

HUMAN RIGHTS AND THE LONG-TERM VIABILITY OF TIBET'S ECONOMY

The International Committee of Lawyers for Tibet

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I. INTRODUCTION

It is impossible to delink trade and economic development, on the one hand, and human rights, on the other hand. Efforts most notably by the United States, France and Germany to attempt to delink these subjects for political purposes masks the reality. How governments and firms conduct trade and economic development affect people's human rights. Conversely, how governments and firms address people's human rights affects trade and economic development.

Tibet is a case in point. China's extraordinarily repressive human rights abuses against the Tibetan people, combined with its efforts to exploit Tibet on a colonial model¹, challenge any notion that economics and human rights are separable in principle or practice.

This paper argues that the Tibetan economy under Chinese rule has been unsuccessful precisely because of China's method of harsh colonial rule, and because of the severe violations of the Tibetans' human rights. This paper contends that a successful economy is only likely to develop if the Tibetans' human rights are respected because an economy that is viable and productive in the long-term, and capable of participating meaningfully in regional and world trade, must depend on a free people controlling their own resources based on natural, economic and cultural considerations. An economy based on a repressed people for whom decisions are made based on considerations of short-term greed and political domination will never thrive.

This paper will discuss ways in which attempts at economic development in Tibet have contributed to human rights abuses there. It will then discuss ways in which steps to protect human rights could foster the long-term productivity of the Tibetan economy and invigorate trade in and among Tibet, China and regional APEC members.

II. CURRENT ECONOMIC DEVELOPMENT FOSTERS HUMAN RIGHTS ABUSES IN TIBET

A. Exploitation of Natural Resources

Tibet contains very rich mineral resources.² Tibet has the world's largest deposits of uranium and borax, half the world's supply of lithium, the second largest copper deposits in Asia, and the largest supplies of iron and chromite in China.³ It also has more than 40% of China's present supply of bauxite, gold, and silver, and extensive reserves of oil, coal, tin and zinc. In addition, Tibet has huge tracts of timber. Since China's 1949 occupation, it has aggressively exploited these resources. Forests have been clear-cut to provide lumber to China's eastern cities. The pace of mining, usually open-pit mining, has accelerated in recent years. Indeed, two of the five pillars of the Tibetan economy, according to Chinese planners, are mining and lumbering.

China's military occupation of Tibet has denied the Tibetan people their right to political self-determination. China's exploitation of Tibet's natural resources is denying the Tibetan people their right to economic self-determination. The right of self-determination is a right recognized in the United Nations Charter, and in several other international instruments including the International Covenant on Economic, Social and Cultural Rights (ICESCR), which China has just signed :

“All peoples have the right of self-determination. By virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development. . . . All peoples may, for their own ends, freely dispose of their natural wealth and resources... (ICESCR, Art. I, paras. 1-2.)

China, increasingly with the aid of foreign firms, has exploited Tibet's natural resources without the consent or participation of the Tibetans themselves. Virtually none of that wealth has benefited the Tibetans. This exploitation has, and will continue to, violate the Tibetans' right to self determination.

B. Environmental Destruction

Mining and logging have been particularly destructive to the Tibetan environment. Few safeguards have been imposed on strip mining operations with the result that lakes, rivers, groundwater and soil have been contaminated. Logging has caused soil erosion that threatens major river systems, threatens the long-term arability of the land, and may even be contributing to climate change.

Economic development has increased the demand for power. One large environmentally and culturally destructive hydroelectric project is at Yamdrok Tso, not far from Lhasa, a lake the Tibetans regard as sacred. China has built a hydroelectric plant that drains water from the lake and funnels it into a nearby river. The plant will cause the water level in the lake to drop, muddy its pristine beauty, and threaten the black-necked crane, which is dependent on the lake. The electricity generated will largely supply the new Chinese settlements in and around Lhasa. Despite strong Tibetan objections to the project, it is now complete.

Efforts, too, to increase crop and herd yields have depleted the soil and left large tracts unsuitable for further agriculture or grazing. This slow, long-term poisoning of an already fragile environment is as serious a violation of the Tibetans' right to self-determination as is the short-term exploitation of natural wealth.⁴

C. Forced Labor

The negative consequences of trade liberalization on worker's economic and social rights has been well-documented. In the effort to open trade barriers, regulations protecting workers' rights are often negotiated away completely or reduced to the lowest common denominator among the participating countries. The consequences for workers include forcing wages down, eliminating regulations that protect workers' health and safety, and eliminating jobs in whole sectors of an economy or region of a country.

A more egregious human rights violation involving workers, with special significance for China and Tibet, is the use of forced labor. China's reform-through-labor and re-education-through-labor camps are the backbone of its penal system, and a significant component of its economy. In Tibet,

in aid of its plans to exploit minerals and timber, China has used prison labor and conscripted civilian labor to help build roads and other infrastructures to gain access to the minerals and timber. There is some evidence, too, that Tibetan prison labor is used directly to mine metals and to cut and haul trees.

The forced labor required of prisoners in re-education-through-labor camps (i.e., of prisoners who have been detained and sentenced outside of any judicial process) violates the International Covenant on Civil and Political Rights (ICCPR, Art. 8, para. 3) and the Forced Labour Convention (No. 29).⁵ In addition, while the detention in any manner of persons for their political views violates international law,⁶ the imposition of forced labor on such political prisoners in both re-education-through-labor and reform-through-labor camps also violates Article 1 of the Abolition of Forced Labour Convention (No. 105).⁷ There are more than 1000 political prisoners in labor camps in Tibet whose forced labor violates international law.

D. Population Transfer

China's colonial exploitation of Tibet's natural resources has been accompanied by accelerating population transfer. The approximately 7 million ethnic Han Chinese in the area encompassing historical Tibet now outnumber the approximately 6 million Tibetans. The Chinese government has both forced and encouraged migration into Tibet in aid of its economic development through a combination of directives, subsidies and incentives.⁸

Population transfer violates the Fourth Geneva Convention (which China has ratified), which prohibits a country that has militarily occupied another country from moving civilian populations into the occupied country. China has militarily occupied Tibet since 1949; therefore its transfer of millions of Chinese into Tibet violates the Geneva Convention. As the United Nations Special Rapporteur on Population Transfer recently commented,⁹ population transfer also violates a people's right to self-determination, and is unlawful even when subtle and incremental and even when carried on under the guise of economic development.

As we outline below, population transfer has resulted in direct and adverse human rights consequences for the Tibetan people.

E. Discrimination

Chinese cadres have controlled government institutions in Tibet since shortly after the 1949 invasion. Now that a majority in Tibet are Chinese, a two-tiered society exists, with Tibetans largely considered a subclass to be tolerated at best. Chinese control virtually all significant government posts and most large business firms. As a result, a disproportionate number of public and private jobs are held by Chinese. Development projects, including infrastructure, mining, logging and industrial projects, import most labor from China.

Schools, hospitals and housing have been built primarily for incoming Chinese. Schools do not teach Tibetan history or culture, and increasingly do not even teach in the Tibetan language.

F. Coercive Family Planning Measures

Perhaps the most insidious practice to accompany the Chinese migration into Tibet is the restriction on child-bearing. Reports confirm the practice of coerced abortions and sterilizations of

Tibetan women, sometimes through campaigns conducted village by village. Recent reports received from refugees reveal that a sterilization and forced abortion campaign has been underway since the fall of 1996 in the Chushur district under Lhasa city. 308 women were sterilized in only one month between September and October 1996. These measures, in and of themselves, violate the Tibetans' human rights. In the context of massive settler implantation into Tibet, they appear to be an effort to further marginalize the Tibetan people.¹⁰

G. Deteriorating Health

Population transfer is also having an effect on the health of Tibetan children. Recent studies have shown that, while the height of children in China (excluding Tibet) has been increasing in recent decades, the height of Tibetan children is declining. This is most likely a result of chronic undernutrition, beginning with the undernutrition of pregnant women. The causes of the undernutrition are uncertain, but appear to include: Chinese regulations determining the amount of wheat to barley planted (barley is the traditional Tibetan crop); Chinese regulations forcing Tibetans to sell food crops at controlled prices, leaving few crops with which to barter for meat (a traditional source of food) and little cash with which to buy food; and the introduction by settlers of "status foods" (e.g., canned goods, candy, soft drinks) which are expensive and of poor nutritional value.

In addition, healthcare is supposed to be free in Tibet, but that is not the case in practice. While this applies to both Chinese and Tibetans within Tibet, this situation has a disparate impact on Tibetans, few of whom have the money to pay for healthcare. As a result, Tibetan children are dying at excessive rates from diseases such as tuberculosis, pneumonia and diarrhea. Adults suffer excessively from stroke, hypertension, chronic pulmonary disease, hepatitis, and gastric cancer. These are the traditional killers of indigenous peoples in occupied countries.

III. PROTECTING HUMAN RIGHTS IN TIBET WOULD BOOST LONG-TERM ECONOMIC GAIN

Tibet's economy, as managed by China, is largely a failure. The Tibet economy grew faster in 1996 than China's did, but only with \$460 million in subsidies from Beijing – equivalent to more than two-thirds of Tibet's economic output. It is an economy based on subsidies; without which, the region would sink into dire poverty.¹¹ As a result, it is also an economy largely unintegrated with the rest of China, much less the rest of Central and South Asia.¹²

China's efforts to assimilate Tibet politically have also failed, because the Tibetan people, after almost 50 years of occupation, refuse to accept Chinese rule. That resistance has, in turn, garnered international attention and support for ending the largest remaining colonial domination of a people. In addition, for any economic development in Tibet to be successful in the long-term, the support of the Tibetan people will be required. That support, in turn, will require ending human rights abuses and granting Tibetans genuine self-rule.

How would improving human rights help the Tibetan and regional economies?

A. Level The Playing Field

Tibet's value to the Chinese economy is as a source of mineral and timber wealth. By colonizing Tibet, China effectively secured for itself a source of raw materials at an unfairly low

cost. The Tibetan people should have the right to control the use and price for any of the natural resources in Tibet, and China should have to compete fairly with other countries and firms for access to those resources.

The European Union long ago realized that protecting human rights was a necessary condition to creating a competitive economic union. The failure to set minimum human rights standards in connection with the integration of economies creates an unlevel playing field, and leads to a phenomenon called “social dumping,” in which countries try to keep production costs low through human rights abuses.¹³ As a result, the European Union created a set of human rights standards in parallel with its integrated trade policy.

APEC should learn a lesson from the European Union and insist on minimum human rights standards to create a level playing field. In Tibet, this would eliminate the unfair competitive advantage China holds by depriving the Tibetan people of their right to self-determination, and specifically their right to control the disposition of their natural resources. It would also prevent China from keeping costs unfairly low by using forced labor.

B. Provide Environmental Protection for Long-Term Development

Lax environmental standards are another means of keeping short-term costs low. This both creates an unlevel playing field and leads to long-term waste, inefficiency and debilitating damage to the economy.

In Tibet, the environmental consequences of unfettered mining and logging are already apparent. It is destroying the long-term arability of the land, for agriculture, logging or grazing. The short- and long-term economic consequences are obvious. For example, clear-cutting of forests leaves large tracts of barren hillside and the land loses its ability to sustain any viable economy based on replenishing the forests for future logging or tourism, or on converting the land to agriculture or animal husbandry.

In addition, because many major river systems begin on the Tibetan plateau, irresponsible mining and logging are having effects on river systems and other ecosystems throughout South and Southeast Asia. There is certainly no reason why those members of APEC affected by China’s irresponsible abuse of the environment in Tibet should accept a trading arrangement that continues China’s unfair economic advantage and threatens long-term damage to their environments, and therefore their economies.

C. Reallocate Resources For More Productive Uses

The cost to China of occupying Tibet is enormous. This includes: (1) the costs of stationing, by some estimates, as many as 200,000 soldiers and related military infrastructure (estimated by one observer to cost as much as \$25 million per year); (2) the costs of supporting an inordinately large police force to enforce political control; (3) subsidized salaries and benefits for relocating Chinese into Tibet; (4) the costs of both successful and failed attempts to build infrastructure in Tibet inappropriate for the region;¹⁴ (5) the wasted productivity of the Tibetan people deprived of any measure of civil liberties, of their health, of reasonable educational opportunities, and of a fair chance to participate in the economy; (6) the costs of operating a large labor camp system for the 1000 political prisoners in Tibet; (7) the delayed but inevitable costs of restoring environmental damages; and (8) the costs of resisting international pressure to deal justly with Tibet.

These costs far exceed the \$460 million in annual direct subsidies acknowledged by the Chinese government. Most of them could be saved and channeled to more productive uses in the following ways:

- (1) Ending the persecution of dissidents would eliminate substantial prison and security force costs and return productive citizens to the economy.
- (2) Withdrawing all but the military contingent needed to defend borders would reduce China's military costs, and the costs of neighboring states (most notably India), to match troop build-ups on their borders.
- (3) Granting Tibetans self-rule would:
 - a. help Tibetans ensure equal opportunity for education and jobs, and create a more educated and motivated workforce;
 - b. allow Tibetans to incorporate environmental safeguards on development and investment projects to preserve the long-term viability of the economy;
 - c. motivate Chinese and Tibetan (and foreign) investors to select projects based on their long-term economic viability rather than on short-term political goals; and
 - d. allow more Tibetans to participate productively in the economy, without the restraints of poor health, discrimination, and fear of persecution.
- (4) Ending population transfer policies would reduce or eliminate the direct and indirect subsidies to Chinese settlers and allow them to channel resources into development projects chosen for economic rather than political reasons.

D. Create Political And Social Stability In Tibet

Colonial rule and human rights abuses in Tibet have created significant political and social instability in Tibet. Ending human rights abuses and granting Tibetans self-rule would create a stable political and social climate conducive to more active investment.

Tibetans resist the Chinese occupation, and that resistance has broken out in demonstrations periodically. Large-scale demonstrations occurred most recently in 1987, and resulted in Chinese troops shooting and beating Tibetan demonstrators. These demonstrations set off a crack-down that has continued, and has become increasingly repressive, to this day. Small demonstrations and protests continue periodically, and the number of political arrests – especially targeted at monks and nuns have increased steadily.¹⁵ Every year, thousands of Tibetans flee Tibet. Most risk their lives by trekking over the Himalayas to Nepal. This year alone, 1800 have escaped to date.¹⁶

Despite its rich natural resources, the Tibet environment alone is a difficult obstacle to overcome to take advantage of those resources. The political and social instability resulting from China's colonial rule add a level of risk to the natural obstacles that makes significant investment in Tibet prohibitive.

The Tibetan Government-in-Exile, on the other hand, has already drafted a constitution for a form of parliamentary democracy under which Tibetans would govern themselves. Self-rule would return the rule of law to Tibet, where the only reliable rule in place now is rule by force. Self-governance by Tibetans would create a stable environment in which investors would be willing to tackle the natural and predictable risks and rewards of Tibet's people, environment and resources.

IV. CONCLUSION

Tibet is a good example of why APEC members should incorporate human rights standards in any economic cooperation scheme they fashion. The pattern of severe human rights abuses in Tibet under China's colonial rule, combined with the failure of the Tibetan economy, provide strong evidence that human rights abuses are an obstacle to economic growth. In the long-term, the only way to integrate Tibet productively into the economies that make up APEC is to end human rights abuses in Tibet and allow the Tibetans to exercise their right to self-determination over their political, economic and cultural life.

¹ For a detailed discussion of the ways in which China's rule over Tibet matches classic colonial patterns, see Unrepresented Nations and Peoples Organization, China's Tibet: The World's Largest Remaining Colony (1997).

² Chinese government surveys have so far determined that Qinghai province (in Tibet's Amdo region) contains 119 kinds of minerals, constituting 63% of the total varieties of minerals claimed by the Chinese government. Qinghai Develops Mineral Resources, Xinhua, Jan. 10, 1992.

³ Tenzin Phuntsok Atisha, A Profile of Tibet's Devastated Ecology, Tibetan Bulletin. August-September 1990, at 10, citing Tibet: A General Survey (Peking: 1988).

⁴ For a more detailed discussion of environmental destruction and human rights in Tibet, see International Committee of Lawyers for Tibet, "The Relationship Between Environmental Management and Human Rights in Tibet," (July 14, 1992).

⁵ General Conference of the International Labour Organisation, adopted 28 June 1930, entered into force May 1, 1932. China has not ratified this Convention or the ICCPR, but together they set the generally accepted minimum human rights standards governing forced labor.

⁶ See Universal Declaration of Human Rights, arts. 18-19; International Covenant on Civil and Political Rights, arts. 18-19.

⁷ General Conference of the International Labour Organisation, adopted 25 June 1957, entered into force 17 January 1959. Article 1 of that Convention prohibits the use of forced labor "as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system."

⁸ For a more detailed discussion of population transfer in Tibet, see New Majority: Chinese Population Transfer into Tibet, (Tibet Support Group UK 1995); and see M.C. van Walt van Praag, Population Transfer and the Survival of the Tibetan Identity (2d ed. 1988).

⁹ Final Report (E/CN.4/Sub.2/1997/23). See also Preliminary Report of the Special Rapporteur on Population Transfer (E/CN.4/Sub.2/1993/17).

¹⁰ For a more detailed discussion of coercive family planning policies in Tibet, see E. Herzer and S. Levin, "China's Denial of Tibetan Women's Right to Reproductive Freedom," 3 Mich. J. Gender & Law 551 (1996).

¹¹ Marcus W. Brauchli, "To Integrate Tibet, China Tries Economic Lures," The Wall Street Journal (14 July 1997).

¹² Evidence of just how unintegrated Tibet's economy is, is the fact that 90% of Tibet's foreign trade is only with Nepal. There is little trade with India, and the main trading post between India and Tibet has remained closed since the 1962 China-India border war. Tibet Information Network, "Chinese Trip Reaffirms Ties and Trade Links," November 13, 1997.

¹³ James F. Smith, "NAFTA and Human Rights: A Necessary Linkage," 27 UC Davis L.J. 793, 817-18 (1994).

¹⁴ This includes a proposed rail line from western China to Tibet's capital, Lhasa, which has been proposed and reshelved several times but has never been successfully built because of the very difficult terrain and environmental conditions.

¹⁵ Tibet Information Network and Human Rights Watch/Asia, Cutting off the Serpent's Head, at 77-98 (1996)

¹⁶ "China tightens Nepalese border following crossings by Tibetans," Agence France-Presse, November 13, 1997