

**Mandates of the Working Group on Enforced or Involuntary Disappearances; the Working Group on Arbitrary Detention; the Special Rapporteur in the field of cultural rights; the Special Rapporteur on minority issues; and the Special Rapporteur on freedom of religion or belief**

REFERENCE:  
AL CHN 12/2020

2 June 2020

Excellency,

We have the honour to address you in our capacities as Working Group on Enforced or Involuntary Disappearances; Working Group on Arbitrary Detention; Special Rapporteur in the field of cultural rights; Special Rapporteur on minority issues; and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 36/6, 42/22, 37/12, 34/6 and 40/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the continued enforced disappearance of Gedhun Cheokyi Nyima, and the regulation of reincarnation of Tibetan living Buddhas against the religious traditions and practices of the Tibetan Buddhist minority**. The 17 May 2020 marked 25 years since the disappearance of Gedhun Cheokyi Nyima.

The case of Gedhun Cheokyi Nyima has previously been raised with your Excellency's Government by Special Procedures mandate holders in CHN 13/2005 and CHN 12/2007. We thank your Excellency's Government for the replies received to these communications.

We would also like to recall that the case of Gedhun Cheokyi Nyima has also been treated under the humanitarian mandate of the Working Group on Enforced or Involuntary Disappearances.

Furthermore, Special Rapporteurs on freedom of religion or belief have raised concerns on the measures taken by the authorities to manage the search, identification and the reincarnation of Buddhist Lamas in 1991 (E/CN.4/1992/52, para 22), 1996 (E/CN.4/1996/95, para 40) and 2006 (E/CN.4/2006/5/Add.1, paras 94-95).

According to the information received:

On 14 May 1995, Mr. Gedhun Cheokyi Nyima, then six years of age, was recognized as the 11<sup>th</sup> reincarnation of the Panchen Lama by the Dalai Lama. Shortly after this date, Mr. Nyima and his parents were taken away from their village by members of the Chinese Government. The 17 May 2020 marked 25 years since the disappearance of Gedhun Cheokyi Nyima.

The Government of China has confirmed that he was taken away with his family but has refused to provide precise information on his fate and whereabouts despite

multiple requests. The Government initially indicated he was being held in “government protection,” and later that he was living a normal life. During this period, he has reportedly been deprived of the religious education in Tibetan Buddhism.

Following the disappearance of Mr. Gedhun Cheokyi Nyima, the Chinese Government attempted to nominate and appoint their preferred choice of individual as the eleventh Panchen Lama. Moreover, the authorities also attempted to regulate the appointment of Tibetan religious leaders, which went against the intrinsic beliefs and religious traditions of Tibetan Buddhists. In 2007, the Government issued the “State Religious Affairs Bureau Order No.5 (Bureau Order)” that specifically laid down measures in managing the reincarnation of Tibetan living Buddha. In article 2 of Bureau Order, it was stressed that “living Buddha reincarnations should respect and protect the principles of the unification of the state, protecting the unity of the minorities, protecting religious concord and social harmony, and protecting the normal order of Tibetan Buddhism”. In articles 3 and 4, the Bureau Order set the conditions for the application of reincarnation of living Buddha and also granted authority to local Governments to decide if a reincarnation is permissible. In the rest of the Bureau Order, it detailed various procedures for receiving the Buddhist Association of China’s opinion and the State’s permission or approval for reincarnation.

In 2016, the Chinese Government published an online database of the State-approved Tibetan Buddhist reincarnations with over 1300 biographies of living Buddhas residing in the country as provided by the Buddhist Association of China. The regulation of reincarnation is enhanced subsequently in article 36 of the Religious Affairs Regulations 2017, which provides that: “the succession of living Buddhas in Tibetan Buddhism is to be conducted under the guidance of Buddhist groups and in accordance with the religious rites and historical conventions, and is to be reported for approval to the religious affairs department of people’s governments at the provincial level or above or to a people’s government at the provincial level or above”. Many Tibetan Buddhists have expressed their concerns about the regulation of reincarnation as it undermines the Tibetan religious traditions and practices while such regulation allow the State to interfere in the choice of their religious leaders. Furthermore, there is fear that the Chinese authority will identify and appoint the successor of the current (fourteenth) Dalai Lama against the Tibetan traditions and the wish of Tibetan Buddhist communities.

Without prejudging the accuracy of this information, we express grave concern at the continued refusal by the Government of China to disclose precisely the whereabouts of Gedhun Cheokyi Nyima. We are also particularly concerned that the regulation of reincarnation of Tibetan living Buddhas may interfere and possibly undermines, in a discriminatory way, the religious traditions and practices of the Tibetan Buddhist minority.

Should these allegations be confirmed, they would contravene international human rights law provisions, such as the prohibition against discrimination, the right to recognition as a person before the law and to its equal protection without discrimination, the right not be deprived arbitrarily of one's liberty, the right to freedom of thought, conscience and religion and to freely participate in cultural life in accordance with articles 2, 3, 6, 7, 9, 18 and 27 of the Universal Declaration of Human Rights, and article 15 of the International Covenant on Economic, Social and Cultural Rights. The continued enforced disappearance of Mr. Gedhun Cheokyi Nyima for the past 25 years contravenes several articles of the United Nations Declaration on the Protection of All Persons from Enforced Disappearances including articles 2 and 7.

The disappearance of Mr. Gedhun Cheokyi Nyima has been raised with your Excellency's Government multiple times by Special Procedures mandate holders. The UN Committee on the Rights of the Child (CRC) has also requested China to allow an independent expert to visit Mr. Gedhun Cheokyi Nyima to confirm his whereabouts and verify the fulfilment of his rights (CRC/C/SR.299 and CRC/C/CHN/CO/3-4). We note that your Excellency's Government has expressed on several occasions its support for the international community's efforts to eliminate and prevent enforced disappearances, including at the Human Rights Council. **We thus reiterate our demand for your Excellency's Government to provide prompt and detailed information on Mr. Gedhun Cheokyi Nyima's whereabouts and we endorse the CRC's recommendation to allow an independent monitor to visit him to confirm his whereabouts and the extent to which he is able to enjoy and exercise his rights. We also appeal to your Excellency's Government to ensure that Tibetan Buddhists are able to freely practice their religion, traditions and culture without interference.**

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 and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide prompt and detailed information on the fate and whereabouts of Mr. Gedhun Cheokyi Nyima.
3. Please explain how the regulation of reincarnation of living Buddhas is compatible with the protection of freedom of religion or belief and the protection of religious minorities without discrimination under international human rights law.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

We may publicly express our concerns in the near future in this case. We have been communicating repeatedly with the Government of China to clarify the fate and whereabouts of Mr. Gedhun Cheokyi Nyima for the past 25 years, thus far, without a satisfactory response. We also believe that the regulatory framework applied to religious communities, should not interfere or undermine the right of these communities to follow their beliefs and traditions. Any public expression of concern on our part will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

Luciano Hazan  
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Elina Steinerte  
Vice-Chair of the Working Group on Arbitrary Detention

Karima Bennoune  
Special Rapporteur in the field of cultural rights

Fernand de Varennes  
Special Rapporteur on minority issues

Ahmed Shaheed  
Special Rapporteur on freedom of religion or belief

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by China in 2001 and the International Covenant on Civil and Political Rights (ICCPR), signed by China on 5 October 1998. While China is yet to ratify the ICCPR, as a signatory, China has an obligation to refrain from any acts which would defeat the object and purpose of the Covenant prior to its entry into force (article 18 of the 1969 Vienna Convention on the Law of Treaties).

In particular, without expressing at this stage any opinion on the facts of the case and on whether the reported detentions were arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee the right of the abovementioned individual not to be deprived arbitrarily of his liberty in accordance with articles 6, 7, 9, 10 and 11 of the UDHR. Enforced disappearance is also an aggravated form of arbitrary detention as individual is placed outside the protection of the law.

We would also like to highlight that the United Nations Declaration on the Protection of All Persons from Enforced Disappearances notes that no State shall practise, permit or tolerate enforced disappearances (article 2), and that no circumstances whatsoever may be invoked to justify an enforced disappearance (article 7).

We would like to also reiterate that the freedom of religion or belief of the Tibetan Buddhist minority includes the right to determine their clergy and religious leaders in accordance with their own religious traditions and practices as guaranteed by article 18 of the UDHR. Article 6 (g) of the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief also provides the freedom to "train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief". In addition, Human Rights Committee General Comment 22, para 4, further clarifies that "the practice and teaching of religion or belief includes acts integral to the conduct by religious groups of their basic affairs, such as the freedom to choose their religious leaders, priests and teachers [...]".

We would also like to refer to article 15 and General Comment No 21 to the ICESCR: "49. The obligation to respect includes the adoption of specific measures aimed at achieving respect for ... the right of all persons to express their cultural identity freely and to exercise their cultural practices and way of life.").

We further refer to the protection of the rights of persons belonging to minorities enshrined in article 27 of the ICCPR and to the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. In particular, article 2 of the Declaration establishes that persons belonging to minorities have the right to enjoy their own culture, to profess and practice their own religion, and to use their own

language, in private and in public, freely, without any interference or any form of discrimination and provides for the effective participation of minorities in cultural, religious, social, economic and public life, as well as in decision-making processes on matters affecting them. The Declaration furthermore refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt measures to that end (article 1), as well as to adopt the required measures to ensure that persons belonging to minorities can exercise their human rights without discrimination (article 4).