

RACIAL DISCRIMINATION IN CHINESE-OCCUPIED TIBET

A Report Submitted to the

UNITED NATIONS COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

On

VIOLATIONS BY THE PEOPLE'S REPUBLIC OF CHINA AGAINST THE PEOPLE OF TIBET

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I. EXECUTIVE SUMMARY

This Report evaluates China’s compliance with the Convention on the Elimination of All Forms of Racial Discrimination (“CERD”)¹ with respect to the Tibetan people. In its Concluding Observations on China’s last report, this Committee expressed both satisfaction and concern regarding a wide range of issues.² This Report will address those issues relevant to Tibet in light of China’s Eighth and Ninth Periodic Report and evidence regarding the actual situation in Chinese-occupied Tibet. The breadth of the Committee’s concerns and approach to the causes and consequences of racial discrimination are appropriate and consistent with the experience of the Tibetan people. This Report demonstrates that discrimination by the Chinese government and people against the Tibetan people is both a cause and a consequence of: the occupation of Tibet by a foreign power; the continuing population transfer of Chinese settlers into Tibet; efforts to exploit Tibet’s natural resources for the benefit of China; and the perceived need to assimilate Tibetans culturally in order to control them politically. China’s conduct in Tibet not only violates key provisions of the CERD, it has also failed to respond to or make substantial progress in the areas of concern expressed by this Committee in its 1996 Concluding Observations.

This Report begins with an overview of the history and political status of Tibet because racial discrimination against the Tibetan people cannot be understood outside the context of Tibet’s history or of the human rights abuses against the Tibetan people generally. Tibet was a sovereign state prior to the Chinese invasion of 1949. In addition, the Tibetan people have the right to self-determination, and the failure to recognize that right remains a root cause of the human rights violations against the Tibetan people.

Next, we evaluate China’s performance in the area of racial discrimination with regard to its legal obligations and this Committee’s recommendations in 1996. It is widely recognized that since the establishment of the People’s Republic of China (“PRC”), China has adopted an official policy of ethnic and racial equality. This policy is reflected in the PRC’s constitution and a number of anti-discrimination laws passed by the legislature.³ These legal protections and the Chinese government’s apparent commitment to the elimination of racial discrimination within its borders is encouraging. By setting public standards and examples condemning racial discrimination to guide its citizens’ conduct, the Chinese government could have taken the first necessary steps in its battle against discrimination.

The legal landscape and factual reality in Tibet diverge, however, and our studies and reports confirm that despite the apparent legal protections afforded “minority nationalities”, the Tibetan people continue to suffer from widespread racial discrimination. Although China’s Eighth and Ninth Periodic Report indicates that it has taken further legislative action since 1996 in an attempt to combat the problem of racial discrimination against “minorities”, particularly in Tibet, the official steps taken by the government have proved insufficient to eradicate racial discrimination against Tibetans. Indeed, because the Chinese Government refuses to honor the Tibetan people’s right to self-determination, and because it is extending rather than curtailing policies regarding economic development and population transfer into Tibet that are a root cause of discrimination against Tibetans, Tibetans continue to suffer from frequent acts of racial discrimination by both the Chinese government and private Chinese citizens.

This Report demonstrates that racial discrimination affects Tibetans in education, employment, health care, and public representation. The Report concludes that Tibetans' access to each of these four areas is generally restricted, particularly when compared with the experiences of the Chinese people, especially settlers in Tibet. Restricted access results primarily from the erection of financial, cultural and social barriers that have a direct, adverse impact (intended or not) on Tibetans' ability to enjoy the rights guaranteed to them by international and domestic law. Further, once Tibetans are able to break into these four areas of life, the services and treatment they receive is frequently of a inferior quality than that enjoyed by the Chinese. The quality of services and treatment is lower with respect to Tibetans because of direct racial discrimination against them. In addition, the Report points out that with respect to reproductive rights and State-sponsored violence, policies and practices remain in place about which this Committee expressed concern and are having an increasingly adverse impact upon Tibetans.

On 10 March this year, in an address to the Tibetan people to commemorate the 42nd National Uprising Day of Tibet, His Holiness the Dalai Lama said: "The Chinese government continues to whitewash the sad situation in Tibet through propaganda. If conditions inside Tibet are as the Chinese authorities portray it to be why do they not have the courage to allow visitors into Tibet without any restrictions? Instead of attempting to hide things as "state secrets" why do they not have the courage to show the truth to the outside world? And why are there so many security forces and prisons in Tibet? I have always said that if the majority of Tibetans in Tibet were truly satisfied with the state of affairs in Tibet I would have no reason, no justification and no desire to raise my voice against the situation in Tibet. Sadly, whenever Tibetans speak up, instead of listening to them they are arrested, imprisoned and labeled as counter-revolutionaries. They have no opportunity and no freedom to speak out the truth."

This Report concludes that racial discrimination against Tibetans, in all of its facets, violates China's obligations under international and domestic law and adversely impacts the everyday lives of Tibetans. This Report also offers a number of recommendations for eradicating racial discrimination against Tibetans by the Chinese government and private citizens. In particular, it urges the Committee to recommend that China rescind its economic development and population transfer policies and programs pending a further review with the full participation of the Tibetan people. It also recommends that China concentrate significant effort and resources in education. In particular, China should not only improve Tibetans' educational facilities, it should also make it a priority to return control over language and curriculum, including Tibetan culture and history, to the Tibetan people. Finally, China must undertake to change underlying Chinese views with regard to Tibetans and to promote their genuine autonomy within contemporary Chinese society.

II. INTRODUCTION

We are honored to submit this Report to the Committee on the Elimination of Racial Discrimination ("Committee"). Our Report provides additional information to facilitate the Committee's evaluation of China's compliance with the CERD with regard to Tibet. In the

Report, we emphasize the special circumstances that render Tibetans particularly susceptible and sensitive to racial discrimination.

We urge the Committee to review the evidence of violations of Tibetan rights in the context of China’s illegal invasion of Tibet in 1949, its division of historical Tibetan territory, and China’s failure to accord the Tibetans their right to self-determination. We will, throughout this Report, also place racial discrimination against the Tibetan people in the contexts of violations of Tibetans’ human rights generally.

The Chinese occupation of Tibet is illegal under international law because Tibet was an independent nation when Chinese troops invaded. Extensive study by legal scholars, including the International Commission of Jurists, supports the conclusion that Tibet was a sovereign nation when it was invaded by China in 1949 and that the entry of China’s armed forces into Tibet was an act of aggression under international law.⁴

When we refer to Tibet, we mean the Tibetan provinces of Kham, Amdo and U-Tsang. The Chinese authorities have divided Tibet into the Tibetan Autonomous Region (“TAR”) (about 40 percent of historical Tibet) and a number of Tibetan prefectures that have been subsumed into the Chinese provinces of Sichuan, Qinghai, Yunnan and Gansu. China’s division of traditional Tibet is in itself a major international law violation. We also point out that, because China’s invasion was illegal, all provisions of humanitarian law, including those relating specifically to racial discrimination, are in force in Chinese-occupied Tibet.⁵ The application of humanitarian law in Tibet underscores our sense of gravity of the violations carried out by China in Tibet, including the division of the Tibetan territory.

The Tibetan people also have a right to self-determination. By self-determination, we mean the collective right of a people to determine freely their own political status and to pursue their own economic, social and cultural development.⁶ The Tibetans are a “people,” with a common history, racial and ethnic identity, distinct culture and language, definable territory and common economic ties, in terms of the right to self-determination.⁷ Moreover, the General Assembly has not retreated from its recognition that the Tibetan people have a right to self-determination.⁸

China’s occupation of Tibet and its failure to honor the Tibetan people’s right to self-determination are the root cause of the racial discrimination against the Tibetan people that we report on here. We recognize that the principle of self-determination is widely considered a preemptory norm of jus cogens.⁹ Accordingly, we urge the Committee to give full legal weight to the principle of self-determination as it considers the evidence of gross violations of the Convention by China against the Tibetan people.

III. CHINA’S VIOLATIONS OF THE CERD

A. China’s Obligations Under International Law

By acceding to the CERD on December 29, 1981, China agreed to eliminate racial discrimination within its borders. Article 1(1) of the CERD defines “racial discrimination” as being:

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.

Article 2(1)(a) of the CERD prohibits each State Party from engaging “in any act or practice of racial discrimination against persons, groups of persons or institutions.” Not only does the CERD prohibit discrimination by government actors, it also places affirmative obligations on the Chinese government to eliminate racial discrimination by private parties. For example, Article 2(1)(b) forbids the Chinese government from advocating or supporting racial discrimination by a private party, and Article 2(1)(d) requires it to “bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization.” We also note that General Recommendation XIV to Article 1 interprets the article to preclude policies or actions that have unjustifiable disparate impact upon a particular group.¹⁰

Despite China’s obligations under the CERD, racial discrimination by Chinese authorities and private citizens against the Tibetan people is not only still prevalent, in many ways it is getting worse. As a result of these discriminatory policies and practices, Tibetans are caught in a downward spiral, where discrimination breeds poor education and employment opportunities, which in turn feed existing racial prejudices. It is also an aspect of the Tibetan situation to which the international community has paid little or no attention. We believe the Tibetans suffer from the Chinese characteristics of “apartheid”.

B. Population Transfer Of Chinese Settlers Into Tibet Is Both A Cause And Consequence Of Racial Discrimination

This Committee expressed concern “with respect to reports concerning incentives granted to members of the Han nationality to settle in autonomous areas, as this may result in substantial changes in the demographic composition and in the character of the local society of those areas.”¹¹ In its Eighth and Ninth Periodic Report, China describes “special measures to support the development of the central and western part of China,” primarily involving “resource development projects,” “exploration of mineral resources,” and “[a]ccelerating the reform and opening-up in these areas.”¹² China further notes that the “State would continue to organize various forms of assistance by national departments, *the general public and coastal areas* to construction projects in Tibet.”¹³

The Eighth and Ninth Periodic Report describes a long-standing policy of infrastructure development and resource extraction in Tibet, the latest iteration of which is the so-called “Western Development” campaign, announced by President Jiang Zemin in June 1999. In theory, the policy purports to develop western China by improving its economic infrastructure

and providing more funds for education, the environment, and the development of technology. In practice, it represents an escalation of the long-standing Chinese policy of extracting the wealth of natural and mineral resources that exist in Tibet and Eastern Turkestan (Ch: Xinjiang) for the benefit of the Chinese people. An integral part of the policy has been, and promises to continue to be, the transfer of Chinese settlers into Tibet.

This development policy is discriminatory by design and implementation in the following ways: it is conceived and carried out without meaningful participation of the Tibetan people; the transfer of Chinese settlers proceeds in part on the assumption that Tibetans are not capable of participating in development projects; the few resources that are funneled back into Tibet benefit primarily the Chinese settlers; the Chinese settlers and cadres, who control the most significant political and business leadership positions, in fact discriminate against Tibetans in employment and education; and the perceived need to control the Tibetan people politically in order to carry out this development plan has led to the systematic repression of Tibetan religion and culture and the arbitrary imprisonment and torture of Tibetan men, women and children.

For example, on 29 June this year, China began construction of a new railway-line to Lhasa, the Tibetan capital, which will enable more Chinese settlers will into swamp Tibet and Tibet's untapped natural resources will find their way to China. We believe the decision to construct the line to central Tibet is a political one with strong political and military objective of cementing China's occupation of Tibet.

Similarly, the construction of the Sebei-Lanzhou Pipeline (Tsaidam, Amdo) and increased project on oil and gas exploration on the Tibetan Plateau remains another major concern for the Tibetan people. The construction of the Pipeline, launched on 30 March this year, backed by western companies such as BP, Enron and AGIP, is causing a new alarm among Tibetans. The project represents a significant escalation of China's exploitation of oil and gas on the Tibetan Plateau and will help accelerate China's policy of transferring Chinese settlers into Tibet. With the involvement of western companies China receives global support in despoiling Tibet's natural resources for the first time.

In July 2000, China was forced to withdraw its bid to borrow US\$ 40 million from the World Bank to fund the resettlement of about 58,000 people in Amdo (Ch: Qinghai), after the plan ran into opposition from several of the bank's shareholders, Tibetan people, and human rights groups. This was clearly an example of how the Chinese authorities were attempting to use international funding institutions to implement its population transfer policy in Tibet.

It needs to be highlighted here that current development policies in Tibet are conceived and implemented without any meaningful participation by Tibetans. According to the Tibet Information Network (TIN), "the policies being implemented, imposed from the top down and failing to address key local needs, may be extremely detrimental to people living in the western regions." One witness told TIN that "as far as ordinary people . . . were concerned this [development] policy may well have dropped out of the sky."

Officially, the rationale for the Western Development campaign is to alleviate the disproportionate level of poverty in western China. TIN's research indicates that the central government's policies of development over the past twenty years have produced a dramatic gap: "[I]n 1998, the per capita income of coastal [eastern] farmers was 3600 yuan, nearly three times that of farmers in the west." But the evidence suggests that poor farmers and nomads, who make up 80 percent of the west's population, will gain little from the new large-scale development and mineral exploitation projects. Rather, the principal beneficiaries will be the Chinese settlers, whose small businesses and employment opportunities will flourish as a result of the priorities set by the government in Beijing.

For example, of the ten large-scale "Western Development" projects that China has launched for the year 2000, not one is located in the Tibet Autonomous Region (TAR) or other rural Tibetan regions, where many of the poorest inhabitants live. Instead, Beijing has determined they should be constructed in the wealthier western regions with better infrastructure. These regions are primarily dominated by Chinese settlers, not Tibetans. Similarly, China has declared an intent to build roads, railroad lines, and airports in the west. According to TIN, however, their purpose is to facilitate the influx of Chinese settlers *into* Tibet and the extraction of raw materials and goods *out of* Tibet and to the eastern regions of China that already enjoy a far better infrastructure and economy. A tremendous proportion of China's energy resources, including oil, gas, and hydropower, are located in Eastern Turkestan (Ch: Xinjiang) and in the Tibetan regions of Amdo (Ch:Qinghai). Yet TIN reports that "[e]nergy resources, including hydropower and gas, are being exploited primarily for use in eastern China, rather than to assist industrialisation in the west." In 1995, China explained the theory behind this apparent injustice in "The Progress of Human Rights in China": "While some areas and some people become rich first, they are encouraged to help poor areas and people get rich."

This "trickle down" theory is, at bottom, racially discriminatory and has yet to bring any appreciable benefits to the poorest residents in current China, who continue to be the peoples of Tibet, Eastern Turkestan (Ch: Xinjiang), and Inner Mongolia. In fact, as we point out in the following sections, Tibetans are being forced into a downward spiral where racial prejudices deprive them of needed education and economic stability, which in turn reinforce existing prejudices.

C. Tibetans Suffer Discrimination in Education

1. The Committee's Recommendations

Article 5(e)(v) of the CERD obligates China to "undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of . . . *the right to education and training.*"¹⁴ With regard to this provision of the CERD, this Committee recommended in 1996 that China ensure access by members of minority groups to education at all levels,¹⁵ which includes primary, secondary and higher education. The Committee further recommended that China provide instruction on the history and culture of the relevant minority nationalities in autonomous areas.¹⁶

2. China Failed To Respond To The Committee's Concerns

China asserts in its Eighth and Ninth Periodic Report to the Committee that it has either fulfilled its obligations under Article 5(e)(v) or that it is at least making reasonable efforts to eradicate racial discrimination in education. China states that “[I]n school education or cadre training courses, education on ethnic policy and ethnic unity are essential components.”¹⁷ Further, China points to the 1998 adoption of the Law of the People’s Republic of China on Higher Education [hereinafter “Higher Education Law”] to demonstrate its efforts in this area.¹⁸ Article 8 of the Higher Education Law requires the Chinese government to assist and support the development of higher education in regions inhabited by ethnic people for the purpose of training senior specialists among them.¹⁹ Article 9 of the Higher Education Law grants all citizens the right to higher education and states that “the State shall adopt measures to develop and enable students who come from ethnic groups and students who have financial difficulties to receive higher education.”²⁰ Also, China points out that it has established the “Poverty Alleviation Project for Education” in order to finance the construction of primary schools in the ten minority rural areas in southwestern and northwestern China.²¹ Finally, China highlights Article 7 of the Law of the People’s Republic of China on Vocational Education, promulgated in 1996, that requires the government to develop vocational education in rural areas, particularly for the benefit of minorities and the poor.²²

China’s Eighth and Ninth Periodic Report does not demonstrate the adequate implementation of Article 5(e)(v) of the CERD or of the Committee’s recommendations. First, China makes no specific reference to education in Tibet. Second, China addresses only primary, higher and vocational education, ignoring the current status of secondary schools. Third, China fails to mention exactly how much money has been allocated to primary education in rural areas under the Poverty Alleviation Project for Education and what affect it has had on education in Tibet. Finally, while China’s Report shows that it has passed laws to address the problem of racial discrimination in education, it fails to inform the Committee about the actual existence of racial discrimination in the Chinese educational system or whether China’s laws regarding racial discrimination in education have had any positive impact whatsoever. Studies and investigations performed by outside parties indicate that racial discrimination in education is prevalent in Tibet and that the Tibetan people and culture are suffering as a result.

3. Tibetan Children Are Not Receiving An Adequate Education

Statistics demonstrate that it is significantly more difficult for Tibetan children to gain access to education than it is for Chinese children. China conceded in its report to the Committee on the Rights of the Child that almost one-third of the children in the TAR receive no education at all, whereas the figure for China as a whole is 1.5 percent.²³ The enrollment rate in junior secondary school is 12.5 percent and in primary schools the rate is 67 percent, but is lower than 10 percent in some rural areas.²⁴ This lack of education in the TAR leads to a comparable disparity in literacy rates between the Tibetan and Chinese populations. Only about nine percent of Chinese adults are illiterate, compared with about sixty percent of Tibetans in the TAR.²⁵

Tibetans have difficulty accessing educational opportunities for several reasons. First, educational facilities for Tibetan children, particularly in the rural areas, are lacking in number

and sophistication in comparison to schools for Chinese children. China's statements that it has devoted significant resources to the improvement of schools in Tibet are misleading. Most of China's financial assistance has been directed to urban instead of rural areas. The distinction between urban and rural areas is important because Chinese settlers make up a majority of the urban population, whereas 80% of the Tibetan population lives in rural areas.²⁶ Therefore, in late 1996, the urban Lhasa municipality had 538 primary schools whereas the rural Ngari Prefecture had only 44, despite the fact that the Ngari Prefecture constitutes about a quarter of the entire TAR.²⁷

Second, Chinese schools receive considerably more governmental funding than the Tibetan schools.²⁸ Testimony before the International Commission of Jurists described the difference by comparing one Chinese school to one Tibetan school. The Chinese school had computers and a science laboratory whereas the Tibetan school was heated by fire and didn't even have a playground.²⁹ Some school buildings in rural Tibet are in such bad shape that more than 20% of the primary school classes in several counties must be held at teachers' homes.³⁰

The differences in the facilities of rural Tibetan schools, urban Tibetan schools and schools elsewhere in China have developed over time and have become more acute in the last five years. For years, the Chinese government directed most of the financial assistance for Tibetan schools to its urban centers.³¹ As a result, a gap grew between the rural and urban areas in education, and, consequently, the Tibetan population was left at a severe disadvantage in education.³² Since the Chinese government's passage of the Decision on Education in 1985, local governments are responsible for funding education and the central government's contributions has been greatly reduced.³³ As a result of the rural areas' weak economies, investment in education actually decreased after 1985, thereby further widening the gap between the urban Chinese population and the rural Tibetan population in education.³⁴

This disparity in funding has a concrete, detrimental effect on Tibetan children's education today. Under international and domestic law, all children in China are entitled to a free education,³⁵ but recent reports indicate that Tibetan children are required to pay illegal fees in order to attend school. Despite the law and the fact that Chinese children generally attend school for free, Tibetan children have to pay between 10 yuan and 300 yuan per month, and most pay between 100 and 200, in order to attend school.³⁶ Average per capita income was only between 1200 and 1800 yuan in 1999.³⁷ India-based Tibetan Centre for Human Rights and Democracy reported a number of individual accounts by children and parents who were forced to pay fees in order to attend school. One 30 year-old parent, Dukar-kyi, removed his daughter from primary school in Ngaba County in Amdo, northeastern Tibet, because he could not afford the 500 yuan fee required at the beginning of each school year.³⁸ To make access to education even more difficult for Tibetan children, they are often required to buy supplies and services that Chinese children receive for free.³⁹

Access to secondary and higher education is further complicated by the continued requirement of *guangxi*, or personal connections.⁴⁰ In many cases, children without the proper connections are unable to get into school. This problem is exacerbated by the fact that since most of the teachers and administrators at Tibetan schools are Chinese, Tibetan children find it difficult to forge the personal connections necessary to gain acceptance to schools.⁴¹ *Guangxi* is

even more difficult to gain for parents who refuse to assimilate into Chinese political culture, which leaves the children with a little or no education.⁴²

In short, no matter how many institutions the Chinese authorities have in reality developed across Tibet since 1959, Beijing's overriding goal in educating Tibetans has always been to groom political allegiance to China. This is clearly reflected in the speech of Chen Kuiyuan to the 1994 "TAR" Conference on Education: "The success of our education does not lie in the number of diplomas issued to graduates from universities, colleges... and secondary schools. It lies, in the final analysis, in whether our graduating students are opposed or turn their hearts to the Dalai Clique (a reference to the Tibetan Government in Exile) and in whether they are loyal to or do not care about our great Motherland and the great socialist cause."

4. Tibetan Children Are Not Allowed To Learn In The Tibetan Language

Even when Tibetan children are able to attend school, other serious obstacles often hurt their academic performance. A primary barrier to academic success for Tibetan children is the overwhelming use of Chinese as the teaching language in most schools in Tibet. In primary and middle schools, Chinese is the dominant language spoken, even though Chinese law guarantees all of its "minority nationalities" the right to learn and use their native language.⁴³ Most schools stress the alleged superiority of the Chinese language for academic and professional success and relegate the Tibetan language to a position of secondary importance.⁴⁴ Therefore, many children report that they learned Tibetan from first through third grade, but were discouraged from studying the language beyond that point.⁴⁵ In 1997, the "TAR" Communist Party decided to reverse a previous decision to teach secondary and university courses in Tibetan and instead introduced Chinese language study from the first year of schooling. Simultaneously, the TAR Guiding Committee on Spoken and Written Tibetan was disbanded.⁴⁶

5. Tibetan Children Are Not Allowed To Study Tibetan History And Culture

Not only are Tibetan children prevented from learning their own language in school, they are not provided the opportunity to learn about Tibetan history or culture. In 1996, the Committee stated that "the instruction provided on the history and culture of minority nationalities in the curricula is not adequate as compared to the education provided concerning the history and culture of the Han nationality."⁴⁷ China has not made any effort to respond to the Committee's concerns in this area and has actually resisted any teaching of Tibetan history and culture. In spite of the Chinese White Papers, which states "organs of self-government of autonomous areas may decide their own local education programs,"⁴⁸ education curricula for 'minority' nationalities, particularly Tibetans, are closely monitored and controlled by the central government.⁴⁹ Their purpose is to instill in the students political ideology, not to teach them skills or academic knowledge.⁵⁰ Children report that they never learned Tibetan history and could suffer corporal punishment or abuse by Chinese classmates if they sang Tibetan songs or showed respect for the Dalai Lama.⁵¹ Reports by Tibetan teachers who escaped China indicate that they were forbidden from teaching Tibetan culture or history and were mandated to teach materials that came from the Chinese offices.⁵²

The Chinese government's close monitoring of Tibetan schools has led to a notable suppression of Tibetan culture and history in the education curricula. The International Commission of Jurists concluded in a report in 1997 that "rather than instilling in Tibetan children respect for their own cultural identity, language and values ... education in Tibet serves to ideologically indoctrinate Tibetan children and to convey a sense of inferiority of their own culture, religion and language."⁵³ For example, in late 1997, the Chinese government introduced a new campaign in the TAR to "make socialist literature and art prosper" and demanded that Tibetan writers reflect the views of the working class and redefine Tibetan culture as "non-Buddhist." Two particular books on 17th century Tibetan history were withdrawn from sale and publicly condemned.⁵⁴ Further, merely mentioning the Dalai Lama can lead to severe punishment, such as imprisonment. For example, a Tibetan educationalist and scholar from Amdo (Ch:Qinghai), Gyaye Phuntsog, was sentenced in July 1999 to a six-year prison term when documents relating to the Dalai Lama were found in his possession.⁵⁵ Finally, in 2001 the Tibet Information Network ("TIN") received reports that the Chinese government has started a campaign to teach schoolchildren between the ages of seven and 13 that Tibetan Buddhist practice is "backward behaviour" and an obstacle to progress.⁵⁶ Children have also been given detention or fined for wearing traditional Buddhist "protection cords."⁵⁷

The Chinese authorities denied conducting a campaign to promote atheism in Tibet, to the Special Rapporteur on Religious Intolerance as evident in document A/55/280 submitted to the 57th UN Commission on Human Rights. In this regard, we would like the Committee to ascertain the facts as they appear on the ground in Tibet. For example on 15 November, 1998, one senior official in Tibet, called for "bold propaganda about Marxist atheism and insist on indoctrinating the masses of peasantry and herdsmen in the Marxist stand on religion." Again, at a meeting held of the "TAR" Party Propaganda Department on 8 January, 1999, a directive was issued which stated that "atheism is necessary to promote economic development in the region and to assist the struggle against the infiltration of the Dalai Clique." This campaign urged Tibetans to stop the age-old custom of relying on divination or oracles or seeking advice from senior religious persons or using prayer beads or even wearing traditional Tibetan garments in offices. Restrictions were placed on hoisting prayer flags, burning incense, circumambulating holy places, going on pilgrimages. China's atheist campaign in Tibet is attempting to destroy the very religious feelings of the Tibetans who have been referred to as one of the most religious peoples on this planet.

6. School Officials Overtly Discriminate Against Tibetan Children

In "mixed schools" that contain both Tibetan and Chinese children, teachers and school officials often treat Tibetan children differently than Chinese children. First, at some mixed schools, the Chinese and Tibetan students were segregated and the Chinese received higher quality classrooms.⁵⁸ For example, one Tibetan child reported that the "Tibetan" classroom at her school in Lhasa would flood when it rained while the "Chinese" classroom remained dry.⁵⁹ Another Tibetan student reported that while Tibetan and Chinese students used the same classroom, the Chinese students had their lesson first while the Tibetan students waited outside.⁶⁰ If the Chinese students' lesson ran too long or it rained, the Tibetans did not receive a lesson.⁶¹ Second, at other mixed schools, Chinese students received pens, tables and rugs for free whereas the Tibetan children had to purchase them.⁶² Finally, Tibetan children were forced to perform

labor and other tasks from which the Chinese children were exempt, such as cleaning toilets, sweeping, cooking for the teacher or being sent on “work errands.”⁶³

Tibetan children experience racial discrimination when they seek access to education and while they are actually in school. Ironically, since Tibetan parents are disproportionately required to supplement the money their children’s schools and teachers receive from the Chinese government, the poorest sector of the population bears the heaviest financial burden when trying to send their children to school. Further, Tibetans do not have the opportunity to learn about their own culture, language, or history. As a result, Tibetan children find themselves at a severe disadvantage in the academic environment and their performance suffers accordingly. All of these factors combine to paint a bleak picture for Tibetans when seeking employment, as discussed in the next section.

D. Tibetans Suffer Discrimination in Employment

Article 5(e)(i) of the CERD states that everyone, without discrimination, should enjoy the right to “work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work and favourable remuneration.” In 1996, the Committee responded to specific information about employment in Tibet and expressed concern about underrepresentation of minority nationalities and disparity in working conditions between minority nationalities and Chinese in some areas of business.⁶⁴ The Committee stated that such conditions could indicate “structural obstacles to [Tibetan workers’] enjoyment of economic prosperity.”⁶⁵

Although China adopted an official policy against racial discrimination in employment by passing the 1994 Labour Act of The People’s Republic of China, which states that “labourers shall not be discriminated against in employment, regardless of their ethnic community, race, sex or religious belief,” it did not otherwise address the Committee’s concerns in its current Periodic Report. Studies undertaken by independent organizations demonstrate that China has failed to fulfill its obligations under international and domestic law to alleviate the problem of racial discrimination against Tibetans in employment.

Racial discrimination against Tibetan workers is directly related to the Chinese government’s encouragement of Chinese population transfer into Tibet. China has frequently expressed its policy of population transfer into Tibet, citing the necessity of developing and opening up the “backwards” territory.⁶⁶ In furtherance of this policy, the Chinese government either directly imports labor from Chinese provinces⁶⁷ or it creates incentives that appeal to potential Chinese settlers, such as higher salaries, selective tax exemption, improved pension opportunities, and favorable investment.⁶⁸ These incentives are not provided to Tibetans.⁶⁹ By encouraging Chinese population transfer into Tibet and guaranteeing Chinese workers high pay and positions of authority, China has contributed to the marginalization of the Tibetan people in the employment sector. Chinese settlers now control major areas of business and erect obstacles to Tibetans who wish to enter those areas to either gain employment or open up businesses of their own.

Racial discrimination against Tibetans in employment is visible at several different levels. First, Tibetan unemployment rates are on the rise. As of January 2000, at least 40 percent of Tibetans in the Barkhor area of Lhasa were unemployed.⁷⁰ Second, the difficulty of securing an employment is exacerbated by the increasing number of businesses owned by Chinese settlers. As of January 6, 1998, there were 1,433 Chinese shops compared with only 159 Tibetan shops in Chamdo.⁷¹ In Powo Tramo, Nyingtri County, there were 315 Chinese shops and only nine Tibetan shops.⁷² Similar inequalities have been found all over Tibet, not just in Lhasa:

[r]arely was a Tibetan majority seen in local commerce in a county or prefectural seat. No Tibetan majority was ever confirmed by careful survey. Even in locations as climatically inhospitable as Lithang or remote as Yushu, Chinese or Hui shop owners make up a large if not dominant part of the commercial scene. In genuinely Tibetan towns Tibetan-operated businesses generally accounted for between one quarter and one third of private businesses seen, with a few cases nearer one half.⁷³

The Tibetan Centre for Human Rights and Democracy addressed employment discrimination in Tibet, particularly access to employment, in its 1997 Annual Report, China in Tibet: Striking Hard Against Human Rights:

There are numerous reports of Chinese settlers in Tibet receiving preferential treatment with regard to employment opportunities, advancement and work benefits. An appeal letter dated December 1996 sent from Lhasa managed to reach India in early 1997. The author writes: "Jobs at all levels are given to new Chinese settlers. All road construction, engineering work and development project are run by the Chinese which leaves the Tibetans jobless. The Lhasa Development Bureau is the main Chinese authority in Lhasa responsible for the many Chinese enterprises in Tibet. Tibetan workers have had their jobs taken away and their very livelihood threatened as a result of policies favoring Chinese employees. Older workers have had their benefits stopped while younger workers fail to receive their monthly salaries on time."⁷⁴

This discrepancy in business ownership exists primarily because it is easier for Chinese immigrants to acquire the requisite business permits and bank loans to open and operate a business.⁷⁵ A clear example of how Chinese authorities favor Chinese settlers in particular sectors of the economy is a recent government policy regarding tour guides in Tibet. The Chinese government laid down a number of stringent requirements that all tour guides in Tibet must meet, and at the same time authorities recruited more than a hundred Chinese immigrants to become tour guides in Tibet.⁷⁶ First, the authorities now require tour guides in the TAR to have a middle school certificate.⁷⁷ As the previous section of this Report demonstrated, it is significantly more difficult for Tibetans than for Chinese to gain a primary and middle school education. This difficulty is increased for those Tibetans specially trained to be tour guides, since many of them learned English and Tibetan culture while exiled in India instead of pursuing an education in Tibet.⁷⁸ Second, tour guides in Tibet are also required to pass a political examination, which requires Tibetans to pledge their allegiance to the Chinese government.⁷⁹

Finally, not only has China erected barriers to Tibetans who wish to enter the tour guide field, it also refused to renew permits of more than 60 Tibetan tour guides because they had visited India without permission.⁸⁰

Continued discrimination based on language also presents significant barriers to employment for Tibetans. As noted above, schools generally do not teach the Tibetan language. Moreover, most business owners and managers, and government cadres with authority, are Chinese and refuse to learn to speak and read Tibetan. Chinese language skills, therefore, remain a necessary precondition to participating in the economy. Many Tibetans describe how they have been unable to get jobs, even unskilled construction jobs, because they cannot speak Chinese.⁸¹

The Chinese government has also failed to provide many Tibetans with favorable conditions of work, equal pay for equal work, and favorable remuneration, as required by Article 5(e)(i) of the CERD. Chinese authorities actually increase rural poverty by placing high taxes on many products⁸² and then, after assessing the taxes, forcing Tibetan farmers to sell their harvest directly to government agencies far below the market price. The government then sells the harvest at an inflated price.⁸³ Chinese economic exploitation of the rural Tibet is also demonstrated by the fact that it exports Tibetan produce and meat for sale in other regions in China.⁸⁴

This economic exploitation is clearly exemplified by the Chinese government's economic relationship with nomads. Although the average annual income of nomads arising out of the sale of butter, dried cheese, leather and yak hair equals 700 to 800 yuan, each person is required on average to pay in excess of 1,000 yuan in taxes to the government.⁸⁵ As a result, each person is required to perform additional odd jobs in order to cover their excess tax liability. Further, nomadic households are required to sell a portion of their meat to the government and are paid only about one fifth of the market price.⁸⁶ As a result of its economic policies, the Chinese government forces the nomadic peoples of Tibet to live in a severely impoverished state while simultaneously deriving significant economic benefit from their work.

Strong evidence demonstrates that China has failed to fulfill its obligations under Article 5(e)(i) of the CERD. Tibetans find it increasingly more difficult to maintain their current employment, find new employment and start new businesses. Also, taxes imposed on Tibetan workers by the Chinese government and the compulsory sale of goods to Chinese authorities make economic life ever more oppressing for Tibetan farmers and nomads, who must struggle to make enough money to cover just their tax liability. Accordingly, Tibetans continue to suffer economically as a result of racial discrimination.

E. Tibetans Suffer Discrimination in Health Care

Article 5(e)(iv) of the CERD guarantees the right of everyone, without discrimination based on race, color, national or ethnic origin, to enjoy “the right to public health, medical care, social security and social services.” Studies indicate, however, that, in contrast to their Chinese counterparts, the Tibetan people find it increasingly more difficult to receive adequate medical care.

In 2000, the Chinese government asserted that all citizens in China enjoy “free medical services and a labour protection medical care system at public expense.”⁸⁷ The truth is, however, that both Chinese and Tibetans are charged for all types of medical services, and the Tibetans are often charged discriminatorily high prices for certain types of medical assistance.⁸⁸ Exiled Tibetans also report that hospitals require Tibetans to pay exorbitantly high security deposits before entry to the hospital is allowed.⁸⁹ Hospitals generally do not require such deposits from Chinese patients or Tibetans who work for the Chinese government.⁹⁰ The amounts of these deposits are often so high as to prevent Tibetan people from receiving medical assistance at all, even in the direst of situations. There are numerous reports by Tibetans that hospitals ask for between 1,500 and 5,000 yuan as a deposit before a doctor will see the patient.⁹¹ Even though these deposits are refundable, most Tibetans do not have enough money to gain initial access to the hospitals since the 1998 average *net income in the case of farmers and herders in Tibet was only 1,158 yuan.⁹²

In addition to prohibitively expensive medical assistance, Tibetans are faced with extremely high costs for necessary medications. Also, where Tibetans are forced to pay full price for expensive medications, Chinese and those connected to the Chinese government receive discounts on the same medication or pay nothing at all.⁹³

Finally, most Tibetans face extreme difficulty in arriving at an adequate medical facility. Most hospitals and health care centers are located in urban areas, far away from where 80 percent of Tibetans live. Rokpa International, a humanitarian aid organization that helps fund doctors’ salaries and purchase expensive medicines for rural Tibetan medical clinics, states that “[i] the nomadic and farming regions of north eastern Tibet, many families face acute medical and health problems. Health facilities are unlikely to exist in their immediate vicinity, and it may take a day’s travel to reach the nearest town clinic. The cost of treatment and medicines in the towns is too high for most of the rural people, and often inappropriate to their needs.”⁹⁴ Tibetan people who live in rural areas must walk up to 40 kilometers, in some cases, to reach the nearest medical facility, and the person in need of assistance is often dead by the time they have arrived.⁹⁵

All of these obstacles to medical care that Tibetans face have real effects on their population. Statistics demonstrate that the infant mortality is higher in Tibet than in any other region in China, and it is increasing rapidly.⁹⁶ Further, a 1998 PRC Ministry of Health report shows that Tibetan women who are pregnant have a mortality rate six times greater than the rate in the PRC as a whole. Whereas 63 out of every 100,000 pregnant Chinese women die, 387 out of every 100,000 similarly situated Tibetan women die.⁹⁷

In conclusion, high prices for medical care combined with low incomes prevent Tibetans from receiving the medical assistance to which they are entitled under Article 5(e)(iv) of the CERD. Extra costs for travel and services place significant burdens on an already economically strained population, and Tibetans’ ability to obtain quality healthcare often depends on their social and economic status, the cost of treatment and whether they are located in a rural or urban area. Since many Tibetans do not have the necessary financial resources to obtain adequate medical care, they die where similarly situated Chinese settlers are able to survive.

F. Tibetans Suffer Discrimination in Public Representation

Article 5(c) of the CERD provides that all people, without racial or ethnic discrimination, shall have “[p]olitical rights, in particular the right to participate in elections – to vote and to stand for election – on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service.” These rights are also guaranteed by the Chinese Constitution and the Law on the Regional National Autonomy.⁹⁸

However, these requirements have little effect on the way in which political power is distributed in Tibet. Each level of government is closely connected to and monitored by the central Communist Party of China, which continues to enforce discriminatory policies against the Tibetan people.⁹⁹ Although Tibetans occupy a number of public offices in Tibet and even in the central Chinese government, positions with real political power, including those in Tibet, are generally held by Chinese.¹⁰⁰ The Chinese draw a strong distinction between their government and the Chinese Communist Party (“CCP”), and the CCP wields nearly total control over the government.¹⁰¹ Even though Tibetans occupy positions in the government, it is rare that they hold an office in the CCP.¹⁰² Also, where Tibetans hold government jobs, they are “counter balanced” by a Chinese official who retains the real political power.¹⁰³ The fact that no Tibetan has held the post of the Secretary of the Communist Party in the TAR since its establishment in 1965 is another indication of discrimination against the Tibetan people.

Tibetans who work in the government suffer from racial discrimination. In 1998, the five-year terms of the Sixth TAR People’s Government ended, which resulted in a number of significant personnel changes in the leadership of the TAR.¹⁰⁴ Many of these changes demonstrate how particular Tibetans were targeted for expulsion from the government because of their perceived “splittest” views. In 1998, there were renewed efforts to consolidate the anti-separatism movement at all governmental levels in the region fueled by a campaign to “purify the ranks of party members and cadres.”¹⁰⁵

In April of 1998, two Tibetan cadres were expelled from the Chinese People’s Political Consultative Conference (“CPPCC”) Tibet Regional Committee because their activities were “harmful to Tibet’s stability and in serious violation of the CPPCC constitution.”¹⁰⁶ The authorities never defined the “harmful activities” that led to the expulsion.¹⁰⁷ It is suspected, however, that the expulsions resulted from the authorities’ renewed hardline stance on the political attitudes of cadres, “particularly if they are perceived to be loyal to the Dalai Lama.”¹⁰⁸ On January 10 and 11, 1998, chairman of the TAR People’s Congress Ragdi said that sympathizers and supporters of the Dalai Lama’s “secessionist statements and activities in their minds” has led to problems among the cadres.¹⁰⁹ Later in 1998, three more members of the CPPCC allegedly forced to retire for the same reason.¹¹⁰ Further in 1998, the government reduced the staff in political offices and enterprises in Lhasa.¹¹¹ These reductions were aimed “at Tibetans in business, industrial, judicial and administrative sectors, and resulted in approximately 3,600 Tibetans losing their jobs.”¹¹²

Finally, while elections do take place in Tibet and Tibetans have the legal right to vote in the elections, Tibetans unanimously agree that the elections are strongly controlled by the Chinese government.¹¹³ The Alliance for Research in Tibet recently found:

While elections do occur, candidates are carefully vetted if not actually selected by Party organs. There is no opposition to Party principle or policy. Refusal to tolerate opposition candidates or parties is based on the premise that they are anti-China, therefore legally and logically unqualified to represent Chinese people. The ‘autonomous’ Tibetan lives at the bottom of a long ladder of Chinese government and Party institutions.¹¹⁴

In conclusion, the Chinese government wields overwhelming control over the political machinery in Tibet. As a result, Tibetans are forced out of the government of their own territory, unless they demonstrate the correct political ideals. Those ideals are created by the Chinese, for the benefit of Chinese control and are stringently enforced over regional government officials, regardless of their rank or stature.

G. Authorities Are Enforcing Increased Restrictions on Tibetan Births

In 1996, this Committee expressed satisfaction at “preferential treatment” afforded minority people with respect to “family planning.”¹¹⁵ It also viewed as positive the “State’s policy of largely exempting members of minority nationalities from the birth control regulations.”¹¹⁶ In fact, authorities in Tibet have enforced restrictions on the timing and number of births through draconian and sometimes violent means, and such enforcement appears to be increasing, not decreasing.

We note first that, under international law, women have the right to control the number and spacing of children.¹¹⁷ In Tibet, restrictions on birth vary by region and employment, but generally government workers, and others in urban areas, are allowed two children. Farmers and nomads may be allowed three, sometimes more. In a few places, a one-child limit is imposed.¹¹⁸ Officials may also enforce rules regarding the minimum age for marriage (sometimes 25) and regarding spacing between births (usually three years).¹¹⁹

Enforcement of these rules can be harsh. Forced or coerced abortions, including late-term abortions, have been reported. Even more common are forced or coerced sterilizations, some of which as recently as 1997 have been carried out in village-wide campaigns.¹²⁰ Economic sanctions against women who break the rules, including fines, loss of employment and/or loss of property have all been reported.¹²¹

Authorities, moreover, have stepped up enforcement of family planning regulations since 1998, targeting the 85% of Tibetans who are farmers and nomads.¹²² Limits previously imposed of three or four children are now being reduced to two.¹²³ This is occurring despite the fact that population growth (aside from the influx of Chinese settlers) in Tibet is extremely low and well below the target population growth rates set for the region.¹²⁴

A shift towards tighter implementation of birth control policies in Tibet (an area to which China also refers to as western regions) is likely according to many observers. A China Daily article of 14 December, 2000 based on an earlier article in the Beijing-based “Out look Weekly”, said: “Population control should top the agenda of western governments when they implement the development strategy to ensure sustainable economic growth...”. The article continues by stating that currently “An overall plan for local socio-economic development, including population control, is absent.” The article blamed environmental deterioration in the western regions on “rapid population growth” and said: “In order to support the increasing population, forests and pastures have been turned into farmland, which has upset the region’s ecological balance.” It concluded: “The high birth rate in western regions makes population control a hard nut to crack, but something must done.”

H. Authorities Continue To Torture Tibetan Men, Women and Children

In its Concluding Observations, this Committee expressed concern “at reported cases of violation in the autonomous regions of Eastern Turkestan (Ch: Xinjiang) and Tibet of the right to security of person and protection against violence or bodily harm, as contained in article 5 (b) of the Convention.” Unfortunately, Tibetans arrested for “political” offenses continue to report torture on a scale so systematic as to include virtually every political prisoner, man, woman or child.

Tibet Information Network reports that torture and abuse in prison of Tibetan political prisoners continues, with the incidence of death from abuse rising in recent years.¹²⁵ Torture and abuse of women prisoners, especially nuns, has also been reported.¹²⁶ More surprising, perhaps, is the testimony from Tibetan refugee children reporting detention and torture for “political” offenses such as trying to leave Tibet or writing “Free Tibet” in a school.¹²⁷

In its concluding observations on China, the Committee Against Torture on 9 May, 2001, again expressed its concern “about the continuing allegations of serious incidents of torture, especially involving Tibetans and other national minorities.” The Committee also urged China to “ensure the prompt, thorough, effective and impartial investigation of all allegations of torture.”

IV. CONCLUSION AND RECOMMENDATIONS

On 10 March, 2001, His Holiness the Dalai Lama said: “As a firm believer in non-violence and spirit of reconciliation and co-operation, I have from the beginning consistently sought to prevent bloodshed and to arrive at a peaceful solution. I also have admiration for China and her people with their long history and rich culture. I therefore believe that with courage, vision and wisdom it is possible to establish a relationship between Tibet and China which is of mutual benefit and based on respect and friendship. Consequently, my position regarding the Tibetan freedom struggle has been to seek genuine autonomy for the Tibetan people. In spite of increased accusations against me and the worsening situation in Tibet, I remain committed to the

policy of my "Middle-Way Approach". I truly believe that a resolution of the Tibetan issue along the lines of my approach will bring satisfaction to the Tibetan people and greatly contribute to stability and unity in the People's Republic of China. Over the past more than 20 years our contacts with the Chinese government have taken many twists and turns, sometimes they have been more encouraging and at other times more disappointing.

"Last July, my elder brother, Gyalo Thondup, once more made a personal visit to Beijing and brought back a message from the United Front Department reiterating the well-known position of the leadership in Beijing on relations with me. In September of the same year we communicated through the Chinese Embassy in New Delhi our wish to send a delegation to Beijing to deliver a detailed memorandum outlining my thinking on the issue of Tibet and to explain and discuss the points raised in the memorandum. I sincerely hoped that this development would lead to an opening for a realistic approach to the Tibetan issue. I reasoned with the Chinese leadership that through face-to-face meetings we would succeed in clarifying misunderstandings and overcoming distrust. I expressed the strong belief that once this is achieved then a mutually acceptable solution of the problem can be found without much difficulty. So far the Chinese government is refusing to accept my delegation in spite of the fact that between 1979 and 1985 the Chinese government had accepted 6 Tibetan delegations from exile. Yet, now they are stalling the acceptance of a Tibetan delegation. This is a clear indication of a hardening attitude of Beijing and a lack of political will to resolve the Tibetan problem."

Racial discrimination continues to be a constant reality in the lives of the Tibetan people today. This Report has demonstrated that Tibetans suffer from widespread, systematic racial discrimination in the classroom, the workplace, medical care centers and at the ballot box. Onerous reproductive rights policies and enforcement practices and the systematic torture of Tibetan political prisoners, including children, remain severe symptoms of ongoing racial discrimination. This racial discrimination clearly has had an adverse impact on Tibetans' daily lives and continues to threaten their future cultural existence. Both international and domestic law require China to take affirmative action in preventing the current racial discrimination that exists against Tibetans. Unfortunately, China's actions thus far have been insufficient to alleviate this significant problem.

This Report also urges the Committee to consider the following recommendations in light of the special situation in which Tibetans find themselves today. Tibet is a de facto colony of China and the Tibetan people are continually denied their right to self-determination by the Chinese authorities. These factors place the problem of racial discrimination in Tibet in a special category of its own that warrants extra scrutiny by this Committee of China's compliance with the CERD. We respectfully submit the following recommendations for the Committee's consideration in order to end racial discrimination in Tibet:

1. With respect to economic development programs, including population transfer policies and practices accompanying those programs, we recommend that the Committee direct the Chinese Government as follows:

(a) Rescind, economic development programs and policies concerning Tibet until a review of such programs can take place with the full participation of the Tibetan people;

(b) Rescind existing incentives for Chinese population transfer into Tibet, and actively discourage the further resettlement of Chinese into Tibet;

(c) Create and implement economic development programs in Tibet, with the participation and support of the Tibetan people, that are consistent with the Tibetan people's distinct history, culture, traditional economic practices and environmental concerns.

2. With respect to primary, secondary, vocational, and higher educational institutions in Tibet, we recommend that the Committee include as written directives to the Chinese government the following:

(a) China should institute a policy to build new schools and improve existing facilities in rural parts of Tibet so that all Tibetan children have access to education. China should describe the practical steps it will take to in order to accomplish this goal.

(b) China should ensure equitable distribution of educational resources amongst students at all levels. China should describe how it plans to improve Tibetan resources to bring them up to a level comparable to resources enjoyed by the Chinese.

(c) China should abolish all fees for primary schools.

(d) China should ensure that Tibetan children receive equal treatment in all levels of schools, in terms of labor, purchase of supplies and punishment. China should undertake to monitor all schools in order to insure that Tibetan children are not being treated differently than Chinese children in school.

(e) China should ensure fair requirements for entrance into higher level education institutions. China should describe the actions it has taken to prevent reliance on *guangxi* and bribes in the acceptance of students at educational institutions.

(f) China should permit and encourage the education of Tibetan students in the Tibetan language, at levels of education.

(g) China should teach Chinese to Tibetan students as a foreign language. China should also describe how language lessons and the rest of the curricula promote the advancement of Tibetans in employment.

(h) China should allow the Tibetan people to control the curriculum regarding Tibetan culture and history at all educational levels. China should describe how Tibetan children learn about Tibetan culture and history, stressing that books should be in Tibetan and that Tibetan history and culture are not inferior to Chinese culture.

(i) China should allow freedom of expression in education. China should describe how it refrains from censoring teachers' expression, particularly if they wish to teach about Tibetan traditions or religion, and how it promotes freedom of expression in children.

(j) China should withdraw its “atheist campaign” in Tibet and immediately call off its “patriotic re-education campaign” being conducted in monasteries and nunneries all over Tibet.

3. With respect to employment in Tibet, we recommend that the Committee include as written directives to the Chinese government the following:

(a) China should ensure that Chinese and Tibetan workers receive equal pay and benefits for similar work.

(b) China should describe its unemployment policy and how it intends to combat the problem of high unemployment within the Tibetan population.

(c) China should ensure that special barriers – including but not limited to Chinese language skills -- are not erected to prevent Tibetans access to employment or business.

(d) China should ensure that Chinese and Tibetan people will be treated equally when applying for business permits or licenses.

(e) China should implement fair taxation policies, and rescind mandatory sale policies, for farmers and herders.

4. With respect to health care in Tibet, we recommend that the Committee include as written directives to the Chinese government the following:

(a) China should provide equal access to health care. China should describe particularly the actions it has taken to prevent the assessment to Tibetans of special fees for medical services or medication and hospital security deposits.

(b) China should describe how it intends to provide equal quality medical care to Tibetans living in rural areas, including the number and location of new medical facilities and the technology, doctors and medications they will possess.

5. With respect to public representation in by Tibetans, we recommend that the Committee include as written directives to the Chinese government the following:

(a) China should ensure that Tibetans will have equal access to the polls during elections, and that the results of elections will stand as final, without the government tampering with the results.

(b) China should facilitate the participation of Tibetans in local, regional, and national politics. China should describe its policies toward Tibetan political figures and public employees with regard to their religion and their ability to freely express their views.

(c) China should demonstrate to the Committee that it does not remove Tibetan political

officials or public employees because of their views on Tibet's status as a territory or their religion.

6. With respect to family planning policies and practices in Tibet, we recommend that the Committee include as written directives to the Chinese government the following:

(a) China should rescind all restrictions on births of Tibetans and take steps to ensure that local officials honor the Tibetan people's right to control the number and spacing of children.

(b) China should provide data on birth control practices against Tibetan women in its tenth periodic report.

7. With respect to torture of Tibetan political prisoners, we recommend that the Committee include as written directives to the Chinese government the following:

(a) China should affirmatively ban all forms of torture under any circumstances.

(c) China should aggressively prosecute all officials and prison employees who suspected of having committed torture.

(d) China should end the arbitrary detention of Tibetan people for the peaceful expression of political, religious and cultural opinions and ideas.

(e) China should receive the Special Rapporteur on Torture before the 58th UN Commission on Human Rights session in 2002.

8. On the Future of Tibet, the Committee should:

(a) Urge the Chinese authorities to open dialogue leading to negotiations with the representatives of the Tibetan Government in Exile that can lead to a mutually agreeable solution to the Tibetan Issue.

(b) Urge the Chinese authorities to receive a Tibetan Delegation in Beijing as proposed by His Holiness the Dalai Lama.

(c) ENDNOTES

¹ Convention on the Elimination of All Forms of Racial Discrimination, Dec. 21, 1965, entered into force, Jan. 4, 1969, G.A.Res.2106 (Annex), U.N.GAOR, 20th Sess. [hereinafter “CERD”].

² Concluding Observations of the Committee on the Elimination of Racial Discrimination, Sept. 27, 1996, para. 21-36, U.N.Doc.CERD/C/304/Add.15 [hereinafter “1996 Concluding Observations”].

³ See Constitution of the People’s Republic of China, promulgated on December 4, 1982, as amended in 1988 and 1993, Article 4.

⁴ International Commission of Jurists, Tibet and the Chinese People’s Republic, at pp. 5-6 (1960); International Commission of Jurists, Tibet and the Chinese People’s Republic. A Report to the International Commission of Jurists by its Legal Inquiry Committee on Tibet (Geneva 1960); Tibet: The Position in International Law, Report of the Conference of International Lawyers on Issues relating to Self-Determination and Independence for Tibet, London 6-10 January, 1993 (McCorquodale, et al., eds. 1994) (“London Statement”), at p. 147; International Committee of Lawyers for Tibet, Tibet’s Sovereignty and the Tibetan People’s Right to Self Determination (1998).

⁵ Under fundamental principles of humanitarian law, humanitarian law is applicable as long as an occupying power still governs, even if actual armed conflict is not still taking place. See, e.g. Article 2 Common to the Geneva Conventions I-IV of 1949.

⁶ See, e.g. International Covenant on Civil and Political Rights, Art. 1, G.A.res. 2200 A (XXI) of 16 December 1966, entered into force 3 January 1976.

⁷ London Statement, *supra* note 4, at pp. 145-46.

⁸ See, e.g. G.A. Res. (XVI) of 20 December 1961: “The General Assembly, . . . solemnly renews its call for the cessations of practices which deprive the Tibetan people of their fundamental rights and freedoms, including their right to self-determination.” We note that the most recent General Assembly resolution (Resolution 2079 (XX) of 1965) “affirms” resolution 1732.

⁹ See, e.g. H Gros Espiell, Report on the Right to Self-Determination, U.N. Doc.E/CN.4/Sub.2/405/rev.1 (1980) at pp. 11-13. In particular, Rapporteur Gros Espiell states: “[N]o one can challenge the fact that in light of contemporary international realities, the principle of self-determination necessarily possesses the character of jus cogens.” *Id.* at 12. International Court of Justice Judge Ammoun states: “Self-determination is a norm of jus cogens derogation from which is not permitted under any circumstances.” Legal Consequences for States of the Continued Presence of South Africa in Namibia (S.W. Africa notwithstanding Security Council Resolution 276, 1971 I.C.J. 16, 89-90 (Ammoun, J., separate opinion)).

¹⁰ CERD General Recommendation XIV, A/48/18 (March 19, 1993).

¹¹ 1996 Concluding Observations, *supra* note 2, para. 13.

¹² Ninth Periodic Report of the People’s Republic of China on Implementation of the Convention on the Elimination of All Forms of Racial Discrimination, Oct. 3, 2000, U.N.Doc.CERD/C/357/Add.4, para.19 [hereinafter “Ninth Periodic Report”].

¹³ Ninth Periodic Report, *supra* note 12, para. 19(e).

¹⁴ CERD, art. 5(e)(v) (emphasis added).

¹⁵ 1996 Concluding Observations, *supra* note 2, para. 30.

¹⁶ Id.

¹⁷ Ninth Periodic Report, *supra* note 12, para. 111.

¹⁸ Id., para. 22.

¹⁹ Id.

²⁰ Id.

²¹ Id., para. 27.

²² Id., para. 23.

²³ International Committee of Lawyers for Tibet, A Generation in Peril: The Lives of Tibetan Children Under Chinese Rule (March 2000), p. 47, citing Tibetan Centre for Human Rights and Democracy, The Next Generation: The State of Education in Tibet Today (1997), p. 9.

²⁴ Definitive New Book on Education in Tibet, TIN News Update, (8 Jan. 1999).

²⁵ Id. See also Definitive New Book on Education in Tibet, TIN News Update, (8 Jan. 1999).

²⁶ Id. at p. 62.

²⁷ Id. citing Yang Wanli, Xizang Kecheng Jiaocai Yanjiu De Teshuxing Jiqi Duice, (The Countermeasure and Particularity of Research on Teaching Materials), Xizang Yanjiu (Tibet Studies, Vol. 58, No. 1, 1996).

²⁸ Tibetan Centre for Human Rights and Democracy, Racial Discrimination in Tibet (Sept. 2000) (hereinafter “Racial Discrimination in Tibet”), p. 68-69.

²⁹ International Commission of Jurists, Tibet – Human Rights and the Rule of Law, (December 1997), pp. 211-212.

³⁰ Racial Discrimination in Tibet, *supra* note 28, p. 68, citing Township Xialoi and Zhang Qing, “*A Report on the Pathetic State of Education in Qamdo*,” original in Chinese, in Qamdo Newspaper, the official newspaper of the Qamdo Prefecture of “TAR,” (15 July 1993).

³¹ Id. at p. 61.

³² Id. at p. 62.

³³ Id. at p. 61.

³⁴ Id. at p. 62.

³⁵ See Article 28(1) of the Convention on the Rights of the Child and Article 10 of the 1986 Chinese ‘Law on Compulsory Education.’

³⁶ A Generation in Peril, *supra* note 23, p. 49.

³⁷ Id., p. 49, citing the 1999 China Statistical Yearbook, *Per Capita Income of Rural Households by Region*, available at <http://www.stats.gov.cn/yearbook/1999/j16e.htm>.

³⁸ Racial Discrimination in Tibet, *supra* note 28, p. 66.

³⁹ See A Generation in Peril, *supra* note 23, p. 48.

⁴⁰ Id. at 48.

⁴¹ Id.

⁴² Id.

⁴³ See 1984 Law of the People’s Republic of China on Regional Autonomy of Nationalities, arts. 10, 37 (1984).

⁴⁴ A Generation in Peril, *supra* note 23, pp. 61-62.

⁴⁵ Id. at p. 62.

⁴⁶ See *Policy Shift in Teaching in Tibet*, TIN New Update, (6 may 1997, revised April 1998) (“[T]he 1997 proposal to increase Chinese in primary education rather than to extend Tibetan medium teaching into secondary education in effect signifies a reversal of the plans laid out in the 1987 “Provisions on the Study, Use and Development of the Tibetan Language.””)

⁴⁷ 1996 Concluding Observations, *supra* note 2, para. 17.

⁴⁸ Information Office of the State Council of the People’s Republic of China, National Minorities Policy and Its Practice in China, (Beijing, September 1999).

⁴⁹ Racial Discrimination in Tibet, *supra* note 28, p. 72.

⁵⁰ Id.

⁵¹ A Generation in Peril, *supra* note 23, p. 66-68.

⁵² A Generation in Peril, *supra* note 23, p. 68.

⁵³ International Commission of Jurists, Tibet – Human Rights and the Rule of Law, (December 1997), pp.219-20.

⁵⁴ See Cultural Policy: History Book Banned, Tibetan Culture Declared Non-Buddhist, TIN News Update (15 Aug. 1997).

⁵⁵ Racial Discrimination in Tibet, *supra* note 28, p. 73, citing Fears for Elderly Teacher after Release from Custody: Student Detainee Lobsang Tenzin ‘injured’ after Torture, TIN News Update (14 Oct. 1999).

⁵⁶ See Anti-religion Campaign Targets Tibetan Schoolchildren, TIN News Update, (20 Feb. 2001).

⁵⁷ Id. (referring to *srung mdud*).

⁵⁸ A Generation in Peril, *supra* note 23, p. 69.

⁵⁹ Id.

⁶⁰ Id.

⁶¹ Id.

⁶² Id. at pp. 69-70.

⁶³ Id. at p. 70.

⁶⁴ 1996 Concluding Observations, *supra* note 2, para. 16.

⁶⁵ Id.

⁶⁶ Racial Discrimination in Tibet, *supra* note 28, p. 8.

⁶⁷ International Campaign for Tibet, Racism and Racial Discrimination in Tibet, Chapter 6, p. 6 (Draft Report, June 2001).

⁶⁸ Racial Discrimination in Tibet, *supra* note 28, p. 8. p. 10.

⁷⁰ Id. at p. 18.

⁷¹ Id. at p. 19

⁷² Id.

⁷³ Alliance for Research in Tibet, Tibet Outside the “TAR”: Control, Exploitation and Assimilation. Development with Chinese Characteristics, (CD-ROM, 1997), p. 107.

⁷⁴ The full contents of this letter are found in Tibetan Centre for Human Rights and Democracy, Human Rights Update, 30 Jan. 1997.

⁷⁵ Racial Discrimination in Tibet, *supra* note 28, p. 20.

⁷⁶ *Tibetan Tour Guides Under New Political Pressure*, TIN New Update, (19 May 2000).

⁷⁷ Id.

⁷⁸ Id.

⁷⁹ Id. The political examination requires tour guides to “endorse China’s position over Taiwan, accept that all of Tibet’s resources belong to the Chinese state, and abide by a ‘voluntary code of conduct’ which involves ‘defending the interests of the country and the honour of the nationality.’”

⁸⁰ Id.

⁸¹ See, e.g., International Committee of Lawyers for Tibet, Violence and Discrimination Against Tibet Women, p. 20 (1999).

⁸² See Document V: Tax Burden for Poor Farmers / Herders, in TIN News Review No. 28: Reports from Tibet, 1999, p. 95-96.

⁸³ Racial Discrimination in Tibet, *supra* note 28, p. 22, citing Alliance for Research in Tibet, Tibet Outside the “TAR”: Control, Exploitation and Assimilation. Development with Chinese Characteristics, (CD-ROM, 1997), p.100.

⁸⁴ Racial Discrimination in Tibet, *supra* note 28, p. 24.

⁸⁵ Document 1, *Development: Tibetan Perspectives*, in TIN News Review No. 28: Reports from Tibet, 1999, p. 91.

⁸⁶ Id.

⁸⁷ Information Office of the State Council of the People’s Republic of China, China’s White Paper on Human Rights, (Beijing, Feb. 2000).

⁸⁸ Racial Discrimination in Tibet, *supra* note 28, pp. 47-48.

⁸⁹ A Generation in Peril, *supra* note 23, p. 81.

⁹⁰ Id., citing Lawyers for Tibet interview with Health Expert No. 4, former Chinese medical aide (Nov. 4, 1999).

⁹¹ Id. at pp. 49-50.

⁹² Id. at p. 50, quoting Wang Zhaoguo in *China's United Front Leader at Tibet's 'Democratic Reform' Anniversary*, Xinhua News Agency, July 3, 1999.

⁹³ A Generation in Peril, *supra* note 23, p. 86.

⁹⁴ Rokpa International, Providing Essential Health Care in Tibet, available at <http://www.rokpa.org/health.htm> (last visited June 10, 2001).

⁹⁵ A Generation in Peril, *supra* note 23, p. 79.

⁹⁶ Id. at pp. 88, 90.

⁹⁷ See Racism, *supra* note 67, citing *Hemorrhaging Biggest Killer of Chinese Women in Childbirth*, Xinhua News Agency, Beijing, May 26, 1998.

⁹⁸ “Organs of self-government are established for the exercise of autonomy and for the people of ethnic minorities to become masters of their own areas and manage the internal affairs of their own regions.” Information Office of the State Council of the People’s Republic of China, National Minorities Policy and Its Practice in China, (Beijing, Sept. 1999).

⁹⁹ Racial Discrimination in Tibet, *supra* note 28, p. 108.

¹⁰⁰ Racism, *supra* note 67, Chap. 6, p.7.

¹⁰¹ Id.

¹⁰² Id.

¹⁰³ Id.

¹⁰⁴ See Politics and Leaders, TIN News Review No. 27: Reports from Tibet, 1998, p. 37.

¹⁰⁵ Id.

¹⁰⁶ Id.

¹⁰⁷ Id.

¹⁰⁸ More Party Control, Tighter Security in Rural Tibet, TIN News Update, (20 Aug. 1998).

¹⁰⁹ Id.

¹¹⁰ Id.

¹¹¹ Racial Discrimination in Tibet, *supra* note 28, p. 111.

¹¹² Id., citing Tibetan Centre for Human Rights and Democracy, Human Rights Update (15 Sept. 1998), Vol. 3, No. 17.

¹¹³ Racial Discrimination in Tibet, *supra* note 28, at p. 115.

¹¹⁴ Id., quoting Tibet Outside the “TAR”: Control, Exploitation and Assimilation. Development with Chinese Characteristics, (CD-ROM, 1997), p.86.

¹¹⁵ Concluding Observations, *supra* note 2, para. 6.

¹¹⁶ Concluding Observations, *supra* note 2, para. 8

¹¹⁷ Convention on the Elimination of Discrimination Against Women, Article 16; and see Committee on the Elimination of Discrimination Against Women, General Recommendation No. 21, para. 21-23 (13th session, 1994).

¹¹⁸ Violence and Discrimination Against Tibetan Women, *supra* note 81 at p. 11.

¹¹⁹ Id.

¹²⁰ Id. at pp. 11-13.

¹²¹ Id.

¹²² Tibet Information Network, “Increased restrictions on birth of children in Tibet,” in News Review: Reports from Tibet, 2000, at p. 101 (2001).

¹²³ Id.

¹²⁴ Id.

¹²⁵ Tibet Information Network, Hostile Elements (1999).

¹²⁶ Violence and Discrimination Against Tibetan Women, *supra* note 81, pp. 7-9.

¹²⁷ A Generation in Peril, *supra* note 23, pp. 33-36.