

Mid-Term Universal Periodic Review Assessment Report

The Deteriorating Human Rights Situation in Tibet

This Assessment Report was prepared and co-authored by a coalition of NGOs who together form the Tibet Advocacy Coalition.¹ Founded in 2013, the Coalition works to highlight the situation in Tibet at the United Nations Human Rights Council (“HRC”). **Tibet Advocacy Coalition** is a project established in 2013 by core groups Tibet Justice Center and Students for a Free Tibet with support from International Tibet Network Secretariat and Boston University’s International Human Rights Clinic, all of whom are co-authors of this Assessment Report.

This Report has been signed by 185 International Tibet Network Member Groups from over fifty countries.



Tibet Justice Center



UPR Mid-term Assessment : CHINA

China committed to comply with crucial Universal Periodic Review recommendations spanning economic, cultural, and social rights, as well as non-derogable rights, such as freedom from torture. However, since the 2nd-cycle UPR, China has unleashed an increased assault on the fundamental human rights and human rights defenders who increasingly face arbitrary detention, sham trials, imprisonment, and torture.

The Chinese government's open hostility towards human rights defenders was tragically illustrated in 2015 by the death of the highly respected Tibetan leader, Tenzin Delek Rinpoche, who died in a 'black site' prison after serving 13 years for a crime he did not commit.



SUBJECT	SCORE
Preventing Torture	F
Respecting Cultural Rights	F
Respecting Language Rights	F
Respecting Religious Freedom	F
Supporting Human Rights Defenders	F
Ending Arbitrary Detention	F
Ending Enforced Disappearances	F
Allowing Freedom of Expression	F
Allowing Freedom of Association and Assembly	F

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I. Assessment Report Summary

The People's Republic of China ("China") has occupied Tibet since 1950, when 40,000 Chinese troops invaded Eastern Tibet.^{2,3} Over six decades of occupation, China has enacted region-specific policies and has taken discriminatory actions against the Tibetan people which have resulted in severe human rights violations.⁴ China's consistent denial of the Tibetan right to self-determination prevents Tibetans from enjoying many economic, social, and cultural rights and has prompted political and religious oppression. Such violations constitute not only an egregious human rights issue, but also undermine the HRC on which China continues to serve.

Following the second cycle Universal Periodic Review ("UPR") in 2013, China voluntarily pledged commitment to 207 recommendations made by state parties, thirty-six of which fall within the following specific rights violation categories affecting the Tibetan people: cultural rights, language rights, religious freedom, rights of human rights defenders, freedom from arbitrary detention, freedom of expression, freedom of association and assembly, and prohibition of torture.⁵ Further, these recommendations specifically include protection of "the rights of ethnic minority groups, including Tibetans," a protection China later claimed to already have in place.^{6,7}

This Report assesses China's implementation of accepted recommendations and makes further recommendations aimed at improving the HRC's follow-up to the UPR on China. It provides a thematic overview of accepted recommendations and outlines a number of relevant deteriorations of human rights in Tibet since the UPR issued its last recommendations. Such violations include the suspicious death of Tenzin Delek Rinpoche; punishment of Tibetans for refusing to comply with resettlement orders; use of Chinese-centric schools that do not provide quality education for Tibetans; attacks on religious symbols and religious leaders; the arrest of religious leader Trulku Phurpu Tsering Rinpoche for his involvement in a peaceful protest; censorship of Tibetan attempts to assert an independent identity; and widespread discrimination against Tibetans with regard to rights ranging from freedom from torture to freedom of movement. Given the prevalence and severity of such violations, it is evident that China has failed to implement those recommendations it has pledged to accept.

By outlining China's many human rights violations, this Report demonstrates a dangerous trend: China's longstanding policy of discrimination against Tibetans.⁸ Since Chinese occupation of Tibet began in the 1950s, China has continuously promoted Chinese unity and discouraged what it terms "separatist" and "splittist" sentiment among Tibetans.⁹ China has implemented policies and taken actions to curb support for the Dalai Lama, to silence calls for political autonomy, and to deny cultural and religious freedom to the Tibetan people.¹⁰ Although its Constitution proclaims that "[a]ll nationalities in the People's Republic of China are equal,"¹¹ China's treatment of Tibetans has proven this false. In fact, it is China's discriminatory treatment of minority groups that enables increasing application of systematic, strategic policies that give rise to severe human rights violations that repress Tibetans today.

In this Assessment Report we refer to the two international treaties that China has signed and ratified, and is thus obligated to comply with and provide human rights to those living under its rule. These are the International Covenant on Economic, Social and Cultural Rights (Signed in 1997; Ratified in 2001), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Signed in 1986; Ratified in 1988).

It is also important to note that the most prevalent recommendation advanced by state parties during the second cycle UPR urged China to ratify the International Covenant on Civil and Political Rights ("ICCPR"), a critical international treaty protecting fundamental rights such as freedom of assembly and freedom of speech.^{12, 13} Although China has ceded to such recommendations, it has not yet ratified the ICCPR.¹⁴ This recommendation is particularly salient with regard to Tibetans, who are routinely denied civil, political, religious, and cultural autonomy. Since 2013, Tibetans have continually faced severe restrictions on their rights to free expression, free association, and free assembly.¹⁵ For example, China has engaged in a systematic attempt to block the flow of news coming out of Tibet.¹⁶ Further, Tibetans who communicate between themselves and exile communities, or attempt to do so, face significant dangers.¹⁷

In this Report, we rely on evidence collected by prominent human rights research groups, including Amnesty International, the Tibetan Center for Human Rights and Democracy, Tibet Watch, and the International Campaign for Tibet. In many cases, evidence includes first-hand accounts, as well as testimony of family and community members. Such information is the most credible evidence available given that Chinese authorities "censor and tightly control public discourse."¹⁸

II. Assessment of Developments Since Second Cycle UPR

Preventing Torture

In 2013, China accepted 3 UPR recommendations related to the prohibition of torture, including commitments to harmonize the national definition of torture with the CAT definition of torture, to ensure enforcement of existing laws prohibiting torture, to dismiss illegally obtained evidence, and to generally prevent torture.¹⁹

Relevant UPR 2013 Accepted Recommendations:

- 186.49.** Harmonize the definition of torture contained in the national legislation with the requirements of the CAT and ensure that statements obtained under duress are not admitted in court (Mexico);
- 186.51.** Effectively implement and establish the necessary institutional mechanisms to ensure the enforcement of existing laws prohibiting torture and dismissing illegally obtained evidence (Denmark);
- 186.117.** Abolish Re-education through Labour, prevent torture, and immediately inform relatives about arrests and effective legal representation (Germany);

Assessment of implementation (with reference to CAT)

Article 2.1 Convention Against Torture (CAT)

Despite China's adoption of a series of regulations aimed at preventing the use of torture against detained ethnic minorities, recent cases of torture demonstrate that the Chinese justice system consistently violates these regulations with impunity.²⁰ In August 2013, Yama Tsering, a 72-year-old Tibetan who had been detained during a protest, was tortured with an electric prod. In December 2014, Tenzin Choerak, a Tibetan social activist, was released from prison in a condition suggesting he was the victim of torture. He was emaciated, had damaged kidneys, a dislocated jawbone, and was vomiting blood due to a brain injury.²¹ He died two days after his release. Tenzin Delek Rinpoche, a highly respected Tibetan religious leader renowned for his welfare activities and for promoting Tibetan culture, was imprisoned on charges of "terrorism and inciting separatism."²² He was tortured, denied medical treatment, and died in prison as a result.²³ In February 2016, Trigyal, a Tibetan man serving a thirteen-year prison sentence for refusing to fly the Chinese national flag, died in custody from injuries sustained from torture.²⁴ Chinese authorities' routine use of torture against detained Tibetans in violation of both Article 2.1 and China's own regulations, exemplifies China's contempt for its own laws and international law.²⁵

Article 12 Convention Against Torture (CAT)

China's consistent refusal to investigate torture violates Article 12 of CAT and contradicts Chinese domestic law, which requires investigation of evidence obtained illegally.²⁶ Chinese authorities willfully fail to investigate allegations of torture of Tibetans, and often fail to do so quickly.²⁷ This is particularly crucial for torture cases as evidence of torture may disappear quickly from the body.²⁸ Most notably, Chinese authorities failed to promptly investigate the suspicious death of Tenzin Delek Rinpoche despite international allegations from the U.S.²⁹ State Department and the European Union that he died as a result of torture. Instead, China hastily cremated his body, in contravention of Tibetan burial traditions, and likely in an effort to avoid detection of incriminating evidence.³⁰ This was not an isolated incident: there is a well-documented, growing trend among Chinese authorities to release ill prisoners on the cusp of death in an effort to avoid the increased liability and possibility of investigation associated with prisoner death.

Respecting Cultural Rights (including Language and Religious Freedom)

In 2013, China accepted 14 UPR recommendations related to the enjoyment of economic, social, and cultural rights, including commitments to take necessary measures to ensure rights to freedom of religion and culture, and to provide protection for economic, social, and cultural rights.³¹ China also agreed to take further legislative and practical measures to allow ethnic minorities to preserve their cultural identity, to fully exercise their human rights, and to ensure their participation in decision-making.³²

Relevant UPR 2013 Accepted Recommendations:

Cultural Rights

- 186.138.** Take the necessary measures to ensure that the rights to freedom of religion, culture and expression are fully observed and protected in every administrative entity of China (Poland);
- 186.185.** Continue to provide comprehensive protection to citizens' economic, social and cultural rights (Democratic People's Republic of Korea);
- 186.194.** Continue efforts in implementation of the country's Plans of Action in particular those relating to the safeguard of the economic, social and cultural rights of the people, including those of the most vulnerable ones and disadvantaged groups (Cambodia);
- 186.220.** Exert more efforts to protect cultures, especially those of ethnic minorities, and to promote the protection of cultural relics (Iraq);
- 186.221.** Make further efforts for securing all human rights, including cultural rights of minorities (Japan);
- 186.222.** Take further legislative and practical measures to allow ethnic minorities to preserve their cultural identity, to fully exercise their human rights and to ensure their participation in decision-making, in accordance with the Chinese Constitution (Austria)

Language

- 186.219.** Continue pursuing measures and policy aimed at ensuring the rights of ethnic minorities' learning, writing and the development of their own languages according to the relevant laws (Cambodia)

Religious Freedom

- 186.224.** Strengthen protection of ethnic minorities' religious, socio-economic and political rights, ensuring reports of violations are promptly and transparently investigated (Australia)
- 186.136.** Expedite legal and institutional reforms to fully protect in law and in practice freedom of expression, association and assembly, and religion and belief (Australia);
- 186.138.** Take the necessary measures to ensure that the rights to freedom of religion, culture and expression are fully observed and protected in every administrative entity of China (Poland);
- 186.140.** Take effective measures to protect the right to freedom of religion or belief (Austria);
- 186.143.** Consider possible revision of its legislation on administrative restrictions in order to provide a better protection of freedom of religion or belief (Italy);
- 186.144.** Strengthen the human rights framework to ensure religious freedoms (Namibia);
- 186.169.** Continue strengthening the protection and promotion of the right of all citizens to publicly express their beliefs and opinions (Chile);

Assessment of implementation (with reference to ICESCR)

Article 1 International Covenant on Economic, Social and Cultural Rights

Article 1 of the ICESCR guarantees all peoples “the right to self-determination”³³ and ensures that all peoples may “freely determine their political status and freely pursue their economic, social, and cultural development.”³⁴ Tibetans are therefore entitled to develop their own economic, social, and cultural identity, a right China has consistently denied. China has prevented Tibetans from developing their own economic livelihoods by stripping their lands of resources. China has also forced up to two million nomads to resettle, thereby denying not only their livelihoods as herders and pastoralists, but also their unique cultural traditions and ways of life.³⁵ China has consistently censored those that manifest beliefs in a Tibetan identity independent from that of the Chinese identity. Since 2013, the Chinese government has automatically censored personal internet correspondence for words such as “Tibetan independence” and the “Dalai Lama,” and has imprisoned political dissenters who proclaim a free Tibet.³⁶ In an attempt to erase Tibetan identity, China went so far as to establish a Chinese unity campaign in Diru County in 2013 that mandated political reeducation classes and forced Tibetans to fly Chinese flags over their homes.³⁷

Finally, the most compelling evidence of China’s violation of the right to self-determination is self-immolations by Tibetans.³⁸ Since 2009 at least 143 Tibetans have self-immolated to protest political, religious, and cultural oppression by the Chinese government; thirty-seven have taken place since 2014.³⁹ Such acts are a cry for self-determination as “virtually all of the Tibetans who have set fire to themselves in Tibet have communicated a wish for the Dalai Lama to return to Tibet and for freedom.”⁴⁰

Article 2 International Covenant on Economic, Social and Cultural Rights (“ICESCR”)

China’s disparate treatment of Tibetans violates their Article 2 obligation to guarantee rights “without discrimination of any kind.”⁴¹ Chinese authorities discriminate against Tibetans by making it increasingly difficult for Tibetans to acquire and maintain passports, thereby precluding their free movement in and outside of China. Authorities often deny passports to Tibetans they consider “politically unreliable” and those Tibetans linked to self-immolators and political dissidents.⁴² China has also enacted “preferential policies” encouraging Han Chinese to settle in Tibet, which has resulted in development projects and policies that have displaced native Tibetans and disproportionately benefited settlers.⁴³ Finally, and most alarmingly, Chinese authorities continue to discriminate against Tibetans through some of the most egregious human rights violations: China detains and tortures Tibetans at a much higher rate than the Han Chinese.⁴⁴ By enacting policies and taking actions that prefer the Han Chinese over Tibetans, the Chinese government has effectively impaired fundamental rights of Tibetans through discrimination.

Article 11 International Covenant on Economic, Social and Cultural Rights (“ICESCR”)

Chinese authorities have forcibly displaced tens of thousands of Tibetans in violation of Article 11 of the ICESCR.⁴⁵ Under Article 11, state parties must recognize the right of everyone to an adequate standard of living, including adequate food, clothing and housing, and to the continuous improvement of living conditions.⁴⁶ Forceful evictions violate Tibetans’ rights to an adequate standard of living because they threaten “the survival of an ancient way of life that is integral to Tibetan identity as well as the livelihoods of Tibetan nomads.”⁴⁷ Once forced to move to more urban areas, Tibetans are deprived of their culture, religion, diet, and way of life. About 40% of ethnic Tibetans have been relocated.⁴⁸

Chinese authorities justify forced evictions under Regulations on Expropriation of and Compensation for Premises on State-owned Land.⁴⁹ These regulations allow local governments to issue permission for evictions and take land for public use without providing fair compensation.⁵⁰ On December 30, 2014, four Tibetans were severely beaten by Chinese police while protesting the appropriation of their family farm to make space for police barracks and other projects in Dzamthang.⁵¹

Additionally, Chinese authorities have forced Tibetans to relocate often without advance consultation or any right to challenge the relocation, thereby belying China’s claim that their resettlement programs are entirely voluntary and welcomed.⁵² China imposed severe punishment on Tibetans in Yulshul Prefecture of Qinghai Province for refusing to give up their pastoral life to live in fixed settlement towns.⁵³ Authorities confiscated their residency permits and other personal documents, such as IDs and driving licenses, for disobeying government orders, and imposed a fine of 10,000 yuan for their return.

Article 13 International Covenant on Economic, Social and Cultural Rights (“ICESCR”)

China’s “Chinese-centric” schools deny Tibetans access to quality education in violation of Article 13. Article 13 requires that state parties recognize the right of everyone to education. While China does provide schooling for Tibetans, its academic policies discourage attendance to the detriment of Tibetan children. Chinese authorities use these institutions as a mechanism for assimilating Tibetans into Chinese culture.⁵⁴ Most schools in Tibet have Chinese-centric environments, and have barred Tibetan culture.⁵⁵ Additionally, the only language permitted is Mandarin, which consequently discourages Tibetan-speaking children from attending class.⁵⁶ Because this is the only accessible education system, China clearly violates Tibetans’ rights to choose the learning environments best suitable for their children.

In a continuing effort to suppress Tibetan identity and force assimilation, authorities have required academics to participate in propaganda efforts, such as by making public speeches supporting government policies.⁵⁷ Those who protested and publicly criticized Chinese policies on Tibetan affairs faced severe punishment.

Article 15 International Covenant on Economic, Social and Cultural Rights (“ICESCR”)

Article 15(1)(a) of the ICESCR stipulates that state parties must recognize the right of everyone to take part in cultural life.⁵⁸ The Chinese government has commandeered the deeply spiritual Tibetan religious practices to the detriment of Tibetan culture in violation of this right. Tibetans’ allegiance to the Dalai Lama and Tibetan Buddhism is a fundamental part of Tibetan culture.⁵⁹ The Chinese government, however, views Buddhism as an obstacle to fully incorporating Tibet, and has implemented policies permitting authorities to control this religious practice.⁶⁰ According to *International Campaign for Tibet*, “Chinese authorities have strengthened monastic management teams in Tibetan monasteries and tightened surveillance mechanisms.”⁶¹

In 2014, the Chinese government shifted its focus toward undermining Tibetan Buddhism rather than controlling it and proceeded to attack religious symbols and target religious leaders.⁶² In 2008, Chinese authorities arrested Trulku Phurba Tsering Rinpoche, a highly revered religious figure of Kardze, after suspecting him of having links to a peaceful protest march led by more than 80 nuns of Pangri-na Nunnery.⁶³ In 2014, he was discovered in an emaciated condition at a prison near Chengdu City.⁶⁴ In May 2014, Chinese authorities arbitrarily detained Tenzin Lhundrup, a senior Tibetan monk, for his involvement in “many disturbances,” including his participation in the protest against mining at the sacred Naglha Dzamba Mountain.⁶⁵ In February 2016, two senior Tibetan monks, Khenpo Paga and Geshe Orgyen, from Chokri monastery in Draggo country in the Kardze Tibetan Autonomous Prefecture, were detained “on suspicion of holding prayers for the good health of exiled spiritual leader the Dalai Lama.”⁶⁶

Chinese authorities have also detained individuals and subjected them to torture for possessing images of the Dalai Lama.⁶⁷ For example, Tibetan monk Thardhod Gyaltzen was sentenced to an eighteen-year prison sentence in January 2014 for possessing Dalai Lama images and teachings. Punishing Tibetans for exercising their religious beliefs, a practice inseparably linked to Tibetan culture, is an indisputable violation of Article 15.

Supporting Human Rights Defenders (including Arbitrary Detention, Enforced Disappearance, and Freedom of Expression, Association and Assembly)

In contravention of these rights, Chinese authorities continue to detain peaceful protestors, academics, artists, bloggers, and writers for conveying their views and for attempting to celebrate Tibetan culture.

Relevant UPR 2013 Accepted Recommendations:

Operational space for Human Rights Defenders

- 186.149.** Facilitate the development, in law and practice, of a safe and enabling environment in which both civil society and human rights defenders can operate free from fear, hindrance and insecurity (Ireland);
- 186.62.** Ensure that human rights defenders can exercise their legitimate activities, including participation in international mechanisms, without being subjected to reprisals (Switzerland);
- 186.158.** Ensure that proper investigations are conducted in all cases of attacks on journalists, media workers and human rights defenders (Poland);
- 186.59.** Set up a national institution in line with the Paris Principles and ensure a climate that is favourable to the activities of human rights defenders, journalists and other civil society actors (Tunisia);
- 186.131.** Take steps to ensure lawyers and individuals working to advance human rights can practice their profession freely, including by promptly investigating allegations of violence and intimidation impeding their work (Canada);
- 186.150.** Allow national and international NGOs to play a full and active role in promoting and protecting human rights, specifically by expanding registration to all categories of NGOs and social organizations in China and by expanding their freedom to operate effectively (Netherlands);

Criminalisation of Human Rights Defenders

- 186.131.** Take steps to ensure lawyers and individuals working to advance human rights can practice their profession freely, including by promptly investigating allegations of violence and intimidation impeding their work (Canada);
- 186.136.** Expedite legal and institutional reforms to fully protect in law and in practice freedom of expression, association and assembly, and religion and belief (Australia);
- 186.138.** Take the necessary measures to ensure that the rights to freedom of religion, culture and expression are fully observed and protected in every administrative entity of China (Poland);

Arbitrary Detention

- 186.118.** Ensure that any reformed prison or compulsory care system meets international human rights standards, and abolish system of arbitrary detention, including Re-Education Through Labour (Sweden);

Enforced Disappearance

NOTE: China did not accept any related recommendation and stated “There is no arbitrary detention or forced disappearance in China”

Freedom of Expression, Association and Assembly

- 186.170.** Increase transparency of its traditional and social media by guaranteeing the rights of Chinese citizens to freely critique any state organ or functionary (Australia);
- 186.138.** Take the necessary measures to ensure that the rights to freedom of religion, culture and expression are fully observed and protected in every administrative entity of China (Poland);
- 186.154.** Make further efforts towards safeguarding the freedom of expression of all citizens (Norway);
- 186.155.** Reform legislation and law enforcement in order to ensure freedom of opinion and expression, including on the internet (Germany);
- 186.157.** Strengthen the measures aimed at guaranteeing freedom of expression and freedom of the press (Côte d’Ivoire);
- 186.167.** Refrain from impeding civil society and respect its international obligations on the right to freedom of peaceful assembly (Germany);
- 18.169.** Continue strengthening the protection and promotion of the right of all citizens to publicly express their beliefs and opinions (Chile);
- 186.136.** Expedite legal and institutional reforms to fully protect in law and in practice freedom of expression, association and assembly, and religion and belief (Australia);

Assessment of Implementation

The lack of support to human rights defenders is mirrored in China’s failure to ratify the International Covenant on Civil and Political Rights. We uphold the calls from many states for China to ratify and implement the ICCPR, which would ensure Tibetan human rights defenders are properly supported. In lieu of China’s ratification, the below assessment is written in reference to the ICESCR, which China has indeed ratified yet not properly implemented.

China denies Tibetans the right to engage in cultural life by impeding their freedoms of opinion and expression.⁶⁸ For example, Lo Lo, a Tibetan singer, was sentenced to six years in prison for singing songs like “Raise the Tibetan Flag, Children of the Snowland.”⁶⁹ Thamkey Gyatso, a monk and writer, was sentenced to fifteen years in prison, and is currently paralyzed and unable to walk because he was subjected to torture while detained.⁷⁰ Kalsang Yarphel was sentenced to four years in prison for his songs, which included “lyrics urging unity among Tibetans, and for Tibetans to speak to Tibetans.”⁷¹ China also detains those defending Tibetans who have spoken out about their heritage and rights. In 2015, China began to incarcerate human rights defenders at an alarming rate, spawning what has been deemed “perhaps the most sustained, targeted crackdown against the human rights defence movement in China in recent

history.”⁷² One such attorney is Pu Zhiqiang, a prominent Chinese human rights defender who publicly criticized China’s policies in Tibet and defended a Tibetan environmental activist.⁷³ In 2014, Pu Zhiqiang was charged with “inciting ethnic hatred” and “picking quarrels and provoking trouble” and was subsequently sentenced to three years in prison, a sentence he continues to serve today.⁷⁴

China also suppresses Tibetan culture by condemning peaceful protests by Tibetans and by denying Tibetans the right to freedom of association.⁷⁵ For example, in August 2014, Chinese authorities opened fire on Tibetans peacefully protesting detainment of an important cultural leader in Kardze.⁷⁶ Since 2013, China has continuously discouraged Tibetan demonstrations protesting cultural oppression. Important examples are the self-immolations performed to protest Tibetan lack of self-determination and cultural and political freedom.⁷⁷ In response to such protests, China has consistently violated the right to freedom of association by punishing friends and family members of self-immolators. Punishment includes preventing related individuals from obtaining government jobs, receiving government aid, voting in elections, establishing businesses, or even moving freely in and out of Tibet.⁷⁸

Chinese authorities justify their actions by associating pro-Tibetan expressions with “splittism” and “separatism.” Instead of implementing laws to promote freedom of expression, new National Security legislation demonstrates that Chinese officials intend to silence Tibetans completely. China proposed a “new law currently in draft form outlin[ing] a counter-terrorism structure with vast discretionary powers.”⁷⁹ According to *International Campaign for Tibet*, “the conflation of ‘terrorism’ with ‘religious extremism’” in the law will allow enforcement to penalize “any peaceful expressions of Tibetan identity, acts of non-violent dissent, or criticism of ethnic or religious policies” in violation of Articles 19 and 20 of the UN Declaration.⁸⁰

III. Conclusions and Recommendations

In response to its last UPR in 2013, China committed to provide increased “resources for education establishments in remote and rural areas, as well as regions inhabited by ethnic minorities,”⁸¹ “to provide comprehensive protection to citizens’ economic, social, and cultural rights,” and to take further steps towards “securing all human rights, including cultural rights of minorities.”^{82 83} In the three years since pledging such commitments, China has failed to implement the Human Rights Council’s recommendations with regard to Tibetans.

China has not complied with crucial recommendations spanning economic, cultural, and social rights as well as certain non-derogable rights, such as freedom from torture. China’s rights violations against Tibetans encompass the rights to self-determination, standard of living, physical and mental health, education, cultural life, and the rights to be free from discrimination and torture. Further, it is important to note that this Report does not address the many important rights encompassed by the ICCPR, rights which China has undoubtedly violated but which China is not held to because it has not ratified the treaty. Overall, China’s failure to implement the recommended changes to improve Tibetan human rights evidences a policy of discrimination against Tibetans and a strong stance against self-determination of the Tibetan people.

Recommendations

1. First and foremost, we urge China to issue a UPR midterm report detailing China’s implementation of accepted recommendations from its 2013 UPR. We further urge China to act on the concluding observations from its 2015 review by the Committee Against Torture, and to hold China accountable if it does not. Lastly, we urge China to promptly adopt the ICCPR, given their dangerous trend of repressive practices that they are not held accountable for through existing treaty obligations.
2. With regard to China’s failure to act on its commitments from the 2013 UPR, we advance a series of recommendations. In keeping with CAT, we recommend that China take every reasonable step to legislate clearly on torture at national and regional levels, and to prohibit all forms of torture, under any circumstances, in order to bring legislation in line with international legal standards. We also urge China to take steps to ensure thorough investigation of all suspected acts of torture, including investigating deaths resulting from torture, issuing investigative reports to the public, and, where confessions have resulted in convictions, encouraging review of all trials under internationally-accepted due process standards.
3. With regard to the ICESCR, we recommend that China account for and release those Tibetans imprisoned for exercising their religious freedom, for voicing criticisms of China’s policies, and for refusing to consent to resettlements. Upon release of these prisoners, we recommend that China investigate any and all potential human rights violations. China should also halt resettlement and return displaced Tibetan nomads to their ancestral lands, if they so desire. Further, China should obtain consent from such communities with regard to development projects that displace native Tibetans in favor of Han Chinese settlers. With regard for human rights defenders, we recommend that China release those wrongfully imprisoned for their efforts to protect those most vulnerable to human rights violations. With respect to education, we recommend that the UN establish an educational internal monitoring body to oversee China’s academic institutions and to ensure that Tibetan children are receiving the education they need to succeed. The curriculum set out for Tibetans should not be slanted in any way and the schools that implement this curriculum should provide a full picture of Tibetan history and culture, conveying the importance of Tibetan Buddhism and acknowledging major achievements for Tibetans. With regard to Tibetan self-determination, we urge China to stop impeding development of Tibetan economic, social, and cultural identity and to allow Tibetans to fully embrace their rich culture.
4. Based on China’s failure to implement recommended reforms, we urge UN member states, The Council and experts and entities, to take stronger measures to monitor and report on Chinese practices to better protect the safety and well-being of Tibetans.

Notes

1. Tibet Advocacy Coalition (“TAC”) was founded in 2013 as an advocacy group comprised of the Tibet Justice Centre, Students for a Free Tibet, and the International Tibet Network.
2. Our references to Tibet encompass the Tibet Autonomous Region and Tibetan Autonomous Prefectures under the Sichuan, Qinghai, Gansu, and Yunnan provinces. See generally International Campaign for Tibet, *Jampa: The Story of Racism in Tibet*, 22 (2001), available at http://savetibet.de/fileadmin/user_upload/content/berichte/13JampaRacism.pdf [hereinafter *Jampa: The Story of Racism in Tibet*].
3. Tibet Justice Center, *The Case Concerning Tibet, Tibet’s Sovereignty and the Tibetan People’s Right to Self Determination*, Feb. 13, 2013, at 6; R.S.N. Singh, *The Unmaking of Nepal* 95 (2010).
4. Tibet Justice Center, Students for a Free Tibet & International Tibet Network, *Human Rights Action Plan – Tibet 3* (2014).
5. Human Rights Council, *Report of the Working Group on the Universal Periodic Review, China (including Hong Kong, China and Macao, China)*, ¶ 186 U.N. Doc. A/HRC/25/5 (Dec. 4, 2013) (outlining recommendations made to China) [hereinafter UPR Recommendations]; see generally Human Rights Council, *Report of the Working Group on the Universal Periodic Review, China*, ¶ 186 U.N. Doc. A/HRC/25/5/Add. 1 (Feb. 27, 2014) (enumerating China’s voluntary commitments with regard to UPR recommendations) [hereinafter UPR Commitments].
6. UPR Recommendations, supra note 5, at ¶ 186.234
7. UPR Commitments, supra note 5, at 16 (claiming that “[i]n accordance with China’s Constitution and international human rights commitments, the Chinese government guarantees that all ethnic minorities fully exercise political, economic, cultural, social, educational, religious and other basic rights, and vigorously promotes development of all undertakings for ethnic minorities and in ethnic minority areas.”).
8. *Jampa: The Story of Racism in Tibet*, supra note 2, at 5 (explaining that “a clear sense of superiority of the Chinese people and culture over others, in particular Tibetans, has existed for centuries”).
9. Id. at 71.
10. See id. at 72-77.
11. Constitution of the People’s Republic of China, promulgated on December 4, 1982, as amended in 1988 and 1993, Article 4.
12. UPR Recommendations, supra note 5, at ¶ 186.1-186.14.
13. International Covenant on Civil and Political Rights, opened for signature Dec. 16, 1966, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976).
14. As of February 27, 2014, China claimed the following: “China is now prudently carrying out its judicial and administrative reform to actively prepare for the ratification of the ICCPR. No specific timetable for the ratification of the ICCPR could be set out so far.” UPR Commitments, supra note 5, at 2.
15. See infra ¶ 20, 21.
16. U.S. Dept. of State, *China (Includes Tibet, Hong Kong, and Macau) 2014 Human Rights Report* 32 [hereinafter *State Department Report*] (“Authorities continue to jam, with varying degrees of success, Chinese-, Uighur-, and Tibetan-language broadcasts of the Voice of America (VOA), the BBC, and Radio Free Asia (RFA).”).
17. Reporters Without Borders, “The head of the Communist Party in Tibet, Chen Quanguo, has ordered local authorities to step up surveillance of all means of communication, particularly mobile phones and the Internet, in order to “maintain the public’s interests and national security” (2012) <https://en.rsf.org/chine-tibet-cut-off-from-the-rest-of-the-23-02-2012,41930.html>
18. Id. at 1.
19. UPR Recommendations, supra note 5, at ¶ 186.49, 186.51, 186.117; UPR Commitments, supra note 5, at ¶ 186.49, 186.51, 186.117.
20. Regulations on Administrative Detention Facilities; Provisions on Procedures for Handling Criminal Cases by Public Security Organs; The Opinions of the Supreme People’s Procuratorate and the Ministry of Public Security on Several Issues concerning the People’s Procuratorates’ Legal Supervision of Criminal Detention Facilities. Criminal Procedure Law (promulgated by the Nat’l People’s Cong., July 1, 1979, rev’d March 14, 2012, effective Jan. 1, 2013), P.R.C. Laws (China).

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22. Patrick Boehler, *Tenzin Delek Rinpoche, Tibetan Religious Leader, Dies in Chinese Custody*, N.Y. Times (July 13, 2015), http://www.nytimes.com/2015/07/14/world/asia/tenzin-delek-rinpoche-tibetan-religious-leader-dies-in-chinese-custody.html?_r=0; see also International Campaign for Tibet, *Chinese Authorities Offer Large Rewards for Information on ‘Black Hand’ Behind Tibetan Self-Immolations* (2012) (explaining that Tibetans suspected of criticizing political, religious, cultural, or economic state policies are systematically targeted on charges of “separatism”).
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27. Committee Against Torture, Concluding Observations on the Fifth Periodic Report of China, ¶ 24 U.N. Doc. CAT/C/CHN/CO/5 (Feb. 3, 2016).
28. Lene Wendland, *Ass’n for the Prevention of Torture, A Handbook on State Obligations Under the UN Convention Against Torture* 52 (2002).
29. As of the 1368th and 1371st meetings of the Committee Against Torture in November 2015, China had not yet investigated Tenzin Delek Rinpoche’s death.
30. Andrew Jacobs, *Chinese Cremate Body of Revered Tibetan Monk, Ignoring Pleas*, N.Y. Times (July 16, 2015), <http://www.nytimes.com/2015/07/17/world/asia/china-cremates-body-of-revered-tibetan-monk-tenzin-delek-rinpoche.html>.
31. UPR Recommendations, supra note 5, at ¶ 186.138, 186.185, 186.194, 186.220, 186.221, 186.222; UPR Commitments, supra note 5, at ¶ 186.138, 186.185, 186.194, 186.220, 186.221, 186.222.
32. Id.
33. While there is international disagreement over whether Tibet was a sovereign state prior to Chinese occupation, this controversy has no bearing on the right to self-determination: the right to self-determination is universal and to be enjoyed by all peoples. Tibet Justice Center, supra note 3, at 8.
34. International Covenant on Economic, Social and Cultural Rights art. 11, Jan. 3, 1976 996 U.N.T.S. 3 [hereinafter ICESCR].
35. Tibetan Center for Human Rights & Democracy, *Resettlement is Displacement: A Rights Based Perspective on the Internally Displaced in Tibet*, 6, available at <http://www.tchrd.org/wp-content/uploads/2014/11/Click-here-to-download-TCHRDs-special-report-on-the-right-of-the-internally-displaced-in-Tibet.pdf>; *China: End Involuntary Rehousing, Relocation of Tibetans*, Human Rights Watch (Jun. 27, 2013), <https://www.hrw.org/news/2013/06/27/china-end-involuntary-rehousing-relocation-tibetans>.
36. *State Department Report*, supra note 15, at 32.
37. Tibetan Center for Human Rights & Democracy, *Human Rights Situation in Tibet, Annual Report 2014* 28 [hereinafter *TCHRD Report*].
38. *Joint Submission by Member Groups of the International Tibet Network to Session 17 of Universal Periodic Review: People’s Republic of China*, International Tibet Network, 8 (March 2013) (“The self-immolation protests in Tibet ... are driven by the overwhelming lack of recourse to freedom of expression, political or legal redress and must be seen as conclusive evidence of China’s failure to ‘continue its efforts to further ensure ethnic minorities the full range of human rights including cultural rights,’ as accepted in 2009”).
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41. ICESCR, *supra* note 32, at art. 2.
42. *One Passport, Two Systems: China's Restrictions on Foreign Travel by Tibetans and Others*, Human Rights Watch (July 13, 2015), <https://www.hrw.org/report/2015/07/13/one-passport-two-systems/chinas-restrictions-foreign-travel-tibetans-and-others>; International Campaign for Tibet, "A Policy Alienating Tibetans": *The Denial of Passports to Tibetans as China Intensifies Control* 1 (2015).
43. See *State Department Report*, *supra* note 15, at 94-95.
44. *Jampa: The Story of Racism in Tibet*, *supra* note 2, at 71-73.
45. *ICT Urges UN Committee to focus on Tibetans' Deteriorating Economic, Social and Cultural Rights*, International Campaign for Tibet, May 5, 2014, <https://www.savetibet.org/ict-urges-un-committee-to-focus-on-tibetans-deteriorating-economic-social-and-cultural-rights/> [hereinafter *International Campaign for Tibet*]
46. ICESCR, *supra* note 32, at art. 11.
47. *International Campaign for Tibet*, *supra* note 43.
48. *TCHRD Report*, *supra* note 35, at 74.
49. *Report Submitted to UN Committee on Economic, Social, and Cultural Rights*, Chinese Human Rights Defenders (Apr. 15, 2014), <https://chrndnet.com/2014/04/report-submitted-by-the-network-of-chinese-human-rights-defenders-a-coalition-of-ngos-to-the-committee-on-economic-social-and-cultural-rights-for-its-review-at-the-52nd-session-of-the-second-report/>.
50. *Id.*
51. *TCHRD Report*, *supra* note 35, at 41.
52. According to General Comment No. 21, acceptability is a "necessary condition for the full realization of the right of everyone to take part in cultural life." ESCOR, General Comment No. 21, Right of Everyone to Take Part in Cultural Life, ¶ 16 U.N. Doc. E/C.12/GC/21 (Dec. 21, 2009). The Chinese government did not provide Tibetans with the opportunity to determine whether these policies are acceptable to them. Consequently, Tibetans' rights to take part in cultural life were not fully realized.
53. *China Punishes Tibetan Nomads for Refusing Resettlement*, Tibetan Review (Nov. 9, 2014), <http://www.tibetanreview.net/china-punishes-tibetan-nomads-for-refusing-resettlement/>.
54. ICESCR, *supra* note 32, art. 13.
55. *International Campaign for Tibet*, *supra* note 43; see also *TCHRD Report*, *supra* note 35, at 71 (stating that textbooks used in these schools treat Tibetan culture as barbaric and teach students to be ashamed of their culture and traditions).
56. See *International Campaign for Tibet*, *supra* note 43 ("About 80% of Tibetans do not speak Mandarin"); see also *TCHRD Report*, *supra* note 35, at 71 (a 2014 survey "revealed that Tibetan students want to be taught in Tibetan and learn more efficiently when they are")
57. *State Department Report*, *supra* note 15, at 5.
58. ICESCR, *supra* note 32, art. 11.
59. *Tibet's History and Culture*, Free Tibet (2015), <http://www.freetibet.org/about/history-religion-culture>.
60. *State Department Report*, *supra* note 15, at 46.
61. Chinese authorities removed officials from key monasteries and replaced them with monks of their own choosing who preached ideals inconsistent with Tibetan Buddhism. *International Campaign for Tibet*, *supra* note 43.
62. *State Department Report*, *supra* note 15, at 46-47.
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75. Id. at art. 20.
76. *TCHRD Report*, at 25.
77. See supra ¶ 7.
78. *TCHRD Report*, at 10.
79. Id.
80. Id.
81. UPR Recommendations, supra note 5, at ¶ 186.209; UPR Commitments, supra note 5, at 14.
82. UPR Recommendations, supra note 5, at ¶ 186.184; UPR Commitments, supra note 5, at 17.
83. UPR Recommendations, supra note 5, at ¶ 186.221; UPR Commitments, supra note 5, at 15.

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