autonomy with recognisable crimes such as extortion and blackmail. The campaigns elevate the risk of Tibetans being detained and imprisoned for carrying out activities that are in line with their human rights and that are not recognisable crimes under international law and standards.
- The crackdown builds on past reprisals criminalising Tibetans for displaying pictures of their exiled religious leader, the 14th Dalai Lama. The campaigns also target Tibetans who advocate for the Middle Way Approach, a negotiated settlement of Tibet's future proposed by the 14th Dalai Lama and the Tibetan Central Administration in which Tibet would be granted genuine autonomy.
- The restrictions imposed on these legitimate activities violate human rights enshrined under international law, including the rights to freedom of expression, association and assembly, as well as economic, cultural and social rights.
- Those detained risk being tried for conduct protected by Chinese law and by international human rights laws, and are put at risk of torture and ill-treatment, lengthy prison sentences and the denial of access to lawyers, medical support and family visits.
- Information from official sources and information that has been smuggled out Tibet suggests that at least 400 Tibetans have been arrested. In the vast majority of cases, the identities, charges and current location and status of those arrested have not been disclosed.

2. Detailed Information

i. Human rights situation prior to the launch of the campaign

Since February 2018, campaigns to fight "organised crime" were introduced into an environment that already imposes substantial restrictions on Tibetans' human rights. The authorities in Tibet have a long record of using broadly and vaguely defined state security laws to restrict Tibetans from speaking freely, criticising the ruling Chinese Communist Party (CCP), sharing information about human rights abuses or carrying out peaceful protests. Such activities are invariably classified as state security crimes, such as "splittism", "separatism", "endangering state security", "leaking state secrets" or "terrorism". The UN Committee Against Torture (UNCAT) has expressed concern at the

¹ The references to Tibet in this submission encompass the Tibet Autonomous Region (TAR) and Tibetan Autonomous Prefectures (TAPs) under the Provinces of Sichuan, Qinghai, Gansu and Yunnan. Following China's invasion of Tibet in 1949/50 the original geographical territory of Tibet was separated into various administrative units under the Chinese state.

broad definition of such crimes under Chinese law² and recommended that the PRC make the necessary legislative changes to adopt a more precise definition of terrorist acts and acts endangering national security³ and that it refrains from prosecuting human rights defenders, lawyers, petitioners and others for their legitimate activities.⁴ In 2018 the UN Committee on the Elimination of Racial Discrimination (UNCERD) also communicated to the PRC its concerns over the broad definitions of "terrorism" and "extremism" and the unclear definition of "separatism."⁵

Under the Chinese Criminal Procedure Law, people accused of these state security crimes are denied due process. They have no right to a lawyer,⁶ have no right to an open trial,⁷ can be kept for indefinite periods of time in detention, and may be kept at undisclosed locations for interrogation.⁸ The family of the accused does not have to be notified about the detention,⁹ and family members may legally be kept under surveillance at their homes.¹⁰ Evidence collected during the investigation process for criminal cases related to state secrecy is kept undisclosed, complicating any attempts for Tibetans to seek redress.¹¹

The increased risk for Tibetans of detention and imprisonment brings with it an elevated risk of torture and ill-treatment. In 2015 UNCAT noted that it had "received numerous reports from credible sources that document in detail cases of torture, deaths in custody, arbitrary detention and disappearances of Tibetans."¹² Despite the PRC's Criminal Procedure Law setting out a clear prohibition on the use of torture, and Article 18 of this law explicitly describing torture as a "crime" that should be investigated,¹³ there is no evidence of a single case of torture in Tibet being investigated or the perpetrators been held accountable.

The campaign was also introduced into an environment in which freedom of association is strongly suppressed, restricting Tibetans' ability to form social organisations for the purpose of education, dispute mediation and environmental protection. PRC-wide laws, such as the 2016 Regulations on Registration and Management of Social Service Organisation, require social organisations to be registered and state that they "must not endanger national unity, security or ethnic unity, and must

² Concluding observations on the fifth periodic report of China, United Nations Committee against Torture, 3 February 2016 (CAT/C/CHN/CO/5), para 36

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/017/44/PDF/G1601744.pdf?OpenElement>

³ Ibid., para 37a

⁴ Ibid., para 37b

⁵ Committee on the Elimination of Racial Discrimination, 'Concluding observations on the combined fourteenth to seventeenth periodic reports of China (including Hong Kong, China and Macao, China)', 30 August 2018, para 37

https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/CHN/CERD_C_CHN_CO_14-17_32237_E.pdf

⁶ Criminal Procedural Law, Article 37

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

⁷ Ibid. Article 183

⁸ Ibid. Article 73

⁹ Ibid. Article 83

¹⁰ Ibid. Article 73

¹¹ Ibid. Article 52

¹² Concluding observations on the fifth periodic report of China, United Nations Committee against Torture, 3 February 2016 (CAT/C/CHN/CO/5), para 40

¹³ Article 18 of Criminal Procedure Law

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

not endanger national interests [or] the societal public interest".¹⁴ Further restrictions on social organisations were subsequently imposed by authorities across Tibet, such as a series of regulations introduced by the TAR government requiring voluntary organisations to either be overseen and examined, or directly run, by the local government.¹⁵

ii. Details of the campaign

On 24 January 2018, the CCP Central Committee and CCP State Council announced a three-year campaign against organised crime across the PRC. In the TAR, this was followed by a notification issued on 7 February 2018, by the TAR Public Security Bureau, which is accountable to the PRC's Ministry of Public Security and which coordinates the work of the police across the TAR. The notification outlined the threats posed to the economy and to society by "underworld forces" and outlined 22 examples of organised crimes.¹⁶

Some of the examples of organised crimes can be identified as legitimate crimes (e.g. number 14, related to pornography, gambling and drugs, and number 21, related to extortion and blackmail, destruction of property and prostitution).

Alongside these crimes are more broadly and vaguely worded offences, which could be used to punish Tibetans for protesting, celebrating their culture or exercising their right to self-determination. For example, the second crime listed cites "[u]nderworld forces interconnected with the Dalai clique, accepting remote control or command, or participating in separatist and disruptive activities". The reference to the "Dalai clique" is one frequently made and suggests that Tibetans who protest are doing so at the behest of foreign organisations that seek to interfere with the PRC's domestic affairs or split the PRC. "Separatism", or "splittism", is a broadly-defined state security crime that authorities have used to detain community leaders, writers, monks and nuns and other groups who have engaged in protests or online dissent, such as Tashi Wangchuk, a Tibetan language rights advocate who was sentenced to five years imprisonment in May 2018.¹⁷

Other examples of crimes in the February 2018 TAR notification could lead to human rights violations because they:

- are not legitimate criminal offences under international and Chinese law;

¹⁴ Regulations on Registration and Management of Social Service Organizations, 26 May 2016, accessed via China Law Translate, 14 August 2019 <https://www.chinalawtranslate.com/minfei/?lang=en>; See also: Opinion on the Reform of the Social Organization Management System and Promotion of the Healthy and Orderly Development of Social Organizations, 21 August 2016, accessed via China Law Translate, 14 August 2019 <https://www.chinalawtranslate.com/2officessocialorg/?lang=en>

¹⁵ TAR Ordinance on Voluntary Service, 14th Session of the Standing Committee of the 10th Assembly of Tibetan People's Deputies, January 14, 2015, http://tb.chinatibetnews.com/zw/zfgg/201505/t20150531_612189.html, cited in "Illegal Organizations" China's Crackdown on Tibetan Social Groups, Human Rights Watch, 30 July 2018 <https://www.hrw.org/report/2018/07/30/illegal-organizations/chinas-crackdown-tibetan-social-groups>

¹⁶ The original text of the notification is available here: <https://www.chinalawtranslate.com/西藏自治区公安厅关于举报黑恶势力违法犯罪线>

¹⁷ In December 2017, the Human Rights Council Working Group on Arbitrary Detention concluded that "Mr. Wangchuk has been charged with a vague and overly broad offence of 'inciting separatism'" and that he should be released and compensated (Human Rights Council Working Group on Arbitrary Detention, Opinion No. 69/2017 concerning Tashi Wangchuk (China), 7 December 2017, paras 33, 48 <https://www.ohchr.org/EN/Issues/Detention/Pages/Opinions80thSession.aspx>)

- target Tibetans' peaceful advocacy for environmental protection and other peaceful activities that are integral to Tibetans' religion and culture;
- contravene Tibetans' rights to freedom of expression, association and assembly and their right to cultural life, which includes the right to self-determination.

These crimes are:

- 3. "Underworld forces with temples as patrons, using religion to control, to confuse, to incite, or coerce the masses to resist the Party and government".
- 4. "Underworld forces with close relations and interconnections to all kinds of illegal organisation, instilling the masses with reactionary ideology and narrow nationalism, such as the "Middle Way" and "protecting the 'mother tongue.'"
- 5. "Underworld forces holding themselves out as so-called 'spokespersons' for the masses, under such banners as economics, the people's livelihood, environmental protection, folk customs and culture, that are in fact the 'spokespersons' of the Dalai clique and hostile foreign forces."
- 9. "Underworld forces such as "village tyrants," that exploit religion or family forces to do whatever they please in the village, blatantly take sides, and bully and suppress the common people."
- 11. Underworld forces stirring up trouble in land acquisition, leases, demolitions, engineering projects, and the like, so as to obtain unlawful benefits.
- 18. "Underworld forces who connect online through WeChat groups, online forums, or other means, and carry out illegal or criminal activities offline."

The February announcement was followed by notifications issued by authorities within the TAR and Tibetan Autonomous Prefectures (TAPs). On 13 March 2018, a notification¹⁸ was issued by Nagchu County Public Security Bureau, which is accountable to the TAR Public Security Bureau. The March notification outlined a series of 20 rewards that corresponded closely to the February 2018 notification, notably¹⁹:

- 5. Informants exposing organised criminal forces who present themselves as "spokespersons", using such pretexts as economic development and mass livelihood, environmental protection, folk culture, and so on, but in fact belong to the Dalai clique and hostile foreign forces will receive a reward of 50,000 yuan [...]
- 6. Informants exposing organised criminal forces inciting narrow-minded ideas of [local] nationalism will receive a reward of 50,000 yuan [...]

¹⁸ Police in Tibet Offer Cash Rewards For Tips on Crime, Disloyal Behavior, Radio Free Asia, 4 April 2018 <https://www.rfa.org/english/news/tibet/rewards-04042018162659.html> The article contains a photograph of the notification in Tibetan.

¹⁹ Other broadly-worded articles in the notification that could result in Tibetans being arrested for legitimate activities are Article 1 (Informants exposing organised criminal acts threatening political stability, especially the stability of governance, the stability of normal order, and infiltration in the political sphere, will receive a reward of 100,000 yuan [...]), Article 2 (Informants exposing organised criminal forces actively participating in splittist sabotage will receive a reward of 100,000 yuan [...]) and Article 3 (Informants exposing organised criminal forces interfering in government administration, judicial administration, education etc. at the local level on the pretext of religion will receive a reward of 100,000 yuan [...]).

- 9. Informants exposing organised criminal forces making meaningless criticisms and circulating rumors, using Weibo and online information sharing to not only associate online but covertly launch illegal campaigns will receive a reward of 20,000 yuan [...]
- 11. Informants exposing organised criminal forces making trouble in the course of acquisition or leasing of farmland, demolitions, relocations, and construction projects will receive a reward of 20,000 yuan [...]
- 18. Informants exposing organised criminal forces needlessly creating trouble and stirring things up, misleading petitioners into inappropriately imposing themselves and making troublesome demands, disturbing the regular order of state offices and social order will receive a reward of 5,000 [...]

By conflating criminal acts with acts by Tibetans to preserve their religion, culture and environment, the notification provides for broad definitions of “underworld forces” and “organised crime” that increase the risk of Tibetans being arbitrarily detained and imprisoned and then tried under state security legislation. These restrictions might also enable other human rights abuses by the state. One example is the reference to “organised criminal forces making trouble in the course of [...] demolitions [and] relocations”. Between July 2016 and May 2017, 4,828 monks, nuns and students were forcibly removed from the religious community of Larung Gar in Serthar County, Sichuan Province, with no prior, informed consultation or opportunity to appeal their evictions. 4,725 buildings, many of them homes, were also demolished. Six United Nations special experts wrote to Beijing to express their concerns.²⁰ Similar large-scale removals and demolitions are currently underway at Yarchen Gar, also in Sichuan Province.²¹ Article 11 of the March 2018 Nagchu order and subsequent notifications detailed below add another layer of pressure and restriction on Tibetans who are subject to forced removal or to the destruction of their property and who wish to challenge such acts or seek redress. There have also been numerous environmental protests across Tibet by communities concerned that mining, extraction and the construction of dams puts their homes, communities, food supplies and livelihoods at risk. The notifications’ reference to “criminal groups [...] making trouble in the course of [...] construction projects” suggests that further fundamental restrictions have been imposed on the rights to freedom of association and assembly, and the peaceful expression of concerns about government actions, such as Tibetans in Dartsedo County who gathered in 2016 to protest against the poisoning of their water supply due to nearby lithium extraction.²²

²⁰ Mandates of the Special Rapporteur in the field of cultural rights; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on minority issues; and the Special Rapporteur on freedom of religion or belief, 7 November 2016

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=22816>

²¹ 'Thousands of Monks, Nuns Evicted From Sichuan's Yarchen Gar', Radio Free Asia, 11 June 2019

<https://www.rfa.org/english/news/tibet/EVICTED-06112019163506.html>

²² Simon Denyer, 'Tibetans in anguish as Chinese mines pollute their sacred grasslands', Washington Post 26 December 2016

https://www.washingtonpost.com/world/asia_pacific/tibetans-in-anguish-as-chinese-mines-pollute-their-sacred-grasslands/2016/12/25/bb6aad06-63bc-11e6-b4d8-33e931b5a26d_story.html

On 26 March 2018, a 19-point notification²³ was issued in Yushu Prefecture, Qinghai Province, by the prefecture's Commission for Discipline and Supervisory Committee, a body primarily focused on anti-corruption. This notification instructed party members, workers and the wider public to inform the authorities about the activities of underworld forces. Several of the crimes listed directly target Tibetans' social, cultural and religious practices or prohibit Tibetans from acting to protect their culture, language and surrounding environment:

- 1. Threats to political security, especially institutional security, from underworld forces that permeate the political realm.
- 3. The use of family, clan, or religious power by underworld forces to dominate and oppress village leaders and town leaders.
- 4. Underworld forces which incite peasants and herdsmen to organise and plan rioting or petitioning against land acquisition, land leasing, demolitions or engineering projects.
- 11. Intervening in legal affairs or social management projects by underworld forces.
- 12. Inciting others to intervene in China's educational and economic affairs in the name of protecting Tibetan culture, language or its environment.
- 13. Those who display ceremonial scarfs and portraits of the Dalai Lama on motorcades.

The reference to intervening in educational affairs to promote the Tibetan language is of particular note since Yushu is the home prefecture of the imprisoned Tibetan language advocate Tashi Wangchuk, who began his language advocacy by petitioning the Yushu authorities.

On 30 August 2018, a similar notification was issued by the Public Security Bureau of Kardze (Ch: Ganzi) TAP in Sichuan Province. This notification was posted on the prefectural government's official website and offered rewards of up to 300,000 yuan for anyone reporting "subversive activity".²⁴

In November 2018, in Gansu Province, Sangchu County's Public Court, Investigation Bureau, Public Security Bureau, and Law Enforcement Office announced a 100-day "Strike Hard" campaign, lasting from 15 November 2018 until 25 February 2019.²⁵ The order encouraged residents to report "illegal activities" and offered rewards of 500 to 30,000 yuan. The list of illegal activities included:

- 1. Undermining political stability, especially by harming the interest of the country and people by secretly communicating with an illegal organisation outside the country;
- 7. Initiating protest in response to criminal, welfare or transportation issues, or as a result of land disputes. This includes inciting the destruction of government offices and public property, as well as blocking roads;
- 8. Sending messages through messaging channels such as WeChat that harm stability and security in Tibet, or spread harmful gossip about the Party, government and the country.

²³ 'Regulations tighten controls in Yushu Prefecture', Free Tibet 16 August 2018

<https://www.freetibet.org/news-media/na/new-regulations-tighten-controls-yushul-prefecture>

²⁴ 'The highest reward is 300,000! Our state issued a report on rewards for black and guilty clues', Ganzi Prefecture, 30 August 2018 <http://www.ganzixinwen.com/jj/toutiao/n19369.html>

²⁵ 'Hundred Days' campaign launched in Amchok, Free Tibet 21 December 2018

<https://freetibet.org/news-media/na/hundred-day's-campaign-launched-amchok> The story includes a photograph of the original Tibetan-language notification

On 18 February 2019, three TAR government agencies issued a notification prohibiting certain kinds of Internet activity and offering rewards of up to 300,000 yuan to members of the public who provide information on breaches of these laws.²⁶ The notification, issued by the TAR Internet Information Office, TAR Public Security Department and TAR Communication Administration, uses the broadly-worded term “splittism” as the foundation for several of the crimes listed. The notification requires individuals in the TAR to be reported if they “use network communication tools” to carry out “illegal and criminal” activities including criticising the CCP, the government of the PRC and their administration of Tibet (Article 1).²⁷

The above is a summary of all of the aspects of the campaign against underworld forces that have been obtained as of August 2019. Due to the restrictions on communications inside Tibet and the risks posed to anyone sharing this information, the record above may be incomplete.

iii. Impact of the campaign against underworld forces

A number of arrests have been recorded in connection with the campaign, either from official sources or from information secretly sent out of Tibet. As of January 2019, according to the TAR High People's Court, 360 people across 268 court cases in the TAR are known to have been tried and found guilty between January and December 2018. A further 25 people have been punished for “inciting separatism” or financial crimes that “jeopardised national security.”²⁸

²⁶ Announcement Tibet Autonomous Region Network Communication Field Crimes Information Clue Reporting Incentive Measures, 6 March 2019 xzca.miit.gov.cn/ZXGG/2797.htm

²⁷ There are several articles in this notification that raise concerns because they are broadly-worded and encompass activities protected under various human rights conventions. These articles identify Tibetans as carrying out “illegal and criminal” activity if they: 1. “[...] collect, produce, download, store, publish, disseminate, and publicize malicious attacks on the Chinese Communist Party and the government of the People's Republic of China [...], the socialist system, the regional ethnic autonomy system, and the party and the government's policy of managing Tibet, fabricated or deliberately disseminated information, false information, damages the image of the country, seriously jeopardizes the interests of the country, and distort the behavior of the history of the party”; 2. “[...] collect, produce, download, store, publish, disseminate, and publicize information that contains subversive state power, overthrow the socialist system, and split the country”; 3. “[...] use online banking, electronic checks, electronic credit cards, Alipay, WeChat and other online financial products to provide funds to relevant organisations of ethnic separatist forces, religious extremist forces, violent terrorist forces and related personnel”; 4. “[...] illegally provide overseas political, economic, social, military, cultural, religious and other state secrets or intelligence information to overseas organisations, institutions and individuals”; 5. “[...] collect, produce, download, store, publish, disseminate, and publicize information that includes provocative ethnic relations, creating ethnic conflicts, inciting ethnic hatred, and ethnic discrimination”; 7. “[...] organize or form illegal organisations by ‘public welfare’, ‘environmental protection’, ‘education’, ‘medical’ and ‘poverty alleviation’, distorting and attacking party and government policies or illegal missions, organisation, planning, inciting acts against illegal activities such as the party and the government; illegally accepting the support of relevant organisations and their related personnel in the name of ‘scholarships’, ‘medical assistance’ and ‘helping the poor’”; 8. “[...] set up websites and communication groups for disseminating various reactionary and illegal crime information, or using network communication tools to join such websites, communication groups to browse, receive, publish information, and utilize websites and networks. Disks, network virtual accounts, etc. store, disseminate, and publicize information that contains information such as splitting the country and subverting state power”; and 9. “[...] browse, disseminate, download, and store information published by domestic and foreign national separatist forces, religious extremist forces, violent terrorist organisations, and members' personal network accounts”.

²⁸ Sun Haoran and Zhang Han, 'Tibet to integrate anti-separatism drive with gang crime crackdown', Global Times, 18 June 2019 <http://www.globaltimes.cn/content/1154766.shtml>

On 4 September 2018, **A-nya Sengdra**, a prominent Tibetan activist, was arrested in Gade County, Golog TAP. A-nya Sengdra is a well-known advocate against corruption and for the rights of Tibetan nomads. He has been held without trial since then. In August 2019 his lawyer communicated to Tibet researchers that A-nya Sengdra had been charged with "gang related" crimes as part of the campaign against underworld forces.

Between 10 and 14 April 2019, nine Tibetans in Rebkong County, Malho TAP, Qinghai Province were sentenced to prison terms ranging between three and seven years for "organised crime, extortion and assembling a mob to disturb the social order". Those sentenced were **Dukbum Tsering, Shawo Tsering, Khashan Gyal, Sonam Gyal, Gedun Soepa, Choesang, Tashi Tsering, Dhargye** and **Pendhi Dorjee**. The court ruled that they had created an "illegal organisation" to control the "two committees" of the village and usurp "grassroots political power", and that they had "maliciously obstructed the government's land acquisition work and normal construction operations, committed serious crimes that constitute a crime of gathering people to disturb social order". According to information obtained by TCHRD, the arrests followed a long-running campaign by villagers to reclaim community land expropriated by the local government for a failed business enterprise.²⁹

In May 2019, at least 35 Tibetans were reportedly arrested across two TAPs in Qinghai Province. At the beginning of May 2019, local authorities launched an effort to root out underworld forces across all six counties in Golog TAP, arresting at least seven residents of Gade County and of seven people in Darlag County. Local sources also stated that authorities had announced new restrictions requiring organisations of more than 10 people to be registered with authorities, prohibiting communicating with foreigners online and prohibiting sharing any news related to Tibet online.³⁰

That same month, 21 Tibetans in Nangchen County, including two former leaders of Do Thrang Village, were sentenced to prison terms of between two and six years. They were handed fines ranging from 10,000 to 50,000 yuan. The court ruled that 11 of those found guilty had established "an illegal organisation with evil intentions and destroy[ed] the village social management order through manipulation of village affairs [...] creat[ed] hurdles for the government policy [...] and negatively influenc[ed] the regular working of the village and party committees".³¹

3. Human rights framework

i. The right to freedom of assembly and association

The campaigns against underworld forces build on existing restrictions imposed by the PRC on Tibetans' rights to peaceful assembly and association, rights enshrined in Article 5.d(ix) of the ICERD

²⁹ China sentences nine Tibetans to prison for "underworld activity", Free Tibet, 24 April 2019 <https://freetibet.org/news-media/na/china-sentences-nine-tibetans-prison-underworld-activity>; 'Nine Tibetans sentenced up to 7 years in prison under China's organised crime crackdown', TCHRD, 19 April 2018 <https://tchrd.org/nine-tibetans-sentenced-up-to-7-years-in-prison-under-chinas-organised-crime-crackdown>

³⁰ 'Anti-Gang Campaign in Qinghai's Golog Causes Hardship For Tibetans', Radio Free Asia, 22 May 2019 <https://www.rfa.org/english/news/tibet/golog-campaign-05222019161430.html>

³¹ China: Stop the witchhunt in the campaign to crush 'black and evil' crimes; Release all Tibetans unjustly held in detention', TCHRD, 27 June 2019 <https://tchrd.org/china-stop-the-witchhunt-in-the-campaign-to-crush-black-and-evil-crimes-release-all-tibetans-unjustly-held-in-detention/>

and Article 20 of the UDHR, as well as Articles 21 and 22 of the ICCPR, a convention that the PRC has signed, committing it to adhere to its principles and honour its spirit.

Under Chinese law, some social organisations were already required to register with the authorities. Organisations that are denied registration are designated as illegal. Protests and gatherings are routinely broken up, sometimes with the use of force.

The list of crimes and rewards circulated by authorities in 2018 builds on these restrictions. For example, references to "organised criminal acts threatening political stability" (the March 2018 Nagchu notification, Article 1) is broadly worded, and given the past record of bloggers, writers and protesters being imprisoned, could be used to restrict the freedom of Tibetans to peacefully gather to protest against local authorities.

The direct reference to "organised criminal forces making trouble in the course of acquisition or leasing of farmland, demolitions, relocations, and construction projects" (March 2018 Nagchu notification, Article 11) and "plan[ing] rioting or petitioning against land acquisition, land leasing, demolitions or engineering projects" (March 2018 Yushu notification, Article 4) are more explicit in the forms of legitimate protest that will be targeted under the campaign. There have been numerous cases of Tibetans expressing their opposition to CCP policies. Criminalising gatherings to protest these policies by categorising participants as members of "criminal gangs" would violate the right of affected communities to assembly and association.

ii. The right to freedom of expression

Longstanding restrictions on Tibetans' right to freedom of expression had also been in force prior to these campaigns. These include a list of twenty illegal activities related to Tibetan independence that was circulated by authorities in Malho (Ch: Huangnan) TAP in Qinghai in 2015, prohibiting the flying of Tibetan flags, organising public demonstrations in the name of "language rights" and displaying pictures of the 14th Dalai Lama in public.³²

Prior to the announcement of the campaigns against underworld forces, Tibetans across Tibet had been arrested and charged with "splittism" and other state security crimes for criticising the authorities online (e.g. Shokjang, arrested on 19 March 2015, sentenced to three years in prison, released 2018 and Lomig, arrested in April 2015, currently serving a seven and a half year sentence), sharing news of arrests (Wangdu, arrested in 2008 and sentenced to life in prison), being found in possession of pictures of the 14th Dalai Lama (Thardhod Gyaltzen, arrested in 2014 and sentenced to 18 years in prison) and discussing their work to protect Tibet's language and culture (Tashi Wangchuk, arrested in January 2016 and currently serving a five-year prison sentence).

The criminalisation of Tibetans who exercise their right to freedom of expression has been raised with the PRC by UN experts in the context of Tashi Wangchuk's case. In 2018, seven UN special procedures notified the Chinese government about their concerns over Tashi Wangchuk's case, stating that: "Free exchange of views about State policies, including criticism against policies and

³² International Campaign for Tibet, 'Praying and lighting butter-lamps for Dalai Lama "illegal": new regulations in Rebkong', 14 April 2015
<https://savetibet.org/praying-and-lighting-butter-lamps-for-dalai-lama-illegal-new-regulations-in-rebkong/>

actions that appear to have a negative impact on the lives of people need to be protected and further encouraged.”³³

The campaign targeting “underworld forces” across Tibet aggravates the PRC’s existing violations of Tibetans’ right to freedom of expression by identifying as criminals groups that instill “the masses with reactionary ideology and narrow nationalism, such as the “Middle Way” and “protecting the ‘mother tongue.’” The March 2018 Nagchu notification penalises “organised criminal forces who present themselves as ‘spokespersons’, using such pretexts as economic development and mass livelihood, environmental protection[and] folk culture” (Article 5), “organised criminal forces inciting narrow-minded ideas of nationalism” (Article 6), criminal forces making meaningless criticisms and circulating rumours” (Article 9) and “organised criminal forces needlessly creating trouble and stirring things up, misleading petitioners into inappropriately imposing themselves and making troublesome demands, disturbing the regular order of state offices and social order” (Article 18).

Criminalising such activities violates the PRC’s commitments to freedom of expression under Article 19 of the UDHR, Article 19 of the ICCPR and ICERD Articles 5.d(vii) 5.d(viii). Since the law criminalises activities that are specific to Tibetans, carrying out arrests would also place the PRC in violation of articles 3, 7, 8, 9, 10 and 11.1 of the UDHR and Article 4.c of the ICERD.

The reference to “[u]ndermining political stability, especially by harming the interest of the country and people by secretly communicating with an illegal organisation outside the country” (November 2018 Gansu notification, Article 1) could be used to violate the freedom of expression of Tibetans inside Tibet who attempt to speak to Tibetans living in exile communities. Article 19 of the UDHR specifies that everyone has the right “to seek, receive and impart information and ideas through any media and regardless of frontiers”. Furthermore, the move could be used to criminalise contact between people who have fled Tibet and family members who remain inside Tibet. The right of children to have contact with their parents should they be separated is enshrined in the Convention of the Rights of the Child (Articles 9.3 and 10.2).

iii. Torture and ill-treatment

UNCAT’s findings in 2016 that torture was “deeply entrenched”³⁴ within the PRC ‘s justice system, as well as numerous testimonies of torture from Tibetan former political prisoners, suggest a strong risk that Tibetans arrested under the campaigns against underworld forces could be subject to torture and ill-treatment.

In 2015, UNCAT emphasised Article 2 (2) of the Convention Against Torture, which states that “no exceptional circumstances whatsoever, whether ... internal political instability or any other public emergency, may be invoked as a justification of torture”, and also its General Comment No. 2 (2007), stating that “States parties must ensure that the laws in practice are applied to all persons, regardless of ethnicity or of the reason for which the person is detained, including persons accused of political offences.”³⁵

³³ OHCHR, China: UN experts denounce the criminalization of linguistic and cultural rights advocacy, 21 February 2018 <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22683>

³⁴ Concluding observations on the fifth periodic report of China, United Nations Committee against Torture, 3 February 2016 (CAT/C/CHN/CO/5), paras. 20, 40

³⁵ Ibid. para 41

iv. Cultural rights

Rights to take part in cultural life, enshrined under Article 15.1 of the ICESCR and Articles 22 and 25 of the UDHR risk being violated through the implementation of these campaigns. The February 2018 TAR notification identifies “protecting the mother tongue” as part of the wider offence of “instilling the masses with reactionary ideology and narrow nationalism” (point 4), while the March 2018 Yushu notification identifies groups that “incite others to intervene in China’s educational and economic affairs in the name of protecting [the] Tibetan [...] language” as a threat (point 12).

Tibetans’ attempts to preserve and promote the teaching of their own language are protected by the Chinese Constitution. Article 4.4 provides that “[e]thnic minorities’ right to learn, use and develop their own spoken and written languages is guaranteed in accordance with the law”. The right of Tibetans to promote the teaching of their own language is provided for in international law through Article 15.1(a) of the ICESCR, which states that every individual has the right to take part in cultural life. In its General Comment (No.21) on article 15.1 (a), the Committee on Economic, Social and Cultural Rights states that the right to take part in cultural life means that the state must abstain from “interference with the exercise of cultural practices and with access to cultural goods and services” and, at the same time, take “positive action” to ensure that the conditions for full “participation, facilitation, and promotion” of cultural life are met.³⁶ The Committee added that this right is “intrinsicly linked” to the right to education “through which individuals and communities pass on their values, religion, customs, language and other cultural references”.³⁷ Tibetans making reference to these rights in the course of promoting the teaching of their language could, under the TAR and Yushu notifications, put themselves at risk of arrest.

Similarly, point 12 of the March 2018 Yushu notification also makes reference to Tibetans who incite others to intervene “in the name of protecting “Tibetan culture [and its] environment”, two other areas that are integral to Tibetans’ cultural life. Protests by Tibetans against demolitions and forced removals at culturally significant religious communities such as Larung Gar and Yarchen Gar would be criminalised, with point 11 of the February 2018 TAR notification and point 11 of the March 2018 Nagchu notification making explicit reference to forces creating “trouble” in the course of the processes of land acquisition or demolitions. Point 4 of the March 2018 Yushu notification is even clearer about which activities are forbidden, identifying the incitement of “rioting or petitioning against land acquisition, land leasing, demolitions or engineering projects”.

The intersection between the restrictions on Tibetan culture and the PRC’s application of its broad state security legislation has been raised with the PRC by the UNCERD. In its August 2018 review of the PRC’s implementation of the ICERD, the Committee expressed its concern over “reports that the broad definition of terrorism and vague references to extremism and unclear definition of separatism in Chinese legislation, could have the potential to criminalize peaceful civic and religious expression and facilitate criminal profiling of ethnic and ethno-religious minorities, including Muslim Uighurs and Buddhist Tibetans and Mongolians.”³⁸ The Committee recommended that the PRC

³⁶ Committee on Economic, Social and Cultural Rights, General Comment No. 21, CESCR 43d Sess., Nov. 2-20, 2009, U.N. Doc. E/C.12/GC/21, 21 December 2009, para.6

³⁷ Ibid.

³⁸ Committee on the Elimination of Racial Discrimination, 'Concluding observations on the combined fourteenth to seventeenth periodic reports of China (including Hong Kong, China and Macao, China)', 30 August 2018, para 36

https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/CHN/CERD_C_CHN_CO_14-17_32237_E.pdf

“review its existing relevant laws, regulations, and practices, in order to ensure that they are narrowly tailored, that there are effective monitoring mechanisms and sufficient safeguards against abuse, and that they are implemented in a manner that does not constitute profiling or discrimination on the grounds of race, colour, descent, nationality, ethnicity or ethnoreligious identity.”³⁹

4. Timeline of Events

24 January 2018

The CCP Central Committee and State Council announce a national, three-year crackdown against organised crime in the PRC.

7 February 2018

The TAR Public Security Bureau issues a list of 22 threats posed to the economy and to society by “underworld forces”.

13 March 2018

Nagchu (TAR) County Public Security Bureau issues a notification requesting assistance from the public in fighting “organised criminal acts threatening political stability”.

26 March 2018

In Qinghai Province, the Yushu TAP Commission for Discipline and Supervisory Committee issue a 19-point notification instructing party members and the public to report illegal activities.

30 August 2018

In Sichuan Province, Ganzi TAP Public Security Bureau announces rewards for members of the public who report “subversive behaviour”.

15 November 2018

In Gansu Province, authorities in Sangchu County commence a 100-day “Strike Hard Campaign” against underworld forces and offers rewards to residents who report “illegal activities”.

January 2019

The TAR High People's Court compiles a report stating that in 2018, 385 people in the TAR were found guilty of organised crimes, endangering national security and separatism.

10 - 14 April 2019

Nine Tibetans from Rebkong County, Malho TAP, Qinghai Province, are sentenced to prison terms for “organised crime, extortion and assembling a mob to disturb the social order”.

May 2019

In Qinghai Province, a campaign is launched by authorities in Golog TAP against underworld forces. 14 Tibetans from Darlag and Gade Counties are arrested.

21 villagers in Nangchen TAP, Qinghai Province are sentenced to between two and six years imprisonment and fined for criminal activities related to underworld forces.

³⁹ Ibid., para 37

5. Recommendations

- Immediately release all Tibetan detainees who, as part of the campaigns targeting “underworld forces” in Tibet, are being held arbitrarily for peacefully exercising their rights to freedom of expression and assembly, and to the exercise of their culture and religion.
- Cease the discriminatory targeting and criminalisation of Tibetans, in particular charging Tibetan human rights defenders as “terrorists” and of “endangering state security,” and charging breaches of state secrecy for peacefully exercising their human rights⁴⁰, 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;
- Release all 385 Tibetans who have been arrested in the TAR under the campaign against underworld forces and immediately provide information on the charges brought against them, where they have been held, whether they were granted access to a lawyer, and whether they received a fair trial.
- Provide data on how many Tibetans have been detained, arrested and are awaiting trial across Tibet (i.e. the TAR and all TAPs) as part of the campaign targeting “underworld forces” since February 2018, and in particular those who are held or charged with crimes related to “endangering state security,” “state secrecy,” “separatism,” and “terrorism.”
- Allow Tibetan environmental and human rights defenders, activists and other civil society groups to operate as per their rights under international law, without fear of punishment, reprisal, or intimidation.

⁴⁰ Article 186 of the Criminal Law, Articles 31 and 32 of Law of the People's Republic of China on Guarding State Secrets, Articles 37 and 183 of the Criminal Procedural Law

6. Contacts:

Free Tibet: Free Tibet is a London-based international campaign organisation. Our vision is a free Tibet in which Tibetans are able to determine their own future and the human rights of all are respected. We campaign for an end to China's occupation of Tibet and for international recognition of Tibetans' right to freedom. www.freetibet.org

Contact: John Jones, john@freetibet.org

Tibet Watch: Tibet Watch works to promote the human rights of the Tibetan people through monitoring, research and advocacy. We are a UK registered charity with an office in London and a field office in Dharamsala, India. We believe in the power of bearing witness, the power of truth. www.tiberwatch.org

Tibet Advocacy Coalition members: Tibet Advocacy Coalition is a project established in 2013 by core groups Tibet Justice Center, Students for a Free Tibet, Tibetan Youth Association Europe, with support and strategic input from International Tibet Network.

- **International Tibet Network** is a global coalition of Tibet-related non-governmental organisations. The Network works to maximise the effectiveness of the worldwide Tibet movement by increasing the capacity of organisations, developing coordinated strategic campaigns, and supporting increased cooperation, thereby strengthening the Tibet movement as a whole. <http://tibetnetwork.org/>
Contact: Mandie McKeown, mandie@tibetnetwork.org

- **Tibet Justice Center** is an independent volunteer committee of lawyers and other experts whose mission is to advocate for human rights and self-determination for the Tibetan people. Through independent legal research, advocacy, and education, TJC works to promote human rights, environmental protection, refugee protection, and self-governance for the people of Tibet. <http://www.tibetjustice.org/>
Contact: Padma Dolma, advocacy@tibetjustice.org

- **Students for a Free Tibet (SFT)** works in solidarity with the Tibetan people in their struggle for freedom and independence. <https://www.studentsforafreetibet.org>
Contact: SonamTso, sonamtso@studentsforafreetibet.org

Tibetan Youth Association in Europe (TYAE) TYAE has set a goal to create a place where young Tibetans from all over Europe can meet and exchange ideas to preserve and support Tibetan religion and culture. <http://www.tibetanyouth.org/en/>. Contact: Tenzin Dadon Khangkyi, t.khangkyi@vtje.org

Tibet Initiative Deutschland (TID) is a Berlin based organization, founded in 1989 with the aim to fulfill human rights and self determination for Tibet. At present around 2.000 members all over Germany strengthen campaigns, advocacy activities and actions to free Tibet. <https://www.tibet-initiative.de/> Contact: office@tibet-initiative.de

** Tibet Advocacy Coalition is a project established in 2013 by core groups Tibet Justice Center and Students for a Free Tibet with support and input from International Tibet Network.*