

Mandates of the Special Rapporteur in the field of cultural rights; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on minority issues; and the Special Rapporteur on freedom of religion or belief

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Excellency,

We have the honor to address you in our capacities as Special Rapporteur in the field of cultural rights; Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Special Rapporteur on minority issues; and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 28/9, 28/11, 24/5, 31/9, 25/5 and 22/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received **concerning severe restrictions of religious freedom in Tibetan Autonomous Prefecture: mass expulsion of religious practitioners from Larung Gar and Yachen Gar, demolitions of monastic homes in Larung Gar and the cultural and environmental impacts of the mining activities at the Holy Gong-ngon Lari Mountain as well as excessive use of force against, and arbitrary arrest and detention of, peaceful protestors.**

According to the information received:

Mass expulsion of monks and nuns in Larung Gar and Yachen Gar

In September 2016, it was reported that many Tibetan religious practitioners had faced mass expulsions from Larung Gar and Yachen Gar, two of the major Buddhist Tibetan institutions that have become important centres for study, practice and promotion of Buddhist teachings in recent years. At least half of more than 10,000 monks and nuns at Larung Gar face eviction following the demolition of numerous residences. Reportedly, about 1000 religious practitioners were compelled to leave Yachen Gar.

Family members of certain nuns at Larung Gar and Yachen Gar were allegedly pressured by the authorities to summon them home or face punishment, such as confiscation of family identity cards. While the targets for expulsion originally appeared to be the monks and nuns from Lhasa, Ngari, Nagchu and Chamdo prefectures, the monks and nuns from Qinghai, Gansu, and Yunnan have apparently been targeted as well.

Demolitions of monastic dwellings in Larung Gar

Since July 2016, around 2000 homes of monks and nuns were demolished in Larung Gar, one of the world's largest Buddhist Tibetan centres in eastern Tibet. Larung Gar is a living, vital center of Tibetan Buddhist teachings that is renowned worldwide and across China, and is of great significance in terms of Tibetan language, culture and religion as well as for a new generation of Chinese Buddhist scholars and pilgrims. The local authorities of Larung Gar had announced the demolitions through an order without involving the religious leaders of Larung Gar in the decision making process. In the demolition order, the destruction of the monastic homes was described by the local authorities as a “construction development” that will add to “a more orderly, beautiful, secure and peaceful land.”

The seven-point demolition order contains detailed implementation steps that involve all the religious sections and units as well as the management and staff at Larung Gar. Monks and nuns would upon instructions be obliged to sign letters pledging to practise religion in accordance with the law and publicise legal education videos and banners provided by the authorities. Besides, legal education campaign should be held monthly in the monasteries and be completed by 31 October 2016. The order moreover provided a clear timeline for the demolition of monastics residences and for the total population of Larung Gar to be restricted to only 3,500 monks and nuns and 1,500 students at the institute before 30 September 2017. The order also calls for the separation of lay practitioners from the monastics in order for the authorities to control and monitor the lay practitioners directly. Furthermore, the order instructs the separation of the Larung Gar Institute (the “Institute”) from the Larung Gar Monastery. The Institute will be administered by the Government while the monastery will be run by the monastery management committee that will be established and consist of government officials and monks.

Despite the appeals by the Tibetan religious leaders in charge of the Institute to their religious practitioners to not protest or obstruct the demolitions, three Tibetan nuns had reportedly committed suicide due to deep distress by the situation.

A similar massive demolition by the authorities had allegedly also taken place in 2001 when homes of nuns and monks were dismantled with all the household goods as well as shrines that had been created inside. In some cases, elderly or owners of dwellings were still inside their homes. This action was reportedly undertaken by more than 500 armed police and military personnel demolishing 1874 monastic residences and 2000 meditation huts, expelling about 8000 monastic and lay practitioners in which 1500 were foreign practitioners from China, Taiwan, Hong Kong and the Republic of Korea. It is also reported that

more than 800 dwellings were destroyed in 2001 in Yachen Gar too, with nuns being forced to carry out the destruction themselves

Peaceful protest against mining activities at Holy Gong-ngon Lari Mountain in Amchok

Many Tibetans consider Gong-ngon Lari Mountain in Amchok Township as one of their most sacred mountains and they believe it to be home to their protector deity. Through numerous peaceful protests over two decades, Buddhist Tibetans have repeatedly expressed concern over the exploitation of their land, the destruction of the environment and the attacks against their religious faith.

On 31 May 2016, a group of Tibetans gathered peacefully to call for an end to the mining project in Amchok in light of its environmental impact and the damage it would do to their cultural and religious heritage sites and symbols. In response, on 1 June 2016, local authorities allegedly deployed heavy armed forces and suppressed the peaceful demonstration by beating, and arbitrarily arresting and detaining some protestors. The authorities also tightened surveillance around the area and imposed severe restrictions on communication with the outside world.

Following the incidents, on 3 June 2016, the authorities of Amchok Town issued a circular denouncing the anti-mining protests as being manipulated by “a few evil and corrupted people” and “in collusion with anti-China forces”. It further warned people not to participate in similar protests stating that those who would fail to abide by the order “must take full responsibility for any consequences” that would follow.

While we do not wish to prejudge the accuracy of these allegations, grave concern is expressed over the serious repression of the Buddhist Tibetans’ cultural and religious practices and learning in Larung Gar and Yachen Gar. We express our deep concern at what seems to be concerted attacks on tangible and intangible cultural heritage, which constitute serious violations of cultural rights of current and future generations. Further concern is expressed over the ongoing demolition of monastic residences, the mass expulsions of monks and nuns and the restricted number of religious practitioners that are allowed to remain. Moreover, we are concerned to learn that internal monastic affairs are also controlled by the authorities. We are equally concerned about the reported arbitrary arrests, detentions and excessive use of force by local authorities against protesters in Amchok, which appear to be in violation of their right to freedom of peaceful assembly. We are further concerned about the chilling effect of the circular issued on 3 June 2016 on the exercise of the right to peaceful assembly in Amchok.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As 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 observations on the following matters:

1. Please provide any additional information or comments you may have on the above-mentioned allegations.
2. Please provide detailed information concerning the legal grounds for the demolition of the monastic residences and expulsion of nuns and monks as referred to above, specifying how these measures are compatible with international human rights norms and standards, in particular those relating to freedom of religion or belief and cultural rights, including the right to access and enjoy cultural heritage.
3. Please explain the rationale for the lack of consultation with local religious leaders in relation to the decision of the demolitions that took place in Larung Gar. Please explain the need for limiting the number of monks, nuns and lay practitioners in Larung Gar to only 5,000 people in total by 2017 as described in the seven point demolition order. Please also provide explanation in relation to the need for involving Government officials in the monastic affairs.
4. Please indicate what measures have been taken to ensure that persons belonging to national, or ethnic, religious and linguistic minorities, including the Buddhist Tibetans, have the right to protect their own cultural and religious heritage and sites, to study, profess and practise their own religion freely and without interference or any form of discrimination, and to enjoy their right to take part in cultural life without any discrimination.
5. Please indicate what measures have been taken to ensure that the right to housing of the monks and nuns as well as other lay practitioners is protected. Please provide detailed information of resettlement and compensation plans for those people made homeless or expelled from Larung Gar and Yachen Gar.
6. Please indicate if all feasible alternatives to eviction and demolitions have been explored in consultation with the residents of Larung Gar and Yachen Gar and if so, please provide details of the process and results of those consultations. Please also explain why proposed alternatives to the eviction have been deemed unsuitable.
7. Please confirm whether a court order was issued authorizing the eviction, whether the religious community was provided a copy of the order in advance, and whether they were given the opportunity to appeal such decision before a court. In addition, please explain what administrative or judicial mechanisms are available for individuals to challenge their

immediate eviction from their homes.

8. Please indicate what measures have been taken to ensure that the mining projects in Amchok Township do not adversely impact the environment of the holy site areas. Please also specify how these measures are compatible with the laws on environmental protection stipulated in the Chinese constitution.
9. Please provide detailed information indicating what measures have been taken to ensure the right of all persons to peacefully assemble in accordance with international human rights standards. Have the authorities investigated the incidents that took place on 1 June 2016 in Amchok?

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

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John H. Knox
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Special Rapporteur on freedom of religion or belief

Annex

Reference to international human rights law

We are aware that the right to freedom of religion and belief is guaranteed by the Constitution of the People's Republic of China pursuant to article 36. Article 36 (2) also specifically mentions that [n]o state organ, public organization, or individual may compel citizens to believe in, or not to believe in, any religion; nor may they discriminate against citizens who believe in, or do not believe in, any religion.

We would like to recall the rights guaranteed by article 18 of the Universal Declaration of Human Rights (UDHR) that stipulates: “[e]veryone has the right to freedom of thought, conscience and religion; this right includes freedom [...] either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”

Furthermore, The General Assembly 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief stipulates that the right to freedom of thought, conscience, religion or belief includes the freedom, in article 6 (a), “To worship or assemble in connection with a religion or belief [...]” and in article 6 (g), “To train, appoint, elect or designate by succession appropriate leaders [...]”.. In the Commission on Human Rights resolution 2005/40 article 4 (b), the Commission on Human Rights urges States, “To exert the utmost efforts, in accordance with their national legislation and in conformity with international human rights law, to ensure that religious places, sites, shrines and religious expressions are fully respected and protected and to take additional measures in cases where they are vulnerable to desecration or destruction;”.

In addition to this, in Human Rights Council resolution 6/37 article 9 (e): The Human Rights Council urges States, “To exert the utmost efforts, in accordance with their national legislation and in conformity with international human rights and humanitarian law, to ensure that religious places, sites, shrines and symbols are fully respected and protected and to take additional measures in cases where they are vulnerable to desecration or destruction;”. In article 9 (g): The Human Rights Council also urges States, “To ensure, in particular, the right of all persons to worship or assemble in connection with a religion or belief and to establish and maintain places for these purposes [...]”.

We would also like to recall that, in accordance with Article 15 of the International Covenant on Economic, Social and Cultural Rights, ratified by your country on 27 March 2001, everyone has the right to take part in cultural life, which includes the right to access and enjoy cultural heritage. The right of access to and enjoyment of all forms of cultural heritage is guaranteed by international human rights law more broadly, including the Universal Declaration of Human Rights, deriving its legal basis, in particular, from the right to take part in cultural life, the right of members of minorities to enjoy their own culture and the right of indigenous peoples to self-determination and to maintain, control, protect and develop cultural heritage. The right of access to and enjoyment of cultural heritage includes the right of individuals and collectivities to, inter

alia, know, understand, enter, visit, make use of, maintain, exchange elements of and develop cultural heritage, as well as to benefit from the cultural heritage and the creation of others. It also includes the right to participate in the identification, interpretation and development of cultural heritage, as well as in the design and implementation of preservation and safeguard policies and programmes (see A/HRC/17/38 and Corr.1, paras. 78-79).

Cultural heritage is to be understood as encompassing the resources enabling the cultural identification and development processes of individuals and groups, which they, implicitly or explicitly, wish to transmit to future generations (see A/HRC/17/38 and Corr.1, para. 77, paras. 4-5). The tangible and intangible dimensions of cultural heritage are closely interconnected.

The Committee on Economic, Social and Cultural Rights has explained that States' obligations to respect and protect freedoms, cultural heritage and diversity are interconnected and the obligation to ensure the right to participate in cultural life under article 15 of the International Covenant on Economic, Social and Cultural Rights includes the obligation to respect and protect cultural heritage (General comment No. 21, para. 50). In its resolution 33/20 on cultural rights and the protection of cultural heritage, the Human Rights Council noted that "the destruction of or damage to cultural heritage may have a detrimental and irreversible impact on the enjoyment of cultural rights."

In the latest report, by the Special Rapporteur in the field of cultural rights, on the intentional destruction of cultural heritage as a violation of human rights, the Special Rapporteur recommended that States respect and protect tangible and intangible cultural heritage, and that they take appropriate legislative, administrative, educational and technical measures to prevent, avert, stop and suppress intentional destruction of cultural heritage. The Special Rapporteur also recommended that States tackle, in accordance with international standards, extremist and fundamentalist ideologies, sectarianism and discriminatory attitudes towards, inter alia, those with different views, minorities, indigenous peoples and women, which often lead to cultural cleansing in the form of cultural heritage destruction, while ensuring that critical strategies in this regard include humanist education, respect for human rights and promotion of tolerance and pluralism (A/71/317, para. 78 a), c) and p)).

We would like to refer to your Excellency's Government to the international standards in relation to the protection of the rights to persons belonging to religious minorities, in particular to the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (Declaration on the Rights of Minorities). Article 1 of the Declaration establishes the obligation of States to protect the existence and identity of religious minorities within their territories and to adopt the appropriate measures to achieve this end, and article 2 states that persons belonging to religious minorities have the right to profess and practice their own religion without discrimination. Furthermore, States are required to ensure that persons belonging to minorities, including religious minorities, may exercise their human rights without discrimination and in full equality before the law (article 4.1).

We also would like to draw to your Excellency's Government attention the Recommendations of the sixth session of the Forum on Minority Issues on "Guaranteeing the rights of religious minorities" (2013), and in particular to Recommendation number 34, which states that measures should be put in place to protect and maintain the cultural heritage of religious minorities — including buildings, monuments, burial grounds and other sites of religious significance, as well as the documents, records and artefacts belonging to religious minorities.

We wish to draw your Excellency's Government's attention to article 11 (1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which recognizes "the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions." In interpreting this provision, the Committee on Economic, Social and Cultural Rights stressed in its General Comment No. 4 that the right to housing includes guarantees of: (a) legal security of tenure; (b) availability of services, materials, facilities and infrastructure; (c) affordability; (d) habitability; (e) accessibility; (f) location; and (g) cultural adequacy. According to the Committee, "the right to housing should be ensured to all persons irrespective of income or access to economic resources."

We further recall the General Comments No. 4 and 7 of the Committee on Economic Social and Cultural Rights, which stress the need to provide adequate legal protection from forced eviction, due process, alternative accommodation, and access to an effective remedy of those that are affected by eviction orders. According to these General Comments, China must further explore all feasible alternatives to forced eviction in consultation with the affected persons. Moreover, it must not lead to homelessness of the evicted persons by providing adequate alternative housing facilities, resettlement and compensation for lost property.

We would also like to appeal to your Excellency's Government to recall article 20 of the UDHR, which stipulates that "[e]veryone has the right to freedom of peaceful assembly and association."

In this context, we would like to refer to Human Rights Council resolution 24/5, and in particular operative paragraph 2 that "[r]eminds 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 persons espousing minority or dissenting views or beliefs, 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."

Furthermore, we would like to refer to the joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies (A/HRC/31/66).

We would also like to recall that, in accordance with article 27 of the UDHR and article 27 of the International Covenant on Economic, Social and Cultural Rights, which was ratified by China on 27 March 2001, everyone has the right to take part in cultural life and to the freedom indispensable for creative activity. The Committee on Economic, Social and Cultural Rights, in General Comment No. 21, stressed the right of everyone, individually or in association with others or within a community or group, to freely choose their own cultural identity, to belong or not to belong to a community, and have their choice respected. This includes the right not to be subjected to any form of discrimination based on cultural identity, exclusion or forced assimilation, and the right of all persons to express their cultural identity freely and to exercise their cultural practices and way of life. The Committee also stressed the right of everyone to enjoy freedom of opinion, freedom of expression in the language or languages of their choice, and the right to seek, receive and impart information and ideas of all kinds and forms including art forms, regardless of frontiers of any kind. This implies the right of all persons to have access to, and to participate in, varied information exchanges, and to have access to cultural goods and services, understood as vectors of identity, values and meaning. In addition, everyone has the right to enjoy the freedom to create, individually, in association with others, or within a community or group, which implies that States parties must abolish censorship of cultural activities in the arts and other forms of expression, if any; and to have access to their own cultural and linguistic heritage and to that of others. In particular, States must respect free access by minorities to their own culture, heritage and other forms of expression, as well as the free exercise of their cultural identity and practices. This includes the right to be taught about one's own culture as well as those of others. States parties must also respect the rights of indigenous peoples to their culture and heritage. (E/C.12/C/GC/21, para.49).