

Human Rights Council: Submitting an NGO written statement

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The written statement is formatted and issued, unedited, in the language(s) received from the submitting NGO. English, Spanish and French versions can be published at this time.

In order for your statement to be published before the session, the deadline for submission is exactly two weeks prior to the start of a session. See the deadline on the web site. All submissions are final.

Please fill out **this** FORM and CHECKLIST to submit your statement and send it to the address indicated below. Your information goes after each arrow.

1. Please indicate the contact information for the representative submitting this statement (i.e. name, mobile, email) here: ➡ **Ulrich Delius, 0049-16095671403, asien@gfbv.de**
2. Indicate the Agenda item number (1-10) of statement, including the segment *: (Interactive Dialogue, ID; General Debate, GD; or Panel): ➡ Item # 3 Segment: General Debate
- 3.a) If this is an individual statement, indicate your organization's name as in the ECOSOC NGO database and indicate its consultative status in brackets (i.e. General, Special, or Roster). ➡
Society for Threatened Peoples (Special Consultative Status)
- or,
- 3.b) If this is a joint statement, list the main sponsor first, and then the co-sponsoring ECOSOC NGOs as they appear in the ECOSOC database and status (in brackets): Group all General NGOs first, group the Special second and group the Roster third. ➡
4. Indicate here any non-ECOSOC NGO(s) supporting this statement (they will appear as a footnote to the statement title): ➡
5. Indicate the exact TITLE for this statement here: ➡ **Human rights situation in the Tibet Autonomous Region (TAR) and adjacent areas where Tibetans live**

Please make sure that:

- This statement is in MS WORD document format (Font Times New Roman 10; no bold; no underline; no italics).
- Check word count: (Go to Tools, Word count, # of words) Indicate the length of text (excluding footnotes/endnotes) here: ➡ 1,453
 - NGOs in general consultative status are allowed 2,000 words
 - NGOs in special consultative status and on the roster are allowed 1,500 words
- Please use the Spell/grammar check on your text. (Go to Tools, Spelling & Grammar)
- If in doubt about Member States' names and correct UN terminology when referring to certain territories, use UNTERM database: <http://unterm.un.org/>
- Different language versions of one statement should be sent in the same email, but using **a separate form** for each.
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* See the HRC Practical Guide for participants, page 9, which refers to segments in the session

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Absence of the Rule of Law and a Lack of Independence of Judges and Fair Trial

A crucial aspect of human rights and fundamental freedoms is the rule of law and the independence of the judiciary. The complete absence of the rule of law is one of the major concerns for Tibetan citizens of the People's Republic of China because it results in the lack of judicial independence and the denial of due process. This is coupled with impunity enjoyed by the law enforcement agencies. Any publicly voiced expression or opinion contrary to the Chinese Communist Party's ideology can result in arbitrary arrest or enforced disappearance, torture, forced false confession and prolonged incarceration without trial.

Even though the People's Republic of China is a member of the United Nation's Convention against Torture (UNCAT), Tibetan citizens are at times still subjected to torture. Despite the fact that arbitrary detention and torture are extensively covered under various human right covenants they still occur and the root cause of this is the lack of due process.

Article 5 of the Criminal Procedure Law of the People's Republic of China (CPL) demands the independence of the judicial power from any administrative organ, social organization or individual. Articles 33 to 41 cover the rights of defence and representation of the defendant or the accused. Tibetan citizens of the People's Republic of China do not enjoy these rights. This is obvious because of the sentences of many Tibetans following the March 2008 protests and self-immolations where Tibetans were tried without following due processes and any kind of legal representation. Chinese human rights lawyers who were willing to defend Tibetans were advised to keep out of it or otherwise their licenses could be revoked or suspended.

The complete lack of a rule of law and double standards in legal procedures in the People's Republic of China fail to meet international standards. The absence of the rule of law and due processes gives unchecked power to security personnel who can act with impunity. They are entangled in acts which are a gross violation of not only the PRC criminal procedure law but also of many international human rights regimes to which the People's Republic of China is a party.

Denial of legal representation, family visits, fair trials and transparency

Jigme Guri (also known as Labrang Jigme or Jigme Gyatso) has been denied access to independent legal representation and family visits have been restricted after he was detained on August 20, 2011. Jigme Guri, a monk, from Labrang Monastery in Kanlho (Chinese: Gannan) Prefecture, Gansu Province was arrested three times after the 2008 protest in the Tibet Autonomous Region and adjacent areas where Tibetans live. After his release he recorded a video testimony about his brutal treatment in custody and his views about Chinese policy, which was circulated on Youtube with English subtitles. It was announced on January 1, 2012 that Jigme had been charged for activities aiming at "splitting" the country.

Jigme Gyatso aka Golog Jigme assisted Dhondup Wangchen in shooting the 2008 documentary with the title 'leaving fear behind'. The movie provided first-hand material of everyday life. Jigme and Dhondup were both arrested in March 2008. Dhondup received a six-year prison sentence and is currently in Xichuan prison. Jigme was released after seven months without charge; however he was tortured during his detention. Since 2008, Jigme has remained under constant surveillance by the Chinese authorities and has been detained on several occasions. Jigme Gyatso is missing since September 2012 and the Chinese police has issued an arrest warrant against him on November 28, 2012 for alleged murder and announced a 200,000 Yuan reward for useful information. Many fear that he is facing a possible death sentence. Golog Jigme, a monk of Labrang monastery, was born in 1969 in Serthar.

The 33-year old Logya was arrested and sentenced to four years of imprisonment on unknown dates because of his participation in the protests on January 23, 2012 in Ngaba (Chinese: Aba) County in Ngaba Tibetan and Qiang Autonomous Prefecture, Sichuan Province. He was from Meruma Township in Ngaba and had participated in the protests. He along with Choepa, 24, who also participated in the protests, evaded arrest for some time. On August 10, 2012 Choepa self-immolated and died in Meruma Township in Ngaba County and Logya was arrested shortly afterwards in Mema township in Machu County, Kanlho (Chinese: Gannan), Tibetan Autonomous Prefecture, Gansu Province. After his arrest, he was detained for months in Barkham (Chinese: Ma'erkang) where he was beaten and tortured. He was denied access to a due process and legal representation and moreover his family was not informed about the trial before he was sentenced for a long term because of a peaceful protest. Presently he is serving his prison sentence in Mianyang prison in Sichuan

Province. In a similar incident, the Intermediate People's Court in Barkham sentenced Tsering Dugkar, a Tibetan man from Mema Township in Machu County to two years in prison for allegedly providing shelter to Logya when the latter evaded arrest following the protests.

On August 25, 2012, Jigme Dolma, 17, was sentenced by the Kandze County People's Court to three years imprisonment, after she was found guilty of the charge of 'Splitting China'. On June 24, 2012, Jigme Dolma initiated a solo protest by scattering symbolic Tibetan Buddhist cards and demanded the return of the Dalai Lama and the release of political prisoners. She was subjected to severe beatings before being taken into custody. Despite repeated requests to the local Public Security Bureau offices, she was denied family visits for the first six days of her detention. Her whereabouts are unknown and her legal representation rights were also denied. On August 28, 2012 her family got to meet her twice after the pronouncement of judgment. She was later transferred to a prison in the People's Republic of China and, at the time of reporting, her family have not been informed about her whereabouts.

In a similar incident, on July 4, 2012, Kelsang Tenzin, 22, threw leaflets and demanded the return of the Dalai Lama and the release of political prisoners in Kardze town. He was severely beaten while being arrested. His family was not allowed to meet him and his whereabouts are unknown.

Confession under Torture

The police dominate the criminal justice system and force confessions under torture. These practices remain prevalent and miscarriage of justice is frequent. Tibetan political prisoners in Chushur Prison, located about 48 kilometres (30 miles) southwest of Lhasa, are subjected to torture and other form of abuses on a regular basis. "We were tortured every day in jail," a man told on condition of anonymity Radio Free Asia. He added that "we were sometimes hanging from the ceilings, with our hands and legs tied together. They never fed us regularly. But when they did, they mixed sand in our tsampa [roasted barley flour], which induced thirst, and many of us were forced to drink our own urine." The Chinese interrogators repeatedly questioned the prisoners about who had influence on protests in the Tibet Autonomous Region and adjacent areas where Tibetans live, the man said, "They wanted to know who had 'instigated' us to protest against the Chinese government. They told us that the Dalai Lama would not help us when we needed him, and that it was the Chinese Communist Party that could really help us."

Though the People's Republic of China is a signatory to the United Nations Convention against Torture, according to Sophie Richardson, China Director at the Washington office of Human Rights Watch, torture remains endemic in Chinese prisons as a tactic either to force people to comply, or simply to torment them, or to elicit further information.

On Sept. 1, 2012, the U.S. Congressional-Executive Commission on China's (CECC) Political Prisoner Database contained records of 626 Tibetan political prisoners believed or presumed to be held in Chinese custody. 597 of these prisoners were detained on or after March 10, 2008, when Tibetan protests swept the region, according to the CECC Annual Report for 2012.

The police in Sichuan Province detained Lorang Konchok, a 40-year-old monk, in Ngaba (Chinese: Aba) County and his 31-year-old nephew for inciting and goading eight people to set them on fire. It is most likely that two Tibetans were tortured and detained for those confessions.

Society for Threatened Peoples calls on the Human Rights Council to urge the government of the People's Republic of China to:

- Release all the political Prisoners, especially minors,
- Make necessary amendments in the Chinese Criminal Law,
- Sign and ratify the relevant UN Conventions,
- Invite the UN Special Rapporteur on independence of judges and lawyers as requested for a visit on 1 June 2011.