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PEOPLE'S REPUBLIC OF CHINA

Repression in Tibet, 1987 - 1992

Introduction: "Dictatorship for those who deserve dictatorship"

Amnesty International's concerns in Tibet

This report is about human rights violations of concern to Amnesty International against members of the Tibetan minority in the People's Republic of China (PRC). Focusing on events in the past five years, the report describes the historical and legal contexts within which human rights violations have occurred and highlights patterns of gross human rights violations. Arbitrary arrests, the widespread use of torture and ill-treatment of detainees, the long-term detention of prisoners of conscience¹ and a record of killings of unarmed demonstrators are among Amnesty International's major concerns in Tibet.

Since the start in late 1987 of a series of demonstrations by Tibetans advocating independence, and especially after the proclamation of martial law in Lhasa, capital of the Tibet Autonomous Region (TAR) in March 1989, thousands of Tibetans have been detained under administrative procedures. While many have been released after several weeks, hundreds of others, including prisoners of conscience, remained in detention without trial, serving terms of "re-education through labour" imposed by administrative agencies. In early 1992, over 200 political prisoners and prisoners of conscience were known to be detained in such circumstances.

In addition to administrative detainees, dozens of other Tibetan prisoners of conscience are serving long prison sentences imposed after trials which fell far short of international standards for fairness. They include Buddhist monks and nuns held for peacefully advocating Tibet's independence from China; lay Tibetans found in possession of banned books or texts of prayers which refer to the Dalai Lama² as a political leader; and people accused of instigating demonstrations or of distributing leaflets produced

¹ Prisoners of conscience are people imprisoned, detained or otherwise physically restricted by reason of their non-violent political, religious or other conscientiously held beliefs or on account of their ethnic origin, sex, colour or language.

² The Dalai Lama is the highest figure in Tibetan Buddhism. His former residence was Lhasa, capital of central Tibet and, since 1965, capital of the TAR. He went into exile in India in 1959, following an unsuccessful uprising by Tibetans against Chinese rule in Tibet.

clandestinely. Prisoners of conscience in Tibet include people accused of links with the Dalai Lama, who have been charged with "counter-revolutionary" offenses. While most Tibetan prisoners of conscience have been imprisoned after 1987, others are still held as a result of sentences passed in the late 1970s and early 1980s.

Torture and ill-treatment of political detainees have been systematically used against detainees in Tibet, particularly in periods of heightened tension such as during the period when martial law was in force in Lhasa from March 1989 to May 1990. Methods of torture and ill-treatment have included prodding with electric shock truncheons, suspending prisoners from the ceiling of cells and keeping prisoners shackled by their hands and feet for long periods. Former prisoners have reported that imprisonment in small windowless cells and deprivation of adequate food are used as methods of punishment. Children and young women are among those who have been tortured and ill-treated.

Martial law enforcement troops at the foot of the Potala Palace, in Lhasa, 10 March 1989.

Cases of death in custody as well as deaths of former detainees within days of their release, allegedly as a result of ill-treatment in detention have been reported. Other prisoners have reportedly had to undergo weeks of medical treatment after their release because of ill-treatment suffered in detention.

At least 200 civilians were killed by security forces in successive incidents, including violent riots, between 1987 and 1990, when police and army units fired on demonstrators calling for Tibetan independence from China. These demonstrations in some cases ended as violent riots, but in two instances demonstrators were killed when security forces opened fire on peaceful protests. To Amnesty International's knowledge, no independent or impartial inquiries have been initiated by the authorities into these killings, some of which may have been extra-judicial executions.

The death penalty remains in force in the TAR as it is throughout the PRC. According to official reports, 15 death sentences have been meted out in Tibet since 1990, but Amnesty International fears that the actual number may have been higher. One political prisoner accused of killing a policeman was sentenced to death with a two-year reprieve in January 1989, his sentence was commuted in early 1991. Two prisoners sentenced to death and executed in May 1990 for attempting to escape from prison were alleged to have been

originally imprisoned for political activities. Trial procedure which fall far short of international standards for fairness make it likely that, in Tibet as elsewhere in the PRC, prisoners who face the death penalty lack proper opportunities to present a defence or to appeal their sentence.

The present report is based on information gathered by Amnesty International from official Chinese publications and documents, interviews with Tibetans outside the PRC and documents obtained from unofficial sources in Tibet. Information available from authorised sources in the PRC is limited by strict censorship. The Government of the PRC has never permitted Amnesty International to conduct research in the country; repeated requests by the organization in 1988 and 1989 to attend the trials of leading Tibetans dissidents have remained unanswered. In July 1991, Amnesty International wrote to Gyaltzen Norbu, president of the TAR, to inform him of Amnesty International's continuing wish to send representatives of the organization to Tibet. This request was repeated in early 1992 but no response was received. In an interview with the Hong Kong newspaper *Wei Wei Po* on 21 April 1991, Gyaltzen Norbu had referred to international criticism of the human rights situation in Tibet and expressed the wish that "people who have an interest in Tibet's human rights conditions come and visit Tibet".

Over the years Amnesty International has conducted a large number of interviews with Tibetans who had recently left the TAR for other countries. While the organization is not in a position to verify all the information obtained through these interviews, it believes that the trends and patterns of human rights violations documented in these interviews reflect practices which other evidence indicates have been prevalent in Tibet in the last five years.

Amnesty International takes no position on territorial issues. The organization neither endorses nor opposes the views of Tibetan prisoners of conscience who peacefully advocate independence or self-determination for Tibet.

This report is primarily based on information received by Amnesty International from unofficial sources in Lhasa. It also contains information from interviews with Tibetans, including former prisoners, who have left Tibet in recent years, from media and other reports published outside Tibet, and from government statements and official press reports in the PRC. The recommendations set out at the end of this report have been drawn by Amnesty International in accordance with international standards for the protection of human rights which constitute the basis of Amnesty International's worldwide, impartial work for the protection of human rights.

Tibetans in the People's Republic of China

The TAR, with an area of over 1.228 million sq. kilometres, has a total population of 2.196 million, including about 100,000 non-Tibetans, according to official preliminary results from

the 1990 census carried out in the PRC. There are about 4.59 million Tibetans in the PRC according to the census, including 2.096 million living in the TAR and 2.494 million living in other regions of the PRC, mainly in the Tibetan autonomous prefectures neighbouring the TAR. The Tibetans are one of the 55 officially recognized "national minorities" in the PRC.

This report covers human rights violations in the Tibetan Autonomous Region of Xizang, usually referred to as the Tibet Autonomous Region, or simply Tibet, and in a number of Tibetan autonomous prefectures in the provinces of Qinghai, Gansu, Sichuan and Yunnan in the west and southwest of the PRC.

The Dalai Lama, the highest figure in Tibetan Buddhism, was the nominal head of the government in Tibet until his departure into exile in 1959. Prior to this the relationship between the central government of the PRC and the "local government" of Tibet was regulated by a convention known as the Seventeen-Point Agreement, signed in Beijing on 23 May 1951. The PRC, established on 1 October 1949, declared its sovereignty over Tibet, as its predecessor the Republic of China had done previously. The Tibet Autonomous Region was formally established on 9 September 1965 as one of the five autonomous regions of the PRC.

Advocates of Tibetan independence have denied that Tibet was part of China and many prisoners of conscience have been imprisoned for expressing this view, which the PRC authorities have stated is contrary to the constitution.

"Dictatorship for those who deserve dictatorship"

The human rights violations of concern to Amnesty International described in the present report have occurred in a context of political and ethnic tension which has repeatedly been ascribed by government leaders to "a small number of separatists". Since 1987 senior political leaders in the PRC, such as Chinese Communist Party (CCP) General Secretary Jiang Zemin, have criticized expressions of concern over human rights in Tibet as constituting attacks on the national and territorial integrity of the PRC. In a speech at a conference on "national minority work" held in Beijing and reported on 15 January 1992, Jiang Zemin stated:

"China is historically a multi-ethnic country; in its extended historical development, it has been shaped over a long period into a strongly cohesive Chinese nation [*zhonghua minzu*]. In order to reinforce the great union of all nationalities, ethnic chauvinism as well as local nationalism must be opposed. In order to preserve the homeland's unity, we must wage a determined struggle against a tiny number of separatists."³

³ Fazhi Ribao (Legal Daily), 15 January 1992. The words *minzu* and *zu* are translated either as "nationality", "nation" or as "ethnic", depending on the context and for the sake of clarity.

There are indications that the repression of "separatism" has been central to government policy in Tibet during the past several years. The title of this introduction, *"Dictatorship for those who deserve dictatorship"*, is taken from an official, confidential document⁴ issued in December 1988 by the TAR Regional Chinese People's Political Consultative Conference, a constitutionally recognized body with no executive power. This document gives an indication of the attitude of the authorities towards the political unrest in Tibet in 1988. The Chinese People's Political Consultative Conference had discussed the situation in Tibet, including the suppression of demonstrations in favour of Tibetan independence which had taken place earlier in the year, before producing the document.

The section of the document entitled *Synthesis of Tibet's realities, questions concerning the administration of the social and political environment* contained the following remarks:

- "1. Rumours are numerous in Lhasa, this is one cause of instability. Rumours mostly come from separatist elements. However they are also not unrelated to the inability of our propaganda and education to keep up with the situation... This gives the separatist a terrain they can occupy...
- "2. A pointed struggle must be developed against the separatist forces. Educating the cadres and the masses, especially youth, into correctly knowing Tibet's present and past, must be taken as a long-term, day-to-day task...
- "3. On the question of separatism or unity, there is no compromise or [room for] latitude whatsoever. At present there are many people carrying out wanton acts in society. These must be severely attacked. One cannot avoid emphasizing the dictatorship of the proletariat. Dictatorship for those who deserve dictatorship."⁵

⁴ Document 33 (1988) of the Office of the TAR Committee of the Chinese People Political Consultative Conference.

⁵ *Gai zhuanzhengde, yiding yao zhuanzheng*. Literally: "Those who ought [to be submitted to] dictatorship will imperatively [be submitted to] dictatorship." See Section 2. 4 of the present report for an explanation of the doctrine of "dictatorship" in relation to political offenders.

A noticeboard in Shigatse, a city southwest of Lhasa, with an official warning against political activities in support of Tibetan independence (Spring 1988). © *P. Hinze*

The conference's document suggested that "dictatorship"⁶ should be applied to "separatists", who are identified broadly as those advocating the independence of Tibet or other political views. Amnesty International is concerned that this and other similar statements indicative of government policy have provided the authorities with a mandate to repress the peaceful expression of dissenting political views.

⁶ Article 1 of the Constitution of the PRC, adopted in 1982, defines the PRC as "a socialist state under the people's democratic dictatorship...". Article 1 of the Criminal Law of the PRC, adopted in 1979, says that the Criminal Law is "formulated... in light of... the dictatorship of the proletariat...". Article 2 indicates that one of the Criminal Law's tasks is to "use criminal punishments to struggle against all counterrevolutionary and other criminal acts in order to defend the system of the dictatorship of the proletariat...". "Dictatorship in this context can broadly be defined as the force of the socialist state, backed by the law.

Chapter 1: A legacy of human rights violations

There have been reports of acute violations of human rights in Tibet by government authorities since the early years of the PRC. Due to restrictions on access and information, Amnesty International is not able to fully investigate such allegations of past violations. Nevertheless, it is concerned that patterns of long-term imprisonment of prisoners of conscience and trial procedures which fall far short of international standards for fairness are long-standing and continuing.

This chapter outlines these patterns of past human rights violations. It also summarizes official positions of the PRC authorities concerning international human rights standards and international monitoring of human rights, and describes developments in Amnesty International's work on its concerns in Tibet.

1.1 Long-standing violations of human rights in Tibet

The imprisonment of prisoners of conscience held over decades and other grave violations of human rights in Tibet have been reported to Amnesty International since the early 1970s. The cases described below are some of those Amnesty International has information about. They concern victims of past human rights violations but some of them still suffer from such violations.

After a violent uprising in 1959, when the Dalai Lama went into exile in India, thousands of people accused of involvement in the government hitherto headed by the Dalai Lama or suspected of opposing, sometimes with violence, policies of the PRC, were reportedly interned without trial, or after unfair trials, in forced labour camps. Tibetans who say they were interned in such camps have reported that thousands of prisoners in those camps died in detention, many allegedly as a result of harsh conditions and ill-treatment. Others were gradually released during the 1970s.

There were violent clashes in Tibet between members of armed opposition groups and the People's Liberation Army of the PRC throughout the 1960s and 1970s. Suspected members of armed opposition groups were detained during that period; some were executed following summary trials, others were imprisoned and reportedly severely tortured. Many such prisoners were reportedly released between 1980 and 1982.

A former political prisoner who had been detained from 1969 to 1984 in Naqu district, northeast of Lhasa, for participating in armed opposition activities against units of the People's Liberation Army, alleged in an interview with Amnesty International that torture and ill-treatment of detainees were widespread at that time.

After 1979 a gradual relaxation of government policy towards religious activities occurred and Buddhist temples, monasteries and nunneries closed or destroyed during the previous decades were restored and reopened. However, politically motivated arrests of Buddhist monks continued. Karma Dhorong, for example, a hermit in Jodha district in the TAR was reportedly detained in December 1980 for preaching Buddhism. His subsequent fate is unknown.

In November 1978 some 34 Tibetan political prisoners imprisoned between 1959 and 1966 were reportedly released; the release of 376 others held for "taking part in the 1959 armed rebellion" was announced in March 1979. It was unclear whether those released had ever been tried in formal courts.

1.2 Long-term political prisoners and prisoners of conscience

Tibetans suspected of opposing policies of the PRC in Tibet have been held as political prisoners and prisoners of conscience for lengthy periods, some for decades. The charges held against these individuals are unknown and it is not always certain that their imprisonment resulted from a prison sentence imposed after formal trials.

The cases summarized below are examples of prisoners of conscience known to Amnesty International, who have been imprisoned before the period covered by the main body of the present report (1987 to 1992). With the exception of Lobsang Wangchuk, who died in detention in 1987, they are all prisoners of conscience currently of concern to Amnesty International. Some of them had served lengthy prison terms as prisoners of conscience or political prisoners in the past 30 years, before being released and imprisoned again.

Tane Jigme Sangpo

A former primary school teacher born in 1934, Tane Jigme Sangpo is considered an authority on Tibetan history, literature and language. He was reportedly first arrested in 1960 while teaching at a Lhasa primary school and charged with "corrupting the minds of children with reactionary ideas". He was released from prison in 1979 and sent to work under supervision in a Labour Production Brigade in Netang, southwest of Lhasa. He was reportedly detained again in September 1983.

Amnesty International has been investigating since 1985 the case of Tane Jigme Sangpo but government authorities in Tibet and in Beijing have never replied to Amnesty International's requests for information. In December 1991 Amnesty International received

⁷ The transcription of Tibetan names in the present report may differ from that used in earlier Amnesty International publications.

reports that Tane Jigme Sangpo was one of four prisoners who were put into solitary confinement in Drapchi prison⁸ in Lhasa on 6 December 1991 because one of them reportedly shouted slogans supporting Tibetan independence.

Drapchi Prison, north of Lhasa. The prison is believed to house about 300 inmates, including almost 100 political prisoners. © Tibet Information Network.

The present conditions of detention of Tane Jigme Sangpo and the three other prisoners are unknown. Amnesty International is concerned at reports that they have been held in solitary confinement in conditions which may amount to torture or cruel, inhuman or degrading treatment. Amnesty International is also concerned about the state of health of Tane Jigme Sangpo, who has spent a total of over 25 years in detention and whose health was reported in 1985 to have seriously deteriorated.

Yulo Dawa Tsering

On 19 January 1989, Yulo Dawa Tsering, a senior monk from Ganden monastery in Lhasa, was sentenced to 10 years' imprisonment for "counter-revolutionary" offenses. He was tried together with 12 other "counter-revolutionaries", who received sentences of up to 14 years' imprisonment. He had been detained for questioning on 26 December 1987 and is believed to have remained in custody until his formal arrest on 9 March 1988, announced on the same day in a broadcast on the official Lhasa Radio, which reported the following description of his case:

"Criminal Yulo Dawa Tsering, aged 51... was sentenced to life imprisonment by the People's Court in 1959 for participating in the rebellion. He was released in a special amnesty in 1979... On the morning of 24 July 1987, in collaboration with criminal Thupten Tsering, he spread reactionary views, such as Tibetan independence, to foreign reactionary elements who came to Tibet as tourists, and viciously vilified the policies adopted by the CCP and the people's government.

"On 26 December 1987, he collaborated with foreign reactionary elements in conducting reactionary propaganda and agitation, and attempted to overthrow

⁸ Drapchi is a commonly used name for the prison officially known as the Tibet Autonomous Region Prison No 1. Drapchi appears to normally hold prisoners who have been sentenced after a formal trial. Other prisoners, particularly those who have not undergone a formal trial, are held in "detention centres" (*kanshousuo*). The institutions known as Gutsa, Sangyip, Seitru and Utridu appear to be such detention centres.

the people's democratic dictatorship and the socialist system. He was thus taken into custody by the Public Security Bureau for investigation. During the investigation, criminal Yulo Dawa Tsering confessed: one purpose of my conversations with foreigners was to inform the Dalai [Lama] through the foreigners, and the other purpose was to win support from other countries in the world so that we can win Tibetan independence as quickly as possible.

"After investigation the procuratorial organs held that the criminal Yulo Dawa Tsering committed the crime of spreading counter-revolutionary propaganda and agitation and that his act violated Clause 2 of Article 102 of the Criminal Law of the PRC. With the approval of the relevant department, the Public Security Bureau arrested him and will lodge a public prosecution against him in the People's Court."

Yulo Dawa Tsering had been given a life sentence in 1959 for taking part in the Tibetan rebellion of that year, and benefitted from an amnesty in 1979 together with other long-serving political prisoners. He held a number of official posts from 1984 to 1987, including as a member of the Buddhist Association in Lhasa. He also taught Buddhism in Ganden Monastery and in the Tibetan Buddhism Institute in Lhasa between 1980 and his detention in 1987.

Amnesty International considers Yulo Dawa Tsering to be a prisoner of conscience, imprisoned solely on account of his peaceful advocacy of political views. Requests by the organization to send an observer to his trial, which was held in Lhasa in January 1989, were not answered by the authorities of the PRC.

Tamdin Sithar

Tamdin Sithar, a 46 year-old Tibetan, is serving a 12-year prison sentence imposed in 1984, apparently for possession of a printed statement by the Dalai Lama. He had reportedly been previously detained without trial between 1971 and 1975 on account of his alleged membership in a youth group calling for Tibet's independence from China and also apparently because of his family background: Tamdin Sithar is a relative of the former Junior Tutor of the Dalai Lama.

Tamdin Sithar had been transferred to work under supervision in a labour brigade near Lhasa, after his release from prison in 1975. He was re-arrested on 26 August 1983, apparently because he was found in possession of a statement by the Dalai Lama commemorating the 24th anniversary of the 1959 rebellion in Lhasa.

Tamdin Sithar is believed to have been tried by the Lhasa Intermediate People's Court in August or November 1984, but the exact charges against him are unknown. He is now reportedly held in Drapchi prison in Lhasa. A number of other Tibetans detained in

1983 have been accused of "counter-revolutionary crimes" because they advocated Tibetan independence. The charges against Tamdin Sithar appear to have been similar, although some reports indicated that he may also have been charged with "espionage".

In other cases the possession of texts about Tibetan independence has been grounds for arrest in Tibet under such "espionage" charges. Amnesty International has been investigating Tamdin Sithar's case since 1985; the organization believes the accusations against Tamdin Sithar were related solely to the peaceful exercise of internationally-recognized rights, and has adopted him as a prisoner of conscience.

Lobsang Wangchuk

Buddhist monks imprisoned during the 1980s for peacefully protesting against government policies included Lobsang Wangchuk, a Buddhist scholar reportedly arrested in late 1981. Lobsang Wangchuk was sentenced in 1984 to 18 years' imprisonment for "engaging in counter-revolutionary activities and committing the crime of splitting the motherland", according to a report from the semi-official China News Service in September 1987. Lobsang Wangchuk is reported to have written texts on the history of Tibet, the contents of which he refused to retract. He was reportedly severely ill-treated at the outset of his detention, between 1982 and 1984, and again in 1987, when he was alleged to have become unable to work due to ill-treatment by prison officials. He died in detention, at the age of 73, in November 1987.

Lobsang Wangchuk had first been arrested in September 1960 and sentenced to 10 years' imprisonment for taking part in the "counter-revolutionary rebellion" of 1959, according to a statement made in March 1988 by Gyamco, a vice-chairman of the TAR government.

1.3 The legal framework in the Tibetan Autonomous Region and Autonomous Prefectures

Long-standing human rights violations such as those outlined above have occurred in Tibet as a result of the policies and practices of both the TAR government and the central government of the PRC. The present section offers an overview of the legal framework and safeguards for human rights in force in Tibet.

The TAR was formally established in September 1965. The Tibetan autonomous prefectures were established between 1951 and 1967. The successive constitutions of the PRC since 1954 have provided for the establishment of autonomous governments in areas inhabited by relatively large populations of "national minorities". The 1982 constitution now in force provides (Article 4) that:

"Regional autonomy is practised in areas where people of minority nationalities live in compact communities; in these areas organs of self-government are established for the exercise of the rights of autonomy."

According to Article 115 of the constitution, agencies of self-government in autonomous areas exercise the powers of "local organs of state", similar to their counterparts in other areas of the country. Article 115 adds that:

"At the same time, [agencies of self-government] exercise the power of autonomy within the limits of their authority as prescribed by the constitution, the law of regional autonomy and other laws, and implement the laws and policies of the state in the light of the existing local situation."

The Law of the PRC on the Self-Government of Ethnic Areas, adopted in May 1984, constitutes the legal framework for the government of the TAR. Article 4 of that law provides that the agencies of self-government in autonomous areas "carry out the laws and policies of the state in accordance with actual local conditions".

It is to be noted that People's Congresses in non autonomous areas enjoy the same formal right to adopt local legislation, subject to conformity with the constitution, the law and administrative rules. It appears that the powers of People's Congresses in autonomous areas do not differ substantially from those of other People's Congresses.

Since 1979, the Tibetan regional People's Congress has adopted more than 30 regulations and resolutions applying specifically to the autonomous region. These include modifications to the PRC marriage law, texts concerning the political rights of Tibetans returning to Tibet from residence abroad, and the official use of the Tibetan language.

As far as Amnesty International is aware, laws and regulations in such areas as arrest and detention, trial procedures and the exercise of political rights defined by the PRC constitution have not been modified by separate legislation in Tibet, except for a 1987 resolution encouraging the official use of Tibetan. The Tibetan autonomous government does not appear to have the authority to adopt and implement safeguards for human rights which differ substantially from those in force in the rest of the PRC.

1.4 Constitutional Safeguards for Human Rights

The 1982 Constitution of the PRC provides for the protection of various rights of PRC citizens, including equality before the law (Article 33), the right to vote and stand for election (Article 34); the freedoms of speech, of the press, of assembly, of procession and of demonstration (Article 35); the freedom of religious belief and the protection of "normal religious activities" (Article 36); the "freedom of person" (Article 37); personal dignity; privacy of home and correspondence and the right to criticize state agencies or officials and to obtain compensation for losses suffered through infringement of civic rights (Articles 38 to 41). Defendants tried before People's Courts have the "right of defence" (Article 125).

The main constitutional and legal safeguards concerning religious freedoms are included in Article 36 of the constitution, which reads:

"Citizens of the PRC 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. 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.

"Religious bodies and religious affairs are not subject to any foreign domination."

Article 11 of the Law of the PRC on the Self-Government of Ethnic Minority Areas adds that:

"The organs of self-government of the national autonomous areas are responsible for protecting religious freedom for citizens of all nationalities."

The freedom of citizens to take part in "assemblies, marches and demonstrations" is regulated by the *Law of the PRC on Assemblies, Marches and Demonstrations*, which took effect on 31 October 1989. In Lhasa, that law is complemented by the *Lhasa Municipal*

Rules for the Implementation of the Law of the PRC on Assemblies, Marches and Demonstrations, adopted on 5 May 1990, five days after the end of a 14-month-long state of martial law in the city, during which all political demonstrations or marches were prohibited. The *Lhasa Municipal Rules* specify the procedures under which individual citizens who wish to organize demonstrations must request prior government approval to do so. They prohibit the use of "religion and other activities" in "demonstrations or parades [which]... endanger national unity or social stability".

Amnesty International is concerned that the restrictions contained in the regulations may be used to outlaw peaceful expressions of political views. More than a dozen illegal demonstrations have taken place in Lhasa since the *Lhasa Municipal Rules* were adopted, and more than 20 people are believed to be currently detained in connection with peaceful but illegal demonstrations held since May 1990. It is unclear whether the demonstrators had made a formal application prior to their demonstration.

1.5 *China and International Human Rights Standards*

China became a party to the United Nations (UN) Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 4 October 1988. It has ratified six other UN human rights instruments, including the Convention on the Elimination of all Forms of Racial Discrimination, the Convention on the Elimination of all Forms of Discrimination against Women, as well as 17 of the 171 treaties of the International Labour Organization. However, China is not a party to the International Covenant on Civil and Political Rights (ICCPR) or to the International Covenant on Economic, Social and Cultural Rights (ICESCR).

The safeguards for human rights provided by the Constitution and laws of the PRC fall far short of those proclaimed by the Universal Declaration of Human Rights and other instruments such as the ICCPR.

In 1986, the Chinese Foreign Minister Wu Xueqian said in a speech before the UN General Assembly that the ICCPR and the ICESCR "have played a positive role in realizing the purposes and principles of the UN Charter concerning respect for human rights". He added that "the Chinese government has consistently supported these purposes and principles". There have been reports from time to time in recent years that China was considering accession to the Covenants, but it has made no formal move to that effect.

On 1 November 1991, the State Council of the PRC issued a 40,000-word document entitled *Human Rights in China* for the stated purpose of "helping the international community to understand the human rights situation as it is in China." That document constitutes a comprehensive statement of official Chinese positions on human rights issues.

The document argues that human rights is an issue which "falls by and large within the sovereignty of each country" and that a country's human rights situation should not be judged in disregard of its history and social, economic and cultural conditions. The document attacks foreign exploitation of China in the past, stressing that the right to subsistence - which it describes as "the most important of all human rights" - has only been guaranteed to the Chinese people since the Communist Party came to power in 1949. The document also criticizes foreign governments for seeking to impose their values on China and using human rights issues to play "power politics".

In defence of China's human rights record, the government document makes a number of assertions about the broad range of rights which are in principle guaranteed by the Chinese constitution and law, but it makes no mention of the limitations placed in practice on the exercise of these rights. It states that the judiciary is independent and describes in detail the procedures provided by Chinese law for the criminal process, from arrest to trial, but it does not make any comment on the practical implementation of the law. It neither mentions the numerous human rights violations resulting from abuses of the law or malpractice by officials, nor acknowledges that human rights violations result from the use of legislation aimed at curbing dissent or political opposition. The document makes no reference to specific cases of alleged human rights violations or individual cases of prisoners of conscience.

On the issue of dissent, the document states flatly that there are no "political prisoners" in China. It says: "ideas alone, in the absence of action which violates the criminal law, do not constitute a crime; nobody will be sentenced to punishment merely because he holds dissenting political views. So-called political prisoners do not exist in China." It further argues that "counter-revolutionary crimes" are crimes which endanger state security and which are punishable under the Chinese criminal law. Such kinds of criminal acts endangering public security, it says, are punishable "in any country".

Whereas the document asserts that people in China are not sentenced to punishment merely for holding dissenting views, Amnesty International has documented many cases of prisoners of conscience, in Tibet and elsewhere, sentenced to long terms of imprisonment where their only "action which violated the criminal law" was to peacefully express their views, either in public or in private among groups of friends. In the latter case, they were invariably convicted of "organising a counter-revolutionary group", whereas those expressing dissenting views in public were usually charged with "carrying out counter-revolutionary propaganda or incitement".

The document, however, acknowledges that there is "still much room for improvement" regarding the safeguard of human rights in China. While re-asserting that no country has the right to interfere into another country's internal affairs "on the pretext of

human rights" or to play "power politics", it states that China is ready to work with the international community "to uphold and promote human rights and fundamental freedoms".

The Chinese Prime Minister Li Peng, in an interview published on 20 May 1991 in the official CCP newspaper People's Daily (overseas edition), said that:

"Like the people of other nationalities in China, the Tibetans truly enjoy all the democratic rights provided for by the national Constitution and laws, such as equal rights for all nationalities and regional autonomy (...).

"For a nationality, human rights first of all are the rights of survival and development [...] Some foreign forces are fabricating allegations of a so-called "human rights" problem in Tibet and wantonly interfering in China's internal affairs. Under no circumstances will this be allowed by the Chinese people as a whole, and this includes the people of Tibet. Their actions also violate the established principles governing international relations."

1.6 Human rights in China's foreign policy

In contrast to its stated opposition to foreign "interference in China's internal affairs" in relation to human rights issues, China has since 1990 conducted a program of bilateral "dialogue" on human rights with some governments. These governments have sent parliamentary and other official delegations to visit China, including Tibet, at China's invitation.

The official delegations which visited China in 1991 visited places of detention in Beijing and elsewhere - including Lhasa, in the case of those which included Tibet in their visit - and met with government officials, members of the judiciary and lawyers.

One of these delegations comprised Australian parliamentarians, diplomats and academics who visited Lhasa in July 1991. The delegation concluded in a report published after its visit that, among other concerns:

"A serious human rights problem exists in Tibet. The impression gained tended to confirm fears of the existence of fetters on the religion, culture, education and language of Tibet... It is also clear that China continues not to tolerate political opposition and dissent in Tibet."

The Australian delegation's concerns and comments on their visit to the PRC, like those of other similar delegations, covered a wide range of issues, many of which fall outside Amnesty International's mandate. Amnesty International welcomes bilateral "dialogue" between the Chinese and other governments on human rights issues, insofar as such a

"dialogue" may convey the parties' mutual concerns on sensitive issues. However, bilateral "dialogue" is not a substitute for the international monitoring of human rights policies and practices and for the formal commitment, taken by countries who accede to UN covenants, to review these laws and practices in the light of these instruments.

On 20 March 1992 the Government Work Report read out by Prime Minister Li Peng before the plenary session of the National People's Congress reiterated that "interference in other countries' internal affairs in the name of human rights is impermissible"; however the Report also stated, for the first time, that China was "willing to carry out normal international discussions about human rights"

1.7 International concern about human rights in Tibet

On 23 August 1991, the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities adopted resolution No 1991/10 entitled "the situation in Tibet", expressing concern at "continuing reports of violations of fundamental human rights and freedoms which threaten the distinct cultural, religious and national identity of the Tibetan people". The resolution called upon the Chinese government to "respect the fundamental rights and freedoms of the Tibetan people" and requested the UN Secretary-General to transmit to the Commission on Human Rights information on the situation in Tibet. The Chinese government rejected the Sub-Commission resolution as "entirely illegal, null and void, and absolutely unacceptable to the Chinese government".

On 4 March 1992, the UN Commission on Human Rights decided not to put to the vote a draft resolution expressing concern about the human rights situation in Tibet, despite a report on the situation in Tibet prepared for the Commission by the UN Secretary-General pursuant to the earlier Sub-Commission resolution. The Secretary-General's report included information submitted by Amnesty International, summarizing the organization's long-standing concerns in Tibet.

Chapter 2: Prisoners of conscience in Tibet

This chapter details the cases of prisoners of conscience serving prison sentences in Tibet as a result of trials which Amnesty International believes were grossly unfair, or administratively detained without charge or trial. It also outlines the legal framework of administrative detention in Tibet.

Hundreds of Tibetans have been detained in the past five years for periods ranging from a few months to three years for taking part in peaceful political activities or because they were suspected of otherwise supporting Tibetan independence. Many have been detained in mass arrest operations conducted in March 1988 and March 1989 in Lhasa, following pro-independence demonstrations and, in March 1989, the imposition of martial law.

After martial law was lifted in May 1990, arrests continued: those detained included participants in demonstrations, people accused of possessing illegal literature, people who wanted to travel to Nepal or who had returned from trips abroad and people accused of gathering information about political detainees. Many of those detained in mass arrest operations appear to have been kept in custody under regulations on "shelter and investigation", a form of detention imposed by the police to detain suspects without charge or trial. According to administrative regulations, such detention should not exceed three months, but in many cases it has been extended for several years.

In practice, "shelter and investigation" is used indiscriminately throughout the PRC. Its legality has been questioned by Chinese jurists as it bypasses the normal procedures for arrest and detention provided for in China's constitution and Criminal Procedure Law. Tseten Norgyal, whose case is described below, is one of many Tibetans who were apparently detained for "shelter and investigation" for over a year before being formally tried and sentenced. Detainees who are not tried receive terms of administrative detention known as "re-education through labour", without charge or trial, after being taken into custody for "shelter and investigation".

2.1 Demonstrators in favour of Tibetan independence

Many of the peaceful demonstrations held in Lhasa since September 1987 have followed a pattern in which demonstrators were arrested by Public Security Bureau (*Gong'anju*, police) officers as they marched along the circular, one kilometre-long pilgrimage path known as the Barkor, which surrounds the Jokhang Temple in central Lhasa.

Demonstrators have often been led by Buddhist monks and nuns, with onlookers and other demonstrators joining the first group as it progressed along the Barkor. In some instances demonstrators have unfurled flags bearing an image of snow-capped mountains and

snow lions, emblems of Tibetan nationalism, the possession of which is reportedly illegal. Although demonstrations in March 1988 and 1989 drew thousands of people, many others were much smaller, sometimes comprising only dozens of participants.

Some small demonstrations dispersed before participants were arrested by the police. Violent clashes with police forces have sometimes occurred during demonstrations on the Barkor.

Other demonstrations have taken place elsewhere in Lhasa, for example on Dekyi Shar Lam (Beijing Road), an artery which runs from the foot of the Potala Palace in the West to the Barkor area in the East. Demonstrations have also taken place during religious festivals in 1989 and 1990 in the parks of the Norbulingka, the Dalai Lama's former summer palace in Lhasa. Calls for demonstrations and for Tibetan independence often circulate in the form of leaflets distributed and displayed in public places.

Prisoners of conscience detained in connection with peaceful demonstrations include:

Dawa Lhazom and other Buddhist nuns

On 2 September 1989, Dawa Lhazom⁹, an 18 year-old Buddhist nun from Chubsang nunnery in Lhasa, took part in a religious festival in the park of the Norbulingka. Together with eight other nuns, she shouted slogans in support of the Dalai Lama during a religious drama performance. The nuns were detained on the spot; Dawa Lhazom and five other nuns were given three-year terms of "re-education through labour". The other nuns sentenced were: Lobsang Choedron; Phuntsog Tendrol; Ngawang Choezom; Pasang Drolma; and Dechen Drolma. Three other nuns, Sonam Lhamo, Pasang Lhamo and Ngawang Tsepak, received two-year terms of "re-education through labour".

The sentences against the nine nuns were passed on 11 September 1989 by the Labour Re-education Management Committee of Lhasa, according to a report published three days later by the official *Tibet Daily*. They were accused of "separatist activities" and of "breaking martial-law regulations". In the report on their sentencing, the *Tibet Daily* emphasized the "great arrogance" of the nuns and the "seriousness" of their "criminal" activities. Dawa Lhazom and the five others sentenced to "re-education through labour" are reportedly detained in Gutsa detention centre in Lhasa.

One of the nuns, Ngawang Tsepak, left Tibet after she was released at the end of her two-year term of "re-education through labour". She said during an interview in late 1991 that she and her co-detainees had been tortured during interrogation, shortly after their arrest.

⁹ Her name was spelled "Dawa Lhazhum" in previous Amnesty International publications.

Kelsang Gyaltzen and other Buddhist monks

On 17 March 1991, five Buddhist monks were detained when they attempted to unfurl a Tibetan nationalist flag on the Barkor, the pilgrimage path in central Lhasa. According to witnesses on the scene, the five monks were taken into custody when they began shouting slogans in favour of Tibetan independence.

The five monks were first detained in Lhasa's Gutsa detention centre. In August 1991 they were reportedly tried and sentenced and transferred to Drapchi prison. The prisoners are: Kelsang Gyaltzen, reportedly sentenced to five years' imprisonment; Ngawang Legshe, reportedly sentenced to four years' imprisonment; Ngawang Namgyal, reportedly sentenced to three years' imprisonment; Ngawang Tsondru, reportedly sentenced to four years' imprisonment, and Ngawang Zoepa, whose prison sentence is reported to be between 5 and 8 years.

Rigzin Choenyi and five other Buddhist nuns

Three Tibetan nuns, Choenyi Lhamo, Sonam Choedron and Konchok Drolma, were each sentenced on 24 September 1989 to terms of three years of "re-education through labour" for shouting pro-independence slogans in the Barkor area of central Lhasa two days earlier. Two other nuns detained after the same demonstration, Tashi Choezom and Rigzin Choedron, appear to have been released after serving a shorter term of "re-education through labour". The five nuns were accused of "breaking martial law regulations", according to a report in the *Tibet Daily* of 25 September 1989. They are now believed to be held in Gutsa detention centre.

The newspaper reported that a sixth nun, Rigzin Choenyi, then aged 19, who had been arrested together with the five others on 22 September, was kept in detention pending a formal trial. Her case appears to have been treated differently because she had been detained previously for allegedly taking part in a demonstration in June 1988, though she had been subsequently released without being charged on grounds of good behaviour. She was sentenced in October 1989 to seven years' imprisonment for her part in the 22 September 1989 demonstration and is now reportedly detained in Drapchi prison. Prior to her imprisonment she was a nun at the Shungsep nunnery.

Buddhist monks accused of involvement in a demonstration in September 1989

Letsoe, Phuntchok, Lhakpa, Trinley and Tenzin, all monks from the Palhalupuk monastery, were brought to a "mass sentencing rally" in Lhasa on 3 November 1989 and sentenced without trial to three years of "re-education through labour". They were accused of taking part in demonstrations held in the Barkor area of Lhasa in late September 1989. One of them, Tenzin, had allegedly participated in a demonstration on 30 September, holding up a Tibetan national banner depicting snow-capped mountains and snow lions. The place of detention of the five monks is not known.

Eight Tibetans accused of involvement in demonstrations on 14 and 15 October 1989

On 22 October 1989, eight Tibetans, including six nuns, were "sentenced" without trial to terms of two and three years of "re-education through labour" for participating in demonstrations in favour of Tibet's independence in Lhasa in mid-October 1989, according to the official *Tibet Daily*. Six of them were accused of demonstrating on 14 October. They included four nuns, Tenzin Wangmo, Tenzin Dorje, Phuntsog Sangye and Kelsang Wangmo, who received three-year terms, and two lay people, Kelsang Dolkar and Tsichoe, who were respectively given two-year and three-year terms. Two other nuns, Lobsang Drolma and Ngawang Tsultrim, were sentenced to three years of "re-education through labour" for staging a demonstration on 15 October 1989. According to the *Tibet Daily*, two more nuns had been placed under arrest pending trial for allegedly leading the 14 October demonstration.

2.2 *Political activists and human rights advocates*

Soenam Choedron, Thupten Tsering and Tseten Norgyal

One woman, Soenam Choedron, and two men, Thupten Tsering and Tseten Norgyal, were detained in March or April 1989 in Lhasa on suspicion of involvement in activities in favour of Tibetan independence. They were formally arrested in November 1989.¹⁰ In January 1991, almost two years into their detention, the Lhasa People's Procuratorate issued an indictment against them, alleging that they had engaged in publicizing "counter-revolutionary propaganda". However, it appears from the indictment eventually brought against them that they were principally accused of having helped circulate leaflets advocating Tibetan independence. There was no allegation that they had advocated or engaged in violence.

Before his detention, Tseten Norgyal was working as a bookkeeper at the Banakshol Guesthouse in Lhasa. Amnesty International received reports indicating that, when he was first taken to the Chakpori People's Armed Police barracks in Lhasa, he suffered a severe eye injury as a result of beatings during interrogation. He was also reported to be suffering from a bronchial disease.

Tseten Norgyal received a summons for trial on 6 February 1991. He was tried, together with Sonam Choedron and Thupten Tsering, on 8 February 1991. Tseten Norgyal was reportedly sentenced to four years' imprisonment, and Thupten Tsering reportedly received a five-year sentence. Soenam Choedron reportedly received a two-year sentence which she had largely served before her trial and was released, together with her daughter Nyima, in April 1991.

¹⁰ People detained (*juliu*) are routinely held in custody for prolonged periods before they are formally arrested (*daibu*). Charges are formulated only at the arrest stage.

As a result of reports that Tseten Norgyal had been ill-treated in custody, the United Nations (UN) Special Rapporteur on Torture made an urgent appeal on 29 November 1989 to the authorities of the People's Republic of China (PRC) concerning Tseten Norgyal. In a reply dated 17 January 1990, the Government of the PRC stated that the relevant departments in China had found no prisoner by the name of Tseten Norgyal. Two days later, however, the Chinese Ambassador to the United States of America informed a member of the US Senate that Tseten Norgyal had been "first put under investigation as a major suspect and was arrested on 10 November 1989", and that he was awaiting trial.

On 9 July 1990, the Chinese authorities responded to a further query by the UN Special Rapporteur on Torture, stating that the earlier attempt to locate Tseten Norgyal had been unsuccessful "owing to different translation versions of Tibetan names". According to the report of the UN Special Rapporteur on Torture, the reply indicated that Tseten Norgyal had been arrested "for activities aimed at splitting China and subverting the Government". It added that Tseten Norgyal was in good health and had not been severely beaten.¹¹

The following is a partial translation of the Lhasa People's Procuratorate's statement, dated 19 January 1991, concerning Tseten Norgyal, Thupten Tsering and Soenam Choedron:

"The [three defendants] publicised counter-revolutionary propaganda. The Municipal Public Security Office detained Tseten Norgyal on 21 March 1989 and Thupten Tsering and Soenam Choedron on 20 April 1989 for investigation... On 10 November 1989, with the permission of the procuratorate and in accordance with the law, the three defendants were arrested and are currently in custody.

"The case of the three defendants... was examined by the Municipal Public Security Office and was passed to this procuratorate for thorough investigation. The following facts have been ascertained:

"In February 1988 Thupten Tsering received a reactionary letter from a monk at Palhalupuk Monastery. [The letter was] a reactionary document advocating [Tibetan] independence. In July 1988 [that document] was given to Gyentsen, a translator-worker at the electrical power station in western Lhasa... who was asked to type it. Twenty copies were printed in [Thupten Tsering's] own bedroom. [Thupten Tsering] gave ten copies [of the printed document] to

¹¹ See UN Special Rapporteur on Torture, *Report to the 47th Session of the UN Human Rights Commission*, reference E/CN.4/1991/17, p. 12.

Soenam Choedron and nine copies to Gyentsen. Thupten Tsering distributed the remainder of the documents in the Barkor.

"In October 1988 the Banakshol Hotel reception clerk Tseten Norgyal used one of the leaflets brought by Nyima, the daughter of Soenam Choedron, to prepare a stencil. Soenam Choedron gave the stencil to Thupten Tsering who printed over 20 [additional] copies in his bedroom. At the top of the leaflet [Thupten Tsering] wrote "Sub-Committee for Tibetan Independence (*Bod Rang bTsan sGer Langs Tshogs Chung*)". Thupten Tsering gave the printed copies to Soenam Choedron. In December [1988] Soenam Choedron gave Tseten Norgyal six or seven leaflets and a small booklet entitled "News of The World" and expressed the hope that he would print them. He memorised and transmitted them by word of mouth...

"Towards the end of October 1988 Thupten Tsering dictated while Gyentsen cut the stencil for the leaflet. Furthermore, Thupten Tsering printed over 20 copies in his bedroom and distributed them near the Western Door in the Tromsingkhang [Market]... The leaflet urged the masses to respect the heroes suffering in prison for independence and to support and respect the [Dalai Lama's] Five-Point Plan.

"In December 1988 Soenam Choedron gave Thupten Tsering a small booklet brought from India and asked him to cut out stencils of the seven- to eight-paged document... Eight to ten copies of the [document] were printed... Conspiring with Soenam Choedron, they distributed the leaflets around the market areas of the Barkor. This is neither the first nor the second time in which these three defendants have conspired secretly to write, print and distribute leaflets. They are guilty of committing a series of misdeeds from 1988 to March 1989, causing a bad influence on society. The fact of their guilt is well established and is supported by conclusive evidence... Their acts amount to violations of Article 102, Paragraph 2 of the Criminal Law of the PRC...

"The defendant Thupten Tsering stands accused as the principal culprit and the major instigator... and defendants Tseten Norgyal and Soenam Choedron are guilty as accessories..."

Article 102 of the Criminal Law of the PRC refers to "counter-revolutionary crimes", including the use of "... slogans, leaflets or other means, propagandizing for and inciting the overthrow of the political power of the dictatorship of the proletariat and the socialist system."

Amnesty International is concerned that Thupten Tsering and Tseten Norgyal are prisoners of conscience held solely for the non-violent exercise of the right to freedom of conscience and expression.

Jampa Ngodrup

Jampa Ngodrup, a medical doctor at the Lhasa City Barkor Clinic in Lhasa, is serving a 13-year prison term. He was accused at his trial in 1990 of having, "with counter-revolutionary aims, collected lists of people detained in the disturbances [the activities in favour of Tibetan independence carried out by Tibetans in Lhasa in 1988] and passed them on to others, thus undermining the law and violating the [laws of] secrecy".

According to the court verdict on his case, Jampa Ngodrup was detained on 20 October 1989 and formally arrested on 13 August 1990. He was tried and sentenced to 13 years' imprisonment on 24 December 1990. The following are excerpts of the Lhasa Municipal Intermediate Court verdict on the case of Jampa Ngodrup:

"Towards the end of 1988 defendant Jampa Ngodrup asked a young monk from Ratoe Monastery named Chunjor, who was working as urine analyst at the hospital where Jampa Ngodrup worked, to compile a list of people detained as a result of the 5 March 1988 incident¹² and afterwards passed on that list to foreign resident Lhamo Yangchen.

"Towards the end of 1988 Lhamo Yangchen, who had come from abroad, brought a list of people injured and detained in the 10 December [1988] disturbance¹³ and made defendant Jampa Ngodrup copy it and return the original to her...

"The above have been determined as facts which the witnesses have confirmed and the defendant has also confessed without withholding anything. In the opinion of this court, defendant Jampa Ngodrup, harbouring counter-revolutionary intent, compiled a list of people detained in the disturbances and passed them on to others, thus undermining the law and violating the [laws of] secrecy.

"In order to strengthen the unity of the Motherland, to strengthen and protect the Motherland and to enforce the democratic rights of the people, in accordance

¹² On 5 March 1988 violent clashes between police forces and demonstrators calling for Tibetan independence resulted in the killing of at least 11 demonstrators. Hundreds were detained in subsequent weeks.

¹³ A pro-independence demonstration on 10 December 1988 reportedly ended with the killing of at least two demonstrators and at least 18 arrests.

with Article 97, Paragraph 1 and Article 52 of the Criminal Law of the PRC, the sentence is as follows:

"Defendant Jampa Ngodrup has committed the crime of being a spy and is sentenced to 13 years' imprisonment. The period shall be from 20 October 1989 to 19 October 2002... [Jampa Ngodrup shall also be deprived of his] political rights for [a further period of] four years."

Article 97 provides for prison sentences, including life imprisonment, for anyone guilty of "stealing, secretly gathering or providing intelligence for an enemy...". Article 52 concerns the deprivation of political rights as a "supplementary punishment" to a prison sentence.

Jampa Ngodrup is reportedly detained in Drapchi prison in Lhasa. Amnesty International considers that Jampa Ngodrup is imprisoned solely for the peaceful exercise of his right to freely receive and impart information. Amnesty International considers Jampa Ngodrup to be a prisoner of conscience and calls for his immediate and unconditional release.

Kelsang Phuntsog

Kelsang Phuntsog, 21 years old, from Lhunkhang Dongtso in Nyemo County, was a wood-block printer and monk at Sera Monastery. He was reportedly detained while distributing leaflets in the Barkor on 4 August 1991 and held for one night in the Barkor police station, then transferred to Gutsa detention centre. The leaflets contained three slogans: one calling for Tibetan independence, one for what the leaflet called "the Chinese" to leave Tibet and one calling for human rights for the Tibetan people.

The detention of Kelsang Phuntsog was reported by several unofficial sources. There has been no further information about him. Amnesty International is concerned that Kelsang Phuntsog may still be held in administrative detention, or awaiting trial, in which case he may be a prisoner of conscience.

Monks from Drepung Monastery

In November 1989, 10 Buddhist monks received prison sentences, including some of the longest prison sentences imposed on prisoners of conscience in Tibet, for activities related to the advocacy of Tibetan independence. The sentences were imposed under the provisions on "crimes of counter-revolution" of the Criminal Law of the PRC.

Jampel Changchub, a prisoner of conscience. His 19-year sentence of imprisonment is the longest imposed in recent years against Tibetan political activists, with that of Ngawang Phulchung.

Jampel Changchub, Ngawang Phulchung, Jampel Losel, Jampel Monlam, Jampel Tsering, Ngawang Oeser and Ngawang Rigzin had been among some 21 Drepung monks who marched from their monastery to Lhasa in a non-violent pro-independence protest on 27 September 1987 - a demonstration which marked the beginning of the recent Tibetan unrest. The monks, together with a number of lay people who joined the 1987 demonstration, were all arrested and held without charge for four months. In January 1988 the monks were all released, reportedly after the personal intervention of the late Panchen Lama, at that time the most senior Tibetan religious official in the People's Republic of China.

Ngawang Phulchung, prisoner of conscience, photographed in Drepung Monastery in Lhasa before his arrest in 1988. He is now serving a 19-year prison sentence for alleged "counter-revolutionary" offences.

In April 1989, Jampel Changchub, Ngawang Phulchung, Ngawang Oeser and Kelsang Thutob were re-arrested. The Public Security Bureau reportedly alleged that the monks had formed a "counter-revolutionary group" in January 1989 which produced leaflets and handbills critical of the Chinese government. Six other monks who were later described as "accessory offenders" were also detained.

At a mass sentencing rally held on 30 November 1989, the Lhasa Intermediate People's Court publicly announced prison sentences pronounced against the 10 monks. The sentences ranged from 5 to 19 years' imprisonment; the monks had been charged with "counter-revolutionary" crimes related to their advocacy of Tibetan independence.

Jampel Changchub, described as one of the "main culprits and a principal member of the group" was sentenced to 19 years' imprisonment, to be followed by deprivation of political rights for an unknown number of years. According to a broadcast by the official *Radio Lhasa* he was accused at the 30 November 1989 mass sentencing rally of "actively participating in criminal activities organized by a counter-revolutionary group" based in Drepung monastery, where he and the other group members produced "reactionary literature" which attacked the Chinese government and "venomously slandered [China's] socialist system characterised by the people's democratic dictatorship". He was also accused of "collecting intelligence and passing it to the enemy".

According to the *Radio Lhasa* broadcast, Ngawang Phulchung was the elected leader of the group. He was sentenced to 19 years' imprisonment. Kelsang Thutob and Ngawang Oeser, both described as "main culprits", were sentenced to 18 and 17 years' imprisonment respectively. All three had reportedly been charged with "forming a counter-revolutionary organization" and carrying out "counter-revolutionary propaganda and agitation". Ngawang Phulchung was also charged with espionage, and Kelsang Thutob was in addition accused of attempting to illegally cross China's border.

Other monks whose sentences were announced at the 30 November 1989 mass sentencing rally included Jampel Losel, allegedly an "accessory offender", charged with carrying out "counter-revolutionary propaganda and agitation": he received a sentence of 10 years' imprisonment. Two other alleged "accessory offenders", Ngawang Gyaltzen and Ngawang Rigzin, were charged with espionage. The former was also accused of attempting to illegally cross China's border. They were respectively sentenced to 17 and nine years' imprisonment.

Three other monks from Drepung monastery, Jampel Monlam, Jampel Tsering and Ngawang Kunga, were described as "accessory offenders" and charged with "participating in criminal activities organized by a counter-revolutionary group". They were sentenced to five years' imprisonment.

The sentences handed down to the four leaders of the group were the most severe to be given for political offenses since the wave of unrest commenced in Tibet in 1987. On the day of the sentencing rally Radio Lhasa broadcast a long statement about Ngawang Phulchung and the group of Drepung monastery monks:

"The crimes committed by Ngawang Phulchung and other criminals demonstrate that the so-called human rights, freedoms and democracy played up by separatists both at home and abroad are nothing but a pack of deceitful lies.

"Deliberately planning to form counter-revolutionary organisations, putting up posters, spreading rumours and collecting information, they frenziedly conducted criminal activities to split the motherland..

"Ngawang Phulchung and the other criminals were formerly lamas, but they took an active part in the counter-revolutionary criminal activities of splitting the motherland. They thoroughly betrayed the religious doctrines and canons of Buddhism by their actions. They are the scum of the religious circles and are not representative of other monks and laymen. The majority of the monks and laymen love the motherland and the religion they believe in. Undoubtedly, they cannot tolerate Ngawang Phulchung and his like, who

engaged in the activities of splitting the motherland under the cloak of Buddhism.

"Let the sentence on Ngawang Phulchung serve as a stern warning for separatists both at home and abroad that those who split the motherland will come to no good end."

Among the "reactionary literature" that the Group was accused of printing, was a complete Tibetan translation of the Universal Declaration of Human Rights. The other documents they published included reports on recent dissident activity in Tibet and on Tibetans shot and killed by police at a pro-independence demonstration, reports about support Tibetan pro-independence activists are receiving from abroad and a detailed summary of a statement on human rights violations in China made in the USA House of Representatives in April 1989. Another document produced by the group, entitled The Meaning of the Precious Democratic Constitution of Tibet, examines the meaning of "democracy" on the basis of the 1963 draft constitution for Tibet promulgated by the Dalai Lama in exile. None of these documents espouse the use of violence.

On 26 April 1991, after reportedly being severely beaten, Jampel Changchub, Ngawang Phulchung, Ngawang Tsering and 14 other prisoners, most of them monks, were put in solitary confinement following a series of incidents involving political prisoners in Drapchi prison. Several of the prisoners reportedly required medical treatment for head wounds and were reported to have been handcuffed and shackled. According to reports the isolation cells are just large enough to lie down in and are kept in total darkness.

The incidents in question were sparked off when a delegation of US diplomats, led by then US ambassador to the PRC James Lilley, visited the prison on 30 March 1991. A group of prisoners took the opportunity to hand the diplomats a petition signed by a number of political prisoners in Drapchi prison allegedly protesting against conditions of detention. The petition was reportedly confiscated by prison officials who indicated that prisoners were not allowed to communicate with foreign visitors.

After the delegation's visit the prisoners were allegedly beaten and put in solitary confinement. When other prisoners reportedly demanded their release from solitary confinement and protested by refusing to eat the evening meal, they in turn were beaten and forced to attend "political education" meetings. On 26 April the prisoners responsible for the petition were transferred to another prison or "re-education through labour" camp east of Lhasa and reportedly remained there until 27 July 1991, when they were returned to Drapchi prison.

Jampel Changchub, Ngawang Phulchung, Ngawang Tsering and 14 other prisoners reportedly protested against the treatment of those prisoners transferred and demanded to

know their whereabouts. As a consequence they were reportedly beaten severely and put in solitary confinement. All those punished except one, Lobsang Tsondrue a 76 year old monk from Drepung, were reportedly released from solitary confinement after six weeks.

Lobsang Gelek, Buddhist monk

Lobsang Gelek a 26 year-old monk from Sera monastery, reportedly took part in demonstrations on 10 December 1988 and in 1989. He was reportedly detained in December 1989 and held, apparently without charge or trial, in Sangyip detention centre. He was reportedly sentenced before October 1990 to a 12-year term of "re-education through labour" and has been transferred to Drapchi prison. No further information on Lobsang Gelek's case is available to Amnesty International.

2.3 Minors

Some of the prisoners of conscience held in Tibet are teenagers, according to unofficial sources in Lhasa. The following cases are known to Amnesty International:

Gyaltsen Monlam, a 17 year-old Buddhist nun from Garu nunnery, was reportedly detained on 21 August 1990 for allegedly disrupting a religious drama ceremony held in the Norbulingka park in Lhasa on the occasion of the Shoton Buddhist festival (the case of nuns who were detained for demonstrating during the same festival in 1989 is summarized in Section 2. 1 above). Gyaltsen Monlam, together with about a dozen other nuns from Garu and Michungri nunneries and a monk, reportedly shouted slogans supporting the Dalai Lama and opposing the Chinese presence in Tibet. Gyaltsen Monlam is now serving a three-year term of "re-education through labour". She is reportedly held in Drapchi prison.

Gyaltsen Drolma, a 16 year-old nun from Garu (or, according to another report, from Ani Tsankhung) nunnery, was arrested along with about ten other nuns for allegedly taking part in a demonstration in support of the Dalai Lama on the Barkor pilgrimage path on 9 June 1991. Gyaltsen Drolma was reported to be still in detention in Gutsa detention centre at the end of 1991. There was no indication that she was charged or tried, or that she had been "sentenced" to a specific term of administrative detention.

Other juvenile detainees in Lhasa include **Dawa Drolma** and **Tsering Yangzom**, both Buddhist nuns reportedly aged about 15, who were believed in late 1991 to be detained in Lhasa's Sangyip detention centre. Unofficial sources suggest that they were detained for peaceful political activities but Amnesty International has no further information on their cases.

All juvenile detainees are said to be held in detention centres where adults are also detained. It is unclear whether the juveniles are housed in different premises from the adult detainees.

A number of international human rights standards specify that juvenile detainees must in general be detained separately from adults. The *UN Convention on the Rights of the Child* specifies in its Article 37 that:

"(c) ... Every child [that is, a person under 18 years of age] deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances.

"(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action."

China signed the *Convention on the Rights of the Child*, although it has not yet ratified it. However, signatories to the Convention are bound to refrain from any practices which may defeat the objectives of the Convention. In this regard, Amnesty International is concerned that juveniles appear to be detained in Tibet in conditions which may not accord with the provision of the Convention, and do not appear to be able to promptly challenge the legality of their detention before an appropriate independent and impartial authority.

The *Administrative Procedure Law of the PRC*, adopted in 1989, makes it possible in principle for detainees to challenge before the People's Court decisions on administrative detention taken against them. Amnesty International is not aware of any challenge of a detention placed before the court by juvenile detainees since the law came into effect.

2.4 *Regulations on "re-education through labour"*

"Re-education through labour" is an administratively-imposed sanction which serves as a method of detaining people who are not legally considered to be criminals. It purports to "re-educate" such alleged delinquents through political "study" sessions and, in principle, forced labour.

An article in the official *China Legal News* in 1985 described "re-education through labour" as an administratively determined punishment imposed for acts falling "between crime and error", that is neither minor public order offenses nor crimes listed in the criminal law. In particular, this form of administrative detention is seen as a means of punishing people deemed to "threaten public security":

"If we look at the phenomenon of law-infringement (*wei fa*) and crime (*fan zui*), we find that in every country there exist groups of people who have not broken major laws, but whose actions fall somewhere between crime and error, people

who threaten public security and whom it is difficult for the courts to deal with. In its handling of those who break the law or commit crimes, China has established a category at a level between the punishment of security administration offenses and criminal sentencing by the courts - namely 're-education through labour'.¹⁴

The particular function of "re-education through labour" as a means of controlling political dissent is emphasized in a 1982 government document which defines "re-education through labour" as a "method to handle contradictions among the people."¹⁵ This formulation is based on policy directives given by President Mao Zedong in February 1957 in a talk entitled *On the Correct Handling of Contradictions Among the People*¹⁶ which advanced the theory that conflicts of an ideological nature (contradictions) continue to exist "within the ranks of the people" after a socialist revolution. However, Mao said, contradictions among the people are different from the contradictions which exist between the "people" and its "enemies". He described as "enemies" the social forces and groups "which resist the socialist revolution and are hostile to or sabotage socialist construction": they should be subjected to the "dictatorship" - for instance, be arrested, tried and sentenced. The "people", on the other hand, are the classes and social groups who "support and work for socialist construction". Thus, Mao explained, the ideological conflicts within the people can be resolved by "criticism, persuasion and education", and by "administrative regulations". The talk provided the theoretical basis for the introduction of "re-education through labour" later in 1957.

The 1957 *Decision of the State Council of the People's Republic of China on the Question of Re-education Through Labour* remains today the fundamental law authorizing "re-education through labour". It was approved by the Standing Committee of the National People's Congress (China's legislative assembly) on 1 August 1957 and promulgated by the State Council (Government) on 3 August 1957. In 1979, *Supplementary Regulations* to the 1957 law were adopted.

"Re-education through labour" is defined in Article 2 of the *Decision* as "a measure of a coercive nature for carrying out the education and reform of persons receiving it. It is also a method of arranging for their getting employment." The *Decision* avoids the use of the terms "arrest", "offender" and "confinement" for those detained under its provisions. In the official terminology, they are "summoned" by the police and not "arrested", they "receive"

¹⁴ *China Legal News*, 29 April 1985.

¹⁵ *Trial Implementation Methods for Reeducation through Labour*, issued by the Ministry of Public Security, transmitted by the State Council, 21 January 1982.

¹⁶ Published in *Selected Works of Mao Zedong, Vol.V.*, People's Publishing House, Peking, 1977, English edition, pp.384-396.

"re-education through labour" instead of being "confined" or "sentenced" and, unlike convicted criminal offenders, at the end of their term of "re-education" they are not "released" but simply "dismissed".

The *Decision* was ostensibly drawn up to control minor offenders and "troublemakers" who did not work satisfactorily or who refused to comply with work assignments. However, it was also aimed at political dissidents and people who were unemployed because they had been expelled from their place of work for a breach of discipline or other reasons. They came within the terms of Article 1 of the *Decision*, which reads in part as follows:

"The following kinds of persons shall be provided shelter and their "re-education through labour" shall be carried out:

- 2) Those counter-revolutionaries and anti-socialist reactionaries who, because their crimes are minor, are not pursued for criminal responsibility, who receive the sanction of expulsion from an organ, organization, enterprise, school or other such unit and who are without a way of earning a livelihood..."

In 1979, *Supplementary Regulations* to the 1957 law were adopted. They fixed the maximum length of "re-education through labour" at four years.

In 1981, a new decree¹⁷ made it possible to impose either an extension of an unspecified length or new terms of "re-education through labour" to recidivists or people who had escaped while serving a term of "re-education through labour". This applies to people who, after escaping or being released from "re-education through labour", are again found to have committed offences considered "too minor" to qualify for criminal sanctions.

The power to impose "re-education through labour" is vested by law in administrative bodies composed of members of the civil affairs, Public Security Bureau (police) and labour departments of the governments of provinces and large cities. In Lhasa, this power is vested in the "Committee for the Management of Re-education through Labour". However, in practice it is imposed mainly by the police. The detainees under detention orders are not tried, they do not have the right to be assisted by a lawyer or to present a defence before the Committee.

The *Administrative Procedure Law of the PRC* gives the courts limited authority to quash administrative detention orders which they deem to have been clearly "unfair" and to

¹⁷ "Decision of the Standing Committee of the National People's Congress Regarding the Handling of Offenders Undergoing Reform Through Labour and Persons Undergoing Reeducation Through Labour who Escape or Commit New Crimes", adopted 10 June 1981, translated in *The Criminal Law and the Criminal Procedure Law of China*, Foreign Language Press, Beijing, 1984.

order the Committee to reconsider detention orders if it finds these were imposed on the basis of insufficient evidence, to have violated legal procedures or to constitute an abuse of power. To Amnesty International's knowledge, there has not been any case publicly reported in the PRC of any person appealing against an administrative detention order, since the *Administrative Procedure Law* came into force on 1 October 1990.

According to the official New China News Agency 97 Tibetans have been sent to "labour re-education" camps in the Tibet Autonomous Region between September 1987 and April 1991. They were among 1,025 people arrested during pro-independence demonstrations in Tibet during that period, according to the news agency. However, Amnesty International's information indicates that about 200 political prisoners remained in detention in Tibet in early 1992, most of them assigned without trial to "re-education through labour".

The following are cases of prisoners of conscience known by Amnesty International to be held in administrative detention in Lhasa:

Ama Phurbu

Ama Phurbu, a 59 year-old small trader from Barkor Garu Shar in Lhasa, was reportedly detained on 10 October 1989 after her home was searched by the police and leaflets on Tibetan independence were found. She had allegedly taken part in public prayers on the Barkor in 1989. Ama Phurbu is now believed to be serving a three-year term of "re-education through labour" in Gutsa detention centre in Lhasa.

Dawa Kyizom

Dawa Kyizom, from Kyire, a 20 year-old student at Lhasa Middle School No 1, was reportedly detained on 26 October 1990 for giving a Tibetan nationalist flag to a Gyume monk. The monk is alleged to have flown the flag from the roof of his temple. Dawa Kyizom reportedly received a three-year term of "re-education through labour" and is now held in Gutsa detention centre.

Dawa Dolma

Dawa Dolma, 23, from Nyemo, a teacher at the Beer Bottle Factory in Lhasa, is serving a 3-year term of "re-education through labour" in Gutsa Detention Centre, according to unofficial sources. A broadcast on Radio Lhasa on 8 December 1989, however, said that a teacher bearing the same name but working at the Lhasa Cement Factory had been given the same administrative sentence for teaching "reactionary songs" to her pupils and that, while still "under investigation", she was temporarily released from prison to look after her young child. Both reports may refer to the same person.

Lobsang Delek

Lobsang Delek (lay name Sonam Choephel), a 22 year-old monk from Sera monastery, was reportedly detained on 13 May 1991. His family appears to have been unable to meet with him and to send him food for the first five months of his detention (but there has been no news from his friends or family since October 1991).

Chapter 3: Torture and ill-treatment of detainees

Torture is endemic in Tibet.¹⁸ Eye-witnesses and former victims report that detainees have been beaten, given electric shocks and tied with ropes in excruciatingly painful positions in order to extract from them "confessions" or "information" about activities related to Tibetan independence. Prolonged solitary confinement in conditions which may constitute a form of torture or ill-treatment has been imposed as a punishment against detainees accused of breaking prison or detention centre rules.

Reports on torture and ill-treatment in Tibet come from former detainees and from unofficial sources in Lhasa. The most recent reports mentioned in this chapter date from late 1991 but Amnesty International believes that the pattern of torture and ill-treatment of Tibetan detainees indicated by these reports is continuing and that officials responsible for torture and ill-treatment are not brought to justice.

3.1 *Public Statements About Torture*

The Constitution of the People's Republic of China states that the "freedom of the person" (*renshen ziyou*, Article 37) and the "personal dignity" (*renge zunyan*, Article 38) of Chinese citizens are inviolable. However, it contains no specific prohibition of torture or ill-treatment.

The Criminal Law of the PRC stipulates that it is "strictly forbidden to extort a confession by torture" (*yanjin xingxun bigong*, Article 136). It provides for imprisonment for up to three years, or more if the victim suffers injury. The Criminal Procedure Law repeats the prohibition of "extortion of confessions by torture" or by "other unlawful means". The *Regulations on Detention Centres* which came into force in March 1990 provide that "beating and verbal abuse, corporal punishment" and "maltreatment" (*niueda*) of "offenders" (*renfan*) are "strictly forbidden" (Article 4).

On 29 April 1990, Lang Guoqing, Deputy Chief Procurator of the PRC was quoted by the official New China News Agency as saying that 490 cases of torture involving death and injuries had been investigated in the first 3 months of 1990. They were among 2,900 cases of abuses in the judicial system which had been investigated during the same period (including illegal detention, bribery and "punitive questioning to force confession" [*xingxun bigong*]). According to a report by the news agency Reuters, China in 1988 had admitted to 227 cases of death or injury resulting from a total of 4,700 cases of torture or illegal

¹⁸ Amnesty International has previously published extensive accounts of torture and ill-treatment of Tibetans in detention. See for example *People's Republic of China: Torture and Ill-Treatment in Detention of Tibetans*, AI Index ASA 17/04/89 published in February 1989; *People's Republic of China: Torture and Ill-Treatment*, AI Index ASA 17/18/90 published in April 1990, and *People's Republic of China: Recent Reports on Political Prisoners and Prisoners of Conscience in Tibet*, AI Index ASA 17/62/91, published in October 1991.

detention. The cases documented below indicate that the practice of using torture to force suspects to confess to crimes is continuing in Tibet.

3.2 The Convention Against Torture

China published its first report on its implementation of the UN Convention Against Torture in December 1989. The UN Committee Against Torture examined the report in April 1990. The report did not specifically address allegations that torture had occurred in Tibet. It indicated only that "in 1988, 159 cases of corporal punishment or maltreatment of [detainees] and cases of favouritism or fraudulent practices" were dealt with in some way by procuracies across the PRC. It did not indicate which of these cases were cases of torture or ill-treatment in the sense of the Convention Against Torture, nor whether any of these cases occurred in Tibet.

The Committee Against Torture asked the representative introducing China's report what steps had been taken to ensure that the rights of the population of Tibet were not infringed by officials. The representative of the PRC did not specifically reply to this question and members of the Committee expressed the view that many of their questions to the Chinese delegation had remained largely unanswered. The Committee asked the delegation to send an additional report addressing the Committee's concerns before the end of 1990, but no supplementary report by China had been published by March 1992.

Measures against torture taken by the authorities appear to have been largely ineffective. Despite regulations and official statements condemning torture, routine denial of access to lawyers and independent medical practitioners and strict restrictions on visits by relatives are factors which allow torture and ill-treatment to continue.

Cases of death in custody of political prisoners in suspicious circumstances and reports of deficient medical care for prisoners and of the use of incommunicado detention for prolonged periods suggest that conditions of detention are conducive to torture and ill-treatment.

To Amnesty International's knowledge no public official in the TAR has been prosecuted in connection with allegations of torture and ill-treatment.

The authorities of the PRC have never permitted Amnesty International to undertake research in Tibet or in any other parts of China. The organization has therefore not been able so far to investigate in the field allegations that torture and ill-treatment occur in prisons and detention centres in Lhasa and elsewhere in Tibetan-inhabited areas of the PRC. However the organization believes that the reports of torture and ill-treatment summarized in this chapter are reliable and consistent with each other and with independent corroborating information obtained by Amnesty International.

3.3 *Victims and perpetrators*

Most torture victims in Tibet whose cases are known to Amnesty International are pro-independence demonstrators and other political activists, but relatives of activists, including children, have also reportedly been tortured. Their torturers are Public Security Bureau (PSB) or People's Armed Police (PAP) officers who are both responsible for the detention and interrogation of detainees, as well as Procuracy officials.

Torture and ill-treatment appear to occur at all stages of the detention and imprisonment process. Peaceful demonstrators have been severely beaten by PSB and PAP officials while being taken into custody. Torture and ill-treatment of political detainees during interrogation appears to be practised systematically and is aimed at extracting confessions from them.

Convicted prisoners and people held in administrative detention are sometimes tortured or severely ill-treated as a punishment for alleged breaches of prison discipline. Former detainees have reported that they have been held in solitary confinement in small, windowless and unlit cells, sometimes for several days on end, as a form of punishment. A former detainee in Seitru detention centre in late 1988 said that a punishment cell he had been held in was so small that one could only sit cross-legged in it but not stretch in any direction, stand up or lie down to sleep.

Torture and ill-treatment during arrest

Amnesty International has received hundreds of reports by former detainees and eye-witnesses which indicate that peaceful and unarmed Tibetans have been systematically beaten when taken into custody, whether or not they were suspected of taking part in violent demonstrations. Some of these reports are summarized below.

A Tibetan monk arrested in March 1989, manhandled by a police officer. This photograph, taken by police, was copied in Lhasa and smuggled out of the PRC in 1990. © *Tibet Information Network*.

In the evening of 5 March 1989, after a riot erupted in Lhasa following a demonstration around noon on that day where peaceful demonstrators appear to have been shot at by police, several saw a Tibetan man being severely beaten and taken into custody by People's Armed Police or Public Security officers. The subsequent fate of the man and his identity are not known. An eye-witness reported:

"The soldiers came, they grabbed a well-dressed man, who was about 45 or 50, out of an alley. He did not look like he was part of the demonstration but it is possible he was involved. He was pulled by about eight soldiers to right in front of our windows and thrown to the ground. Then several of them started kicking him in the head from which much blood flowed. About 40 soldiers from the People's Armed Police stood around and watched as two soldiers picked him up and one soldier took a two-foot long metal pipe and, swinging it like a baseball bat, smashed his left knee."

The same incident was described by another witness who said:

"Once he was down on the ground they continued to hit him, kick him... After about half a minute they dragged him to his feet and smashed his knee caps again."

Amnesty International has not been able to identify the victim of this incident, or to establish his fate.

On 11 March 1988, Ngawang Tobchen, a monk from Drepung Monastery, was reportedly arrested while he was a convalescent patient at the Workers' Hospital in Lhasa. He had been hospitalised on 5 March to treat wounds caused by police beatings on 5 March. When he was taken into custody, his hands were handcuffed behind his back: the soldiers reportedly pulled his arms back, causing acute pain in his shoulders. They kicked his back to force his wrists together behind his back.

A 20 year-old monk, interviewed outside the country in 1989, said he had been detained in 1988 for taking part in a demonstration in favour of Tibetan independence. He described his arrest as follows:

"First, when they caught me, they hit me on the head with the barrel of a gun. [When we reached Gutsa detention centre] we were beaten and beaten until the sun

set... I stayed one month and 26 days in the prison... It was not like that every day. For the first 15 days they did that."

Tsechok, a monk interviewed outside the country in 1990, said he had been detained for his participation in the March 1989 demonstrations. He alleged:

"I was beaten at the time of my arrest. They first tried to tie me up with ropes from behind. I had to sit on the floor and they pressed into my back with their knees. Then I was beaten all over my body with a cattle prod approximately a metre long. When I arrived in the prison I was almost unconscious... They also used sticks and rifle butts..."

"[At the police headquarters] two men asked me to stand up. When I answered that I could not stand up, they started to kick me from both sides. [That evening] I was tied up to the ceiling until the next morning; they attached another rope to the one I was already tied up with and then they hung me up. After a few hours hanging like this, my shoulders were dislocated... the next morning they took me down. At that time I could not move anymore, I could not bring my arms back in front of me, they would stay in the back. Then they started to interrogate me again but I was so weak I could not even talk... They started beating me up again. First there were five policemen and later there were three Armed Police... Most of the time they were using their fists and feet to kick me but sometimes they were threatening me with their guns..."

"I was taken to a cell in Gutsa [detention centre]. In the cell there was a cement pillar. In the cell I was kept on an iron chair with my hands chained to the chair. My legs were chained to this cement pillar. I stayed in this cell 8 days. When the guards were giving us food they did not take off our chains so we had to bend down and try to eat the best way we could... Once I was singing Tibetan independence songs in the cell and I got beaten for that. They beat me for about an hour with cattle prods and also kicked me from the back. I was bleeding from the nose and mouth because my face had been kicked onto the concrete floor. They also used a stick with a triangular section, which left the scar you saw [interviewer's note: a two-inch-long scar on the head]."

A 14 year-old Tibetan boy interviewed outside the country in October 1989, described his detention as follows:

"[On 5 March 1989] I was in a crowd of demonstrators around Ramoche Temple. Firing broke out from all directions. People ran away in all directions. A man fell over wounded in front of me near the tax office. We took him to hospital and when we arrived there the Chinese arrested me. I got a very bad beating

with clubs and rifle butts from the Chinese police. After a while they accused me of trying to kill the Tibetan I was helping... I was locked up in the hospital mortuary with another boy.

"On 6 March I was taken to the local police station. I was kept there until the evening of 7 March. A lot of people were brought in by police vans and we were all taken to Prison No 1 [Drapchi]. All those people had wounds from beatings, there was blood everywhere..."

A 23 year-old Buddhist nun from Shungsep nunnery, interviewed in February 1991, alleged:

"I participated in the 17 May 1988 demonstration in Lhasa... During the demonstration we were all arrested. The Chinese security violently beat us up. After being handcuffed and manacled we were taken to Gutsa [detention centre]... We were subjected to severe beating... and were raped with electric cattle prods."

Monks being taken onto lorries after police stormed the Jokhang monastery, 5 March 1988.

Torture and ill-treatment during interrogation

Testimonies from many Tibetans held for interrogation indicate that torture was used by the authorities to obtain information or a specific response, such as a confession, a renunciation of beliefs or the denunciation of friends or "accomplices". In other cases, Tibetans detained after pro-independence demonstrations have been beaten and tortured in police stations and detention centres, then released without charge, indicating that the torture was used simply to intimidate the victims and other potential dissidents from participating in further political activities.

Tibetans have been subjected to hours of ill-treatment during interrogation sessions aimed at extracting from them admission that their participation in protests was carefully planned or that behind-the-scenes "organizers" were at work. Subsequently, people accused of organizing protests and of being in contact with Tibetans in exile have been given harsh prison sentences for "espionage" or other "counter-revolutionary" crimes.

Methods of torture reported by former detainees include electric shocks inflicted with electric police batons similar to cattle prods and with electrical wire connected to generators; beatings inflicted with truncheons or rifle butts; cigarette burns and the use of rope to tie victims in painful positions. Testimonies also refer to victims being made to stand or sit for long periods without permission to move or to stand in water for hours, and to humiliations such as being forcibly stripped. The use of dogs to intimidate detainees has also been reported.

Use of electrical wire

Sonam Dolkar, 24, from Lhasa, was interviewed in Kathmandu, Nepal, on 16 September 1991. She had left Tibet clandestinely a few days earlier. Sonam Dolkar told her interviewer that she had been regularly tortured over a six-month period while held incommunicado in a cell in Seitru Detention Centre in Lhasa. She said her interrogators attached live electric wires to parts of her body, causing convulsions strong enough to render her unconscious. She also alleged that she received electrical shocks from an electric police baton applied to her body. She indicated that the baton had been introduced into her vagina. She showed her interviewer a large scar on her chest, which she indicated was caused by the boot of a guard who kicked her. She claimed that she was tortured every two days for several months. She said she was kept in manacles and feet shackles throughout her detention.

Sonam Dolkar said that she was held for about ten months, from 30 July 1990 to about May 1991, in Seitru Detention Centre in a bare windowless cell which she believed was underground. She said that she never saw any other detainees, that food was insufficient and of poor quality and that she had to sleep on the concrete floor of her cell, even during the cold winter months. She said that her health declined but that no medical care was available, although the use of electricity to torture her stopped after a doctor examined her, about six months into her detention. She said she was never brought to trial nor given access to anyone outside the detention centre.

Sonam Dolkar indicated that she was detained in the evening of 29 July 1991 by about 20 policemen who also searched her house because they suspected her of taking part in pro-independence activities. She was first taken to Lhasa's eastern police station, then transferred on 30 July to Seitru Detention Centre, where interrogation took place.

Use of electric batons

A Tibetan monk and former detainee interviewed outside Tibet in November 1989 described an instance of use of electric batons by interrogators in 1989, after the March demonstrations:

"During interrogation... on me they used electric batons... Sometimes they used rifle butts, sometimes they pointed a rifle at your chest as if they were going to kill you. They kicked and punched you. It was usually the military police who came

to interrogate us, mostly 3 times a day, but there wasn't a single day when no interrogation took place. Torture always took place during interrogation. The main question was: who was the man behind the demonstrations? Who organized it? They wanted the names of people involved. They showed us pictures and asked if we recognized people."

Rinzen Kunsang, 27, from Nyemo District, a Buddhist nun from Shungsep monastery near Lhasa, was interviewed in 1988. She said she had taken part in a demonstration in the morning of 2 April 1988 and that she was detained. She and other nuns were taken to Gutsa detention centre, where they suffered severe beatings. She and 83 other detainees were released on 11 July 1988. She said that, after a few days in detention:

"We were handcuffed and stripped. Two women beat us with bamboo sticks and prodded us with electric batons... Beatings occurred at every interrogation session. I had to put my head down towards the ground and raise my chuba [Tibetan robe] like this, with the under-trousers showing, then they beat me with a stick... They hit so hard and so many times that the sticks frequently broke. During the beatings I often fainted. The pain was not felt so much at the time but in the following days the whole body would keep throbbing with pain... They used sticks, electric batons and kicks. [My interrogators said that] I was in possession of reactionary literature.. They told me that due to my age I had not suffered in the old days and that there must be people behind me telling me to demonstrate. They wanted the names of these people."

Chapter 4: Killings and extra-judicial executions of demonstrators

Several dozens of civilians have been killed by police and military forces in Tibet since the first violent crackdown against unarmed and peaceful demonstrators took place in Lhasa in October 1987. Killings by government forces were reported in several instances, including four occasions between 1987 and 1989 during peaceful demonstrations. In 1989, specific instances of killings by security forces which occurred in a context of violent demonstrations may have been extra-judicial executions.

Since 1990, Amnesty International has received reports that individual participants in small, peaceful demonstrations have been stabbed by police officers carrying out arrests. One person is reported to have died in 1991 as a result of such of such an attack and at least one other was severely wounded.

This chapter describes instances of killings and extra-judicial executions carried out by security forces in Tibet since 1987, and official statements by the authorities concerning these killings and the often violent clashes during which they took place. This chapter also describes the known regulations of the PRC on the use of firearms by police forces, and the relevant international standards.

4.1 Killings and extra-judicial executions of peaceful demonstrators 10 December 1988

A group of demonstrators marching along the Barkor, Lhasa, 10 December 1988. © *Tibet image Bank*.

Police shot and killed participants in a peaceful demonstration held in the Barkor and on the public square in front of the Jokhang temple on 10 December 1988 on the occasion of the 40th anniversary of the promulgation of the Universal Declaration of Human Rights.

Shortly after 11:15 am on 10 December, eye-witnesses reported that a small group of Tibetan monks, led by a monk from Drepung monastery who was holding a Tibetan nationalist flag on a pole, marched south towards the Jokhang temple. When they reached the Barkor from a side street, they headed towards the square in front of the Jokhang temple. The marchers were reportedly advancing quickly, some of them were chanting slogans. On the Jokhang

temple square, the demonstrators and a crowd following them were confronted by a police forces deployed in front of them. The demonstrators stopped their march, reportedly only a few metres away from the police line.

A police officer who was standing in front of the police line reportedly shot, without warning and at close range, at the demonstrators in front of him. Other police officers then started shooting as well. Although some police were seen firing in the air at this point, there appears to have been no warning shot and no oral warning by the police officer or any other authority on the scene. The monk, named Gyalpo, who was reportedly holding the Tibetan flag, was shot and reportedly died on the spot. The first round of shooting was followed by the launch of tear gas; further shooting took place while the demonstrators were running for cover. According to some reports, a woman was also killed.

The authorities appear to have anticipated a demonstration on 10 December. Neighbourhood committee meetings, which most families in Lhasa were required to attend, were reportedly warned before 10 December that people found on the Barkor on that day would be fined and that those taking part in protests "would be shot".

Participants in the 10 December 1988 demonstration lying in the courtyard of a Public Security Office in Lhasa. Some are unconscious. © Tibet Information Network.

A state television news broadcast in Lhasa on 11 December reported that demonstrators had ignored warnings from police, who were left with no choice but to open fire. The official Xinhua news agency indicated that "warning shots" had been fired and that "in the ensuing chaos" one monk was killed and 13 other people were injured, two of them "seriously".

On the basis of the available information, Amnesty International has concluded that the 10 December 1988 demonstration was peaceful. There was no indication that protesters advocated violence or attempted to use violence. The killing of Gyalpo, who was leading the demonstration, appears to have been an extra-judicial execution: a deliberate killing by government forces acting outside the limit of the law.

Amnesty International is concerned that the apparent extra-judicial execution of Gyalpo, and reports of the killing of a woman, on 10 December 1988, should be fully and impartially investigated, and the result of the investigation made public.

March 1989

According to unofficial sources, at least 60 civilians were reportedly killed and hundreds were injured by police and military forces firing indiscriminately at demonstrators and unarmed civilians during demonstrations and riots which took place in Lhasa from 5 to 7 March 1989. Official reports indicated that 10 "rioters" were killed and 60 were injured and that one policeman was killed and 40 were injured. Martial law was imposed in Lhasa in the night of 7 March 1989 and remained in force until 1 May 1990.

The unrest of 5-7 March had been preceded by minor incidents in late February and the first four days of March. On 4 March, for example, five monks reportedly shouted slogans in a brief demonstration in front of the Jokhang temple, but no violence was reported in these incidents. Around midday on 5 March a group of monks, nuns and lay people began to walk briskly around the Barkor, carrying a Tibetan nationalist flag. They were shouting slogans for Tibetan independence and were reportedly also saying that they intended the demonstration to be peaceful and asked that no violence be used. As the demonstrations went along the Barkor, their numbers grew. Witnesses alleged that when the group of demonstrators reached the police station at the southwestern corner of the Barkor at the end of their second circuit of the Barkor, policemen threw empty bottles at them. One or more demonstrators then reportedly threw stones at police posted on the roof of the police building. The policemen started to fire at the demonstrators. Reports differ on whether warning shots were fired first and it is unclear whether there was any pause in the firing allowing the demonstrators to disperse. Apart from stone-throwing, there were no indication that the policemen or the police office were threatened by the demonstrators. After two rounds of shooting, three or more demonstrators were reportedly wounded; tear gas was then reportedly fired by the police.

There appears to have been a lull of about two hours after this incident. By about 3:00 pm, however, the degree of violence reportedly increased dramatically. A group of over 100 Tibetan youth, carrying a Tibetan flag and a picture of the Dalai Lama, was seen on Beijing Road. The group was prevented by tear gas from entering the Barkor area and began to throw stones at shops and road signs. Armed police soldiers confronted the youth, who threw stones at them from the street and from rooftops. The police responded by firing both tear gas and live ammunition.

A number of people appear to have been killed in this encounter and in others during the afternoon and the evening, including people who seem to have been shot by stray bullets. Other victims appear to have been chased into buildings and deliberately killed. A young woman, named as Norbu Dolma's daughter, and her brother Tsewang, age 23, were reportedly shot dead in their home.

Accounts of the disturbances published by official media in China indicate that 10 civilians were killed on 5 March. An official account says that only tear gas was fired in the

first incident at around noon, "in order to stop the situation from deteriorating" and "to disperse the group". The account further alleges that, in an incident which apparently took place after 4:00 pm, "some of the rioters fired at [armed police and public security officers] with rifles and pistols", the police forces "returned fire" because "there was no other means to stop the riot". All eye-witness accounts received by Amnesty International indicate that demonstrators did not have firearms and that the only weapons some demonstrators used were stones, slingshots and iron bars.

During the night of 5 March, troops withdrew from the centre of Lhasa, and the city remained calm until around midday on 6 March, when marches by demonstrators and riots started again. Armed Police moved into the city again in mid-afternoon, using firearms and teargas. One person was killed on that day, according to the official version of the events. Again, in the evening, troops left the city centre.

Information available concerning the reaction of police forces to demonstrations indicates that they responded to outbreaks of violence by using excessive force. Amnesty International is also concerned at allegations of deliberate killings and indiscriminate shooting of demonstrators.

4.2 Use of lethal force by security forces during demonstrations

The use of lethal weapons, including live ammunition, by security forces during demonstrations, was widespread in Lhasa between 1987 and 1991.

Amnesty International is concerned that, on occasions such as those described above, police forces in Lhasa opened fire deliberately at crowds when they encountered groups of people during and after peaceful demonstrations. In some cases no warning appears to have been given before police forces opened fire.

It appears that conventional methods for the disposal or control of crowds without resort to firearms or other lethal force were not used. This disproportion between the actions of demonstrators and the degree of violence used by police forces in response is highlighted by the fact that, in instances when killings occurred, police forces were confronting groups of a dozen to a few hundred individuals, some of whom were armed with stones or iron bars.

Amnesty International is concerned that many of those fired upon were unarmed, and that a number of victims were killed in residential buildings due to apparently random or indiscriminate shooting by police forces. Some, including children, were reportedly shot among crowds of people running away from police forces firing at them. In a number of cases, the killing of particular individuals appears to have been deliberate and intentional.

Repression in Tibet

Many of the reported killings of unarmed civilians appear to have been extra-judicial executions. Amnesty International is concerned that government forces may have deliberately shot and killed individuals even when they posed no immediate threat of violence. Such killings are in violation of international standards which provide that lethal force should only be used when absolutely necessary and in direct proportion to the legitimate public security objective it is intended to achieve.

Chapter 5: The death penalty

The death penalty is commonly used in the TAR, as in the rest of the PRC. Capital offences listed in the Criminal Law of the PRC and in other legislation include economic and other crimes which do not necessarily involve the use of violence. Trials in death penalty cases, as in other cases, are grossly unfair: procedures are biased against the defendants and pervasive political interference in the work of the judiciary critically hampers its independence.

Amnesty International is opposed to the death penalty in all cases on the grounds that it constitutes a violation of the right to life and that it is the ultimate form of cruel, inhuman and degrading treatment.

Fifteen death sentences were recorded by Amnesty International in Tibet between May 1990 and April 1991, according to statements in the official Chinese press and other sources. At least six of these death sentences were officially acknowledged to have been carried out. Amnesty International does not know whether other death sentences have been imposed in the TAR, but it fears that the actual number of death sentences and executions in the TAR may be higher than that recorded. All death sentences and executions in the PRC are by law recorded by the Supreme People's Court in Beijing, but the court does not disclose statistics on death sentences and executions. This information is reportedly classified as a "state secret".

Theft, smuggling, embezzlement and other economic crimes, which do not necessarily involve the use of violence, are punishable by death in the PRC. In Lhasa, Huang Changyong and Liao Weidong were executed on 14 July 1990 for "stealing goods worth a total of 75,476 yuan" from warehouses of the TAR Communist Youth League and the TAR Electricity Department. Tashi Tsomo, a 22 year-old airline office employee, was sentenced to death at a public meeting on 3 April 1991 for allegedly embezzling over 785,000 yuan.

Amnesty International is particularly concerned by the use of the death penalty in the context of political campaigns against crime and by the insufficiency of safeguards against miscarriages of justice.

5.1 Political interference in judicial work

The death sentences imposed in Tibet since 1990 were related to a nationwide campaign to "sternly crack down" on crime. It is unclear to what extent the anti-crime campaign was related to any increase in the actual incidence of crime in Tibet. No statistical reports are available. Rather, it appears that the nationwide campaign against crime was related to the perceived political need on the part of government officials to "stabilize the situation" after the 4 June 1989 massacre in Beijing and its aftermath. In Tibet the campaign was explicitly directed against "a small number of separatist elements" as well as against "serious criminal elements".

On 4 May 1991, TAR Chief Procurator Yang Youcai said in his report on the work of the TAR procuracy for 1990:

"In 1990, we firmly put as the main task of the procuratorial organs to sternly crackdown according to law, severely and fast against a small number of separatist elements and serious criminal elements, consciously striving towards the stabilization of the situation..."

"In the face of a severe situation and complex circumstances, we upheld the policy of sternly cracking down, earnestly implementing the spirit of the Central Political-Legal Commission's 1990 "Five May" telephone conference (and) in accordance with the TAR Party Committee's unified plan, we actively took part in the unified action dealing focused blows [against serious criminals]. During the stern crackdown the arrest of 304 criminals was considered and approved, and the prosecution of 259 cases, involving 264 people, was considered and approved, an increase of 19.8% and 17.1% respectively over the same period in 1989. We persisted in swiftly arresting and swiftly prosecuting in accordance with law, serious, special and large criminal offenses and counter-revolutionary criminals. Provided the basic facts of the crime were clear and the basic evidence conclusive, we just approved the arrests and initiated prosecution within a relatively short time, there was no delay caused by the prosecution process..."

The TAR Chief Procurator's report indicates that the activities of the procuracy in Tibet were directly supervised by the Central Political-Legal Commission of the Communist Party.

Amnesty International fears that supervision by the Communist Party of the work of judicial bodies may have resulted in political interference in the handling of criminal cases, including death penalty cases. In this context Amnesty International is concerned that individuals who would not have been sentenced to death in ordinary circumstances may have been sentenced to death and executed as a result of political interference. It is also concerned that official emphasis on the speedy investigation and sentencing of death penalty cases further weakened the already inadequate safeguards against unfair trials and may have resulted in miscarriages of justice.

Amnesty International's concern that close links between the police, the procuracies, the courts and the CCP Political-Legal Commission may result in political interference in the handling of criminal cases is heightened in Tibet by the fact that the president of the Regional High People's Court, Zi Chang, is himself the secretary of the Political-Legal Commission of the Tibet Regional CCP committee.

5.2 *Reports of politically motivated judicial executions of prisoners*

Lhasa Television reported on 18 May 1990 that three Tibetan prisoners detained in Drapchi Prison, Migmar Tashi, Dawa and Dhundup Tsering, had been sentenced to death on 17 May 1990 for allegedly planning to escape. A fourth participant in the alleged escape plan, Tashi, received an additional prison sentence. The death sentences were announced at a sentencing rally held by the Lhasa Intermediate People's Court within the prison compound, apparently in the presence of other prisoners.

The television report alleged that the four prisoners had "resisted reform" and that since February 1989 they had been devising "a prison escape scheme in a planned manner". Two of them, Migmar Tashi and Dawa, were accused of writing letters "showing determination to continue criminal activities after their escape". The report said the escape scheme was foiled on 28 July 1989, when one of the alleged offenders, Dhundup Tsering, turned himself in to the authorities.

Amnesty International has on past occasions received reports of sentencing rallies being held in Chinese prisons and of death sentences against inmates being imposed and carried out within prison compounds. To the organization's knowledge, however, this was the first time that a sentencing rally in a prison had been officially reported in the media.

The following are excerpts of an unofficial translation of the Lhasa City Intermediate Procuratorate's indictment against Migmar Tashi, Dawa, Dhundup Tsering and Tashi, dated November 1989:

"In February [1989], defendants Dhundup Tsering and Dawa met and discussed escape plans... In June, Dhundup Tsering asked Migmar Tashi if he wanted to escape. Migmar Tashi agreed. Dhundup Tsering, Migmar Tashi and Dawa decided to escape together sometime in July.

"In June... Tashi was informed of the escape plan and of [Migmar Tashi and his co-defendants'] decision to work for Tibetan Independence... Tashi agreed to help them... and advised the three to organise as many activities for Tibetan Independence as possible after their escape...

"In June, Dhundup Tsering, Dawa, Migmar Tashi and Lobsang Tenzin met in the Group One Cinema Hall to discuss the date and preparations for the escape. Dhundup Tsering, Dawa and Migmar Tashi agreed 'to be united in their decision to escape and [work] for the independence of Tibet' and that Lobsang Tenzin would write the reactionary slogans and the three would attempt to post them in public places...

"On the afternoon of 27 July [1989] Dhundup Tsering called Dawa and Migmar Tashi to his place under the pretext of needing help for extra work and discussed the idea of setting up a ladder against the wall near the prison gate in order to escape. But thereafter the prison authorities announced that prisoners were no longer allowed to initiate or do extra work without the supervision of an appointed leader/supervisor. Their evil plan was foiled by the new regulation.

"On 28 July Dhundup Tsering, of his own accord, confessed his own guilt to the political authorities and denounced the crimes of others.

"The above defendants have been found guilty of attempted escape from prison; the evidence and the witnesses are conclusive...

"The defendants have not recognized their crimes and served their sentences according to the law: on the contrary, in open defiance of the authorities they set up an organization with a complete structure, aims and plans to escape from prison for the Independence of Tibet. This violated Article 96 of the Criminal Law of the People's Republic of China... [The defendants] are guilty of attempted escape from prison; of causing obstacles to the administrative authorities; and of having counter-revolutionary aims and planning to escape from prison."

Article 96 of the Criminal Law reads in part:

"Ringleaders in a mass prison raid or in organizing a jailbreak or others involved whose crimes are monstrous are to be sentenced to life imprisonment or not less than ten years of fixed-term imprisonment."

Article 103 provides for imposition of the death penalty for offences under Article 96, "when the harm to the state and the people is especially serious and the consequences especially odious".

The death sentences against Dawa and Migmar Tashi were announced at the sentencing rally held in Drapchi Prison on the morning of 17 May 1990, and the two prisoners were executed immediately thereafter. Dhundup Tsering was sentenced to death with a two-year reprieve and Tashi to 9 years' imprisonment and a further 3 years' deprivation of political rights.

The procuratorate's indictment indicates clearly that the prosecuting authorities emphasized the political character of the defendants' motives in planning to escape. They

appear not to have taken into account the fact that no actual escape or attempted escape took place.

The emphasis on the political motive of the plan and the assertion that the defendants had set up a structured organization enabled the procuratorate to make Article 103 of the Criminal Law applicable to the case: organizing a prison escape only becomes a capital offence, under Article 103, when "the harm to the state... is especially serious and the circumstances especially odious".

The Lhasa Television report about the sentencing and execution of Dawa and Migmar Tashi referred only to their escape plan and did not report the prisoners' alleged political objectives. The court document reproduced above demonstrates, however, that political considerations played a major role in the sentencing to death of the alleged planners of the prison escape.

5.3 Trial procedures in death penalty cases

The 1983 Emergency Measures

Most death penalty cases are handed down under the 1979 Criminal Law amended in 1983 on the occasion of that year's anti-crime campaign. While the Criminal Law states that the death penalty is to be applied only to "criminal elements who commit the most heinous crimes", the 1983 amendments have practically doubled the number of capital offences, including some crimes against property and other offences which do not necessarily involve the use of violence. They introduced emergency procedures which greatly reduce the opportunity for those accused to present a defence and generally diminish the likelihood that the accused are given a fair trial.

One of the 1983 amendments, a "Decision" which deals with the "rapid adjudication of cases involving criminal elements who seriously endanger public security", reads in part as follows:

"1. With respect to criminal elements on whom death sentences should be imposed for killing another, rape, robbery... and other serious endangerment of public security, where the main criminal facts are clear and the evidence irrefutable and the people's indignation is very great, the case should be rapidly and promptly adjudicated, and (the people's courts) may not be bound by the restrictions stipulated by Article 110 of the Criminal Procedure Law regarding the time limit for delivery to the defendant of a copy of the bill of prosecution and the time limits for the delivery of various subpoenas and notices."

"2. The time limit for appeal by the criminal elements listed in the preceding paragraph and the time limit for the protest by the people's procuratorates is changed to 3 days from the 10 days stipulated in Article 131 of the Criminal Procedure Law."

The 1983 regulations have resulted in a dramatic reduction in the time available to lawyers to prepare a defence and accompanied a dramatic increase in the number of death sentences imposed throughout the PRC.

"Verdict First, Trial Second"

The judicial procedure itself makes it likely that death sentences, once decided, are unlikely to be overturned. The practice known as "verdict first, trial second" (*xian pan hou shen*) is significant in this respect. The practice consists in "adjudication committees", set up in each court to supervise judicial work, examining cases and taking a "decision" before a formal trial is held. The adjudication committees are made up of judicial officials and Communist Party members. Although the referral of cases to these committees is not obligatory under Chinese law, it is widely practised. A Chinese legal magazine noted in 1987:

"This practice makes open trials degenerate into a mere formality.... and inevitably results in false and unjust cases.... To put the matter more sharply, the practice of 'judging first, then trying' amounts simply to a refurbished version of the presumption of guilt."¹⁹

Leading Chinese jurists have asserted that Chinese law "does not presume innocence nor guilt". The practice of 'verdict first, trial second' is reported to continue, as is the practice of submitting judgments for examination and approval to Communist Party committees in charge of "political and legal work".

Constraints on Lawyers

The role of lawyers in the judicial process in Tibet, as in the rest of the PRC is very constrained. According to national statistics for 1987, lawyers were available in only 20% of all criminal cases: it is unclear how many of these were death penalty cases. In most death penalty cases, lawyers are constrained by the strict time limits set under the 1983 amendments to the criminal law. In practice, they often have no more than one or two days to study the details of a case and to meet the defendant.

Administrative regulations on the participation of lawyers in court proceedings was published in 1981 and 1986, set limits on the access of lawyers to judicial records and subject visits by lawyers to defendants to restrictive administrative procedures. One of these

¹⁹ See *Faxue* (Jurisprudence), 1987.

regulations provides that lawyers shall not be "arbitrarily ordered to leave a courtroom": this provision may reflect concern at the casual treatment of lawyers by courts. On 8 July 1988, the *Guangming Ribao*, a major national newspaper, reported that "in great numbers, defence lawyers in criminal cases have been demoted, expelled from the Party, driven out of the courtroom, even handcuffed, tied up and beaten up".

Conclusion: Amnesty International's recommendations

In view of its continuing concerns about human rights violations in Tibet, Amnesty International makes the following recommendations to the Chinese government:

Release all prisoners of conscience

◆ All prisoners of conscience should be released immediately and unconditionally. They include prisoners held since the early 1980s as well as others detained in connection with the demonstrations that have taken place since 1987.

Repeal laws permitting the imprisonment of prisoners of conscience

◆ Amnesty International is concerned that some laws in China permit the detention of people merely for the peaceful exercise their fundamental rights to freedom of opinion or belief. It calls on the Chinese authorities to release all prisoners of conscience held under such provisions and to repeal legislation which permits, in Tibet as in the rest of the People's Republic of China, the detention of people for "counter-revolutionary" activities who have merely exercised peacefully their internationally recognized fundamental rights.

Articles in the section of the *Criminal Law of the PRC* on "crimes of counter-revolution, in particular, have been used to imprison prisoners of conscience in Tibet and elsewhere in the PRC, on charges such as "counter-revolutionary propaganda and incitement" (Article 102), "organizing a counter-revolutionary group" (Article 98) or "providing intelligence to an enemy" (Article 97). Amnesty International is concerned that the *Criminal Law* should be amended in such a way that it guarantees the exercise of fundamental human rights, such as freedom of expression and association, in conformity with international human rights standards.

End administrative detention of all political prisoners

◆ Everyone has the right to be protected from arbitrary arrest or detention. Amnesty International calls for all political detainees to be released, unless they are to be charged with recognizably criminal charges and tried fairly and promptly in accordance with international standards for fair trial.

Amnesty International is concerned at the use of administrative detention to detain without charge or trial political or religious dissidents. Amnesty International urges the Chinese government to repeal laws and regulations used to detain such dissidents for "re-education through labour".

Implement guarantees for fair trials

◆ Amnesty International recommends that trial procedures consistent with international standards for fairness be implemented in Tibet. At the very least, Amnesty International recommends that the provision of the International Covenant on Civil and Political Rights (ICCPR) concerning fair trial, which set out minimum procedural safeguards, should be reflected in Chinese law and practice. These internationally recognized provisions are set out in Article 14 of the ICCPR, which reads in part:

- "1. All persons shall be equal before courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law ...
- "2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.
- "3. In determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:
 - (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
 - (b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;
 - (c) To be tried without undue delay;
 - (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
 - (e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 - (f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;
 - (g) Not be compelled to testify against himself or to confess guilt..."

End torture and ill-treatment

◆ The highest authorities in the PRC and in the Tibet Autonomous Region should demonstrate their total opposition to torture. They should make clear to all officials in charge of law enforcement and of the custody and interrogation of detainees and prisoners that torture and inhuman, cruel or degrading treatment will not be tolerated under any circumstances.

◆ Legislation should be introduced in Tibet to safeguard detainees from torture and ill-treatment. These safeguards should include:

- An end to incommunicado detention, to guarantee that all detainees are brought before a judge promptly after being taken into custody, and that detainees have prompt and regular access to relatives, lawyers and doctors.

- Separation of authority over detention and interrogation, to ensure that detainees are not interrogated by the authority in charge of their custody.

- Development of a means by which to ensure that detainees can effectively lodge complaints and that the complainant and any witnesses are protected against any ill-treatment or intimidation.

- Medical safeguards, to ensure that detainees are examined by independent, fully-qualified medical doctors immediately upon arrest and at regular intervals during the period of detention.

- The repeal of regulations which permit the incommunicado detention of detainees for periods of up to fifteen days, and the implementation of international standards on the solitary confinement of detainees, in particular Article 32 of the UN *Standard Minimum Rules for the Treatment of Prisoners*, which state:

"Close confinement shall never be inflicted unless the medical officer [of the place of detention] has examined the prisoner and certified in writing that he is fit to sustain it. (...)

"The medical officer shall visit daily prisoners undergoing such punishments and shall advise the director if he considers the termination or alteration of the punishment necessary on grounds of physical or mental health."

◆ All complaints and reports of torture should be impartially and effectively investigated. The methods and findings of such investigations should be made public. Complainants and witnesses should be protected from intimidation. The authority in charge of carrying out

these investigations should be independent of the agencies and officials involved in the custody and or interrogation of detainees and prisoners.

◆ Victims of torture and their dependants should be entitled to obtain financial compensation. Victims should be provided with appropriate medical care and rehabilitation.

Investigate killings by security forces

◆ All reports of extra-judicial executions and killings by security forces in Tibet should be independently and impartially investigated and the methods and results of the investigations made public. Complainants, witnesses and their families should be protected from intimidation.

Investigations of reports of extra-judicial executions and killings by security forces should be carried out in a manner consistent with the United Nations Principles on the Effective Implementation of Extra-legal, Arbitrary and Summary Execution.

◆ The families of victims of extra-judicial executions should be entitled to obtain financial compensation. They should be able to seek such compensation without fear of intimidation.

◆ Law enforcement officials should receive clear instructions against the use of firearms or lethal force, except in specific situations involving imminent threat to life and in which the use of firearms or lethal force is strictly unavoidable in order to protect life.

Abolish the death penalty

◆ Death sentences continue to be imposed in Tibet, as they are in the rest of the PRC, in some cases with a two-year stay of execution. It is imposed for a wide range of offences, including economic and other offences which do not necessarily involve the use of violence. In on recent case, a death sentence in Tibet appears to have been imposed expressly because of the imputed political motivation of the offence. Amnesty International is unconditionally opposed to the death penalty, as the ultimate form of cruel and inhuman punishment and a violation of the right to life. Amnesty International urges the Chinese authorities to abolish the death penalty or, at the very least, to stop executions.

As a preliminary step, a review of the Criminal Law of the PRC should be carried out as a matter of urgency with a view to reducing substantially the number of offences which carry the death penalty.

Trial procedures should be reviewed (see above, p. 57) and brought into conformity with international standards for fair trials. Prisoners under sentence of death should be afforded adequate time and effective opportunities to present appeals against their sentence to the highest judicial authorities. They should be also be afforded effective opportunities to appeal for commutation of sentence to the highest executive authorities.

Repression in Tibet

Ratify international human rights instruments

◆ Internationally recognized fundamental safeguards for human rights are set forth in the United Nations International Covenant on Civil and Political Rights. Ratification by China of the ICCPR would significantly reinforce human rights protection in China, including Tibet.