

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

REFERENCE:  
AL CHN 7/2021

16 July 2021

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 on minority issues; and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 45/3, 42/22, 43/8 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 alleged arbitrary detention and enforced disappearance of two Tibetan Buddhists, Mr. Go Sherab Gyatso and Mr. Rinchen Tsultrim.**

According to the information received:

*Rinchen Tsultrim*

On 27 July 2019, Mr. Rinchen Tsultrim, a Tibetan Buddhist monk born in 1991 in Kashul Village, Barma Township, Ngaba County, Sichuan district, China, was arrested in the Kordo intersection in Kashul Village, by officials of the Ngaba County Public Security Bureau.

Mr. Tsultrim was arrested together with two persons associated with him, who were later released. However, he reportedly remained secretly detained for over a year.

It was only on 23 March 2021, that persons associated with Mr. Tsultrim received verbal communication from the Ngaba Public Security Bureau, informing them that Mr. Rinchen Tsultrim had received a four and half-year prison sentence. The authorities did not provide any other information about his case, including the charges against him, the trial date, or the court where it took place. He is reportedly detained in Mianyang prison, Sichuan province.

It is reported that Mr. Tsultrim had actively followed the 2008 mass protests that spread across Ngaba County and Tibet. In 2018, he was formally warned twice by the county public security bureau to stop expressing opinions critical of Chinese policies online. His personal website titled 'scepticism on Tibet' (in Tibetan) had reportedly also been shut down. Mr. Tsultrim was reportedly under surveillance both online and offline, including through the monitoring and recording of telephone conversations. His distribution of books and scriptures to remote areas of Tibet via the post office had also been monitored and intercepted by the authorities.

*Go Sherab Gyatso*

On 26 October 2020, Mr. Go Sherab Gyatso, a Tibetan Buddhist scholar born on 9 September 1976, and originally from Aba county, Aba Tibetan Qiang Autonomous Prefecture, Sichuan province, was arrested at Chengdu, Sichuan district, China, by state security officers.

Mr. Go Sherab Gyatso had reportedly travelled to Chengdu to act as a translator for an ill relative who was seeking medical attention. After spending a week in Chengdu, on 26 October 2020, he was taken away by security officers.

It is further indicated that Mr. Go Sherab Gyatso had previously been detained for his criticism of Chinese government controls in monastic education and literature, in 1998 and in 2008.

At the time of the present communication, the fate and whereabouts of Mr. Go Sherab Gyatso remain unknown.

While we do not wish to prejudge the accuracy of the information received, we express serious concern for the alleged arbitrary detention and enforced disappearance of Mr. Go Sherab Gyatso and Mr. Rinchen Tsultrim, members of the Tibetan Buddhist minority. We are particularly concerned at information indicating that these detentions are not isolated events, but reflect a worrying pattern of arbitrary and incommunicado detentions, closed trials, and unknown charges and verdicts against the Tibetan religious minority in China, some of them amounting to enforced disappearances. We are also concerned that individuals have been targeted based on their religion or ethnicity.

Should the above facts alleged be confirmed, they would contravene the fundamental principles embodied in the Universal Declaration of Human Rights and other international instruments regarding the right to life, the right to liberty and security of the person, the right not to be subjected to torture and the right to recognition as a person before the law, particularly as these refer to persons deprived of their liberty.

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.

We are issuing this appeal in order to safeguard the rights of above-mentioned individuals from irreparable harm and without prejudicing any eventual legal determination.

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 urgently provide information on the fate and whereabouts of Mr. Go Sherab Gyatso. If he is deprived of his liberty, please provide information on the factual and legal grounds for his arrest and detention.
3. Please provide information on the factual and legal grounds for the arrest, detention and sentencing of Mr. Rinchen Tsultrim
4. Please provide information on the steps taken by the relevant authorities to investigate the allegation of enforced disappearances of Mr. Go Sherab Gyatso and Mr. Rinchen Tsultrim and to ensure the protection of their human rights including, most notably, their rights to life, liberty, personal security, and integrity.
5. Please indicate the measures undertaken by your Excellency's Government to ensure protection and promotion of the human rights of ethnic, religious and linguistic minorities, such as Tibetan Buddhists, to hold opinions without interference and to enjoy the right of freedom of expression either orally, in writing, print, art or through any other media of her choice and without discrimination.
6. Please provide any existing policies and other measures undertaken by your Excellency's Government to ensure that Tibetan Buddhists and other minorities are not discriminated based on their religion or ethnicity.

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

We would like to bring to the attention of your Excellency's Government that should sources submit the allegations concerning Mr. Go Sherab Gyatso for the consideration of the Working Group on Enforced or Involuntary Disappearances under its humanitarian procedure, the case 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.

We would also like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the urgent appeal and the regular procedure.

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.

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

Tae-Ung Baik  
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Miriam Estrada-Castillo  
Vice-Chair of the Working Group on Arbitrary Detention

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 draw your Excellency's Government's attention to the United Nations Declaration on the Protection of All Persons from Enforced Disappearances which establishes that no State shall practice, permit or tolerate enforced disappearances. The Declaration also proclaims that 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. In particular, the Working Group recalls that the Declaration sets out the necessary protection by the State, in particular articles 9, 10, 11 and 12, which relate to the rights to a prompt and effective judicial remedy to determine the whereabouts of persons deprived of their liberty; to access of competent national authorities to all places of detention; to be held in an officially recognized place of detention, 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; and to the maintenance in every place of detention of official up-to-date registers of all detained persons.

The Working Group has stressed that a failure to acknowledge deprivation of liberty by state agents and refusal to acknowledge detention constitute an enforced disappearance, even if it is of a short duration. The Working Group has also underlined that procedural safeguards upon arrest and during the first hours of deprivation of liberty are essential to prevent possible violations, such as torture. These safeguards include immediate registration, judicial oversight of the detention, notification of family members as soon as an individual is deprived of liberty, and the assistance of a defense lawyer of one's choice.

We would also like to bring to your Excellency's attention to refer to articles 9 and 10 of the Universal Declaration on Human Rights which prohibits in absolute terms arbitrary deprivation of liberty and guarantees everyone the right to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him. In this context, we would also like refer to relevant provisions of the United Nations Basic Principles and Guidelines on remedies and procedures on the right of anyone deprived of their liberty to bring proceedings before a court. More specifically, Principle 9 refers to the right of anyone deprived of liberty to legal assistance by counsel of their choice, at any time during their detention, including immediately after the moment of apprehension. Upon apprehension, all persons shall be promptly informed of this right.

We further recall that in its 2019 annual report, the Working Group on Arbitrary Detention, which states that the right to legal assistance is one of the key safeguards in preventing the arbitrary deprivation of liberty. The right to legal assistance is essential to preserve the right to fair trial, as it safeguards the principle of the equality of arms envisaged in articles 10 and 11 (1) of the Universal Declaration of Human Rights.

We would also like to recall that the absolute prohibition of incommunicado detention, which inherently violates the right to challenge the legality of deprivation

of liberty. Moreover, according to the jurisprudence of the Working Group on Arbitrary Detention, enforced disappearances constitute a particularly aggravated form of arbitrary detention.

We would also like to recall that according to the UN Basic Principles and Guidelines on Remedies and Procedures on the Rights of Anyone Deprived of their Liberty to Bring Proceedings before a Court, the right to challenge the lawfulness of detention before a court is a self-standing human right, which is essential to preserve legality in a democratic society.<sup>1</sup> This right, which is in fact a peremptory norm of international law, applies to all forms of deprivation of liberty,<sup>2</sup> applies to ‘all situations of deprivation of liberty, including not only to detention for purposes of criminal proceedings but also to situations of detention under administrative and other fields of law, including military detention, security detention, detention under counter-terrorism measures, involuntary confinement in medical or psychiatric facilities, migration detention, detention for extradition, arbitrary arrests, house arrest, solitary confinement, detention for vagrancy or drug addiction, and detention of children for educational purposes’.<sup>3</sup> Moreover, it also applies ‘irrespective of the place of detention or the legal terminology used in the legislation. Any form of deprivation of liberty on any ground must be subject to effective oversight and control by the judiciary’.<sup>4</sup>

We would also like to refer to the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, Article 2 of which states that persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life, the right to establish and maintain their own associations. Article 4 of the Declaration stipulates that states shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.

The 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief provides in its article 2 (1) that “no one shall be subject to discrimination by any State, institution, group of persons, or person on the grounds of religion or other belief.” Furthermore, its article 4 (1) stresses that “all States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life.” In addition, article 4 (2) also underlines that “states shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter.”

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<sup>1</sup> A/HRC/30/37 at paras 2 and 3.

<sup>2</sup> A/HRC/30/37 at para 11.

<sup>3</sup> A/HRC/30/37 at para 47 (a).

<sup>4</sup> A/HRC/30/37 at para 47 (b).