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HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

Mandates of the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on freedom of religion or belief; the Independent Expert on minority issues; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on freedom of religion or belief; Independent Expert on minority issues; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 15/18, 16/16, 16/4, 15/21, 14/11, 16/6, and 16/23 respectively.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the arrest of six Tibetan peaceful demonstrators in Zuogang (Tibetan: Dzogang) county in the Tibet Autonomous Region (TAR); the detention of six monks from the Drakdeb monastery in Mangkang (Tibetan: Markham) county, Qamdo (Tibetan: Chamdo) Prefecture, TAR; the detention and sentencing of a Tibetan student in the city of Lhasa, capital of the TAR; the arrest of five monks, and conviction of three of them, in Chenduo (Tibetan: Tridu) county in Yushu (Tibetan: Kyegudo) Tibetan Autonomous Prefecture, Qinghai province; as well as the detention of three Tibetan monks and two lay Tibetan men in Dzachuka area, Serxu (Tibetan: Sershul) County, in Sichuan province.

According to the information received:

Arrests in the Zuogang county, Qamdo Prefecture

On 10 February 2013, on the eve of the Tibetan New Year, Losar, a group of Tibetans carried out a peaceful protest in front of the local Chinese government office in Meyul town, in Zuogang county, Qamdo (Tibetan: Chamdo) Prefecture

in the TAR. The demonstrators were raising slogans for religious and other freedoms in the Tibet Autonomous Region.

On 11 February 2013, a large contingent of Chinese security personnel arrived in Meyul town and arrested six Tibetans for their alleged involvement in the protest. The Tibetans were reportedly brutally beaten by the security officials after their arrest, and two of them were left with broken bones. The identities, current condition and whereabouts of the six Tibetans remain unknown, as a result of restrictions reportedly imposed by Chinese authorities on communications, including the media, internet and phone lines, in the region.

Arrests in Mangkang county, Qamdo Prefecture

On 10 February 2013, Chinese authorities reportedly restricted monks from performing religious rituals and carried out forced patriotic re-education at the Drakdeb Monastery in Mangkang (Tibetan: Markham) county in Qamdo (Tibetan: Chamdo) Prefecture, TAR. As a result, the monks started a peaceful protest calling for the return of the Dalai Lama from exile and for freedom in the Tibet Autonomous Region. Chinese security forces reportedly arrested the monks and held them detained until 13 February, when all but six of them were released following protests by local Tibetans.

Details on the six detained monks, their whereabouts and their conditions are currently unknown due to restrictions on communications, including the internet and phone lines, in the region. Following the protests, it is reported that a large number of Chinese security forces have been deployed in the region, blocking all roads to and from the monastery.

Arrest and conviction in the city of Lhasa, capital of the TAR

On 12 October 2012, **Ngawang Topden**, 20, a student of Tibetan traditional Thangka art from Jiangda (Tibetan: Jomda) region in Qamdo (Tibetan: Chamdo) Prefecture, TAR, was arrested by Chinese security personnel in Lhasa, capital of the TAR, during a routine check near the city mosque. Mr. Topden was reportedly detained for storing in his mobile phone images of Tibetans self-immolations, the Tibetan flag and other photos showing Chinese abuse of Tibetans. Mr. Topden was allegedly kept in various prisons for over a week during which he was constantly interrogated.

It is alleged that, on 21 February 2013, a Chinese court had sentenced Mr. Topden to two years imprisonment accusing him of being "reactionary, inciting the public and threatening social stability". Mr. Ngawang Topden is reportedly serving his sentence in a prison or "re-education through labour" facility, near Duiling Deqing (Tibetan: Toelung) in Lhasa.

According to the information received, several Tibetans in and around the Lhasa region had been detained during the same period following an intense security clampdown by Chinese authorities.

Arrests and convictions in Chenduo county, Yushu Tibetan Autonomous Prefecture

On 1 September 2012, Mr. **Lobsang Jinpa**, 31, a monk from Nyatso Zilkar Monastery, in Chenduo (Tibetan: Tridu) county in Yushu (Tibetan: Kyegudo) Tibetan Autonomous Prefecture, Qinghai province, was detained along with four other monks during a surprise raid on the monastery by Chinese security forces. The other monks were identified as Mr. **Sonam Sherab**, Mr. **Sonam Yignyen**, Mr. **Ngawang Monlam**, and Mr. **Kalsang Tsultrim**.

Personal possessions of the five detained monks were allegedly confiscated during the raid, and other monks were reportedly beaten. It is believed that the raid and subsequent detention of the monks were related to a peaceful protest staged by the monks in the Chenduo region on 8 February 2012.

Two of the monks, Mr. Sherab and Mr. Yignyen, were later sentenced to two years in prison by a Chinese court in Xining (Tibetan: Siling) city, capital of Qinghai province, on unknown charges. Mr. Monlam was detained for a month and later released due to a disability in his leg. It was reported that Mr. Jinpa and Mr. Tsultrim were beaten and tortured in prison by Chinese police; they were severely injured and had to be hospitalised. Mr. Tsultrim allegedly remains in hospital.

On 23 February 2013, Mr. Jinpa, who had been released, was re-arrested from his monastic quarter. He was subsequently sentenced to five years in prison on unknown charges by a Chinese court in Xining city. Details about the court sentencing and Mr. Jinpa's condition and whereabouts are currently unknown.

Arrest in Dzachuka area, Serxu county, Sichuan province

On 10 March 2013, three Tibetan monks from Ganden Samten Dhargyeling Monastery in Dzachuka area, in Serxu (Tibetan: Sershul) county, Ganzi (Tibetan: Kardze) TAR, Sichuan province, staged a peaceful protest in the county town. The monks shouted slogans of “freedom, democracy, and the need for a Middle Way approach to solve the Tibet issue” and carried a flag with a portrait of the Dalai Lama.

Chinese authorities reportedly arrested the three monks who were identified as Mr. **Lobsang Samten**, 31; Mr. **Sonam Namgyal**, 26; and Mr. **Thupten Gelek**, 29. Two other lay Tibetan men, who tried to peacefully solve the crisis and to persuade the monks from protesting for fear of arrest, were detained along with the monks. The two men were identified as Mr. **Ngawang Gyatso**, 41; and Mr. **Lobsang Kelsang**, 17, from Bumnying village.

It is reported that the whereabouts of the five detainees remain unknown and that Dzachuka area is under intense surveillance by armed police since the protest took place.

Serious concerns are expressed that the arrest of six Tibetan men in the Zuogang region; the detention of six monks in Mangkang county; the detention and conviction of a Tibetan student in Lhasa; the arrest of five monks, and conviction of three of them, in Chenduo region; and the detention of three Tibetan monks and two lay Tibetan men in Dzachuka area may be part of an on-going crackdown on Tibetans who peacefully express their views regarding freedom of religion and autonomy in the Tibet Autonomous Region.

In this connection, we would like to recall the urgent appeal sent to your Excellency's Government on 9 August 2012 regarding systematic undermining of the autonomous functions and the rights to freedom of religion, culture and expression of the Tibetan Buddhist community, and signed by the Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur in the field of cultural rights; Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the right to education; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on freedom of religion or belief; and the Independent Expert on minority issues.

While we do not wish to prejudge the accuracy of these allegations, we wish to appeal to your Excellency's Government to seek clarification on the information drawn to our attention and share our concerns in relation to the present circumstances in light of the applicable international human rights norms and standards.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the abovementioned persons is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their 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 relation to the allegations according to which the fate and whereabouts of Messrs. Lobsang Jinpa, Lobsang Samten, Sonam Namgyal, Thupten Gelek, Ngawang Gyatso, Lobsang Kelsang and other 12 aforementioned persons remain unknown, we would like to bring to your Excellency's Government's attention the United Nations Declaration on the Protection of All Persons from Enforced Disappearance which sets out necessary protection by the State, and in particular:

- article 2 (no State shall practice, permit or tolerate enforced disappearances);
- article 3 (each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction);
- article 6 (no order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance);

- article 10 (right to access of competent national authorities to all places of detention; to be held in an officially recognized place of detention, in conformity with national law and to be brought before a judicial authority promptly after detention; to accurate information on the detention of persons and their place of detention being made available to their family, counsel or other persons with a legitimate interest).

We would also like to appeal to your Excellency's Government to ensure the right to freedom of religion or belief in accordance with article 18 of the UDHR.

Furthermore, we would like to recall to your Excellency's Government the principles set forth in the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief. Article 6 (i) of the Declaration provides that "[T]he right to freedom of thought, conscience, religion or belief includes the freedom 'to establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels.'"

The Commission on Human Rights resolution 2005/40 (paragraph 4 (d)), Human Rights Council resolution 6/37 (paragraph 9(g)) and General Assembly resolution 65/211 (paragraph 12 (g)) urges States "[t]o ensure, in particular, the right of all persons to worship or assemble in connection with a religion or belief [...]."

In addition, we wish to draw the attention of your Excellency's Government to the provisions of the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. Article 1.1 of the Declaration provides that "States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity". This provision should be understood to require the prevention of any acts of violence and the protection of minorities from any form of physical attack against individuals, communities, their property and places of worship. Moreover, Article 2(5) of the Declaration establishes that: "Persons belonging to minorities have the right to establish and maintain, without any discrimination, free and peaceful contacts with other members of their group and with persons belonging to other minorities, as well as contacts across frontiers with citizens of other States to whom they are related by national or ethnic, religious or linguistic ties." Article 3 (1) further provides that "Persons belonging to minorities may exercise their rights, including those set forth in the present Declaration, individually as well as in community with other members of their group, without any discrimination."

Furthermore, we should like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the cases of the persons named above. We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the Universal Declaration of Human Rights (UDHR), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

In this context, we would like to draw the attention of your Excellency's Government to paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment."

We would also like to refer your Excellency's Government to 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."

Similarly, we would like to remind your Excellency's Government of article 20 of the UDHR which provides that "[e]veryone has the right to freedom of peaceful assembly and association..."

In this connection, we would like to refer to Human Rights Council resolution 21/16, and in particular operative paragraph 1 that "reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law."

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the aforementioned persons in compliance with the mentioned international instruments.

Moreover, since 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, 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 summary of the cases accurate?
2. Have complaints been lodged with regard to the incidents mentioned?
3. Please provide details, including the legal basis and reasons, of the arrest and sentencing of the aforementioned persons, and how these measures are compatible with the aforementioned international human rights norms and standards. Please provide information on their fate and whereabouts. If their fate and whereabouts are unknown, please provide the details of any investigation or other queries which may have been carried out. If no queries have been made, or if they have been inconclusive, please explain why.

4. Please indicate which measures your Excellency's Government has adopted to respect and protect the freedom of religion or belief, the freedom of peaceful assembly, and the freedom of opinion and expression of the Tibetans in compliance with international human rights norms and standards.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

We would like to bring to the attention of your Excellency's Government that should the sources submit the allegations concerning those reportedly disappeared as cases to the Working Group on Enforced or Involuntary Disappearances, it will be considered by the Working Group according to its methods of work, in which case your Excellency's Government will be informed by separate correspondence.

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 persons 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.

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