

**DRAFT PETITION ON BEHALF OF TIBETANS DEPRIVED OF THEIR
INTERNATIONALLY PROTECTED HUMAN RIGHTS¹ FOR A GRANT OF UNITED
NATIONS EFFECTIVE REMEDY**

IN THE UNITED NATIONS GENERAL ASSEMBLY,
ECONOMIC AND SOCIAL COUNCIL,
HUMAN RIGHTS COMMISSION,
THE SECRETARY GENERAL

UNITED NATIONS PLAZA,
NEW YORK

On behalf of Tibetans,
both individually and as a group,
in the People's Republic of China,

PETITIONERS,

v.

THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA,

RESPONDENTS.

TO: THE SECRETARY GENERAL OF THE UNITED NATIONS, THE MEMBERS OF THE
GENERAL ASSEMBLY, THE ECONOMIC AND SOCIAL COUNCIL, AND THE
COMMISSION ON HUMAN RIGHTS

The Petitioners herein invoke the jurisdiction of the United Nations and its organs by virtue of the provisions of the United Nations Charter, the Universal Declaration of Human Rights, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights, and file this petition on behalf of the Tibetans in the People's Republic of China, praying for peace in the region, the recognition of the universally recognized human right of the freedom of religion, and the cessation of torture, arbitrary arrest and detention and extrajudicial killings.

I. BACKGROUND INFORMATION²

Brief history of Tibetan Autonomy Pre 1959

1. Tibet is an ancient culture, with a long history of autonomy and semi-autonomy, dating from the early 600s A. D. Its relationship with the Chinese empire first developed in the 800s when each empire mutually recognized the other's autonomy in a joint treaty. The arrival of Buddhism from India further centralized authority in Tibet. Buddhist teachers and schools became the focal point of unification for Tibetans because of the dominant role they assumed in the daily lives of Tibetans within the economic, political and spiritual realms. Still it took an outside force to unify Tibet politically; that force was the Mongol empire.
2. Beginning with the Mongol empire, Tibet developed a patron lama, or *Cho – Yon*, relationship with its “conqueror”; but in no way was this relationship a typical one between “conqueror” and “conquered”. Instead, Tibetan Buddhist religion dominated the political system, while Tibetans depended on foreign patronage mainly for protection from other foreign invaders. The basis of this system was the person relationships that the Mongol Khans developed with the Tibetan lamas. This relationship was completely unique within the Mongolian empire, and was based on “mutual respect and dual responsibility” During this period, Tibet was essentially autonomous. China, on the other hand, was conquered and completely dominated by the Mongols during this period, as was virtually all of Asia.
3. The Ming Dynasty, which succeeded Mongolian rule, viewed the Mongols' relationship with Tibet as beneficial because it bridged the gap between the Ming and Mongols.

4. The Ming in essence continued the kind of relationship the Mongol and Tibetans had established. In fact, it was during the late 1500s in the Ming Dynasty that the name “Dalai” was bestowed on a Tibetan lama by the Ming ruler out of respect.
5. Although the Ming fell to another Mongolian empire, Tibet then unified politically and spiritually under the 5th Dalai Lama with the aid of the Kokonor Mongols. It was this Dalai Lama who later initiated a *Cho-Yon* relationship with the Manchu dynasty in the 1630s, seeking a similar relationship with the Manchu that he had enjoyed with the Mongols. Apparently, to the Chinese, this act was the nominal submission of Tibet to China by the 5th Dalai Lama. Their actual “control” of Tibet, China believes, came in the early 1700s, when the Qing expelled a group of Mongols from Tibetan land, and thus took control of Tibet. Over a century later, however, the Manchu were unable to help Tibet resist invasions by Nepalese Gurkha, and Tibet repelled the invasion alone. The Tibetans and Gurkhas then negotiated a treaty.
6. Over the course of the next 80 years, the Qing helped Tibet reorganize its political, administrative and economic systems on several occasions. Even during this period, however, Qing control over Buddhist practice existed in name only. By the mid- 1800s, the Tibetan government regained its autonomy, which was strengthened during the next half century. However, even with control of Tibet firmly rooted within the Tibetan governments’ hands, the Qing still laid claim to Tibet. Tibetans generally accepted this claim. Notwithstanding this relationship, Tibet continued to be more of a semi-independent country. Its geographic remoteness benefited Tibet because its people continued to retain their cultural identity, without succumbing to the influences of the Chinese culture. The argument is that the Qing-Tibet relationship was one of Tibetan dependence upon the Qing. However, when the Qing became the ruling party of China, Tibet did not automatically become part of the greater Chinese territory because it was merely a “dependent state” within the Qing empire, not “integral” to it. The Qing dynasty declined at the end of the 19th century and was overthrown in 1911; and the 13th Dalai Lama took control as both the political and spiritual leader of Tibet. So, in 1912, Tibet formally declared independence and acted as a sovereign nation in conduct and words until the invasion of Tibet by China on October 7, 1950.

Takeover of Tibet by China

7. For the first half of the 20th Century, Tibet was arguably de facto independent, conducted its domestic affairs, and conducted its international affairs by entering into foreign treaties, for example, with Britain, and repelling foreign invasions. In October 1950, China invaded Tibet for its “peaceful liberation” after an apparent “plea” by the 12-year-old Panchen Lama. In the Spring of 1951, China forced a Tibetan delegation into signing the “Seventeen Point Agreement,” essentially recognizing China’s authority over Tibet in Defence and foreign affairs, while reaffirming Tibetan autonomy elsewhere; however representatives stated that they lacked authority to enter into such an agreement. Once the representatives returned to Tibet, the Dalai Lama renounced the Agreement. Two years of attempted negotiations ended in a failed attempt by Tibet to overthrow Chinese control. For the next few years, various struggles between China and Tibet ensued, as China tried to implement certain reforms. However, greater pressure by China in the late 1950s on Tibet to conform to socialist ways resulted in the forced exile in 1959 of the Dalai Lama from Tibet to India when Chinese troops surrounded his monastery.

Suppression of Tibetans Rights

8. Suppression of Tibetans’ fundamental human rights began with the invasion of Tibet by China. In two reports from 1959 and 1960 the International Commission of Jurists³ determined that the Chinese Communist Party (CCP) as the government of the People’s Republic of China (PRC) had the systematic intention of destroying the Buddhist religion in Tibet”, and carried out policies to effectuate this intention, policies such as undermining the Dalai Lama’s authority and the torture and killing of monks and lamas. The Cultural Revolution caused the mass destruction of religious structures and persecution of religion throughout China and Tibet. By the late 1970s, the Chinese government began to repair and rebuild some of the Buddhist monasteries that had been destroyed during that period. The concept of freedom of religious beliefs also began to receive at least token acknowledgement within the Chinese Constitution. However, the freedom of the practice of religion was still very narrowly defined and tightly controlled by the government.

Reeducation Program by Chinese of Tibetans

9. Beginning with the Third Week Forum on Tibet in 1994, the Chinese government expressed its intention to achieve greater control of Tibetan Buddhist practices, and identified the Dalai Lama and the “Dalai clique” as the purveyor of splittism that China stated was a cause of the destruction of Tibet. Two years later in 1996, the Chinese government instituted a systematic policy called the “patriotic re-education campaign” which initially targeted religious centers inside the Tibet Autonomous Region (“TAR”; this is the only area China now considers “Tibet” and considers it an autonomous region within China), the eventually in Tibetan areas in the surrounding provinces. This campaign was designed to: control the number of new monasteries that could be built; control the number of new monks/ nuns entering religious centers; control educational curriculum of religious centers; re-educate monks and nuns in socialist thought; control the monks/nuns who may register in monasteries/ nunneries, specifically after their detention or imprisonment, according to who meets the “religious” qualifications established by the government, i.e. who has denounced the Dalai Lama.

II Statement of the Facts

A. Deprivation of Freedom of Religion

10. The Chinese authorities continued to exercise state control of religion throughout the year 2000 in the belief that religion breeds instability, separatism and subversion.
11. Religious practice per se is viewed as an obstacle to China’s economic “development” of the region and monks are criticized vehemently for their lack of contribution to economic growth.
12. According to the international Commission of Jurists in 1996, the Chinese government instituted in the “TAR” a policy entitled “patriotic re-education campaign” in the TAR’s monasteries and nunneries, and eventually in Tibetan Buddhist monasteries outside the “TAR”. The purposes of the campaign were to: curtail and suppress “splittist activities in religious centers by those labeled as loyalists to the Dalai Lama; and to mold the Buddhist religion into one complying with a socialist society. Monks and nuns were ordered to study manuals in order to “re-educate” themselves in socialist ways, attend and participate in socialist meetings overseen by CCP work teams, and give speeches in

support of the campaign. Those not complying with these orders faced expulsion from their monasteries or nunneries. This policy remains in effect.⁴

13. A “specific directive” of the “patriotic re-education campaign” has targeted the Dalai Lama. Pictures of the Dalai Lama have been banned from all public display. This ban has been extended to monasteries and nunneries, to schools, and even to some private homes. Monks and nuns are forced to denounce the Dalai Lama as a splittist and a threat to the unity of China. According to Human Rights Watch/Asia and Tibet Information Network, those refusing have been detained and/or expelled from their religious institutions.⁵ This numbers into scores, if not hundred, of religious persons.
14. The mysterious death of Tashi Rabten on 1 May 2000 occurred just after a 30-member “work team” interrogated and then forcefully led him to the private hall of Thenthok Monastery to search for photos of the Dalai Lama. Soon after, fellow monks discovered Tashi lying on the ground in a critical condition. He had reportedly fallen from the third floor and died immediately, despite efforts by the monks to save him. Local residents speculated that Tashi’s death was pre-meditated murder and even asked the authorities for clarification and voiced strong resentment. On 3 May, PSB officials announced that a heavy prison sentence would be imposed on anyone who dared to blame local officials for this death. They denied any responsibility and described the death of Tashi Rabten as a case of suicide.⁶
15. Depopulating religious institutions: The Chinese authorities have imposed an age-limit on admission to monasteries and nunneries. The monks and nuns under and over this age-limit are expelled.⁷
16. An official order issued in mid-2000 compelled the mass-withdrawal of monks and nuns from institutions in various counties under Lhasa City. Cadres and government employees were instructed to withdraw their children from monasteries or face imprisonment or expulsion from their employment.⁸
17. The Democratic Management Committee (DMC), an arm of the government in Tibet directly accountable to the CCP, controls each monastery and has been in place since the 1959 “reforms” when control of monasteries was wrenched from Tibetan Buddhist abbots. The DMC authorizes any new construction of monasteries, and controls their admission processes, thereby effectively controlling and limiting the number of Tibetans who gain entry into monasteries. Also the DMCs prescribe regulations for monks in order

that they first and foremost become law-abiding and patriotic, and secondarily “outstanding” monks.⁹ Party “work teams” also fall under the aegis of the DMCs; work teams assess the “patriotism” of monks and nuns, expelling those deemed anti-Chinese or nationalistic, and subjecting the remaining monks to re-education of Tibetan history conforming to the Chinese version, and indoctrination in socialist ways.¹⁰

18. The DMCs have usurped the historic authority of abbots, the traditional heads in a monastic hierarchy. In an attempt to ensure monastic discipline and curricula under their control, the DMCs expel and arrest dissident monks and nuns, and ensure that party principles prevail over the Buddhist doctrine.
19. Since 1995 China has refused to recognize the authority of the Dalai Lama as the spiritual leader of Tibetan Buddhism by its outright rejection of the most recent incarnation of the 11th Panchen Lama, who was chosen, according to Buddhist tradition, by the Dalai Lama. Instead, China undertook its own search for the reincarnation. It thereafter named its selection for the new Panchen Lama and has installed this child in the place and position of the Dalai Lama’s section for Panchen Lama. The Panchen Lama is the second most important figure in Tibetan Buddhism. The boy chosen by the Dalai Lama, Gedhun Chekyi Nyima, and his parents were taken into custody in May 1995, shortly after the announcement of his selection; they have not been seen nor heard from since that time, despite pleas from the international community to see and speak with the young boy and his parents. The government claims they are safe and being held for their protection. The government has also demanded Tibetan monks and nuns recognize its choice for Panchen Lama. If they do not, they are subject to torture, imprisonment or expulsion from their monasteries.¹¹
20. According to the Tibetan Center for Human Rights and Democracy, Dharamsala, India, “The Patriotic re-education campaign, since its launch in 1996, has resulted in the expulsion of 12, 271 clergy, as of December 2000, including 1,876 nuns. In the year 2000 alone, TCHRD has recorded 862 expulsions, of these 147 are nuns... In 1999, TCHRD recorded the closure of 18 monasteries and nunneries since the launch of the “Strike Hard” campaign. A total of 17 religious institutions were reportedly closed in 1998 including three in 1997. In the year 2000, TCHRD has received reports of four more closure of religious institutions, taking the total number to 22.”¹²

21. According to the TCHRD, the Chinese authorities have ordered the closure of the Larung Ngarig Nangten Institute, a large religious institution with more than 10,000 ordained and lay students. Khenpo Jigme Phuntsok, the chief abbot of this institute, faces danger of arrest from the Chinese authorities. The Serthar Buddhist Center was forcibly demolished and over 7500 nuns and monks were expelled from the Center in May-June 2001.¹³
22. As a part of the “Strike Hard” campaign, another example of the Chinese obsession with the political uprising in Tibet, a new set of restrictions has been imposed upon the celebration of Trunghla Yarsol, the traditional birthday celebrations of H.H. the Dalai Lama held on July 6 every year. This year hundreds of Tibetans were reportedly arrested on July 4 in Lhasa region alone and detained for a short period. Activities such as prayers, incense burning and throwing tsampa (roasted barley) have been termed as illegal and a threat to security and punishments have been stipulated to be levied on the offenders. In a related incident, no receipts were issued for the fines taken from 16 youths celebrating this event on July 6 this year, reports this press release.¹⁴

B. Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

23. Like most countries, China and Tibet too have smaller proportions of women prisoners than men. According to a study conducted by Human Rights Watch, women are less subjected to torture than men, which is true for women prisoners in China but unfortunately in Tibet. According to TCHRD records as of December 31, 1997, 255 of the 295 (86.44 %) women prisoners in Tibet were nuns. In addition to other types of physical torture, the incidence of sexual abuse including sodomization with electric batons and being stripped naked for women prisoners is quite high.¹⁵
24. Sanitary facilities for women prisoners are not adequate. They are not provided with sanitary napkins till they are convicted which could take up to six months. Most of them bleed on to their clothes or tear up their clothing and use it. They are allowed to wash their face maybe twice or thrice in six months.¹⁶
25. According to Choeying, a female prisoner in the Drapchi prison, Dekyi Yangzom a young nun was brutally sodomized with electric batons and given further punishments the next day. Choeying last saw her on May 13, 1998. ¹⁷ [She died...can find more info on her....](#)

26. Men also suffer extreme forms of torture. According to TCHRD, in 1998, a young monk was arrested after fighting erupted between police and festival attendees during festivities at the Monlan Prayer festival. The monk was an organizer of the festival. After his arrest, he was subjected to torture involving beatings with sticks, rifle butts, rubber bats and electric baton; he was handcuffed, beaten unconscious and then confined to an overcrowded cell. His sentence was extended for “counterrevolutionary” activity while in prison, and during that time, he was further subjected to being stripped, beaten, handcuffed, and hung from the ceiling while in various devices.¹⁸
27. In October 1989, a young Tibetan nun was arrested after participation in a peaceful demonstration with other nuns. She was tortured and beaten regularly. In one example of torture, she was forced to stand on her head against a wall for over one hour. When the pain caused her to fall, she was beaten by police until she resumed the position. Her blood was extracted, a technique commonly used by the police on detainees or political / religious prisoners. No trial was held. Though now released, she continues to suffer mental anguish due to her torture.¹⁹
28. In February 1988, a nun was arrested and detained for two months after participating in a peaceful pro-independence demonstration. She and others were beaten with rifle butts and sticks and attacked by dogs. Other nuns were sodomized with electric batons; she was sexually abused with a stick. She has permanently lost one third of her physical ability on her right side, and suffers recurrent headaches and back pain, all due to the torture she suffered in detention.²⁰

C. Arbitrary Arrests and Detention

29. “On 30 December 1999, the Chinese authorities declared a boy named Lodroe Gyatso (Lay name Sonam Phuntsok) as the reincarnation of the sixth Rating Rinpoche. Eight monks from Rating Monastery were arrested on 17 May 2000 under suspicion of “plotting to kill the reincarnate boy”. The names and details of the monks are not available to date.²¹
30. Lobsang Nyima from Pomda Monastery was detained in 1997 for refusing to read literature denouncing the Dalai Lama, and was sentenced to five years of imprisonment. This news reached the controlling agencies as late as the year 2000.²²

31. Chadrel Rinpoche was arrested in 1995 and detained for two years before being charged, tried and convicted for communicating with the Dalai Lama, who Chinese authorities label a criminal. Chadrel Rinpoche was the key figure within Tibet for the selection of the reincarnation of the 11th Panchen Lama, and worked closely with the Dalai Lama during this period, originally with the Chinese government's knowledge and approval. His trial was "closed" because authorities claimed state secrets had been involved.²³
32. According to the TCHRD, a Tibetan monk was arrested for refusing to recognize the Panchen Lama chosen by the Chinese. Earlier he had expressed to a Chinese "work team" his belief that the Panchen Lama affair was a religious matter, and that he supported the Dalai Lama in such matters, and accordingly, the young boy chosen by the Dalai Lama, not the Government's choice. After this arrest, he was repeatedly ordered by his captors to denounce the Dalai Lama and the boy chosen by him; he refused each time. During a period exceeding five months, he was beaten, hung from the ceiling and beaten; he sustained severe internal injuries. The monk eventually escaped to India.²⁴
33. One young monk was taken into custody after he and others posted a Tibetan paper flag and freedom messages around his town. He was detained for over three months while awaiting his "sentence", although he was never informed of said "sentence". Finally he was told that he would spend two years in prison.²⁵
34. According to the TCHRD, a Tibetan woman was arrested in August 1997 because she possessed an autobiography of the Dalai Lama. Chinese authorities charged her with "endangering state security". She was sentenced to seven years in prison.²⁶
35. According to the TCHRD, as of January 2001, there were 451 known political prisoners serving sentences in various Chinese prisons in Tibet. All of them were arrested arbitrarily on charges of "endangering state security" for undertaking non-violent activities, including taking part in a peaceful demonstration, pasting posters or possessing pictures and documents published by Tibetans in exile.²⁷

D. Extrajudicial Killings

36. In March 1989, the Special Task Force had received orders to produce 300 people dressed as ordinary citizens and monks, who were asked to create a provocative atmosphere along the Barkhor in Lhasa. The Armed Police was ordered to suppress along the uprising and were given the right to kill. When the Armed Police shot two persons,

Tibetans in thousands came out and pelted stones etc. Police appeared on the roofs overlooking the narrow Xuangjing alley with automatic weapons and blazed away. All this was witnessed among others by Tang Daxian, a Chinese journalist, who took still and video photographs and made them public later, and according to whom at least 450 people were killed and 3000 arrested within a short time.²⁸

37. According to TCHRD, one of the most violent events in Tibet's recent history occurred at the Monlam Prayer Festival in March 1988. During the final events of the festival, which attracts hundreds of thousands of pilgrims, some monks from the Gaden monastery demanded the release of Yulo Dawa Tsering, a famous political prisoner. Tensions escalated when a Chinese official shot a Tibetan man, and attendees began shouting various slogans. When the monks sought refuge in a temple, Chinese police, who had been waiting for them, trapped them inside and, according to witnesses, attacked the monks with knives and nail studded clubs; the monks were then thrown off the roof of the temple. Up to 15 monks died as a result of these beatings by the People's Armed Police (Chinese Military police, PAP).²⁹
38. In May 1998, TCHRD reports another example of extrajudicial killings, which occurred in Drapchi prison by prison guards. Over the course of four days, 11 Tibetan prisoners reportedly died as a result of indiscriminate **torture and** shootings within the prison by the guards, **following the peaceful protests by prisoners on 1 and 4 May 1998**. Because of the strict control over information leaving Tibet, Chinese authorities did not admit any shootings had even occurred for five months, despite international demands to obtain information.³⁰
39. The TCHRD, ICJ, HRW, and TIN all report that the most common form of extrajudicial killings in by torturing a detainee or prisoner to the point of death, and then releasing that Tibetan to family or the hospital; such person subsequently dies but outside the prison system. Thus authorities are able to separate any responsibility for the death from their offices. The estimated number of these extrajudicial killings due to torture from 1987 to 2000 is 67.³¹

E. Lack of Accountability

40. The Chinese Constitution at once provides for freedom of religious belief, and at the same time states that:

No one may make use of religion to engage in activities that disrupt public order, impair the health of citizens or interfere with the educational system of the state.

41. Furthermore, Chinese law also provides for imprisonment for its officials who are found to have deprived citizens of their religious rights.³² However no Chinese official is known to have ever been arrested, let alone convicted and imprisoned for such a violation.
42. Although China is a signatory to the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT), it has not incorporated within its criminal code, an effective, comprehensive definition of the term, “torture”, as is provided in the Convention. Under the CAT China is obligated to outlaw all forms of physical and mental/psychological torture. According to TCHRD, China has clearly failed to comply with its obligations under this convention, which it has signed and ratified. Instead, it does not permit the use of torture to extract a confession from a prisoner or detainee; however, it does not disallow this sort of “confession” or evidence obtained in this way from any trial or administrative proceeding that may be held.³³

F. Failure of the Chinese Judicial System

43. Under the Chinese legal system, the basis for detaining a person has been expanded to the almost complete discretionary term of “endangering state security”, which was recently broadened from a standard of “counter-revolutionary”. The criminal code provides for the redefinition of this term as circumstances warrant. Once a person is detained, that person must be interrogated for the purpose of obtaining a confession. This stage is carried out by the PAP or PSB. In the vast majority of cases involving Tibetans, torture is used in the interrogation process. Judges are aware of this.³⁴
44. Before sentencing, a detainee can be held between two to six months. Legal defense though it exists in name, is virtually nonexistent because of its utter futility. Two channels exist for hearing/sentencing purposes: administrative and judicial. In an administrative tribunal, the sentencing can range up to three years, though this can effectively be arbitrarily extended by at least one year. In a judicial tribunal, sentencing can be life imprisonment or the death penalty. The appeals process appears to exist in name only, reversal is virtually non-existent. The Tibet Daily reported that less than 1% of the defendants in Tibet are acquitted.³⁵

45. Finally, the judiciary throughout China, including Tibet, is not independent, but appointed at the discretion of the CCP. The Party effectively controls all aspects of the judicial system. Furthermore, a judge cannot ever reach an independent ruling in a case if such ruling conflicts with the conclusion as determined by the police and stated on the police report. If a judge does reach a different ruling, the police and judge must consult a government official to reach a mutually acceptable result. This process, however, is rare.³⁶

III. JURISDICTION

46. The UN has the authority to receive and hear this petition. The specific organs and agencies are the Secretary-General, the General Assembly, the Commission on Human Rights, and the Subcommission on the Prevention of Discrimination and Protection of Minorities. These organs and agencies have the authority to grant the relief requested.

47. The organs of the U.N. are endowed with explicit and inherent powers to assume jurisdiction of cases such as one presented in this petition as reflected in the U.N. Charter. Chapter 1, article 1(3), of the U.N. Charter obligates the U.N. and member states to encourage “respect for human rights and for fundamental freedoms.”³⁷ torture, arbitrary detentions, and killings are violations of international law, as evidenced in documents such as the Universal Declaration of Human Rights³⁸ and the International Covenant on Civil and Political Rights.³⁹

48. The General Assembly, authorized to act under Chapter IV, article 22 of the UN charter, “may establish such subsidiary organs as it deems necessary for the performance of its functions”, and therefore may establish and Ad Hoc Commission empowered to grant the relief requested.

49. Under Article 13(1)(b) of the U.N. Charter, the General Assembly is authorized to examine the allegations in this petition and make recommendations for the purpose of

... assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

50. Under the U.N. Charter, Article 55©, all member nations of the United Nations have pledged themselves to promote:

... universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

Article 56 states that:

All Members pledge themselves to take joint action in cooperation with the Organization for the achievement of the purposes set forth in Article 55.

51. These articles under the U.N. Charter demonstrate the principle of international enforcement of human rights, because all members have consented to support and enforce U.N. determinations of violations of these fundamental rights. If a United Nations organ determines that respondent has violated the human rights of petitioners, other member states must uphold their commitment pledged by their acceptance of the U.N. Charter, and support the U.N. or any of its organs in their pledge to uphold human rights for all persons.
52. The respondent, China, is a member of the United Nations. Therefore it has pledged itself to comply with any U.N. determination regarding this cause.

IV. COMPETENCE

53. Tibetans are a proper party to this action and have a right to invoke the jurisdiction of the U.N. under the U.N. Charter, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (signed, not yet ratified by China), International Covenant on Economic, Social and Cultural Rights (signed, not yet ratified by China), and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment.
54. In addition to these, China is a signatory to the International Convention on the Elimination of all Forms of Racial Discrimination, the Convention on the Rights of the Child, and the Geneva Conventions.
55. Under the United Nations Charter, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights, the petitioners, are a proper party to invoke the jurisdiction of the United Nations in requesting a United Nations investigation on their behalf in order to find redress for the deprivations of their internationally

recognized human right to freedom of religion. Further the petitioners are a proper party to request a United Nations investigation in order to obtain release of those being held under arbitrary arrest and detention, to end torture, and all forms of extrajudicial killings.

56. The petitioner Tibetans are at least a minority people within China, and as such must be afforded the same rights to which China has pledged its support in the numerous international instruments to which China is bound.
57. The respondent China has willfully and systematically violated its obligations under the U.N. Charter, despite reports and pleas by U.N. organs and other international organizations to end these violations.
58. The respondent, China, is a member of the U.N. and is bound by the U.N. Charter, and other Covenants and Conventions it has signed. China is signatory to: the U.N. Charter; the Universal Declaration of Human Rights; and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. China is obligated to comply with accepted norms of international law because it is a member of the international community.
59. The allegations of petitioners warrant investigations by an Ad Hoc Commission created for said purpose, and to punish those persons, agencies or bureaus of respondent deemed responsible for the systematic deprivation of Tibetans' freedom of religion, and the torture, arbitrary arrests, detention, and extrajudicial killings of the said petitioners individually, and as a class.

V. CONTENTIONS

60. That Tibetans are at least a minority people within China, and therefore, are legal residents of the state of China.
61. That Tibetans as citizens of China are guaranteed at least the fundamental freedoms recognized in international law, and as obligated to by China.
62. That China has systematically deprived Tibetans of their freedom of religion in direct ways by: interference with the day-to-day affairs of Tibetan Buddhism; the criminalization of the Dalai Lama, the spiritual leader of the Tibetan people; interference in the means by which Tibetan Buddhism is perpetuated, specifically by manipulation of the Panchen Lama selection process, and by strict regulation of the educational system

and teachers of Buddhism; official promotion of the CCP's code of atheism and a "no-religion" policy; control over monasteries; and control over the numbers and ages of Tibetans entering monasteries.

63. That Tibetans are subject to torture and inhumane treatment in violation of international law.
64. That Tibetans are subject to arbitrary arrest and detention in violation of international law.
65. That Tibetans are subject to extrajudicial killings in violation of international law.
66. That Tibetan parents are being denied their fundamental freedom to teach their children according to their religious beliefs.
67. That the petitioners' human rights as guaranteed under the Universal Declaration of Human Rights have been violated. Such rights include: no discrimination based on race or religion, the right to life and security of person, the right to be free from torture or other cruel, inhuman or degrading treatment or punishment (5), the right to an effective remedy by competent national tribunals for acts violating fundamental human rights (8), the right to be free from arbitrary arrest and detention (9), the right to a fair public hearing by an independent and impartial tribunal (10), and the right to be free from activity aimed at the destruction of any of the rights set forth (30).
68. That petitioners' human rights as guaranteed under the International Covenant on Civil and Political Rights have been violated. Such rights include: the inherent right to life, (art. 6(1)), the right to be free from torture or cruel, inhuman or degrading treatment or punishment (art. 7), the right to security of person (art. 9(1)), the right to be free from arbitrary arrest and detention (art. 9(1)), the right when arrested to be informed of the reasons and charges for arrest, to have a trial within a reasonable time and before a court (art. 9(1)), and the right to be treated with humanity and dignity upon detention or arrest (art. 10(1)).
69. That respondent is obligated under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to "take effective legislative, administrative, judicial, or other measures to prevent acts of torture" (art. 2.1).
70. That the Convention Against Torture further provides that respondent as a signatory cannot cite any "exceptional [domestic] circumstances" to justify torture (art. 2.2).

71. That respondent is a member of the United Nations and signatory to the United Nations Charter, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Convention Against Torture, and Other Cruel, Inhuman and Degrading Treatment or Punishment, and therefore is obligated to uphold the provisions of these documents.
72. That respondent has violated petitioners' human rights involving freedom of religion, and freedom from arbitrary arrest and detention, torture and extrajudicial killings.
73. That petitioners have no meaningful legal remedy available to them to prevent them from being subjected to arbitrary arrest, torture, inhumane treatment, and extrajudicial killing.
74. That petitioners' only available remedy is through the appointment of an Ad Hoc Commission of the United Nations by resolution of the Human Rights Commission, The General Assembly or the Secretary General, investigate the alleged violations of petitioners' human rights by respondent under the United Nations Charter, the Universal Declaration of Human Rights, the International Covenant on Civil Na Political Rights, and the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment. Alternatively, the Secretary General may also appoint an Ad-Hoc Commission to make findings directly to the Secretary General.
75. That such tribunal, if violations by respondent are found to have occurred, take appropriate actions to effectuate the enforcement of respondent's obligations under the United Nations Charter, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment of Punishment.

VI. QUESTIONS PRESENTED

76. Has the People's Republic of China or any of its organs, agencies, bureaus, committees or security forces, denied Tibetans their fundamental right to freedom of thought, conscience and religion by the suppression of and control over religious expression and the practice of Buddhism?
77. Has the People's Republic of China or any of its organs, agencies, bureaus, committees or security forces, denied Tibetans their fundamental right to freedom of thought,

conscience and religion by subjecting them to torture, arbitrary arrest, detention and extrajudicial killings because of their religious expression and belief?

V11. ARGUMENTS

A. *Deprivation of the Freedom of Religion*

78. In response to question 1, China has violated its obligations as provided in the U.N. Charter, the Universal Declaration of Human Rights, and the ICCPR, by its unequivocally stated objective of monitoring and controlling Tibetan Buddhism, with the aim of conforming it to socialist thought, thereby eradicating it as a religion.

79. Freedom of religion is a universally recognized fundamental human right. Under the Universal Declaration of Human Rights (“UDHR”), Article 18:

Everyone has a right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

80. This freedom of religion is also recognized in the International Covenant on Civil and Political Rights (ICCPR)⁴⁰ Article 18, as well as in Article 27, wherein:

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with other members of their group, to enjoy their own culture, [and] to profess and practice their own religion,...

81. In its 1982 Constitution, China recognized the right to freedom of religious belief, stating that:

Citizens of the People’s Republic of China enjoy freedom of religious belief. No state organ, public organization or individual may compel citizens to believe in or not to believe in, any religion; nor may they discriminate against citizens who believe in, or do not believe in, any religion. The state protects normal religious activities.

82. China renewed its recognition of this right and its intention to uphold freedom of religious belief in its 1998 White paper, stating that its Constitution provides that:

... freedom of religious belief is one of the fundamental rights of citizens. [The] Chinese government respects and protects its citizens' right to freedom of religious belief.⁴¹

83. China is a signatory to all of the major human rights treaties. It recognizes the importance of freedom of religion in its own constitution. Therefore, China is obligated to honor and uphold those laws it has signed, and/or signed and ratified. By the latter, China has explicitly stated its acceptance of the binding nature of the law. By signing only, China is still bound because it has unequivocally expressed its intention to be bound by that particular treaty.
84. The parties within China responsible for oversight of Tibetans, the TAR, Tibetan regions in the outer provinces and the lives of Tibetans are: the Chinese Communist Party (CCP) of the People's Republic of China (PRC), TAR government officials, the Chinese People's Political Consultative Conference (CPPCC), the People's Liberation Army (PLA), the Religious Affairs Bureau (RAB), the Democratic Management Committees (DMCs), the Public Security Bureau (PSB), local party committees, and Party "work teams".
85. Tibetan Buddhism is intertwined with the daily lives of Tibetans. The vast majority of Tibetans are Buddhist. At the apex of the Tibetan life is the Dalai Lama as the religious and, traditionally, political leader of Tibetans.
86. Several organizations have documented the deprivation of Tibetans' right to freedom of religion by Chinese authorities.
87. According to the United States Department of State in its 1998 Annual Report on Human Rights,⁴² the Chinese government tightly controls religious activity in China, including in Tibet. Although some religious practices are allowed, any religious practice that the government regards as a threat to its unity is harshly suppressed. Specifically, the government and its official press openly and vehemently attack the Dalai Lama in an effort to undermine his role as spiritual leader of Tibetans. The Dalai Lama is labeled a criminal who wants to split, i.e. divide, the Chinese nation. The 1996 "patriotic re-education campaign", instituted a ban on the Dalai Lama's pictures, and demanded renunciation of the Dalai Lama by Tibetan monks and nuns. Both are still in place.
88. The anti-Dalai Lama campaign emerged from the Third Work Forum held in China in 1994. Although the Chinese had previously attacked the Dalai Lama only on political

grounds, the, the government now began to attack him as a religious leader. The government's position was demonstrated by its characterization of the Dalai Lama as the head of a serpent that must be cut off before the body, i.e. Tibetan people and culture dies.⁴³ Furthermore, the government claimed that:

89. The Dalai [sic] and his clique have violated the religious doctrine [of delivering all living creatures in a peaceful manner and has] spread rumors to fool and incite one people against the other, [so] in what way can he be regarded as a spiritual leader... [who] wildly attempt[s] to use godly strength to poison and bewitch the masses... Such flagrant deceptiveness and demagoguery constitute a blasphemy to Buddhism.⁴⁴
90. The policy stated further that the Chinese government "must stop the Dalai clique from influencing lamas and nuns in Tibet in any way."⁴⁵
91. This campaign against the Dalai Lama was reaffirmed in 1996 and directly targeted the Dalai Lama and his spiritual influence over the Tibetan people. The Dalai Lama is labeled a "criminal" by the official press and denounced for trying to split the "motherland". Yet, in his public speeches the Dalai Lama has expressed only his wish to reconcile with China, while requiring the absolute assurance that Tibetan Buddhism be separate and safe from Chinese influence. The policy emerging from this campaign is labeled the "final attack" against the Dalai Lama and his "feudal superstition". The policies against the Dalai Lama now included a ban on his photographs possessed by government employees, or found in monasteries, many public places, such as hotels and banks, schools and even private homes. Sources documented house-to-house searches by security forces looking for pictures of the Dalai Lama. This policy appears to be attempting to extirpate the religious influence of the Dalai Lama by the almost complete denial of his existence in the daily and spiritual lives of Tibetans, religious as well as laypersons.
92. Human Rights Watch/ Asia and Tibet Information Network report on the Panchen Lama affair that arose in 1995. It cannot be emphasized too strongly that the potential impact of this controversy could be devastating to the Tibetan religion, people and culture. The Panchen Lama is the second most important figure in Tibetan Buddhism. He chooses the next re-incarnation of the Dalai Lama. In 1989, the 10th Panchen Lama died. According to Tibetan Buddhist tradition and procedure, the Dalai Lama undertook the search for the next incarnation of the Panchen Lama. In 1995, a successor was found in the person

Gedhun Choekyi Nyima, a six year old boy. Outraged because the selection was announced before the government had been informed that a Panchen Lama had been discovered by Tibetan Buddhist leaders, Chinese authorities denounced the Dalai Lama's selection, and took the boy into custody almost immediately. Although the government states the boy is being held for his protection at the request of the child's parents, he has not been seen nor heard from since that time. Members of the international community including government representatives, U.N. personnel, and private organizations; have requested meetings with the child.⁴⁶ The Chinese government has refused all such requests, and claims the boy is well. Instead the government undertook its own search for the reincarnation of the Panchen Lama. Their selection was made in the closing months of 1995, and the chosen boy is also very young. He is in protective custody, though he makes authorized visits under the guidance of Chinese officials, to various monasteries and religious centers.⁴⁷

93. Monks and nuns must denounce the Dalai Lama and his choice for the next Panchen Lama, and they must recognize the Chinese government's choice. If they do not, they are subjected to expulsion from their respective religious orders, and/or arrest and detention.⁴⁸

94. The potential impact of this controversy cannot be overstated, and may be devastating to Tibetan Buddhism. This is direct interference with the religious practices of a minority group, and threatens the very existence of Tibetan Buddhism. According to HRW/ Asia, the Chinese government is acutely aware of the sensitivity and vital nature of the Panchen Lama affair. In an internal document it recognized that " ' by appointing a living Buddha, it (the Dalai clique) seizes the control of a monastery.... Tantamount to seizing a position previously occupied by the communists.'"⁴⁹ The Panchen lama chooses the next Dalai Lama. If the Chinese government seizes control of the selection of the Panchen Lama, and the Dalai Lama dies before the status of his choice for the Panchen Lama is known, China will have effectively eradicated any independent religious procedure in Tibetan Buddhism. It can then without obstacle select its choice for the next Dalai Lama, and control Tibetan Buddhism internally.⁵⁰

95. The Chinese government controls the monasteries through their Democratic Management Committees. Also in place are controls and oversight by the local police groups, such as the PSB.⁵¹ The specific means by which monasteries are controlled by the DMCs are: no

construction of new monasteries without official permission (which is rarely given); strict limits on the number of monks and nuns per monastery; tight control over the number of monks and nuns who may re-enter monasteries after arrest or detention; purging of “trouble/disobedient” monasteries, often of senior monks who are the most knowledgeable about Tibetan teachings and religious practices; strict scrutiny of the number and qualifications of monks and nuns newly entering the monastery, including a strictly enforced policy of no admission for those under 18 years of age; requiring monks and nuns to pledge allegiance to the “motherland”, and these pledges routinely require denouncing the Dalai Lama and the boy chosen by the Dalai Lama as the next Panchen Lama; and regular visits by Communist Party work teams for the purpose of re-educating monks and nuns in socialist thought.⁵²

96. Many ethnic Tibetans hold political offices in various local congresses and committees of the CPPCC and the majority of ethnic Tibetans are Buddhists. Yet the Chinese government mandates that all employees support its Party code of atheism. Some of these ethnic Tibetan officials have been threatened with termination because their children were studying in India. Although it is not clear, a strong likelihood exists that these children were studying, at least in part, Tibetan Buddhist teachings. Because the Chinese government cannot control this, as it does in the TAR and other Tibetan regions, government officials will not allow ethnic Tibetans to bypass the government’s controls by sending their children elsewhere for education. Hence the Chinese government has forced these Tibetans to bring their children home and to study under the Chinese educational system in pace for Tibetans.⁵³

97. China is attempting to seize control over the selection process of the second most powerful leader in Tibetan religious and historically political, life. The Panchen Lama is charged with selecting the reincarnation of the Dalai Lama. This kind of move is the equivalent of cultural genocide, because China is a communist country. Its dedication to religious perpetuation is doubtful. China arguably regards the practice of Tibetan religion as a threat to its political control of Tibet, that by the very nature of its religious practices, the Tibetan people are advocating independence from China.

98. While the Chinese constitution of 1982 protects the freedom of religious belief, it further explains that the practice of religion may no involve “activities that disrupt public order, impair the health of citizens or interfere with the educational system of the state.”⁵⁴

99. For Tibetans, the impact of this language is that their freedom of religion is severely and unjustifiably restricted. These restrictive policies of the Chinese government are motivated by the state's goal to instill "correct thought".
100. China is blatantly and intentionally violating the U.N. Charter, the UDHR, the ICCPR, and the ICESCR. It has pledged to uphold the Fundamental human right of freedom of religion, and yet, its internal policies demonstrate not merely interference with the religion of one of its minority groups, but said religion's potential destruction by placing it in the hands of the Chinese government that boasts of a code of atheism. Tibetan Buddhism plays a crucial role in the daily lives of Tibetans. By restricting how they may practice their religion the Chinese government is undermining their very existence as a people.

B. Torture

101. Under Article 1 of the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, torture is defined as:
- ... any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information of a confession... or intimidating or coercing... or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.⁵⁵
102. Under Article 2, the Convention states that "no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture."⁵⁶
103. China became legally bound to this Convention in 1988, upon its ratification. Article 2 of the Convention further provides that "[e]ach State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction."⁵⁷
104. Article 4 of the Convention states that "[e]ach State Party shall ensure that all acts of torture are offences under its criminal law."⁵⁸
105. Under China's Criminal Procedure Law revised in 1996, Article 43 states under "evidence gathering" that "[t]he use of torture to coerce statements and the gathering of

evidence by threats, enticement, deceit or other unlawful methods are strictly prohibited.”⁵⁹ Therefore, China is legally obligated to ensure these laws are not violated in Tibet. However, according to the TCHRD, China has breached these obligations, and continues to torture Tibetans detained by the government.⁶⁰ The total number of confirmed deaths in Tibet due to Torture from 1987 to 2000 are 67.⁶¹ Scores of Testimonies about torture while in detention or imprisonment exist.

106. Several organizations have documented the examples of torture routinely faced by Tibetans who are detained or imprisoned.

107. According to the U.S. Department of State, “credible reports” say that China’s violations of human rights within Tibet include torture, arbitrary arrest, detention without public trial, and long detentions of Tibetan nationals simply for peacefully expressing their political views.⁶²

108. HRW/ Asia and Tibet Information Network (TIN), the International Committee of Lawyers for Tibet, and the U.S. State Department all report on the widespread use of torture by Chinese authorities against Tibetans. According to TIN, HRW/ Asia, and TCHRD, common forms of torture are electric shock; hanging prisoners by various painful methods, including by thumb cuffs; exposure to extreme temperatures; forced blood and fluid extractions; self – tightening handcuffs, with inner teeth that pierce the skin when handcuffs tighten; starvation; gender-specific torture for women, such as rape, sodomy, and mistreatment of the breasts, denial of medical attention; and solitary confinement. Many Tibetans being detained or fearing detention have committed suicide.

109. Although authorities try to tie instances of the use of torture to political threats posed by the detainee, many examples of torture exist based solely on religious grounds.⁶³ In 1997, a monk who was returning to Tibet from India was arrested. For nearly two weeks, he was isolated and given no food. When guards discovered he possessed a photograph of the Dalai Lama and he refused to step on it, he was badly beaten. Further beatings for failure to salute prison officials have left him with memory loss.⁶⁴

110. Other forms of torture include psychological and emotional infliction of pain and suffering. In one example of this, a 21 year old monk was questioned about his involvement with the “splittists”, and severely beaten during this interrogation. Officials released him so that he had “time to thin”. When he learned that he in fact was going to be

arrested, he committed suicide.⁶⁵ Chinese officials often claim detainees or prisoners have committed suicide when they have died while in custody.

111. The forms of torture experienced by Tibetans and inflicted by Chinese controlled police and the military are evidenced by deep psychological, emotional, as well as physical abuse. Such kinds of torture cannot be inflicted unknowingly. Instead some motivation clearly appears to exist, a motivation stemming from any one interfering with “public order.” However, as international law recognizes, torture cannot be justified under any circumstances of domestic national security. This systematic use of torture against Tibetans for religious expression must end.

E. Arbitrary Arrests and Detentions

112. According to the U.N. Working Group on Arbitrary Detention, arbitrary detention is defined as:

Cases of deprivation of freedom when the facts giving rise to the prosecution or conviction concern the exercise of rights and freedoms protected by certain articles of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.⁶⁶

113. The Universal Declaration of Human Rights in Article 9 provides that “[n]o one shall be subjected to arbitrary arrest, detention or exile.”

114. The International Covenant on Civil and political Rights states under Article 9 that:

- i. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.
- ii. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
- iii. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release...

iv. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

115. Although China has signed the ICCPR, though not yet ratified this covenant, China is bound in principle and has agreed to uphold the provisions of the ICCPR.

116. In its 1996 revision of the Criminal Procedure Law, China broadened the scope of illegal activities from “counterrevolutionary” to all activities “endangering state security.” This change essentially gives Chinese authorities greater discretionary latitude in determining what activities it deems illegal. Hence acceptable behavior by police now includes detaining or arresting anyone it deems may be threatening “state secrets” and can detain such persons without representation during the investigation and interrogation periods.⁶⁷

117. One of the public examples of such a violation was the arrest and detention of Chadrel Rinpoche, who was the Buddhist leader in Tibet heading the search for the next Panchen Lama. Within days after the announcement of that the Dalai lama had chosen Gedhun Choekyi Nyima as the 11th Panchen Lama, Chadrel Rinpoche was arrested. He was the abbot of the Tashi Lhunpo Monastery and a highly respected religious leader. For nearly two years, Chinese authorities refused to provide the specific reasons for his arrest. However, within months after his arrest, he was officially replaced as head of the monastery with a pro-Beijing hard-liner. And a campaign to denounce him in the press was begun. He was labeled a “criminal” and the “scum of Buddhism”. Finally, in April 1997, the government announced that Chadrel Rinpoche had received a six-year sentence, with an additional three-year deprivation of his political rights, after a closed-door trial. This kind of trial was required because of the “national security” issues involved. Chadrel Rinpoche was convicted of: “conspiring to split the country”, “colluding with separatist forces abroad”, seriously jeopardizing the national unification and unity of ethnic groups”, and “leaking state secrets”. He is currently being held in one of the strictest and most secret compounds in the Chinese prison system. He reportedly is denied all contact, even from his family, and cannot leave his cell. In 1997, although Chadrel Rinpoche was in poor health, TIN reports that he had begun a hunger strike.⁶⁸

118. According to the TCHRD, the change in language in the Chinese Criminal Procedure Law lacks any restriction on the use of arbitrary arrest and detention. In fact it allows *any* expression or act to prompt arrest and detention if such act or expression is somehow deemed contrary to “Chinese official ideology”.⁶⁹ Furthermore arrest and detention extend to persons engaged in nonpolitical acts with others who have engaged in political activities.⁷⁰
119. The ICJ cites the following activities as grounds for arrest and detention: peaceful demonstration; writing or distribution of leaflets; communication with foreigners; or communication with the Tibetan government-in-exile.⁷¹
120. Arbitrary arrests and detention coupled with the systematic use of torture for Tibetans expressing their religious beliefs is manifestly a violation of international law. No justification exists for the kinds of arrests and detentions nor for the frequencies of these arrests and detentions experienced by Tibetans. The Chinese government controls the means by which these arrests are made and therefore is responsible for them.

F. Extrajudicial Killings

121. The UDHR states in Article 3 that all persons have “the right to life, liberty and security of person.”
122. The means by which China subjects Tibetan citizens to extrajudicial killings are twofold: indiscriminate shootings into crowds of people during some form of demonstration, usually peaceful; and torturing detained to the point of death, and then releasing them to die elsewhere.⁷²
123. The most recent example of the indiscriminate shootings and killings occurred in Drapchi prison in May 1998. Although the number of deaths cannot be confirmed due to China’s strict control over any information about this event reaching outside China, at least 18 Tibetans are believed to have died. The events surrounding this violent outbreak occurred over two days in May 1998. Tibetan prisoners were demonstrating inside the prison, and guards reacted with gunfire shot into the air, although information suggests that the demonstrators were directly shot at, and bayonets, sticks and cattle prods were used apparently to subdue the demonstrators.⁷³ Additional information points out that many dead are monks, nuns and layperson all imprisoned for non-violent “offenses”.⁷⁴

124. The second technique is commonly used on Tibetans in China is torture of an individual to the point of near death and release of the prisoner who often dies outside the prison or detention center. Thus, authorities effectively relinquish control and claim the prisoner died of some other cause. Also common is to send the prisoner to a hospital but provide no medical care. In this case, officials can again claim other reasons to be the cause of death of the detainee.
125. According to the TCHRD, the known number of deaths due to torture occurring in 1998 alone is 14 and from 1987 to 2000 is 67.⁷⁵
126. The extrajudicial killings of Tibetans occurring from indiscriminate shootings or excessive torture are abusive of the due process rights and fundamental freedoms guaranteed to Tibetans as citizens of China under international law. The lack of any meaningful judicial system further evidences an unwillingness on the part of China to effectively respond to the evidence that demonstrate violations of the rights of Tibetans. China is bound under international law to respond to the alleged abuses of Tibetans.

VIII. PRAYER

127. Pursuant to the U.N. Charter, Article 22, Petitioners pray for the formation of an Ad Hoc Commission to function as an Ad Hoc Tribunal to be convened by a resolution of the General Assembly to hear the complaint of Petitioners on behalf of Tibetans within China, and to investigate the allegations of deprivation of the right to freedom of religion, torture, arbitrary arrest and detention, and extrajudicial killings.
128. Petitioners also pray that the United Nations authorize a full investigation of the matters presented in this petition and subsequently authorize a public disclosure of all evidence and findings of fact at the conclusion of such investigation. Petitioners also pray that the Ad Hoc Commission be authorized to function as an International Criminal Tribunal to try officers and agents of the respondent People's Republic of China under international criminal law.
129. Petitioners also pray that proper sanctions be taken against the respondent Government of the People's Republic of China for any refusal to comply with any of the orders or decisions that an Ad Hoc Tribunal or any other organ of the United Nations makes in relation to this matter.

130. Petitioners also pray that the United Nations establish an Ad Hoc Commission for Writ of World Habeas Corpus to adjudicate all cases of deprivation of human liberty.

Respectfully submitted,

Endnotes

¹ The scope of this petition has been purposely limited to Freedom of Religion issues. Although political issues necessarily arise regarding the question of independence for Tibet, this petition does not address self-determination. The focus, instead, is on the deprivation of the right to freedom of religion and associated rights” violations suffered by Tibtans within the People’s Republic of China.

² Information for this section is provided by: Internatioanal Commission of Jurists, *Tiebt: Human Rights and the Rule of Law*, 27-53, (1997); Andrew G. Dulaney and Dennis M. Cusack, International Committee of Lawyers for Tibet, and Dr. Michael can Walt van Praag, Unrepresented Nations and People’s Organizations, *The Case Concerning Tibet: Tibet’s Sovereignty and the Tibetan People’s Right to Self Determination*, (June 1, 1998) <<http://www.tibetict.org/reports/sovereignty/index.html>>

³ International Commission of jurists, *The Questions of Tibet and the Rule of Law*, 12(1959); International Commission of Jurists, *Tibet and the Chinese People’s Republic*, 7(1960).

⁴ International Commission of Jurists, *Human Rights and the Rule of Law*, at 269-85.

⁵ Human Rights Watch/Asia, *China: State Control of Religion*, 43-44 (1997).

⁶ Tibetan Center for Human Rights and Democracy, *Annual Report 2000: Enforcing Loyalty* 25 (2001)

⁷ *Id.*

⁸ *Id.*

⁹ ICJ, *Tibet: Human Rights and the Rule of Law*, at 276.

¹⁰ *Id.* At 277.

¹¹ *Id.* At 285-89.

¹² Tibetan Center for Human Rights and Democracy, *Annual Report 2000: Enforcing Loyalty* 32 (2001)

¹³ Tibetan Center for Human Rights and Democracy, Dharamsala, India.

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- ¹⁴ Tibetan Centre for Human Rights and Democracy Press Release 13 July 2001
- ¹⁵ TCHRD, *Behind Bars: Prison Conditions in Tibet*, 90-91 (1999)
- ¹⁶ *Id.*
- ¹⁷ Tibetan Center for Human Rights and Democracy, *Annual Report 2000: Enforcing Loyalty* 16 (2001)
- ¹⁸ Tibetan Center for Human Rights and Democracy, *Annual Report 1998: Human Rights Violations in Tibet*, 119 (1998).
- ¹⁹ *Id.* At 11, 13.
- ²⁰ *Id.* At 13, 19.
- ²¹ Tibetan Center for Human Rights and Democracy, *Annual Report 2000: Enforcing Loyalty* 14 (2001)
- ²² *Id.*
- ²³ Tibetan Information Network & Human Rights Watch / Asia, *Cutting Off the Serpent's Head: Tightening Control in Tibet (1994-95)*, 52-69 (1996).
- ²⁴ TCHRD, *Tales of Terror*, at 31.
- ²⁵ *Id.*
- ²⁶ *Id.*
- ²⁷ Tibetan Center for Human Rights and Democracy, *Annual Report 2000: Enforcing Loyalty* 30 (2001)
- ²⁸ *Tibetan Review*, 450 Tibetans murdered in Lhasa riot of March '89 – Chinese journalist presents documentary evidence. (September 1990).
- ²⁹ TCHRD, *Tales of Terror*, at 2-4.
- ³⁰ Andrew G. Dulaney and Dennis M. Cusack, International Committee of Lawyers for Tibet, and Dr. Michael van Walt van Praag, Unrepresented nations and Peoples Organizations, *The Case Concerning Tibet: Tibet's Sovereignty and the Tibetan People's Right to Self-Determination*, (June 1, 1998)
- ³¹ Tibetan Center for Human Rights and Democracy, *Annual Report 2000: Enforcing Loyalty* 108-110 (2001)
- ³² Constitution of the People's Republic of China, at. 36.
- ³³ TCHRD, *Annual Report 1998*, at 28-30.
- ³⁴ TCHRD, *Tales of Terror*, at 2.

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- ³⁵ TCHRD, *Behind Bars: Prison Conditions in Tibet*, 20-25 (1999).
- ³⁶ ICJ, *Tibet: Human Rights and the Rule of Law*, at 201.
- ³⁷ Charter of the United Nations (as amended).
- ³⁸ Universal Declaration of Human Rights (G.A. Res. 217A(III), at 71, U.N. Doc A/180 (1948)).
- ³⁹ International Covenant on Civil and Political Rights (G.A. Res. 2200 (XXI), 21 U.N. GAOR Supp. (No. 16) at 22, U.N. Doc. A/6316 (1996)).
- ⁴⁰ China signed the ICCPR in 1998, but has not yet ratified it. Notwithstanding this procedural hurdle, by becoming a signatory to this Covenant, China has manifested its intention to be bound by the principles contained in the ICCPR. Additionally, China has signed though not yet ratified, the International Covenant on Economic, Social and Cultural Rights. Similarly, China's status as a signatory demonstrates its intention to be bound by the Covenant.
- ⁴¹ China White Paper, <<http://www.Chinanews.org/WhitePapers/TibetE-9.html>>
- ⁴² U.S. Department of State, *1998 Human Rights Report: China Country Report on Human Rights Practices for 1998* (1999)
- ⁴³ TIN & HRW/Asia, *Cutting Off the Serpent's Head*, at 33.
- ⁴⁴ *Id.* At 34.
- ⁴⁵ *Id.* At 35.
- ⁴⁶ ICJ, *Tibet: Human Rights and the Rule of Law*, at 285-89.
- ⁴⁷ *Id.*
- ⁴⁸ *Id.*
- ⁴⁹ HRW/Asia, *China: State Control of Religion*, at 49-50.
- ⁵⁰ ICJ, *Tibet: Human Rights and the Rule of Law*, at 279-81.
- ⁵¹ *Id.*
- ⁵² *Id.*
- ⁵³ *Id.*
- ⁵⁴ Constitution of China, art. 36.
- ⁵⁵ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (G.A. Res. 39/46 (Annex), U.N. GAOR, 39th Sess., Supp. No. 51, at 197, U.N. Doc. A/39/51).
- ⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ TCHRD, *Annual Report, 1998*, at 29-30.

⁶⁰ *Id.*

⁶¹ *Id.* At 113.

⁶² U.S. Department of State, *1998 Human Rights Report: China Country Report on Human Rights Practices for 1998* (1999).

⁶³ TCHRD, *Annual Report 1998*, at 35.

⁶⁴ *Id.*

⁶⁵ *Id.* At 34.

⁶⁶ *Id.* At 12.

⁶⁷ *Id.* at 13.

⁶⁸ HRW/Asia, *China: State Control of Religion*, at 49-50.

⁶⁹ TCHRD, *Annual Report 1998*, at 12-17.

⁷⁰ *Id.*

⁷¹ ICJ, *Tibet: Human Rights and the Rule of Law*, at 232-44.

⁷² *Id.* at 31.

⁷³ *Id.* at 31.

⁷⁴ *Id.* at 30-31.

⁷⁵ Tibetan Center for Human Rights and Democracy, *Annual Report 2000: Enforcing Loyalty* 108-110 (2001)