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VIOLENCE AND DISCRIMINATION AGAINST TIBETAN WOMEN

A Report Submitted By

**Tibet Justice Center
Women's Commission for Refugee Women and Children
Tibetan Centre for Human Rights and Democracy**

To The

**United Nations
Committee on the Elimination of Discrimination Against Women**

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EXECUTIVE SUMMARY

This report evaluates China’s compliance with the Convention on the Elimination of All Forms of Discrimination Against Women relative to Tibetan women. We find that China engages in gross violations of the rights of Tibetan women.

Our report begins with an overview of the history and political status of Tibet, because the human rights violations of Tibetan woman 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 in 1949. As a consequence, humanitarian law continues to apply during the entire period of the illegal occupation of Tibet. 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 Tibetans generally and Tibetan women specifically.

Our substantive review of China’s compliance with the Convention begins with the subject of torture, recognized by the Committee as a form of discrimination under Article 1. Relying not only on the evidence documented by our own organizations but on a wide range of other sources (including United Nations reports and the reports of other human rights groups) we conclude that China engages in systematic and serious torture of Tibetan women detainees. We take note that China does not address torture at all in its Report.

We next present the issue of violations of reproductive rights, noting once again that China fails to address this topic in its Report. Like torture, violations of reproductive rights are considered by the Committee to be discrimination under Convention Article 1. We first observe that “family planning” in the context of limiting the Tibetan population defies the reality of an already sparse population in a vast territory. Under these circumstances, further limiting the size of the Tibetan population and continuing the purposeful population transfer of ethnic (Han) Chinese citizens into Tibet present the possibility that the Tibetan people and culture will be destroyed within the coming century. We then document population control measures actually carried out against Tibetan women: forced or coerced abortion, sterilization and intrusive monitoring of Tibetan women’s reproductive cycles, and eugenic laws and regulations. We note the sexually discriminatory nature of family planning measures, as women bear virtually all of the burden of family planning measures. The birth control measures imposed on Tibetan women constitute acts of genocide, and the evidence of intent to commit genocide is sufficient to warrant an immediate detailed investigation and urgent remedial measures.

Challenging China’s assessment that prostitution is effectively controlled, we next show that prostitution in Tibet is widespread and apparently either promoted or condoned by the Chinese authorities. We express concern that places and buildings of great cultural or religious significance for Tibetans are chosen locales for prostitution.

Our report also documents discrimination in education against Tibetans generally and a lack of programs to promote education of Tibetan girls. We counter China’s assertion that free schools for girls have been established in “minority-inhabited” areas. (Even China concedes in

its Report that 36.6 percent of rural girls are illiterate). We find no evidence of any efforts to promote and encourage education among Tibetan girls. We also present one case of sexual harassment of a female Tibetan student, who reported no apparent remedy available.

Noting again that China fails to address employment of Tibetan women, we report some evidence of discrimination against Tibetan women in employment, including what we discovered to be an inherently gender-discriminatory practice of “virginity” testing as a precondition to employment. Employment is sometimes also conditioned on contracts to remain single. There is also evidence of discrimination against women in hiring and promotion, and one case of sexual harassment, again with no apparent remedy available. This evidence of discrimination specifically against Tibetan women is presented against a background of substantial evidence of discrimination in employment against Tibetans generally. We therefore express concern that Tibetan women are bearing a disproportionate burden of discrimination in employment in Tibet.

Our report then addresses discrimination in health care and we once again point out that China makes no mention of Tibetan women in its Report. We point out compelling evidence that health care for Tibetan women, especially rural women, is dismal. Information regarding AIDS and AIDS prevention (documented by testimony that as many as 50 patients share one needle) is non-existent. The little health care available is alleged to be too costly for most Tibetans. We provide further evidence of the degrading treatment of Tibetan women detainees by the denial of even the most basic of health and sanitary care.

Our report concludes that there is a systematic and widespread pattern of grave human rights violations as a result of discrimination against Tibetan girls and women in Chinese-occupied Tibet. We present two general recommendations: (1) that the Committee devote considerable time to the issue of Tibetan women in the course of its deliberations, including time for our organizations to make oral presentations; and (2) that the Committee specifically address ways to improve the quality of China’s reporting. We then provide a number of written directives that we propose the Committee submit to China, focusing on precise information regarding the areas this report discusses: torture; reproductive rights abuse; prostitution; and discrimination in employment, education and health care. Finally we ask the Committee to urge China to halt all practices that violate the rights of Tibetan women and girls and to undertake a more constructive relationship with Non-Governmental Organizations (NGOS) seeking to monitor and protect the human rights of Tibetan women and girls.

I. INTRODUCTION

The Women's Commission for Refugee Women and Children, the Tibetan Centre for Human Rights and Democracy, and Tibet Justice Center respectfully submit this report on the situation of women in Chinese-occupied Tibet to the Committee on the Elimination of All Forms of Discrimination Against Women (the Committee).

The Women's Commission for Refugee Women and Children (the Women's Commission) is an advocacy organization whose mission is to promote awareness of the needs and skills of refugee and internally displaced women and children, who make up 80 percent of the world's displaced population. The Women's Commission serves as an expert resource, helping governments, United Nations agencies, non-governmental organizations and donors to provide protection, greater participation and more appropriate services for refugee women and their children. The Women's Commission was founded in 1989 under the auspices of the International Rescue Committee.

The Tibetan Centre for Human Rights and Democracy (TCHRD) was founded in January 1996 to monitor the human rights situation in Tibet and to promote democracy in the Tibetan community. In addition to recording testimony of Tibetan exiles, TCHRD organizes seminars and workshops on human rights for the exiled Tibetan community and conducts campaigns for victims of human rights violations in Chinese-occupied Tibet.

Tibet Justice Center advocates self-determination for the Tibetan people through legal action and education. Tibet Justice Center promotes human rights, environmental protection and a peaceful resolution to the situation in Tibet.

The report of the People's Republic of China covers the period 1989 to 1995. Our report will document the events in Tibet from 1989 to the present and is primarily based on documentation compiled over the past several years by TCHRD and by a mission undertaken by Tibet Justice Center and the Women's Commission to Dharamsala, India in August 1998.

During the August mission (the Mission), our investigators interviewed 55 Tibetan refugee women, men and youth about their treatment in Tibet under Chinese governance and about the factors that led them to flee Tibet.¹ (See Annex I). We have also studied other credible reports about the situation of women in Tibet and incorporate their findings where relevant. For the convenience of the Committee, we include a bibliography (Annex II) of material on Tibet that we consider useful to the Committee.

While discrimination against Tibetan women permeates many aspects of daily life in Tibet, this report is limited to evidence of widespread Convention violations in the following areas: (1) violence against women in the forms of torture and violations of reproductive rights; (2) prostitution; and (3) discrimination in education, employment and health care.

We begin with a brief overview of Tibet and then proceed to discuss relevant Convention articles. For each of these articles, we present China's assessment (if any) of its compliance

followed by our own assessment. We conclude with our organizations' joint recommendations to the Committee.

We thank the members of the Committee for encouraging the participation of NGOs in its work, especially in the form of "shadow" reports such as this one.

II. OVERVIEW OF TIBET

We urge the Committee to review the evidence of violations of Tibetan women’s human 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 our Report, also place violations of women’s rights in the context of violations of Tibetans’ human rights generally.

The Chinese occupation of Tibet is illegal under international law because Tibet was a sovereign nation when China invaded. Extensive study by Tibet Justice Center and 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.² This conclusion is also supported by the “London Statement on Tibet,” formulated in 1993 by a large number of preeminent international legal scholars.³

When we refer to Tibet, we mean the territory within the borders of Tibet in 1949: the Tibetan provinces of Kham, Amdo and U-Tsang. The Chinese authorities have divided Tibet into the Tibet 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 and has had a devastating cultural impact on the Tibetan people. We also point out that, because China’s invasion was illegal, all provisions of humanitarian law, including those relating specifically to women, are in force in Chinese-occupied Tibet.⁴ The application of humanitarian law in Tibet underscores our sense of the 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.⁵ The scholars who drafted the London Statement also concluded that the Tibetan people have a legal right to self-determination. The group agreed that the Tibetans are a “people” (common history, racial or ethnic identity, distinct culture and language, definable territory and common economic ties) in terms of the right to self-determination.⁶ That Tibetans have a right to self-determination is the only reasonable conclusion that can be reached from an unbiased, impartial application of international law. Moreover, the General Assembly has not retreated from its recognition of the right to self-determination of the Tibetan people.⁷

China’s occupation of Tibet and its failure to honor the Tibetans’ right to self-determination are the root cause of the human rights violations against Tibetan women that we report on here. We recognize that the principle of self-determination is widely considered a peremptory norm of *jus cogens*.⁸ 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 Tibetan women.

III. CONVENTION ARTICLES 1 & 2: TORTURE

In its General Recommendation no. 19, the Committee concludes that gender-based violence is a form of discrimination within the meaning of Article 1 of the Convention on the Elimination of All Forms of Discrimination Against Women (the Convention). Torture directed at women and other gender-based violence and degrading treatment are manifestations of gender-based violence.⁹ Convention Article 2 establishes the duty of State Parties to the Convention to end all forms of discrimination. In its General Recommendation no. 12, the Committee specifically asks all governments to provide information on legislative and other measures to protect women against violence, including statistical information on gender-based violence as well as support services for victims as part of each country's Article 2 duties.¹⁰

A. China's Assessment: "No Comment"

China's Third and Fourth National Report on the Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women¹¹ ("China's Report") does not address the issue of torture at all and therefore does not indicate what, if anything, China has undertaken to comply with its duties enumerated in Convention Article 2.¹²

We are disappointed in China's failure to address the issue of torture and gender-based violence, not only because torture and gender-based violence is a reality for so many Tibetan women but also because China patently disregarded the expressed wishes of the Committee's General Recommendation No. 12.

B. Our Assessment: Tibetan Women Subjected to Torture

Torture in Tibet has been well documented.¹³ We provide a brief discussion of torture in Tibet as background to the information discovered in the Mission's interviews with Tibetan refugee women. Our interviews support a finding that systematic torture of Tibetan women detainees continues to exist.

1. Recent Torture in Tibet

China is a State Party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("CAT"),¹⁴ which outlaws any kind of torture. Nonetheless, in 1990, the United Nations Committee Against Torture noted that it had received credible allegations of a persistent practice of torture in Tibet.¹⁵ The Committee also made special note of China's failure to address allegations of torture in Tibet.¹⁶ In 1993 and again in 1996, the Committee Against Torture asked China to set up a genuinely independent judiciary and to change its laws to ban all forms of torture.¹⁷ Despite this, China's Criminal Law only specifically prohibits certain kinds of torture.¹⁸

The use of torture against Tibetan men and women is common in all prisons and detention centers in Tibet. Methods of torture previously reported include: inflicting shocks with electric batons; beating with iron bars, rifle butts and nail-studded sticks; branding with red-hot shovels; pouring boiling water over prisoners; hanging prisoners upside down or by the thumbs from the ceiling; shackling; kicking with boots; setting ferocious dogs onto prisoners; exposure

to extreme temperatures; deprivation of sleep, food and water; prolonged strenuous “exercise”; long periods of solitary confinement; sexual violence; taunts and threats of torture and death.¹⁹

Specific reports of torture in Tibet, mostly from former prisoners who have been released and have fled Tibet, continue unabated. In cases studied through 1995, there were 208 cases of serious physical maltreatment out of 1276 cases studied, or more than 16% of all prisoners.²⁰ Torture at that time was becoming more severe, with an increasing number of prisoners who are unable to stand up fully on their own after release.²¹

In 1996, the United Nations Special Rapporteur for Torture and other Cruel, Inhuman or Degrading Treatment or Punishment made note of continuing reports of torture of Tibetan prisoners.²² Notably, the cases included 6 specific cases of torture of children and numerous reports of maltreatment of juveniles.²³ The Special Rapporteur also noted that it had still not received replies to earlier cases brought to China’s attention in 1994,²⁴ and had still not received a reply to his request to visit China.²⁵

An October 1997 report by Physicians for Human Rights reported that one in every seven Tibetan refugees had personally been tortured.²⁶ Ninety-four percent of political detainees reported being tortured.²⁷ Fifteen percent of torture survivors were under age 16 at the time they were tortured.²⁸

2. Torture of Tibetan Women

As the above sources show, indeterminate detention, interrogation and the absence of any meaningful right to counsel make Tibetan women particularly vulnerable to torture, especially in the form of sexual torture. Grossly inadequate medical care in detention as well as the apparent collusion of medical personnel in the practice of torture are also factors in the continuation of torture as a routine weapon against Tibetan women.

Interviews conducted by TCHRD reveal extreme sexual violence against nuns, including penetration of the vagina and rectum with electric cattle prods. One nun was 22 at the time of arrest. She was ordered to strip and was shocked all over with an electric cattle prod, which was also inserted into her rectum. A stick was put into her vagina. During this treatment, male prisoners watched and jeered from a window. Another nun reported “they were also ramming an electric cattle prod into my vagina and rectum.” Yet another nun was prodded so often in the rectum and vagina that she vomited and urinated blood. Arrested in July 1990, she was sent to a police hospital in early 1991 after a prison doctor said she would die if tortured any more. She escaped from that hospital and subsequently escaped to Dharamsala.

Our investigations indicate that torture of Tibetan women is both frequent in its occurrence and gruesome in its application. The forms of torture used have been especially cruel when applied against Tibetan nuns. We find that most torture of Tibetan women takes place in the context of arrest and detention. TCHRD’s research has documented about 295 women political prisoners at present (Autumn 1998) with about 250 at Drapchi Prison. Of these women political prisoners, 255 (88.4 percent) are nuns. Most of the former prisoners interviewed by the

Mission indicate that they were arrested for expression of their political or religious views, confirming the findings of TCHRD.²⁹

Many witnesses stated to the Mission investigators that they were initially taken to police stations. Physical and psychological abuse began immediately.³⁰ Beatings were severe and relentless as described in the following account by one victim, a nun:

Police took us into the police station and hit us. Each of us was in a separate room. They used a belt and then sticks and the electric baton, but there was no current. They made us stand and hit us for two hours, It was cold. I thought because of the beating I would die.³¹

Following her arrest, one nun reported being taken to Wogen, near Madenper close to Gutsa Detention Center.³² From 10 a.m. to 6 p.m., she and the women arrested with her were attacked as follows:

Six to seven officials started beating us and when they got tired they gave us sticks and made us beat one another. When we didn't, they beat us more. They hit me on my head, back, and knee joints -- almost every part. All five of us were knocked unconscious.³³

According to these women, whether they were kept in Gutsa or sentenced to years at Drapchi Prison, they were subjected to torture and severe abuse.³⁴ Many report that although there were both male and female guards, in most cases it was the male guards who participated in the physical beating and other forms of torture.

Some of the women interviewed during the Mission themselves suffered gender-specific torture; other interviewees witnessed such torture or related acts of torture reported to them in prison by other detainees.³⁵ The methods of torture include beating pregnant women until they aborted, sexual molestation with electric batons, and especially in the case of nuns, rape.³⁶ Some interviewees indicated that the gender-specific torture and sexual abuse of nuns is especially repugnant because nuns often do not report abuse due to the shame involved and the fear that they will no longer be respected or considered nuns by the community.³⁷ All of the women torture victims interviewed, whether or not they are nuns, exhibited symptoms of severe physical and/or emotional trauma.

Our recent findings are corroborated in other well-documented recent accounts of the torture of Tibetan women by Chinese officials. In particular, in its 1997 report, Physicians for Human Rights (PHR) concluded after interviews with 258 Tibetan refugees that

Chinese authorities in Tibet routinely use torture as a means of political repression, punishment and intimidation. More than 1 in every 7 Tibetan refugees interviewed reported a personal history of torture by Chinese authorities.³⁸

Further, PHR documentation of forms of torture coincides with our findings:

Repeated beatings; electric shock with cattle prods on the face, arms and genitals; being suspended in painful positions; witnessing others being tortured; deprivation of food or sleep; mock executions; being forced to stare at the sun for extended periods; and having their blood drawn against the individual's will.³⁹

PHR found 60 percent of torture victims suffered three or more forms of torture, with 38 percent reporting more than ten episodes of torture.⁴⁰ Most of the documented torture was quite recent, with 41 percent of the victims claiming to have been tortured in the past two years (i.e. 1995 to 1997).⁴¹

Among PHR's interviews of 11 women torture survivors, one was with a Buddhist nun who described the torture she suffered when she was only 16 years old, when imprisoned for chanting "Long Live Tibet. Free Tibet!" in a public square:

During the first month I was in prison, I was tortured often. I was beaten many times and electrocuted all over my body. When the Chinese tortured me they would yell at me "Why do you demonstrate? Don't you know the Chinese are good for you? You must not say Tibet is free. Tibet is part of China." One time, they took my blood with a big syringe, even though I told them not to. I think that was for punishment.⁴²

3. Conclusion

Our investigation therefore confirms previously documented reports that torture of Tibetan women detainees is common and systematic. Tibetan nuns are particular targets, and torture in the form of sexual abuse of Tibetan women is not uncommon.

IV. CONVENTION ARTICLES 1 & 2: REPRODUCTIVE RIGHTS VIOLATIONS

In its General Recommendation no. 19, the Committee concludes that coerced or compulsory sterilization and abortion are acts that adversely affect women's physical and mental health and are therefore considered forms of violence against women. These acts also violate the equal right of women to determine the number and spacing of children as provided in Article 16.⁴³

A. China's Assessment: "No Comment"

China's Report provides no information on violence against women in the form of violations of reproductive rights. China merely provides some information on its 'Program for the Development of Chinese Women,' approved by the State Council on 27 July 1995. This Program's goal is the improvement of women's health while guaranteeing the right to family planning. While violations of reproductive rights are not mentioned in its report, in 1997, Tu Den, director of China's Family Planning Office of Tibet, was quoted in the official China Daily newspaper as saying that "forced abortion and sterilization are absolutely non-existent."⁴⁴

B. Our Assessment: Tibetan Women Subjected to Gross Violations of Reproductive Rights

Our investigation was conducted in light of other highly credible sources that reported patterns of forced or coerced abortion and sterilization of Tibetan women.⁴⁵ Interviews conducted by the Mission and by TCHRD were intended to determine what policies currently are in place, and to what extent the previously reported patterns of forced or coerced abortions and sterilizations are continuing.

We have found continued systematic violence against Tibetan women in the form of forced or coerced sterilization, contraception and abortion, including late-term abortion. These practices, because they prevent births, because they inflict physical and mental suffering, and because they sometimes result in deaths, would constitute acts supporting a finding of genocide if found to have been committed with the intent to destroy the Tibetans as a people, in whole or in part.⁴⁶ Moreover, the coercion and violence used to prevent births of Tibetans, and the lack of a rational basis for limiting births among Tibetans, raise a strong inference of the Chinese government's intent to commit genocide.

Violations of reproductive rights in Tibet are inherent in China's "family planning" laws, policies and practices and must be understood in that context. Accordingly, we provide a brief review of these laws and practices in the context of Tibet.

1. China's "Family Planning" in the Context of Tibet⁴⁷

Any discussion of family planning in Tibet must begin by emphasizing that Tibet has never had a population problem and does not have a population problem today.⁴⁸ Tibet contains more than 2.5 million square kilometers, about the size of western Europe.⁴⁹ Fewer than six million Tibetans live in all of Tibet (there are 1.2 billion Chinese in China) making Tibet one of the world's more sparsely populated countries, even taking into consideration China's population transfer policies that have brought more than 7.5 million Chinese into Tibet.⁵⁰

Even before China's family planning policies went into effect, the population of Tibet had already been dramatically reduced by more than 1.2 million persons as a result of China's 1949 invasion of Tibet, the subsequent systematic use of both torture and forced labor by Chinese authorities, suicides of Tibetan people as a result of Chinese oppression, and regional famines induced by China's imposed agricultural practices.⁵¹

Tibet's sparse population, therefore, cannot rationally justify policies designed to reduce the size of the Tibetan population further. Instead, China's policies and practices intended to prevent births of Tibetans should be viewed in light of the almost 50 year history of violence against Tibetans, and in light of the increasing number of ethnic Chinese being encouraged or compelled by the Chinese government to transfer into Tibet.

2. China's Official Program⁵²

The basic Chinese law is "one family, one child" for nationalities in China with over 10 million persons.⁵³ The basic law is modified for nationalities having fewer than 10 million persons, but the rules vary widely from region to region and even within a local administration, apparently due to the powers of the local authorities to decide their own local rules and policies. These local rules are referred to as "administrative guidelines" rather than laws, and are

accordingly not published in official gazettes.⁵⁴ Information regarding the rules in certain areas of Tibet has been documented by copies of printed rules smuggled out of China, by piecing together the accounts of persons who worked in various regional administrations, and by obtaining as much testimony as possible from victims of these policies.⁵⁵

Chinese family planning practices include contraception (injections, insertion of cervical “rings,” pills), sterilization, abortion, delay of marriage, and an enforced waiting period between births. Enforcement of family planning rules includes requiring permits to have a child, establishing regional quotas, administrative monitoring of menstrual cycles, and periodic exams to determine pregnancy. Penalties typically include fines, denial of benefits for unauthorized children, public criticism, loss of jobs or reduction in pay, and loss of housing. Local officials receive rewards such as cash bonuses, promotions, and other recognition only if their units meet the birth control quotas. Alternatively, local officials face severe reprimands and economic sanctions from the upper levels of the Chinese administration if they fail to meet their quotas.

Our investigation shows that the number of children permitted to Tibetans varies by district and employment. For instance, witnesses report that in Phenco county, Tibetans are allowed two children and women cannot marry until age 25, although in some other areas, Tibetan women can marry at 22. There must be three years in between the birth of each child. The Mission interviewed many women who described coerced weekly pregnancy checks of women. In Tso Ngonpo (Amdo), government workers are allowed two children, nomadic people and farmers three. In other areas local administrators try to enforce a “one child” policy. Women are told that they will lose their jobs if they have an extra child. In Chushul, officials are allowed two children, farmers three. Family planning workers there conduct monthly checks of every household to ascertain pregnancy.⁵⁶

Fines vary widely and can reach 10,000 yuan (US \$1200) for unauthorized children. Many women earn 600 yuan (US \$72) per month, so a fine of 10,000 yuan is highly onerous. Typically, a third or fourth child cannot receive ration cards or identity papers, resulting in an inability to attend school or receive health care. Many fines are “monthly” and are deducted from pay. They can be so high compared to the monthly wage that women subject to such fines are effectively working for pay that is far below the subsistence level.⁵⁷ The economic and social hardship of such fines is so severe that many women are coerced into birth control methods that they do not want and that violate their cultural and religious beliefs. Our investigations uniformly find that Tibetan women as a whole have been traumatized by these practices, and that those that have endured them experience great trauma, sadness and pain long after they are able to flee occupied Tibet.

3. Forced or Coerced Abortion

The most troubling of the practices of forced or coerced abortion occur when a fetus well into the second or even into the third trimester is poisoned or killed and then extracted from the womb.⁵⁸ Several Tibetan women interviewed by the Mission had undergone such horrific

procedures and others had witnessed them.⁵⁹ For example, one women testified witnessing a late term abortion of her friend:

They injected a needle where the baby's head was. She was in labor pain for one hour. The baby was born and cried. Then it started bleeding from the nose and died. . . . She had the abortion because she couldn't pay the fine.⁶⁰

A women from Phenpo witnessed a late term abortion in Phenpo in 1992 performed on a women six months pregnant at the time:

The injected a needle in her stomach, and she gave birth. The baby was delivered and put in a bowl. The baby moved for a few minutes and then died. The baby had a hole in its head.⁶¹

Another woman reported on her observations at a hospital in Lhasa. She claimed that the hospital has a special abortion and sterilization unit for Tibetan women. She witnessed late term abortions on women already in their 7th or 8th months of pregnancy, and she saw the dead body of a male baby she thought to be about in the eighth month. The same witness also investigated two other hospitals in Lhasa -- Medhepuk Sober and Dewachu hospitals. Abortions were regularly performed Monday, Wednesday and Friday, with half-days on Thursday and Saturday.⁶²

Forced or coerced abortion in the first and second trimesters is also a rampant practice by the Chinese authorities in Tibet according to the persons we interviewed. For example, one 37 year old man from Kham witnessed nomadic people rounded up for abortions. His village job required him to participate in the annual roundups, where up to 200 women were aborted at a time.⁶³ TCHRD has evidence that 113 forced abortions took place in one district alone in Amdo in 1997. A nun from a village one hour from Lhasa reports:

Most of the women in our village were forced to abort children. Nobody was allowed to have more than two children, and the third pregnancy was often forcibly aborted by injection.

4. Forced or Coerced Sterilization

Forced or coerced sterilization is also a common feature in Tibet.⁶⁴ For example, in Chabcha, Amdo (Gungho District) an official document ordering forced "birth prevention" operations was issued in 1991.⁶⁵ This document states that although appreciable results were obtained in the district since policies were started in 1982, the people's "stubborn adherence to old customs and traditions . . . [resulted in] resistance to birth prevention operations." Even for those who had paid fines, "a birth prevention operation will be carried out before the end of 1991 or, in any case, within the year 1992 and no excuses or pretexts will be entertained as any reason for staying or postponing the operation any further."⁶⁶

TCHRD has received extensive testimony on coerced and forced sterilization of Tibetan women, including 300 women sterilized in Nyemo County (TAR) in 1997, 105 in Rebkhong (Amdo) in 1996/97, 113 aborted and 85 sterilized in Tso Ngonpo (Amdo) in 1997, 308 in Chushul (TAR) in 1996, and 190 in Lhasa in 1991/92.⁶⁷ TCHRD also monitors government news regarding sterilization and indicates that the local (government controlled) radio in Amdo (Qinghai Province) announced in 1990 that 10 percent of women of child bearing age had been sterilized; the Civil Affairs Department of Shigatse reported in 1990 that a team had visited the remote Bhuchung District and 387 women there had been sterilized. 1,092 out of 2,419 women in ten other districts were also sterilized. On February 2, 1992 the Lhasa Evening News announced that four sterilization teams had operated on 1,294 women in Lhundup, Nyemo and other counties.

The Mission interviewed a male health care worker who had fled Chushul in 1997.⁶⁸ He described policies there that included the summoning of women between the ages of 15 and 49 for sterilization. He reports that in October 1994, every women who had already had two children was summoned for sterilization (about 300), but due to lack of personnel, only 84 could be sterilized at that time. A woman who disobeyed the summons was subject to a fine. For office workers, the fine was deducted from the pay checks. Farm women who could not pay the fine lost their land.

According to a witness from Ngapa (Amdo), women are brought from nearby villages by trucks to be sterilized.⁶⁹ The sterilization team worker told this person "we have so many cattle to slaughter -- there are 30 to 40 women to sterilize." If the sterilization team did not meet their quota, they received a pay cut. This witness stated that women were selected for sterilization after one child. Her mother reported that in 1997, Tibetan nomads were brought into Ngapa under false pretenses and sterilized. For this witness, "the most important problem Tibetan women are facing is sterilization."

Another witness testified that her two sisters were involuntarily sterilized.⁷⁰ Their area allowed Tibetan women to have three children, and after the birth of her older sister's third child the sister was sterilized. A witness from Deziom reported nine women sterilized in his village.⁷¹ One was pregnant at the time and no one knew what happened to the baby. He reported that a bus came at 5:30 in the evening and carried the women to a town nearby. The witness's aunt was also sterilized after having three children; she was a government worker and was threatened with the loss of her job if she did not submit.

A witness from Kham reported seeing thousands of women gathered for sterilization in Nyemo in the Summer of 1996.⁷² About three hundred were sterilized that day, including those with "fetuses below three months. [They were] bleeding like animals . . . many too weak to even move." This witness claims the women were "literally dragged" against their will, and even had to pay for the operations.

5. Monitoring of Reproductive Cycles

One of the most troubling aspects of the China's family planning policies is the government's extensive monitoring of women's reproductive cycles. This monitoring includes

highly intrusive surveillance, such as monthly or even weekly vaginal exams of women in their homes or following mandatory public meetings organized in many villages to monitor women's reproductive status.⁷³ These practices are degrading treatment and therefore a form of violence against women. Such conduct also impinges greatly on women's privacy rights.

Several women interviewed by the Mission investigators described a frightening experience of hiding out from government officials who hounded women for pregnancy checks or abortions. One woman from Lhasa described her experience when pregnant with a third child: she avoided attending the birth control meetings and she moved from house to house in order to evade authorities who would look for her because she was not attending the meetings. She was finally intercepted in her seventh month of pregnancy, and told to report or they would confiscate her house. Although pressured to have an abortion, she resisted and paid a heavy fine when the child was born.⁷⁴

A 31-year old woman from Phenpo who left Tibet in May 1998 recalls being pressured by officials in Phenpo where there were weekly meetings where menstruation was monitored:

If the woman was not menstruating, she was given a blue tablet to remove the child or taken to the hospital to check them [sic] and get an abortion. The blue tablet caused heavy bleeding.⁷⁵

The same woman left Phenpo for Lhasa and describes the monitoring there:

The officials would come door to door with a list of married women and ask if they were menstruating. I said no. They did the exam. They told me I was one month pregnant. I could do a urine test. There was a Chinese woman official. She made me remove my pants and put an iron inside me that opened up and she also put her hand inside and checked.⁷⁶

A male health worker described the monitoring that took place in Chushul from 1991 to 1997. His team went to every house to check for pregnancy, utilizing a variety of methods, including "reading the pulse."⁷⁷

6. Absence of Male Birth Control

In addition to directing violence and coercion against Tibetan woman, China's family planning policies and practices are sexually discriminatory in nature. What is striking from the perspective of anti-discrimination laws is the extent to which women alone bear the burden of the Chinese government's efforts to limit or reduce the population.

The women and men we interviewed reported that China's family planning policies are aimed almost exclusively at women, from the regular "birth control meetings," to the birth control methods employed, to the various fines and penalties which are levied. With rare exceptions, no one interviewed by the Mission could think of any birth control measures aimed at men.⁷⁸

For example, one woman who gave birth to an unauthorized child in Lhasa was forced to pay substantial penalties out of her government salary, and was prevented from becoming a permanent worker.⁷⁹ Her husband, who also worked in a government office in Lhasa, received

no penalty. A number of other interviewees reported a similar experience. The woman from Lhasa also reported that birth control pills and abortions were available through the birth control personnel in her office, but stated that these personnel never taught about or distributed condoms.

A male health care worker reported that he was trained to perform abortions and sterilizations on women and added that “I was never trained in or saw any operations on men.”⁸⁰ Further, despite the fact that he went from house to house to monitor the menstrual cycles of women, “[i]t was not in the training for us to distribute condoms.” He reported that men generally do not use condoms, although they are advertised. He further reported that if there is an unauthorized pregnancy in the family, the woman is penalized first; only if she cannot pay the fine will the man’s salary be tapped.

A woman from Tso Ngonpo (Amdo), described regular birth control meetings where they instructed women to have abortions, take pills, or insert rings.⁸¹ She stated that men did not have to attend birth control meetings, and the officials never talked about birth control for men. A male teacher from Amdo, whose wife underwent an abortion, stated that “I have never heard of any birth control for men.”⁸²

7. Eugenic Laws and Regulations

China’s Report provides some information regarding the 1995 Law on Maternal and Infant Health (the Law) within its discussion of health care. The Report, however, omits important information regarding the provisions of the Law which we consider to be overtly eugenic and which should be considered in the context of China’s family planning policies and practices in Tibet. In particular, Chapter II (Premarital health care) Article 10 provides, in pertinent part:

When either one of the couple is diagnosed to have a serious hereditary disease, which is medically deemed unsuitable for reproduction, the doctor should explain the situation and offer medical opinions to the couple. The couple may marry if they agree to take long-lasting contraceptive measures or give up child bearing by undergoing ligation. (emphasis added).

We are also concerned with Article 20:

Before a woman who has given birth to a seriously defective infant conceives again, both husband and wife should undergo medical examinations at a medical and health care organ at or above the county level.

While this provision is not necessarily eugenic on its face, it presents a great potential for abuse, especially in light of eugenic actions and laws already in effect against Tibetan women and because of concern that the government will use fear of disability as a pretext for further limiting Tibetan births.

Our concern is justified by the “inferior births” incident of 1990. The Chinese government, with no scientific support, indicated that there were 10,000 “inferior” (possibly meaning mentally handicapped) Tibetans in the TAR.⁸³ A number of organizations expressed concern that this campaign directed at “inferior” Tibetans was China’s attempt to present its limitations on Tibetan births in a more favorable or at least justifiable light. Even as much as a year prior to the start of this “inferior births” incident, Tibetans living in areas outside the TAR were already subject to overtly eugenic regulations. In Karze, a regulation provides:

[Those] who have serious hereditary diseases such as hereditary mental illness, mental disability or physical deformity must be forbidden from giving birth.⁸⁴

The Karze regulation mandates abortion.⁸⁵

We express grave concern at the existence and enforcement of any eugenic law. Within the context of China’s aggressive family planning policies and practices in Tibet, we express a still graver concern that the Chinese authorities may use the Law to limit births among Tibetans whether or not the Tibetan parents have any hereditary disabilities.⁸⁶

8. Conclusion

The weight and credibility of all the evidence justifies a finding of widespread violations of reproductive rights in Tibet. The measures are coercive, violent and sexually discriminatory. The efforts undertaken by the Chinese authorities to limit Tibetan births constitute acts of genocide, including imposing measures intended to prevent births among a people, killing members of a group, and inflicting serious bodily and mental harm on members of the group.⁸⁷ Furthermore, there is no justifiable reason to try to limit births of Tibetans or to in any way reduce the size of the Tibetan population. There is also no rational population control justification for the Chinese government to limit the size of the Tibetan population while simultaneously encouraging non-Tibetan immigration into Tibet. There is, therefore, also indirect evidence of the intent required for a finding of genocide.

V. CONVENTION ARTICLE 6: PROSTITUTION

Article 6 of the Convention requires State Parties to take effective measures to suppress all forms of trafficking in women and exploitation of prostitution.

A. China’s Assessment: “Under Control”

China’s Report does not specifically address prostitution in Tibet. The Report states, however, that China has laws and regulations that ban trafficking in women and forced prostitution as criminal acts. China indicates that its law enforcement agencies “have stepped up their fight against women trafficking and forced prostitution in the comprehensive rectification of public order.” China concludes that prostitution is “under effective control.” Pointing out a decline in trafficking in women, the report claims that “some worst cases of abuse have been dealt with in a timely fashion.”

B. Our Assessment: Recent Influx of Brothels and Prostitution in Tibet

We find the information provided in China's Report lacking in any concrete data to support its conclusion that trafficking in women and prostitution is under any "effective control," particularly in Tibet.

Our investigations reveal what can only be called large-scale introduction of prostitution in Tibet in recent years, which is having a devastating effect on Tibetan culture. We note that almost every person recently interviewed during the Mission reported awareness of the influx of prostitution into Tibet. Witnesses uniformly comment that the Chinese authorities implicitly condone or even sponsor the proliferation of brothels as a means to service the large numbers of Chinese military personnel stationed in Tibet as part of the occupying forces.⁸⁸ In addition, there is evidence that condoned or supported prostitution is being instituted in areas with great cultural or religious significance for Tibetans, such as the streets immediately below the Potala Palace in Lhasa. One witness indicated that rather than the government stopping prostitution, the Chinese authorities "let loose now."⁸⁹ A surprising number of witnesses told the Mission that prostitution was legal in Tibet. The consistency of that observation supports a finding of government condonation of prostitution.⁹⁰

Some witnesses indicate that the majority of prostitutes are Chinese.⁹¹ One witness estimated a ratio of three Tibetans for every 100 Chinese prostitutes. Another witness stated that "there were separate rooms for Tibetan and Chinese prostitutes in the hotel vicinity."⁹² Many witnesses stated that prostitutes were as young as 12 and 13.⁹³ Some state that women come to villages and take away young Tibetan girls who are never seen again.⁹⁴

One Tibetan women indicated that the harsh birth control policies against them led to family troubles and that their husbands frequented brothels as a result. Several women had fled Tibet alone with their children and left their husbands behind. One 26 year old stated:

Because of the brothels, many marriages are breaking up. Brothels are helping to destroy Tibetan culture. They are ruining the youth, who have no jobs and nothing to do but go to discos.⁹⁵

We note that our research into this issue is preliminary. Nonetheless, we are convinced there is a strong need for more in-depth study of trafficking of women and prostitution in Tibet.

VI. CONVENTION ARTICLE 10: EDUCATION

Article 10 of the Convention provides for equal rights of men and women in education, including the provision of scholarships and career and vocational guidance. Article 10 also mandates that States Parties address the need to reduce female student drop-out rates and for programs for girls and women who leave school prematurely. In addition, Article 3 provides that States Parties shall take appropriate measures in all fields to ensure the full development and advancement of women.

A. China's Assessment: "Vigorous Steps" to Promote Female Education

China's Report makes no specific reference to education in Tibet. It draws attention, however, to the discrepancy between urban and rural education, which provides some evidence

of the situation in Tibet because the vast majority of Tibetans live in rural areas: 56.6 percent of urban girls and women complete senior middle school (“high school”), 33.3 percent complete only junior middle schools (“junior high”) and 8.3 percent complete only primary school. Illiteracy among urban girls and women is only 2.1 percent. The picture is more dire for rural girls and women: only 8.9 percent complete “high school” or institutions of higher learning, 26.6 percent reach only middle school, and 27.9 percent have only a primary school education. China’s Report also admits that an astonishing 36.6 percent of rural women and girls are illiterate or semi-literate.

China’s Report also indicates, with no citation, that Chinese laws and regulations guarantee equal rights of men and women in education. It indicates “vigorous steps” to increase female higher education with no description of what those steps are. It points out “the Spring Bud Program” for drop-out school girls, although it is unclear to what extent the government itself is operating that program. (“Spring Bud” appears to have been set up by non-governmental organizations). One noteworthy claim is that “[i]n remote, poor and minority-inhabited regions, free schools or classes exclusively for girls are set up.”

B. Our Assessment: No Support for Tibetan Girls

In 1996, TCHRD carried out a major investigation into education in Tibet and published the findings in The Next Generation: The State of Education in Tibet.⁹⁶ TCHRD interviewed 50 children who had fled Tibet during the previous three years, 96 percent of whom had fled for reasons of education. It also drew on other reports and documents. The Mission interviewed fewer children, but also interviewed parents about education in Tibet.

Our combined investigations found little direct evidence of discrimination in education against Tibetan women and girls as such. We did, however, find substantial evidence of discrimination in education against Tibetans generally. The discrimination against Tibetans generally, the very high drop-out and illiteracy rates acknowledged by Chinese authorities among rural girls and women and confirmed by our interviews, and the apparent absence of programs to develop and advance Tibetan women’s educational opportunities, leads us to conclude that Tibetan women may be suffering a disparate impact in educational opportunities as compared to Chinese men and women, and as compared to Tibetan men.

Most witnesses state that Tibetan girls and boys are treated equally, but that Tibetan girls were at a serious disadvantage compared to both Chinese boys and Chinese girls.⁹⁷ We find it especially revealing that nearly 33 percent of Tibetan school-age children receive no education at all compared to a mere 1.5 percent of Chinese children.⁹⁸ Several young adults interviewed during the Mission indicate that the primary reason for their flight to India was the inadequate educational system.⁹⁹ Another person reported that the existence of widespread discrimination against Tibetans in employment deters Tibetan girls from continuing their education, since they and their families believe education provides no benefit.¹⁰⁰ No person interviewed indicated an awareness of programs to address the higher drop-out rate for Tibetan girls. We found no other evidence that the Chinese authorities had established such programs.

All evidence indicates that education in Tibet is usually not free, with annual fees ranging from 20 to over 6,000 yuan (US \$2 to \$725) and many fees in the range of 200-300 yuan (US

\$24 to 36) per month -- unaffordable for most Tibetans. A mother from Phenpo indicates that because her children were unauthorized, the fee for them was double.¹⁰¹ Another confirms that fees vary according to whether the child had a “pass.”¹⁰² A teacher from Tso Ngonpo (Amdo) reports that although the school in her area was supposed to be free, individual teachers demanded money from students or their parents.¹⁰³ An internal TAR Party Committee document states that schools in the TAR are collecting 13 different kinds of fees from students, six of which were not legally authorized.¹⁰⁴

Even when Tibetan children attend school, they face serious barriers. A primary barrier is the use of Chinese as the teaching language in many schools in Tibet. At the middle school level in Tibet, only 17 percent of students attended schools where Tibetan was the main teaching language. One student commented to TCHRD:

My primary school was a Chinese government school. . . . The main teaching language was Chinese. I did not understand the Chinese language well enough so I had to ask the teacher again and again. If most of the Tibetans did not understand his explanations he used to scold us, calling us “dirty Tibetans” or “stupid Tibetans” because we did not understand Chinese.

Added to the use of a “foreign” language for the Tibetan students is the issue of subject content that emphasizes Chinese culture at the expense of Tibetan culture.¹⁰⁵ One student interviewed during the Mission notes that her father had removed her from school at the age of 14 because he felt the education “was all indoctrination.”¹⁰⁶ Another student, who completed the sixth grade in Kham in 1993, reported that school officials told Tibetans that they would be “burned with hot irons from a stove” if they engaged in “political protests.”¹⁰⁷ Another school-aged girl was never even permitted to attend school because she was the daughter of a “separatist”:

I’m illiterate . . . I regret I could never go to school. Every one else knows how to write their names, but I cannot even sign my name on a piece of paper.¹⁰⁸

Other information indicates that education for Tibetans is getting worse. Chen Kuiyang, the Chinese Communist Party’s Party Secretary in Tibet, admitted that school attendance is low and dropping, and he acknowledged that the Tibetan illiteracy rate is the highest for any region in China and the highest of any minority group.¹⁰⁹

An additional concern, especially in light of the evidence of discrimination against Tibetans generally, is the possible prevalence of sexual harassment of Tibetan girls by Chinese teachers. One witness described to the Mission “rampant” sexual harassment of Tibetan girls in her school:

In school, the Chinese teachers used to touch us and pull us into rooms. They molested only the Tibetan girls . . . I wanted to complain. I used to cry at home a lot. Finally, my mother was so disgusted that she took me out of school. . . . Many girls had this problem.¹¹⁰

Our investigations failed to uncover any laws, training programs or complaint mechanisms functioning in Tibet to address sexual harassment of Tibetan girls in school.

VII. CONVENTION ARTICLE 11: EMPLOYMENT

Article 11 of the Convention provides for equal employment of women, including the right to freely choose employment, the right to equal pay for equal work and the right to healthy and safe working conditions.

A. China's Assessment: Women's Employment Rights Are Protected

China's Report emphasizes the Women's Law of 1992 and the Labor Law of 1994 as completing a series of laws that better protect equal rights in employment. China also states that under China's Constitution, women have employment rights equal to those of men and that under China's Labor Law there may be limitations on recruitment of women workers only in areas identified as "unsuitable" for women. China reports "by and large" implementation of equal pay for equal work,¹¹¹ and certain other improvements in the areas of administrative or judicial protection, maternity leave and vocational retraining. China's Report makes no mention of Tibet or Tibetan women, nor is there any particular reference to the situation of rural women.

B. Our Assessment: Discrimination Against Tibetans and Against Tibetan Women

We found evidence of widespread discrimination against Tibetans generally, whose impact may be falling disproportionately on Tibetan women. In addition, we found evidence of employment practices specifically burdening women. These include: virginity testing, gender-specific hiring and recruiting practices, and employment-related fines and penalties tied to family planning policies. There is also some evidence of sexual harassment.

1. Discrimination Against Tibetans

Most persons interviewed during the Mission complained of widespread discrimination against Tibetans in employment in part because of the language problems -- many Tibetans cannot get a job unless they can speak Chinese. For example, one Tibetan woman who had sold flags at a stall in Lhasa reports that her efforts to obtain work in hotels and restaurants failed because she did not speak Chinese.¹¹² She also reports that Tibetans had a hard time getting permits to run shops for the same reason. As a consequence, most shop owners are Chinese. Another witness describes the "sinocization" of everything in Tibet: "Even for a construction worker's job, you need Chinese language."¹¹³

Tibetan women felt they were discriminated against compared to both men and Chinese women. Even if they received the same salary, one Tibetan women reported that Chinese women were given favorable treatment with regard to taking leave and other employment benefits. Hotel workers reported an employment hierarchy favoring Chinese men at the expense of Chinese women and Tibetans, with Tibetan women at the bottom of the heirarchy.

A Tibetan woman bricklayer reported that the Chinese workers received higher wages for easier work. She also stated that the Chinese were given clothing, food and cigarettes while the

Tibetans received none of these. At her workplace, Tibetan men received slightly higher wages than Tibetan women for the same work. She also reported verbal abuse of Tibetan workers by Chinese workers.

Another factor in employment discrimination is that people lose jobs because of political activities. People who have been imprisoned for their beliefs are unable to find employment upon release. For example, one woman, whose uncle was considered a political prisoner, described losing her job at a hotel when Chinese nationals took it over from Tibetans.

Exiles report that jobs in occupied Tibet can be obtained through bribes or through connections. An affluent Tibetan woman interviewed during the Mission described her success in obtaining employment because her mother paid a 10,000 yuan (US \$1200) bribe and had "connections." After her mother became implicated as a "separatist," however, she lost her job and the entire family plunged into poverty and exile.¹¹⁴

TCHRD addresses employment discrimination in Tibet in its 1997 Annual Report, China in Tibet: Striking Hard Against Human Rights, as follows:

In 1997 the PRC issued a "White Paper" on its human rights in 1996 in which it claimed to attach major importance to the protection of workers' rights. Yet China itself admits that a minimum wage has been introduced everywhere except for the "TAR". . . .

Chinese authorities admit that a disproportionate number of public officers in Tibet are Chinese. At the private level, Chinese are also likely to make up a considerable proportion of company employees. In the private trading and natural resources Jinzhu Group -- a spin-off of the government's export-import agency -- only 60 per cent of its 400 employees are Tibetan.¹¹⁵

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 projects 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."¹¹⁶

2. Virginity Testing

One practice uncovered by the Mission that is inherently discriminatory against women is virginity testing to determine the job applicant's "fitness" for employment. According to one person interviewed, "all the girls had to submit. . . . A women put her hand inside us to check for virginity."¹¹⁷ According to this witness, if the women and girls passed the virginity test, they

had to sign a contract promising that they would not get married or engage in sexual activity for three years. Reportedly, men and boys had to sign similar contracts. Further investigation is needed to determine how widespread this practice is.

3. Discrimination in Recruitment and Hiring of Women

Women interviewed during the Mission reported overt sex discrimination in recruiting and hiring. For example, one witness noted that it is an accepted practice in Tibet for job advertisements to specify candidates by gender.¹¹⁸ She further described how court officials in Amdo told her that they would not hire her because she was a woman.

4. Employment Fines, Penalties, and Pregnancy and Maternity Violations

This report already addresses the employment fines and penalties, including loss of jobs, imposed as a result of unauthorized children. Some women also reported to the Mission that they were given extra duties in addition to the harsh withholding of salary and benefits. Others who did not lose their jobs reported extensions of probationary status, demands to repay cost of training, or less favorable working conditions such as night duty.¹¹⁹

Lack of adequate maternity leave or accommodation for pregnant workers also appears to be common in Tibet. Some women also reported longer maternity leaves after having a boy than after having a girl,¹²⁰ although we do not have evidence that this is a government-sponsored policy. Women also complained of lack of child care facilities¹²¹ and the inability to breast feed their babies because they could not bring their infants to work. One women reports that day care is available to “upper echelon” officials only.¹²²

5. Sexual Harassment

Another woman interviewed during the Mission reports that sexual harassment by Chinese officials occurred in the workplace:

They used to hold us and touch us. The Chinese officials are so used to it. My supervisor did it, so did all the others. They said if we slept with them we would get a better position. Many girls in the village did it for the money.¹²³

She felt complaining would be useless and worse, as it would ruin her reputation. Furthermore, she knew of no complaint process.

6. Conclusion

The evidence of discrimination against Tibetans generally, combined with specific examples of discrimination against Tibetan women, create a concern that Tibetan women suffer not only discrimination as Tibetans, but also discrimination as women. We believe that this subject requires further investigation.

VIII. CONVENTION ARTICLE 12: HEALTH CARE

Article 12 of the Convention requires States Parties to eliminate discrimination against women in all areas of health care and to take gender-specific measures in all areas of pre-natal and post-natal care and services.

A. China's Assessment: "General Improvement"

China's Report makes no mention of health care and Tibetan women. Its Report states that “[s]ince the beginning of the 1990's, China has further upgraded its maternal and child care services resulting in a general improvement of women and children's health.” China's Report points out the Law on Maternal and Infant Health (in effect 1995), yet provides inadequate discussion of this law's provisions. The Report claims that 65 percent of expectant mothers in the countryside have access to prenatal check-ups. The Report clearly shows need for improvement in maternal and child mortality rates.

B. Our Assessment: Tibetan Women Lack Access to Basic Health Care

All evidence from a variety of sources, including our own investigation, indicates that most Tibetan women have almost no access to basic medical care. The little medical care available to them is far too costly. Our findings indicate that discrimination against Tibetan women in the provision of health care exists because they are Tibetan and because they are women.

Even in Lhasa city, Tibetans suffer extreme cases of nutritional deficiency diseases (anaemia averages 40 percent in children under seven; rickets averages 38.4 percent).¹²⁴ The TAR also has a significantly higher maternal mortality rate (up to 20 per 10,000 as opposed to six per 10,000 for China) with 70 to 80 percent of such deaths considered preventable.¹²⁵

Tibetan women interviewed during the Mission confirm a lack of access to basic health care as well as excessive costs of what is available. For example, one woman stated she had to pay 2000 yuan (US \$240) before she could be admitted to a hospital to deliver her baby.¹²⁶ Women in urban areas could obtain health care if they had “political connections” and funds. Even in those circumstances, Tibetan women shun medical care because of fear that the authorities will force unwanted birth control methods on them. Health care in the rural areas was described as “dismal.”¹²⁷ The little medicine available to the few doctors in huge areas is sometimes limited to some anti-diarrheal medicine.¹²⁸

The recent interviewees could give no information regarding AIDS prevention or medical services available for victims of rape or violence.¹²⁹ A Tibetan exile who recently visited Tibet reported that at the hospital he visited, 40 to 50 patients shared a single needle for injections, anecdotal evidence which would indicate a serious lack of awareness of and training to prevent the transmission of AIDS. That same person indicated that without a deposit of 5000 yuan (US \$600), the First People's Hospital (Lhasa) will not admit even a person in critical condition.¹³⁰ Another person reported that at Shigatse People's Hospital where he spent one month in 1995, Chinese did not have to pay while Tibetans had to pay an 800 to 1000 yuan (US \$100 to \$120)

deposit, 20 yuan (US \$2.50) per night for the bed and 200 yuan (US \$25) for a bottle of glucose among other costs.¹³¹

Some of the problems relating to health have already been addressed in the sections on torture and reproductive rights. As indicated above, the health situation of women detainees is extremely grave in many instances. Even if detainees are not tortured, they still face degrading treatment in the form of denial of basic health needs such as failure to provide sanitary materials for menstrual cycles and facilities for bathing. TCHRD has found that some prisoners could not bathe at all and were only allowed to wash their faces twice in six months. Other former prisoners report being able to wash their faces only once every several weeks. Nearly all former prisoners attest to not being given any cotton or other types of sanitary cloths during menstrual periods. Some women cut up their few clothes, others simply bled on their clothing (which they were not allowed to wash). Some who were already in the “conviction” stage were able to receive sanitary items from visitors. Another woman reported that she was forcibly internally examined without consent or explanation, which resulted in sustained bleeding and discharge; she was 13 years old at the time.

IX. CONCLUSION AND RECOMMENDATIONS

We conclude that there is a systematic, widespread pattern of grave human rights violations as a result of discrimination against Tibetan women and girls in Tibet. These violations taken together create concern as to whether the Tibetan people and their culture can survive. China’s birth control policies for Tibetans in particular, as well as China’s population transfer policies, its torture of Tibetans, its health care policies and practices, and the evidence of discrimination against Tibetans in education and employment, implicate the international law relating to genocide (both treaty-based and customary) as well as the consonant principle of ethnocide. We cannot underestimate the seriousness of the real threat to the unique Tibetan people and culture.

We begin our recommendations with several general ones. First, our organizations are gravely concerned with the overall situation of Tibetan women and girls in Chinese-occupied Tibet. In light of the seriousness of the situation in Tibet, we urge the Committee to devote a substantial amount of time in its deliberations to this topic. We also ask the Committee to grant our groups an opportunity for oral presentation.

We are also disturbed by the uninformative nature of China’s Report. In our view, such reporting does little to advance the work of the Committee as it seeks to eliminate all forms of discrimination against women. Therefore our second general recommendation is that the Committee seek ways to improve the quality of information from China. Methods could include but are not limited to the following: (1) asking China to answer specific written directives prepared by the Committee; (2) asking China to submit a revised report in which it focuses on fewer provisions of the Convention but with more appropriate depth, attention and statistical quality; (3) asking China to seek consultation from available United Nations services so that it better responds to reporting requirements.

In addition to these general recommendations, we make the following specific ones:

1. We recommend that the Committee include as written directives to the Chinese government the following:

- (a) China should be asked to describe practical steps it is taking to halt torture and other cruel treatment of Tibetan women during detention and imprisonment. China should be asked to explain the continued use of torture in prisons in Tibet.
- (b) China should be asked to describe mechanisms it uses to monitor its prisons effectively for human rights abuses. China should be asked to describe whether it is willing to work with international organizations to establish or improve prison monitoring.
- (c) China should be asked to provide written documentation of all its population and birth control policies and practices in Tibet, including copies of all relevant laws and regulations, including local rules that may not be published in official gazettes.
- (d) China should be asked to explain all steps taken to eliminate coercive elements, including economic penalties, from its population/birth control policies and practices.
- (e) China should be asked to describe steps taken to eliminate all practices which violate a woman's privacy rights with regard to her reproductive choices, including the practices of monitoring a woman's menstrual cycle and coerced or involuntary pregnancy testing.
- (f) China should be asked to explain what steps it is taking to halt the spread of prostitution in Tibet and in particular in areas of great cultural and religious significance such as the area surrounding Potala Palace.
- (g) China should be asked to describe its actions to provide affordable health care to Tibetan women.
- (h) China should be asked to describe what steps it is taking to promote the education and literacy in the Tibetan language of Tibetan women in urban and rural areas. In particular, China should be asked how it is addressing the drop-out rate of Tibetan girls and sexual or other harassment of Tibetan girls in school.
- (i) China should be asked what steps it is taking to address employment discrimination of Tibetan women and specific measures it is implementing to combat workplace sexual harassment of Tibetan women.

- (j) China should be asked what steps it is taking to encourage male participation in birth control.
 - (k) China should be asked what steps it is taking with respect to AIDS education and condom distribution in Tibet.
2. The Committee should urge China to halt all torture, cruel inhuman or degrading treatment or punishment of Tibetans in general and Tibetan women and girls in particular. In that light, the Committee should request China to allow frequent international monitoring of prisons in Chinese-occupied Tibet by either this Committee or other relevant bodies in the international arena. Such monitoring must have sufficient mechanisms to guarantee the end of negative repercussions that have taken place after monitors have left. The Committee should also request that China implement an internal prison monitoring program, including a program specifically established to improve the situation of Tibetan women prisoners.
 3. The Committee should urge China to halt all coerced or forced birth control practices against Tibetan women and girls.
 4. The Committee should urge China to develop culturally sensitive information, programs and services relating to birth control.
 5. The Committee should request that China take immediate and concrete steps to eliminate prostitution in Chinese-occupied Tibet as a matter of the highest priority. In this regard, the Committee should request that China present a meaningful, detailed plan of action with timetables.
 6. The Committee should request that China take immediate steps to eliminate all discriminatory practices relating to education, employment and health care of Tibetan women and girls.
 7. The Committee should request that China submit a detailed report on implementation of the Platform for Action as set out in Paragraph 323 of the Platform. This report should include plans for the implementation of the right to self-determination of Tibetan women pursuant to the Platform of Action and fundamental principles of international law.
 8. The Committee should request that China undertake a more constructive relationship with Non-Governmental Organizations, including but not limited to (a) allowing Non-Governmental Organizations unfettered access to Tibet; (b) establishing working relationships with Non-Governmental Organizations with an aim to improve the overall situation of human rights in Tibet in general and the situation of Tibetan women and girls in particular; and (c) improving the effectiveness of human rights monitoring in Tibet.
 9. The Committee should explore ways to coordinate efforts relating to Tibetan women with other relevant bodies established under international human rights treaties or under the United Nations Charter.

ENDNOTES

¹ At the request of the victims, we have omitted names of the persons interviewed and have referred to them by number. Most feared retaliation against family members who have not yet been able to escape Tibet. Interviewees reported that they fled Chinese-occupied Tibet because of lack of freedom, political repression, physical violence and extreme economic hardship. Many people emphasized denial of religious freedom. Fear was a common experience of these women. “Chinese spies are everywhere. All Tibetans live in constant fear” is a typical comment.

² 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). International Committee of Lawyers for Tibet, Tibet’s Sovereignty and the Tibetan People’s Right to Self Determination (1998).

³ 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.

⁴ 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.

⁵ 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.

⁶ London Statement, supra note 3, at pp. 145-46.

⁷ See, e.g. G.A. Res. 1732 (XVI) of 20 December 1961: “The General Assembly, . . . solemnly renews its call for the cessation 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.

⁸ 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)).

⁹ In interpreting Article 1, which sets out the definition of discrimination under the Convention, the Committee concludes: “Gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of article 1 of the

Convention. These rights and freedoms include: (b) The right not to be subject to torture or to cruel, inhuman or degrading treatment or punishment.” Committee on Elimination of Discrimination Against Women, General Recommendation No. 19 (11th session, 1992), para. 7.

¹⁰ Committee on Elimination of Discrimination Against Women, General Recommendation 12 (8th session, 1989).

¹¹ People’s Republic of China, Third and Fourth National Report on the Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (1998)(“China’s Report”).

¹² China is a State Party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which requires States Parties to adopt measures to prevent acts of torture in any territory under its jurisdiction (Article 2) and to make torture punishable as a criminal offence (Article 4). In partial compliance with this requirement, Article 136 of the Criminal Law of the People’s Republic of China forbids the use of torture to obtain a confession.

¹³ We draw particular attention to the following sources: Secretary General, The Situation in Tibet, U.N. Doc. E/CN.4/1992/37 and Annex II; Nigel Rodley, Report: Special Rapporteur, U.N. Doc. E/CN.4/1995/34 at paras. 89 - 128, U.N. Doc. E/CN.4/1996/35 and Add.1; Abdelfattah Amor, Report: Special Rapporteur, U.N. Doc. E/CN.4/1995/91 and Add.1; Physicians for Human Rights, Striking Hard: Torture in Tibet (1997); Tibet Information Network and Human Rights Watch/Asia, Cutting Off The Serpent’s Head: Tightening Control in Tibet, 1994-95 (1996); Amnesty International, Repression in Tibet 1987-1992 (1992); LAWASIA and Tibet Information Network, Defying the Dragon: China and Human Rights in Tibet (1991); Human Rights Watch/Asia Watch, Merciless Repression: Human Rights in Tibet (1990).

14. Adopted by General Assembly Resolution 39/46 of 10 December 1984; entered into force on 27 June 1987.

15. Committee Against Torture, Summary Record of the 50th Meeting, 23 May 1990, at p. 11 (cited in Amnesty International, People’s Republic of China: Amnesty International’s concerns in Tibet (AI Index: ASA 17/71/91, December 1991) (hereinafter “Amnesty International’s Concerns”) at p. 6.

16. Committee Against Torture Considers Report of China, UN Information Service press release HR 2582, 27 April 1990 (cited in Amnesty International’s Concerns, *supra* note 15 at p. 6).

17. U.N. Doc. No. CAT/C/SR.254 (10 May 1996).

18. China’s Criminal Law only specifically prohibits “torture to coerce a statement” by “state personnel” against “offenders” (article 136). Other offenses for ill-treatment of prisoners included within the Chinese Criminal Law are “corporal punishment and abuse” by “judicial personnel” when the “circumstances are serious” (article 189), and unlawful detention where “beating or humiliation is involved” (article 143). Article 7 of CAT requires States Parties to

prosecute those responsible for torture. However, under the Chinese Criminal Procedure Law, the standards for determining whether a case of torture under article 136 should be the subject of criminal investigation consider factors such as the perpetrator's intention and the gravity of the acts. The torturer must have acted for personal revenge or used "very cruel means thus creating a grave impact." The latter would include the torturing of many people or repeated torture, or where the act results in death, disability, insanity, suicide "or other serious consequences."

19. Physician's for Human Rights, supra note 13 at pp. 3-4; Cutting off the Serpent's Head, supra note 13 at pp. 89-90, 99-106; Amnesty International's Concerns, supra note 15 at p. 5; Amnesty International, People's Republic of China: Persistent human rights violations in Tibet (AI Index: ASA 17/18/95, May 1995), at p. 14.

20. Cutting off the Serpent's Head, supra note 13 at pp. 89-90.

21. Cutting off the Serpent's Head, supra note 13 at p. 100.

22. U.N. Doc. No. E/CN.4/1996/35/Add. 1, at paras. 102-127.

23. Id. at paras. 110-117.

24. Id. at para. 104.

25. U.N. Doc. No. E/CN.4/1996/35, at para. 47.

26. Physicians for Human Rights, supra note 13, at p. 2.

27. Id. at p. 3.

28. Id.

²⁹ Interviews 28, 29, 32, 35, 47, 48 and 51. A common thread of these arrests is retaliation against other members of the arrested person's family. For example, one woman's daughter and son-in-law lost their jobs when she was arrested.

³⁰ See especially Interview 32 (kicks in stomach, forced to stare at sun). We noted the uniform experience of women detainees of the denial of access to any legal representation. Frequently there is no indication of formal charges. For example, one women reported that after her arrest during a demonstration, she was taken to Gutsa detention center and released after nine months without ever being charged. Another women was told after five months in Gutsa that her sentence was for four years. No lawyer was allowed to defend her. A nun reported that a lawyer was allowed to speak in her case, but only after sentencing, a factor that she believes might have helped reduce her sentence from seven to three years.

31. Interview 8.

³² Most women we interviewed were sent to Drapchi Prison following their initial detention in Gutsa.

33. Interview 9.

³⁴ Forms of torture reported include being made to stare at the sun for long periods of time and being hung or forced to stand on one's head for hours. The conditions in Drapchi are particularly deplorable: women reported extremely poor and dirty food; up to nine months with no bathing; crowded, windowless cells; minimal or non-existent medical care and other conditions that all constitute gross violations of *inter alia* the United Nations Standard Minimum Rules for the Treatment of Prisoners, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (adopted by G.A. Res. 43/173 of 9 December 1988), and the Principles of Medical Ethics (adopted by G.A. Res. 37/194 of 18 December 1982).

35. At least ten interviewees provided commentary on gender-specific torture.

³⁶ For example, in early 1997, one of the women we interviewed went to visit her sister, a nun, at Drapchi. The nun reported that in the detention centers before being sent to Drapchi, nuns were put in cell with male detainees who were told they would be released if they raped the nuns.

³⁷ The Tibetan Torture Survivors Programme in Dharamsala reported that some young nuns also became pregnant from these rapes. The nuns are burdened with severe psychological, spiritual and physical trauma.

³⁸ Physicians for Human Rights, *supra* note 13 at p.2.

³⁹ Id.

⁴⁰ Id. at p. 4.

⁴¹ Id. at p. 3.

⁴² Id. at p. 15.

⁴³ Committee on the Elimination of Discrimination Against Women, General Recommendation No. 21 (13th session, 1994), para. 21 - 23.

⁴⁴ "Population-China: birth control policy stepped up," Inter Press Service (Hong Kong November 18, 1997)

⁴⁵ In addition to sources already cited in this section see, e.g., Martin Moss, Children of Despair: An Analysis of Coercive Birth Control Policies in Chinese-Occupied Tibet (Free Tibet Campaign (UK) 1992); John Aird, "Slaughter of the Innocents: Coercive Birth Control in China" (AEI Press, 1990); Carol Devine, Determination: Tibetan Women and the Struggle for an Independent Tibet 67-73 (1993); Blake Kerr, "Tibetans Under the Knife," in The Anguish of Tibet, (Petra Kelly, et al. eds., 1991). And see Tibetan Administration in Dharamsala, Tibetan Women: Oppression and Discrimination in Occupied Tibet 24 (1995), noting that the head of the TAR Family Planning Department had announced in 1987 that "30 percent of women of child-bearing age in TAR . . . have already undergone birth control operations." The same official claimed that by 1986, "17 percent of women in Nyingtri, Lhokha and Shigatse were sterilized."

⁴⁶ The law of genocide is a fundamental part of customary international law. The definition of genocide found in Article II of the Convention on the Prevention and Punishment of the Crime of Genocide is especially pertinent: “[G]enocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its destruction in whole or in part; (d) Imposing measures intended to prevent births within the group . . .”

⁴⁷ This discussion draws heavily on Eva Herzer & Sara B. Levin, China’s Denial of Tibetan Women’s Rights to Reproductive Freedom, 3 Michigan J. of Gender & Law 1 (1996).

⁴⁸ LAWASIA and Tibet Information Network, Defying the Dragon: China and Human Rights in Tibet 89 (1991).

⁴⁹ Tibet consists of the provinces of Amdo, Kham and U-Tsang, all traditionally inhabited and governed by Tibetans. The Chinese authorities created the Tibet Autonomous Region (TAR) covering about 40 percent of traditional Tibet. The rest of Tibet has been divided into “Tibetan” prefectures in Sichuan, Qinghai, Yunnan and Gansu provinces: a policy that contributes to the weakening and dispersal of the Tibetan people and their culture.

⁵⁰ For a discussion of China’s population transfer policies, see Tibet Support Group UK, New Majority: Chinese Population Transfer into Tibet (London 1995); Michael van Walt van Praag, “Population Transfer and the Survival of Tibetan Identity,” in Anguish of Tibet (Petra Kelly et al. eds., 1991).

⁵¹ There is no recorded history of famine in Tibet prior to the Chinese invasion and occupation. The first famine began in the early 1950’s, lasting until 1963. A second famine lasted from 1968 to 1973. See Galen Rowell, “The Agony of Tibet” in The Anguish of Tibet, op.cit.

⁵² For general background on China’s “one family, one child” laws, see “Caught Between Tradition and the State: Violations of the Human Rights of Chinese Women” (Human Rights in China: 1995).

⁵³ This report does not address the degree to which China’s family planning policies violate the rights of Chinese women, although there is evidence that Chinese women also suffer violations of reproductive rights.

⁵⁴ Zhu Baoxia, “Birth Rate Control Aids Minority Economies,” China Daily, March 14, 1990. Other factors to explain the lack of uniformity in “family planning” rules include the fact that traditional Tibet has been divided up among a number of Chinese provinces and administrative districts. Tibetans living in adjacent villages may be ruled by completely different administrations. Lack of uniformity is further explained by payments of bribes to officials, lack of administrative personnel and health teams, and the differing sizes of the administrative areas.

⁵⁵ A particularly valuable source for information on these policies and practices is Tibet Information Network (TIN), TIN Background Brief Paper: Survey of Birth Control Policies in Tibet (1994).

⁵⁶ In spite of “official” policies that allow more than one child, Dr. Blake Kerr, an American doctor who visited hospitals in Tibet several times since 1991, concludes that China’s two-child policy for Tibetans actually is a one-child policy. See Carol Devine, Determination: Tibetan Women & the Struggle for an Independent Tibet (1993) at p. 72.

⁵⁷ For example, one women’s wages and benefits was reduced from 1000 (US \$120) per month to a mere 100 yuan (US \$12) salary and no benefits for having given birth to an unauthorized child. The Mission also found that fines can be combined with loss of jobs and denial of benefits for children. Farm women risk losing land or farming implements. Financial penalties include fines from a reported 500 yuan (US \$60) monthly for one unauthorized child to 1500 yuan (US \$180) for third child. A 23 year old woman from Phenpo told us she had to pay the monthly fines because her child was born before she was the required 25 years old. Her second child was born before the required three year gap between children and she was required to pay an increased fine as a result.

⁵⁸ An American doctor who twice visited Tibet to research family planning affirms the Mission’s discovery of abortions occurring into the ninth month using a chemical “lavanor which is unheard of in the Western world.” Cited in Carol Devine, Determination: Tibetan Women & the Struggle for an Independent Tibet (1993) at p. 72 and at endnote 28 of Chapter 7, quoting Dr. Blake Kerr’s address: “Issues Facing Women and Youth in Tibet” at Tibet Conference of the Americas, Washington, D.C., January 30, 1993. Dr. Kerr is also cited as asserting that infanticide occurs in the hospitals as a method of population control, *id.*, in the manner documented by the Mission.

⁵⁹ See Interview 1, 18, 19 (each witness underwent a coerced abortion); and see Interview 1, 11, 13 (each witness observed a late term abortion). The late term abortions described by persons we interviewed were all carried out against the will of the women.

60. Interview 1.

61. Interview 11.

⁶² Interview 26. This same witness reported that at Medhepuk, she saw “machines that cut up fetuses in the womb and then extracted them.” The members of our investigative teams uniformly report that the persons interviewed about these practices were deeply grieved by them. Three witnesses to late term abortion cried as they described their experiences, and a male health worker evinced sadness and guilt at having participated in such abortions. One still dreams of a baby boy whom she saw born alive and then watched die “in a bucket.” Interview 26.

63. Interview 55.

⁶⁴ See note 42, above.

⁶⁵ “Policy Strategy Regarding Leniency or Implementation of Monetary Fines on Those Exceeding Planned Limit on Births Per Couple in Our District for Those Agreeing to Submit to

Birth Prevention Operation," Gungho District People's Government, January 25, 1991. Document on file with TCHRD.

⁶⁶ Emphasis added.

⁶⁷ The information regarding 190 sterilizations in Lhasa is based on two reports, one showing that on May 5, 1992, a team of four doctors from Lhasa was sent to the area around Lake Namtso for one month during which they carried out 90 sterilizations, and another referring to a medical team sent to Nyemo County in 1991 that sterilized 100 of the 6700 women there over 24 years old.

68. Interview 13.

⁶⁹ Interview 15. This witness's (from Ngapa) cousin was part of a sterilization team in nearby Tsenye village.

70. Interview 32.

71. Interview 36.

72. Interview 45.

⁷³ None of the women indicated that this monitoring was related to improvement of pre-natal care. Rather they all considered this practice to be part of coerced or forced abortion and sterilization.

74. Interview 12.

75. Interview 11.

76. Interview 11.

77. Interview 13.

78. The exceptions included a woman from Nyemo who believed that men in her region were sometimes called to attend birth control meetings where they learned about the policy, and a woman from Amdo who reported that men are sometimes imprisoned if they have more than two children.

79. Interview 7.

80. Interview 13.

81. Interview 19.

82. Interview 16.

⁸³ Reported in Tibet Information Network, Survey of Birth Control Policies in Tibet (Background briefing paper, 30 March 1994) at p. 29 and note 103.

⁸⁴ “Procedure for Planned Birth in the Ganze TAP,” published August 1991, passed on 24 June 1988 at 27th meeting of the 5th Session of the Standing Committee, approved Sichuan Provincial People’s Congress, 8 May 1989, cited in Tibet Information Network, Survey of Birth Control Policies, at notes 41 and 103. We are concerned that China hides much of its eugenic laws in local regulations that are difficult for persons outside China to obtain. The national laws, generally easy to obtain, generally use only vague references to potentially eugenic practice.

⁸⁵ Id.

⁸⁶ We are also aware that the Chinese authorities feared international censure if the eugenic aspects of this law were too obvious. See especially Xinhua (English) of 20 December 1993. The bill also originally contained a provision for euthanasia for defective babies that was dropped because the international community had “not come to a conclusion on this issue.” Id. Even though disguised, scientists and researchers remain convinced that China’s laws and policies are eugenic. See, e.g., Nigel Hawkes, “Scientists Attack China Over Selective Breeding,” The Times (London), June 5, 1995; Graciela Gomez, “China’s Eugenics Laws as Grounds for Granting Asylum,” 5 Pac. Rim L. & Policy 563 (1996).

^{87.} See note 9, above.

⁸⁸ One witness stated: “All the PAP soldiers are not allowed to marry and so the government lets it [prostitution] go for their benefit.”

^{89.} Interview 45.

⁹⁰ The Mission used a prepared questionnaire, which contained the question: “Is prostitution legal in Tibet?”

^{91.} Interviews 42 and 43.

^{92.} Interview 46.

^{93.} Id.

^{94.} Interview 48.

^{95.} Interview 2.

⁹⁶ Tibetan Centre for Human Rights and Democracy, The Next Generation: The State of Education in Tibet Today (1997).

⁹⁷ Id.

⁹⁸ These figures are found in ‘Written Replies of the Government of China Concerning the List of Issues’ (CRC/C.12/WP.5) of 17 May 1996, reply to question 23, p. 31.

⁹⁹ The Tibetan Centre for Human Rights and Democracy, in The Next Generation: The State of Education in Tibet Today (1997), has also noted that “[i]n 1996, of the 2000 Tibetans who arrived in Nepal on their way to seek exile in India, approximately 45 percent were children and nearly 80 percent of these 500 or more children were unaccompanied by their parent in the hope that they would receive education in exile.” Id. at p. 5. Evidence of the failures of the Chinese educational system in Tibet is uncontested in all credible studies. It is noteworthy that both the Committee on the Rights of the Child and the Committee on the Elimination of Racial Discrimination expressed concerns about the underrepresentation of minority nationalities. Data indicates only .57 percent of Tibetans receive a college education, only 2.12 percent are high-school educated, only 3.85 percent are middle-school educated, and only 18.6 percent attend primary school. According to the results of a 1990 census, 81.25 percent of Tibetan women over the age of 12 are illiterate, compared with 55 percent of Tibetan men. See especially Colin MacKerras, China’s Minority Cultures: Identity and Integration Since 1912 (1995), citing, inter alia, Chen Quiping, “Progress Seen in Minority Populations,” 36 Beijing Review no. 29 at pp. 14 - 17 (1993).

¹⁰⁰ Interview 16. That same witness, a male teacher from Rebkong, Amdo, also indicated that because there are insufficient middle schools, admission to them is highly competitive. We are concerned that, absent programs to promote education among girls, the competitiveness may discourage Tibetan girls from applying.

101. Interview 11.

¹⁰² Witnesses referred variously to “passes,” “certificates” and “citizenship papers.” Due to problems of translation, these references were not always clear. However, they seem to all relate to residence cards issued to authorized children, without which children’s benefits, including schooling, are severely restricted.

¹⁰³ Interview 19. TCHRD also found that 39 percent of the 50 students interviewed who had attended school in Tibet had to pay bribes to their teachers.

¹⁰⁴ TAR Party Committee, Document no. 12: Party Affairs Communication, July 1993.

¹⁰⁵ The Committee on the Elimination of Racial Discrimination, in discussing discrimination in Tibet and other “minority” areas in China, 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.”

¹⁰⁶ Interview 12. TCHRD research indicates that 7 percent of the students interviewed had received education in Tibetan culture and 93 percent had not.

107. Interview 22.

108. Interview 11.

¹⁰⁹ Reported in A. Tom Grunfeld, The Making of Modern Tibet (1996) at p. 226.

110. Interview 7.

¹¹¹ China's Report at p. 20.

112. Interview 5.

113. Interview 12.

114. Interview 7.

¹¹⁵ Marcus Brauchli, "To Integrate Tibet, China Tries Economic Lures," Dow Jones, 14 July 1997.

¹¹⁶ Full contents of this letter are found in Tibetan Centre for Human Rights and Democracy, "Human Rights Update," 30 January 1997.

117. Interview 1.

118. Interview 15.

119. See Interview 1.

120. Interview 15.

121. Interviews 15 and 19.

122. Interview 15.

123. Interview 7.

¹²⁴ Save the Children Fund & Lhasa Health Bureau, Nutrition, Health, Water and Sanitation Assessment in the Lhasa Valley, (1990) at sections 2.1 - 2.2.

¹²⁵ Id. at section 5.

126. Interview 2.

¹²⁷ We note that in its 1989 Country Reports, the United States State Department claimed: "Tibet's economy and education, health and human services remain far below those of the People's Republic of China as a whole." (Emphasis added.) There has been little improvement since then, according to our witnesses.

¹²⁸ Save the Children Fund & Lhasa Health Bureau, op.cit. at section 8.

¹²⁹ Given the number of women interviewed and the wide range of geographical areas from which they came, the Mission findings support the conclusion that such programs are rare, if existent at all, in Tibet.

¹³⁰ Reported in Tibetan Centre for Human Rights and Democracy, China in Tibet, op.cit. at p. 50.

ANNEX I: SUMMARY OF MISSION AND INTERVIEWS

Purpose

Tibet Justice Center and the Women's Commission for Refugee Women and Children (Women's Commission) undertook a joint investigative mission from July 27 to August 11, 1998 to assess whether the government of the People's Republic of China complies with the rights of Tibetan women as set out in the Convention on the Elimination of all Forms of Discrimination Against Women (the Convention) to which China is a State Party. The Mission's primary focus was in the areas of reproductive rights and torture.

Investigators

The investigation team consisted of Lindsay Harris, Esq. (Mission Leader) and Marcella Adamski, PhD., a psychologist, representing Tibet Justice Center, and Khando Chazotsang and Michele Beasley, Esq., representing the Women's Commission. Law students Sarah Noetzli and Melissa Vincenty assisted the Mission.

The Questionnaire

Prior to the mission, Tibet Justice Center developed a questionnaire taking into consideration the terms of the Convention, with an emphasis on:

1. Women's reproductive rights, such as the right to have the choice in decisions involving birth control and reproduction;
2. Women's rights to be free from torture, especially torture in the form of rape or other forms aimed at degrading women;
3. Women's rights to gender-specific health care;
4. Women's rights to education equal to those of men;
5. Women's rights to employment equal to those of men;
6. Women's rights to freedom from exploitation by prostitution.

The Interviews

Two months prior to the arrival of the main investigators, Ms. Noetzli traveled to Dharamsala to set up an interview schedule and to provide other logistical support. Potential interviewees were screened according to their time of arrival in Dharamsala to coincide with the

time of reference to China's reporting period. Four persons were interviewed in Kathmandu and the rest in Dharmasala. A total of 55 persons were interviewed.

Each interview lasted several hours and took place with interpreters. All interviews (with the exception of several who feared reprisals by Chinese authorities) were tape-recorded with the permission of the participants. All persons requested that their true names be kept confidential, therefore, no names are given in this report.

The persons interviewed by the Mission are persons who fled Chinese-occupied Tibet between the years 1991 to 1998 with the exception of a nurse from the Ladakh region who had never been in Tibet. The interviewees represent a wide range of occupations including nun, mother, health care worker, doctor, farmer, hotel worker, nomad, construction worker, teacher and student. The persons interviewed by the Women's Commission are all recent arrivals from 1995 to 1998.

ANNEX II: BIBLIOGRAPHY

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