

Distr.
GENERAL

E/CN.4/1994/NGO/23
8 February 1994

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fiftieth session
Item 12 of the Provisional Agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS
IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL
AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by Human Rights Advocates, a non-governmental
organization in consultative status (Category II)

The Secretary-General has received the following written statement
which is circulated in accordance with Economic and Social Council
resolution 1296 (XLIV).

[1 February 1994]

1. We are compelled to again raise the situation in Tibet. There is reliable evidence that the Tibetan people, who have borne alien domination for more than 43 years, continue to suffer a systematic pattern of gross human rights abuses. These reported abuses pertain to collective and individual rights, permeate virtually every aspect of daily life and touch Tibetan men, women and children alike.

2. We welcome the United Nations numerous discussions of and actions on the situation in Tibet, particularly General Assembly resolution 1723 (XVI) in which the Assembly solemnly renewed its call for the cessation of practices which deprive the Tibetan people of their fundamental human rights and freedoms, including their right to self-determination, as well as General Assembly resolutions 1353 (XIV) and 2079 (XX). We recall Sub-Commission resolution 1991/10 expressing concern over continuing reports of "violations of fundamental human rights and freedoms which threaten the distinct cultural, religious and national identity of the Tibetan people", and in which the Sub-Commission called upon the Government of the People's Republic of China "fully to respect the fundamental human rights and freedoms of the Tibetan people".

GE.94-10745 (E)

3. We deeply regret, however, that both the Commission and its Sub-Commission have been reluctant to take further measures to deter the abuses of human rights discussed in the Note by the Secretary-General on Tibet (E/CN.4/1992/37), which continue unabated.

4. Although we focus here upon political detention, torture and population transfer, we urge the Commission to recall the other human rights abuses widely reported as prevalent in Tibet and to recognize that all these violations effectuate the denial of the Tibetan people's right of self-determination.

5. We also urge the Commission to consider that the People's Republic of China controls access to Tibet, restricts contact between Tibetans and foreigners, inhibits the functioning of such outside delegations as it allows to visit Tibet, and deems furnishing information to outsiders a criminal act, thereby placing itself in exclusive control of the most reliable evidence concerning events in Tibet (International Committee of Lawyers for Tibet, Resolving Claims of Self-Determination: A Proposal for Integrating Principles of International Law with Specific Application to the Tibetan People, June 1993, pp. 43-45). Therefore, we respectfully request that the People's Republic of China be called upon to make all relevant information available to international observers.

Political detention and torture

6. We have received reliable evidence that arbitrary arrest and detention of Tibetans for political offences is on the increase. Owing to the concealment by the People's Republic of China of its prisons and detention centres, much of this evidence cannot be completely confirmed. None the less, the numerous eyewitness reports establish at least a prima facie showing that the People's Republic of China continues to arrest and detain Tibetans for such political offences as peaceful demonstrations, possession of the Tibetan flag, and monitoring human rights abuses.

7. According to the evidence available, at least 107 Tibetans were arrested for political offences in Tibet between April and July 1993. Whereas in February 1992, the number of known political prisoners held in the Tibet Autonomous Region was 240, it had increased to 335 by May 1993, despite the fact that numerous prisoners incarcerated in 1989 should have been released in 1992, upon completion of their three-year sentences (Tibet Information Network, 31 July 1993, 11 August 1993 and 13 May 1993).

8. Most of these arrests have been based upon Tibetans' participation in peaceful demonstrations, possession of the Tibetan flag, and monitoring of human rights abuses (see Tibet Information Network, 1993 Conference Updates). As repeatedly noted by this Commission, such arbitrary arrest and detention violate numerous norms of international law. They are expressly prohibited in article 9 of the Universal Declaration of Human Rights and article 9 (1) of the International Covenant on Civil and Political Rights (ICCPR). Because they are intended to deter the exercise of the rights of free expression and peaceful assembly recognized in articles 19 and 20 of the Universal Declaration, and articles 19 and 21 of ICCPR, they also violate those rights (ICLT, Resolving Claims of Self-Determination, June 1993, pp. 120-122).

9. We have received reliable evidence that persons arbitrarily arrested and detained are also tortured, which is consistent with a pattern widely reported in recent years (see Amnesty International, Repression in Tibet 1987-1992, May 1992; Asia Watch and Tibet Information Network, Political Prisoners in Tibet, February 1992). For instance, the teacher Deng Ge, a monk and two mid-level Tibetan officials were reportedly beaten with a spiked club for eight hours by local police in Markham in Eastern Tibet, and afterwards were refused treatment at the local hospital. Damchoe Pemo miscarried a 4-5 month foetus after being forced to stand for at least 12 hours and beaten with electric batons (Tibet Information Network, 19 October 1993 and 4 August 1993). Such practices violate article 5 of the Universal Declaration of Human Rights, article 7 of ICCPR, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. We call upon members of the Commission to ensure that the People's Republic of China expeditiously implement the suggestions and demands made by the Committee against Torture in April 1993.

10. In addition to torture, political prisoners are reportedly subjected to unhealthy and severe prison conditions, including forced labour and limited access to proper medical treatment. In May 1993, 11 political prisoners in Drapchi prison in Lhasa were reported to be in bad health, in part as a result of eight-hour work days in greenhouses that can reach temperatures of 55 degrees Celsius. The fact that prisoners must work in Tibet is specified in No. 8 of the "Ten Commands" of the Prison Rules, issued by the Tibetan Autonomous Republic Labour Reform Bureau in October 1988 (Tibet Information Network, 19 October 1993).

Population transfer

11. International observers uniformly report that the rate of influx of Chinese settlers into Tibet has increased significantly. The influx is considered to be a combination of the direct transfer of Chinese by the Government, government induced relocation, and spontaneous migration with indirect government support (International Campaign for Tibet, Population Transfer and the Future of Tibet, April 1993). The Permanent Tribunal of Peoples concluded, in their 20 November 1992 verdict on Tibet, that "the population transfer from the People's Republic of China into the territory of Tibet of non-Tibetan peoples is directed towards undermining the ethnic and cultural unity of Tibet".

12. Although precise population figures are unavailable, the available evidence indicates that Chinese now outnumber Tibetans in urban areas of the Tibet Autonomous Region and in most of the eastern and northern Tibetan Autonomous Prefectures in Sichuan and Qinghai provinces. The effects of this dramatic increase of Chinese settlers on the land and indigenous people of the Tibetan plateau are reported to be considerable. Population transfer is closely connected with genocide and is at least arguably a crime against mankind, inherently discriminatory and fundamentally destructive of cultures whose cohesiveness is integrally connected to particular land (Sub-Commission resolution 1992/28; International Law Commission, Draft Code of Crimes Against the Peace and Security of Mankind, A/46/10; "Question of human rights of peoples and nations subject to population transfer", UNPO document A/2/1991/2;

Falk, Revitalizing International Law, Ames 1989, p. 217; Hannum, Autonomy, Sovereignty and Self-Determination: The Accommodation of Conflicting Rights, Philadelphia, 1990, p. 91; Parker and Neylon, Jus Cogens: Compelling the Law of Human Rights, 12 *Hast. Int'l Comp. L. Rev.* 411, 1989, p. 430).

13. These effects can be seen clearly in Tibet. Tibetans are subjected to discrimination in virtually every aspect of life, including education, employment, housing, and medical care. The People's Republic of China systematically exploits Tibet's natural resources for its own benefit, without popular participation in governmental decision-making, and the economic benefits of timber harvesting and mining do not accrue to Tibetans (Ermacora and Benedek, Austrian Delegation of Legal Experts to China/Tibet, July 1992: Conclusions and Recommendations, September 1992, para. 7; LAWASIA and TIN, Defying the Dragon: China and Human Rights in Tibet, March 1991, p. 89; Human Rights Advocates, The Situation in Tibet: A Survey of Current Human Rights Violations, including Denial of the Right to Self-Determination, 17 January 1992, p. 15; International Campaign for Tibet, The Long March: Results of a Fact Finding Mission in Tibet, September 1991, pp. 25-26). The People's Republic of China implements these policies with no concern for the wishes of Tibetans, who risk punishment and even disappearance for attempting to influence environmental decisions (ICLT, The Relationship Between Environmental Management and Human Rights in Tibet, July 1992, pp. 4-5).

Recommended action by the Commission

14. The question of Tibet has been brought before the Commission repeatedly. We are concerned by reports that indicate a growing frustration among Tibetans inside Tibet over the unwillingness of the international community to address their concerns (Tibet Information Network, May 1992). By failing to support the Tibetan people's non-violent campaign for fundamental rights and freedoms, the international community unwittingly strengthens those who would advocate violence. It is critical that the Commission act now.

15. We strongly urge the Commission to adopt a resolution that condemns individual and collective human rights violations in Tibet and calls for the cessation of policies that threaten the Tibetan people's distinct cultural, religious and national identity. We also respectfully call upon the Commission to appoint a special rapporteur to study and report accurately the situation in Tibet.
