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**QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL
FREEDOMS IN ANY PART OF THE WORLD**

**Written statement* submitted by the International Fellowship of Reconciliation (IFOR),
a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[2 February 2004]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

1. China has signed and ratified the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. In 1998, China signed the UN Covenant on Civil and Political Rights, but has not yet ratified it. As a signatory to these documents and through the process of ratification, the Chinese government has undertaken a firm commitment to uphold the standards of international humanitarian law.
2. Yet, despite assurances to the international community in this regard, the Chinese authorities continue to deny Tibetans their fundamental human rights, in particular the right to freedom of speech, assembly, religion and access to education. Every year at least 3000 Tibetans flee Tibet because their rights to fundamental freedoms are being violated.

Restrictions on the freedoms of expression, association, and privacy

3. China systematically violates the freedoms of association, expression and privacy through policies of censorship, surveillance, and punishment. This is particularly true with regard to the internet. In 2002, China adopted new internet regulations requiring all China-based websites to censor content or risk being shut down. Access to websites perceived as threatening to national security is limited by a filtering mechanism known as the "Great Fire Wall".¹ In addition, Beijing has also set up a surveillance system within the Ministry of Public Security employing a cyber police force of some 30,000 to keep track of so-called "internet dissidents".² As a result, sites providing foreign news, human rights information, and information about sensitive issues such as Xinjiang and Tibet have been banned or made inaccessible, while numerous internet users in China have been arrested and incarcerated for violating these restrictions.
4. Another example is radio programming. As a major source of information and news, it plays a key role in disseminating information particularly to Tibetans living in remote rural areas. According to information received from Tibet, local and regional governments have imposed restrictions on listening to foreign radio programmes broadcasting in Tibetan. Chinese authorities regularly jam overseas Tibetan language broadcasting services such as Radio Free Asia and Voice of Tibet.

Lack of an independent judiciary

5. The Chinese constitution states that courts shall, in accordance with the law, independently exercise judicial power. In reality, the judiciary is subject to policy guidance from both the government and the Communist Party. At the local and central level, the government and particularly the Communist Party often interfere in judicial proceedings and dictate court decisions.
6. In a report on the judicial system in China, BBC Online News quoted Xiao Tang, president of the Supreme People's Court of China as saying that "incompetent" judges were

¹ Bobson Wong, "A matter of trust: the internet and social change in China", *China Rights Forum* 3, 2003, p.42

² Erping Zhang, "SARS: Unmasking censorship in China", *China Rights Forum* 3, 2003, p.47

making the system unfair.³ The report stated that most of the more than 200,000 judges in China have no legal training and have traditionally been appointed for political reasons. Mr. Xiao remarked further : “Courts have often been taken as branches of the government and judges viewed as civil servants who have to follow orders from superiors which prevents them from exercising mandated legal duties like other members of the judiciary.”

7. In the Tibet Autonomous Region of Tibet (TAR), the majority of judges have little or no legal background or training. Trials are conducted behind closed doors and defendants are not allowed access to competent lawyers. Though Chinese Criminal Law grants defendants a right to appeal within 10 days of sentencing, a successful appeal is rare.

8. A point in case is the trial and conviction of two defendants, Tulku Tenzin Delek, a respected Buddhist teacher, and his disciple Lobsang Dhondup, both residents of Karze Tibet Autonomous Prefecture in Sichuan Province, who were charged with alleged involvement in a bombing incident in the capital city of Chengdu and with engaging in “splittist activities”. According to the Sichuan People’s Daily of 3 December 2002, Lobsang Dhondup was given an immediate death sentence and Tulku Tenzin Delek was sentenced to death with a suspension of two years. Despite pledges to a senior US government official to undertake a lengthy judicial review of the sentences, Lobsang Dhondup was summarily executed on 26 January 2003. This sent shock waves around the world. Tulku Tenzin Delek is still in prison facing the death penalty. His current location, following a failed appeal in January 2003, is unknown.

9. Both Trulku Tenzin Delek and Lobsang Dhondup were denied fair and adequate legal protection. In the period before their trial in December 2002, they were both held incommunicado under the pretext that their case involved “state secrets”. This was a direct violation of Article 64 of the Basic Law which requires the Public Security Organs to inform the family or the work unit of the detained person about the detention within 24 hours.⁴ This provision, if implemented effectively, would have helped in preventing security officials from abusing their power during the pre-trial period.

10. Furthermore, it is now confirmed that that Trulku Tenzin Delek was not allowed to seek his own choice of lawyers during his secret re-trial at Sichuan Higher People's Court. When he lodged his appeal to the higher court, his brother, Tsering Lolo, hired two high profile lawyers — Zhang Sizhi and Li Huigeng — from Beijing to defend the case. But Judge Wang Jinghong of Sichuan Higher People’s Court at a later stage refused their representation. The court instead appointed the same lawyers who had earlier represented the two defendants at Kardze Intermediate People's Court.⁵ It is not certain whether even these two lawyers were allowed to mount a defence in court since the re-trial was held in camera.

³ “China vows to overhaul Courts”, broadcast by BBC Online News on 8 July 2002.

⁴ Cf. Article 64 of Criminal Procedure Law : “When detaining a person, the public security organs shall present a detention warrant. The family of the detainee or the unit that the detainee works for shall be notified with the reason of detention.”

⁵ “Right to Fair Trial”, *Annual Report 2002*, pp.122 published by the Tibetan Center for Human Rights and Democracy.

11. The routine denial to Tibetans of the rights of those detained to be informed, of relatives or friends and for detainees to receive proper legal defence is a violation of rights to equality before the law as recognized in Article 10 of the UNDHR and Article 14(1) of the ICCPR.

New anti-terrorist laws to target Tibetans

12. The Chinese government has used the global campaign against terrorism to back up its campaign of suppressing peaceful Tibetan dissent. According to Reuters, on 17 November 2003, Chinese troops conducted a day of counter-terrorism exercises in Tibet to practice fighting "terrorists" aligned with the exiled spiritual leader, the Dalai Lama. The exercise, entitled "Himalaya 03", included drills in suppressing riots, seizing kidnappers, freeing hostages, and dealing with explosions and bio-chemical attacks. An amendment to Article 120 of the Chinese Criminal Law adopted in December 2001 mandates severe punishment for those who "organize or lead a terrorist organization". However, the term "terrorist organization" has no clear definition. Thus, it allows a wide and ambiguous range of interpretation, including nonviolent political and religious activities.

13. Remarks by Chinese officials strongly suggest a new policy linking of Tibetans with acts of terrorism.⁶ During a press conference at the Chinese Embassy in Washington D.C, Xiaowen Ye, Director of the State Administration of Religious Affairs, left little doubt about this by comparing Trulku Tenzin Delek with Osama Bin Laden.⁷ The execution of Lobsang Dhondup could well be the precursor to China's indiscriminate use of the clause against terror activities in the criminal code to suppress Tibetans.

Arbitrary detention and torture of political prisoners

14. The IFOR welcomes the release of several prominent Tibetan political prisoners in recent years, but recognizes the need of the international community to remain focused on securing the access to and the release of other Tibetan political prisoners.

15. The most prominent and certainly the youngest Tibetan political prisoner is Gedhun Choekyi Nyima, the 11th Panchen Lama. Shortly after being proclaimed by the Dalai Lama as the incarnation of the 10th Panchen Lama in May 1995, Gedhun Choekyi Nyima, then six years old, was seized by Chinese authorities and together with his family was placed in "protective custody". Since then, they have been held incommunicado and their whereabouts and well-being are unknown. Efforts to gain access to the boy and his family have remained fruitless. The most recent information about him occurred in an interview with an official of the Chinese Ministry of Foreign Affairs published by the Agence France Presse on 5 August 2003 in which the official stated : "He is not the incarnated soul boy.... He is only an ordinary Chinese child, the same as other children. He is now in a good healthy condition, leading a normal and happy life.... He has received a good cultural education."

⁶ Cf. Tibet Information Network report. During a press conference, Zhang Qiyue, a spokeswoman for the Chinese Foreign Ministry, described the case as involving an "act of terror"

⁷ Linzhe Shi, "China ties dissent to terrorism", *Cox News Online*

16. Although the PRC ratified the Convention against Torture (CAT) in 1988, torture is widely used in Chinese administered prisons on the Tibetan plateau as a means to extract confessions and to crush patriotic sentiments of political detainees.

17. A serious example of arbitrary detention and torture is the case of Lobsang Tenphen who was arrested in connection with the publicity surrounding the case of Trulku Tenzin Delek. On 12 February 2003, Tenphen was taken by six People's Security Bureau officers from his home on suspicion of having provided information about Trulku Tenzin Delek and Lobsang Dhondup to the outside world. Following his arrest, his family approached the Lithang County Security Department and several other related offices to inquire about Tenphen's health and whereabouts, but were unable to gain any information about his welfare or whereabouts. In September 2003, he was seen for the first time after seven months of detention when he appeared before the Kardze Intermediate People's Court. Following a summary trial, the court sentenced him to five years' imprisonment whereupon he was transferred to Ngaba (Ch: Aba) Prison. While in prison his relatives were permitted to visit him for one hour. He was physically weak. Bruises and other torture marks were visible on his arms, confirming the use of torture in prison.

18. Since 1987, 81 Tibetan prisoners are known to have died either in custody or after release due to torture. As of June 2003, there were 208 known political prisoners of conscience in Tibet, languishing in prison for exercising their fundamental human rights.

In conclusion, the IFOR calls upon the Commission on Human Rights to raise the following issues with the Chinese authorities :

- To ratify the International Covenant on Civil and Political Rights;
- To respect the rule of law, its universal relevance and application and to create a system of free and fair trials for all people;
- To rescind the death sentence with a two-year reprieve passed on Trulku Tenzin Delek;
- To release Gedhun Choekyi Nyima, the XIth Panchen Lama of Tibet, who is being held incommunicado together with his family;
- To release all Tibetan prisoners of conscience held in prisons, detention centres, and labour camps;
- To continue sincere dialogue with the representative of the Dalai Lama on issue of resolving the long-standing Tibet issue.
