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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 Centre for Human Rights and Democratic
Development (Rights & Democracy), 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.

[31 January 2003]

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

The Situation in China

1. Rights & Democracy recognizes the positive steps taken by the People's Republic of China during 2002. Among these we note the release of political prisoners including Xu Wenli and Ngawang Sandrol, the elimination of preconditions for the visit to China by the Special Rapporteur on Torture, and the opening of a dialogue with representatives of the Dalai Lama. Nevertheless, two years into the technical assistance programme administered by the Office of the High Commissioner for Human Rights for the promotion of human rights in China, flagrant violations continue unchecked.
2. The Government of China continues to reject multilateral processes related to its human rights record, including censure at the UN Commission on Human Rights (UNCHR), maintaining that such action is interference in its "internal affairs". The implicit acceptance of this argument by western governments is illustrated by their continued willingness to engage in vague bilateral diplomacy with China on the issue of human rights. These "bilateral human rights dialogues" have floundered as officials rotate and old discussions are repeated without transparency, benchmarks or timeframes for evaluation. The bilateral dialogues have become no more than costly, pro-forma exercises, which actually undermine those working for human rights in China and make the UNCHR irrelevant in the world's largest country. This has had a distinct and negative impact on the credibility and mandate of the UNCHR far beyond the issue of China.
3. China has not yet ratified the UN Covenant on Civil and Political Rights signed in 1999 and it has yet to adequately live up to its commitments under the agreements it has ratified, specifically 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. Moreover, there is no means of recourse for the victims of human rights violations in China.
4. The Government of China continues to violate the freedoms of association, expression and privacy through policies of censorship, surveillance and punishment. This is particularly true with regards to the Internet. There are more than 38 million Internet users in China and 280,000 Web sites. On August 1, 2002 China adopted new Internet regulations requiring all China-based Web sites to censor content or risk being shut down. The legislation, aimed at protecting "state security" and "social stability" led to the blocking of sites providing foreign news, human rights information and information about sensitive issues such as the Xinjiang, Tibet and the Falun Gong spiritual practice. In September 2002, foreign search engines such as Google and Altavista were blocked, effectively eliminating all access to non-sanctioned information. Subsequently, in March 2002, companies operating in China, including US-based Yahoo!, were pressured to sign a "pledge" to monitor their Web content and block offending information.
5. Limitations on freedom of expression and the right to information extend to social activists particularly those working to increase awareness of HIV/AIDS in China. Activists engaged in educational programs are harassed and accused of violating the State Secrets Law or working for "anti-Chinese forces". In August 2002, Dr. Wan

Yanhai, a long-time AIDS activist based in Beijing, was arrested and charged with subversion for publishing information about HIV/AIDS on his Web site. Following international out-cry, he was released, but he and other activists continue to suffer from intimidation by State authorities.

6. The Government of China maintains its reservation to Article 8 of the International Covenant on Economic, Social and Cultural Rights with regards to trade union rights. Despite being appointed in June this year to the ILO's governing body, China continues to deny the right of its citizens to organize an independent trade union. On November 11, 2002 during the 16th Party Congress, Zhang Junjiu, Deputy Chairman of the government-controlled All-China Federation of Trade Unions accused workers' representatives at the Liaoyang Factory of "breaking Chinese law", even though the Chinese constitution guarantees freedom of association. Two of the workers, Yao Fuxin and Xiao Yunliang have since been charged with subversion. Another, Wang Zhaoming, was released but has since disappeared. The families of the detainees report intimidation and the cutting off of their home phone lines.

7. In January 19, 2003, Tibetan farmer Lobsang Dhondup, 28, was executed after being convicted of bomb attacks in Chengdu between 1998 and 2002. Rights groups report that Dhondup had confessed under torture, that his trial was closed and that he had been denied access to legal representation. The execution takes place in the context of China's continued "strike hard campaign" in Tibet which is paralysing any hope for political reform. Concerns regarding prison conditions in Tibet persist following reports in November 2002 of the death while in detention of Lobsang Dhargyal, who was serving nineteen years for printing pro-independence leaflets and carrying a Tibetan flag. Dhargyal's death appears to have been the result of torture and maltreatment in a forced-labour camp. Chinese authorities continue to detain the 13 year old Gendhun Choekyi Nima (the Panchen Lama) and his family who are now approaching their 8th year of incommunicado detention. All requests for information, including a direct appeal from former UN High Commissioner for Human Rights Mary Robinson in August 2002, have been denied.

8. The strike-hard campaign extends to Xinjiang (East Turkestan) where the events of September 11 and the subsequent war on terrorism are used to justify intensified crackdowns on independence movements in a region inhabited by a Turkic-speaking Muslim population (Uighur) struggling to maintain its cultural and ethnic identity. In past years, authorities have arrested and imprisoned thousands including Rebiya Kadeer, a Uighur businesswoman sentenced to eight years for sending newspaper articles to her husband in the United States. Others have been arrested for translating the Koran into local languages. Thousands have been detained, denied due process and sentenced to harsh prison sentences. Religious centres have been shut-down and religious activities in schools and mosques have been curtailed. Uighur-owned businesses have been subjected to discriminatory restrictions.

9. Impending legislation in Hong Kong, known as "Article 23" threatens human rights and democracy in the so-called "special administrative region". Proposed for inclusion in the Basic Law of Hong Kong (the constitution), Article 23 replicates legislation in place on the mainland related to subversion, secession and the theft of state secrets. On the mainland such legislation and related regulations have resulted

in curtailment of democratic freedoms such as the right to freedom of expression and the freedom to association. If enacted, Article 23 would threaten the protection and promotion of human rights and be a step backward with regards to the protection of human rights in Hong Kong. Article 23 could also justify increased discrimination against specific groups in Hong Kong, such as Falun Gong practitioners.

RECOMMENDATIONS

1. The Commission of Human Rights should adopt a resolution on the situation of human rights in China, East Turkestan and Tibet, with a view to ending specific human rights abuses as outlined above.
2. The Commission on Human Rights should urge the Government of China to ratify the Covenant on Civil and Political Rights while highlighting that "Article 23" legislation in Hong Kong threatens both its spirit and letter.
3. The Commission on Human Rights should take steps to ensure that the Government of China honours its commitment to allow a visit by the Special Rapporteur on Torture, without preconditions, and that the visit proceeds without further delay.
4. The Commission on Human Rights should encourage the Government of China to honour its obligations under the International Covenant on Economic, Social and Cultural Rights and to submit its first report to the Committee on Economic, Social and Cultural Rights in June 2003 as scheduled.
5. The Commission on Human Rights should appoint an independent delegation of eminent persons to petition Chinese authorities for permission to visit the 13-year-old Tibetan child prisoner, Gendhun Choekyi Nyima for the purpose of ascertaining his safety and well-being.
6. The Commission on Human Rights should make a statement of principle regarding legitimate non-violent struggles for human rights and democracy and the protection of human rights defenders in the context of the war on terrorism.
7. The Commission on Human Rights should press China to respect the Right to Health of its citizens by encouraging the production and dissemination of materials aimed at preventing the growing spread of HIV/AIDS.
8. The Commission on Human Rights should press Chinese authorities for restraint in their response to Falun Gong practitioners. Specifically, Chinese authorities should guarantee that the right to a fair trial is upheld for all citizens of China including Falun Gong practitioners.