CHAPTER V
Human Rights Violation in Tibet

Human rights evolved from the ashes of second world war which has now become the most accepted civilized norms of the international community. At the UN world conference held in on Human Rights in Vienna, state parties agreed that "the promotion and protection of all human rights is a legitimate concern of the international community."¹ Now, there exists a substantial corpus of international human rights law to deal with human rights violations. Though it has the specific aim to protect and benefit individuals but at the same time it also creates obligations among states. There are two types of legal obligations. First arises from the human rights agreements by the state parties which are binding to them and second is the customary human rights law which applies erga omens.² Therefore, if violation of human rights takes place it is a breach of the obligation by the states.

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The People's Republic of China (PRC), keeping the changing world order in view, has also assumed a number of legal obligations under the convention of International law. It has signed and ratified those conventions such as the convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the child. China has also signed International Covenant on Economic, Social and Cultural Rights on October 27, 1997 and International Covenant on Civil and Political Rights on October 5, 1998, which are yet to be ratified. In addition to these treaties, legal obligations and customary international law are also binding on China. The chapter broadly examines the human rights situation in Tibet primarily on the basis of recent findings made in accordance with the conventional and customary law binding on the PRC. The evaluation has been done under four sub-sections:


(i) The Right to Physical Integrity

The right to physical integrity is first and foremost aspect of human rights which sans the state slipping into savagery and human beings lose their life and dignity. This right is usually violated through arbitrary imprisonment and torture. Therefore integrity of the person has been measured in two dimensions:

A) Degree of Arbitrary Imprisonment

B) Systematic use of torture

[A] Arbitrary Arrest and Detention: Legal Requirements: Art. (9) of the Universal Declaration of Human Rights provides that: No one shall be subjected to arbitrary arrest, detention or exile\(^5\) and the right to liberty and security of person has also been further elaborated in Art 9 of the International covenant on Civil and Political Rights.\(^6\) In 1982 UN Human Rights Committee made the general comments on this article, "Art. 9... paragraph 1 is applicable to all

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\(^6\) Ibid., p.269.
deprivation of liberty... and in particular the important guarantees are laid down in paragraph 4 i.e. the right to control by court of the legality of the detention, applies to all persons deprived of their liberty by arrest or detention."

Constitutional safeguards have been provided in China,

"The Freedom of citizens of the People's Republic of China is inviolable." It implies that no citizen may be arrested except with the approval or by decision of a people's procuratorate or by decision of a people's court and arrest must be made by a public security organ. Unlawful deprivation or restriction of citizen's freedom by detention or other means is prohibited; and unlawful search of the person of citizens is prohibited."

China claims before the world that she has no political prisoners. "In China, ideas alone, in the absence of action which violates the criminal law, do not constitute a crime; no body will be sentenced to punishment merely because he holds dissenting political views. So called political prisoners do not exist in China."
But contrary to these international provisions, constitutional obligations and official proclamations various reports\(^\text{10}\) indicate that during and after the demonstrations of 1987-89, Tibetans have been detained without any charge or sentenced even for non-violent acts such as "displaying the outlawed Tibetan flags, writing slogans on stones and walls, publishing and distributing leaflets, completing prisoners list and talking to foreigners about repression in Tibet."\(^\text{11}\)

In 1995 a study conducted by T I N of 879 political detainees found that the largest categories of offences were demonstrators (65.3%), and writers and distributors of leaflets (15.5%) while persons indulged in violent activities (2.05%) were the minimum (see graph No.1).

In China's criminal law these are known as crimes of "counter-revolution" which is defined as acts "committed with the goal of overthrowing of political power of the dictatorship of the proletariat and the socialist system."\(^\text{12}\) This includes plotting to "dismember the


state" and inciting the masses to resist or sabotage the implementation of state's law or decrees."13 The provision for punishment range from deprivation of political right to life imprisonment .14 In the Tibetan context it has further been made stringent with the addition of offences such as "spreading rumours" and "stealing state secrets" through the adoption of the "Intrim Regulations of the TAR Concerning Comprehensive Management of Public Security".15 Tibetans have been continuously 16 detained and charged according to the criminal law of "Counter revolution" of PRC whose importance was emphasized to check splittist elements in 1994 Tibet Procuratorate Report. It reports that "Counter Revolutionary" cases continued to follow an upward trend".17 In 1994 Asia Watch calculated that, while the overall rate in PRC of those sentenced for "Counter Revolutionary" crime was 0.3 percent of the total convicted prisoner population, the rate in Tibet was 6.5 percent. It was also pointed out

17 Work Report of TAR People's Procuratorate, delivered at Third session of the sixth Tibet Autonomous Regional People's Congress on 20th May 1995 and Published in Xiang Ribao, SWBF/2352 52/1, 11 July 1995.
that in Tibet, whose population accounts for only 0.2 percent of the total population of China. There were more known political and religious prisoners reported to be in jail than the rest of the country combined.\textsuperscript{18}

Looking at China's criminal law, the UN working Group on Arbitrary Detention has held that "municipal legislation that considers such activity as counter revolutionary propaganda and agitation',...is liable to be declared inconsistent" with the UDHR and ICPR.\textsuperscript{19} However, in 1997, 'The counter revolutionary crime has been revised into crime of "Jeopardising state security "\textsuperscript{20}.But this act has not brought any difference because it has not only reproduced most of the statutes of the "Counter Revolution" but "an entire article: is now devoted to ---movements in Tibet, Xinjiang and Inner Mongolia."\textsuperscript{21}

\textsuperscript{18} Asia Watch and Tibet Information Network, Detained in China and Tibet : A Directory of Political and Religious Prisoners, 1994, p. XXVI


\textsuperscript{21} Art (103) Criminal law cited in I.C.J. Reports (December, 1997), p..238
China continues to send Tibetans to "Re-education through Labour". It is a form of administrative punishment in which sentence is determined by 'quasi - judicial government Committees outside normal judicial procedure. In October 1997, the Working Group on Arbitrary Detention "denounced the absence of a judge or independent tribunal when a detainees was sentenced by committees of re-education-through-labour". Theoretically it applies for minor offences and 'sentences can be for periods of three years extendable to four years.

Therefore there is continuous rise in number of political prisoners. In May 1998 the Chinese authorities reported that there were 200 prisoners who were 'held for what are now termed "crimes against State Security". But actual number is much more than that. Tibetan centre for Human Rights and Democracy documented the number of prisoners around 1083 (See Graph No. II).

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22 Cutting of Serpent's Head, op.cit., p. 83.
24 Cutting of serpent's Head, n.13 p. 83.
25 Visit to Tibet By EU Troika Ambassadors 1-10 May 1998, Para.49.
The above mentioned number of political prisoners shown in the table presents the trend and overall strategy of the Chinese establishment.

In 1994 there were maximum number of detainees because of the policy decision taken by the Third Work Forum to crackdown on political activities. However, later on, the strategy was changed from direct action to preventive control method, which includes the sending of work teams to monasteries for patriotic re-education, the main centre of political activities in authorities perception, which authorities consider as improvement in security environment. Chinese Prisoners Human Rights watch reported, "The proportion of women prisoners in China is small but the above graphics shows that in Tibet the proportion of women prisoners is very high among them only nuns constitute 83.8% (See Graph No. III A & B).

Evidences are available in sufficient proportion which indicates that there has been denial of rights to fair trial in China. The

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26 This will be dealt in greater detail under the Religious rights.
27 Visit to Tibet by EU Troika Ambassadors, 1-10 May 1998, Para. 49.
Amnesty report of 1995 says that 'the trial procedure in Tibet, ---fall far short of International standards for fairness. Extreme limitations are placed on the rights to defence and confessions.\textsuperscript{29}

However in 1996 China made revisions to the Criminal Procedure Law enacted in 1979\textsuperscript{30} and introduce some elements of procedural justice in to it (Art 96)\textsuperscript{31} states that if a case involves state secrets, the suspect may not retain a lawyer without the permission of a investigative body and where the lawyer is allowed, he may not meet or correspond with his client without further permission of an investigative agency. In addition investigators of a case may be present during the interview between a layman and his client "according to the circumstances of the case and necessity". These conditions within Chinese legal system deny political prisoners their fundamental right to trial. Now it is no longer a secret fact that the continued arrest of Tibetan men and women for their peaceful expression of their views and detention without any legal safeguards vio-


lates their life and liberty. It is against the international norms and contravenes the China's obligation under international law.

(B) Torture and Ill Treatment

The Universal Declaration of Human Rights (Art.5) stipulates that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.\(^32\) The International covenant on Civil and Political Rights denominates this right as inalienable and prohibits the derogation [Art 4(2)]\(^33\). The protection has been further extended in the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment which defines the term 'torture' as,

"... any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for ... an act ... committed, or intimidating or coercing him ... for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of... a public official or the person acting in the official capacity ".\(^34\)

\(^{32}\) Reoch (ed.), op. cit., p.265.

\(^{33}\) Ibid., p.267.

\(^{34}\) Bertucci, op. cit., p. 1455.
The convention also provides that each state party shall take effective, legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction and must ensure that all acts of torture are offences under its Criminal Law. It is clear from the proliferation of UN Resolution against Torture that abhorrence of torture transcends national boundaries and right to be treated humanly is one of the most important human rights.

Constitutional safeguards have been provided in the constitution of the People's Republic of China which states that "The personal dignity of citizens of the People's Republic of China is inviolable. Insult, libel, false charge or frame up directed against citizens by any means is prohibited (Art 38)". Art. 43 of the Criminal Procedure Law of China states that the use of torture to coerce statements and the gathering of evidence by threats, enticement, deceit or other unlawful methods are strictly prohibited. Under the increasing

55 (Art 2, Para-1), Ibid.
56 (Art 4, Para-1), Ibid.
world opinion on the issue of torture the People's Republic of China (PRC) reported in 1992 to the UN Committee against Torture (CAT) that it had adopted effective legislative, judicial, administrative and other measures to "rigorously forbids all acts of torture and guarantee that the rights of citizens are not violated".39

The PRC also asserts that "as a matter of principle and discipline for China's public security and judicial organs in handling cases, it is strictly prohibited to extort confession by torture."40 Thus torture in China was so widespread that even its official media had termed as "Chronic disease"41 and still it is an endemic problem. In 1996 UN CAT torture while expressing concern about the prevalence of torture in Tibet criticised regular failure to declare all forms of torture as criminal offence in consistent with the provisions of the convention42. In this country torture and humiliation were used as the primary technique against class enemies during the democratic era. One of the most vivid accounts of torture has been given by a

39 UN Doc. CAT/C/7/Add.14, Cited in ICJ Reports (December 1997), p.244.
40 "Human Rights in China," 22, Ibid.
monk Palden Gyatso,⁴³ who was arrested in 1959 and for the next thirty three years he endured torture and ill treatment and witnessed many deaths in Chinese prisons and labour camps, finally in 1992 he was released and escaped to India.

There are flurry of evidence from former political prisoners who have escaped to India, present the picture that Tibetans who participated in demonstrations of 1987-89 had been subjected to grievous torture. Physicians for Human Rights conducted 17 interviews with the exiled Tibetan men and women including monks in India, who had been imprisoned and tortured. The report was published in 1989 that concluded, "There can be no doubt that the use of arrest, imprisonment and torture continues to be an integral part of China's effort to suppress Tibetan nationalism."⁴⁴ Asia Watch gives the conclusive argument in its 1990 report that "Chinese government shows no intention of handling it in a manner compatible with


International standard --- and response to legitimate concern in this matter has been aimed at obfuscating the problem."\textsuperscript{45}

The Amnesty report (1995) listed the names of detainees who have been subjected to torture and says that the process of torture is continuing on detainees and officials responsible for it are not brought to justice.\textsuperscript{46} But this is not a phenomenon of few individual cases. In 1997 International court of Justice (ICJ) conducted interviews in India with former policemen, judges and detainees in Tibet and confirmed that torture on political detainees inside Tibet had been a general practice.\textsuperscript{47} There had been continuous reports of torture throughout 1998. Yeshe Samten, 22 year old Goden monk died on 12 May, just after 6 days of the release from Trisar prison near Lhasa as a result of brutal police torture which left his two ligs broken.\textsuperscript{48} But the most severe repression was witnessed at Drapchi where at least 10 prisoners died due to beating and torture by


\textsuperscript{47} ICJ Reports - December 1997, p.247.

\textsuperscript{48} Monk ' dedicated to spiritual practice dies after torture' TIN News Update, 27 July 1998.
prison guards because they participated in a peaceful demonstration on 1st and 4th May 1998.49

Torture is inflicted on Tibetans at all stages of their detention and imprisonment. The process starts just after the arrest in police stations where officials are interested mainly in extracting confessions.50 In detention centres detainees are kept for months or years without any trial and are tortured to get more precise informations.51 The process of torture does not stop here rather convicted prisoners are also tortured as a form of punishment for alleged breaches of prison rules. Thus the abuse is an on going problem.

The methods and punishment of torture have been described by a number of former prisoners who had been subjected to them. On this basis the Tibetan Centre for Human Rights and Democracy (TCHRD) has documented the techniques of torture under ten heads. This includes both physical and psychological torture, aerial suspension, cuffs, electric shocks, exposure to extreme tempera-

49 'Ten Deaths at Drapchi at Drapchi following May Protests' TIN News Update, 4 August 1998.

50 (This is based on the accounts given by Phurbu, a 22 year old monk, see for more details in), Cutting of Serpent's Head, op. cit., pp. 100-101.

51 Ibid. p.103.
tus, biting from dogs, sexual assault, sharp shock torture, showing torture videos and various other inhuman humiliating acts.

Women prisoners especially nuns are treated more harshly by the authorities at every stage of their confinement 'from detention centre to prisons' because they have been at vanguard of Tibetan protest against China. They are commonly subjected to gender specific torture ranging from physical abuse to rape.53

Many women prisoners who have survived, frequently refer such kind of treatment while recalling their experiences, though they did not mention it explicitly. A nun interviewed in Lhasa in July, 1988 said that.

"after arrival at Gutsa, the nun was stripped of all clothing and placed in a room with two trained dogs and two policemen. The dogs were trained to attack wherever she moved. The policemen proceeded to hit her with rods until she tried to move away at that time dogs would attack, by biting and lacerating her arms and legs. During this process of torture they continuously asked about her involvement in the demonstration as well as the involvement of others. She denied her involvement in any of the incidents. Consequently they placed her in a cell at Gutsa where she remained for approximately three months. While in prison, she

52. (See for more details in) "Tales of Terror: Torture in Tibet", Tibetan Centre for Human Rights and Democracy, (Dharamsala, January 1999), pp.14-17.

spoke to another nun who was stripped of all clothing and prodded with an electric rod in the vagina and in the mouth.\textsuperscript{54}

There is no special consideration for pregnant women prisoners. "Damoche Pemo, a Tibetan women arrested in Lhasa on 20 May 1993, miscarried a week after police forced her to remain standing for at least 12 hours and beat her with electric batons.\textsuperscript{55}

A number of deaths are reported due to such harsh treatment. On 4 June 1994 Phuntsog Yanki, a 20 year old Tibetan nun serving a five year sentence for taking part in a pro-independence demonstration in 1992, died in a police hospital in Lhara after being beaten by prison guards for singing nationalist songs in prison.\textsuperscript{56} Amnesty has also raised the concern of death of another nun Gyalsten Kelsang who died on 20 February 1995 shortly after leaving custody on medical parole.\textsuperscript{57} The latest reports of torture and deaths of female

\textsuperscript{54} Tibet Press Watch, vol. 1, p.43 , International Campaign for Tibet. The case was also reported by AI, "Torture and Ill-treatment" p.8. Ibid, p.40.

\textsuperscript{55} Amnesty International, Reports (May, 1995), op. cit., p.15.

\textsuperscript{56} Ibid, pp.15-16.

\textsuperscript{57} Ibid, p. 17-18.
prisoners stem from the demonstration that took place in Drapchi prison on May 1 and 4, 1998, where six nuns died.\textsuperscript{58}

After the suppression of prisoners protest Ngwsang Sangdrol and Ngwang Choezom were reported to have been badly ill-treated and after severe beatings have been placed into the solitary confinement.\textsuperscript{59} Minors are also not exempted from torture. Amnesty report (1995) on the basis of several testimonies of Champa Tsondru (17), Lobsang Choezin (17), Perma Oeser (16), Sherale Ngawang (12) and Tenzin Dekyong (16) states that

"Juveniles like adults, have been subjected to beatings, electric shocks, solitary containment and deprivation of sleep, food or drink as punishment. Beatings by the police are particularly common for juveniles during arrest and during the usually brief period of detention in police stations before detainees are sent to detention centre. Torture is reported to be frequently used during interrogation in detention centre, and as a punishment in prisons on in reform-through-labour camps".\textsuperscript{60}

The UN Special Rapporteur on torture has held that torture is horrifying in all the form and emnations, but the idea of children,

\textsuperscript{58} Officials Confirm Drapchi Protest; Fears for the Safety of Prisoners \textit{TIN News Update} 21 October, 1998.

\textsuperscript{59} Fears for Ngwang Sangdnot following further Drapchi Protest \textit{TIN News Update}, 27 November 1998.

\textsuperscript{60} Amnesty International, May, 1995, op. cit., p.21.
who are still in their formative stage being tortured is mind boggling indeed.\textsuperscript{61} This overwhelming evidence suggests that torture is so widespread in police stations, detention centres, labour camps and prison that it has almost become the usual features of every political prisoners without exception. The Tibet Information Network and Law Asia has identified five factors.\textsuperscript{62}

i) Government Sanctioned Policy of "merciless repression"

ii) Extraction of confessions

iii) Incommunicado detention

iv) Weakness of judicial supervision & complaint mechanism

v) TAR prisons controlled by the PSB

The UN CAT while expressing concern called "the special environment" in Tibet appeared to have led to "conditions that result in alleged maltreatment and even deaths of persons held in police custody and in prisons."\textsuperscript{63}

\begin{footnotes}
\item[\textsuperscript{61}] UN Doc, E/CN 4/ 1990/17; Encyclopedia of Human Rights, op. cit., p.1451.

\item[\textsuperscript{62}] (See for more details in) Defying the Dragons, op. cit., pp. 54-55.

\item[\textsuperscript{63}] "China Criticised on Torture, Tibet policeman convicted" TIN News update, 17 May 1996.
\end{footnotes}
However, China flatly rejects any allegation of torture and reported to the UN CAT in May 1996 that,

"In Tibet people enjoyed the same rights and safeguards as elsewhere in China. The contention that there was widespread torture in Tibet mainly came from separatist group in Tibet and from NGO's that were biased against China. But it is in the knowledge of authorities, as one of the confidential TAR party document issued in September 1989 reveals that "there have been serious cases of some PSB leaders and cadres inflicting severe corporal punishment on culprits arrested and detained in prison. People have been severely beaten in some prisons in Lhasa and in some procuracies while being searched and awaiting reform."

Nevertheless, there is evidence that recently China has responded positively to the international pressure and one policeman was convicted after beating a prisoner but inspite of these positive gesture torture in Tibet is still an endemic problem which is against the universal declaration and contravenes the torture convention (See Graph No. IV).

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65 Defying the Dragon, op.cit., p.47.
(ii) The Right to Religious Freedom

Religion means a set of beliefs or faith which are usually inherited by the people from past. It is individualistic in its content and approach. But Tibetan Buddhism is much more than this. It is not only the central values of every individual life but also reflects their collective identity, whether it be cultural or national. Therefore, the religious freedom has deeper meaning to them.

Legal Requirements: Art. 18 of the Universal Declaration of Human Rights provides: Everyone has right to freedom of thought, conscience and religion; this right includes --- freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.67

Freedom of religion is also protected as cultural right under Art.15(a) of the International Covenant on Economic Social and Cultural Rights68 and as a right of minority groups under which art. 27 of International Covenant on Civil and Political Rights states, 'In

67 Reoch (ed), Human Rights the new consensus op cit., p.266.

those state in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with other members of the group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.69

The 1981 UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief spells out these rights in more detail, which goes beyond the purely individualistic approach --- acknowledge the group dimension of religious human rights. Such rights cannot be adequately protected unless the rights of religious organisations communities or congregations as such are recognised.70

Constitutional Safeguards: The main constitutional and legal safeguards concerning religious freedom are included in Art.36 of the 1982 Constitution of Republic of China.

"Citizens of PRC enjoy freedom of religious belief. No state organ, public organisation or individual may compel citizens to believe in, or not to believe in, any religion; nor may they discriminate against citizens who

believe in, or do not believe in any religion. The state protects normal religious activities. No one may make use of religion to engage in activities that disrupts public order, impair the health of citizens or interfere with the educational system of the state. Religious bodies and religious affairs are not subject to any foreign domination.\(^\text{71}\)

In its 1998 Paper on Human Rights in Tibet China states: "The Chinese constitution stipulates that freedom of religious belief is one of the fundamental rights of its citizens. The Chinese government respects and protects its citizens right to freedom of religious belief in accordance with the law."\(^\text{72}\) Because section 147 of the PRC's criminal law stipulates that "State officials who deprive people of their religious freedom or interfere with the customs and practices of minority nationalities in serious circumstances will be punished".\(^\text{73}\)

Inspite of these explicit provisions in international instruments and the 'constitutional provisions'\(^\text{74}\) in domestic law of China

\(^{71}\) The Constitution of the People's Republic of China (Beijing, 1983). p.32.


\(^{74}\) Constitutional provisions are vague which leaves room for subjective interpretation. See for more details Asia Watch, February 1998 op. cit., p.14.
the practice and propagation of religion in Tibet is subjected to a variety of restrictions imposed by the Chinese government since the early fifties onwards. The pledge to protect and respect Tibet's religious traditions were completely ignored and "step by step, the entire social and political framework previously supporting the practice of Tibet Buddhism was dismantled"75.

The 1959 and 1960 International Commission of Jurists (ICJ) identified that the religious belief was the main criteria employed by the Chinese regime to repress Tibetans. The 1959 report concluded that "the Chinese were determined to use all methods at their disposal to eliminate religious belief and to substitute communist doctrine."76 The 1960 Legal Enquiry Committee said in its conclusive argument "that acts of genocide had been committed in Tibet in an attempt to destroy Tibetan as a religious group."77

75 Forbidden Freedoms, op. cit. p.84.
76 ICJ Reports, The Question of Tibet and the Rule of Law (Geneva 1959), p.36.
However, the religious prosecution and religious destruction has reached its apogee which China also admits as the "freedom of religious belief was disrupted and sites and facilities for religious activities were seriously damaged."

This recognition has led to the initiation of a policy of freedom of individual religious practice plus a limited revival of institutional Buddhism. The intention was only to defuse the discontent pent up from the excesses of Maoist rule. Tibetans were permitted to express their personal religious belief and were allowed to construct the monasteries in limited numbers but at the same time several necessary controls were imposed with the obvious intention to check them becoming intellectual and political force and to limit their impact on society as a whole.

Nevertheless Tibetans took the opportunity to express their collective rights and started building the monasteries with frenetic pace which became the locus of Tibetan cultural revival, a revival

78 Forbidden Freedom, op.cit. pp. 12-13

79 Ibid, p.33 out of more than 2,463 monasteries in 1959 only 10 were left after 1976 - compiled from Chinese sources.

80 Tibet - Its ownership And Human Rights situation, op.cit. p.44.

with inevitable political consequences due to role of religion and monastic Buddhism in Tibetan national identity. Recognising it that the revival of Tibetan Buddhism had led to revival of Tibetan nationalism, the Chinese authorities in Tibet launched a crackdown on monks and nuns and stepped up control over monasteries and nunneries and started surveillance on individuals. The process began in the mid eighties just after 1987 unrest when 'government interference in religious affairs --- have been further intensified and any attempts from within the monastic Community --- rewarded by harsh and violent suppression'.

Amnesty report 1992 illustrates the continuing arrests of politically motivated monks. While in the same year Asia Watch chronicled the list of 360 prisoners among which 'At least two-thirds of the total on the list are monks and nuns'.

However these state controls were not part of well thought out policy from the higher level and moreover, controls were imposed on only big and politically active monasteries and nunneries

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like Drepung, Gaden, Sera and Garu in and around Lhasa areas. The work teams had also been sent as a part of political re-education programmes and it led to the expulsion of monks and nuns. Therefore their execution was also disorganised. Until 1994, when the Third Work Forum identified Buddhism and the Dalai Lama's influence son Tibet was the main source of problem. The struggle between ourselves and the Dalai Clique --- is a matter of antagonistic contradiction - the Dalai Clique assumes that getting hold of monastery is equivalent to (getting hold of) a district of the Communist Party”. So our prefectures, cities and countries should seriously consolidate (recognise) the monasteries which have problems.

Therefore, the main thrust of the religious policy guidelines issued by the Third Forum was to give approval at the highest level for stricter control over monastic institutions and for that five practical steps were advised. They are as follows:

(i) To exercise control over the selection of the DMCs

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85 See for more details, Defying the Dragon op.cit. pp. 16-20.
86 Document No.5 of the Sixth Enlarged Plenary Session of the standing Committee of the fourth Congress of the Tibet Autonomous Regional Branch of the Communist Party (excerpted) in Cutting of the Serpent's Head op. cit., pp. 156-158.
(ii) To enforce ban on the construction on religious buildings without official permission.

(iii) To enforce set limits on the number of monks and nuns per monastery.

(iv) To demand that each monk or nun denounce the Dalai Lama.

(v) Patriotic Re-education Campaign. To screen and re-educate monks and nuns in order to register or de-register them.

i) Control Over Democratic Management Committees [DMC]:

These are the most important means used by the Chinese government to control the monasteries from 1959 onwards when it was first established 'with the aid of special reform teams'. They had full powers in routine matters - economy, housing, food and political study and in their ranks the poor lamas predominated. Theoretically, it has been claimed that the members are 'elected by the monks and nuns' but practically it is selection rather than election through which appointment is being made. The Chinese authority plays the vital role in controlling the monasteries.

88 Forbidden Freedoms, op. cit., p.25.
89 Israel Epstein, Tibet Transformed New world Press (Beijing) pp.17-18.
Their importance was emphasised by Gyalsten Norbu (Governor of TAR) in his speech on 8 Nov. 1990 at the Regional Conference on Basic work on Public Security in Grass root Units, "Controlling monasteries actually means --- we must ensure that the People's Democratic Management Committees are in the hands of people who support the leadership of the communist party, the socialist system and the preservation of the unity of Motherland. This is the question of leadership."92. It is important to note here that various techniques were adopted to control the activities of the monasteries which are as follows:

ii) Ban on Construction of the Monasteries: There was restriction on the construction of monasteries even during the liberal period of early eighties as permission was necessary for any reconstruction93 but it was generally tolerated.94 However, in March 1994 officials openly announced that no more monasteries should be built95 and the limit on numbers has been

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94 *Defying the Dragon*, op.cit; p.13.
95 (Document No.5), *in Cutting of Serpents Head*, op.cit; pp.157-158.
fixed at 1,724.9 The reason for this limit is cited as economic.97 1998 EU delegation indicates that "the authorities --- appear to deal firmly with unauthorised religious construction."98 As a result various monasteries have been closed down recently. On 11 June 1998 Tibet Information Network (TIN) has reported that the famous religious sites at Drag Yerpa has been demolished,99 TCHRD has recorded the closure of fourteen monasteries and nunneries during 1998.100

(iii) Limit on the Number of Monks: Another way of controlling the activities of monasteries was limiting the number of monks. Asia Watch Feb. 1998 Report says that "the government regulates the number of monks in various monasteries and has power to refuse the entry"101 but in the initial period they were generally applied to larger monasteries.102 However, after the Third Work Forum there was an official state-

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97 (Document No.5) in *Cutting of Serpents Head*, op.cit. p.157.
98 *Visit to Tibet by EU Troika Ambassadors 1-10 May 1998*, op.cit. Para.16.
100 *Tibet: Crackdown on Humanity*, op.cit. p.45.
102 *Defying the Dragon*, op. cit., p.15.
ment calling on overstaffed monasteries to liquidate their excesses. Since then tough procedure have been adopted for the admission, which range from taking approval from the different government departments to the minimum age criteria. The minimum entry has been kept at eighteen years, which is being strictly enforced by the authorities. This has led to expulsion of monks from various monasteries (See Graph No. V).

iv) Anti Dalai Lama Campaign: The Third Work Forum introduced new element in China’s religious policy as campaign against the religious authority of the Dalai Lama. It has identified that the Dalai Lama and his influence as the main source of instability in Tibet. It observed that "the focal point in our region in the struggle against splittism is to oppose the Dalai Clique. As the say goes, to kill a serpent one must cut off its head. If we do not do that we can not succeed in the struggle against splittism."  


104 (Documents No. 5), in cutting off Serpent’s Head p.156.
The campaign put forward demands on Tibetan cadres as well as monks and nuns to denounce the Dalai Lama's authority in religious affairs in order to demonstrate their loyalty to the Chinese state and several practical steps were suggested, among which the ban on possessing the photographs of the Dalai Lama by the government employee's and cadres was clearly mentioned in Ragdi's speech of 5 September 1994. This ban was later extended to the hotels, restaurants, monasteries and schools in 1996. Further,

"Students in the city's middle or secondary schools were reportedly summoned to meetings on 16 May 1996, where they were told that possession of the Dalai Lama's photograph is no longer permitted ..... could not wear 'Songdu' (the red sacred blessing card, commonly worn around the wrists and neck)."

In fact, the ban is a part of an effort to remove the influence of the Dalai Lama on Tibetan Buddhism. This fact in more clear from the report that "The forty monks are reported to have been arrested on 7 May, 1996 after officials tried to impose regulations, banning photographs of the Dalai Lama from Buddhist temples and at least one monk is reported to have been shot and wounded by police after fighting broke out and stones were thrown".

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105 Cutting off Serpent's Head, op.cit, p.37.
107 Ibid, p.44.
108 Ibid, P.42.
In the following years ban was thoroughly enforced so much so that, in 1998 EU delegation did not find a single picture of the Dalai Lama in any public areas of religious institution including the Potala Palace. In 1999 Tibet government chairman Legong has warned the cadres and government employees in his speech that 'they are by no means allowed to have any religious belief, by no means allowed to hang on the wall any religious symbols or portraits of the Dalai Lama --- will be discharged from public employment without exception; and if they are party members, they will be expelled from the party without exception.

The Panchen Lama Dispute: Panchen Lama is the second most important figure in the main school of Tibetan Buddhism. When the 10th Panchen Lama died in January 1989, the Chinese authorities issued 'a statement within three days of confirming that the search would be carried out under the guidance of the abbot of Tashil Phunpo, The Panchen Lama's seat in Shigatse, in the traditional manner' further allowed the search team Chodrel Rinpo-

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109 Visit to Tibet by EU Troika Ambassadors 1-10 May 1998, op. cit, Para.17.
110 Xiang Riabo 12 February 1999, SWB FE/3490 G/10, 23 March 1999
111 Cutting off Serpent Head, op. cit., p.52.
che - for the Dalai Lama's guidance in search in July 1993. Two years later in April 1995, the Dalai Lama announced his choice Gedhun Chieki Nyima as 11th Panchen Lama. This was immediately rejected by the Chinese Government and announced a new boy Gyain Cain Norbu as the new incarnation and in order to thrust it on the people the other security related steps were swiftly taken which included the immediate arrest of Chadrel Rimpoche and his associate, detention of the child and his parents denouncement campaign against the Dalai Lama and Chadrel Rimpoche. Those who opposed this were either expelled or arrested. Further widespread International concern has forced China admit first time in the UN that the "Child has been under the protection of the government" but his where about is still unknown.

v) Patriotic Re-education Campaigns: This is the tougher than earlier campaign of 'screening and investigating' which had been

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112 Ibid.
113 The basis of rejection is the consideration of China that reincarnation is not a purely religious affair but the question of the sovereignty and accuse the Dalai Lama. See for more details: Identifying the Reincarnated Bainquen' Beijing Review, Vol.34, No.37, Sep. 11-17, 1995, PP.7-10.
115 Tin News Review, No.27, p.3, Tibet Information Network (London), March 1999
116 Defying the Dragon, op.cit, p.17.
carried out in monasteries several times after the 1987 demonstration. On 14 May 1996, Chen Kuiynan, the Party Secretary in the Tibet region said in his speech that "There are few diehard reactionaries in the monasteries who are hell-bent on following the Dalai — in order to beat the splitist and sabotage activities of the Dalai Clique and protect the normal religious life of the masses of religious devotees, we must carry out a carefully differentiated rectification of the monasteries within our region."\(^{117}\)

The programme is meant for minimising dissent by controlling religious institutions. This was pursued vigorously and in order to make the campaign successful the authorities have been dispatching work teams to different\(^ {118} \) monasteries and nunnaries. Initially the work teams were dispatched to larger monasteries such as Goden, Sera and Drepung and despite protests from the monks the

\(^{117}\) TIN News Review, No.25: Reports from Tibet 1996, op.cit, p.49.

\(^{118}\) Work teams are usually composed of junior or middle ranking party members led by senior Tibetan cadres Ibid, p.50.
campaign was later extended first throughout the TAR\textsuperscript{119} and then to the other Tibetan areas.\textsuperscript{120}

The modus operandi of this campaign is similar to all monasteries and nunneries and the monks and the nuns are provided with the study material\textsuperscript{121} first, and then they are required to take part in various discussion. The warning issued by the re-education teams in TAR says that those with bad attitude in the re-education will be expelled.\textsuperscript{122} After this study session they are asked to sign a document containing five principles\textsuperscript{123} and any refusal or resistance leads to arrest and expulsion (See Graph No. VI A)

Thus the patriotic re-education drive is a part of nationwide 'socialist spiritual civilization' campaign but in Tibetan context its main objective is to subjugate Buddhism to socialism and eradicate

\textsuperscript{119} "Re-education campaign Extended to all Tibetan Region "TIN News Update, 7 September 1996.

\textsuperscript{120} TIN News Review No.27: Reports from Tibet 1998, op. cit., p.3

\textsuperscript{121} [Four different type of Texts are Brief explanation and proclamation of (i) Tibet's History (ii) opposing splittism (iii) Religious Policy (iv) Legal Knowledge] see for more details in Closing the Doors: Religious Repression in Tibet, Tibetan centre of Human Rights and Democracy, pp.11-16.

\textsuperscript{122} (Official notice handed to each monk at Sera), TIN News Review, No.25: Reports from Tibet 1996, P.50.

\textsuperscript{123} (Opposition to separatism, the unity of Tibet and China, recognition of the Chinese appointed Panchen Lama, Denial of independence of Tibet and opposition to the Dalai Lama) 1000 monks Face Expulsion in Lhasa Re-education Drive, TIN News Update, 15 August 1996.
its influence. Though the authorities recognize the influence of Buddhism on every aspect of Tibetans life but they consider it as the main hindrance for the development and major source of instability. Therefore the two main tasks have been assigned to the work team;

(i) to check the influence of religion among the common masses

(ii) Eliminate the Dalai Lama's role in the spiritual field

The first one is being done through strict enforcement of the legal age limit and thereby limits the number of monks and second one is pursued through the political indoctrination\(^\text{124}\) of monks and nuns. This effort of institutionalized control over religious institutions and practice is a pervasive interference in the religious affairs of Tibetans. Despite permitting for some superficial religious practice, the direct official attack on the spiritual role of the Dalai Lama, intensive indoctrination of monks and nuns, and prohibition to cadres for practicing religion are contrary to right to freedom of religion guaranteed by the Universal Declaration of Human Rights and

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\(^{124}\) This has been clearly declared by Regdi, chairman of the Standing Committee of TAR Party Congress in a Public meeting commemorating the fourth anniversary of the Third Central Work Forum on Tibet work in July 1998, Cited in Tin New Review, No. 27, Reports from Tibet 1998, op. cit., p.44.
Contravenes the provisions of 1981 Declaration on elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief.

iii) Economic, Social and Cultural Rights

The United Nations approach is based on indivisibility and interdependence of civil and political rights on the one hand and economic, social and cultural rights on the other.\textsuperscript{125} States have three obligations to protect and promote these rights;\textsuperscript{126} (i) not to violate the right directly by its action (ii) to prevent other from violating the right and (iii) to make measures necessary to ensure the right. Within this framework China's obligation will be examined with respect to two rights.

A) Right to Education

B) Right to Subsistence

\textsuperscript{125} Philip Alston, "Denial and Neglect: The interplay between rights". Reoch, ed., op cit p.111.

A. Right to Education

Education is the process through which people get aware of their rights as well as the duties. It empowers the people to fight for their rights. In Tibetan society education has a very specific meaning. They have been able to keep their identity intact by having an educational system that gives culture specific education to their people. In this process young men and women are not only educated rather they carry their culture from generation to generation.

Legal Requirements

The right to education is enshrined in the Art 26 of the Universal Declaration that declares127 "Everyone has right to education .......". This has been further elaborated in the UN convention on the Rights of the Child, in which state parties recognize 'the right of the child" and call on states to make "primary education compulsory and available free to all" make secondary education "available and accessible to every child", "make higher education accessible to all

127 Reoch, ed., op. cit., p. 266.
on the basis of capacity" and "take measures to encourage regular attendance at schools and the reduction of drop out rates."  

Under the convention, states parties agree that "The education of the child shall be directed to ....... the development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate and for civilizations different from his or her own". 

Constitutional Safeguards: China's constitution guarantees that citizens "have the duty as well as the right to receive education". In the pre communist Tibet, monasteries were the formal places of learning but after the peaceful revolution government interviewed and started the process of formal education. In 1951 the first primary school was established at Chando and the first middle school was set up at Lhasa in 1956. Therefore many more

129 Art. 29 (C) of the convention, Encyclopedia of Human Rights, op. cit., p. 230.
schools were established. Apart from this, a new school system based on the community's support was established\textsuperscript{133} which still exists\textsuperscript{134}. However, prior to 1980s the school system in Tibet was in shambles. This was also officially acknowledged when Party Secretary Hu Xiaobang visited Tibet and announced six point programmes for Tibet in which he pointed out that 'Education has not progressed well in Tibet'\textsuperscript{135} and emphasised that "Taking Tibet's special characteristics into consideration, efforts should be made to set up universities, middle and primary schools in the region."\textsuperscript{136}

One of the most important features of this development was the emphasis on the use of Tibetan language in improving the educational system and in accordance with the "1984 law on Regional Autonomy for Minority Nationalities."\textsuperscript{137} Tibetan language has been introduced as the medium of instruction, in most primary schools,

\begin{itemize}
\item \textsuperscript{133} In 1965 there were 1996 community schools with a total 48,755 pupils - outnumbering the 56 state run primary schools which had 10,066 pupils. See for more details Israel Epstein, *Tibet Transformed* (Beijing, 1983), pp. 347-351.
\item \textsuperscript{134} By the end of 1998 there were 810 regular and 3314 village run primary schools. *Xinhua* 25/1/99. SWBFE/3442h/7, 26 Jan., 1999.
\item \textsuperscript{135} SWB 30 May 1980 in Melvyn C. Goldstein, *The Snowline And the Dragon China, Tibet and the Dalai Lama* (California, 1998), p.65.
\item \textsuperscript{136} Ibid.
\item \textsuperscript{137} Art. 37 of this law states that in schools in which students of a given minority nationality predominate, their written and spoken language should be used if conditions permit), *Asia Watch, Human Rights in Tibet* (Washington, Feb. 1988), p.49.
\end{itemize}
since 1985. Panchen Lama advocated vigorously for the development of Tibetan Language and on his initiative in March 1989 "Regulations on the study, use and Development of Tibetan Language" was promulgated which further promoted the use of Tibetan language in Education.

In the same year, i.e. in 1989, on the initiative of Panchen Lama, the Lhasa Experimental School Project was established in three secondary schools, where all subjects were taught in Tibetan. The educational restructuring process started by the government since 1985 and suggestions rendered by the Panchen Lama improved in education. In 1991 there were four modern universities, 15 secondary vocational schools, 63 middle schools and 2474 primary schools with total 1,96,000 enrolments.

In December 1993 the TAR Education Commission promised to start compulsory education in the TAR since 1994, providing for four years' compulsory education in pastoral areas, six years in agri-

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140 It has been dissolved now despite encouraging Results, TIN News update, 31 December, 1996.
141 Tibet - Its Ownership And Human Rights Situation" op. cit., pp.48-49.
cultural areas and nine years in major cities and towns. In 1996, the target set for the length of compulsory education for pastoral areas was reduced to three years, while it remained six and nine years for other areas. In 1998 authorities reiterated the same plan.

However, the official statistics reveal that "the literacy rate was dropped by 41 percentage points" but still there is a gap between Tibet and China as a whole. This has been also acknowledged by the authorities that "certain gap still remains."

Yet China claims to have improved the primary educational base in Tibet through free and compulsory education by presenting the statistics that 'at the end of 1998, 81.3 percent of school age children were in school." This has been contradicted by TCHRD which comes out with a survey report explicitly rejecting the Chi-

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142 Xinhua, 16/12/93, SWBFE/1877G/3, 21 Dec. 1993.


146 In China it was dropped to 6.14 percent) "Progress in China's Human Rights Cause", op. cit., p.16.

147 On 9th March, Raidi, Chairman of the Tibet Autonomous Regional People's Congress, SWB/FE/3480 G/4 (11 March 1999)

Chinese argument that "only nine out of 38 students who had received primary education were not required to pay any fees at all."\textsuperscript{149}

Although there is no doubt that China has made some improvement in educational system in Tibet by 'annually allocating 19 percent of its fiscal budget to educational expenses'.\textsuperscript{150} But most of the Chinese investment and extension of educational facilities have gone to the urban centres where Chinese population lives and not to the rural areas where Tibetans are in majority "the provision of education is more rudimentary, despite official claims."\textsuperscript{151} Therefore, keeping this aspect into consideration it may be concluded that despite her tall claim China has not been able to give primary education compulsorily and freely to all.

Tibetans face major obstacle in access to secondary education because of the government instituted language policies until very recently.\textsuperscript{152} Tibetan language has been the medium of education at


\textsuperscript{150} Xinhua 9/3/99 SWBFE/3480 a/s

\textsuperscript{151} Visit to Tibet By E.U. Troika Ambassadors 1-10 May 1998, Para 32.

\textsuperscript{152} In April 1997 "TAR officials announced that Tibetan language would no longer be the sole language for education in primary school. See for more details in "policy shift in teaching in Tibet" TIN News Review: No.26. Reports from Tibet, 1997, p. 3.
the primary level. But the real problem starts when the students enters at the secondary levels. Entrance to the secondary education is conducted in Chinese language and from here onwards all subjects are taught only in Chinese language.153 "Students fall into two categories as soon as they enter the school"154 This categorization depends on the fluency of Chinese language and those who are not fluent in it are put into the "Tibetan stream", which is inferior to their Chinese counterparts in terms of facilities. This inevitably leads them to falling in standard.

A former resident of Amdo (original) now in exile summarises, "Since Chinese is the primary language and medium for all the subjects in the school examinations. Naturally Tibetan student find themselves handicapped. They suffer in the form of lower exam scores and find it difficult to gain admission to higher levels of education. In the annual University Entrance Exams only about 10% of the candidates manage to pass".155 This is the main reason of dis-


proportionate increase in the number of Chinese students in secondary and higher institutions of Tibet.

In this pathetic situation Tibetans are left with very limited options. First is to send their children to study in interior China. 'Since 1985, some inland provinces and cities have run special classes for the Tibetans as a means to assist Tibet's educational undertakings'. From 1985 to 1997 a total of 18000 Tibetan students had studied in all these Tibetan classes and schools at present there are 13000 Tibetan students studying in more than 26 inland provinces and municipalities.

Tibetans suspect this policy as "sinocising them and nurturing a class of Tibetans who are essentially ignorant about their own culture and bereft of any feelings for their own nationality and nationality interest." Moreover, it takes funds from Tibetan budget to employ Chinese nationals.

156 Shang June, op. cit., p. 16.
159 Ibid.
The other option is to send their Children to India for higher education but authorities always oppose it. In 1994 they even threatened those cadres whose children were studying abroad. "The Dalai clique has enrolled lots of teenagers in their schools abroad to imbue them with "Tibetan independence" and splittist ideas -----. As for those who have sent their children abroad to be educated in schools run by the Dalai chique, if the parents are Citizens, peasants and herdsmen, we should enhance our work on educating them, but if they are party members in government departments and are cadres then we should let them call back their children."160

The latest ban threatens workers whose children are still studying in India with expulsion from jobs if their children are not brought back to Tibet. According to Tibetan Centre for Human Rights and Democracy report the head of the Lhasa Middle School asked three parents in March 1998 to bring their children back from India within six months. However, their inability in immediately acquiring travel document as well as fear in travelling during the heat made it difficult for them to act upon the order. In September

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160 Ragdi’s Speech to the Tar Party Committee; In Cutting off Serpents Head, op. cit., pp. 43-44.
1998 they were asked by the school authorities to explain why they had not been to India to bring their children back. They were suspended from their work until they complied with their order.\textsuperscript{161}

In fact ideological consideration is the most important factor in formulating the educational policies. As in 1989 one of the officials said, "In weighing education in our region, we must see whether the students we train are politically qualified".\textsuperscript{162} This became more explicit when Party Secretary Chen declared the official position, "Ethnic education can not be regarded as successful if it successfully maintains the old culture and tradition, but fails to suit the needs of present social development. The essence of educational work is to generate qualified constructors and successors for the socialist cause and this is the sole basic mission in ethnic education."\textsuperscript{163}


\textsuperscript{162} "Tibet secretary speaks at Education Forum" FBIS, September 14, in Asia watch Report (May 1990), op. cit., p. 85.

\textsuperscript{163} (Chen Kuiyan in Qamdo says prosperity will drive out religion, "Tibet People's Broad Casting Station, Lhasa, November 28, 1994, SWB, December 5, 1994, in Cutting of Serpents's Head, op cit., pp. 41-42.)
Thus in conclusion it is clear that Chinese policy of educational empowerment of Tibetans is an exaggerative exercise in futility. Infrastructure development has indeed taken place but its benefit has actually gone to the Chinese which put Tibetans at structural disadvantage and limit their access to education. In this way China has not been able to fulfil its obligations under the convention of the rights of child.

In fact China has made education an instrument of subjugation through which Tibetans are being assimilated into the greater Chinese social traditions at the cost of Tibetan language and identity. Acculturation is going on with tremendous speed because Tibetan language has no instrumental values in terms of jobs. Another strategy pursued by the Chinese authorities is to put across the message that whatever is Tibetan be it language, culture, values is sedimentary, inferior and backward. This process of ideological indoctrination actually contravenes the convention.
The Right to Subsistence

Legal Requirements

The international covenant on civil and political rights provides, "All peoples have the right of self determination. By virtue of that right they... freely pursue their economic, social and cultural development.... may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence."\textsuperscript{164}

The international covenant on Economic, Social and Cultural rights stipulates that "The States Parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family, including the adequate food, clothing and housing, and to the continuous improvement of living conditions. The State Parties will take appropriate steps to ensure the realiza-

\textsuperscript{164} Reoch (ed.), op. cit., p. 267.
tion of this right, recognizing to this effect the essential importance of international cooperation based on free consent. 165

China asserts that it "always places top priority on its people's right to subsistence and development."166 In 1991 China has submitted a report to the commission on Human Rights that Tibet Autonomous Region enjoys the various autonomous rights including "the right to independently protect, exploit and use natural resources."167 It also claims that China has shown special concern to speed up Tibet's economic construction and improve the life of Tibetan so that they may fully enjoy the rights to subsistence and development.168

But the rampant poverty among Tibetans says it otherwise which China also officially admits and started the poverty relief programme to help "4,80,000 poor Tibetans get out of poverty in six years ..... From 1994 to the end of 1997, the population in poverty dropped from 4,80,000 to 2,10,000 while the number of poor coun-

165 Art. 11 (1) Ibid. p. 284.
tries was reduced from 22 to nine" But ICJ consider it mere eyewash because China does not follow the standard definitions of poverty as accepted worldwide and using international standard calculates on the basis of consumption rather than on income that the number of poor in TAR rises from China's figure of 20.7% to over 70%, whose consumption spending is under 2600 yuan a year, or $1 a day at 1994 exchange rate.¹⁷⁰

However, China adopts some of the important measures for the poverty alleviation¹⁷¹:

i) Development of infrastructure (In 1996-97, 246 projects were earned out with total investment of 410 m Yuan

ii) Enterprise development

iii) And finally removing the people from low productivity areas to high production centres (By 1997 Xigaze government helped 326 household with 2,119 people to move, enabling 76 percent to quickly get out of poverty.

¹⁷¹ Wandi, op. cit., p. 16.
This poverty alleviation approach focuses on activities that are project oriented in nature and not necessarily on the participation of the poor which is the standard solution of any poverty alleviation programmes.\(^{172}\) However, China asserts its policy of development through massive investment in the development of project "worth mentioning are the 62 projects, the aid to Tibet from the central government and all the provinces and cities since 1994.\(^{173}\) Which includes four main categories: '1 project related to agriculture/animal husbandry/forestry/irrigation, 17 energy related projects, 11 industrial projects and in projects linked to culture, education, health care and broadcasting".\(^{174}\) In 1997, Ragdi said that 60 projects had been completed at that time and investment so far had totaled 3.982 Yuan (\$480 m).\(^{175}\)

The picture of development appear rosy if assessed in terms of data interpretation presented by the Chinese State Department.

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\(^{174}\) Ibid., pp. 19-20.

\(^{175}\) *People's Daily*, 28 July 97.
<table>
<thead>
<tr>
<th>Item</th>
<th>1991</th>
<th>1997</th>
<th>Total increase in percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. GDP</td>
<td>3.7b. Yuan</td>
<td>7.35 b. Yuan</td>
<td>96.6%</td>
</tr>
<tr>
<td>2. Grain output</td>
<td>5,80,000 tons</td>
<td>8,20,000 tons</td>
<td>41.4%</td>
</tr>
<tr>
<td>3. Meat output</td>
<td>94,821</td>
<td>1,19,000</td>
<td>25.5%</td>
</tr>
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Development is different from economic growth. Growth is a quantitative concept, which has much to do with economic variables, therefore it is unidimensional. Development is multidimensional and it encompasses growth as well as social development. Investment in education, health care and other poverty alleviation programmes pushes up development and flowers the innate potential of people to realise their capabilities.

But Chinese investments are confined to the urban centres for industrial growth rather than for education and primary health care
in the rural areas where most of the Tibetans live. This has led to the discrepancy in intra sectoral development and prosperity. The 1997 International Commission of jurists report after comparing the developmental spending in rural areas of Tibet and China on the basis of China year book 1995 says, "rural Tibetans spend only 15 percent of the rural Chinese average on health care and under 8 percent of the Chinese on educating their children, culture and recreation."\textsuperscript{176}

Chinese authorities also acknowledge that Tibet Autonomous Region lags far behind from other regions of China and present their strategy with much fanfare. Recently Yang Chuantang, Vice Chairman of TAR has revealed the four point strategy to its economic take off.\textsuperscript{177} First one is called natural resources converted into profit strategy, second is development and opening up strategy, third is modernizing Tibet through developing science, technology and education, fourth is focussed on the development of pillar industries.

\textsuperscript{176} I.C.J. Reports (1997), p. 152.

All the above strategies are hollow because Tibetans are not included in the discussions on the development and the management of the economy, which is an intrinsic aspect of development.\textsuperscript{178} The discussions are made by the central government which always do not benefit them.\textsuperscript{179} For instance in major projects such as the building of power dams or power stations, Chinese workers rather than Tibetans are frequently employed resulting the unemployment of the locals. Irrigation projects such as the Panam project in Shigatse, are designed to promote the development of modern industrialized agriculture in order to grow wheat and vegetables. This is not a traditional Tibetan food but to meet the needs of the migrants.\textsuperscript{180}

Natural resource exploitation is going at frenetic pace in complete disregard to the peoples voice. Kabukye Rinpoche, head of Nubrum monastery in Serta County in Kardze Tibetan Autonomous Prefecture, was arrested on 10 June 1996 and sentenced six year imprisonment after expressing his opposition to local government

\textsuperscript{178} I.C.J. Reports (1997), p. 137.
\textsuperscript{180} The observer (London), 18 December 1994.
policies linked to gold mining near his monastery. Therefore behind this all strategies of the wealth creation political logic works i.e. integrate the Tibet into China's mainstream.\textsuperscript{181}

Thus the prevalence of poverty among the Tibetans and discrimination policy adopted by the Chinese violates their right to subsistence which is against the Art II (I) of International covenant on Economic and Social Rights. While Tibetans are not free to dispose their natural resources. This contravences the Art. 1 of International covenant of civil and political rights.\textsuperscript{182}

(iv) Right of Women and Birth Control

\textbf{Legal Requirements:}

Art.16(e) of the convention on the Elimination of Discrimination Against Women provides that “State parties shall take all appropriate measures to ensure on a basis of equality of men and women ... the same rights to decide freely and responsibly on the number and spacing of their children and to have access to the in-

\textsuperscript{181} \textit{TIN News Update}, 1\textsuperscript{st} December 1998.

\textsuperscript{182} Marcus W. Bruchli, “Integrate Tibet, China is Trying Economic Lures”, \textit{The Indian Express} (New Delhi), 15 July 1997.
formation, education and means to enable them to exercise these rights.”\textsuperscript{183} In the Beijing Declaration governments reaffirmed “The rights of all women to control all aspect of their health, in particular their own fertility, is basic to their empowerment”\textsuperscript{184}

At the International conference on population and development in Cairo the nations of the world agreed on the following agenda: "The aim of family planning programs must be to enable couples and individuals to decide freely and reasonably the number and spacing of their children and to have the information to and means to do so and to ensure informed choice and make available a full range of safe and effective methods --- the principle of free and informed choice is essential to the long term success of family planning programmes. Any form of coercion has no part to play --- demographic goals, while legitimately the subject of governments strategies, should not be imposed on family planning providers in the form of targets or quotas for the recruitment of clients."\textsuperscript{185}  
\textsuperscript{183} Bertucci, op. cit., p. 1603.  
\textsuperscript{184} ibid  
Thus, the nations of the world agreed to shift the focus away from the population control approach to the reproductive health needs of the people, meaning thereby, people have the ability to reproduce and regulate their fertility, women are able to go through pregnancy and childbirth safely; the outcome of pregnancy is successful in terms of maternal and infant survival and well being; and couples are able to have sexual relations free of the fear of pregnancy and of contracting disease.\textsuperscript{186}

In China’s Constitutional Provisions it has been mentioned that “The state promotes family planning so that population growth may fit the plan for economic and social development.”\textsuperscript{187} It further adds that “Both husband and wife have the duty to practice family planning.”\textsuperscript{188}

China has huge population base which put severe strain on its resources that causes poverty. It prompted the authorities to go for one child norm as a part of nationwide family planning pro-


\textsuperscript{188} Ibid. p. 38.
grammes. The policy was forcefully applied\textsuperscript{189} and has major impact in controlling the population.

While Tibet is a region of big land mass but its population is being controlled through a very unique method of sending boys and girls to become monks and nuns. That's why the density of population in Tibet is still low.\textsuperscript{190} But China has gradually introduced the birth controlling measures despite official pronouncement at the time of starting the first family planning programmes in 1979 that poorer and rural areas inhabited by the ethnic minorities would enjoy a measure of exemption.\textsuperscript{191} On 21 June 1988 Shen Guoxiang, Deputy Director of the state Commission for family planning said in her interview with Daniel Southerland that "As far as I know, no family planning programmes has ever been applied to the national minorities, and especially to the Tibetans."\textsuperscript{192}


\textsuperscript{190} (TAR has total area of 1.23 m sq km while its population is 20,96,346 According to 1990 Census), Cering Yongyzon and Jing Wei, "Tibet special (1) Geography Administrative Divisions and population", \textit{Beijing Review}, vol. 37, NO. 21, May 23-29, 1994, pp. 8-9.

\textsuperscript{191} Pierre Donnet, \textit{Tibet Survival in Question} (Delhi, 1994), p. 167.

\textsuperscript{192} Ibid, p. 170.
Despite Chinese denials birth control measures were imposed in a phased manner upon the Tibetans. It was introduced for the first time in the eastern areas of Tibet (Sichuan and Qinghai provinces) traditionally known as Kham and Amdo. It appears that they were applied aggressively since the beginning. "In Ganze prefecture, a Tibetan populated area now within Sichuan Province, the birth control regulations show that Tibetan farmers and nomads have been limited since at least 1988 to a maximum of three children."\(^{193}\)

There are also many official reports from these provinces which give details of the sterilisation and abortion campaign made in the rural areas. "In 1990 it was announced that in Qinghai province which has a Tibetan population of over 20\%, over 87,000 women, about 10\% of women of child bearing age, had been sterilised."\(^{194}\)

Tibetan Autonomous Region (TAR) was gradually covered in the next phase. The first set of guidelines was introduced in 1985 for those who were working with the government in town areas.\(^{195}\) This was accepted by China for the first time in 1992 that "Since 1984, the

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\(^{195}\) *TIN News Compilation*, op. cit., p. 22.
regional government has advocated and carried out the policy of two children per couple among Tibetan cadres, workers and the staff of enterprises and resident in cities and towns." 196 However, the 1992 regulation 197 was extended to cover all other areas and clearly formulated the rules that town dwellers could be allowed to have two children but must be spaced by three years and rural inhabitants could have as many as three children.

From this it appears that initially regulations in TAR were applied moderately especially to the rural areas. This has been indicated also by Goldstein and Beall in his field survey research report that there was clear policy of coercive birth control in Lhasa but there was no evidence in the countryside 198. But “In 1990 Chinese authorities announced that 18,000 women in TAR had volunteered for sterilisation operation – that is 3% of the women of child bearing age. A further 7,000 had taken contraceptive measure. 199 Thus birth

199 In Office of Information and International Relations “Human Rights Update: Forced Birth Control in Occupied Tibet”, Central Tibetan Secretariat (Dharamsala, 5 Feb 1992)
control policies were consistently imposed across Tibet but outskirt regions were subjected to stricter control than the areas of Lhasa and the TAR.

However, this policy rests on twin pillars of incentives and disincentives. The Peoples Daily commented on their policy that women who gave birth to one child would be publicly praised; those who gave birth to three or more would suffer economic sanctions.200 Those who went for the late marriages late births, as well as for IUD insertions, abortions and sterilisations got the incentive in cash and compensation.201 Apart from the incentives given to the couples, single child also got preferential treatment everywhere. However, disincentives or punishment played the major role in policy framework which included fines for couples having extra child and other penalties as well. Fines in cash have been 500 yuan for the first extra birth 1000 yuan for the second.202 Fines could also be imposed for failing to observe the correct interval. Other penalties included demotion, loss of financial bonuses and disqualifica-

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200 Ibid.
tion from right to stand for elected positions and unauthorised children were denied a "themto" residence permit which makes it very difficult for them to obtain an education, employment opportunities and supplies."204

China says that its birth controlling techniques are based on conducting publicity about rational birth and ways to have healthy babies.205 The emphasis is on contraceptive and education IUD is the most common form of contraceptive but its quality is in question as various refugee reports suggest that women are getting infection from its use.206 So far education is concerned, little attention is paid to this notion because policies have been designed in such a way that enforcement has become the most important tool. Therefore, emphasis has been more on remedy method (abortion) which along with sterilisation is being described as the best form of contraception, termed as combined method. Reports from the refugees sug-

203 Defying the Dragon, op. cit., p. 92.
gest that abortion has been done even on the later stage of preg-
nancy.207

China officially claims that it “prohibits any form of forced
abortion”208 and maintains that despite some aberrations it is en-
tirely voluntary.209 But in actual practice threat of fines and other
punishments force the pregnant women to abort, if it exceeds the
regional quota. Dr. Tashi Dolma (from Quinghi) testifies to TIN af-
ter escaping to India in December 1989.

“In October 1988, the second child was conceived in my
womb. My boss in the office came to know about it after
two months because of my vomiting it became obvious.
She would visit me almost everyday and by all means
tried to convince me to do abortion .... I simply let the
time pass and after some time I went to see her. I told
her that I would like to have the child and would pay
any amount of money as penalty (in that area normally
1700 yuan). She became extremely angry and warned
me, “if you do not want to listen and insist on going
your own way, do it. Paying the fine is just a small
matter. You will be punished from the party secretary.
You will be given 30% of your salary for you to live on,
and it will never be increased. Your child’s name will
not be registered so the child will not be allowed to go
to nursery or to school. Possibly you could be sacked
from your job.” We did not know that it was such a se-

209 (Representatives of the Regional Family Planning Commission told in their meeting
with the delegation) Visit to Tibet by EU Troika Ambasadors 1-10 May 1998. Para. 41.
rious matter---but later I learned that there were clear cut, finalised documents on such matters which were circulated among officials but which were never announced to the public. Under such pressure I was helpless. I had no choice but to have an abortion.”210

1991 district level documents give details about the policy implementation at the local levels and clearly refer that force may be used to achieve the target. The document gives the reason of failure, “there are still households with large number of members who because of their stubborn adherence to old customs and traditions resist birth prevention operations”211 and refers the future policy “from 1 January 1991 onwards, birth control policy will be strictly implemented and in case of those exceeding the limit, birth prevention operation will be carried out within the year and the fine of the whole amount of 900 Yuan will be collected.”212

The enforcement of the policy is entrusted to the local officials and cadres by fixing quotas to them and reward and punishment is also attached to fulfillment of these targets. The targets are set at every level from provincial level to neighbourhood level and ac-

210 TIN News Compilation, 22nd October., p. 24.


212 Ibid., p. 3.
cording to Ganze "Procedure" the targets are set not to distribution of contraception but for "contraceptive operations" which include abortion and sterilisation\textsuperscript{213}. Therefore, the officials and cadres vie with each other at every level to jack up the target. This is the reason of variation in birth control implementation.

But at the central level China has two objectives in mind which are the main driving force in formulating its population control approach in Tibet. First is through linking population growth with economic backwardness of the region. It has been clearly stated at several times that "Tibet's population has been increasing at a fast rate"\textsuperscript{214} which is "exerting pressure on the region's economic and social development."\textsuperscript{215} Therefore, "population control is necessary"\textsuperscript{216} and in 1996 it was reported that during the Eighth Five-Year plan period (1990-95), the birth rate in TAR had dropped from 1.84 to 1.61 and 63,200 births had been prevented due to im-

\textsuperscript{213} \textit{TIN News Compilation}, op. cit., p. 24.

\textsuperscript{214} \textit{Tibet - Its Ownership And Human Rights Situation}, op. cit., p. 55.


\textsuperscript{216} Tibet-Its Ownership And Human Right Situation, op. cit, p.55.
plementation of family planning programmes. Secondly, population control is justified necessary "in order to raise the economic and cultural standard and national quality in the minority areas." Though there is no explicit detail rules devised but certainly some internal documents reflect this concern. According to the laws of Ganze Autonomous Region Persons inflicted with serious hereditary diseases such as mental illness, mental disability or physical deformity are prohibited from giving birth. This has been supplemented by the TAR regulation which states that "births are forbidden to people who have serious hereditary diseases proved by medical evidence." Thus China's population policy in Tibet is target oriented with certain clear cut objectives and in order to achieve those objectives it compels the women for abortion and sterilization either through physical force or economic coercion. It is not only against the international norm of reproductive health approach but is seriously violating the reproductive rights of women to regulate

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219 Ibid.

220 Ibid.
their own fertility safely and effectively by conceiving when desired, terminating unwanted pregnancies and carrying wanted pregnancies to term, bear and raise healthy children and remain free of disease disability, fear, pain or death associated with reproduction and sexuality which are born out of plan by denying their access to health and education.