



**THE CASE OF TIBETAN POLITICAL PRISONERS: PRACTICAL CRITIQUES OF  
THE INTERNATIONAL AND REGIONAL HUMAN RIGHTS RESPONSE**

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## **Acknowledgements**

First of all, I would like to thank Mr. George Soros, the Open Society Foundation (OSF), and the Foundation Open Society Institute (FOSI) for helping me fulfil my dream of studying human rights.

I would like to sincerely thank my supervisor, Mr. Michael James Hamilton for his invaluable guidance and suggestions in my research despite his busy schedules.

I would like to take this opportunity to thank all my professors at the CEU Legal Department for helping me understand human rights in a better way.

Finally, I would like to dedicate this dissertation to all Tibetan political prisoners.

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## **EXECUTIVE SUMMARY**

The gap between the human rights instruments and its practice is getting wider, making the practice seem irrelevant to the core concepts. Tibetan political prisoners are facing human rights violations despite many international and regional legal instruments meant to protect it. This research aimed to find out the challenges which were in the way of protecting human rights of Tibetan political prisoners. Tibetan's movement has been dealt in order to bring out the relevance between their activism and the state of political prisoners. Looking into the international and regional legal instruments, the research found that many of those provisions were not in practice towards the Tibetan political prisoners.

Human rights is there but it is not there, meaning it is there but not so helpful. The presence of human rights is shown in this study through the contributions made by various bodies towards improving the situation of Tibetan political prisoners, yet the situation still remains the same. Thus the research came up with certain forms of challenges that still blocks the path of improvement, and on the basis of these challenges, some recommendations have been made.

## Introduction

Torture is a grave human rights violation which is to be prohibited in all forms yet it does still exist and every effort is being made in the field of human rights to eliminate torture. If torture is to be prohibited then it is not to be applied to anybody, even prisoners. Tibetan political prisoner's situation under Chinese authorities is constantly in the human rights issues raised at many platforms for the former are known to be facing human rights violation at the hands of the latter.

Human rights has been there for decades but the violations still continue, it is not that the human rights are missing but the practicality of these instruments is the question, the gap between the concepts of human rights and its practice. According to Marie-Bénédicte Dembour, the reasons might be that either the practice is not able to live up to the standards of the human rights concepts even though the concepts were all valid or there are flaws in the human rights concepts itself that it is invalid.<sup>1</sup> In this research, the practice of human rights will be questioned as the concepts are to be found in all international and regional instruments.

This dissertation will bring out a brief picture of what turned these Tibetan people to political prisoners, how they have been handled in the prison and what problems are there in the way to improve their human rights situation. To make the study more meaningful, it will take into consideration the international laws, reports of Non-Governmental Organizations (NGOs) along with the Chinese law in relation to prisoner's rights. A country's commitment issues to International treaties will be also taken into consideration as a part of challenge to improvement of human rights.

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<sup>1</sup> Marie-Bénédicte Dembour, 'Critiques' in Daniel Moeckli and others (eds), *International Human Rights Law* (Oxford University Press 2014) p 65

The main purpose of this dissertation is to highlight the challenges in the field of protecting human rights of Tibetan political prisoners and place them alongside the relevant International and Regional legal instruments which should be better applied strictly in order to avoid such challenges.

### **Structure:**

The first chapter will go into the social movement stages of Tibet, how Tibetan activism started and the current scenario of the same. According to the book ‘Contentious Politics’<sup>2</sup>, Government is many times involved in the realm of activism as the target and reasons being that public or a group of people not happy with their governance or certain policies. The book also highlights that contentions are not a single time movement, it comes in cluster forms, one movement leading to another one, just like the spark of light. This is so well suited with the case of Tibet, Tibetan people’s protest is against the Chinese government and the movement has happened everywhere in Tibet and also in other many countries, and that is what understood as cluster mentioned by the authors.

The second chapter will focus on the regional and international laws which safeguards the rights of prisoners. Along with the laws, it will bring out certain incidents that happened with Tibetan political prisoners in order to know the practicality of the laws, some of the incidents will be taken from testimonies of Tibetan political prisoners and others from NGO reports. About the laws, international treaties and Chinese law in relation to prisoners will be taken into consideration. This chapter will also highlight China’s step into the world of human rights.

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<sup>2</sup> Charles Tilly and Sidney G. Tarrow: *Contentious Politics* (Paradigm Publishers, 2007) Preface.

The third chapter will focus on the main question of this research, that is to look into the challenges in the path towards improvement of human rights in relation to Tibetan political prisoners. Contributions made towards the improvement of their human rights will be also taken into consideration along with the challenges. The final chapter is the recommendation part, it will focus on the recommendations given to China so far by the International human rights bodies and NGOs, will extract the current stature of Tibetan political prisoners from the former chapters to see whether recommendations has been put into practice. With these points put together, this dissertation will put forth certain recommendations towards improvement of the situation of the Tibetan political prisoners.

#### **Jurisdiction:**

In this dissertation, the main focus will be on International instruments towards protection of prisoners and alongside China's regional law will be taken into consideration for Tibet is currently being dealt as an autonomous region under the People's Republic of China. In case of International instrument, one of the main instrument is the Convention Against Torture which prohibits any form of torture towards any human person which should also include the prisoners. Moreover, there are specific International laws directed to prisoners. China has also got its own law towards prisoners besides their constitution having provisions in relation to protection of prisoners.

#### **Methodology:**

This human rights research will use the laws, academic literatures and reports of different organizations. Practicality of the International and Regional instruments will be tackled in relation to Tibetan political prisoners along with incidents of such prisoners. UN and other NGO reports will be infused into this work to better understand the situation of Tibetan political prisoners.

The dissertation will finally lay down certain recommendations which can be used towards the solving the plight of Tibetan political prisoners. Along with the existing recommendations towards China in relation to Tibetans, recommendation of this research will also focus on the main cause of the tension between Tibet and China.



## 1. Chapter 1: Tibetan Social Movement (1940s-till date): Reflection on Tibetan political activism and Tibetan political prisoners

Every nation goes through its own social movement and has its own ups and downs. With the change of government, new policies and programs are brought out for the well-being of the nation and its subjects, yet sometimes, the same policies and projects are not accepted by certain group of people and they start protesting. Like this as a small example, there are many movements in societies. This chapter will look into a similar social movement of Tibetan people, how they started their activism, how it went on and where it has reached now.

### 1.1 Invasion of Tibet and start of activism-1940s - 50s

Tibet and China as neighbors had long years of relationship, with good relations as well as bad ones. China and Tibet had wars with each other yet they also had good relations on the grounds like Buddhism and they had also signed a peace treaty. China conquered Tibet earlier yet the 13<sup>th</sup> Dalai Lama in 1913 proclaimed Tibet's independence and send out all Chinese from Tibet. He did not accept the negotiations from China and he ruled Tibet until his death in 1933.<sup>3</sup>

With the fall of Chinese Nationalist Party and dawn of Mao's People's Republic of China (PRC) in 1949, they started invading Tibet despite Tibetan government's constant appeals to respect Tibet's independence.<sup>4</sup> Later in 1951, Tibetan representatives were invited to Beijing and signed the 17-Point Agreement even though Tibetans were not willing to, thereby China forced Tibet to

<sup>3</sup> Kallie Szczepanski, Tibet and China: History of a Complex Relationship (About Education) <<http://asianhistory.about.com/od/china/a/TibetanandChina.htm>> accessed 15 march 2015

<sup>4</sup> David C. Crowe, *The "Tibet Question": Tibetan, Chinese and Western Perspectives* (Submitted to the 'National Papers, The Journal of Nationalism and Ethnicity' 2013) 1108 <<http://www.tandfonline.com/doi/pdf/10.1080/00905992.2013.801946>> accessed 15 October 2015. The author referring to Tom Grunfeld, *The Making of Modern Tibet* (Revised ed. Armonk: M.E. Sharpe, 1996) 78-81 and Tsering Shakya, *The Dragon in the Land of the Snows: A History of Modern Tibet since 1947* (New York: Penguin 1999) 26-27 and Tsering Shakya, "The Genesis of the Sino-Tibetan Agreement of 1951." in *The History of Tibet* (London: RoutledgeCurzon 2003) 591-592.

become part of the PRC. Tibetan government pleaded for UN support but in vain.<sup>5</sup> One of the biggest uprisings in the history of Tibet after Chinese occupation happened on 10<sup>th</sup> March 1959 (the year in which Tibet was fully invaded by China), that day around 300,000 Tibetans surrounded the Potala Palace, the seat of Dalai Lama to protect him from Chinese armies, they took the streets to protest against the Chinese occupation and demanded them to leave Tibet. The Chinese government answered to the protest by open firings and beatings which led to the injuries and deaths.<sup>6</sup>

Tibetan troops who were small in numbers and lacked arms and ammunition were able to escort the 14<sup>th</sup> Dalai Lama to escape into India after they realized the threat to his life. Around 100, 000 Tibetans followed the Dalai Lama to seek refuge in India to sustain their identity and continue their struggle for freedom. But those who stayed back in Tibet under the Chinese regime went under much sufferings and they continued protesting.<sup>7</sup>

It was mostly monks and nuns who led these demonstrations as they did not have any child or family to worry about if they get imprisoned. The Tibetan protesters were getting more vigorous from year to year that Chinese government took up martial law in Lhasa, the capital city of Tibet by 1989 but the protest continued. The protesters were dragged to prison though many of the protest were non-violent in nature. By late nineties, hundreds of monks and nuns were imprisoned for demonstration against Chinese occupation of Tibet.<sup>8</sup>

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<sup>5</sup> *ibid*, 1109 The author referring to Melvyn Goldstein, "Freedom, Servitude and the 'Servant-Serf' Nyima: A Rejoinder to Miller." (The Tibet Journal XIV (2) 1989) and Goldstein, *A History of Modern Tibet* (Vol. 1. Berkeley: University Of California Press 1989) 746-752 and Grunfeld (n 4) 111-114 and Shakya (1999) 53-71 and Shakya (2003) 594-601 and Alex McKay, *The History of Tibet* (Vol. 3. London: RoutledgeCurzon 2003) p 607-609

<sup>6</sup> Szczepanski (n 3)

<sup>7</sup> *ibid*

<sup>8</sup> *ibid*

This was how the Tibetan political activism started in Tibet and it still continues today with movements across the world. The reasons or what lies behind these uprisings and continuous activism comes in series hereafter.

## **1.2 Mao's Cultural Revolution- 1960s-70s**

In 1965, Tibet was given autonomy, Tibetan Autonomous Region (TAR) by the Chinese government yet the boundary was just a part of the traditional land of Tibet.<sup>9</sup> This TAR creation was one of the main reason Tibetans are not happy with the Chinese regime as for them TAR is not the total land of Tibet, thus they can be heard many times protesting for the sake of full autonomy. Mao started the Cultural Revolution in 1966 which lasted till 1976, and within these ten years, he wanted to showcase his talents and powers in order to rebuke the criticisms against himself about failed economic policies.<sup>10</sup>

Culture Revolution reached Tibet in August 1966 in the name of developing culture yet the Red Guards (Han Chinese) were given orders to destroy all forms of Tibetan civilization including monasteries, artworks, libraries and also the Tibetan people's Buddhist belief ways. And the timbers and stones from the ruins of destroyed places were used to build Chinese offices. The Red Guards banned the Tibetans from practicing their Tibetan Buddhism practices like prayers, religious holidays, folk dancing and more. This revolution turned the Tibetan monasteries into art places and banks, Tibetan scriptures were burnt to the ashes.<sup>11</sup>

In the name of the revolution, some Tibetans got carried away and did participated in the destruction of these Buddhist monasteries. Tibetans were also made to study quotations from Mao's book.<sup>12</sup> By the end of Culture Revolution period, there were 553 monasteries left

<sup>9</sup> John Roberts II and Elizabeth Roberts, *Freeing Tibet: 50 Years of Struggle, Resilience and Hope* (AMACOM, New York, 2009) 123

<sup>10</sup> Crowe (n 4) 1113 The author referring to Jung Chang and Halliday Jon, *Mao: The Unknown Story* (New York: Alfred A. Knopf 2005) 503-547

<sup>11</sup> Roberts (n 9) 129-132

<sup>12</sup> Crowe (n 4) referring to Shakya (1999) 317, 323-324, 326-327, 329-330, 342-344

functioning whereas there were 2463 in 1959. It shows the damage done to the Tibetan Buddhism and their culture in the name of development and revolution.<sup>13</sup>

Around the same period, His Holiness the fourteenth Dalai Lama who was living in India was proposing a fact-finding delegation to Tibet in order to know the conditions of the Tibetan people. After few request, Chinese premier Deng Xiaoping accepts to let Tibetan delegations visit Tibet and if they find the China's governance beneficial to the Tibetans then they were supposed to negotiate on the return of the Dalai Lama. Thus the fact-finding mission started in 1979 which found destruction and repression in Tibet. The second delegation was made in 1980 with main focus on the education system, and this journey also brought out conclusions of dismay. Delegations from both terms found Tibetans in Tibet leading lives of misery with news of torture, death, hunger and more.<sup>14</sup>

### **1.3 China's reform policy: a good start with bad end- 1980s**

Tibetan government in exile led by the Dalai Lama that time accused China about the hard situations of Tibetans in Tibet as found through the delegations. And this made Hu Yaobang, the Secretary to the Chinese Communist Party (CCP) and the Vice Premier Wan Li made their first-time visit to Tibet to find the real situation. They found it way worse than they expected. Then Hu Yaobang introduced the six points reform program to liberalize the Tibetans where the fifth point was the main one focusing on preserving Tibetan's religion, culture and education. His reforms were some sort of penance to what Mao did to Tibet during Cultural revolution.<sup>15</sup>

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<sup>13</sup> *ibid* 1114 referring to Anne-Marie Blondeau and Buffetrille Katia, *Authenticating Tibet: Answers to China's 100 Questions* (Berkeley: University of California Press 2008) 166

<sup>14</sup> Roberts (n 9) 179-180

<sup>15</sup> *ibid* 181

From one angle, this reform policy was good enough to make the Tibetan people's lives better and also to retain their culture, religion and identity as a whole. Yet Tibetans, especially the exile Tibetan government was not happy with it because Chinese government has given extended acceptance for negotiations for anything except independence which the former were trying to focus. And for the Tibetans, these reform policies were initiated just to make the Tibetans happy so that the Tibetan government in exile will accept for the negotiations, but it didn't happen.<sup>16</sup> Rather than accepting the China's points, the Dalai Lama's government in India adopted the Middle Way Approach (MPA) which is about seeking neither the full independence, nor the autonomy (TAR) which is created by China, but to get the full autonomy of the area which historically belonged to Tibet, having own Tibetan administration to handle Tibet's internal matters yet the external relation like international relation and defense can be handled by the Chinese government. This policy was proposed to the Chinese government since then till date but in vain.<sup>17</sup>

The reform policies were seen as propaganda by Tibetans as well as Chinese officials in Tibet but it rather did good job, it allowed Tibetans to ordain their kids to monkhood, learn scriptures, Tibetan language was made to be used everywhere. Moreover, they welcomed another group of Tibetan delegation from India to visit Tibet's condition, which the delegations still found disturbing, people besides the reform policies facing mental and physical problems.<sup>18</sup>

Chinese government saw the important role of the Dalai Lama and started a new Sino-Tibetan relation in 1982 which again invited representatives to Tibet and tried to made them accept that

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<sup>16</sup> Melvyn Goldstein, *Tibet, China and the United States: Reflections on the Tibet Question* (The Atlantic Council of the United States' Occasional Paper 1995) < <http://www.columbia.edu/itc/ealac/barnett/pdfs/link4-goldstn.pdf> > accessed 16 October 2015

<sup>17</sup> Roberts (n 9) 182-185

<sup>18</sup> Goldstein (n 16)

Tibet is a part of China and Tibetans instead of arguing over historical issues, should go with the Chinese policies, that is coming back of all Tibetans and the Dalai Lama back to China. Yet the Tibetan representatives insisted over the past historical issues which angered the Chinese government. Many Chinese found the Dalai Lama team's response as a insincere behavior as they expected that with the reform policies helping Tibet enormously, the representatives will accept to the proposals of the Chinese government which they did not. As a result of this period, Chinese government sanctioned 42 big constructions in Tibet and it was decided at the Second Tibet Work Conference in Beijing, 1984.<sup>19</sup> And these projects were one of the main path to do the population transfer as they later brought Chinese people to work on these various projects. With the projects and the population transfer, Tibetans became marginalized in their own land, they became minorities in no time.<sup>20</sup>

Around this period, China still had dialogue with the Dalai Lama's representatives who brought a five-point proposal which focused on 'Greater Tibet'<sup>21</sup>, demilitarization in Tibet and other human rights issues yet China was not at all ready to negotiate on these things. So by now the image of China was building up in the eyes of the world as they were improving the situation in Tibet through reforms, offered the Dalai Lama and Tibetans in outside countries for return. Therefore, the support towards Tibetan people from western world was diminishing for which the Dalai Lama's office feared and in September 1987, the Dalai Lama presented his 'Five Point Peace Plan' before the US Congressional Human Rights team. The proposal was targeted not only to direct it

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<sup>19</sup> ibid

<sup>20</sup> John Hall, *Chinese Population Transfer in Tibet*, 175, Heinonline <

[http://heinonline.org/HOL/Page?handle=hein.journals/cjic9&div=10&g\\_sent=1&collection=journals](http://heinonline.org/HOL/Page?handle=hein.journals/cjic9&div=10&g_sent=1&collection=journals)> accessed 17 October 2015

<sup>21</sup> Greater Tibet meaning the whole Tibet, not only the TAR given by the PRC government.

towards the Chinese government but also to get back the support of US and other countries which were formerly supporting.<sup>22</sup>

This political speech of the Dalai Lama roused protest in Tibet, initiated by the monks in Lhasa and later joined by the lay Tibetans. The protest, which was one of the biggest riot in the history of Tibet started just after few days in September and the protesters shouted for independence and return of the Dalai Lama. All those protestors were arrested and this situation brought another group of monks protesting on 1 October 1987, many of this group were arrested and around 20 Tibetans killed when the Chinese police fired at them.<sup>23</sup> Later during Tibetan New Year in March 1988, more riots broke out in Lhasa where many of them also were arrested, tortured and killed, yet the demonstrations went on.<sup>24</sup>

Based on these above three different months in which the uprisings happened, the Tibetan political prisoners who later escaped into India established this organization in 1991 called Gu-Chu-Sum, which refers to the names of those three months, Gu meaning nine referring to the month of September, recalling the protest on 27 September 1987, Chu meaning ten referring to the month of October, recalling the incident of 1 October 1987, Sum meaning three referring to the month of March, recalling the protest of 5 March 1988. This organization still functions and they strive for advocacy to release the current Tibetan political prisoners in Tibet under Chinese rule and they also render assistances to the ex-Tibetan political prisoners in exile.<sup>25</sup>

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<sup>22</sup> Goldstein, (n 16)

<sup>23</sup> *ibid*

<sup>24</sup> Crowe (n 4) 1115 referring to Dalai Lama, *Freedom in Exile: The Autobiography of the Dalai Lama* (New York: HarperCollins 1990) 260-261

<sup>25</sup> 'Gu Chu Sum changes its political stand to Middle Way, elects new executives' Phayul.com (Dharamsala, 30 September 2013) < <http://www.phayul.com/news/article.aspx?id=34055> > accessed 17 October 2015

It was a period when Tibetans were being put into prison everyday like a routine, monks being imprisoned not only for protest but also for talking to foreign tourist about Tibet's past history and Chinese invasion. Those imprisoned, many were given life sentence and they were ill-treated that their health conditions were deteriorating time to time. Many Tibetan prisoner's whereabouts were total unknown. With gunshots every now and then in the air, the street of Lhasa drenched itself in blood.<sup>26</sup>

With these protests going on, Hu Jintao declared Martial Law in Lhasa in March 1989 which restricted the visit of foreigners into Tibet, restricted the movement of Tibetan people, military troops were stationed everywhere, Lhasa was fully militarized. It went to the extent of stationing tanks in Jokhang, a temple which is one of the oldest and sacred to the Tibetans. Even such martial law, Tibetans kept on their movement somehow, kept commemorating the former big protest days and also the arrest, torture and death continued.<sup>27</sup>

#### **1.4 Tibetan movement at world stage: 1990s**

With the major uprisings in Tibet and the Tiananmen Square Massacre, Chinese government was in the target of world at large for human rights violations. The Dalai Lama receiving the Nobel Peace Prize for Peace in 1989 brought him and his Tibet's issue at the world stage, getting more supporters. This went on to create supporters from different backgrounds, celebrities, musicians, students, NGOs, all directed towards the human rights violations happening in Tibet, to put an end to it. Hollywood celebrity like Richard Gere attending pro-Tibet rallies, musicians holding Tibetan

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<sup>26</sup> Pierre-Antoine Donnet, *Tibet: Survival in Question* (Oxford University Press, Delhi 1990, Translated by Zed Books Ltd., London and New Jersey 1994) 118-123

<sup>27</sup> Ronald Schwartz, Resistance in Tibet:1987-1990 and Robert Barnett, Symbols and Protest: The Iconography of Demonstrations in Tibet 1987-1990 contributed to the book *Resistance and Reform in Tibet* (Edited by Robert Barnett and Shirin Akiner, Hurst and Company, London 1994) 236-240



freedom concerts, students going on for rallies gained more and more supporters. Tibet also started to come in Hollywood movies, *Seven Years in Tibet*, based on the memoirs of Heinrich Harrier's life in Lhasa.<sup>28</sup>

Tibetans in India, who are far away from the real Tibet were preserving their culture, tradition, religion through different means. Even in Tibet, some monasteries were being restored from the ruins of Cultural Revolution, they were mainly done by Tibetans themselves but also some Chinese research groups funded and helped. Tibetans in Tibet were trying their best to keep the Tibetan Buddhism alive, which is not only about prayers but also in the form of songs, dances and festivals.<sup>29</sup>

But Chinese government was not at all happy with the Dalai Lama's Nobel Prize and the growing number of support. They ceased the dialogues with Tibetan representatives after the Tiananmen incident and later on the pressure from world to dialogue with the Dalai Lama, they said that they are willing to dialogue but with the preconditions accepted, one of them being 'Tibet as an integral part of China'. The Dalai Lama and his team were not willing to accept these preconditions thus the Chinese government closed their doors of negotiation.<sup>30</sup>

However, Tibetans already started gaining more attention as the Dalai Lama traveled worldwide and spoke about Tibetan cause along with peace, love and compassion. With the growing attention and support, more leaders and activists were speaking out for the cause of Tibet.<sup>31</sup>

### **1.5 China's Olympic and human rights outcry- 2000-2008**

By the new millennium, China wanted to improve their image to the world, no worry that they were economically very good but human rights they failed in. They were after the Olympic hosting

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<sup>28</sup> Roberts (n 9) 189-197

<sup>29</sup> *ibid* 199-201

<sup>30</sup> *ibid* 201-202

<sup>31</sup> *ibid* 202

opportunity which they already missed in 2000 due to their grave human rights violations so far, yet the 2008 Olympics was there. So this Olympic became as a ray of hope for improving human rights violations under the Chinese regime as Olympic hosting countries are meant to be respecting harmony, peace, human dignity etc.<sup>32</sup>

Tibetans were feeling hopeful that something might change in the light of Olympic games, and it happened actually as Chinese government was ready to resume the dialogue with the Tibetan representatives from India, it happened six times between 2002 - 2008 but unfortunately there was no real progress from these meetings. Many suspected that the Chinese government was holding these dialogues just to show the world that they are trying their best to solve the issues which can be plus point towards them as the host of Olympics 2008.<sup>33</sup>

Amidst of these hope for development of human rights, China launched its speed railway from China to Lhasa, making the Chinese tourist flow lot more than before. Along with the tourist inflow, many of the Han Chinese were started settling in Tibet due to employment and other reasons like floods in China in 2007 turned many families homeless, many Chinese families had to leave their lands for the sake of the Olympic construction. All these families, the flood victims and those whose lands were taken for Olympic reasons were immigrated to Tibet, which made the Chinese population in Tibet grow so much that Tibetans already became minority in their own land.<sup>34</sup>

With China in its full swing towards the end of preparation of the Olympics, United States honored the Dalai Lama with the Congressional Gold Medal. Tibetans all over the world rejoiced that day, celebrated by Tibetans outside Tibet in a grand way. Tibetans inside Tibet were also willing to

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<sup>32</sup> ibid 203-205

<sup>33</sup> ibid 205-206

<sup>34</sup> ibid 206-207

celebrate, so the monks of Drepung monastery who were not allowed to have a celebration, planned to paint the monastery in the place of celebration but they were disturbed by the police with forces. Many of the monks were beaten badly and many taken into detention, and the monastery sealed. Almost all monks detained were released except five.<sup>35</sup>

The following March in 2008, during the commemoration of the 10 March uprising, monks took the streets initially demanding the release of the five monks detained in October and it went on worse as the authorities instead of releasing the former monks, arrested and tortured the protesters. Since majority of protesters were monks, their monasteries were sealed, food and water supplies cut and their movements fully restricted. The protest went on as monks of different monasteries started protesting to keep the protest intact and the Tibetan lay people also joined them, on the other hand, beatings, arrest and torture continued.<sup>36</sup>

One reason for the protest was obviously to demand former Tibetan monks who have been imprisoned, another reason was the China's patriotic education policy which was introduced in Tibet to make everyone love and respect the motherland, 'China' and one of the policy was to denounce the Dalai Lama which Tibetans were not at all willing to do.<sup>37</sup> During this period, Tibetans tried their best at the risk of their lives to show to the world that they were not happy under the Chinese rule as the government claims. On the arrival of foreign journalists, they were given very restricted access but monks broke themselves out from sealed monasteries to tell them about tortures and sufferings. The same happened when the Beijing-based diplomats of different countries visited Tibet to check the situation, Tibetans protested.<sup>38</sup>

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<sup>35</sup> ibid 209-214

<sup>36</sup> Warren Smith, *Tibet's Last Stand? : The Tibetan Uprising of 2008 and China's Response* (Rowman and Littlefield Publishers UK, 2010) 11-17

<sup>37</sup> ibid 61-62

<sup>38</sup> ibid 18-19

The Dalai lama's special envoys visited China during this period to discuss on the deteriorating human rights situation in Tibet but without China's proper response, it ended without any agreement or solution.<sup>39</sup> This shows that even though China was trying its best to show the world that Tibetans in Tibet are happy and satisfied under their governance yet they were not willing to take it to the level of reality.

Since March 2008, there had been around 159 protest and as a surprise, most of them happened outside the Tibetan Autonomous Region<sup>40</sup> which shows that Tibet is not only the TAR part but also includes the other areas and that is what Tibetan people are claiming back.

The Olympic torch which was rallied throughout the world, it met with protestors everywhere, who were against the human rights violations under the Chinese government. The torch met protesters in big cities like London, Paris and San Francisco, mostly they were pro-Tibetan demonstrators but there were also many Chinese citizens protecting the torch. In Paris, a Tibetan demonstrator tried to grab the torch away from a Chinese woman athlete in wheelchair which angered the Chinese government and citizens.<sup>41</sup>

With protest like these inside and outside Tibet, China was pressured by all major countries to have dialogue with the Tibetan administration in India, and China who blamed all the protests as incited by the Dalai lama and his people outside Tibet agreed for the dialogue. China's acceptance for dialogue made all countries happy and they congratulated China for their good step yet the exile Tibetan administration was not so happy as for they know the all time result of such dialogues so they said they will only dialogue if there is a cease to the repression in Tibet.<sup>42</sup>

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<sup>39</sup> *ibid* 32-33

<sup>40</sup> *ibid* 37

<sup>41</sup> *ibid* 152-154

<sup>42</sup> *ibid* 166-167

The series of Tibetan protest were cause-oriented activism as they are directing it towards the Chinese authorities like demanding release of their imprisoned fellow Tibetans. Since Tibetan's protest towards Chinese government is on the basis of political issues, Tibetan activism becomes political activism. Many of the Tibetans were imprisoned thereafter for reasons like; organizers of the protest, supporter of the separatist forces which means in connection to the Dalai Lama and Tibetans outside Tibet, distributing political leaflets, possession of Tibetan flag etc.<sup>43</sup> Political offenses being reasons for their imprisonments makes these Tibetans as political prisoners.

With this Olympic that happened in China, Tibetans in Tibet faced a much more severe strictness from the Chinese authorities for the Chinese government felt themselves being shamed in the face of the world during such an important period. Those Tibetan protestors who were imprisoned throughout this period of Olympic uprising are what known as political prisoners as they have been imprisoned on the grounds that they were protesting against the Chinese government and their policies. And the mode of activism in Tibet took its height thereafter.

### **1.6 Latest form of activism- self-immolation**

The recent trend of self-immolation that started in Tibet since 2009, if compared to the international context is the highest number of suicide protest that happened within a short period and also in accordance with the small population. Tibetans self-immolated to give a message to their fellow Tibetans around the world about their sufferings in Tibet and to tell the world at large that they are being denied of human rights in every way under the Chinese regime.<sup>44</sup>

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<sup>43</sup> International Campaign for Tibet, 'Torture and Impunity: 29 Cases of Tibetan Political Prisoners 2008-2014' (A Special Report by the International Campaign for Tibet) < <http://www.savetibet.org/newsroom/torture-and-impunity-29-cases-of-tibetan-political-prisoners/>> accessed 26 November 2015

<sup>44</sup> Michael Biggs. 'Self-Immolation in Context 1963-2012' University of Oxford. < [http://himalaya.socanth.cam.ac.uk/collections/journals/ret/pdf/ret\\_25\\_12.pdf](http://himalaya.socanth.cam.ac.uk/collections/journals/ret/pdf/ret_25_12.pdf)> accessed 22 October 2015

According to the numbers provided by the Tibetan Central Tibetan Administration, the exiled Tibetan administration in India, the current number of Tibetan self-immolator in Tibet is 142, out of which the most recent one happened on 27 August 2015.<sup>45</sup> Tibetan self-immolator use this medium of self-immolation as a way to bring their cause of making human rights violation in Tibet known to the whole world. And according to Annual Report (2014) of the US Congressional-Executive Commission on China, relatives, family members, friends or anyone with links to self-immolation are being punished too and China has been requested not to do so.<sup>46</sup>

According to the Chinese government, all these series of Tibetan protest and Tibetan self-immolations that took place in Tibet were infused by the Tibetans outside Tibet and especially His Holiness the Dalai Lama, who according to them is a ‘separatist’.<sup>47</sup> China has put Tibet under much restriction with media censorship due to which it is difficult for the outside media to bring out the real reasons or situations that led to these self-immolation.<sup>48</sup>

Besides the blame on outside Tibetans and the Dalai Lama, Chinese government also brings in the theological point saying that suicide according to Buddhism is a sin and should not be done, and this point is targeted not only for Tibetans being Buddhist but also to the Tibetan monks and nuns who are the majority of the self-immolators. Chinese government labeled these Tibetan self-immolators as outcasts and terrorists, having previous criminal records for suspicious activities.<sup>49</sup>

From a Tibetan person’s perspective, he accepts that the self-immolation is a violence and should not be entertained yet when all other options have failed then this step is courageous enough to

<sup>45</sup> Central Tibetan Administration, ‘Mother of Five Burns Self in Protest, Self-Immolation Reaches 142’ < <http://tibet.net/2015/08/mother-of-five-burns-self-in-protest-self-immolation-toll-reaches-142/> > accessed 22 October 2015

<sup>46</sup> Congressional-Executive Commission on China, Annual Report (2014)

<sup>47</sup> Fernando Peinado, ‘Why Tibetans are burning themselves to death’ The Morningside post, Columbia/SIPA < <http://www.themorningsidepost.com/2013/04/17/why-tibetans-are-burning-themselves-to-death/> > accessed 6 March 2015

<sup>48</sup> *ibid*

<sup>49</sup> Crowe (n 4) 1124

save one's dignity, that is not to die under the hands of Chinese authorities. He also adds that these self-immolators have infused the courage in all Tibetans to struggle towards the Tibetan cause yet the same activism of self-immolation should be carried on as it will go on decreasing the very small Tibetan population, the courage given should be used for unity of the Tibetans and keep fighting for the cause of Tibet.<sup>50</sup>

The Tibetan self-immolation series also affected the family members and friends of the self-immolators, for they were detained and questioned for suspect about involvement in the act. In many cases, the family members and friends of the self-immolator were denied social securities, no promotions in job and other Tibetans were denied from helping them so that it will make their life difficult. Some towns where numerous self-immolations happened, the whole town was punished through denial of project funds and other ways. These were forms of collective punishment, punishment to others in relation to the culprit which is forbidden by International law.<sup>51</sup>

According to Sophie Richardson of HRW, China's failing policy in Tibet is 'self-defeating' for the Chinese government themselves. Sophie elaborates that China who is blaming the self-immolation towards the Dalai Lama and Tibetans outside Tibet is tightening the security in Tibet, it is under surveillance everywhere. Chinese authorities are going to the extend of stopping state benefit for those who are involved or related towards the self-immolation. Even under such security, Tibetans are self-immolating one after another which shows that the Tibetans are passing

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<sup>50</sup> Tsering Woeser and Wang Lixiong, *Voices from Tibet: Selected Essays and Reportage* (Edited and translated by Violet S. Law, Hong Kong University Press 2014) p 16

<sup>51</sup> Tibetan Centre for Human Rights and Democracy, *Human Rights Situation in Tibet, Annual Report 2014* (2015) p 7-10

the difficulties to make their voices heard to the world. Thus China with their policies cannot stop Tibetans from coming out with such activism.<sup>52</sup>

### **1.7 Current situations in Tibet which still infuses political activism**

It has been 56 years that Tibetans fully lost their land to China and currently many of them are scattered all around the world yet the majority live in Tibet. Tibetans in Tibet still continues to protest against the Chinese authorities. A brief view of the reasons for Tibetan's continuing protest in Tibet can be taken from Tibetan Center for Human Rights and Democracy(TCHRD)'s 2014 Annual Report on situation in Tibet.

For religion, Tibetans in Tibet are protesting against Chinese policies like undermining and condemning Tibetan Buddhism with destruction of monasteries and imprisoning the high lamas of different monasteries.<sup>53</sup> Ruling of Tibetan monasteries by monks who are under direct vigilance of the Chinese authorities is a symbol that there is no authorities in the hands of the religious leaders to proceed freely with their practices which is an obstacle on freedom of religion.<sup>54</sup>

Another reason is the education system in Tibet, it has become hard for Tibetan children to attend schools and many are dropping schools and the reason lies with the medium of instruction and the curriculum. Medium of instruction is now fully turned into mandarin, except in primary schools which is delayed now due to protest from Tibetans. The language barrier makes it hard for Tibetan students to understand and focus on studies and teachers cannot extend much help to translate as they are Chinese people. And Tibetan histories are either fully excluded or distorted in curriculum

<sup>52</sup> Sophie Richardson, 'China's failing policy in Tibet is 'self-defeating'' (Human Rights Watch 25 March 2013) < <http://www.hrw.org/news/2013/03/25/chinas-failing-policy-tibet-self-defeating> > accessed 15 March 2015

<sup>53</sup> Tibetan Centre for Human Rights and Democracy (n 51)

<sup>54</sup> Human Rights Watch, 'China: Tibetan Monasteries Placed Under Direct Rule' (New York 16 March 2012) < <http://www.hrw.org/news/2012/03/16/china-tibetan-monasteries-placed-under-direct-rule> > accessed 15 March 2015



which are not accepted by the Tibetan students. So here the Tibetan students takes the streets in order to voice against the Chinese government's education policy in Tibet.<sup>55</sup>

Economic reason can be directed towards China's rehousing policy towards Tibetans which in actuality benefits the Chinese government. Since 2006 with China's policy of rehousing Tibetans, they started 'New Socialists Village' and many Tibetans were made to leave their former houses to live in the new constructed countryside. According to the Chinese officials, this rehousing policy is very much voluntary from Tibetan's part and those who shifted into the new houses are happy with it. It might be with few Tibetans that they were fine with the rehousing but many Tibetans in their testimonies mentioned about their fear of this policy as they cannot see future lying there in the new house with the bad quality, too much expenses and no opportunities for job in a new place.<sup>56</sup>

The same economic reason with a touch of identity is faced by the Tibetan nomads. Many Tibetans are still nomads in Tibet and Chinese government has initiated the resettlement project for Tibetan nomads offering new houses and other benefits. Tibetan nomads are very much against the rehousing project and want to retain their own lifestyle. Chinese government went on with the project without any consent from nomads and according to the nomads, they were made to sign certain documents which many of them could not understand due to the language barrier or some were under force to sign it.<sup>57</sup>

Another grievance is that the new houses were not in positions to be occupied and start life, the houses needed much construction as it was built with cheap materials and not complete. The

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<sup>55</sup> Tibetan Centre for Human Rights and Democracy (n 51)

<sup>56</sup> Human Rights Watch, 'China: End Involuntary Rehousing, Relocation of Tibetans' (New York 27 June 2013) <<http://www.hrw.org/news/2013/06/27/china-end-involuntary-rehousing-relocation-tibetans>> accessed 15 March 2015

<sup>57</sup> Tibetan Centre for Human Rights and Democracy (n 51)

promise of their children getting education was also much delayed. Therefore Tibetan nomads are protesting against the Chinese resettlement projects which is a sheer threat to their lifestyle and moreover with no reliable resource in return to lead lives ahead.<sup>58</sup>

In environmental field, mining projects of the Chinese government in Tibet is part of their business projects but for Tibetans, it is a damage to their eco-system.<sup>59</sup> Tibet is the source of water for majority of Asian countries as it has got the major rivers. China with dams and other projects are hindering the free flow of the river and thus disturbing the source of water for many countries. China's dumping of nuclear waste in Tibet is another damage to their environment.<sup>60</sup> Therefore Tibetans are protesting against all China's business policies which leads to environmental destruction.

Another reason is China's 'one child policy' to curb Chinese population which according to Chinese government is not being exercised in Tibet yet there are many cases of forced abortion or sterilization in Tibet on Tibetan women. Tibetan population which is only six million at the moment cannot at all stand such policy.<sup>61</sup> There is no need for China to force abortions on Tibetans to lessen the Tibetan population because Tibetans now has turned to self-immolation as a form of protest. This form of protest is effecting the next to nothing population of Tibet.

Methods followed by the Chinese government like imprisoning, beating, torturing and other notorious punishments like death sentence sometimes for demonstrations against their regime or for having picture of His Holiness the 14<sup>th</sup> Dalai Lama is still in practice today.<sup>62</sup>

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<sup>58</sup> Ibid

<sup>59</sup> Ibid

<sup>60</sup> Denise Thompson, 'The Threat to Tibet's Fresh Water' (Tibet Nature Environmental Conservation Network, 24 November 2014) < <http://www.tibetnature.net/en/threat-tibets-fresh-water/> > accessed 18 March 2015

<sup>61</sup> Conflict Early Warning Systems (CEWS), 'The Tibetans' (International Relations Department, University of Southern California) and it is referring to International Lawyers, *Tibet, the position in International law* (Serindia Publications 1994)

<sup>62</sup> Ibid

According to Human Rights Watch, China should stop using severe forces against the Tibetan protesters like open firing. In January 2012, Tibetan protesters were open fired by Chinese officials for protesting and left few dead and many injured. Sophie Richardson of HRW said that China should not use disproportionate force against the protesters.<sup>63</sup>

### **1.8 Forms of Tibetan activism and aftermath results**

Political activism goes hand in hand with the ‘contentious politics’ as proposed by Charles Tilly and Sidney Tarrow, according to them, contentious politics has a cause and effect relation in it, meaning that the contention happens between two bodies, in case of political contention, it is between people and the government.<sup>64</sup> Just to bring the context of cause and effect relation to the Tibetan activism, China’s occupation of Tibet and other change in policies towards Tibet are the causes which got the effects as constant protest from Tibetans.

After the detailed steps of Tibetan social movement above, why particular forms of activism at particular times can be focused with the aftermath reaction from the authorities. Initial stage of Tibetan activism included demonstrations against the Chinese occupation of Tibet and they chose this form of activism because they were in the heat of tensions and anger which brought many of them into the streets to protest. The result was imprisonment, not accused much for demonstrations but false accusations, according to former Tibetan political prisoner Bagdro, he was imprisoned after being part of one of the demonstrations in late 1980s. He was charged with murder case which he never did and then underwent all the severe torture including beatings with various tools.<sup>65</sup>

Tibetan protest waves during the Olympics, even though they were protesting against the Chinese

<sup>63</sup> Human Rights Watch, ‘China: Refrain From Using Excessive Force Against Protestors ’ (New York 26 January 2012) < <http://www.hrw.org/news/2012/01/26/china-refrain-using-excessive-force-against-protesters>> accessed 15 March 2015

<sup>64</sup> Charles Tilly and Sidney G. Tarrow (n 2)

<sup>65</sup> Bagdro. *A Hell on Earth* (Ganden Monastery 2002) p 5

authorities yet they were also targeting the International medias to capture their situation to receive International support. The reaction from the authorities was not only to imprison the protestors but also to tighten the securities in case of foreign visitors especially media personalities. The Olympic protest also laid many restrictive laws on the Tibetans in Tibet in order to curb the demonstrations.

After all these years of protests, Tibetans issue has not been solved and they still go on protesting yet the latest wave of activism was not only protest but they set themselves on fire, calling it their final resort out of frustration and helplessness. The result was that authorities detained the families and friends of these self-immolators.

It showed the cause and effect in two ways, one between government policies and protest from the people and the next one is protest from people and the aftermath reaction from authorities. And this contentious politics goes on and on unless there is a mutual agreement or one team fully wins over the other. In case of Tibetans, an annual report on ‘Human Rights Situation in Tibet’ in 2014 highlights deaths of Tibetan political prisoners due to torture and sufferings in prison under the Chinese authorities.<sup>66</sup> Therefore the tug-of-war of contentious politics between Tibetans and the Chinese government will keep going on.

So here with the glimpse of Tibetan movement in relation to their political scenario and activism, the next chapter will go into the International legal instruments which can be related to China and their own regional law in relation to the prisoners. Certain cases of Tibetan prisoners will be used in order to look into the practicality of those rights.

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<sup>66</sup> Tibetan Centre for Human Rights and Democracy (n 51)

## **2. Chapter 2: International and Regional Legal Instruments towards prisoners: Practicality in question**

Generally, for all sorts of crimes, there are punishments in accordance to the law. Similarly, if a political activism is illegal according to law of a state, then there will be punishments as per the law. Majority of Tibetan prisoners are usually imprisoned for political activism and the journey after the imprisonment is to be focused in this study along with the rights under vigilance.

Most provisions in all International legal instruments are towards everyone as a human person. Therefore, common provisions like right to respect for human dignity, no discrimination, right to life, fair trial, no torture, right to health, no arbitrary arrest are very relevant for prisoners for them to lead a humane life in their respective prisons.

### **2.1 China and human rights**

China, along with its economic power, its relation with International human rights is another aspect which makes it a country receiving lots of attention. Even though China receives lot of criticisms in Human Rights violation field, first we have to look at its way into International human rights and becoming part of various conventions. Looking into these will help us to see what rights in relation to prison can be questioned in case of China in accordance with its membership to certain conventions.

People's Republic of China (PRC)'s current Constitution which was adopted in 1982 with numerous amendments added later.<sup>67</sup> China's Legislation Law enacted in 2000 laid out the

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<sup>67</sup> Constitution of the People's Republic of China (Adopted on 12 April 1988, 29 march 1993, 15 March 1999, 14 March 2004) < [http://www.npc.gov.cn/englishnpc/Constitution/node\\_2825.htm](http://www.npc.gov.cn/englishnpc/Constitution/node_2825.htm)> accessed 9 November 2015

hierarchy of their domestic law and according to it, their Constitution topped the ranking.<sup>68</sup> In their Constitution, the last line of Article 33 titled, ‘Citizenship’ specifically says that China as a state preserves human rights with respect<sup>69</sup> and it is an important point in this study.

China came into International human rights circle in early 1970s yet it took its full participation at a very slow pace with much observation in the beginning.<sup>70</sup> Therefore to this day, China has signed many treaties yet ratified very few of them which makes treaties not so strong to be applied to China. Once China started taking part in International human rights, it also took part in drafting of the Convention against Torture and became part of it which is one of the important treaties in the field of human rights. Likewise China has become part of numerous conventions in 1980s and this was their move towards the human rights at International stage.<sup>71</sup>

China being one of founding members of United Nation (UN)<sup>72</sup> and later into the permanent member of the UN Security Council (SC)<sup>73</sup> makes China all the more uplifted towards the International human rights with the great objectives of the UN Charter. China has used its power of being the permanent member to defend itself on many grounds when other states raised human rights issues related to China.<sup>74</sup> With such a role, China has been criticized many times for being not active or useful in the field of human rights besides being there in the permanent member of the SC.<sup>75</sup>

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<sup>68</sup> Xue Hanqin and Jin Qian, ‘International Treaties in the Chinese Domestic Legal System’ (Chinese Journal of International Law, Chinese Journal of International Law, Vol.8, Issue 2, 2009) < <http://chinesejil.oxfordjournals.org/content/8/2/299.full> > accessed 17 March 2015, para 5

<sup>69</sup> PRC Constitution (n 67) ch II, art 33

<sup>70</sup> Sonya Sceats and Shaun Breslin, *China and the International Human Rights System* (Latimer Trend and Co Ltd 2012) p 3

<sup>71</sup> Ibid, p 4

<sup>72</sup> UN Member States, On the Record, ‘Founding Member States’ < <http://www.un.org/depts/dhl/unms/founders.shtml> > accessed 4 March 2015

<sup>73</sup> United Nations Security Council, ‘Current Members’ < <http://www.un.org/en/sc/members/> > accessed 4 March 2015

<sup>74</sup> Sonya Sceats and Shaun Breslin (n 70) p 11-13

<sup>75</sup> Ibid, 15

It is the time to go into treaties that China is part of and relevant to this thesis, relevant to the prisoner's rights. Universal Declaration of Human Rights (UDHR) which is the base of all other UN treaties is an International Bill of Rights<sup>76</sup> and China's representative Dr. Peng-chun Chang was among the drafters.<sup>77</sup> UN treaty like International Covenant on Civil and Political Rights (ICCPR) was signed by China in 1998 yet they did not ratified the treaty till date.

According to Jack L. Goldsmith and Eric A. Posner in their paper 'A Theory of Customary International Law' mentions that Treaties and Customary International Law (CIL) go hand in hand.<sup>78</sup> CIL usually springs out of constant state practice which leads to a sense of obligation.<sup>79</sup> The International Court of Justice in its Statue Article 38 (b) states that the CIL is one of the sources which can be considered for applying International law.<sup>80</sup>

Therefore, with International Covenant on Civil and Political Rights (ICCPR)'s large number of member states with two optional protocols shows its widespread nature and hence its inclusion towards CIL which makes it a treaty to be followed by all member states. Then we have the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) for which China was among the drafters and also ratified in 1988.<sup>81</sup> The UN International Covenant on the Economic, Social and Cultural Rights (ICESCR) enshrines such rights which are very necessary for every human to sustain their daily lives and thus some of these rights can be applied for prisoners.<sup>82</sup> With these main treaties, a prisoner is ought to lead a prison

<sup>76</sup> Kim Gleeson, 'World Influence of the UDHR', History <<http://www.universalrights.net/main/world.htm>> accessed 4 March 2015

<sup>77</sup> The Universal Declaration of Human Rights, 'The Drafters of the Universal Declaration of the Human Rights' <<http://www.un.org/en/documents/udhr/drafters.shtml>> accessed 4 March 2015

<sup>78</sup> Jack L. Goldsmith and Eric A. Posner, 'A Theory of Customary International Law' John M. Olin Law & Economics Working Paper No. 63 (2D Series) The Law School The University Of Chicago <<http://www.law.uchicago.edu/files/files/63.Goldsmith-Posner.pdf>> accessed 4 March 2015

<sup>79</sup> Cornell University Law School, Legal Information Institute, 'Customary International Law' <<http://www.law.uchicago.edu/files/files/63.Goldsmith-Posner.pdf>> accessed 4 March 2015

<sup>80</sup> Statue of the International Court of Justice, art 38(1)(b)

<sup>81</sup> Sonya Sceats and Shaun Breslin, (n 70) p 4

<sup>82</sup> International Covenant on the Economic, Social and Cultural Rights (adopted 16 December 1966, entry into force 3 January 1976) 993 UNTS 3 (ICESCR)

life with humanitarian respects and no tortures, a life not as normal as others due to the boundaries of prison and various duties.

## **2.2 Relation between International and Regional Instruments**

According to Andre Nollkaemper and Ellen Hey in their paper ‘The relationship between International law and National law’, International treaties rely heavily on national law for implementation of the provisions. There is more of quantitative relationship between International and national law than the needed qualitative relationship, the relationship is evident but the next step of how to put those provisions into practice through national law still rest as a unsolved question.<sup>83</sup>

Some International treaties lays out rights and obligations directly towards the member states yet some treaties directs them towards individuals.<sup>84</sup> Although being member to an International treaty puts responsibility on the state yet the handling of the obligation to implement the provisions has to rely on the domestic legal system and it will handle the relation between the International legal system and their own system.<sup>85</sup> Without the domestic legal system’s role, a treaty cannot automatically become part of the national law even if it has been ratified.<sup>86</sup>

Benedetto Conforti in his paper, ‘Notes on the relationship between International law and national law’ says that international laws are meant to be put into practice in the national law but there is no much relation between the two to be seen in reality. According to him, national law’s compliance with international rules can be made possible with the involvement of people in

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<sup>83</sup> Andre Nollkaemper and Ellen Hey, ‘The relationship between International law and National law’ (Paper submitted for the International Law Forum du droit international 3, Netherlands 2001)

<sup>84</sup> Xue Hanqin and Jin Qian (n 68) para 2

<sup>85</sup> *ibid*

<sup>86</sup> *ibid*



relation to legal affairs like the legislators, judges and public administrators. The role of these people is indispensable because compliance with international law is only possible when there are actions taken at national level,<sup>87</sup> that is the move towards Public International law.

Conforti goes on to say that the failure of national law's compliance to International law might lie in the role of authorities, from the state's part, those who were involved in ratifying the treaty might not be the people who runs the national law. Customary International law like 'prohibition of torture' is not applied by certain state laws because the opposite is supported their law and such failure is the result of no clear relation between International and national law.<sup>88</sup>

With above points which gives the importance of the relation between International and national legal instruments, it is to see what China's national law has to say about rights which can be used towards prisoners and whether there are in relation to the International ones. A look at how International treaties are handled in the Chinese legal system will be helpful to give the idea about whether the rights in International instruments can be applied towards the Tibetan political prisoners under the Chinese authorities.

Xue Hanqin, the Chinese Ambassador to ASEAN (2008-2010) along with Jin Qian in their article 'International Treaties in the Chinese Domestic Legal System' submitted to the Chinese Journal of International Law says that China has developed in their implementation of the International laws into their regional legal system. Even though there are no special provisions in both Chinese Constitution and the Basic law regarding incorporation of treaties into their domestic legal system,

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<sup>87</sup> Benedetto Conforti, 'Notes on the relationship between International law and national law' (Paper submitted for the International Law Forum du droit international 3, Netherlands 2001)

<sup>88</sup> *ibid*

yet Chinese legal system has infused the international instruments into their system and applies to all activities to give an additional legal protection to its citizens.<sup>89</sup>

Implementing their International obligations through incorporation of International rules into national law has been their fundamental principal since the founding of PRC in order to develop their own legal system and also to promote peace and cooperation with other states.<sup>90</sup> China's law, 'Law of the People's Republic of China on the Procedure of the Conclusion of Treaties' handles the International Treaty conclusions with its provisions.<sup>91</sup>

China with its Legislation Law adopted in 2000, the Article 8 mentions that important matters of the state will be decided only by the laws of National People's Congress (NPC) and the Standing Committee of the NPC.<sup>92</sup> Therefore treaties which affects such important matters of China are to be decided by the Standing Committee of the NPC for ratification and accession.<sup>93</sup> Same International law to be placed in different state has different procedures according to their law.

With all this information on China's incorporation of International rules into their legal system, it gives a picture that China with its membership to numerous treaties is taking their responsibility of obligation as per requirement. Yet with the Tibetan political prisoner's reports of harsh treatments under Chinese authorities, China's claim of implementation of International laws is under a question. This question can be best answered by China's domestic law, what rights are in store and its relation to the International law.

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<sup>89</sup> Xue Hanqin and Jin Qian (n 68)

<sup>90</sup> *ibid* para 1

<sup>91</sup> *ibid*

<sup>92</sup> *ibid* para 5

<sup>93</sup> *ibid*

## **2.3 International and Regional rights towards Prisoners along with issues questioning its practicality.**

A comparison is must between the rights provided in international instruments and the regional instruments because many of the international instruments can be neglected by states due to reservation matters and other reasons yet a state's own law is meant to be exercised in the right way. This study will focus on few major rights in relation to prisoners; human dignity, prohibition of torture, right to health and right to fair trial. These are the main rights which surrounds the well-being of a prisoner.

China's reservation to the Article 20 of the UNCAT is a hindrance towards prohibition of torture as this particular provision authorizes the Committee Against Torture to go ahead with state inquiries in case of torture related issues.<sup>94</sup> State inquiries are the main mechanism to examine the practicality of provisions in the state and to provide timely recommendations.

This chapter will take one right at a time from both international and regional laws and then it will go into certain incidents that contradicts with the rights mentioned in both the instruments.

### **2.3.1 Right to Human Dignity:**

Everyone of us want to have some sort of dignity in our lives and we usually speak about maintaining our dignity. So it means that there is dignity in relevance to everyone of us depending on how we define it and apply to our lives. Yet human dignity will be much stronger to claim for if there are rights protecting it from the legal perspective. Here we go into the legal definition of human dignity.

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<sup>94</sup> United Nations Convention Against Torture (adopted 10 December 1984, entry into force 26 June 1987) 1465 UNTS 85 (CAT) Art 20

According to ‘The Cambridge Handbook of Human Dignity’, human dignity holds an important value in the legal systems and it draws the universal value of the same by focusing on its presence in various declarations.<sup>95</sup> Here the main declaration is the Universal Declaration of Human Rights (UDHR) which mentioned ‘inherent dignity’<sup>96</sup> in the first paragraph of the Preamble itself which shows the respect this declaration gives to the human dignity and this declaration is the base for all other treaties that followed it. Even in Article 1 of UDHR, it says that, ‘All human beings are born free and equal in dignity and rights.’<sup>97</sup> From this we can derive that to enjoy rights and dignity, we are all same without any differentiation, this surely includes prisoners as well.

Human dignity can be found in all the international and regional legal instruments which speaks its importance. Started with its presence in UDHR, it followed in ICCPR and ICESCR, the treaties that came up in 1966, both treaties includes ‘inherent dignity’ as UDHR in their Preambles.<sup>98</sup> The UN Convention against Torture (UNCAT)’s initial paragraph includes ‘inherent dignity of human person.’<sup>99</sup> So these are the main International instruments that this study will look at in relation to China.

Since this study looks into treatment of prisoners, it is important to analyze the relevance of human dignity to prisoners and at what times the same can be violated. The Cambridge Handbook on Human Dignity has a chapter on ‘Treatment of prisoners and torture’ which relates human dignity to other legal provisions like prohibition of torture and inhuman treatment which can be also found in many legal instruments, especially in the UNCAT. Human dignity is about well-being of an

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<sup>95</sup> Marcus Düwell and others, *The Cambridge Handbook of Human Dignity: Interdisciplinary Perspective* (Cambridge University Press 2014)

<sup>96</sup> Universal Declaration of Human Rights (10 December 1948) UNGA Res 217 A (III) (UDHR) Preamble

<sup>97</sup> Ibid, art 1

<sup>98</sup> Marcus Düwell and others (n 95) p 1-2

<sup>99</sup> United Nations Convention Against Torture (n 94)

individual or a group and their worth. Inflicting suffering on someone is damage towards dignity, making animals suffer is also evil in nature. Therefore torture and cruel treatment in case of prisoners violates human dignity.<sup>100</sup>

To go into more details of how to relate human dignity towards prisoners, life sentences without opportunity for parole inflicts all sorts of stress on prisoners. Long term solitary confinement has many negative impacts on the prisoners. Humiliating prisoners and torture with inhuman treatments can cause great pain and sufferings to the prisoners which also includes fear and horror. All these treatments make the prisoners suffer not only the bodily pain but also mental torture which is not something to be forgotten easily. To be more specific about torture,<sup>101</sup> ICCPR's Article 10 says that the persons deprived of liberty has rights as others to be treated humanely in respect of their dignity as a human person.<sup>102</sup> Since prisoner's human personality is hindered due to torture and cruel treatments, there is no human dignity which can accompany such treatments.

Human Dignity in case of prisoners is being used in relation to torture and cruel treatments, in order to apply this to China, it was among the states which participated in the drafting of the UNCAT.<sup>103</sup> So this whole picture of human dignity shows that the prisoners are also entitled to human dignity and they cannot be treated in cruel manners to inflict sufferings. Human dignity as the foundation concept for the UDHR speaks its importance and it being inalienable to every human being.<sup>104</sup>

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<sup>100</sup> Marcus Düwell and others (n 95) 446

<sup>101</sup> Ibid, 447, 448, 449, 450, 451, 452

<sup>102</sup> International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR) art 10

<sup>103</sup> Sonya Sceats and Shaun Breslin (n 70) p 4

<sup>104</sup> Marcus Düwell and others (n 95)

For China, Article 38 of the PRC Constitution which is titled ‘freedom from insult’ gives the right to human dignity because it prohibits any sort of actions which will harm one’s personal dignity.<sup>105</sup> China’s prison law which came into existence in 1994 gives a list of provisions solely directed towards prisoners.<sup>106</sup> Article 7 under the general provision chapter of the PRC’s prison law is directed towards the human dignity of a prisoner and according to it, human dignity cannot be humiliated. It also says that violation of a prisoner’s rights which are in accordance with law is also a part of damaging human dignity. Article 14(4) prohibits the police from humiliating the prisoners.<sup>107</sup> This Article lets prisoners have their personal dignity without hindrance from others.

With these laws, it shows that almost all rights in relation to prisoners are meant to be followed in order to respect the human dignity of the prisoners. According to Amnesty International in January 2011, a Tibetan monk named Jigme Gyatso who was a political prisoner was severely ill in prison due to the tortures of Chinese prison officials.<sup>108</sup> Detention, disappearance, collective punishment of Tibetans after the 2008 Olympic uprising, even after years, these people were not released and no information about whereabouts though many of them were arrested on wrong accusations.<sup>109</sup>

Such cases of Tibetans show that human dignity is not given much consideration when it comes to practicality even though the rights mentioned both in international and regional instruments were strong enough to protect it.

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<sup>105</sup> PRC Constitution (n 67) art 38

<sup>106</sup> Prison Law of People’s Republic of China 1994

<sup>107</sup> Ibid, art 7, 14(4)

<sup>108</sup> Amnesty International, ‘China: Torture Fears for Tibetan Prisoner: Jigme Gyatso’ (10 January 2011) < <https://www.amnesty.org/en/documents/asa17/002/2011/en/>> accessed 9 November 2015

<sup>109</sup> Human Rights Watch, ‘Statement to the Human Rights Council on Tibet’ (24 September 2010) < <https://www.hrw.org/news/2010/09/24/statement-human-rights-council-tibet>> accessed 9 November 2015

### 2.3.2 Prohibition of Torture:

Torture is one of the most important aspect to be studied while dealing with treatment of prisoners because there are many cases around the world about tortures inflicted on prisoners even though ‘prohibition of torture’ can be found in many of the international and national legal instruments. To talk about the instruments, in case of torture, UNCAT is the main treaty that focuses on torture and cruel, inhuman or degrading treatment or punishment.<sup>110</sup> Since the word ‘punishment’ is added here, it is something which is most common in prison.

According to the Article 1 of the UNCAT, torture will include intentional infliction of such treatments which will result in severe pain and suffering on the victim whether it be physical or mental. It also elaborates that the intentional treatment inflicted on the victim should be for the purpose of getting information, or let the victim confess something, or to intimidate or force the victim in discriminatory manner. The person inflicting the suffering should be in official capacity. Finally it says that the punishment sanctions under law are not considered as torture and cruel treatments.<sup>111</sup>

It is important here that the states which are members to this treaty should be respecting the definition of torture as per the definition given in the UNCAT because it will make the state easier to follow the provisions. For China, despite many recommendations, their definition of torture in their legal instrument is still not in line with the definition of torture given in the Article 1 of the UNCAT.

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<sup>110</sup> UNCAT (n 93)

<sup>111</sup> Ibid, Art 1

Article 17 of the UNCAT established the Committee Against Torture which is a body handling the torture related issues. And the same body can go for state inquiries under the provision of Article 20 which pressures the states to follow the provisions in a right way. Reservations to this provision makes it hard for the Committee to tackle the torture issues, and China is one of the states with reservation to this provision.<sup>112</sup>

Similarly, Article 7 of the ICCPR,<sup>113</sup> Article 5 of UDHR<sup>114</sup> and Rule No. 31 of the Standard Minimum Rules for the Treatment of Prisoners (SMR)<sup>115</sup> speaks about prohibition of torture and cruel treatment towards prisoners. UN's 'Human Rights and Prisons, A Pocketbook of International Human Rights Standards for Prison Officials' focuses on prohibition of torture under the right to physical and moral integrity, it also adds that prison officials should be educated about prohibition of torture and ill-treatments.<sup>116</sup>

The same handbook also gives details that prisoners who are victims of torture has the right to complain and seek legal proceedings against the prison official who inflicted the torture. the methods or practices used to interrogate prisoners should not amount to torture.<sup>117</sup> Practices might also include use of various tools of torture which can cause physical and mental pain.<sup>118</sup>

So it comes out that educating the prison officials is utmost important to curb torture in prisons, Article 10 of the UNCAT also highlights on this idea saying that the member states are required to educate law enforcement officials and other relevant professionals who are generally involved

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<sup>112</sup> United Nations Convention Against Torture (n 94) art 17, 20

<sup>113</sup> ICCPR (102) art 7

<sup>114</sup> UDHR (n 96) art 5

<sup>115</sup> Standard Minimum Rules for the Treatment of Prisoners 1957, rule 31

<sup>116</sup> UN, *Human Rights and Prisons, A Pocketbook of International Human Rights Standards for Prison Officials* (New York and Geneva 2005)

<sup>117</sup> Ibid, II, VIII

<sup>118</sup> Amnesty International, *China's Trade in Tools of Torture and Repression* (2014)



in these areas. Moreover Article 2 of the UNCAT makes it clear that torture cannot be inflicted in any circumstances, neither in state of war or threat of war and during emergency, nor under order from a higher authority.<sup>119</sup>

Andrew Coyle in his book ‘A Human Rights Approach to Prison Management, Handbook for Prison staff’ also highlights torture and cruel treatments, it goes into detail about what forms of treatment in practice can be labeled as torture or ill-treatment. So it says that the torture or the ill-treatment can happen in various forms like; during interrogation if the officials treats the prisoner harshly whether it be physically or verbally just to let him confess something, rape in case of women prisoners by officials in the form of punishment or force, use of batons and truncheons by officials towards prisoners to punish.<sup>120</sup>

According to the Human Rights Watch, the legal protection of prohibition of torture is strong as it has become a Customary International Law and it’s in the top level of treaties. It was after the horrifying abuses of the World War Two that the UN General Assembly added prohibition of torture to UDHR and then it was included all other major treaties. UNCAT is one of the highest ratified treaty, which also speaks its strength and importance.<sup>121</sup> Therefore in prisoner’s case, unless it is a punishment according to the law, they cannot be punished or treated in other ways to achieve different things like to extract information which the victim is unwilling to disclose.

Going into more details of the main treaty in this field, Article 4 of the UNCAT makes it clear to all member states that all acts of torture should be considered offenses under the criminal law. It

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<sup>119</sup> United Nations Convention Against Torture (n 94) art 10, 2

<sup>120</sup> Andrew Coyle, *A Human Rights Approach to Prison Management, Handbook for Prison staff* (Second Ed. International Centre for Prison Studies 2009)

<sup>121</sup> Human Rights Watch, ‘The Legal Prohibition against Torture’ (March 11, 2003) < <http://www.hrw.org/news/2003/03/11/legal-prohibition-against-torture#laws> > accessed 12 March 2015

is not only the torture that will be considered as offense but an attempt to torture will be also considered as an offense and these are to be given appropriate penalties according to the grave nature of the torture.<sup>122</sup> Even though prisons are places where punishment is one of the most common thing, Article 11 of UNCAT focuses on methods and practices used towards people in custody, detention or prison not to be in any form of torture.<sup>123</sup> This Article 11 is directly relevant to the prisoners who are the main focus of this study.

Now for the legal remedy towards torture victims, UNCAT extends that all member states are meant to give the torture victims have rights to redress and it should accompany fair and adequate compensation. In case of death of a victim due to torture, the family member of the victim will be receiving the compensation.<sup>124</sup> Here it can be deduced that prisoners who are victims of torture can also seek legal help against the perpetrator and claim compensation.

Due to the importance and necessity of this provision, ‘prohibition of torture’, UNCAT established Committee against Torture and this body will look into all the member states for torture issues. Member states are meant to submit reports to the Committee regarding the practice of the treaty in their state for which the Committee will give its comments and particular states has to response to such comments. The Committee can also make inquiries into the states if they receive reliable information about torture. The committee submits an overall annual report to the General Assembly of the UN.<sup>125</sup>

To make the Committee’s responsibilities simpler, there is Subcommittee against Torture and their mandate is to go into the field, the states and render them assistance in need towards prohibition

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<sup>122</sup> United Nations Convention Against Torture (n 94) art 4

<sup>123</sup> Ibid, art 11

<sup>124</sup> Ibid, art 14

<sup>125</sup> Ibid, art 17, 19, 20, 24

of torture like offering training in preventive measures of torture. They make official visits to states to protect people deprived of liberty from torture and cruel treatments. The subcommittee can also make recommendations to the member states in order to help them improve their mechanisms for preventing torture. To make the Subcommittee shoulder their responsibilities in a proper way, it is obligatory for member states to comply with the Subcommittee's duty like; receiving them in their states, give them access to all the places that they have to visit in relation to torture, to provide all necessary information, to examine the recommendations from the Subcommittee and to go for dialogues to find out preventive measures to curb torture.<sup>126</sup>

Even though China has not signed the Optional Protocol to the UNCAT which means they have nothing much to do with the Subcommittee on Torture yet it is necessary to look at the role of Subcommittee here in this study because it automatically brings out the importance given by UN to the Torture agenda. Many of these provisions focuses on people deprived of liberty so that makes the applicability of these protection towards prisoners all the more reasonable. Therefore, prisoners should be having right to preventive measures as well as remedies in relation torture and other cruel treatments.

In the torture field, China's prison law does not have a particular separate provision for it yet it is included under a provision where it is a lists of acts which police are not allowed to direct towards prisoners. Under Article 14 of the second chapter, the third act says that police are not allowed to torture the prisoners. This includes that prisoners should not be forced to confess, no corporal punishments or maltreatment to be used towards prisoners.<sup>127</sup> PRC's Criminal Law Article 247

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<sup>126</sup> Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 18 December 2002, entered into force 22 June 2006) 57 UNGA 199 (Protocol) art 2,11,12,13,14 and Manfred Nowak and Elizabeth McArthur, *United Nations Convention Against Torture, A Commentary* (Oxford University Press 2008)

<sup>127</sup> PRC Constitution (n 67) art 14(3)

states that prison officials using torture to retrieve confessions from prisoners, causing injuries and death of a prisoner are to be punished accordingly.<sup>128</sup> It shows that even without explicit laws on torture, they do have laws which somehow safeguards prohibition of torture.

International Campaign for Tibet, an NGO based in US with numerous branches elsewhere brought out a report in early 2015 about tortures suffered by Tibetan political prisoners from 2008-2014. This report narrates cases of 29 Tibetan political prisoners, who went under severe tortures in the prison, 14 among them succumbed to the injuries sustained and the rest left with serious illnesses. In the case of Goshul Lobsang, he was a man of 43 who died soon after his release from the prison, he was arrested in 2009 for his involvement in 2008 protest. His state of health was severe on his release, not in position to talk or to eat. His health became so bad in the prison due to tortures that the authorities released him in order to avoid the death.<sup>129</sup>

Another case can be taken of Tulku Tenzin Deleg who was a prominent Tibetan lama and he passed away in the prison. Amnesty International released their public statement on 15<sup>th</sup> July 2015 demanding China to release the body of the deceased lama. He was detained for more than 13 years and the charge was ‘inciting separatism’, involved in various bombings according to the Chinese authorities. His health deteriorated much in the prison due to torture for which family member and many others requested medical parole but in vain. On his death, the authorities did not return the body of the deceased to the family members.<sup>130</sup>

<sup>128</sup> Criminal Law of the People’s Republic of China (Adopted on 14 March 1997 and Entry into Force on 1 October 1997) art 247

<sup>129</sup> International Campaign for Tibet (n 56)

<sup>130</sup> Amnesty International, ‘China: Return the Body of Prominent Tibetan Monk Tenzin Deleg Rinpoche Who Died in Prison’ (Public Statement 15 July 2015) < <https://www.amnesty.org/en/documents/asa17/2102/2015/en/>> accessed 9 November 2015

Such cases bring out the torture being used towards the Tibetan political prisoners in prison and the right to prohibition of torture which is one of the most prominent right is being violated. The Convention on torture states that no circumstances can be reasoned to justify torture, not even war and public emergency.<sup>131</sup> Thus the practicality question of the rights has failed as one can see not only few but around 30 cases within few years, which came into the vicinity due to severity otherwise there might be many other smaller cases which also comes under the torture case. China with its reservation to the important UNCAT mechanism of Committee Against Torture makes it all the more problematic to cease or curb the torture related situations to Tibetan political prisoners.

### **2.3.3 Right to Health:**

Health is something which comes along with us based on our daily habits and it can go on to the negative slope due to our habits or any sort of accidents. Health is so dear to us that these days people are investing much of their earnings into health insurances. There are certain rights that extends its protection towards health, so it is necessary to go into how these rights are connected to health and then to people deprived of their liberty, prisoners.

According to World Health Organization (WHO), state is under obligation to create such environment to help its citizens to lead a healthy life and this environment includes medical services, safe and health-friendly working conditions and proper house with nutritious food. Yet this right to health cannot be claimed as right to healthy as there are responsibilities which citizens has to take care by themselves. WHO focuses on four main points in relation to health rights, AAAQ.<sup>132</sup>

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<sup>131</sup> UNCAT (n 94) art 2(2)

<sup>132</sup> World Health Organization, 'The Right to Health' (Fact Sheet No. 323, Reviewed on November 2013) <<http://www.who.int/mediacentre/factsheets/fs323/en/>> accessed 13 March 2015

The AAAQ with the facilities towards health, firstly it should be Available so that the people can go for it, secondly the facilities should be Accessible because there is no guarantee of accessibility with the availability of facilities, thirdly the facilities provided should be Acceptable according to the medical ethics, appropriate towards culture, gender and life-cycle, finally the Quality of the facilities matters whether it be goods or services, it should be good quality with appropriateness in scientific and medical field.<sup>133</sup>

The right to health looks broad with the WHO's explanation and it will be more interesting to give the legal touch to this right so that it can be used in a more legalistic way towards the prisoners.

Article 25 of the UDHR provides right to health and it attaches health to standard of living which can usually affect the health of human person. Standard of living will cover all necessary things like; food, clothing and shelter without which a person has the tendency to fall ill due to no proper nutrition, nothing to cover the body and no place to live in. The same provision adds medical services to the list of necessary things so that a person can be treated medically if he/she faces any health issues.<sup>134</sup> Availability of health services is an addition to the standard of living because no one wants to live in pain and sufferings.

Article 12 of the ICESCR calls its member states to ensure health benefits to everyone with the health referring to both physical and mental health. Along with other aspects, the Article adds that the medical facilities should be made accessible to all at the time of need.<sup>135</sup> With these International legal provisions and WHO's approach towards health, it shows that health is not only

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<sup>133</sup> Ibid

<sup>134</sup> UDHR (n 96) art 25

<sup>135</sup> ICESCR (n 82) art 12

about getting medicine when a person gets sick, it is much broader and everyone is entitled to health facilities in numerous ways.

This standard of living that UDHR<sup>136</sup> connected to health can be used in the field of prisoners. Generally, if one gets sick or needs some medical assistance, one can either seek help of the near ones to reach the medical center or just call the medical service to home. Yet for prisoners, their standard of living goes hand in hand with certain rules in the prison, they cannot directly access the medical service as they have to ask the officials for it. But their standard of living have to be in such a way that they do not face any health issues because right to health is meant for all human beings which includes prisoners too.

According to the SMR, it connects health to all the living conditions of prisoner in the prison, it starts with accommodation which should be having the facilities as proper ventilation, heating system, bathing facilities, lighting, clean sanitary, etc. and it also mentions that all surroundings are to be kept clean so that there is no health issues. Then comes the personal hygiene for which prisoners are to be provided with necessary toiletries and anything else required for their health and cleanliness. For clothing and bedding, prisoners are to be provided outfits in accordance with the climate, both bedding and outfits are to be clean so that it will not harm their health. About the food, prisoners are meant to receive nutritious food for the need of their health and strength, clean drinking water should be available for all time. For physical fitness, prisoners are to be allowed to have time for exercises and sports equipment are to be provided by the officials.<sup>137</sup>

Then the specific provision for medical services comes with the Rule 22 onward which describes that all prisons must have at least a qualified doctor who not only have the general medical but

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<sup>136</sup> UDHR (n 96) art 25

<sup>137</sup> SMR (n 115) rule 9,10,12,13,14,15,17,19,20,21

also some expertise in the field of psychiatric because health is not only about physical, it also includes mental health.<sup>138</sup> Psychiatric help in case of prisoners is understandable as they are away from their family and friends, away from the social life, no privacy in prison, various punishments which can sometimes turn into violent ones and all these effects the person's mind which is not able to handle all thus loses its stability. It is psychiatric who can look into these patients and give counseling to make them better and save the prison from turning into a mental health institution.<sup>139</sup>

In case of no facilities in the prison for a specific patient with specific need, he/she should be taken to specialized hospitals for proper treatment. Prisoners should have access to dental care under qualified dentist. Women prisoners with babies should have all the necessary facilities like nursery for the child with health care for both mother and child. It is the medical officer's duty to examine all prisoner's health on their arrival and look for health problems to give medical services accordingly.<sup>140</sup>

Medical officer has the obligation to report to the prison director about the health conditions of the prisoners. On top of that the officer has to advise the director regarding prisoner's food, clothing, cleanliness, physical training, other facilities and here focus is on quality of the service so that there won't be health problems. The prison director has to consider the reports and advice of the medical officer to take actions accordingly.<sup>141</sup>

With these rules which made the prisoner's rights to health care facilities so clear, it is following the health provisions that were discussed earlier. Yet whether these rules and provisions are being

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<sup>138</sup> Ibid, rule 22(1)

<sup>139</sup> World Health Organization, 'Mental health and Prison, Information sheet' < [http://www.who.int/mental\\_health/policy/mh\\_in\\_prison.pdf](http://www.who.int/mental_health/policy/mh_in_prison.pdf) > accessed 13 March 2015

<sup>140</sup> SMR (n 115) rule 22, 23, 24

<sup>141</sup> Ibid, rule 25,26



put into practice is a big question as there are cases where prisoners are not really receiving health care services for their health problems. There are prisoners who are in need of using their family doctors to come visit the prison with permission to examine and treat them.<sup>142</sup> This part of story which talks about prisoners not receiving health services is not reflecting what were mentioned in those provisions and rules in relation to health.

Article 21 of the PRC's Constitution focuses on the medicine and fitness saying that the state is developing various medical services in order to safeguard the health of its subjects.<sup>143</sup> China's prison law combines rights in relation to 'Life and Health' and it comes under the fifth section of the chapter four, 'Prison Administration'. Article 50 gives a general provision saying that the standard of living of prisoners is based on the quantity of materials which is set by the state. Article 51 is about the bedding and clothing of the prisoners which is allocated uniformly by the prison. Article 52 gives consideration to prisoners with special habits and custom in regard of clothing and bedding. Article 53 mentions about the prison wards to be clean with ventilation and natural light, it should be firm and heating also required.<sup>144</sup>

China's prison law goes on with health rights Article 54 which requires prison to have medical bodies and good sanitary facilities for the prisoners. The same provision says that there should be rules to maintain the life and sanitation of the prisoners. It also adds that the health care of prisoners should be included in the public health prevention programs of the local health centers where the prison is located.<sup>145</sup> This gave us a list of provisions giving detailed rights for prisoner's health.

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<sup>142</sup> The Center for Prisoner Health and Human Rights, 'Getting Needed Medical Care for a Prisoner' <<http://www.brown.edu/Research/Prisonerhealth/resources.html>> accessed 13 March 2015

<sup>143</sup> PRC Constitution (n 67) art 21

<sup>144</sup> PRC Prison Law (n 106) art 51, 52, 53

<sup>145</sup> *ibid*, art 54

The 2008 Human Rights Report states that a Tibetan political prisoner died that year in custody due to kidney problems whereas the family members claimed that their son was healthy at the time of arrest. The body of the deceased was in bruises everywhere which signals severe torture and no medical help given to soothe his illnesses.<sup>146</sup> Tenzin Delek Rinpoche who passed away in July 2015 was reported facing health problems in the 2013 Human Rights Report<sup>147</sup> US Congressman McGovern like many others urged for urgent release of Tenzin Delek on medical parole but in vain.<sup>148</sup>

Cases like these shows that the health concerns of the Tibetan political prisoners were not given any importance as per the rights requires them to. In the case of Tenzin Delek Rinpoche, if the authorities had released him when medical parole was demanded, it is not so sure that he would have recovered so well now but at least he would have recovered to some extent in order to live a little longer. The prison authorities in the case of Tenzin Delek neither tried themselves to save him and nor let the family members save him. Even though there are many rights saying that prison should be ventilated, good food and so on, medical treatment is one of the most important which is needed to safeguard the health of all prisoners which China failed to do so in case of Tibetan political prisoners.

### **2.3.4 Right to Fair Trial:**

Right to fair trial is to help everyone from getting detained or imprisoned arbitrarily without receiving proper explanation about their crime and also not getting the chance to prove oneself as

<sup>146</sup> Human Rights Report 2008 (China) < [http://guangzhou.usembassy-china.org.cn/2008\\_human\\_rights\\_report.html](http://guangzhou.usembassy-china.org.cn/2008_human_rights_report.html) > accessed 9 November 2015

<sup>147</sup> 2013 Human Rights Report (China) < <http://www.state.gov/documents/organization/220402.pdf> > accessed 9 November 2015, p 19

<sup>148</sup> Student for Free Tibet, 'Congressman McGovern calls for Medical Parole for Tenzin Delek Rinpoche' < <https://www.studentsforafreetibet.org/news/congressman-mcgovern-calls-for-medical-parole-for-tenzin-delek-rinpoche> > accessed 9 November 2015

not guilty. This right is not only about receiving help with the legal assistance for defense but it also accommodates other rights like presumption of innocence, prohibition of arbitrary arrest, prohibition of torture during pre-trial detention etc.<sup>149</sup>

To make above information on fair trial more clear, legal instruments will help to broaden it. According to the Article 10 of the UDHR, everyone has the right to seek fair legal proceedings in order to claim their rights or to defend themselves of any charges against them. Article 11 adds that a person charged with offense should be presumed innocent unless the charges against the person gets proved through the legal proceeding.<sup>150</sup>

ICCPR mainly with its Article 14 focuses on this right, saying that everyone is equal before law thus even those charged with offense also has the right to seek legal counsel and to be explained about their charges in clear understandable language. It goes on to say that the person charged is innocent until his charges are proved and he or she should be given legal assistance if they are not in position to bear the expenses.<sup>151</sup>

The provision also mentions that witnesses on his or her behalf and the witnesses against should be examined by the state, interpreter should be provided if needed to better understand the court's proceeding. There should not be delay in legal proceedings of the charged with offense. Everyone has the right to get his or her sentence reviewed by the higher court. No person should be forced to testify against oneself, With the person proved guilty and sentenced, if there is fault found with the judgment later, the person should be compensated in accordance with the law. A person cannot be punished for a crime for which he or she has been already punished.<sup>152</sup>

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<sup>149</sup> Lawyers Committee for Human Rights, *What is a Fair Trial?* (USA March 2000)

<sup>150</sup> UDHR (n 96) art 10,11

<sup>151</sup> ICCPR (102) art 14 (1) ,(2) , (3a), (3b), (3d)

<sup>152</sup> ICCPR (n 102) art (3e), (3f) ,(3g), (5), (6), (7)

SMR which a rules of treatment for people who are already in the prison also has rules which reflects fair trial, no prisoners can be punished unless it is in accordance with law and prisoners cannot be punished twice for the same offense. Prisoners cannot be punished unless they are made clear in an understandable language about their offense and they should be given chance to present their defense, proceeding under a competent authority.<sup>153</sup> Therefore it shows that the right to fair trial is a provision which lets everyone enjoy their liberty in the right manner.

PRC Constitution, Article 37 talks about freedom of person and prohibits unlawful detention or deprivation of liberty.<sup>154</sup> Article 41 gives the people's right to petition the state and the fair legal proceedings comes along with it.<sup>155</sup> These two Articles, 37 and 41 gives the right to fair trial. In the Prison Law, multiple provisions of fair trial are under the section titled, 'Handling of Petitions, Complaints and Accusations Made by Prisoners'. Article 21 of the PRC prison law provides that prisoners who are not satisfied with their judgment has the right to file petition and the concerned authorities are meant to handle the petition without delay. Article 22 gives prisoners the right to make complaints and accusations where authorities are meant to give the result without delay.<sup>156</sup> Fair trial continues with Article 23 according to which prison authorities are meant to transfer the petitions, complaints and accusations of the prisoners to the relevant offices without holding it back. Article 24 adds that if prison finds a judgment wrongful according to the petition of a prisoner, the prison authorities are meant to take the matter to the relevant offices and the concerned prisoner should get result within six months from the day of petition's submission to

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<sup>153</sup> SMR (n 115) rule 30 (1) ,(2), (3)

<sup>154</sup> PRC Constitution (n 67) art 37

<sup>155</sup> Ibid, art 41

<sup>156</sup> PRC Prison Law (n 106) art 21, 22

the relevant office.<sup>157</sup> With these four provisions, prisoners are meant to get the necessary rights of fair trial.

According to the 2013 Human Rights Report, China generally shows bias in trial procedures towards politically sensitive cases which surely includes the cases of Tibetan political prisoners.<sup>158</sup> Human Rights on its write up on Tenzin Delek Rinpoche states that his trial process began only after eight months of detention and even though he appealed to the court saying that he was wrongly accused, he was sentenced to death with two years suspension. Lobsang Dhondrup, the one who was accused along with Tenzin Delek also shouted about his innocence but in vain, he was sentenced to death and executed the following year. All these court proceedings happened in secrecy and in it was a speedy proceeding. The detainees were provided lawyers rather than having a choice to choose which hindered their appeal procedures.<sup>159</sup> With 13 years of imprisonment, Tenzin Delek died in Chinese custody in July 2015.

Tibetan writer called Shokjang alias Druklo was detained on 16 March 2015, there were no whereabouts about him to his families and the writer did not receive any lawyer assistance to free himself. Similarly a Tibetan monk named Choephel Dawa was arrested on 28<sup>th</sup> March 2015 and he also neither received legal assistance nor his family has any knowledge about him.<sup>160</sup>

The word ‘fair’ which is there in ‘fair trial’ should be given consideration when the trial process is happening. Fair trial is supposed to be open to all so that everyone could follow the proceedings and decide whether its right or not. Holding trials in secrecy is not at all in line with laws. Providing a lawyer from the government side is understandable and appreciable if the detainees were not in

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<sup>157</sup> Ibid, art 23,24

<sup>158</sup> 2013 Human Rights Report (n 156) p 14

<sup>159</sup> Human Rights Watch, ‘Trials of A Tibetan Monk: The Case of Tenzin Delek’ (8 February 2004) <<https://www.hrw.org/report/2004/02/08/trials-tibetan-monk/case-tenzin-delek>> accessed 10 November 2015

<sup>160</sup> Amnesty International, China: Submission to the United Nations Committee Against Torture (56<sup>th</sup> Session, 9 November to 9 December 2015) <[http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/CHN/INT\\_CAT\\_CSS\\_CHN\\_22118\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/CHN/INT_CAT_CSS_CHN_22118_E.pdf)> accessed 26 November 2015, p 9-10

position to hire lawyers or not willing to do so but providing lawyers irrespective of the detainee's consent is violation of fair trial. Fair trial laws or rights are useless if a state can just go blind to them and rely their own ways of procedures. So fair trial is almost absent under Chinese authorities towards Tibetan political prisoners.

### **2.3.5 Right to Life:**

Without right to life, there is no much meaning to all those rights which are meant to be enjoyed by a human person as without right to one's own life, exercising other rights is out of question. Therefore, it is important that everyone has right to life so that rights like human dignity can be attached to one's life.

Article 3 of the UDHR in a short yet simple provision says that everyone has right to life, meaning no one should be deprived of it.<sup>161</sup> ICCPR gives a detailed light upon right to life, that right to life should be protected by law and it cannot be deprived arbitrarily. Death penalty as a sentence should be abolished unless it is for most serious crimes in accordance with the law. People sentenced to death in all cases should have the right to seek pardon and commutation of the sentence. Death penalty cannot be sanctioned to juveniles and cannot be carried out on pregnant women.<sup>162</sup>

In the Preamble of the UDHR, it refers to the barbarous acts which were results of disregard to human rights<sup>163</sup> and it is being referred to the World Wars which brought so much chaos deaths. Therefore, it can be seen here that it was human lives that were lost so much during wars which triggered UN to bring out such an important document in order to give human rights a chance to

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<sup>161</sup> UDHR (n 96) art 3

<sup>162</sup> ICCPR (n 102) art 6 (1),(2),(4),(5),(6)

<sup>163</sup> UDHR (n 96) Preamble

play its role. This shows that right to life is an ingredient to live in harmony and in accordance with human rights.

All those rights discussed above; right to human dignity, prohibition of torture, right to health, right to fair trial are all in connection to the right to life. So for prisoners, they should not be treated in any manner which will harm their lives, and in case of death penalty, they should be allowed to plead against it. Even though prisoners are deprived of liberty but it does not mean that they are deprived of all rights. Therefore, these international instruments with their provisions laid out such rights which are meant for everyone and there are certain rights which gave special attention to those deprived of liberty.

For the life's part, Article 55 of China's prison law focuses on deaths of prisoners in prison, according to it such deaths are meant to be informed immediately to the family members and other relevant offices. If a prisoner's death is due to health issues, prison authorities are meant to prove with medical statement. If concerned offices and family members suspect the medical statement for the death of the prisoner, there should be proper legal proceedings to clarify the cause of the death. Unnatural deaths of prisoners should follow with legal proceedings by concerned offices to know the cause of the death.<sup>164</sup> Here prisoner's life is being given the proper protection which relates to death, the end of life.

Tenzin Delek Rinpoche's case is a fresh one to ponder upon this right. From the former details, it is known that he was sentenced to death and imprisoned since 2002, health issues engulfed him due to tortures in the prison for which medical parole was demanded but not granted, he died in the custody. Knowing the death of the Rinpoche, Tibetans protested against the authorities who

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<sup>164</sup> PRC Prison Law (n 106) art 55

open fired at the protesters.<sup>165</sup> The Tibetan monk was cremated by Chinese authorities in secrecy despite the family's request for the body.<sup>166</sup> Moreover, the authorities took into custody Tenzin Delek's sister and her daughter and their whereabouts were not known to anyone unless their release after fortnight.<sup>167</sup>

What happened to the Chinese prison law in case of Tenzin Delek's death in prison, no family members were involved, no legal proceedings even though the family and friends suspected the death as a result of torture. Prisoners are deprived of freedom but not of life, so their life is to be protected and taken care of throughout the prison life. With such case under the Chinese authorities, right to life has no practicality in reality.

With all provisions from the international and regional instrument, it showed that prisoners have enough rights as others in free world to lead their lives in prison. Prisoners with all these provisions can certainly have a fair prison life, with personal dignity, no torture, health facilities, fair trials and right to life. Yet the cases that we dealt above proves most of these rights only theoretical and impractical. The following chapter will deal with the reasons which might be responsible for these human rights violation towards the Tibetan political prisoners.

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<sup>165</sup> Amnesty International (n 136)

<sup>166</sup> Central Tibetan Administration, 'Tenzin Delek Rinpoche's Body Cremated Against Family's Wishes by Chinese Authorities' (16 July 2015) <<http://tibet.net/2015/07/tenzin-delek-rinpoche-s-body-cremated-against-family-s-wishes-by-chinese-authorities/>> accessed 10 November 2015

<sup>167</sup> Radio Free Asia, 'Tenzin Delek Rinpoche's Sister, Niece Returns Home After Two Weeks' Detention' (7 August 2015) <<http://www.rfa.org/english/news/tibet/return-08072015161511.html>> accessed 10 November 2015



### **3. Chapter 3: Struggle towards the improvement of Tibetan political prisoner's human rights: Blockages in the path of improvement**

After seeing all these above cases which lacked the assistance of the law, and Tibetan cases are not something new, it has been there since China invaded Tibet. There has been pressures on China from UN, European Union, various governments, Human Rights Bodies, NGOs, Tibetan administration in India and more, all asking to cease violations and to improve the human rights in Tibet, including the state of Tibetan political prisoners. And these pressures and requests also has been there since long time, these are the steps taken with hope for improvement yet today's state of Tibetan prisoners is not different from what some of them suffered back then.

#### **3.1 The contribution made towards improvement**

This section will go into contributions of various bodies towards the improvement of the situation of Tibetan political prisoners. The UN comes to mind when talking about human rights, they have reports on each and every member state and recommendations are made accordingly. In case of severe violation of human rights, the UN has its special procedures to send experts to have first-hand knowledge about the situation to certain member states.

After numerous denial for fact-finding mission to China, the mission of 2005 fact-finding mission on torture was welcomed by China for which Manfred Nowak was the Special Rapporteur. According to the Special Rapporteur, even though he and his team was given access to detention centers and prisons yet there were few obstacles in conducting his mission; they were under constant surveillance, always followed by Chinese officials when they are conducting their interviews with the detainees, they were not allowed to take gadgets in prisons, prison officials

were not cooperative enough with the interview sessions with detainees. He noticed fear in detainees to speak what they wanted to.<sup>168</sup>

The Special Rapporteur reflected back on his predecessors receiving complaints about torture with the Tibetans and other ethnic minorities but to his surprise, there were no torture complaints registered. He mentioned about certain improvement in China's treatment in relation to torture but still he sensed torture lingering widespread in the country. He gave his recommendations urging China to reform their law to include prohibition of torture as per the definition of UNCAT and also to ratify the relevant treaties.<sup>169</sup>

This kind of special procedure under the UN and making states to submit reports are part of the struggle towards bringing improvement in human rights situation. In China's torture case, the Special Rapporteur did saw some improvement which shows that the pressure of such special procedures and recommendations do make difference in the realm of improvement. The UN also takes into account the reports of the NGOs who are working in the field of relevant situations.

Civil Society plays an important role in bringing human rights issues to the forefront and to pressure the respective countries with their reports, research, public statements, signature campaigns, demonstrations, and many more activities. Amnesty International and Human Rights Watch are among popular NGOs at International level who tackles the worldwide human rights issues. Here in the case of China's treatment towards Tibetan political prisoners, these NGOs has done their parts like public statement, letters to Chinese authorities, reports, etc.

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<sup>168</sup> United Nations Human Rights, Office of the High Commissioner for Human Rights, 'Special Rapporteur on Torture Highlights Challenges at the End of Visit to China' (2 December 2005) <<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=3463&>> accessed 11 November 2015

<sup>169</sup> Ibid

Public statement of Amnesty International on 15 July 2015 was one of the latest one demanding China to return the body of Tenzin Delek Rinpoche who died in the prison.<sup>170</sup> Human Rights Watch brought out its 2015 world report, wherein for China, they have mentioned about Tibetans suffering beatings and long-term sentences for peaceful protest and other activisms.<sup>171</sup> In May 2015, Human Rights Watch brought out a report with details on China's torture case, they mentioned that China in the name of putting efforts to eradicate torture has brought no much changes. They put forth recommendations which included China to put their laws and International laws into practice, to let the detainees receive medical treatments in need, allow visitors, through investigation in case of death in custody etc. The report also said that China in their reports on torture always excludes Tibet and Xinjiang where torture rate is very high in general.<sup>172</sup>

International Campaign for Tibet brought out the report on 29 cases of Tibetan political prisoners, why they were imprisoned, what they suffered, why and how many of them died. This NGO did not have any recommendation in this particular report but the cases themselves makes it so clear that torture is being exercised on Tibetan political prisoners in Tibet.<sup>173</sup> Tibetan Center for Human Rights and Democracy submitted its report to Committee Against Torture for China's fifth review cycle, the report highlighted the treatment of prisoners in International law along with some cases of Tibetan prisoners. They recommended China to follow the law, invite Special Rapporteurs in case of torture, investigate custodial deaths etc. They also recommended Committee Against

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<sup>170</sup> Amnesty International (n 140)

<sup>171</sup> Human Rights Watch, 'World Report 2015: China' <<https://www.hrw.org/world-report/2015/country-chapters/china-and-tibet>> accessed 11 November 2015

<sup>172</sup> Human Rights Watch, 'Tiger Chairs and Cell Bosses: Police Torture and Criminal Suspects in China' (13 May 2015) <<https://www.hrw.org/report/2015/05/13/tiger-chairs-and-cell-bosses/police-torture-criminal-suspects-china>> accessed 11 November 2015

<sup>173</sup> International Campaign for Tibet (n 138)

Torture to condemn China for torture and to retrieve the causes of death of Tibetan prisoners in custody.<sup>174</sup>

The Tibetan Administration in India takes its own way to speak upon human rights issue in Tibet, they bring out all situations of human rights violation in Tibet to the world and seeks China to stop it urges International players to take their parts to stop it. In 2000, they submitted their report to Committee Against Torture and it contained China's violation of Torture Convention with failures to punish the torturers, targeting Tibetan prisoners for torture which lead many to death. It requested China to lift its reservation to Torture Convention to amend its laws in relation to torture.<sup>175</sup>

Different countries also do participate in improving the human rights issue, US and European Union are two popular contributors in this field. US in the Country Reports on Human Rights Practices for 2013 states that China is not having accurate data about Tibetan prisoners and some of the Tibetan political prisoners were without sentencing information.<sup>176</sup> The US Congressional-Executive Commission on China has to say about this, according to their 2014 report, they focused on number of Tibetan political prisoners in Tibet and the data is not so clear and China's provisions on self-immolation which can direct punishment towards those in link to the self-immolator. From the report, it shows that there were many lamas among the political prisoners and majority were men. The same report gave recommendation to China over Tibet's political prisoners like not to imprison those who are exercising their human rights and not to use the self-immolation provisions

<sup>174</sup> Tibetan Center for Human Rights and Democracy, 'Tibetan Center for Human Rights and Democracy's submission to the Committee against Torture (CAT) in advance of their consideration of China's fifth periodic report' (12 October 2015) < [http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/CHN/INT\\_CAT\\_CSS\\_CHN\\_22105\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/CHN/INT_CAT_CSS_CHN_22105_E.pdf) > accessed 11 November 2015

<sup>175</sup> Tibet Justice 'Torture in Tibet: A Report Submitted to United Nations Committee Against Torture on Violations by the People's Republic of China Against the People of Tibet Submitted by Secretary, Department of Information and International Relations, Central Tibetan Secretariat' (April 2000) < <http://www.tibetjustice.org/reports/un/torture.pdf> > accessed 11 November 2015

<sup>176</sup> United States Department of State: Bureau of Democracy, Human Rights and Labor, 'Country Reports on Human Rights Practices for 2013' < <http://www.state.gov/documents/organization/220402.pdf> > accessed 11 November 2015

to violate the rights of those in connection to the self-immolator.<sup>177</sup> European Union's statement on the custodial death of Tenzin Delek demanded China for investigation.<sup>178</sup>

All these above institutions are contributing their share to improve the human rights situation in Tibet. Besides all these struggle towards improvement of the situation, the actual situation is worsening instead of improving as one can see from the recent custodial deaths and absence of medical treatment to Tibetan prisoners. Some problems in the face of improving human rights situation in case of China is a must to know.

### **3.2 China's Fifth Review Cycle under the Committee Against Torture (2015)**

The 56th Session of the UNCAT is still going on yet China's review cycle passed by, China's review cycle brought out the picture of contribution made towards the improvement of human rights in China, including Tibetan political prisoners. In such a review, many Civil Society Organizations (CSOs) takes part to lay out their research and reports in relation to issues being discussed.

For China's review, in the submission of CSOs, Amnesty International raised issues on the disappearance and no fair trial of Tibetans and Tenzin Delek Rinpoche's death in custody was questioned.<sup>179</sup> Tibet Watch, UK based organization in their submission titled, 'Torture in Tibet' brought out testimonies of escaped Tibetan political prisoners in India.<sup>180</sup>

Gonpo Thinley, who was detained at the age of 18 in 2008 in relation to protest was released only in 2010, he managed to escape to India in 2014. According to Gonpo, he was part of the protest in his county in 2008 along with his brother and they also distributed leaflets calling for freedom in

<sup>177</sup> Congressional-Executive Commission on China, Annual Report (2014)

<sup>178</sup> European Union: External Action, 'Statement by Spokesperson on Recent Developments in the Human Rights Situations in China' (Brussels 15 July 2015) < [http://eeas.europa.eu/statements-eeas/2015/150715\\_03\\_en.htm](http://eeas.europa.eu/statements-eeas/2015/150715_03_en.htm) > accessed 11 November 2015

<sup>179</sup> Amnesty International, (n 159) p 9-12

<sup>180</sup> Tibet Watch, Gu-chu-sum and Free Tibet, 'Torture in Tibet' (Submission to the Committee Against torture, October 2015) < [http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/CHN/INT\\_CAT\\_CSS\\_CHN\\_22117\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/CHN/INT_CAT_CSS_CHN_22117_E.pdf) > accessed 26 November 2015

Tibet and return of the Dalai Lama. After ten minutes of protest, Chinese military and police arrived on the spot who beat them for a while and took them away. Gonpo was detained without an arrest warrant and his family was not informed about his detention and reasons.<sup>181</sup>

About his prison journey, he recollects not having anything to eat, to drink their urine to quench the thirst, fellow Tibetan prisoners suffering from urinary infection and other health problems, no quilts to cover, tortured with electric batons, metal pipes and handcuffs, no legal counsel, hard labor work etc. Even after release, he was constantly under surveillance of the Chinese officials.<sup>182</sup> This sort of submission is a great contribution towards improvement of human rights because such realities should be made visible to the world so that a better solution can be searched towards such harsh situation.

The Committee Against Torture raised numerous questions regarding Tibetan cases to the Chinese delegations, information on custodial death of Tenzin Delek Rinpoche was one of the things demanded. Chinese delegations did not gave specific answers to all the questions raised, they said there were no political prisoners, torture is not verifiable in case of Tibetans, Tenzin Delek Rinpoche received adequate medical support and everything happened with consent of the family, even the cremation of the body.<sup>183</sup>

This response of Chinese delegation was in total contradiction to what many CSOs and UN Experts has said about the torture in Tibet. Anyhow, one of the ex-Tibetan political prisoner Golog Jigme was present there during the review and he stated that all answers given by the Chinese delegations were lies and he himself and his weak body is the living evidence of tortures in Tibet. The Committee also called upon China to allow the visit of UN Rapporteur on Torture.<sup>184</sup>

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<sup>181</sup> Ibid p 7-8

<sup>182</sup> Ibid p 9-16

<sup>183</sup> Tibet Society, 'China claims it has 'no political prisoners' during UN torture review' (19 November 2015) <<http://www.tibetsociety.com/content/view/575>> accessed 26 November 2015

<sup>184</sup> Ibid

This review on Torture in relation to China brought out many issues of torture in Tibet alongside other matters in China, even though China's responses were unsatisfying yet the pressures from the Committee and the CSOs will hopefully bring some improvement in human rights soon. This world at this century is living on hopes for betterment because there are many obstacles in the path towards improvement.

### **3.3 Problems in the face of improvement**

Human Rights violation is worldwide in today's century and the struggle is constantly going on to curb them but the results are next to nothing. Similarly, in case of China and Tibet, human rights issues have been debated since few decades ago and for the result today, the same accusations are going on. It is hard to pinpoint one single reason for no improvement of human rights situation in Tibet, thus this study will touch few reasons which seems to be blocking the way.

#### **3.3.1. The Question of Commitment to Treaties: Reservations followed by Recommendations**

Oona Hathaway in her work, 'The Cost of Commitment' states that many states while deciding to ratify a treaty or not, they will think about the compliance cost, about how much the country has to change in order to stay in put with the treaty. According to her, it is not many times that states are ratifying treaties with full interest to comply to the provisions.<sup>185</sup> States will be found signing and ratifying as many treaties as possible for diplomatic reasons yet they will put as many reservations as well since they know how to avoid the problems of scrutiny. With violations of these reserved rights occurs, recommendations will come from all sides urging the particular member state to withdraw the reservation and solve the problem, but in many cases, states do not follow that.

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<sup>185</sup> Oona Hathaway, 'The Cost of Commitment' (Heinonline, 55 Stan. L. Rev. 1821 2002-2003) p 1834

These reservations, whether it be in the name of religion, culture, economy or any other reason, these are strangling the life of human rights whereas the recommendations play the role of giving hope to the life of human rights but in many case in vain. With both playing their game, human rights is reaching nowhere. Recommendations have become like a trend, all human rights bodies giving recommendations with their statements and reports, and it goes on and on.

In case of Tibetan political prisoners, China has been urged to ratify the optional protocol to UNCAT and UN Covenant on Civil and Political Rights,<sup>186</sup> to bring definition of torture in line with that of UNCAT<sup>187</sup> but these have not been fulfilled till now. Generally, accountability politics can be used towards member states to let them fulfill what they have committed publicly to do so<sup>188</sup> but with the reservations, we cannot use the accountability politics. Democratic states are more likely to comply better with the treaties rather than nondemocratic states because in democratic state, there will be internal pressure from public to follow the treaty obligations.<sup>189</sup> Since China is a nondemocratic country, it is understandable that compliance to treaty is so tough as it is the government sticking strong to its policies, in that case how can China be expected to put the recommendations into practice to improve the human rights situation.

With these blockages in the way of improvement, it is not calculable about when will human rights situation under China fosters and everyone enjoys a free and fair environment, including the Tibetan political prisoners. Reservations and recommendations are putting human rights in tough scenario, but still both cannot be avoided, no states can be forced to follow everything which itself

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<sup>186</sup> United Nations Human Rights, Office of the High Commissioner for Human Rights (n 176)

<sup>187</sup> Amnesty International, 'Submission to the United Nations Committee Against Torture' (List of Issues, 54th Session, 20 April-15 May 2015) < [http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/CHN/INT\\_CAT\\_NGO\\_CHN\\_19723\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/CHN/INT_CAT_NGO_CHN_19723_E.pdf) > accessed on 12 November 2015, p 5

<sup>188</sup> Margaret Keck and Kathryn Sikkink, *Transnational Advocacy Networks in International and Regional Politics* (Blackwell Publishers, Oxford 1999) p 97

<sup>189</sup> Oona Hathaway (n 185) p 1837



will be violation of human rights and recommendations are hope for betterment, something is better than nothing.

### **3.3.2. Political dilemma**

China claims Tibet as a part of its country and Tibetans are one of the ethnic minorities yet Tibetans inside and outside Tibet are not accepting that and they still continue protesting against the Chinese government for illegal occupation of Tibet. This fight between the two has been going on for long period and for China, such Tibetan protests are hindrance to the national security and peace. The US, whenever they tackle the issue of Tibet, they will not forget to mention that they accept Tibet as part of China.<sup>190</sup> Similarly the UK government repeatedly said that their policy accepts Tibet as part of China.<sup>191</sup>

Whether one calls it diplomatic or not, many countries do accept Tibet as part of China even though they help raise voice in case of human rights situation in Tibet. With such political scenario, it seems difficult that China will fulfill the desires of the Tibetan people which will led the Tibetans continue their protest and demonstrations, similarly the case of detention, imprisonment, torture, death will go on. It does not mean that this political dilemma authorizes China to torture Tibetans but China to hold its power over Tibetans, the current situation has no good chance of betterment. No improvement is possible unless China and Tibet reaches a final solution.

### **3.3.3. Variations in law: Constant Reforms and No Betterment**

China has many laws like other countries and also a law system for ethnic minority groups called Regional Ethnic Autonomous Law. For China, Tibet is just an autonomous region called Tibetan

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<sup>190</sup> United States Department of State: Bureau of Democracy, Human Rights and Labor (n 184)

<sup>191</sup> BBC News, 'China and Tibet: Cameron says UK policy has not changed' (8 may 2013) < <http://www.bbc.com/news/uk-politics-22457242> > accessed 11 November 2015

Autonomous Region which means this law is applicable to Tibet. This law somehow is not standing on its own as it is always intertwined with the PRC Constitution and other laws so there is no perfect guarantee to rely on this law.<sup>192</sup> It is good that all countries have to bring reforms into their laws in accordance with the change in society and International laws yet the reformed laws should be put into use. China's reforms in law has become so frequent that people get confused what to follow.<sup>193</sup>

With these many laws, people in ethnic minority regions are confused about how to follow the law since the law showered on them is not standing fully on its own. It will surely make difference when they need the help of law in any case. And when the regional law is confusing in a country, how come International laws can be taken into consideration as it will make it all the more confusing rather than helping. This complexity of law hinders the improvement of the human rights situation in Tibet.

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<sup>192</sup> Haiting Zhang, 'The Laws on the Ethnic Minority Autonomous Regions in China: Legal Norms and Practices' (Loyola University Chicago International Law Review, Vol.9, Issue 2,2012) < <http://lawcommons.luc.edu/cgi/viewcontent.cgi?article=1002&context=lucilr> > accessed on 12 November 2015, p 254-257

<sup>193</sup> Jerome Cohen, 'China's Legal Reform at the Crossroads' (Council on Foreign Relations, March 2006) < <http://www.cfr.org/china/chinas-legal-reform-crossroads/p10063> > accessed on 12 November 2015

## **4. Chapter 4: Conclusion and Recommendations**

### **4.1 Conclusion**

Coming to the end of this study, after studying both International and Regional laws, the main objective of this study was to show that the so far treatment of Chinese authorities towards Tibetan political prisoners are mostly against the laws in relation to them. Tibetan protestors were wrong in the eyes of Chinese government as according to them, it was a hindrance to their national security, and yes it is true that a country's security reasons are utmost important.

However, the Tibetan prisoners should be having the rights to defend themselves, there should be fair trial to decide whether they were guilty or not, they should be given freedom to hire their own lawyers and the trial should not be held in secret, no confessions should be sustained with use of torture. If they are charged and sentenced, there should be no torture, medical care should be there in case of illnesses, visitors should be allowed to visit them, no collective punishment, medical parole to be granted in case of serious health conditions, information to be provided in case of custodial death and investigation should follow it.

Besides the laws and political issues, Chinese authorities should stop the torture tactics in the name of humanity. It is true that all countries are targeting each other with flaws in relation to laws but the law of humanity is something which exist above all, it is something which all human beings inherit from the birth. In order to stick with the legal issues of this study, some recommendations will follow with the hope for the improvement of conditions of Tibetan political prisoners, holding on to the diminishing hopes of humanity.

## 4.2 Recommendations

Recommendations are one of the main technique that can be used besides accusing a state about its violations of human rights. Therefore, many a times human rights bodies will first narrate the positive improvement about the state and then jump into the violations and recommend them to correct it. It is really like a game being played by parents towards their children to correct their mistakes, first appreciating them for the good things they did, then make them realize the mistakes, followed by suggestions to avoid the mistakes and turn them good children. Sadly, states and governments are not as innocent as children, yet putting forth recommendation is better than taking no action. Many of these recommendations have been already urged by others yet these are the ones that can bring some improvement to the situation of Tibetan political prisoners.

### 4.2.1. Recommendations to the People's Republic of China;

- China should resume their dialogues with the Tibetan Administration in India so that there will be better hope for China-Tibet issue which is cause of all political activisms and the aftermath results.
- China should bring out a complete data of Tibetan political prisoners
- China should withdraw its reservation made to the Article 20 of UNCAT and should also ratify the Optional Protocol.
- China's definition of torture in their legal instruments should be made in line with that of Article 1 of UNCAT.
- China should invite Special Rapporteur on Torture to visit prisons accommodating Tibetan political prisoners and the authorities should cooperate in best manner to undertake the investigation.
- China should respect the object and purpose of all signed treaties.

- The regional laws of China should be made clear cut so that there will not be any confusions for people to use.
- In accordance with law, China should punish those torturers among the authorities and put an end to all forms of tortures, definition of torture in accordance with that of UNCAT.
- China should facilitate the Tibetan political prisoners with fair legal proceedings, medical access, nutritional food, clean environment and complaint system.
- China should investigate all the former custodial deaths of Tibetan political prisoners.

#### **4.2.2. Recommendations to the International Human Rights Bodies;**

- China should be condemned constantly for their treatment towards Tibetan political prisoners unless there is a stable condition.
- Independent experts should be send to Tibet to check on the conditions of Tibetan political prisoners.
- China should be reminded repeatedly to submit its reports on time.
- China should be repeatedly scrutinized to follow the recommendations.

#### **4.2.3. Recommendations for future research;**

For future research, one of the great problem in this field would be to research on the diplomatic relations of China with rest of the world, and to see whether this is the reason that China is violating human rights in flow and rest of the world is shouting against it only for a short period and then keeps mum. To connect with Tibet's human rights issue including the grave situation of the political prisoners, is it because of China's diplomacy that Tibet and its people are not able to reach any helpful results even though many supports their struggle.

Or a detailed case study of few Tibetan political prisoners who escaped into India with interviews will be good, Torture Convention can be the main focus as it includes almost all problems of Tibetan prisoners. A research on all custodial deaths of Tibetan political prisoners will be also a good option to see how Chinese authorities has tackled those cases.

## BIBLIOGRAPHY

### Books

1. Anderson G and Herr K, *Encyclopedia of Activism and Social Justice* (SAGE Publications 2007)
2. Bagdro, *A Hell on Earth* (Ganden Monastery 2002)
3. Boix C and Stokes S, *The Oxford Handbook of Comparative Politics* (Oxford University Press 2007)
4. Coyle A, *A Human Rights Approach to Prison Management, Handbook for Prison staff* (Second Ed. International Centre for Prison Studies 2009)
5. Donnet P, *Tibet: Survival in Question* (Oxford University Press, Delhi 1990, Translated by Zed Books Ltd., London and New Jersey 1994)
6. Düwell M and others, *The Cambridge Handbook of Human Dignity: Interdisciplinary Perspective* (Cambridge University Press 2014)
7. Keck M and Sikkink K, *Transnational Advocacy Networks in International and Regional Politics* (Blackwell Publishers, Oxford 1999)
8. Moeckli D and others (eds), *International Human Rights Law* (Oxford University Press 2014)
9. Roberts J and Roberts E, *Freeing Tibet: 50 Years of Struggle, Resilience and Hope* (AMACOM, New York, 2009)
10. Sceats S and Breslin S, *China and the International Human Rights System* (Latimer Trend and Co Ltd 2012)
11. Schwartz R, 'Resistance in Tibet: 1987-1990' and Barnett R, 'Symbols and Protest: The Iconography of Demonstrations in Tibet 1987-1990' in Barnett R and Akiner S (eds), *Resistance and Reform in Tibet* (Hurst and Company, London 1994)
12. Smith W, *Tibet's Last Stand? : The Tibetan Uprising of 2008 and China's Response* (Rowman and Littlefield Publishers UK, 2010)
13. Tilly C and Tarrow S, *Contentious Politics* (Paradigm Publishers 2007)
14. Woesser T and Lixiong W, *Voices from Tibet: Selected Essays and Reportage* (Edited and translated by Violet S. Law, Hong Kong University Press 2014)

## Publications

15. Biggs M, 'Self-Immolation in Context 1963-2012' University of Oxford. <  
[http://himalaya.socanth.cam.ac.uk/collections/journals/ret/pdf/ret\\_25\\_12.pdf](http://himalaya.socanth.cam.ac.uk/collections/journals/ret/pdf/ret_25_12.pdf)>
16. Cohen J, 'China's Legal Reform at the Crossroads' (Council on Foreign Relations, March 2006) < <http://www.cfr.org/china/chinas-legal-reform-crossroads/p10063> >
17. Conflict Early Warning Systems (CEWS), 'The Tibetans' (International Relations Department, University of Southern California) referring to International Lawyers, *Tibet, the position in International law* (Serindia Publications 1994)
18. Conforti B, 'Notes on the relationship between International law and national law' (Paper submitted for the International Law Forum du droit international 3, Netherlands 2001)
19. Crowe D, *The "Tibet Question": Tibetan, Chinese and Western Perspectives* (Submitted to the 'National Papers, The Journal of Nationalism and Ethnicity' 2013)
20. Gleeson K, 'World Influence of the UDHR', History  
<http://www.universalrights.net/main/world.htm>
21. Goldsmith J and Posner E, '*A Theory of Customary International Law*' John M. Olin Law & Economics Working Paper No. 63 (2D Series) The Law School of the University Of Chicago <  
<http://www.law.uchicago.edu/files/files/63.Goldsmith-Posner.pdf> >
22. Goldstein M, *Tibet, China and the United States: Reflections on the Tibet Question* (The Atlantic Council of the United States' Occasional Paper 1995) <  
<http://www.columbia.edu/itc/ealac/barnett/pdfs/link4-goldstn.pdf>>
23. Hall J, *Chinese Population Transfer in Tibet*, 175, Heinonline <  
[http://heinonline.org/HOL/Page?handle=hein.journals/cjic9&div=10&g\\_sent=1&collection=journals](http://heinonline.org/HOL/Page?handle=hein.journals/cjic9&div=10&g_sent=1&collection=journals)>
24. Hanqin X and Qian J, 'International Treaties in the Chinese Domestic Legal System' (Chinese Journal of International Law, Chinese Journal of International Law, Chinese Journal of International Law, Vol.8, Issue 2, 2009) <  
<http://chinesejil.oxfordjournals.org/content/8/2/299.full> >
25. Hathaway O, 'The Cost of Commitment' (Heinonline, 55 Stan. L. Rev. 1821 2002-2003)
26. Lawyers Committee for Human Rights, *What is a Fair Trial?* (USA March 2000)
27. Nollkaemper A and Hey E, 'The relationship between International law and National law' (Paper submitted for the International Law Forum du droit international 3, Netherlands 2001)



28. Richardson S, 'China's failing policy in Tibet is 'self-defeating'' (Human Rights Watch 25 March 2013) < <http://www.hrw.org/news/2013/03/25/chinas-failing-policy-tibet-self-defeating> >

29. Szczepanski K, Tibet and China: History of a Complex Relationship  
<<http://asianhistory.about.com/od/china/a/TibetanandChina.htm>>

30. Thompson D, 'The Threat to Tibet's Fresh Water' (Tibet Nature Environmental Conservation Network, 24 November 2014) < <http://www.tibetnature.net/en/threat-tibets-fresh-water/>>

31. Zhang, H 'The Laws on the Ethnic Minority Autonomous Regions in China: Legal Norms and Practices' (Loyola University Chicago International Law Review, Vol.9, Issue 2,2012) < <http://lawecommons.luc.edu/cgi/viewcontent.cgi?article=1002&context=lucilr> >

## **Laws**

### **International treaties**

32. International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR)

33. International Covenant on the Economic, Social and Cultural Rights (adopted 16 December 1966, entry into force 3 January 1976) 993 UNTS 3 (ICESCR)

34. Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 18 December 2002, entered into force 22 June 2006) 57 UNGA 199 (Protocol)

35. United Nations Convention Against Torture (adopted 10 December 1984, entry into force 26 June 1987) 1465 UNTS 85 (CAT)

36. United Nations Standard Minimum Rules for the Treatment of Prisoners (Adopted on 30 August 1955, approved by resolutions in 1957 and 1977)

37. Universal Declaration of Human Rights (10 December 1948) UNGA Res 217 A (III) (UDHR)

### **Regional Law**

38. Constitution of the People's Republic of China (Adopted on 12 April 1988, 29 march 1993, 15 March 1999, 14 March 2004)

39. Criminal Law of the People's Republic of China (Adopted on 14 March 1997 and Entry into Force on 1 October 1997)

40. Prison Law of People's Republic of China (29 December1994)

## Reports

41. Amnesty International, China's Trade in Tools of Torture and Repression (2014)
42. Human Rights Report 2008 (China) < [http://guangzhou.usembassy-china.org.cn/2008\\_human\\_rights\\_report.html](http://guangzhou.usembassy-china.org.cn/2008_human_rights_report.html)>
43. Human Rights Watch, 'Trials of A Tibetan Monk: The Case of Tenzin Delek' (8 February 2004) < <https://www.hrw.org/report/2004/02/08/trials-tibetan-monk/case-tenzin-delek>>
44. Human Rights Watch, 'World Report 2015: China' <<https://www.hrw.org/world-report/2015/country-chapters/china-and-tibet>>
45. International Campaign for Tibet, 'Torture and Impunity: 29 Cases of Tibetan Political Prisoners 2008-2014' (A Special Report by the International Campaign for Tibet) < <http://www.savetibet.org/newsroom/torture-and-impunity-29-cases-of-tibetan-political-prisoners/>>
46. Tibetan Centre for Human Rights and Democracy, *Human Rights Situation in Tibet, Annual Report 2014*
47. Tibetan Center for Human Rights and Democracy, 'Tibetan Center for Human Rights and Democracy's submission to the Committee against Torture (CAT) in advance of their consideration of China's fifth periodic report'
48. Tibet Justice 'Torture in Tibet: A Report Submitted to United Nations Committee Against Torture on Violations by the People's Republic of China Against the People of Tibet Submitted by Secretary, Department of Information and International Relations, Central Tibetan Secretariat' (April 2000) < <http://www.tibetjustice.org/reports/un/torture.pdf> >
49. Tibet Watch, Gu-chu-sum and Free Tibet, 'Torture in Tibet' (Submission to the Committee Against torture, October 2015) < [http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/CHN/INT\\_CAT\\_CSS\\_CHN\\_22117\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/CHN/INT_CAT_CSS_CHN_22117_E.pdf)>
50. United Nations Human Rights, Office of the High Commissioner for Human Rights, 'Special Rapporteur on Torture Highlights Challenges at the End of Visit to China' (2 December 2005) <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=3463&>
51. United States Department of State: Bureau of Democracy, Human Rights and Labor, 'Country Reports on Human Rights Practices for 2013' < <http://www.state.gov/documents/organization/220402.pdf>>
52. US Congressional-Executive Commission on China, Annual Report (2014)

53. 2013 Human Rights Report (China) <  
<http://www.state.gov/documents/organization/220402.pdf>>

### Other Internet Sources

54. Amnesty International, 'China: Return the Body of Prominent Tibetan Monk Tenzin Delek Rinpoche Who Died in Prison' (Public Statement 15 July 2015) <  
<https://www.amnesty.org/en/documents/asa17/2102/2015/en/>>

55. Amnesty International, China: Submission to the United Nations Committee Against Torture (56<sup>th</sup> Session, 9 November to 9 December 2015) <  
[http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/CHN/INT\\_CAT\\_CSS\\_CHN\\_22118\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/CHN/INT_CAT_CSS_CHN_22118_E.pdf)>

56. Amnesty International, 'China: Torture Fears for Tibetan Prisoner: Jigme Gyatso' (10 January 2011) < <https://www.amnesty.org/en/documents/asa17/002/2011/en/>>

57. BBC News, 'China and Tibet: Cameron says UK policy has not changed' (8 may 2013) <  
<http://www.bbc.com/news/uk-politics-22457242> >

58. Central Tibetan Administration, 'Mother of Five Burns Self in Protest, Self-Immolation Reaches 142' < <http://tibet.net/2015/08/mother-of-five-burns-self-in-protest-self-immolation-toll-reaches-142/> <http://tibet.net/2014/12/24/third-tibetan-self-immolates-in-less-than-a-month/>>

59. Central Tibetan Administration, 'Tenzin Delek Rinpoche's Body Cremated Against Family's Wishes by Chinese Authorities' (16 July 2015) < <http://tibet.net/2015/07/tenzin-delek-rinpoches-body-cremated-against-familys-wishes-by-chinese-authorities/>>

60. European Union: External Action, 'Statement by Spokesperson on Recent Developments in the Human Rights Situations in China' (Brussels 15 July 2015) < [http://eeas.europa.eu/statements-eeas/2015/150715\\_03\\_en.htm](http://eeas.europa.eu/statements-eeas/2015/150715_03_en.htm)>

61. Fernando Peinado, 'Why Tibetans are burning themselves to death' The Morningside post, Columbia/SIPA < <http://www.themorningsidepost.com/2013/04/17/why-tibetans-are-burning-themselves-to-death/> >

62. Gu Chu Sum changes its political stand to Middle Way, elects new executives' Phayul.com (Dharamsala, 30 September 2013) < <http://www.phayul.com/news/article.aspx?id=34055> >

63. Human Rights Watch, 'China: End Involuntary Rehousing, Relocation of Tibetans' (New York 27 June 2013) < <http://www.hrw.org/news/2013/06/27/china-end-involuntary-rehousing-relocation-tibetans>>

64. Human Rights Watch, 'China: Refrain From Using Excessive Force Against Protestors ' (New York 26 January 2012) < <http://www.hrw.org/news/2012/01/26/china-refrain-using-excessive-force-against-protesters>>
65. Human Rights Watch, 'China: Tibetan Monasteries Placed Under Direct Rule' (New York 16 March 2012) < <http://www.hrw.org/news/2012/03/16/china-tibetan-monasteries-placed-under-direct-rule>>
66. Human Rights Watch, 'Statement to the Human Rights Council on Tibet' (24 September 2010) < <https://www.hrw.org/news/2010/09/24/statement-human-rights-council-tibet>>
67. Human Rights Watch, 'The Legal Prohibition against Torture' (March 11,2003) < <http://www.hrw.org/news/2003/03/11/legal-prohibition-against-torture#laws> >
68. Human Rights Watch, 'Tiger Chairs and Cell Bosses: Police Torture and Criminal Suspects in China' (13 May 2015) <https://www.hrw.org/report/2015/05/13/tiger-chairs-and-cell-bosses/police-torture-criminal-suspects-china>
69. Radio Free Asia, 'Tenzin Delek Rinpoche's Sister, Niece Returns Home After Two Weeks' Detention' (7 August 2015) < <http://www.rfa.org/english/news/tibet/return-08072015161511.html>>
70. Student for Free Tibet, 'Congressman McGovern calls for Medical Parole for Tenzin Delek Rinpoche' < <https://www.studentsforafreetibet.org/news/congressman-mcgovern-calls-for-medical-parole-for-tenzin-delek-rinpoche> >
71. The Center for Prisoner Health and Human Rights, 'Getting Needed Medical Care for a Prisoner' < <http://www.brown.edu/Research/Prisonerhealth/resources.html>>
72. The Universal Declaration of Human Rights, 'The Drafters of the Universal Declaration of the Human Rights' < <http://www.un.org/en/documents/udhr/drafters.shtml>>
73. Tibet Society, 'China claims it has 'no political prisoners' during UN torture review' (19 November 2015) < <http://www.tibetsociety.com/content/view/575>>
74. UN Member States, On the Record, 'Founding Member States' < <http://www.un.org/depts/dhl/unms/founders.shtml>>
75. World Health Organization, 'Mental health and Prison, Information sheet' < [http://www.who.int/mental\\_health/policy/mh\\_in\\_prison.pdf](http://www.who.int/mental_health/policy/mh_in_prison.pdf)>
76. World Health Organization, 'The Right to Health' (Fact Sheet No. 323, Reviewed on November 2013) < <http://www.who.int/mediacentre/factsheets/fs323/en/>>