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**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and the Special Rapporteur on the situation of human rights defenders**

REFERENCE: AL G/SO 214 (67-17) Health (2002-7) G/SO 214 (107-9)  
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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolution 16/4, 15/22, and 16/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the continued detention and alleged deteriorating health of prominent Tibetan human rights defender Mr. **Lobsang Tenzin**.

Mr. Tenzin was the subject of an urgent appeal sent to your Excellency's Government in 1992 by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. We acknowledge the subsequent response received from your Excellency's Government in relation to this communication.

According to the information received:

On 16 April 1988, Mr. Lobsang Tenzin, a 22 year old student at Tibet University, was reportedly arrested in relation to his alleged participation in a pro-independence protest held in Lhasa on 3 March 1988 and was sent to Drapchi Prison in Lhasa. In 1989, Mr. Tenzin, along with four other individuals, was charged with the death of a police officer during the above mentioned protest, and was subsequently sentenced to death with two years' reprieve. In 1991, this sentence was reportedly reduced to life imprisonment. In 1993, Mr. Tenzin's sentence was reportedly reduced to 20 years imprisonment, and in 1994, it was further reduced to 18 years. Mr. Tenzin is reportedly due to be released from prison on 26 April 2013.

In 1989, Mr. Tenzin co-founded pro-independence group “Snow Lion Youth for Tibetan Independence” with three fellow prisoners and several non-prisoners. It is reported that upon the discovery of the movement by prison officials, the prisoners were beaten and placed in solitary confinement for 34 days. In addition, Mr. Tenzin was reportedly placed in shackles for 17 months.

On 31 March 1991, Mr. Tenzin and fellow prisoner Mr. Tempa Wangdrak reportedly attempted to hand over a petition to a delegation of the Permanent Representative of the US to China, which was visiting Drapchi Prison at the time. The petition reportedly contained a list of political prisoners who had been allegedly tortured and appealed for help from the US Government. The document was reportedly confiscated by Chinese officials accompanying the US delegation. Following the delegation’s visit, Mr. Tenzin and Mr. Wangdrak were allegedly severely beaten and placed in solitary confinement for three weeks. Reports state that they were subsequently transferred to the remote and high security Powo Tramo Prison, located in Kongpo.

It is reported that in 2008, Mr. Tenzin was transferred from Powo Tramo Prison to Chushur Prison, located in north Lhasa, where he remains imprisoned to this day and it is believed that he is carrying out labour in the form of farm work. In 2011, sources reported that Mr. Tenzin was suffering from severe diabetes which had caused temporary blindness, kidney complications and back problems, allegedly as a result of poor detention conditions and the lack of access to appropriate and timely medical care.

Concern is expressed at the continued detention of Mr. Tenzin, who has to date served 23 years of imprisonment, at allegations of acts of torture and ill-treatment committed against Mr. Tenzin, and at his deteriorating health due to insufficient access to medical care. Concern is further expressed that these actions are motivated by Mr. Tenzin’s legitimate work as a Tibetan human rights defender, including his efforts to highlight allegations of torture and ill-treatment of political prisoners and his involvement in peaceful pro-independence activities. In addition, serious concern is expressed at the allegation that Tibetan human rights defenders are unduly discriminated against in the Chinese justice system by being denied access to due process, including the right for those prisoners serving long sentences to be considered for sentence reduction and for release on parole.

While we do not wish to prejudge the accuracy of these allegations and without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Lobsang Tenzin is arbitrary or not, we would like to appeal to your Excellency’s Government to take all necessary measures to guarantee his right not to be deprived arbitrarily of his liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR).

In this connection, regarding allegations received indicating that the situation of Mr. Lobsang Tenzin is connected to his legitimate activities in the defence and promotion of human rights, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice".

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 5 point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully.

- article 5 points b) and c) which provide that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right to form, join and participate in non-governmental organizations, associations or groups, and to communicate with non-governmental or intergovernmental organizations.

- article 6 point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems.

- article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

- article 7 which states that "Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance."

- article 12 paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

We would also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the UDHR which provides that "[e]veryone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

With regard to Mr. Tenzin's deteriorating health conditions and alleged denial of medical care, we would appreciate information from your Excellency's Government on steps taken by the competent authorities with a view to ensuring the enjoyment of the right to health of Mr. Tenzin. This right is reflected, inter alia, in article 12 of the International Covenant on Economic, Social and Cultural Rights, ratified by your country on 27 March 2001, and which provides for the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. This includes a requirement by States to ensure that health facilities, goods and services are accessible to everyone – especially the most vulnerable or marginalized sections of the population, including those held in detention – without discrimination. Furthermore, we would like to refer your Excellency's Government to the Basic Principles for the Treatment of Prisoners, adopted and proclaimed by General Assembly resolution 45/111, according to which "Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation" (principle 9).

We would also like to draw the attention of your Excellency's Government to General Comment No. 14 of the Committee on Economic, Social and Cultural Rights, which holds that, "States are under the obligation to respect the right to health by, inter alia, refraining from denying or limiting equal access for all persons, including prisoners or detainees, minorities, asylum seekers and illegal immigrants, to preventive, curative and palliative health services..." (para.34).

We further wish to refer your Excellency's Government to the Standard Minimum Rules for the Treatment of Prisoners. Rule 22(2) provides that, "Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and

treatment of sick prisoners, and there shall be a staff of suitable trained officers.” While Rule 25(1) provides that, “The medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed.”

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the case accurate?
2. Please provide information concerning the legal grounds for the continued detention of Mr. Lobsang Tenzin and how this measure is compatible with international human rights norms and standards as stated, inter alia, in the UDHR.
3. Please provide details of any measures taken to ensure the enjoyment of the right to physical and mental health of Mr. Tenzin, including provision of and access to medical care.
4. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to the above mentioned allegations of torture and ill-treatment of Mr. Tenzin and of other political prisoners in Drapchi Prison. If no inquiries have taken place, or if they have been inconclusive, please explain why.

We would appreciate a response within sixty days. Your Excellency’s Government’s response will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency’s Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned person are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency’s Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of our highest consideration.

Frank La Rue  
Special Rapporteur on the promotion and protection of the right to  
freedom of opinion and expression

Anand Grover

Special Rapporteur on the right of everyone to the enjoyment of the  
highest attainable standard of physical and mental health

Margaret Sekaggya  
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