



to the “Dalai Clique” (supporters of the Dalai Lama). The law seeks to end the role and influence of indigenous leadership systems in mediating community conflicts and resisting land grabs, demolitions, infrastructure projects and other related development projects.<sup>7</sup> These arrests mark the first criminal case in Rebkong County People’s Court applying the new law.

The nine Tibetans who have been sentenced are Gendun Soepa, Choesang, Bhende Dorje, Tashi Tsering, Sonam Gyal, Dhargye, Shawo Tsering, Khajam Gyal, and Dukbum Tsering, from the village of Horgyal, also in Rebkong County.<sup>8</sup> They are signatories to a February 2017 petition, signed by 24 people in total, demanding the return of Horgyal village land that was expropriated by government for the construction of three brick factories in exchange for lease payments to the village. The government maintained payments to the village for seven years after the works were closed down in 2011, and then stopped, prompting villagers to organize to demand the return of their land.<sup>9</sup>

The court ruled that the Tibetans had created an “illegal organization” of 24 *khagovas* (literally “heads” or “leaders”) to control the “two committees” of the village and usurp “grassroots political power” by “taking over the duties of the ‘two committees’.” The court added that the nine “ringleaders” of the organization “maliciously obstructed the government’s land acquisition work and normal construction operations, committed serious crimes that constitute a crime of gathering people to disturb social order.”<sup>10</sup>

This is not the first time state officials have taken land in Rebkong County. In 2016, local officials seized one-third of the property belonging to the Rongwo Tibetan monastery in Rebkong. The property had been leased by the monastery to a teachers’ college, and Chinese officials expropriated it when the college moved to a new location, and monks have been petitioning for its return ever since.<sup>11</sup>

## Background

The historic territory of Tibet consists of 2.5 million km<sup>2</sup> of land corresponding to the geological plateau that China calls the Tibetan-Qinghai Plateau. The high plateau traditionally consisted of three provinces: Ü-Tsang in the west, Amdo in the northeast, and Kham in the southeast.



The 24 *khagovas* (community leaders) on trial at the Rebkong People’s Court, 2019. Source: TCHRD.

Tibet had proclaimed independence in 1913. After Chinese forces began their invasion and occupation of Tibet in 1949, the Chinese Communist Party redrew the map of the Tibetan plateau. From 1949 onwards People’s Republic of China (PRC) had incorporated the

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<sup>7</sup> TCHRD, *op. cit.*

<sup>8</sup> *Ibid.*

<sup>9</sup> *The Tibet Post, op. cit.*

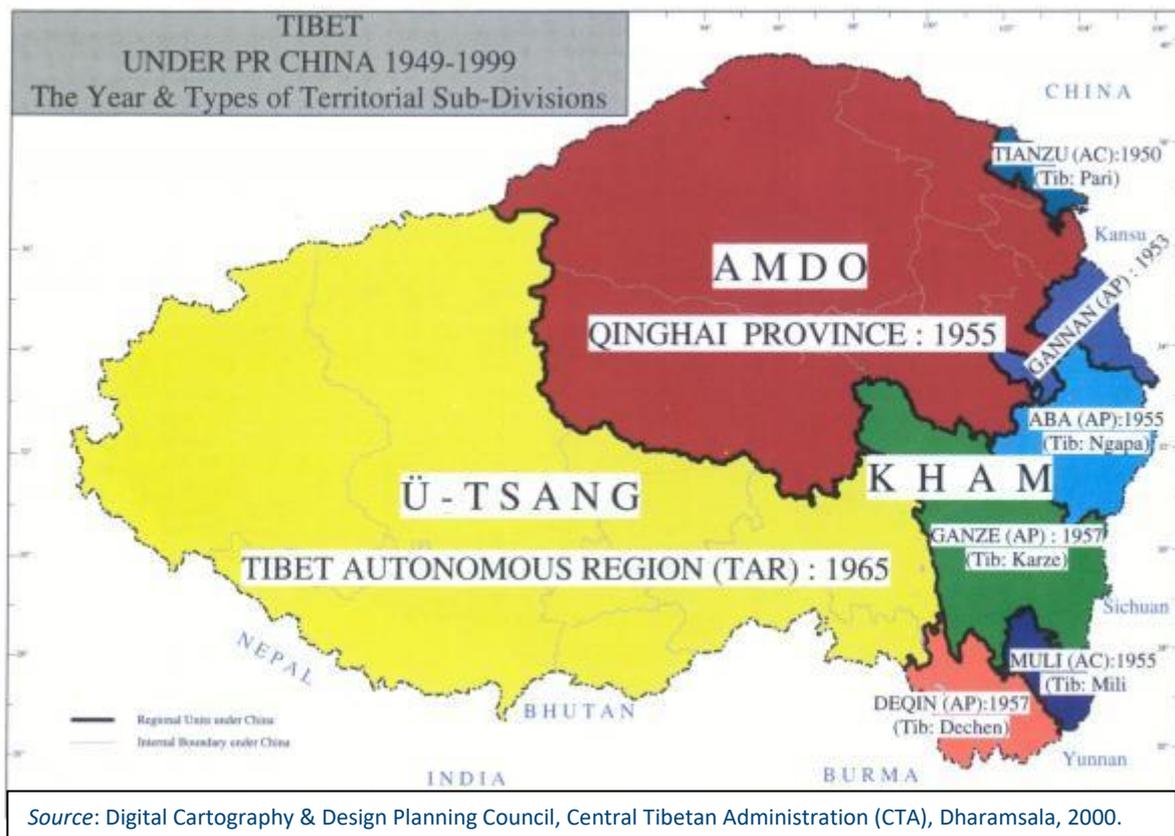
<sup>10</sup> TCHRD, *op. cit.*

<sup>11</sup> *The Tibet Post, op. cit.*

historical Tibetan regions of Amdo and Kham into the Chinese provinces of Qinghai, Gansu, Sichuan and Yunnan. In 1965, the PRC established the truncated “Tibet Autonomous Region” (TAR).

Between 1949 and 1979, various Chinese policies, including “land reforms” led to uprisings and armed resistance by the Tibetan people that China brutally suppressed with military force, killing between 200,000 and 1,000,000 Tibetans. The Tibetan people rose in revolt on 10 March 1959 in the capital, Lhasa, which culminated in the flight of the Dalai Lama and over 80,000 Tibetans into exile to South Asia, notably India, where the Dalai Lama was given political asylum. China completed its occupation of the country in that year.

It is being estimated that by the end of the Cultural Revolution (1966–76), Chinese forces destroyed approximately 6,000 monasteries across Tibet, wiping out the vast majority of historic Tibetan architecture. The methods of “development” and settler implantation have been completing the process of confiscation, dispossession and erasure of Tibetan culture and land tenure.



China now refers to Tibet as the “Tibetan Autonomous Region” (TAR), artificially created in 1965. The TAR, roughly covering Ü-Tsang, represents only half of the original Tibetan territory. This administrative device has created a further a political challenge to the Tibetan people’s self-determination, since China has managed to garner international recognition of the TAR as Tibet, which the Tibetans legitimately dispute. It is worth noting that Kham and Amdo contain most of the fertile land, forests and water resources of the Tibetan Plateau, and still contain the majority of the Tibetan population.

The Chinese authorities have preferred administrative manipulation to law as a means to confiscate Tibetan land and natural resources. The Chinese Constitution includes a provision on land confiscation, whereas Article 10 of its first Chapter (General Principles) delineates the issues of ownership and control of land. Land in the cities is owned by the state, which can expropriate it in the "public interest for its use in accordance with the law." However, the full land-tenure regime and use rights are actually set out in the 1998 Law of Land Administration of the People's Republic of China. The State Council owns all land in urban areas or land occupied by state departments, while land in rural areas is owned by the village collective. The ambiguity in the definition of "village collectives" permits bureaucrats to appropriate the property rights associated with the lands.

Today, the most common pretext for land confiscation, population transfer and demographic manipulation in Tibet is "development." In addition to intensive urbanization, China has also embarked on a series of projects to serve its various water, hydropower and infrastructure needs. These serve to dispossess the Tibetans of their resources, lands, and cultural heritage. They furthermore often lead to standoffs, with Tibetans accusing Chinese companies and local authorities of illegally seizing land, which often result in violent suppression of protests and detention of the organizers.<sup>12</sup> The Rebkong case follows this pattern.

Discrimination against Tibetans is institutionalized and pervasive. While Tibetan leaders are granted roles in the administration, they are, in fact, subordinated to Beijing and its representatives. Everywhere, the Chinese civil and military authorities limit Tibetans' freedom of movement, restrict their right to choose where to reside and deprive them of meaningful participation in planning and development decisions.

The Tibetan people total about 5.37 million, 5.25 million of which live in greater Tibet, comprised of the Tibetan Autonomous Region (TAR) and Tibetan Autonomous Prefectures that China has annexed to its provinces. About 87% of Tibetans are rural and some 126,000 Tibetan refugees live in exile. China's settler influx has reduced indigenous Tibetans to only about half of all inhabitants.

Tibetan language belongs to the Tibeto-Burma group, which is also spoken over the vast Himalayan regions of South Asia. In May 2018, [Tashi Wangchuk](#), a Tibetan businessman who campaigned to preserve his native language from the encroaching dominance of Chinese, was sentenced to five years in prison after a contentious prosecution.

Tibetans commemorate every 10 March as Tibetan Uprising Day, the day in 1959 when they rose up against Chinese occupation and Chinese forces massacred Tibetans in Lhasa, the Tibetan capital, and exiled the XIV Dalai Lama. The occasion usually is preceded by a major security clampdown in the TAR.

Today, the Tibetan Government in Exile (a.k.a. Central Tibetan Administration) based in India stands by what it calls, "[Memorandum on Genuine Autonomy for the Tibetan People](#)" within the constitutional framework of the PRC, which it presented to China in 2008. At this

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<sup>12</sup> *Ibid.*

stage, nine rounds of Sino-Tibetans talks took place between September 2002 and February 2010, but have not resumed since.

## **State Obligations**

### *Domestic Laws*

The Constitution of the People's Republic of China of 1982 (amended in 1988, 1993, 1999, 2004 and 2018) devotes Articles 112–122 to The Organs of Self-Government of National Autonomous Areas. These articles provide that citizens of the nationalities exercising regional autonomy should hold key positions within the government. In practice in Tibet, this has not been the case, with decisions taken in the TAR regularly favoring Chinese rather than Tibetan interests.

Articles 26 and 27 of the Regional National Autonomy Law stipulate that, while the land is publicly owned, it is the organs of self-government of national autonomous areas that uphold this principle. In the case of TAR, those organs ostensibly should be run by, and in the interests of Tibetans.

### *Human Rights, International Law and Treaty Obligations*

China is bound by its obligations under the International Covenant on Economic Social and Cultural Rights, which it ratified on 27 March 2001. The Committee on Economic Social and Cultural Rights (CESCR) issued its most-recent Concluding Observations on China's performance of the treaty in 2014. The Committee expressed concern about China's resettlement of nomadic persons, particularly in the autonomous regions, without adequate consultation or free, prior and informed consent. It urged China immediately to halt non-voluntary resettlement of nomadic herders from their traditional lands and non-voluntary relocation or rehousing programs for other rural residents, and to carry out meaningful consultations with the affected communities in order to examine and evaluate all available options.<sup>13</sup>

On treatment of Tibetan people more generally, the Committee found that China is failing to address their rights to food and employment, and restricts their realization of their right to take part in cultural life. Where land and natural resources are related to livelihood, CESCR noted the effects of demographic manipulation in "the high rate of unemployment among persons belonging to ethnic minorities, especially Tibetans, Uighurs and Inner Mongolians, in part due to Han Chinese migration into minority areas."<sup>14</sup>

China is furthermore bound by its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination, which it ratified on 29 December 1981. The 19 September 2018 Concluding Observations of the Committee on the Elimination of All Forms of Racial Discrimination (CERD) point to various concerns over unequal and ill treatment of Tibetans and other peoples living in autonomous regions under Chinese occupation and/or alien domination. On the issues of resettlement and land appropriation,

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<sup>13</sup> Committee on Economic, Social and Cultural Rights (CESCR), Concluding observations on the second periodic report of China, including Hong Kong, China, and Macao, China, E/C.12/CHN/CO/2, 13 June 2014, paras. 30–31, at: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=E/C.12/CHN/CO/2&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E/C.12/CHN/CO/2&Lang=En).

<sup>14</sup> *Ibid.* para. 17.

the CERD raised concern over such practices within the ethnic autonomous areas. Particular issues included insufficient compensation and lack of informed consent.

The Committee also observed that “large numbers of farmers and nomadic herders, including from ethnic autonomous areas, have lost their traditional lands and livelihoods owing to poverty alleviation and ecological restoration resettlement measures that could be seen as aggressive development models.”<sup>15</sup> The Committee further expressed concern over abuses by State authorities against ethnic minorities “peacefully protesting against the confiscation of land and development activities that have resulted in environmental harm.”<sup>16</sup>

Concerning the rule of law and fair trial related to economic, social and cultural rights, the Committee expressed concern that “the broad definition of terrorism, the vague references to extremism and the unclear definition of separatism in Chinese laws could potentially lead to the criminalization of peaceful civic and religious expression and facilitate the criminal profiling of ethnic and ethno-religious minorities, including...Buddhist Tibetans...”<sup>17</sup>

CERD expressed concern also at reports that “certain Tibetans, Uighurs and other ethnic minorities, peaceful political protestors and human rights defenders have been tortured or otherwise subjected to ill-treatment.”<sup>18</sup>

In 2009, the UN Human Rights Council (UNHRC) conducted a review of China in its third Universal Periodic Review (UPR). Among the comments by states then, Australia expressed “grave concerns about...harassment, arbitrary arrest, punishment and detention of religious and ethnic minorities, including Tibetans,” and recommended that China “strengthen the protection of ethnic minorities’ religious, civil, socio-economic and political rights.”<sup>19</sup> Sweden urged China to “take urgent steps to respect the rights of persons belonging to ethnic minorities, including the rights to peaceful assembly and to manifest religion and culture, in particular in Xinjiang and Tibet.”<sup>20</sup> In relation to Tibet, Czech Republic recommended that China (g) end the “strike hard campaign” associated with numerous serious violations of human rights; (h) investigate all cases of police brutality and torture, e.g. death of Mr. Pema Tsepak in Chambo in January [2009]...; and (i) ensure protection of the right of peaceful assembly and release all persons arrested in this connection...<sup>21</sup>

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<sup>15</sup> Committee on the Elimination of Racial Discrimination (CERD), Concluding observations on the combined fourteenth to seventeenth periodic reports of China (including Hong Kong, China and Macao, China), CERD/C/CHN/CO/14–17, 19 September 2018, para. 26, at:

[https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CERD/C/CHN/CO/14-17&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD/C/CHN/CO/14-17&Lang=En).

<sup>16</sup> With particular reference to Mongolians. *Ibid.*, para. 45.

<sup>17</sup> With reference also to Muslim Uighurs and Mongolians. *Ibid.*, para. 36.

<sup>18</sup> *Ibid.*, para. 38.

<sup>19</sup> Report of the Working Group on the Universal Periodic Review: China, A/HRC/11/25, 5 October 2009, para. 27, at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G09/162/99/PDF/G0916299.pdf?OpenElement>.

<sup>20</sup> *Ibid.*, para. 31.

<sup>21</sup> *Ibid.*, para. 82.

In its second UPR, in 2013, states also urged China to protect the human rights of Tibetans<sup>22</sup> and, in particular, to end disproportionate treatment of Tibetans when peacefully expressing their discontent.<sup>23</sup> In 2018, China's third UPR outcomes included the call for the state to respect the rights to freedom of religion or belief, opinion and expression, peaceful assembly and culture, including for Tibetans, Uighurs and other minorities.<sup>24</sup>

States repeated the same issues in the 2018 UPR of China. These included calls for China to respect the rights to freedom of religion or belief, opinion and expression, peaceful assembly and culture of Tibetans and other non-Han peoples.<sup>25</sup> The 2018 review also called for the guarantee of fair trials,<sup>26</sup> the release of all human rights defenders and for China to "refrain from persecuting those who exercise their rights or defend others."<sup>27</sup>

China signed the International Covenant on Civil and Political Rights (ICCPR) on 5 October 1998, but has not ratified it, despite several promises to do so. However, signing alone signifies intent to be bound by the Covenant, and creates an obligation to refrain from doing anything that contravenes the purpose of the treaty, which guarantees the right to freedom of peaceful assembly (art. 21), participation in public life (Art. 25), freedom of expression (Arts. 19, 25) and fair trial (Arts. 2.3, 14). China's pattern of prosecuting and persecuting Tibetans who exercise these human rights also violates these basic norms.

Special Procedures of the UNHRC also have taken issue with China's violation of Tibetans' human rights. The [Special Rapporteur on adequate housing](#) has urged continued dialogue with the Chinese authorities concerning the May 2002 demolition of historic Tibetan buildings and housing complexes in Lhasa, informing UNCHR of the need to study the impact of planning legislation and policies on the realization of human right to adequate housing in Tibet.

The Special Rapporteur on the situation of human rights of indigenous peoples communicated to China on 3 October 2007 on reports that "tens of thousands of Tibetans are being negatively affected by nomad settlement and resettlement, land confiscation and fencing policies." The expert wrote that

"these policies have had a very adverse impact on the traditional lifestyles and living patterns in Tibetan areas, affecting directly the fabric of traditional Tibetan life and devastating the economy of these communities. The implementation of these policies contributes to the challenges that Tibetan culture and religious identity face today"

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<sup>22</sup> Recommendation 186.234 by the United States. Report of the Working Group on the Universal Periodic Review: China, A/HRC/25/5, 4 December 2013, at:

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/188/55/PDF/G1318855.pdf?OpenElement>.

<sup>23</sup> Para. 129 (Poland), Recommendation 186.233 by Czech Republic. *Ibid*.

<sup>24</sup> Recommendations 28.195 by Germany and 28.319 by Sweden. Report of the Working Group on the Universal Periodic Review: China, A/HRC/40/6, 26 December 2018, at:

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/446/59/PDF/G1844659.pdf?OpenElement>.

<sup>25</sup> Recommendations 28.195 by Germany and 28.319 by Sweden 28.320 by Switzerland. Report of the Working Group on the Universal Periodic Review: China, A/HRC/40/6, 26 December 2018, at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/446/59/PDF/G1844659.pdf?OpenElement>.

<sup>26</sup> Recommendations 28.218 by Germany and 28.221 by Kyrgyzstan. *Ibid*.

<sup>27</sup> Recommendation 28.213 by Czech Republic. *Ibid*.

Following a fact-finding mission to China in 2010, the [Special Rapporteur on the right to food](#) even recommended the suspension of

“the non-voluntary resettlement of nomadic herders from their traditional lands and the non-voluntary relocation or rehousing programmes of other rural residents, in order to allow for meaningful consultations to take place with the affected communities, permitting to examine all available options, including recent strategies of sustainable management of marginal pastures.”

In a [letter](#) dated 28 August 2018, six UNHRC mandates asked PRC for an explanation of Chinese police’ excessive use of force to disperse a peaceful protest by approximately 100 Tibetan environmental human rights defenders, demonstrating against alleged environmentally harmful mining activities in Kham Yushul, Yushul Tibetan Autonomous prefecture in Qinghai Province. According the experts, the protest was organized in opposition to mining activities in the Tibetan plateau that allegedly lack the free, informed and prior consent of the local population and are harming the environment by polluting major rivers.

### **Other Actions Taken and Remedies Attempted**

In addition to the litigation in defense of the Rebkong Nine and media work to unfortunate outcome, TCHRD has been communicating with the Special Procedures of the UNHRC to enlist their intervention in this case. Recently, TCHRD has addressed 11 Special Rapporteurs<sup>28</sup> and the Working Group on the issue of human rights and transnational corporations and other business enterprises in a letter, asking for their intervention.

### **Conclusion**

The current incarceration of the Rebkong defendants forms part of a wider pattern of comprehensive administrative and legal measures to violate Tibetans’ individual and collective human rights, including the people’s land and other natural resources, housing, livelihoods, residency rights and both tangible and intangible cultural endowment. Through policies that institutionalize the serious crime of population transfer, PRC authorities effectively deny the Tibetan people its inalienable right to self-determination. Through displacement, home demolitions, habitat destruction, implantation of Han settlers and confiscation of land and other natural resources, PRC policies, therefore, deprive the Tibetan people of its own means of subsistence, despite the Human Rights Covenants’ strict prohibition against such state behavior.<sup>29</sup>

Since 2001, Habitat International Coalition’s Housing and Land Rights Network (HIC-HLRN) [Violation Database](#) has recorded at least 480,417 persons subject to violations of land and housing rights in Tibet. Tibetan Center for Human Rights and Democracy and HIC-HLRN call for the immediate release of the nine Tibetan prisoners and a judicial review of the court’s verdict, as well as other measures already demanded by the UN Human Rights treaty bodies, Special Procedures and other states through the UPR.

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<sup>28</sup> With mandates on the right to development, the enjoyment of a safe, clean, healthy and sustainable environment, the right to food, freedom opinion and expression, freedom of assembly and of association, adequate housing, human rights defenders, the independence of judges and lawyers, the rights of indigenous peoples, minority issues and extreme poverty.

<sup>29</sup> “In no case may a people be deprived of its own means of subsistence.” Common Article 1.2 of ICCPR and ICESCR.

The latest PRC crackdown against Tibetans' civil defense as "criminal" and "underworld" activity is integral to this institutionalized material discrimination to deny their human rights permanently. While the Rebkong case is illustrative, it raises, once again, the fundamental flaws in PRC statecraft that require urgent correction.

### **Recommendations:**

HIC-HLRN and TCHRD call upon the Chinese authorities to:

- **Immediately release the nine Tibetan prisoners in the Rebkong case and conduct a judicial review of the court proceedings and verdict.**
- **Undertake a thorough review of PRC laws, regulations and practices in order to remove vague references to "extremism" and the unclear definition of "separatism" that lead to the criminalization of peaceful civic and religious expression and the criminal profiling of minorities, including Tibetans.**
- **Immediately halt all expropriations, forced evictions, non-voluntary resettlement, relocation or rehousing affecting Tibetan urban and rural inhabitants, as well as nomadic herders from their traditional lands, and carry out meaningful consultations with the affected communities, in order to examine and evaluate all potential impacts and available alternatives to displacement that does not fully comply with the established international human rights standards, including CESCR General Comment No. 7 (1997) on the right to adequate housing: forced evictions,<sup>30</sup> and provide reparation<sup>31</sup> for victims of that gross violation.<sup>32</sup>**
- **Ensure that laws and their enforcement are consistent with the state's human rights treaty obligations, and that effective monitoring mechanisms and sufficient safeguards protect against abuse.**
- **Prevent and prosecute acts of torture and ill-treatment, especially those committed against members of ethnic minorities, including by improving their access to lawyers and fair trial.**
- **Guarantee the right to appeal in domestic courts for the affected individuals and households, and provide effective legal remedies and adequate reparations for those subject to forced eviction or dispossession.**
- **Investigate and sanction any allegations of abuse or harassment during such incidents, whether inflicted by private or state agents.**
- **Ensure the ability of ethnic minorities to conduct peaceful political expression without violation of their corresponding human rights.**

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<sup>30</sup> CESCR, General Comment No. 7, The right to housing: "forced evictions," 20 May 1997, at: <http://www.hlrn.org/activitydetails.php?id=o25lag==>.

<sup>31</sup> UN General Assembly, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations, A/RES/60/147, 21 March 2006, at: <http://www.hlrn.org/activitydetails.php?id=pGtlag==>.

<sup>32</sup> UN Commission on Human Rights, resolution "forced evictions," E/CN.4/RES/1993/77 10 March 1993, at: <http://www.hlrn.org/activitydetails.php?id=o25lZQ==> and Prohibition of forced evictions, E/CN.4/RES/2004/28, 16 April 2004, at: <http://www.hlrn.org/activitydetails.php?id=pWltaQ==>.

# Your Action!

Please write to the authorities in Chinese-occupied Tibet, urging them to take the recommended actions—found in the sample letter below—to respect human rights, as they are obliged to do under international law and their own Constitution. Please send a copy of your letter also to the following: [hlrn@hlrn.org](mailto:hlrn@hlrn.org) and [director@tchrd.org](mailto:director@tchrd.org).

A sample letter is provided below, or you may send your letter automatically from the HLRN website at: <http://www.hlrn.org/cases.php> Click On the title of this Urgent Action appeal, enter your identifying information, then press “Support.”

*For more information please contact us at [hlrn@hlrn.org](mailto:hlrn@hlrn.org) and/or [director@tchrd.org](mailto:director@tchrd.org).*

## [sample letter]

Your Excellency ...:

We join the Tibetan Centre for Human Rights and Democracy, Habitat International Coalition and its Housing and Land Rights Network in calling for the release of nine Tibetan land defenders recently imprisoned by the Rebkong County People’s Court and the end to the dispossession of the Tibetan people’s habitat resources. We urge Chinese authorities to seek alternatives to such conduct, as the People’s Republic of China is obliged to do within the norms of international law and human rights.

The Rebkong court has sentenced the nine Tibetan land defenders to prison terms ranging between three and seven years for “participating in ‘underworld’ activity.” The men were detained in July 2018 before being formally charged in August of the same year. The Rebkong Court in Malho Tibetan Autonomous Prefecture, Qinghai Province, handed down the prison sentences between 10 and 14 April 2019 on various charges: founding an “evil organization,” engaging in “forced business transaction,” “extortion and deceit” and mobilizing the public to “disturb social order.”

The organization referred to is a long-running campaign by villagers to reclaim community land that local authorities had appropriated for a failed business enterprise and subsequently abandoned since 2011.

The authorities have charged the community leaders under the law introduced by the Tibet Autonomous Region Public Security Department in February 2018, which criminalizes activities such as advocating economic freedom, right to livelihood, environmental protection and cultural freedom; community fundraising or providing donations to the “Dalai Clique”; the role and influence of indigenous leadership systems in mediating community conflicts; and resisting land grabs, demolitions, infrastructure projects and other

related development projects. These arrests mark the first criminal case in Rebkong County People's Court related to the new law.

The nine sentenced Tibetans are: Gendun Soepa, Choesang, Bhende Dorje, Tashi Tsering, Sonam Gyal, Dhargye, Shawo Tsering, Khajam Gyal and Dukbum Tsering, from the village of Horgyal, in Rebkong County. They are signatories to a February 2017 petition, signed by 24 people in total, demanding the return of Horgyal village land that was expropriated by the government for the construction of three brick factories in exchange for lease payments to the village. The government maintained payments to the village for seven years after the works were closed down in 2011, and then stopped, prompting villagers to organize to demand the return of their land.

The court ruled that the Tibetans had created an "illegal organization" of 24 *khagovas* to control the "two committees" of the village and usurp "grassroots political power" by "taking over the duties of the 'two committees'." The court added that the nine "ringleaders" of the organization "maliciously obstructed the government's land acquisition work and normal construction operations, committed serious crimes that constitute a crime of gathering people to disturb social order."

This is not the first time land has been taken by state officials in Rebkong County. In 2016 local officials seized one-third of the property belonging to a Tibetan monastery in Rebkong, and monks have been petitioning for its return ever since. The property had been leased by the Rongwo monastery to a teachers' college, and was expropriated by officials when the college moved to a new location.

### *Domestic Laws*

The Constitution of the People's Republic of China of 1982 (amended in 1988, 1993, 1999, 2004 and 2018) devotes Articles 112–122 to The Organs of Self-Government of National Autonomous Areas. These articles provide that citizens of the nationalities exercising regional autonomy should hold key positions within the government. In practice in Tibet, this has not been the case, with decisions taken in the TAR regularly favoring Chinese settlers and occupiers rather than Tibetan interests.

Articles 26 and 27 of the Regional National Autonomy Law stipulate that, while the land is publicly owned, it is the organs of self-government in national autonomous areas that uphold this principle. In the case of TAR, those organs ostensibly should be run by, and in the interests of Tibetans.

### *Human Rights, International Law and Treaty Obligations*

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relocation or rehousing programmes for other rural residents, and to carry out meaningful consultations with the affected communities in order to examine and evaluate all available options.

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On the issues of resettlement and land appropriation, CERD raised concern over such practices within the ethnic autonomous areas. Particular issues noted include insufficient compensation and lack of informed consent. The Committee also observed that “large numbers of farmers and nomadic herders, including from ethnic autonomous areas, have lost their traditional lands and livelihoods owing to poverty alleviation and ecological restoration resettlement measures that could be seen as aggressive development models.” The Committee further expressed concern over abuses by State authorities against ethnic minorities “peacefully protesting against the confiscation of land and development activities that have resulted in environmental harm.”

Concerning the rule of law and fair trial related to economic, social and cultural rights, the Committee expressed concern that “the broad definition of terrorism, the vague references to extremism and the unclear definition of separatism in Chinese laws could potentially lead to the criminalization of peaceful civic and religious expression and facilitate the criminal profiling of ethnic and ethno-religious minorities, including...Buddhist Tibetans...”

CERD has expressed concern also at reports that “certain Tibetans, Uighurs and other ethnic minorities, peaceful political protestors and human rights defenders have been tortured or otherwise subjected to ill-treatment.”

China signed the International Covenant on Civil and Political Rights (ICCPR) on 5 October 1998, but has not ratified it, despite several promises to do so. However, signing creates an obligation to refrain from doing anything that contravenes the purpose of the treaty, not least by persecuting Tibetans who exercise the right to freedom of peaceful assembly, as guaranteed in ICCPR. Moreover, PRC is obliged under peremptory norms of international law to avoid such gross violations and grave breaches as denial of a people’s self-determination, and the commission of war crimes and crimes against humanity such as population transfer.

Among the comments by states in China's Universal Periodic Reviews (2009, 2013 and 2018), states such as Australia, Czech Republic, Germany, Kyrgyzstan, Poland, Sweden and Switzerland expressed concerns about harassment, arbitrary arrest, detention, fair trials and punishment of religious and ethnic minorities, including Tibetans.

Consistent with the People's Republic of China's treaty obligations domestically to the population under its jurisdiction and effective control and, extraterritorially, to its treaty partners, we urge you to act within your jurisdiction and authority to:

- **Immediately release the nine Tibetan prisoners in the Rebkong case and conduct a judicial review of the court proceedings and verdict.**
- **Undertake a thorough review of PRC laws, regulations and practices in order to remove vague references to "extremism" and the unclear definition of "separatism" that lead to the criminalization of peaceful civic and religious expression and the criminal profiling of minorities, including Tibetans.**
- **Immediately halt all expropriations, forced evictions, non-voluntary resettlement, relocation or rehousing affecting Tibetan urban and rural inhabitants, as well as nomadic herders from their traditional lands, and carry out meaningful consultations with the affected communities, in order to examine and evaluate all potential impacts and available alternatives to displacement that does not fully comply with the established international human rights standards, including CESCR General Comment No. 7 (1997) on the right to adequate housing: forced evictions,<sup>33</sup> and provide reparation<sup>34</sup> for victims of that gross violation.<sup>35</sup>**
- **Ensure that laws and their enforcement are consistent with the state's human rights treaty obligations, and that effective monitoring mechanisms and sufficient safeguards protect against abuse.**
- **Prevent and prosecute acts of torture and ill-treatment, especially those committed against members of ethnic minorities, including by improving their access to lawyers and fair trial.**
- **Guarantee the right to appeal in domestic courts for the affected individuals and households, and provide effective legal remedies and adequate reparations for those subject to forced eviction or dispossession.**
- **Investigate and sanction any allegations of abuse or harassment during such incidents, whether inflicted by private or state agents.**
- **Ensure the ability of ethnic minorities to conduct peaceful political expression without violation of their corresponding human rights.**

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<sup>33</sup> CESCR, General Comment No. 7, The right to housing: "forced evictions", 20 May 1997, at: <http://www.hlrn.org/activitydetails.php?id=o25lag==>.

<sup>34</sup> UN General Assembly, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations, A/RES/60/147, 21 March 2006, at: <http://www.hlrn.org/activitydetails.php?id=pGtlag==>.

<sup>35</sup> UN Commission on Human Rights, resolution "forced evictions," E/CN.4/RES/1993/77 10 March 1993, at: <http://www.hlrn.org/activitydetails.php?id=o25lZQ==> and Prohibition of forced evictions, E/CN.4/RES/2004/28, 16 April 2004, at: <http://www.hlrn.org/activitydetails.php?id=pWltaQ==>.

We urge you and your offices to apply the same minimum norms of conduct in the public service, and we look forward to hearing of your efforts to apply them in the immediate release of the nine Tibetans imprisoned under the Rebkong People's Court judgment and the reparation of harm done to the persons subject the abuse of power.

Sincerely,

[Your name]

[Your organization]

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