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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the Helsinki Foundation for Human Rights, 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.

[21 August 2012]

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

People's Republic of China (PRC): Reprisals faced by Tibetans who met with UN human rights experts

The 18th session of the Council in resolution A/HRC/18/L.19 urged States "to investigate any alleged acts of intimidation or reprisal, and encourages them to inform the Council, on a voluntary basis, of all measures taken to address acts of intimidation or reprisal, including preventive actions and investigative efforts, as well as, where confirmed, on remedies provided, including prosecution, and to share best practices in this regard."

In this decision, the Council recalled paragraph 30 of General Assembly resolution 65/281 of 17 June 2011 that "strongly rejects any act of intimidation or reprisal against individuals and groups who cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights, and urges States to prevent and ensure adequate protection against such acts."

We welcome that the 21st session of the Council will hold a panel discussion on the issue of reprisal against individuals and groups who cooperate or have cooperated with the United Nations in the field of human rights.

In this regard, we wish to inform the Council about the type intimidation or reprisals suffered by Tibetan prisoners after they met with human rights experts of the Commission on Human Rights. It should be recalled that between 1994 and 2005, only three Special Procedure mandate-holders were received in the "Tibet Autonomous Region (TAR)". The first visit in November 1994 by the mandate of Religious Freedom, was followed by the Working Group on Arbitrary Detention's two fact-finding missions in 1997 and 2004. A visit in 2005 by the Special Rapporteur on Torture followed. Furthermore, the UN High Commissioner for Human Rights visited Lhasa in 1998.

However, following the visit by the mandate on religious freedom, in 1994, the Special Rapporteur sent a communication to the Chinese authorities expressing concern about allegations that Tibetan monk, Yulo Dawa Tsering was being kept under police surveillance and that he was not allowed to live in his monastery, Ganden, nor to resume teaching philosophy classes at Lhasa University. While in Lhasa on 25 and 26 November, 1994, the Special Rapporteur was also able to meet with the monk, who was imprisoned on 15 December 1987 and released on 6 November 1994.¹

Following the October 1997 visit to Drapchi Prison in Lhasa, "TAR", by the Working Group on Arbitrary Detention, information emerged that the prison sentences of three Tibetans were increased due to their participation in political protests during the visit. Sonam Tsewang (Tsering), Triga (Trinkar) and Wangdu, all non-political prisoners, were each given sentence extensions of at least three years after reportedly protesting the way the UN visit was "stage managed" by authorities.²

After a follow-up visit to "TAR" in September 2004, WGAD reported what happened when they requested to meet with Tibetan prisoners: "When it visited that detention facility, the Working Group expressed its wish, as on the occasion of its previous prison visit, to interview inmates of its own choosing. Similarly, it insisted in meeting those detainees whose names were on the list handed over to the Chinese authorities at the beginning of the visit. The administration of Drapchi Prison, however, referring to the internal prison regulation prohibiting any foreigner from visiting prisoners exhibiting violent behaviour

¹ Doc: E/CN.4/1995/91, page: 112.

² http://www.tibet.ca/en/newsroom/wtn/archive/old?y=1998&m=10&p=11_1.

and prisoners whose re-education would be in jeopardy if he/she met with foreign visitors, as well as prisoners in possession of State secrets, denied access to the detainees to be selected by the Working Group. Therefore, the Working Group stopped its visit and left Drapchi Prison...The Working Group wishes to express its dissatisfaction with regard to this incident. It is unacceptable that a Member State should impose limitations on human rights mechanisms under the pretext that their members are "foreigners".³

On 26 and 27 November 2005, the Special Rapporteur on Torture visited three prisons in the "TAR" meeting several Tibetan prisoners, including Jigme Gyatso (Chinese: Jinmei Jiacao) at Chusul Prison (Chinese: Qushui). The Rapporteur's mission report⁴ described the meeting with Jigme Gyatso by stating: "He told the Special Rapporteur that the ill treatment was worst in Gutsa, where he stayed for one year and one month. Since the persons he was charged together with had already confessed, he also decided to confess. He then was transferred to Drapchi Prison in April 1997. In one incident in March 2004, he yelled out, 'Long live the Dalai Lama,' for which he was kicked and beaten, including with electric batons. The electric batons were used on his back and chest with painful effect, and ceased once the Chief of Police came and stopped it. After this incident his sentence was extended for an additional two years."

The Special Rapporteur recommended that: "Since he has been convicted of a political crime, possibly on the basis of information extracted by torture, the Special Rapporteur appeals to the Government that he be released."

With regards to the case of Jigme Gyatso, the Special Rapporteur intervened to the Chinese authorities with a Joint Urgent Appeal on 25 March, 2011 on "alleged isolation and inadequate medical care in prison." Document A/HRC/19/61/Add.4 on 18 states that: "The Special Rapporteur thanks the Government of China for its response, dated 16 May 2011, to this communication in reference to the conditions of detention of Mr. Jigme Gyatso. In its reply, the Government confirmed that Mr. Gyatso was sentenced to 15 years imprisonment and 5 years deprivation of political rights by the Lhasa Municipal Intermediate People's Court on charges of 'threat to national security,' and that while in prison in 2004 Mr. Gyatso was sentenced to 3 additional years of prison on charges of 'seeking to divide the country and damage its unity' for his support of Tibetan independence. The Government confirmed that Mr. Jigme Gyatso 'suffers from chronic gastritis, high blood pressure, neuritis and arthritis, and has been hospitalized many times for medical treatment,' and indicated that treatment continued when he left the hospital. The Government reported that in September 2010, Mr. Gyatso 'was not granted the right to see relatives for breaking prison rules,' and indicated that visits 'resumed to normal frequency in October.' Finally, the Government stated that 'Mr. Jigme Gyatso did not lodge any complaint, nor did his [sic] request to a third party to lodge any complaint on his behalf.'

In light of the information received, the Special Rapporteur determined that the rights of Mr. Jigme Gyatso under the UN Convention against Torture have been violated. The Special Rapporteur took note of Mr. Gyatso's deteriorating health conditions and also urged the Government of China to investigate the allegations of torture, leading to prosecution and punishment of the perpetrators, and to provide redress to Mr. Gyatso, including provision of appropriate and adequate medical care. He also reiterated the Rapporteurship's previous recommendation that since Mr. Gyatso had been convicted of a political crime, possibly on the basis of information extracted by torture, he should be released.⁵

³ Doc: E/CN.4/2005/6/Add.4, page 7.

⁴ E/CN.4/2006/6/Add.6.

⁵ See A/HRC/7/3/Add.1, para 35; and A/HRC/13/39/Add.1, para 30.

In that Joint Urgent Appeal dated 16 March, 2009, the Special Rapporteur in his communication to the Chinese authorities said: "Mr. Gyatso was visited by the Special Rapporteur on 27 November 2005 at Qushui Prison (E/CN.4/2006/6/Add.6, Appendix 2, para. 21). Mr. Gyatso was recently transferred to the hospital at Drapchi Prison, although the exact date is not known. His family was informed of his hospitalization by prison officials during their monthly meeting at Qushui Prison in late February. Information was also received that Mr. Gyatso's health has deteriorated, and that he could no longer stand up."⁶

On 4 January, 2007, the Special Rapporteur in a Joint Urgent Appeal to the Chinese authorities said: "Jigme Gyatso, currently detained at Qushui Prison on the outskirts of Lhasa. Mr. Gyatso was already the subject matter of Opinion N° 8/2000 adopted by the Working Group on WGAD on 17 May 2000. Further, the Special Rapporteur on torture visited Mr. Gyatso at Qushui Prison on 27 November 2005 during his mission to China...Since meeting with the Special Rapporteur, Mr. Gyatso has been ill-treated and held in solitary confinement in particularly restricted conditions."

In a letter dated 9 March, 2007, the Chinese authorities informed the Special Rapporteur that "there is no substance to the allegation in the letter that "since meeting with the Special Rapporteur [he] has been ill-treated and held in solitary confinement in particularly restricted conditions". On his health condition China's communication added: "Jinmei Jiaco is currently in excellent health and receives regular visits from family members, and the allegations in the letter that 'restrictions have been placed on [him] regarding his ... family visits and that his health is rapidly deteriorating' are not true."

We inform the Council that Jigme Gyatso continues to be isolated from other prisoners, is denied adequate medical treatment and is not allowed to meet family members during normal visiting times. Unconfirmed information indicated that Jigme Gyatso protested at the prison in 2010 for which he was severely tortured as witnesses saw him being dragged to his isolation cell.

In conclusion, we urge the Chinese authorities to adhere to the call of the Special Rapporteur on Torture that Jigme Gyatso be released.

⁶ Doc: A/HRC/13/39/Add.1, page: 59.