

**Goodbye Commission, Welcome Council:  
Tibet's Quest for China Scrutiny at the United Nations  
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**Introduction**

On 15 March 2005, when former Tibetan political prisoner Phuntsok Nyidron<sup>1</sup> arrived in the United States of America (USA), at the headquarters of the United Nations in New York, the General Assembly of the United Nations (GA)<sup>2</sup>, a historic vote<sup>3</sup> established the UN Human Rights Council (HRC)<sup>4</sup> to replace the UN Commission on Human Rights (CHR)<sup>5</sup>. To skeptics this historic change in the United Nations global role on the promotion and protection of human rights in the future may look as a change merely in words, from *Commission* to *Council*, and nothing else.

Phuntsok Nyidron was one of the many individual human rights cases in Tibet over which human rights mandates of the CHR intervened and during the past two years according to the Dui Hua Foundation<sup>6</sup>, she was even allowed by the Chinese authorities to meet with two mandates of the CHR, the Working Group on Arbitrary Detention...and the Special Rapporteur on Torture.

The CHR in its sixty years of history had played an important role on human rights, including the drafting of many human rights standards (Universal Declaration of Human Rights (UDHR), the International Convention on Civil and Political Rights (ICCPR) and the International Convention on Economic, Social and Cultural Rights (ICESCR). At the final session of the CHR there were expectations that it would adopt the draft convention on disappearances and the draft declaration on the human rights of indigenous peoples. These two documents will come up for consideration by the first session of the Council if it is to continue to fulfill UN's mandate on human rights standard setting.

Ms. Louise Arbour, the UN High Commissioner for Human Rights, in her statement<sup>7</sup> to the final session of the CHR said that the Commission "established the system of special procedures, becoming a protector of human rights, in addition to their promoter. Made up of independent experts, special rapporteurs, special representatives of the Secretary-General, special representatives of the High Commissioner for Human Rights, and Working Groups, these individuals have now

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<sup>1</sup> <http://www.savetibet.org/news/newsitem.php?id=925>

<sup>2</sup> <http://www.un.org/ga/60/>

<sup>3</sup> <http://www.reformtheun.org/index.php/eupdate/1958>

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<http://www.un.org/apps/news/infocusRel.asp?infocusID=114&Body=human%20rights%20council&Body1=>

<sup>5</sup> <http://www.ohchr.org/english/bodies/chr/index.htm>

<sup>6</sup> [http://www.duihua.org/press/statements/statement\\_on\\_phuntsog\\_arrival.htm](http://www.duihua.org/press/statements/statement_on_phuntsog_arrival.htm)

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[http://portal.ohchr.org/pls/portal/docs/PAGE/CHR62/CHR62\\_ORAL\\_STATEMENTS/27MARCH/HC.OPENING.FINAL.DOC](http://portal.ohchr.org/pls/portal/docs/PAGE/CHR62/CHR62_ORAL_STATEMENTS/27MARCH/HC.OPENING.FINAL.DOC)

come to represent in many ways the frontline human rights troops we turn to for early warning and protection. "

In that statement, the High Commissioner also highlighted CHR's work in considering the situation of human rights in specific countries and the creation of the first human rights complaints mechanism in the UN system: the so-called "1503 procedure" as the body's other important achievements. She also added that the "Commission created a global forum for dialogue on human rights issues and nurtured a unique close relationship with civil society, allowing for discussion on human rights by senior government officials, victims of human rights abuses, national human rights institutions, UN agencies and non-governmental organizations."

However, the recent years of the CHR have been regarded as having created questions concerning the credibility of the United Nations to deal with human rights situations. One of the fundamental problems was related to States seeking membership of the Commission not to strengthen human rights but to protect themselves against criticism or to criticise others. The UN Secretary-General Kofi Annan while addressing 61CHR said that "the Commission's ability to perform its tasks has been overtaken by new needs, and undermined by the politicization of its sessions and the selectivity of its work. We have reached a point at which the Commission's declining credibility has cast a shadow on the reputation of the United Nations system as a whole, and where piecemeal reforms will not be enough."<sup>8</sup>

The Asian Centre for Human Rights identified a group of countries who were responsible for the demise of the CHR's credibility: "A bunch of illiberal democracies and countries ruled by the military dictators and authoritarian regimes formed an alliance at the Commission on Human Rights under the banner of Like Minded Group (LMG) consisting of Cuba, Egypt, Pakistan, China, India, Malaysia, Indonesia, Syria, Algeria, Nigeria and Tunisia. In 1998 taking advantage of the mid-term review of the Vienna Declaration and Programme of Action, the Commission on Human Rights took a decision on "Enhancing the Effectiveness of the Mechanisms of the Commission on Human Rights" (1998/122) and "Restructuring the Agenda of the Commission on Human Rights through Resolution" (E/CN.4/RES/1998/84) that had devastating effects on the credibility of the Commission on Human Rights."<sup>9</sup>

At the 61CHR, China shouldered the responsibility of the spokesperson of the LMG when the Ambassador Sha Zukang said to the Commission: "Human rights progress in certain parts of the world is exaggerated in order to fulfill hidden political agendas. For the same reason, serious human rights violations can also be ignored on purpose. The Commission has turned into a place of naming and shaming of developing countries, especially with regard to the deliberations under Item 9 whose original intention was to address only situations of massive, flagrant and systematic

<sup>8</sup> <http://www.ohchr.org/english/bodies/chr/docs/61chr/sgchr.doc>

<sup>9</sup> <http://www.achrweb.org/Review/2006/115-06.htm>

violations of human rights. The record of the last several years shows that there has been indiscriminate use of country specific resolutions under Item 9 targeting mainly developing countries. The record also reveals lack of transparency, application of double standards and political motives in the way in which country specific resolutions are identified, negotiated and tabled. It is these factors that have contributed to the intense politicization and confrontation of the Commission, and to loss of its objectivity, credibility and impartiality."<sup>10</sup>

One of the few countries not satisfied with the HRC resolution was the United States of America. While voting against the resolution on the establishment of the HRC, Ambassador John Bolton of the USA in an explanation of the vote statement said: "The Secretary-General...proposed that the Council elect its members by a two-thirds majority. This proposal is not included in the resolution before us today, and it should be. The higher hurdle for membership would have made it harder for countries that are not demonstrably committed to human rights to win seats on the Council. It would have helped to prevent the election of countries that only seek to undermine the new body from within."<sup>11</sup> The USA has now even decided not seek a seat at the Council but Washington may come on board for elections in the coming years.

As for the reaction of the People's Republic of China (PRC), Qin Gang, a Foreign Ministry spokesperson on 16 March 2006 responded during a regular press briefing: "The founding of Human Rights Council is one of the important contents of UN reform set by the High Level Plenary of the UN General Assembly last year. China has taken part in relevant consultations consistently with a positive and constructive attitude. We cast an affirmative vote."<sup>12</sup> One of the paragraph that PRC was pushing in the HRC resolution text was to have the Council supervise the work of the Office of the UN High Commissioner for Human Rights (OHCHR) in Geneva but by the end of the negotiations Beijing's ambitious paragraph did not get the support.

As for Tibetan reaction, official or unofficial, there was none when the GA resolution on HRC was adopted. However, on 11 April, the International Campaign for Tibet (ICT) in a statement<sup>13</sup> said: "ICT is all too aware that the output of the Council will primarily serve the interests of its membership, and not necessarily the peoples under its dominion. If member states use the Council for its proper purpose then it can improve the lives of millions, but if they politicize the Council as they did with the Commission over the past decade, without being held accountable for their actions, then the Council will fail where the Commission failed."

The fact that the HRC will for the moment be a subsidiary body of the GA is a welcome political development for human rights in the UN system unlike the CHR was a subsidiary body the UN Economic and Social Council that reported to the

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<sup>10</sup> <http://www.china-un.ch/eng/rqrd/speech/t187353.htm>

<sup>11</sup> <http://www.reformtheun.org/index.php/articles/1956>

<sup>12</sup> <http://www.fmprc.gov.cn/eng/xwfw/s2510/t240922.htm>

<sup>13</sup> [http://www.unpo.org/news\\_detail.php?arg=02&par=4236](http://www.unpo.org/news_detail.php?arg=02&par=4236)

GA. It is now hoped that after some years of its existence, there will be strong support for the Council to become the UN's principal human rights body. But it can be expected that developing countries, in particular the LMG group, would oppose such a move.

### **Human Rights Council**

So what are unique features of the HRC that will distinguish it from the CHR? The President of the GA Ambassador Jan Eliasson of Sweden<sup>14</sup> on 15 March 2005, identified the following elements of the HRC, - regarded as having achieved significant improvement from the CHR stature:

- Replace the Commission with a Council, elevating its institutional standing to a subsidiary body of the General Assembly;
- It would increase the frequency of meetings throughout the year, as well as establishing an efficient mechanism to convene special sessions;
- It would introduce the universal periodic review as a mechanism whereby each State's fulfillment of its human rights obligations would be assessed. Such a mechanism would ensure equal treatment with respect to all Member States and would prevent double-standards and selectivity;
- It would make Council members ineligible for immediate re-election after two consecutive terms, thereby ensuring rotation;
- Member States - when electing members to the Council - would take into account the candidates' contribution to the promotion and protection of human rights and their voluntary pledges and commitments made thereto prior to the election;

In other words, the HRC will meet throughout the year in Geneva with at least 3 meetings of the duration of 10 weeks with the capacity to call emergency sessions, the election of the first 47 members of the Council took place on 9 May 2005 while the Council will hold its first session on 19 June 2005. All the 47 members of the Council will have their country's human rights situation scrutinised under universal review mechanism of the Council and countries like China, USA, Russia, United Kingdom and France will not have the option of being regularly elected to the Council. An aspiring country needed at least 96 votes cast in secret to get elected to the Council. The 47 members were elected on equitable geographic distribution of 13 for the African Group; 13 for the Asian Group; eight for the Latin American and Caribbean group; six for the Eastern European Group; and seven for the Western European and Other States Group.

After two weeks suspension, on 27 March 2005, the 62nd and final session of the CHR concluded its work in just over two hours. To certain groups of countries and NGOs this development was a great disappointment. From the Tibetan perspective, the delay caused on the consideration by the CHR the report of the Special Rapporteur on Torture<sup>15</sup> on his fact-finding mission to Tibet and China furthermore

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<sup>14</sup> <http://www.reformtheun.org/index.php/articles/1957>

<sup>15</sup> <http://www.ohchr.org/english/bodies/chr/docs/62chr/ecn4-2006-6-Add6.doc>

signified disappointment. However, while holding its last session, the CHR referred all its reports to the HRC to consider at its first session.

From the NGO point of view, a joint NGO statement signed more than 200 groups, including International Campaign for Tibet Europe and Tibetan Women's Association, Ontario, Canada, was delivered to 62CHR. The short statement said: "During the 60 years of the Commission on Human Rights, non-governmental organisations have played, in the words of the General Assembly, "an important role at the national, regional and international levels, in the promotion and protection of human rights". Unfortunately the arrangement made for their participation in the final session of the Commission through a single statement does not allow this important role to be reflected. Non-governmental organisations are very diverse, reflecting the variety and multiplicity of human experiences. They have brought to the Commission the voices of the voiceless and of victims of violations throughout the world. That diversity and those voices cannot be encapsulated in a single statement. With disappointment and a sense of loss, we note that they are missing from the final session of the Commission."<sup>16</sup>

One of the most damning statements<sup>17</sup> at the conclusion of the 62CHR was that of the Asian Group which came from the Saudi Ambassador Abdulwahab Attar. In the context of the work of the future HRC, the statement said: "We believe that the Council should focus on capacity building, technical assistance and dialogue to ensure the realisation of all human rights. We wish to emphasise the importance of constructive approach in the promotion and protection of human rights, and in this regard efforts should be made to avoid country specific actions and resolutions as it could be counterproductive and may lead to political confrontation."

The Chairperson of the 62CHR in his statement<sup>18</sup> asked the participants to pay a moment of silence in tribute to the memory of all those who lost their lives as victims of human rights during the Commission's history. "The resolution on the closure of the Commission on Human Rights and the final report that we have adopted without a vote have the significant merit of specifying that the transfer of the Commission's function, mechanisms, mandates and responsibilities includes the consideration by the Council of all of the Commission's outstanding agenda items. This will ensure that there is no gap in protection and will provide the Council with the most important items on its substantive agenda," the statement said.

Before the election of the first 47 members of the Council, Amnesty International has called on all member states of the UN to ensure that the 47 members of the Human Rights Council are fully committed to the promotion and protection of

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<sup>16</sup> <http://www.ishr.ch/hrm/chr62/statements/NGOJointStatement.pdf>

<sup>17</sup> [http://portal.ohchr.org/portal/page?\\_pageid=2054,272172,2054\\_272190&\\_dad=portal&\\_schema=PORTAL](http://portal.ohchr.org/portal/page?_pageid=2054,272172,2054_272190&_dad=portal&_schema=PORTAL)

<sup>18</sup> [http://portal.ohchr.org/portal/page?\\_pageid=2054,272172,2054\\_272190&\\_dad=portal&\\_schema=PORTAL](http://portal.ohchr.org/portal/page?_pageid=2054,272172,2054_272190&_dad=portal&_schema=PORTAL)

human rights. Amnesty International<sup>19</sup> in particular called on UN Members to "cast their vote only for candidate countries committed to human rights, and without trading votes, i.e. without asking states to support their election to the Human Rights Council in return for backing other states seeking membership of the Council or other UN bodies."

In this regard, the Government of Mexico<sup>20</sup> stated before the elections that it will not exchange votes on candidatures to elect members of the HRC and will also not disclose its voting intentions. Another government statement referring to the Council's election was, the Ambassador of the Netherlands, who made a statement on behalf of the Western Group of Nations<sup>21</sup> at the last CHR meeting. Ambassador Ian M. de Jong said: "While membership is open to all, members of the HRC will be accountable for their commitment to abide by the highest human rights standards. Our Group pledges not to cast out votes for any candidate for HRC membership that is under sanctions by the Security Council for human rights related reasons. It is our firm view that no State guilty of gross and systematic violations of human rights should serve on the Council."

While the universal review mechanism of the HRC should be welcome by Tibetans and their supporters and other important changes for this new body, we will still need to keep an eye on one procedural matter which is "*NO ACTION MOTIONS*". The Human Rights Features<sup>22</sup> of South Asian Human Rights Documentation Centre, asked Ambassador Manuel Rodriguez Cuadors of Peru who was the Chairman of the 62nd UN Commission on Human Rights:

Q- No-action motions were often used to block discussion on various issues in the Commission. Will the Human Rights Council be any different? Ambassador Cuadors responded: "In principle, the Council will begin its work with the rules of procedure of the Commissions of ECOSOC, practically with the same rules as the present Commission, which provide for no-action motions. But the General Assembly has given the Council its mandate as also the capacity to act, elaborate and approve its own rules. Thus, the Council can change the current rules. If I could venture my personal opinion - as a delegate from Peru in any event, but not as Chair because I would not want to prejudge the work of the Council on this issue - I believe that on human rights matters it is unnecessary and counterproductive to resort to no-action motions."

With this background, Tibetans and their supporters need to reflect on the considerations the Tibetan Issue, in particular victims of human rights abuses in Tibet, received from the CHR and what we could hope for at the HRC and what we should do ourselves to adhere to international human rights standards and norms.

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<sup>19</sup> <http://www.reformtheun.org/index.php/articles/1977>

<sup>20</sup> <http://www.reformtheun.org/index.php/articles/1975>

<sup>21</sup> [http://portal.ohchr.org/portal/page?\\_pageid=2054,272172,2054\\_272190&\\_dad=portal&\\_schema=PORTAL](http://portal.ohchr.org/portal/page?_pageid=2054,272172,2054_272190&_dad=portal&_schema=PORTAL)

<sup>22</sup> [www.hrdc.net/sahrdc](http://www.hrdc.net/sahrdc)

## **Tibet and Commission on Human Rights**

We cannot go further here without at least dwelling on the obvious question on why a resolution to censure China over its human rights record at the CHR was not ever adopted. I believe this question has been answered, to some extent, earlier in this article. But one satisfactory answer could be that China has toned down its "internal affairs" cover up by both engaging in human rights dialogue with many countries and by receiving international human rights monitors in Tibet. Observers believe that mildly worded resolutions at the CHR would not have achieved UN human rights fact-finding missions to China and Tibet.

Equally the answer lies in our attitude towards the United Nations system as a whole and of course, our policy, whether that of the Tibetan Government in Exile (TGIE) or from Tibetan NGOs. In this respect, we can surely say that in recent years our policy-strategies at UN human rights forum has not been firm or even clear. In such a situation, it was easy for Western governments, in particular United States and the European Union, despite the urging from their legislative bodies, to decide not to table resolutions critical of China at the CHR.

And if, if we consider the matter from a different angle, it should to be noted that the United States while failing to table a resolution on China at last year's CHR session gave several reasons which are related to attempts of improving the human rights situation in present-day PRC. One of the reasons was connected to the CHR itself, i.e. securing an agreement from Beijing to allow special thematic procedures on fact-finding missions, including to Tibet. In 2004 and 2005, two human rights experts of the CHR were able to make fact-findings mission which included stops in Lhasa. These UN missions have come out with important and concrete conclusions and recommendations on the current situation of arbitrary detention and torture in present-day China.

## **UN Human Rights Experts and Tibet**

Having said that we must look at the how the CHR, in particular its thematic procedures, had actually attempted to play a crucial role towards the promotion and protection human rights in Tibet over the past twenty years.

The role played by the independent human rights experts of the CHR to intervene on human rights violations in Tibet has been one solid satisfaction. It was due these considerations on individual cases in Tibet that documented the seriousness of the violations of the rights of Tibetans. Since the mid-1980s, special rapporteurs, working groups and experts of the CHR whenever approached with reliable information have repeatedly intervened on the human rights in Tibet.

In 2003 for instance, the Special Rapporteur on Violence against Women in her report to the CHR concluded: "Women in Tibet continue to undergo hardship and are also subjected to gender-specific crimes, including reproductive rights violations such as forced sterilization, forced abortion, coercive birth control policies and the

monitoring of menstrual cycles. There have been many reports of Tibetan women prisoners facing brutality and torture in custody."<sup>23</sup>

While the Working Group on Enforced or Involuntary Disappearances<sup>24</sup> of the CHR considers the disappearance of Gedhun Choekyi Nyima, the Eleventh Panchen Lama of Tibet as one of its outstanding cases, the Special Rapporteur on adequate housing, Mr. Miloon Kothari, called on the need to continue his dialogue with the Chinese authorities concerning the demolition of historic buildings and housing complexes in Lhasa which took place in May 2002. He informed the CHR that there was need to continue discussion on this issue and to study the impact of planning legislation and policies on the realization of human rights to adequate housing in Tibet. He said that this was particularly relevant in the context of the State obligations under ICESCR which China ratified in 2002.<sup>25</sup>

Concerning Panchen Lama's disappearance, the Special Rapporteur on Freedom of Religion or Belief informed that on 9 June 2005 a communication was sent to the Chinese authorities "to underline the tenth anniversary of the disappearance of Gedhun Choekyi Nyima, 16 years...the Special Rapporteur wished to express her concern about the grave interference with the freedom of belief of the Tibetan Buddhists who have the right to determine their clergy in accordance with their own rites and who have been deprived of their religious leader."<sup>26</sup>

The Chinese authorities responded on 7 September 2005 claiming that Gedhun Choekyi Nyima is not the "Panchen Lama" but merely an ordinary Tibetan child.<sup>27</sup> China's response also said: "At the current time, Nyima is in good health and, just like other children, is leading a normal, happy life and receiving a good cultural education. According to our understanding, he is already at secondary school and his school results are good. He and his family are not willing to let this interfere with their normal routine."

In this year's report<sup>28</sup>, Ms. Hina Jilani, the Special Representative of the Secretary-General on human rights defenders<sup>29</sup>, another mandate of the CHR, said that she "remains deeply concerned by reports of arbitrary arrests and detention, including incommunicado, torture and ill-treatment of defenders, and in particular those that deal with issues concerning the 1989 events of Tiananmen Square, religious minorities, ethnic minorities such as Uighurs and Tibetans, and lawyers who take on human rights cases such as forced sterilization and abortions, forced evictions and labour issues."

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<sup>23</sup> <http://www.ohchr.org/english/issues/women/rapporteur/index.htm>

<sup>24</sup> <http://www.ohchr.org/english/issues/disappear/index.htm>

<sup>25</sup> <sup>25</sup> <http://www.ohchr.org/english/issues/housing/index.htm>

<sup>26</sup> <http://daccessdds.un.org/doc/UNDOC/GEN/G06/121/25/PDF/G0612125.pdf?OpenElement>

<sup>27</sup> <http://www.savetibet.org/news/newsitem.php?id=949>

<sup>28</sup> <http://www.ohchr.org/english/bodies/chr/sessions/62/listdocs.htm#17>

<sup>29</sup> <http://www.ohchr.org/english/issues/defenders/index.htm>

In a similar vein, Mr. Leandro Despouy, the Special Rapporteur on the independence of judges and lawyers<sup>30</sup>, informed the 62CHR that in the case of Tenzin Delek Rinpoche, he "wishes to request the Government for updated information and wishes to learn whether, as suggested, the death penalty against him was eventually commuted to a prison term. The Special Rapporteur notes with special interest in this connection the Government comment that in recent years 99 per cent of all death sentences were commuted to life or fix-term imprisonment. He wishes to take this opportunity to reiterate his firm opposition to the death penalty and to urge the Chinese Government to move towards removing it from national legislation."

On 14 April 2004, three experts of the CHR, the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on the independence of judges and lawyers, and the Special Representative of the Secretary-General on human rights defenders, jointly issued a press statement on the status of Tenzin Delek Rinpoche. The statement said: "We are deeply concerned over the situation of Tenzin Delek Rinpoche, a prominent Lama who was involved in social work in favour of the Tibetan community in the Kandze Tibetan Autonomous Prefecture of the Sichuan Province and who promoted the reestablishment of Tibetan Buddhism in the region."

The Special Rapporteur on racism, racial discrimination, xenophobia and related intolerance referred in his report of December 2002 had indicated to the Chinese authorities that Tibetans in the Tibetan Autonomous Region (TAR) suffer various forms of systematic and institutional discrimination in the fields of employment, health care, education, housing and public representation. On political representation, the Special Rapporteur said that: "Although laws guarantee Tibet self-government, Tibetans' governing power is very restricted and is subject to strict supervision and authorization by the central authority."<sup>31</sup>

China written response to the Rapporteur suggested that "...the Tibetan question originates not from racial discrimination, but from the ethnic separatism of the Dalai Lama clique. The various accusations levelled in the above-mentioned letter are in stark contrast to the actual situation and constitute a malevolent attack furthering covert political designs. It is to be hoped that, given its devotion to facts and the cause of justice, the United Nations human rights system and the persons and organizations forming part of it will not allow themselves to be misled."

As regards the crackdown on Serthar and Yachen monastic institutions, the Chinese authorities informed the CHR's Special Rapporteur on Freedom of Religion or Belief in a letter dated 14 November 2002 that "there are problems with buildings that contravene the regulations and that the establishments lack essential fire protection, hygiene and medical facilities and pose a serious hazard to the health and safety of the many monks and nuns. The Government has provided extensive support for reorganizing and refurbishing the Institute. No pressure was placed on

<sup>30</sup> <http://www.ohchr.org/english/issues/judiciary/index.htm>

<sup>31</sup> <http://daccessdds.un.org/doc/UNDOC/GEN/G02/108/31/PDF/G0210831.pdf?OpenElement>

any monk or nun to return to secular life nor was any monk or nun placed in detention. On the contrary, the State contributed a considerable amount of money to assist with the resettlement of those monks and nuns who wished to return to their villages and with the reconstruction of the Institute's buildings. In recent years, management of the Yachen monastery, a centre for propagating the Nyingma sect of Tibetan Buddhism, has deteriorated and it has become seriously overcrowded; the buildings lack any planning and the problem of unauthorized building has emerged; the surrounding area is dirty and untidy; and there are serious violations of relevant State laws and regulations, entailing serious threats to safety and health and endangering the lives of the monks, nuns and local people. In May 2001, the management committee of the Yachen monastery decided to reorganize and refurbish the monastery, putting in place regulations for its buildings and carrying out extensive repairs and renovations. With regard to Jigme Phuntsok, the local government has made arrangements for his medical treatment and his health condition is now greatly improved."<sup>32</sup>

The Working Group on Arbitrary Detention established by the CHR in 1991 has determined the detention of many Tibetans as arbitrary and one recent example is the arrests of Tibetans in Sog region in March 2000.<sup>33</sup> The Working Group states that Tenzin Choewang, Yeshe Tenzin, Sey Khedup, Thraba Yeshe and Tserin Lhagon were organizing a youth group. It has not been disputed, however, that their purpose was to associate peacefully, or express their beliefs peacefully, without inciting or resorting to violence. These persons were also posting and distributing leaflets, exercising their freedom of opinion and expression which includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media. On those grounds, they were tried for endangering national security and supporting separatist activities, sentenced to three to fifteen years' imprisonment (in the case of Mr. Khedup, even life imprisonment) and stripped of their political rights, although the Government's reply makes no specific reference to the articles of the Criminal Code concerning the breaches of State security under which they were charged.<sup>34</sup>

The Special Rapporteur on extrajudicial, summary or arbitrary execution of the CHR has also intervened on cases in Tibet, including on the summary execution of Lobsang Dhondup and deaths of Tibetan prisoners following the Drapchi Prison protests of May 1998. At the 59<sup>th</sup> CHR, the rapporteur's report says that information was received on 26 January, 2002 that "Kelsang Gyatso was arrested with groups of other Tibetan monks as they were trying to enter India via Nepal at the Chushui Bridge. It is reported that Kelsang Gyatso, a Tibetan monk, died in the Lhasa Detention Centre in December 2001 as a result of beatings and lack of medical attention. According to the information received, on 5 February 2001, Ngawang

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[http://search.ohchr.org/search?q=tenzin+delek+rinpoche&btnG=Search&ie=utf8&oe=utf8&output=xml\\_no\\_dtd&client=default\\_frontend&proxystylesheet=default\\_frontend&site=default\\_collection](http://search.ohchr.org/search?q=tenzin+delek+rinpoche&btnG=Search&ie=utf8&oe=utf8&output=xml_no_dtd&client=default_frontend&proxystylesheet=default_frontend&site=default_collection)

<sup>33</sup> [http://www.tchrd.org/publications/hr\\_updates/2000/hr200007.html#unrest](http://www.tchrd.org/publications/hr_updates/2000/hr200007.html#unrest)

<sup>34</sup> <http://daccessdds.un.org/doc/UNDOC/GEN/G03/169/00/PDF/G0316900.pdf?OpenElement>

Lochoa died in the Lhasa Army Hospital as a result of continuous ill-treatment and deprivation of medical attention. Ngawang Lochoa, a Tibetan nun, had been imprisoned since 1993 for having taken part in a peaceful demonstration. According to the information received, in April 2000, Sonam Richen, a Tibetan farmer, died in Drapchi prison allegedly as a result of ill-treatment and torture. He had reportedly been in prison since 1992 for shouting pro-independence slogans. According to the information received, in August 2000, Tsering Wangdrag died in Krazde prison allegedly as a result of torture and ill-treatment.”<sup>35</sup>

On 22 April 2005, the Special Rapporteur on the Right to freedom of opinion and expression, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning five Tibetan monks: Tashi Gyaltsen, Lobsang Dhargay, Thoe Samden, Tsultrim Phelgay and Jampel Gyatso. According to information received, on 16 January 2005, they were arrested for having published a journal containing poems and articles of a political nature. They were sentenced to two to three years of reeducation through labour and were being detained at Qinghai labour camp, close to Xining, north central China, at the time this communication was sent. The Special Rapporteurs expressed their concern that the five monks had been sanctioned solely for expressing their views.<sup>36</sup>

On 6 December 2005, a joint urgent action on Tibet was initiated by the Special Rapporteur on Torture, the Special Rapporteur on Freedom of Religion or Belief and the Working Group on Arbitrary Detention in reaction to the situation at Drepung Monastery in November 2005 and at Sera Monastery. This urgent communication to China identified the arrests of five Drepung monks: Ngawang Namdrol, Ngawang Nyingpo, Ngawang Thupen a.k.a. Shogbu Metok, Khenpo Ngawang Phelgyal and Phuntsok Thupwang.

The three UN human rights experts informed China: “On 23 November 2005, they were arrested following a patriotic re-education ceremony that had been taking place at Drepung Monastery since October 2005. They were handed over to officials of the Public Security Bureau of their respective places of origin after they refused to sign a statement denouncing the Dalai Lama and recognizing Tibet as a part of China. They are currently being held in Public Security Bureau places of detention. There are concerns that they may be subjected to torture or ill-treatment at risk of torture or ill-treatment. On 25 November 2005, approximately 400 monks held a silent sit-down protest in the monastery courtyard. Security forces personnel, including from the army, People’s Armed Police and the Public Security Bureau, beat a number of the monks in efforts to disperse them.”<sup>37</sup>

At its first meeting in 2006, the Working Group on Enforced or Involuntary Disappearances of the CHR, again considered the case of Gedhun Choekyi Nyima at its meeting at the end of April. In a statement issued on 2 May on the website of the Office of UN High Commissioner for Human Rights, the Working Group said: "The Working Group especially deplores disappearances of children. At this

<sup>35</sup> <http://daccessdds.un.org/doc/UNDOC/GEN/G03/109/84/PDF/G0310984.pdf?OpenElement>

<sup>36</sup> <http://daccessdds.un.org/doc/UNDOC/GEN/G06/121/12/PDF/G0612112.pdf?OpenElement>

<sup>37</sup> <http://daccessdds.un.org/doc/UNDOC/GEN/G06/119/42/PDF/G0611942.pdf?OpenElement>

meeting, it received new cases of disappeared children from Colombia and reviewed outstanding cases of children's disappearances in Honduras and Nepal. It also discussed communications received on the case of the Panchen Lama of Tibet, China. The Working Group noted that this session coincided with the 17th birthday of the Panchen Lama who disappeared when he was only 6 years old."<sup>38</sup>

### **UN Human Rights Missions to Tibet**

The above signify clear indications of how the UN human rights experts have attempted to address the suffering of the Tibetans inside Tibet. Another important development was the fact-finding visits by UN human rights experts to Tibet which began with the visit to Lhasa by the Special Rapporteur on Freedom of Religion or Belief in November 1994. At that time this CHR mandate was held by Mr. Abdelfattah Amor from Tunisia. His historic visit to Tibet was followed by two visits from the Working Group on Arbitrary Detention in 1997 and 2004 and one by the Special Rapporteur on Torture in November 2005.

In 2003, the Chinese authorities also received the Special Rapporteur on the right to Education. Although this mission was restricted to Beijing, the Special Rapporteur did make a strongly worded conclusion about the level of illiteracy in Tibet, calling it "horrendous" at the plenary session of the CHR. China written reaction said that the Special Rapporteur did not visit Tibet but "this did not prevent the Special Rapporteur from making biased and irresponsible comment on the education in Tibet."<sup>39</sup> China even called for the revision of the expert's mission report to China which never happened.

In the mission report, the Special Rapporteur "was dismayed at the illiteracy rate in Tibet, 39.5 per cent, and asked the Ministry of Education whether one reason might be the fact that the literacy test was in Tibetan, while Mandarin is used in political, economic and social life. "Out of more than 120 languages spoken in China, 50% are endangered", reinforcing the necessity of remoulding education with a view to preserving cultural diversity. An education that would affirm minority rights necessitates full recognition by the majority of the worth of minority languages and religions in all facets of life. Otherwise, education is seen as assimilationist and, hence, not compatible with China's human rights obligations."<sup>40</sup> The Special Rapporteur recommended full integration of human and minority rights in education policy, law and practice.

In the case of the visit of the Special Rapporteur on religious freedom, the mission report made a solid observation of the ground situation in Tibet. The Special Rapporteur "noted the extremely devout attitude perceptible in Tibet, the full scale and extent of which has not, perhaps, been sufficiently appreciated so far. This factor must be taken into account when analysing the religious situation in Tibet.

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[Full Text of Working Group's press statement](#)

<sup>39</sup> <http://daccessdds.un.org/doc/UNDOC/GEN/G03/171/34/PDF/G0317134.pdf?OpenElement>

<sup>40</sup> <http://daccessdds.un.org/doc/UNDOC/GEN/G03/170/38/PDF/G0317038.pdf?OpenElement>

Moreover, the question of Tibet would be less acute if it did not have an added dimension, in other words if it turned solely on religious aspects...The Special Rapporteur considers that deep religiousness may be the source not only of great spirituality, but also of real difficulties. The latter should be dealt with through dialogue, tolerance and education. Any repression of religion can lead to greater religiousness, or even, in some cases, a form of extremism, despite the apparently non-violent nature of Buddhism in general and Tibetan Buddhism in particular, the values of which might be severely tried by changes to the demographic data of Tibet. The Special Rapporteur recommends that the balances and compromises required by social dynamics be reached, so as to avoid the deeply religious being tempted by religious extremism."<sup>41</sup>

On 26 November, 1994, the Special Rapporteur met with Yulo Dawa Tsering and made these references to their discussion in the mission Report: "Mr. Yulo Dawa Tsering expressed concern on two matters, firstly, the fact that monks jailed for demonstrating and poster campaigns were excluded from places of worship upon their release and, secondly, the international community's concept of the history of Tibet. He also voiced his disquiet over the fate of Mr. Lobsang Tenzin, imprisoned for having attempted to hand over a letter addressed to an ambassador which had been intercepted by an interpreter. He concluded by expressing his hopes regarding the international community, in particular, should his meeting with the Special Rapporteur have negative consequences for him."<sup>42</sup> This was the first ever meeting between a UN human rights expert and a Tibetan victim.

Mr. Amor's report to the CHR dated 15 December 1995 said: "In the case of China, the first urgent appeal concerned Father Chadrel Rimpoché, head of the committee to seek to identify the successor to the Panchen Lama, and his assistant, who were allegedly arrested at Chengdu on 17 May 1995. The monks of Tashilhampo Monastery are also reportedly compelled to undergo re-education sessions on the issue of choosing the successor to the Panchen Lama. The second urgent appeal concerned Mr. Yulo Dawa Tsering, a high-ranking Tibetan monk who was released on 6 November 1994, and whom the Special Rapporteur consulted during his visit to China. Mr. Yula Dawa Tsering is allegedly being held incommunicado in the Rabse district of Lhasa. The Special Rapporteur drew attention to the commitment made by the Chinese authorities during his visit that Mr. Yula Dawa Tsering would not suffer in any way as a result of his interview."<sup>43</sup>

In September 2004, the Working Group on Arbitrary Detention discontinued its inspection-visit at Drapchi Prison when access to Tibetan political prisoners of concern to the Group was denied, according to the Group's mission report<sup>44</sup> to the 61CHR. The Group's mission-report aired serious concern about vagueness in Chinese criminal law legislation definition of the terms like, "endangering national

<sup>41</sup> <http://daccessdds.un.org/doc/UNDOC/GEN/G94/751/53/PDF/G9475153.pdf?OpenElement>

<sup>42</sup> <http://daccessdds.un.org/doc/UNDOC/GEN/G94/751/53/PDF/G9475153.pdf?OpenElement>

<sup>43</sup> <http://daccessdds.un.org/doc/UNDOC/GEN/G95/148/38/PDF/G9514838.pdf?OpenElement>

<sup>44</sup> <http://daccessdds.un.org/doc/UNDOC/GEN/G05/102/74/PDF/G0510274.pdf?OpenElement>

security”, “violating the unity and integrity of the State”, endangering state security,” and “disrupting social order.”

During its 1997 visit to Tibet, the Working Group said: "As most of the detainees at Drapchi were Tibetans, it was felt that the interpreters provided by the United Nations would not be able to translate from spoken Tibetan. According to the authorities, this required the use of the interpreters provided by the Tibet Autonomous Region. The Group resisted this suggestion. Ultimately, the matter was resolved, as some of those who were interviewed also spoke Mandarin whereas others were understood with the help of other inmates who spoke Mandarin and who were selected at the last minute by members of the Group."

In the report, the Working Group describing their visit to Drapchi on 11 October 1997, said: " Drapchi has 968 inmates, 78 per cent of whom are of Tibetan origin. Inmates receive education and professional training to allow them to find jobs after serving their sentences. The inmates are allowed to receive members of their families once a month. The duration of each such visit is 15 to 20 minutes. Many of the inmates have their sentences reduced for good behaviour; some had been released for good behaviour in August 1997. The Group was informed that every year, on average, 25-30 per cent of the inmates receive the benefit of mitigation of sentence. The Working Group interviewed 10 inmates privately. Some of the prisoners were picked at random, some were chosen from a list of prisoners who were not commonlaw prisoners submitted to the authorities."

On the Chinese policy of re-education through labour under which many Tibetans suffered, the Working Group's 2004 report said: "There exists no genuine right to challenge administrative detention, including detention for the purpose of re-education through labour and detention in a psychiatric facility. The avenues to challenge placement in re-education through labour institutions do not satisfy international law requirements. The Working Group welcomes the information that the NPC wishes to put on its agenda the reconsideration of the current legal framework for the system of re-education through labour. The unduly long duration of this measure needs to be reduced and an effective remedy against the decision of the authority to placement in re-education through labour must be introduced."

Referring to the Drpachi Prison visit, the report the administration of Drapchi Prison, however, "referring to the internal prison regulation prohibiting any foreigner from visiting prisoners exhibiting violent behaviour and prisoners whose re-education would be in jeopardy if he/she met with foreign visitors, as well as prisoners in possession of State secrets, denied access to the detainees to be selected by the Working Group. Therefore, the Working Group stopped its visit and left Drapchi Prison...The Working Group wishes to express its dissatisfaction with regard to this incident. It is unacceptable that a Member State should impose limitations on human rights mechanisms under the pretext that their members are “foreigners”."

At the end of November 2005, the Special Rapporteur on Torture, Mr. Manfred Nowak, was received by the Chinese authorities in the Tibetan capital. The UN

expert was given access to the UN expert to a new prison called Chushul Prison also known to Tibetans as Nyethang Prison, reportedly opened in April 2005. The Special Rapporteur recalled that over the last several years his predecessors have received a significant number of serious allegations related to torture and other forms of ill-treatment in China, which have been submitted to the Government for its comments. These have included a consistent and systematic pattern of torture related to ethnic minorities, particularly Tibetans and Uighurs, political dissidents, human rights defenders, practitioners of Falun Gong, and members of house-church groups. These allegations have been and continue to be documented by international human rights organizations.

At the new prison resembling like a luxurious resort from the main entrance with one side wall propagating the slogan, "seeking truth from facts" in Tibetan and Chinese, Mr. Nowak met with Bangri Rinpoche. During the meeting Rinpoche told the Special Rapporteur that "the first five days of his detention was the most difficult period as he was continuously interrogated night and day. He was held handcuffed with one hand behind his shoulder and the other around his waist, and empty bottles were put in the spaces between his arms. His legs were fettered, he was hooded and made to kneel on a low stool for 1.5 hours. The room where he was held was dark and dirty and without natural sunlight. Regular interrogations continued over the following three months. Most of the time he was wearing handcuffs and shackles, even when eating and sleeping. Because of this and because he was afraid it was often hard to sleep." The Special Rapporteur appealed to the Chinese authorities to all the Tibetan prisoners he met during the mission because he believed that they had "been convicted of a political crime, possibly on the basis of information extracted by torture."<sup>45</sup>

Mr. Nowak also interviewed Jigme Gyatso who informed him that "on 30 March 1996, he was arrested and beaten by the criminal investigation team. He was subsequently sentenced to 15 years imprisonment and 5 years deprivation of political rights on 25 November 1996 by Lhasa Municipal Intermediate People's Court for the crime of endangering national security in connection with establishing an illegal organization. He told the Special Rapporteur that the ill treatment was worst in Gutsa, where he stayed for one year and one month. Since the persons he was charged together with had already confessed, he also decided to confess. He then was transferred to Drapchi Prison in April 1997. In one incident in March 2004, he yelled out, "Long live the Dalai Lama," for which he was kicked and beaten, including with electric batons. The electric batons were used on his back and chest with painful effect, and ceased once the Chief of Police came and stopped it. After this incident his sentence was extended for an additional two years."<sup>46</sup>

In the mission report, the Special Rapporteur observed: "The criminal justice system and its strong focus on admission of culpability, confessions and re-education is particularly disturbing in relation to political crimes and the administrative detention system of "Re-education through Labour". The combination of deprivation of

<sup>45</sup> <http://daccessdds.un.org/doc/UNDOC/GEN/G06/117/50/PDF/G0611750.pdf?OpenElement>

<sup>46</sup> <http://daccessdds.un.org/doc/UNDOC/GEN/G06/117/50/PDF/G0611750.pdf?OpenElement>

liberty as a sanction for the peaceful exercise of freedom of expression, assembly and religion, with measures of re-education through coercion, humiliation and punishment aimed at admission of guilt and altering the personality of detainees up to the point of breaking their will, constitutes a form of inhuman or degrading treatment or punishment, which is incompatible with the core values of any democratic society based upon a culture of human rights."

### **Tibetan Testimonies**

For many years, the CHR provided a valuable forum for Tibetans to actively participate in its deliberations. Officials of the TGIE, representatives of Tibetan NGOs and Tibet Support Groups have been able to address the Commission through NGO statements. However, the most inspiring Tibetan views have come from former political prisoners like Takna Jigme Sangpo. His testimony to the CHR session in 2003, said: "I was imprisoned because I carried out a non-violent human struggle to defend the legitimate rights of the six million Tibetan people. During those more than three decades of a political prisoner's life, I was tortured both physically and mentally, beyond human imagination. My dignity as a human being was humiliated and crushed. My physical appearance today is a proof of the immense suffering I endured. The Chinese authorities identified me as criminal who must suffer for life and die in prison. That is how I lost the best part of my life. I never thought I will leave the prison alive. But due to my fate I somehow survived, unlike thousands of Tibetans who sacrificed their lives for our just cause."<sup>47</sup>

Concluding his statement, Takna Jigme Sangpo urged: "Mr. Chairman, this old man from Tibet, appeals to all nations in this hall to help end the human suffering of the Tibetans. Please urge the Chinese government to open earnest negotiations with His Holiness the Dalai Lama to resolve the long-standing Tibetan Issue in the interest of both the Tibetan and Chinese peoples. The unfortunate people of Tibet, including the political prisoners, who are the same human being as everyone else in this hall, urgently need your support before it is too late!"

Active participation at the CHR meetings gave Tibetans a platform to engage in persistent lobby work with governments, UN officials and human rights organizations. It was at forums like the Commission where Tibetans were able to work closely and establish networks, with independent Chinese human rights organizations and of course, NGOs from Asia and other regions. Due to such interactions, in 1996, the Unrepresented Nations and Peoples Organisation (UNPO)<sup>48</sup> organised a highly successful conference<sup>49</sup>, "The Quest of Self-determination: The Cases of East Timor, Tibet and Western Sahara," during that year's session of the CHR.

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<sup>47</sup> <http://www.phayul.com/news/article.aspx?id=3998&t=1>

<sup>48</sup> [www.unpo.org](http://www.unpo.org)

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<http://66.249.93.104/custom?q=cache:jgqaDQyBECKJ:www.unpo.org/Downloads/Selfdetermination%2520Conference%2520Easttimor%2520Tibet%2520Westsahara%25201996.pdf+self+determination+tibet+east+timor+western+sahara&hl=de&ct=clnk&cd=2&ie=UTF-8>

When looking at the role of UN in relation to the right to self-determination, it is clear that one of its greatest achievements has been the implementation of the right to self-determination within the drive for decolonisation. Speakers at the conference agreed that the cases of East Timor, Tibet and Western Sahara are three very notable failures of the UN. "The failure of the international community to vindicate the dear rights of the peoples of East Timor, Tibet and Western Sahara is not to be blamed on the incoherence of the concept of the right to self-determination. The failure is a political failure," one of the conclusions of the conference said. At present time, East Timor is an independent country and Western Sahara waits for the promised UN referendum while Tibet seeks "genuine autonomy" in PRC.

### **China Resolution**

This also brings us to the earlier question of the CHR's failure to adopt a resolution critical of China's human rights record. While discussing this we need to realise that during the CHR's session in 1992, Tibet was on the Commission's agenda. This was a major achievement as for the first time since 1965 Tibet appeared as an issue to be considered by a UN body. This happened due to a resolution on Tibet adopted by the CHR's Sub-Commission on Human Rights on 23 August 1991. Special Envoy Lodi G. Gyari and Envoy Kelsang Gyaltsen led the Tibetan lobby at that year's Sub-Commission session. That resolution also became the only UN resolution on Tibet by the United Nations after 1965 although the Sub-Commission was an expert body on human rights where resolutions are voted in secret by individual experts rather than governments.

The Sub-Commission resolution expressed concern "at the continuing reports of violations of fundamental human rights and freedoms which threaten the distinct cultural, religious and national identity of the Tibetan people." As mandated by this resolution the UN Secretary-General submitted a report<sup>50</sup> on the situation in Tibet to the 48th session of the CHR. Having the word "national" in the resolution was an important legal achievement for the Tibetans.

Reflecting on the success at the Sub-Commission, Mr. Kelsang Gyaltsen, now the Envoy of His Holiness the Dalai Lama to the European Union and also the head of Tibet Bureau in Geneva told this article: "This was the first time since 1965 that a UN agency dealt with and adopted a resolution on Tibet. It was, therefore, politically a significant development. The Sub-Commission resolution on Tibet demonstrated that the issue of Tibet remains and continues to be of international concern unless it is addressed and resolved through dialogue and negotiations."

Since 1992, attempts for censure resolution on China were repeatedly blocked by procedural motions, no action motions, moved by China, with exception of 1992 when Pakistan did it for China. However, China's use of procedural tactics did not succeed in 1995<sup>51</sup> yet managed to defeat the resolution by one crucial vote which

<sup>50</sup> <http://www.tibetjustice.org/materials/un/un8.html>

<sup>51</sup> [http://www.tibet.ca/en/wtnarchive/1995/3/8-2\\_1.html](http://www.tibet.ca/en/wtnarchive/1995/3/8-2_1.html)

came from Russia<sup>52</sup>. One surprising element in the voting pattern was when two African States, Egypt and Ethiopia voted against Beijing. When China lost the no action motion, it was very satisfying to see that the Chinese delegation's "clapping entourage" had no job that night.

According to the South Asian Human Rights Documentation Centre, "the Commission failed to consistently address some of the worst human rights violations due to regional block voting. It never adopted a resolution on China or Guantanamo Bay, not because these issues did not merit it, but because China and the United States could always horse-trade sufficient votes. There was a resolution on Chechnya for three successive years, but it disappeared in 2002, never to be seen again; not because the situation in Chechnya improved, but because Russia got the single vote needed to defeat the resolution."<sup>53</sup> A recent example was when the UN Security Council adopted a resolution to impose sanctions over the situation in Darfur, Sudan. Russia and China, both permanent members of the Security Council with the power to veto the resolution, had initially opposed this move, but chose to abstain because the African nations supported the sanctions.<sup>54</sup>

The last resolution attempt on China at the CHR was in 2004 when while introducing the resolution the American delegation said: "The United States valued its relationship with China and believed that sustaining it required continued progress on human rights. It was therefore disappointed by China's failure to meet the commitments made at the United States – China Human Rights Dialogue in December 2002 or to make good on its stated intention to expand cooperation on human rights in 2003. A number of incidents in 2003 had called into question China's willingness to improve its protection of the right of its citizens to peacefully express their views, organize, or practice their faith. That included arrests or detentions of democracy activists, Internet dissidents, protesting workers, members of the clergy, HIV/AIDS activists, notably Hu Jia, and defence lawyers, as well as the continued repression of Tibetan Buddhists, Uighur Muslims and Falun Gong practitioners."<sup>55</sup>

China responded that it, "was not introducing a no-action motion because it refused to discuss its human rights situation. On the contrary, it welcomed well-meaning criticism and suggestions from other countries. But the anti-Chinese draft resolution introduced by the United States was designed to serve electoral interests in the future presidential elections and did not reflect a genuine concern for human rights. Anxious to maintain the dignity, objectivity and impartiality of the Commission, his delegation urged its members to vote in favour of the no-action motion." The vote on the no action motion proposal was 28 in China's favour, with 16 against and 9 abstentions.

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<sup>52</sup> [http://www.tibet.ca/en/wtnarchive/1995/3/8-4\\_1.html](http://www.tibet.ca/en/wtnarchive/1995/3/8-4_1.html)

<sup>53</sup> <http://www.hrdc.net/sahrdc/>

<sup>54</sup> <http://news.bbc.co.uk/2/hi/africa/4942026.stm>

<sup>55</sup> <http://daccessdds.un.org/doc/UNDOC/GEN/G04/138/27/PDF/G0413827.pdf?OpenElement>

## Tibetan Network

The CHR meetings at one stage became the global network for Tibetans and their supporters to lobby governments around the world in order to seek their support to improve the human rights situation in Tibet. There was no other annual opportunity whereby the Tibet Movement would engage in one objective, i.e., securing a censure resolution on China or scrutiny of China's human rights record, at the UN human rights body. But it was also a frustrating experience!

In 1998, Canada Tibet Committee (CTC) raised its concern during a NGO Consultation with the Canadian Government. The CTC statement said: "The Government of Canada's failure to co-sponsor a mildly worded resolution on China at the 53rd session of the Commission on Human Rights (CHR), its failure to mention Tibet in oral statements to the 53rd CHR, and its continued retreat from the promotion of human rights for Tibetans generally, has removed any confidence which the Canada Tibet Committee (CTC) retained either in this consultation process or in Canada's good faith in supporting a solution in Tibet. We are saddened that while Canada pursues commercial ties and soft policy dialogue with Beijing, it backsteps from condemnation of China's Tibet policy in the multilateral body most appropriate - the UN's Commission on Human Rights."<sup>56</sup>

Two years later in the Nordic world, the Saami Parliament in Norway called upon the Norwegian Government to lend its support to a China resolution at the CHR. The Saami Parliament in a resolution adopted March 2000 urged Norway "in the strongest possible way, to act in accordance with their commitments, and co-sponsor the draft resolution regarding the human right situation in China. Additionally, the Sami Parliament encourages Norway to further accentuate the Tibetan situation in the draft resolution. At the same time, the Sami Parliament calls upon Norwegian authorities, stressing the membership of Norway in the UN Human Rights Commission, to address the situation in Tibet in all their oral statements during this year's UNHRC session."<sup>57</sup>

In 1997, more than 2,000 people came to a Tibetan Demonstration organised by Transnational Radical Party and Tibet Support Groups (TSGs) before the UN building in Geneva. On 9 March 1997, AFP<sup>58</sup> reported: "Underlining the emphasis on China, thousands of Tibetans and sympathizers from across Europe were planning to hail the annual meeting with a colourful demonstration Sunday and Monday outside the Palais des Nations to commemorate the 38th anniversary of the country's abortive uprising...A key unknown of the session remains whether or not the European Union and the United States will submit a resolution calling on the commission to condemn major human rights violations by Beijing."

In Switzerland, without failure for many years, Tibetans from the Glarus region made it their annual initiative to hold a Vigil before the CHR in addition to the fact

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<sup>56</sup> [http://www.tibet.ca/en/wtnarchive/1998/2/21\\_2.html](http://www.tibet.ca/en/wtnarchive/1998/2/21_2.html): Statement by Canada Tibet Committee President In preparation for the 54th Session of the UN Commission on Human Rights

<sup>57</sup> [http://www.tibet.ca/en/wtnarchive/2000/3/8-2\\_3.html](http://www.tibet.ca/en/wtnarchive/2000/3/8-2_3.html)

<sup>58</sup> [http://www.tibet.ca/en/wtnarchive/1997/3/9\\_2.html](http://www.tibet.ca/en/wtnarchive/1997/3/9_2.html)

that the Tibetan Community in Switzerland and Liechtenstein did one every year. They were again coming in April this year but decided against after the 62CHR concluded its work on 27 March. At one point, the Tibetan Community in Switzerland even held daily vigils before the Commission. At various times these Tibetan vigils were joined by Uyghurs and Chinese human rights activist, including well known campaigner Mr. Wei Jengsheng.

In a press statement issued on 1 May, 1999, the Tibetan Youth Congress (TYC) said it had stopped its Hunger Strike before the UN building in Geneva at the urging of the Chairperson of the CHR and the then High Commissioner for Human Rights, Mrs. Mary Robinson. TYC statement also said: "While the hunger strike in Geneva succeeded in drawing the attention of the delegates to the United Nations Commission on Human Rights to the plight of the Tibetan people, we regret that some of our demands were not addressed during this Commission session. Nevertheless, our action generated great concern within the United Nations circles. Two of the hunger strikers also had the privilege of delivering formal statements before the Commission on the Tibetan issue while a special briefing on Tibet was held within the United Nations."<sup>59</sup> One of the demands of the Hunger Strike was asking the CHR to adopt a resolution to censure China for the continued human rights violations in Tibet, as well as requesting the appointment of a Special Rapporteur on Tibet.

At the European Parliament, the EU's "common" position on not co-sponsoring the China resolution became an annual debate with the Parliament repeatedly urging the Union to reverse its course. On 29 March 2000, European Parliamentarians from Belgium, Estonia, Finland, France, Germany, Ireland, Lithuania, Norway, Poland, Spain, Sweden, Switzerland, The Netherlands, United Kingdom declared that "bilateral dialogues on human rights with the Government of the People's Republic of China have failed to produce meaningful improvements in the human rights of the Chinese and Tibetan peoples". The parliamentarians who were holding a meeting to discuss the situation in Tibet called upon, "the European Union to co-sponsor a resolution on China at the 56<sup>th</sup> session of the United Nations Commission on Human Rights."<sup>60</sup>

During this period Tibetan NGOs continued to plan their lobby work at the CHR and some of them continue to follow the proceedings closely to this day. In 2002 when the USA was unseated from the Commission, three Tibetan groups publicly criticised the failure of the European Union to table a China resolution. "The EU has consistently failed since 1997 to take on the China issue at the UNCHR, preferring to leave it to the United States. Human rights are a global responsibility and this dangerously political approach undermines the very integrity of the Commission, and the weakness of this strategy of relying on one member state to act on an issue has been exposed this year by the USA's reduction to observer status. The EU's refusal to sponsor a resolution on China is based on the flawed premise

<sup>59</sup> [http://www.tibet.ca/en/wtnarchive/1999/5/1\\_1.html](http://www.tibet.ca/en/wtnarchive/1999/5/1_1.html)

<sup>60</sup> [http://www.tibet.ca/en/wtnarchive/2000/3/31\\_1.html](http://www.tibet.ca/en/wtnarchive/2000/3/31_1.html)

that action on China at CHR will compromise its failing dialogue and provoke political reprisals from China."<sup>61</sup>

On 20 March, 2001, the Tibetan Government in Exile made it known how it views the European Union's position on China resolution at the CHR. A statement made by Mr. T. C. Tethong, the then TGIE's Foreign Minister said: "We are disappointed by the fact that the European Union has decided not to co-sponsor the move by the United States to censure China's abysmal human rights record at the annual session of the UN human rights commission...This will send a wrong and misleading signal to the Chinese authorities that they can trample upon the human rights of their own citizens and ethnic minorities without any protest from a powerful and significant part of the free world." Between 1992 and 1996, it was actually the European Union (not the USA) who took the lead on tabling China resolutions at the CHR.

In fact in 1992, there were strong calls upon the USA to support the resolution on the situation in Tibet which was moved by the European Union. The International Commission of Jurists Secretary General Mr. Adama Dieng noted that the position of the US would be critical to the resolution's success. "Although the US has not yet openly taken a position on the resolution, we cannot imagine that the US will turn its back on the Tibetan people at this crucial moment."<sup>62</sup> He called on the US to take a strong public position in favour of the resolution, a step which, he said, might make it easier for some other countries to support the text despite heavy Chinese pressure. The initial text of the resolution as drafted by the EU (those days called European Community) was titled, "Situation in Tibet" but to ensure the USA co-sponsorship the titled got changed to "Situation in Tibet/China."

A speech delivered at the Conference by Zeng Jian-Hui (Vice-Minister for the Propaganda Ministry of the CCP Central Committee) said: "...at the United Nations Human Rights Commission held between February and March of 1992... In order to coordinate our diplomatic struggle, the External Propaganda Committee of the Central Executive organised the editing and translation of a series of (eight) pamphlets in English and French on the Human Rights Situation in Tibet and the social development of Tibet before the Commission. Special arrangements were made to deliver them and other propaganda materials to Geneva before the Chinese New Year. During the course of the Commission, two hundred and thirty sets of the English version pamphlets and one hundred and forty French versions were distributed. In the conference call, forty-five booklets written by Vice-chairman Ngabo on the question of Tibet, over fifty brochures on the social history of Tibet and fifty sets (ten books in a set) of English and French versions of "On Tibet" were also taken. At the conference, our propaganda material once displayed were all taken by the time when morning meetings adjourned. Some were taken within one or two hours of the meeting. A local Geneva paper used three pictures from our propaganda material. This was the first time that such large quantity of our propaganda material entered a United Nations Human Rights Commission, which

<sup>61</sup> [http://www.tibet.ca/en/wtnarchive/2002/4/10\\_2.html](http://www.tibet.ca/en/wtnarchive/2002/4/10_2.html)

<sup>62</sup> [http://www.icj.org/news.php3?id\\_article=3187&lang=en](http://www.icj.org/news.php3?id_article=3187&lang=en)

had a quite good impact. It effectively coordinated for the success of our diplomatic struggle.”

In 1997, when there was a split in EU, Denmark took the lead role on tabling a China resolution which, if adopted, would have also expressed concern “at increased restrictions on the exercise of cultural, religious and other freedoms of Tibetans, including the case of the 11<sup>th</sup> Panchen Lama, Gedhun Choekyi Nyima.”<sup>63</sup>

The specific reference to the situation of Panchen Lama in the text was a unique recognition by a group of countries that Gedhun Choekyi Nyima is the Eleventh Panchen Lama of Tibet. Another instance was when the EU’s statement to the CHR session in 1996 said: “The Union expresses its concern at the well-being of the child recognized by the Dalai Lama as the Eleventh Panchen Lama of Tibet.” This statement of the EU was signed by Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Cyprus and Malta. The EU statement was therefore a representative of 26 countries.<sup>64</sup>

In the Pacific, on 9 March 2000, The Australia Tibet Council has expressed concern that "the arrival in Australia on March 22 of one of Chinese President Jiang Zemin's closest colleagues has been timed to coincide with the opening of this year's session of the UN Human Rights Commission... Australia co-sponsored resolutions on China at the Human Rights Commission every year between 1990 and 1996, but has refused to do so since on the grounds that it could achieve better results through its closed door bilateral human rights dialogue with China. However, the failure of the dialogue to prevent a marked deterioration in the human rights situation in China and Tibet over the past 12 months is making it more difficult for Australia to refuse to support the resolution this year."<sup>65</sup>

### **Government Statements on Tibet**

In recent years, Western Governments although not united to "name and shame" China over human rights at the CHR, have, nevertheless, been vocal in their statements on the human rights situation in Tibet. At the 2005 session, the European Union welcomed that its delegation was able to visit Tibet in September 2004 "but we are still very concerned at the human rights situation in Tibet...invites China and the Dalai Lama's envoys to continue their contacts with a view to constructive dialogue."<sup>66</sup>

At the same meeting, the German Foreign Minister, Mr. Joschka Fischer, echoed how western governments feel about the situation in Tibet. The German dignitary's statement said: "The human rights situation in China also remains a source of concern. I have again and again voiced this concern in no uncertain terms here, and above all during many talks with the Chinese representatives...But rapid results are

<sup>63</sup> [http://www.tibet.ca/en/wtnarchive/1997/4/11\\_1.html](http://www.tibet.ca/en/wtnarchive/1997/4/11_1.html)

<sup>64</sup> [http://www.tibet.ca/en/wtnarchive/1996/4/23\\_2.html](http://www.tibet.ca/en/wtnarchive/1996/4/23_2.html)

<sup>65</sup> [http://www.tibet.ca/en/wtnarchive/2000/3/9\\_5.html](http://www.tibet.ca/en/wtnarchive/2000/3/9_5.html)

<sup>66</sup> Statement of Ambassador Alphonse Berns of Luxembourg on 23 March, 2005 to the 61st session of the Commission on Human Rights.

decisive. This means that the deficits must be tackled with determination and solutions found-solutions that are effective for all the citizens of China regardless of their ethnic background, political convictions or faith, including the people of Tibet."

At the 58th CHR, Mr. Joseph Deiss, the Swiss Foreign Minister called for a better human rights situation in China. On Tibet, Mr. Deiss said: "With regard to the rights of minorities, in Tibet, for example, a satisfactory form of self-determination must be found through dialogue. In China and elsewhere, we point out that in some cases the drive for independence would be less strong if human rights were respected, for example, in religious and cultural matters, as well as through a judicial system which ensures fair trails."<sup>67</sup>

At the 59th CHR, to the surprise of many, an Asian Nation spoke about Tibet when East Timor's Foreign Minister addressed the session. Mr. Jose Ramos-Horta told the Commission that his country "commend the Chinese authorities for the recent meeting held in Beijing with senior representatives of His Holiness the Dalai Lama of Tibet. While we are not aware of any outcome and possible follow up, the meeting in itself was a very positive development." Sources say that China immediately asked for East Timor's clarification on these remarks.

In 2002, although the statements by the United States of America and Australia failed to mention Tibet at the CHR session, small countries like New Zealand and Norway did speak out for Tibet. Ms. Deborah Geels of the New Zealand said: "With regard to Tibet, we urge China to enter into dialogue with the Dalai Lama and to involve the Tibetan people more fully and directly in decisions regarding their development."<sup>68</sup>

At the same CHR meeting, Norway said that it "engaged in an ongoing human rights dialogue with the People's Republic of China. We appreciate China's effort to improve the legal system and the economic system and social conditions for its citizens. In spite of these positive developments, we still have concerns regarding certain aspects of the human rights situation in China, including the extensive use of capital punishment. My Government also attaches great importance to the preservation of the natural environment, culture and religious identity of the Tibetan people."<sup>69</sup>

On 18 April, 1996, Ambassador Geraldine Ferraro, the Head of the US delegation told the Commission: "In China, for example, the government remains intolerant of dissent and resorts to arbitrary detention, forced confessions, torture and mistreatment of political prisoners. We cannot remain silent in the face of continued restrictions on freedom of speech, press, assembly, association, religion, privacy, movement and worker rights. Nor can we ignore the repression of peaceful dissent by international-known political thinkers such as Wei Jengsheng, Ren Wangding and Chen Zeming or the interference in the selection of the Panchen Lama. I must

<sup>67</sup> [http://www.tibet.ca/en/wtnarchive/2002/3/27\\_1.html](http://www.tibet.ca/en/wtnarchive/2002/3/27_1.html)

<sup>68</sup> [http://www.tibet.ca/en/wtnarchive/2002/4/10\\_4.html](http://www.tibet.ca/en/wtnarchive/2002/4/10_4.html)

<sup>69</sup> [http://www.tibet.ca/en/wtnarchive/2003/4/1\\_1.html](http://www.tibet.ca/en/wtnarchive/2003/4/1_1.html)

say that I find it absolutely mind-boggling that a government as strong as China's seems afraid of a six-year old boy. And while we are talking about freedom of religion, Chinese authorities must allow Roman Catholic and Tibetan Buddhists to express their beliefs fully and without hinderance."<sup>70</sup>

In April 2000, the CHR approved, by a vote of 22 in favour to 18 against and 12 abstentions, a no-action motion forwarded by the delegation of China on a resolution tabled by the United States on the situation of human rights in China. The USA in its statement stated: "Furthermore, China continues to commit serious human rights in Tibet. Despite the Government's stated preferencen for dialogue over confrontation, Chinese authorities still refuse to engage the Dalai Lama in dialogue to resolve long-standing differences and have instead chose to engage in a highly critical rhetorical campaign to discredit him. Meanwhile, the political re-education campaign aimed controlling monks and nuns has both broadened and intensified. As our annula human rights report chronicles, the past year was also marked by the exploitation of forced prison labor and continued problems in the human rights of women."<sup>71</sup>

Before the vote on the no action motion, the European Union condemned China on "the continuing restrictions upon fundamental freedoms, including freedom of thought, expression, religion, assembly and association. The EU expresses its concern in particular at the harsh sentences imposed on political dissidents calling for democracy in China, as well at alarming human rights situation in Tibet and Xinjiang." The EU statement was supported by Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia, Malta and Turkey.

At the CHR session in 2003, the European Union sharply criticized saying that "the trial of Lobsang Dhondup and Tenzing Deleg Rinpoche raised great concern about due process and the application of the death penalty. The EU has already expressed its dismay at the way in which this case was handled, and its disappointment that the Chinese authorities did not keep them informed of developments. It felt that this was a breach of the trust built up by the EU/China Human Rights Dialogue. The EU reaffirms that such Dialogue is an acceptable option only if it produces progress on the ground and measurable results. We underline the need for the Dialogue to be based on a genuine demonstration of mutual confidence."<sup>72</sup>

### **NGO Support**

The support Tibetans have solicited from international human rights organisations is a remarkable achievement. It is due to such solid support that Tibetan participation is enabled in UN human rights forums. Since the early 1990s, NGOs with consultative status at the United Nations have regularly included Tibetans in their delegations to the CHR sessions. In recent years representatives of International Campaign for Tibet, Tibetan Centre for Human Rights, Gu Chu Sum, Tibetan Youth Congress and Tibetan Women's Association have attended the CHR meetings.

<sup>70</sup> [http://www.tibet.ca/en/wtnarchive/1996/4/23\\_2.html](http://www.tibet.ca/en/wtnarchive/1996/4/23_2.html)

<sup>71</sup> [http://www.tibet.ca/en/wtnarchive/2000/4/19-2\\_1.html](http://www.tibet.ca/en/wtnarchive/2000/4/19-2_1.html)

<sup>72</sup> [http://www.tibet.ca/en/wtnarchive/2003/4/1\\_1.html#1](http://www.tibet.ca/en/wtnarchive/2003/4/1_1.html#1)

During the 54th CHR in 1998, the International Commission of Jurists (ICJ) spoke to the body about its latest report, "Tibet: Human Rights and the Rule of Law"<sup>73</sup> on the agenda of the Commission which deals with "the rights of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation." Mr. Adama Dieng (Senegal) who was then the Secretary-General of ICJ told the Commission: "Any lasting solution to Tibet question must therefore address Tibet's status. Central Tibet was a de facto independent state when China invaded. The ICJ study found Tibetans to be a "people under alien subjugation," entitled to, but in practice denied, the right to self-determination. Tibetans should thus be able to freely determine their political status - be it full independence, a continuation of Tibet's current status, or genuine autonomy" The ICJ report recommended a UN-supervised referendum to ascertain the wishes of the Tibetan people and called upon the Commission to appoint a Special Rapporteur on Tibet.

The Chinese delegation interrupted Mr. Dieng's statement but failed to stop it when the Chairman of the Commission asked for the continuation of the intervention. Mr. Dieng concluded his statements with these remarks: "China's power, of course, has silenced many governments which previously supported Tibetan self-determination. They would do well to remember the words of Ireland's Foreign Minister Frank Aiken who, in appealing the UN General Assembly during its debate on Tibet in 1959 said: Looking around this Assembly, and looking at my own delegation, I think how many benches would be empty here in this hall if it had always been agreed that when a small nation or a small people fell into the grip of a major power, no one could ever raise their case here, that once they were a subject nation, they must always remain a subject nation".

Apart from encouraging Tibetans to speak on their behalf to the CHR, NGOs have also submitted numerous written statements to the body to keep it updated about the human rights situation in Tibet. One of the last such statements submitted to the 62CHR by Interfaith International highlighted, "Ten Years of the Disappearance of the Eleventh Panchen Lama of Tibet."<sup>74</sup> The statement "called upon the Chinese authorities to allow an independent body to verify the fate of Gedhun Choekyi Nyima, the 16-year-old Panchen Lama of Tibet." Another written statement by this NGO raises the concern on the plight of Tibetan refugees in Nepal, urging the Office of the UN High Commissioner for Human Rights in Kathmandu to equally monitor the situation of Tibetan refugees in close coordination with the Office of the UN High Commissioner for Refugees.<sup>75</sup> Over the past many years, these written statements have addressed a vast number of human rights issues in Tibet, including population transfer and concerns about China's Western Development Programme.

On a number of occasions, human rights NGOs based in Geneva like Geneva for Human Rights and the International Service for Human Rights have invited Tibetans to their annual human rights training courses which coincided with the

<sup>73</sup> [http://www.tibet.ca/en/wtnarchive/1997/12/22\\_1.html](http://www.tibet.ca/en/wtnarchive/1997/12/22_1.html)

<sup>74</sup> <http://daccessdds.un.org/doc/UNDOC/GEN/G06/113/57/PDF/G0611357.pdf?OpenElement>

<sup>75</sup> <http://daccessdds.un.org/doc/UNDOC/GEN/G06/113/55/PDF/G0611355.pdf?OpenElement>

CHR's sessions. Although most of the Tibetans who had received such trainings in Geneva now do not work in the field of human rights, as Tibetans they would have benefitted immensely by being introduced to human rights and multilateral diplomacy.

In the 1980s, when there were very few Tibetans knowledgeable about the CHR's procedures, some NGOs and their Geneva representatives played a very important role in submitting human rights cases in Tibet to the CHR procedures. Through such support, the experts of the Commission were able to document the human rights abuses in Tibet following the renewed Uprising in Tibet between 1987 and 1989 when the Chinese authorities called for "merciless repression".

The international NGOs support towards Tibet at the CHR also brought pressure from China which was exerted in the proceedings of the United Nations NGO Committee<sup>76</sup> that is composed of 19 diplomats, including one from PRC. The Committee's in its session in New York on 22 May, 2002, asked the French NGO, France Libertes: Fondation Danielle Mitterrand, for another special report on its position on Tibet, following a request by the Chinese delegation. The controversy over France-Libertes arose when the Chinese government launched an objection against France-Libertes' reference to Tibet in its reports submitted to the UN Committee for NGOs from 1994 to 1997. This report features several countries and refers to the situation in Tibet.<sup>77</sup> Chinese diplomats have even threatened some NGOs that they would lose their consultative status at the UN unless keeping a low profile over Tibet, including on the issue of the rights of Tibetans to self-determination.

At the CHR session Tibetans participants whenever possible interacted with Chinese diplomats and lately with Government Sponsored NGOs (GONGOs) brought to Geneva by the Chinese Government. Sometimes, there were good and lengthy discussions with the diplomats but on most occasions not much in substance. Occasionally, there were paper-snatching scenes when Tibetans discovered that Chinese diplomats were mishandling documents on Tibet distributed in the UN building which were critical of Beijing. However, the most interesting part was when Tibetans in Exile met with Tibetans in the Chinese Delegation. Here too, there was good exchange of views at the UN cafeteria but at one time it became a "shouting exchange" between two Tibetan ladies. One year a Tibetan in the Chinese delegation asked this author to come to Tibet to see the "development and progress". My immediate response was: "Are you inviting me to Drapchi Prison?"

As for China's reaction to Tibetan presence at the CHR, they viewed it as an effective political move as evident in the Chinese Cabinet Minister's speech of 12 June, 2000 in Beijing: "At the same time, he (referring to His Holiness the Dalai Lama) increasingly infiltrates the developing countries of South America, Asia and Africa, and lobbies high-level UN human rights experts for their concerns on Tibet issue. The ultimate aim is to put the issue of Tibet once again on the UN table. The

<sup>76</sup> <http://www.un.org/esa/coordination/ngo/committee.htm>

<sup>77</sup> <http://www.savetibet.org/news/newsitem.php?id=252>

Dalai clique's strategy is to split the Motherland, win political support and UN actions... This year, the Dalai clique has made detailed plans to take advantage of every UN-sponsored international meeting to create publicity and generate pressure. In addition, the Dalai clique launched an unprecedentedly-strong campaign against China at the 56<sup>th</sup> UN Human Rights Commission."

### **Tibetan Responsibility towards Human Rights**

Having made this narrative type of view on the relationship between Tibet and the UN Commission on Human Rights, one can conclude that the highest UN human rights body, despite the political pressure, has been of immense help to the Tibetan people, including victims of human rights abuses in Tibetan areas of present-day China. To a great extent Tibetans, including their representatives, the TGIE, have been able to keep this body alert about the grave developments on the human rights situation in Tibet. The CHR and its thematic mandates, in particular, maintained a vigorous pressure upon the Chinese authorities in order to change its human rights policy. China's ratification of the ICESCR and signing the ICCPR and the insertion of the words, "The States respects and safeguards human rights" in China's Constitution, should definitely be considered as significant result of the international pressure.

Now as Tibetans follow the establishment of the UN Human Rights Council, while seeking scrutiny of China's human rights behaviour in Tibet, we must also follow up from the UN human rights machinery to build a society that safeguards human rights and has a cultural of human rights. For one, we must realize the importance of having Human Rights Education regularized as a programme in Tibetan schools in exile.

This also means that we should openly discuss on whether the policy decisions of the TGIE or resolutions adopted by the Tibetan Parliament in Exile adheres to international human rights standards and norms. Here the Tibetan Supreme Justice Commission has an important task to fulfill. For example, questions can be asked on whether the Education Policy adopted by the Tibetan Parliament in Exile fully respects the UN Convention on the Rights of the Child or not. On these matters Tibetan organizations like the Tibetan Centre for Human Rights and Democracy and Tibetan Parliamentary and Policy Research Centre can also play important roles. Can the Tibetan Women's Association begin to study the issue of gender-equality in Tibetan society?

One concrete suggestion is for the next Tibetan Parliament in Exile to constitute a Committee that will publish an annual report on human rights which could look into issues like minors employed by the Tibetan Refugee Community. Although the Cabinet of Tibetan Government in Exile in the early 1990s asked Tibetans not to employ children, we still need to examine whether this is a serious problem where Tibetans could be violating child rights. The other issue that could be considered is the question of "corporal punishment" to discipline children in the family, Tibetan schools and in our monasteries and nunneries. Or is there caste-based discrimination in our society. Can these also be serious human rights matters for us

to verify? Such a Committee could also discuss the independence of judiciary at the Tibetan Supreme Justice Commission or consider whether our elections have been fair and free.

By considering such internal steps, we can increase our human rights networks around the world with message that while calling upon PRC to respect human rights and fundamental freedoms in Tibet, Tibetans too are taking steps to ensure that we adhere to human rights standards and norms. In this respect the recent emergence of Tibetan environmentalists, animal rights activists and Tibetans working with disabled people are a welcome development. We have also witnessed that when alerted by His Holiness the Dalai Lama, the Tibetans in Tibet reacted with vigor to say no to animal skins or furs.<sup>78</sup>

TibetinfoNet's recent report gave an insight to the actual awareness on environmental rights as apparent from a contributor in one internet discussions in Tibet: "His Holiness's speech is the main factor that launched this campaign of burning fur-trimmings and it is not a sudden realisation of environmental awareness on the side of the Tibetans. This campaign therefore shows that His Holiness commands the unalloyed loyalty and respect of the Tibetan people. The Chinese government also issues environmental directives but with little effect. Why, then, have they repressed this unprecedented campaign?"<sup>79</sup>

Sometimes questions are raised on how keep the Tibetans inside Tibet informed of the proceedings of the CHR. Here the Tibetan Radio Services have played a crucial role to bring regular news on how the Tibetan Issue has been raised in UN human rights forums. Again the Tibetan Radio Services could increase their potential by airing programmes on human rights education to help build a future Tibet where our people have greater awareness on human rights issues.

### **Election of HRC Members**

The new Human Rights Council will be another avenue where Tibetans and their supporters could continue to question China's human rights record in Tibetan areas of the PRC. When China placed its candidature to one of the 13 Asian seats in the Council, ICT said that China's pledge<sup>80</sup> "acknowledges that "much work remains to be done in the field of human rights" and that the government is "steadily advancing judicial reform, and constantly improving democracy and legal system, with a view to building a harmonious society". The document provides only ambiguous promises of progress on civil and political rights while simultaneously asserting that China's implementation of these rights should take account of China's "cultural background as well as historical tradition".

"The Chinese pledge offers little in the way of concrete information for UN member states to determine how China will move forward with its UN commitments and implement all the many human rights recommendations that have so far gone

<sup>78</sup> <http://www.savetibet.org/news/newsitem.php?id=910>

<sup>79</sup> <http://www.tibetinfo.net/updates/2006/2604.htm>

<sup>80</sup> <http://www.un.org/ga/60/elect/hrc/>

unheeded. This document doesn't deliver a compelling reason for any UN member to overlook Chinese abysmal human rights record and vote for China at the new UN Human Rights Council", said Ms. Tsering Jampa, Executive Director of ICT Europe.<sup>81</sup>

Amnesty International's Guide to UN Human Rights Council candidates, "What you should know..." say that freedom of religion, expression and association continues to be restricted in Tibet and that PRC still has not responded to requests for fact-finding missions by 5 special thematic procedures of the Commission on Human Rights while 5 reports to UN Treaty Bodies are overdue from China.<sup>82</sup> China also was one of the countries which refused to issue a standing invitation to all the thematic special procedures of the CHR.

The Office of UN High Commissioner for Human Rights had suggested government pledges to include, "co-operation with special procedures, accepting requests for visits, extending standing invitations, and responding positively to communications and follow-up on recommendations".<sup>83</sup> The South Asian Human Rights Documentation Centre in a recent article thought that; "Few expect China to lose its bid for a seat on the newly established UN Human Rights Council. However, while its election may be a foregone conclusion, it is important that some of the issues of concern be highlighted. The widespread use of torture in China is one of the most pressing human rights concerns in that country...The mission of the Special Rapporteur on Torture to China was a turning point in China's attitude to external scrutiny. However, there were serious deficiencies with some aspects of the mission. And the report reveals the need for drastic steps to change the culture within the law enforcement system."<sup>84</sup>

China is now one of the first members of the HRC after being elected securing 146 votes, securing eighth place for the 13 seats of Asia. After the votes the draw lots to determine the terms of membership in the CRC, China got 3 years term. Immediately following the announcement of the results<sup>85</sup>, the International Campaign for Tibet on its website in a reaction said: "We are of course disappointed to see that so many member states have turned a blind eye to China's human rights violations in Tibet. But China's election on to the Council also comes with obligations and ICT will continue to ensure that China does not get a free ride at the UN. We are already looking ahead to the Universal Review that China must undergo as a Council member."

New York-based Human Rights in China (HRIC) said in a press statement said that "China sat on the widely criticized Commission on Human Rights every year between 1982 and 2006. In addition to its structure and working methods, the

<sup>81</sup> <http://www.savetibet.org/news/newsitem.php?id=952>

<sup>82</sup> <http://web.amnesty.org/pages/un-index-eng>

<sup>83</sup> <http://www.ohchr.org/english/13042006.pdf>

<sup>84</sup> Human Rights Features, "China Torturous Path to Change", 29 April 2006

<sup>85</sup> <http://www.un.org/News/Press/docs/2006/ga10459.doc.htm>

success of the new Human Rights Council will depend on the political will and commitment of its members, including China."

"This is the time for China to move beyond rhetoric and demonstrate a genuine commitment to respect and promote human rights," HRIC Executive Director, Sharon Hom, said. "It can begin at home by respecting freedom of expression and promoting diverse and independent civil society voices, and instituting specific mechanisms to monitor the implementation of international human rights obligations. Today's vote is only the beginning; the real test is whether China and the other members of the Council will actively, transparently and comprehensively engage in the universal periodic human rights review process. Otherwise, they are just pouring old wine into new bottles."<sup>86</sup>

This Asian campaign on the Human Rights Council initiated by Bangkok based Asian Forum for Human Rights (FORUM-ASIA), said its effort "will continue to operate after 19 June to hold the Asian members of the Human Rights Council accountable to their pledges. During this session, it will be vital for NGOs from Asia to lobby for the Human Rights Council to take action on situations of human rights violations in Asia."<sup>87</sup>

## **Conclusion**

To sum up, if we do not use the UN human rights forums effectively in the future then it is a missed strategy and of course, a lost opportunity. We cannot miss these opportunities for the sake of human rights victims in our homeland who desperately aspire for UN intervention but who do not have the freedom to come to the United Nations. As Mr. John Ackerly, ICT's President, told a USA Congress Hearing in 2001: "The UN Human Rights Commission has been a vital institution for the people of Tibet and Tibet advocates to raise their concerns in the international arena. Indeed, the Commission is the only institution within the UN system where Tibetans have been able to make their case for human rights improvements...More importantly, the discussion of the human rights situation in Tibet at the Commission exposes China's worst behaviors in a forum where they seek to expand their clout. China must both devote considerable manpower and make ancillary deals requiring a significant expenditure of diplomatic and economic resources to counter the resolution each year."<sup>88</sup>

After the experience with the CHR, it would now be vital and timely for Tibetans to establish a solid internal network to outline our strategies at the HRC. One of the first tasks for such a network would be to educate Tibetans about the UN human rights machinery and the developments at the Council. Of course, the universal review mechanism of the Council, will give the network, a unique and important opportunity to prepare for the body's scrutiny of China's human rights record in Tibet.

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<sup>86</sup> <http://www.hrichina.org/public/contents/press?revision%5fid=27887&item%5fid=27886>

<sup>87</sup> <http://hrc.forum-asia.org/>

<sup>88</sup> <http://www.savetibet.org/news/newsitem.php?id=83>