



**Free Tibet's Submission to the Conservative Party Human Rights Commission  
Freedom to Believe: Protecting and Promoting Article 18  
Freedom of Religion in Tibet**

July 2010



Free Tibet stands for the right of Tibetans to determine their own future. We campaign for an end to the Chinese occupation of Tibet and for the fundamental human rights of Tibetans to be respected. Founded in 1987, Free Tibet generates active support through public education about the situation in Tibet. We are independent of all governments and are funded by our members and supporters.

Free Tibet's definition of Tibet includes not only the Tibetan Autonomous Region, but also the former Tibetan provinces of Amdo and Kham which have been amalgamated into the Chinese provinces of Sichuan, Gansu, Qinghai and Yunnan.

## **Contents**

### **Executive Summary**

### **Recommendations**

#### **1. The Right to Freedom of Religion**

#### **2. Violations of Freedom of Religion or Belief in Tibet**

##### **2.1 Patriotic re-education**

#### **3. The Right to Manifest Religion in Worship, Observance, Practice and Teaching**

##### **3.1. Practice and teaching**

###### 3.1.1 Freedom to choose religious leaders

###### 3.1.1.1 The role of the 14<sup>th</sup> Dalai Lama and the future Dalai Lama

###### 3.1.1.2 The Panchen Lama and the Dalai Lama

###### 3.1.1.3 The Panchen Lama

###### 3.1.1.4 Gyaltzen Norbu, the 'fake' Panchen Lama

###### 3.1.2 Conduct by religious groups of their basic affairs

###### 3.1.2.1 Administration of monasteries and nunneries

###### 3.1.2.2 Admission

###### 3.1.2.3 Restrictions on numbers and ages of monks and nuns

###### 3.1.3 Freedom to prepare and distribute religious texts and publications

##### **3.2 Worship**

###### 3.2.1 Display of symbols

###### 3.2.1.1 Images of the Dalai Lama

###### 3.2.2 Ceremonial acts giving direct expression to belief

###### 3.2.2.1 Pilgrimages

###### 3.2.2.2 Restrictions on religious ceremonies and events

#### **4. Removal of Religious Rights as Punishment for 'splittist' activities**

### **Appendices**

A1 Historical context

A2 Current domestic legal framework on religion

A3 China's position on freedom of religion

## Executive Summary

*"They are putting the monks and nuns in prison-like conditions, depriving them the opportunity to study and practise in peace. These conditions make the monasteries function more like museums and are intended to deliberately annihilate Buddhism."*

Tenzin Gyatso, the 14<sup>th</sup> Dalai Lama, March 2010

Visitors to Tibet often comment on the large numbers of monks who seem free to practise their religion without restriction. Temples, monasteries, nuns and monks, Buddhist rituals and festivals are all outward signs of an apparently thriving religion. The Chinese government cites this as evidence of its commitment to the free exercise of religious belief.

What visitors cannot see is the complex system of administrative control and restrictions which make it virtually impossible for Tibetans to practise their religion in a meaningful way. What they don't see is the coercion, the culture of surveillance, the threats, the monks and nuns who are in prison for freely exercising their beliefs.

Despite its official policy of respect for the freedom of religion, China's overarching concern is ensuring the adaption of religion in order to "safeguard the security, honour and interests of the motherland", a requirement which renders the freedom of religion illusory. The impact of this strategy should not be underestimated. Unlike most European countries, which are secular in their identity, Tibet is a religious society and Tibetan Buddhism is integral to its identity. Many Tibetan religious practices are suppressed and banned. China requires that religious belief is practised in a way that accepts the leadership of the Party and the government above all else. China stipulates "the absence of foreign domination" which precludes the involvement of the leaders of the four Tibetan Buddhist lineages who all live in exile.

Through an elaborate legal and regulatory framework China intricately manages all levels of religious activity. It requires government officials, including at a community level, to carry out supervision, inspection and guidance and to actively lead religious organisations, places of religious activity and religious personnel to be patriotic and protect the state. The range of regulations and administrative measures implemented in Tibet since 2005 clearly illustrates the extent of their ambition.

Despite its assertion that it is merely ensuring that religious beliefs are manifested in accordance with the law, many of the Chinese government's efforts seek to change Tibetan religious beliefs violating the absolute nature of that right. Government actions to control religion have also resulted in a wide variety of other human rights violations.

Free Tibet's evidence focuses on the following Chinese policies which seek to dictate and change Tibetan Buddhism and ultimately the identity of the Tibetan people.

- **Patriotic-re-education.** Patriotic re-education is a government-run campaign focussing on monasteries and nunneries with the aim of changing the fundamental elements of belief. In this compulsory programme, Tibetan Buddhists are forced to denounce their spiritual leader the Dalai Lama who they hold as sacred, and to place the state before their religion. Those who refuse to take part can be stripped of their religious rights. Patriotic re-education violates the right to freedom of thought, conscience and religious belief and violates the right to personal integrity, dignity; it

amounts to cruel, inhuman or degrading treatment and in some instances may amount to torture.

- The atheist Chinese state has appropriated the process of identification and education of reincarnate lamas. This aims to weaken and ultimately destroy the influence of Tibetan Buddhist religious leaders. It also aims to co-opt future Tibetan Buddhist clergy to serve the administrative and political aims of the Chinese state.
- Control of the basic affairs of monasteries and nunneries through government-controlled Democratic Management Committees, including control over the admission, training, movement, teaching and discipline of members of the clergy. These functions were for centuries overseen by monastic bodies.
- Restrictions on the publication and distribution of religious texts.
- Banning of religious symbols which give direct expression of belief.
- Restriction and banning of religious ceremonies and events.
- The removal of religious rights as a form of punishment for Tibetans accused of taking part in so-called 'splittist' activities, which can include raising the Tibetan national flag.

**Religion, which symbolises the Tibetan sense of personal, political, religious and national identity, has become a pawn in China's efforts to cement its occupation of Tibet.**

**Tibetan Buddhism has never been under greater threat.**

## Recommendations

### Recommendations to the UK government

In 2009 the Foreign Affairs Select Committee concluded that "...there remains little evidence that the British Government's policy of constructive dialogue with China has led to any significant improvements in the human rights situation"<sup>1</sup>.

A new, more robust approach to address human rights in Tibet, including freedom of religion, is now necessary<sup>2</sup>.

- **Free Tibet and its supporters are calling on the newly configured Foreign Affairs Select Committee to hold an inquiry into the effectiveness of the UK's foreign policy strategy to address human rights in Tibet and China.**

In view of the failure of the UK strategy to secure human rights improvements in Tibet, Free Tibet recommends that:

- **Human rights in Tibet and China are an integral component of UK China relations.**
- **The focus of the UK China human rights dialogues remains consistent.** Changing the focus on a yearly basis will not yield results.
- **UK China human right dialogues are measured against an agreed set of specific, measurable benchmarks with timeframes to monitor progress<sup>3</sup>.**
- **In identifying human rights benchmarks, human rights organisations and organisations with a mandate to monitor the situation inside Tibet should be consulted in the identification and monitoring of agreed benchmarks.**

The new coalition government has committed in its manifesto to "seek closer engagement with China, while standing firm on human rights"<sup>4</sup>. Therefore

- Any public **statements on human rights violations in Tibet** must be made not only to satisfy the expectations of a UK domestic audience but **should be made in public during visits to China, including in public talks (for example at universities), and alongside Chinese counterparts in all joint press conferences<sup>5</sup>.**

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<sup>1</sup> Paragraph 33, Page 10, Human Rights Annual Report 2008-09, Foreign Affairs Select Committee

<sup>2</sup> At the end of the last Parliament more than 120 MPs joined Free Tibet in calling for a Foreign Affairs Select Committee inquiry into the UK government's strategy with China by signing Early Day Motion 345.

<sup>3</sup> The previous government partly evaluated the success of its human rights strategy with China on the simple indicator of bilateral processes taking place and not on outcomes. For example the Foreign and Commonwealth Office cited 'access' to Tibet as a success of its human rights strategy when the former Minister of State, Ivan Lewis MP, visited in September 2009. Free Tibet was critical of the visit as in China the Minister was publicly silent on the human rights crisis in Tibet, allowing Beijing to use the Minister's visit as illustrative of British government support for Beijing's policies in Tibet.

<sup>4</sup> Paragraph 15, Page 20, 'The Coalition: our programme for government' (2010)

<sup>5</sup> The hypocrisy of the previous government's stance on human rights in Tibet was illustrated in March 2010 during a ministerial visit to Tibet when the former Foreign Secretary failed to make a public statement on human rights violations in Tibet during a press conference whilst he was in China, yet on the afternoon of his return from Beijing he launched the Foreign and Commonwealth's Office's Annual Human Rights Report which was critical of China's human rights record in Tibet.

- **Statements of concern should not be limited to raising individual cases but should also focus on thematic rights violations and structural causes to human rights violations.**

### **Recommendations to China**

**Until freedom of religion is allowed without the state-imposed caveat of ensuring religion serves to “safeguard the security, honour and interests of the motherland”, freedom of religion in Tibet will remain illusory and any changes will fail to address the structural obstacles to the right to freedom of belief and the right to manifest religion.**

With this in mind, Free Tibet calls on China to:

- **Halt patriotic re-education campaigns in all Tibetan areas.**
- **End state-intervention in the identification and education of Tibetan tulkus.**
- **End restrictions on the admission of monks and nuns to monastic institutions based on exams on political ideology.**
- **End the vilification of the Dalai Lama and allow worship, observance, practice or teaching that relates to the Dalai Lama, which is integral to Tibetan Buddhism.**
- **To allow, as a minimum, an independent human rights representative<sup>6</sup> to meet Gedhun Choekyi Nyima, the 11th Panchen Lama, and his family to confirm his whereabouts and well-being and to confirm the Chinese government’s claim that "He wants to live in peace and does not want his life disturbed."<sup>7</sup>**
- **To offer an open invitation to all the UN thematic and treaty bodies, including the UN Special Rapporteur on freedom of religion or belief<sup>8</sup>.**

### **Recommendation to the United Nations**

- **Free Tibet calls upon the UN to classify patriotic re-education as a systematic form of inhumane and degrading treatment or punishment, and in some cases torture.**

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<sup>6</sup> For example the UN Special Rapporteur on Freedom of Religion or Belief or the International Committee of the Red Cross.

<sup>7</sup> Nyima Tsering, vice-chairman of the Tibet Autonomous Region speaking to BBC journalist Michael Bristow, August 2007.

<sup>8</sup> China has advised the UK government that it intends to invite at least one UN Special Rapporteur each year to visit the People’s Republic of China. The Chinese government is still to confirm which, if any, UN Special Rapporteur it will invite in 2010. Information that China was in negotiations with the UN Special Rapporteur on the Right to Food was unfounded.

## **1. The Right to Freedom of Religion**

Freedom of religion is set out in Article 18 of the Universal Declaration of Human Rights and Article 18 of the International Covenant on Civil and Political Rights<sup>9</sup>. Article 18 is composed of two primary components:

- **the right to freedom of religion or belief**
- **the right to manifest religion in worship, observance, practice and teaching.**

**The right to freedom of belief is absolute and cannot be subject to derogation or limitation even in time of public emergency<sup>10</sup>.** Like freedom of thought, freedom of belief is protected unconditionally<sup>11</sup>.

The right to manifest - to practise - religion can be limited. However, any measure limiting the right to manifest religion must be prescribed in law (allowing for legal challenge) and must be necessary to protect public safety, order, health, morals or the fundamental rights and freedoms of others. The right to manifest religion cannot be limited for any other reason, for example national security. Critically, limitations on practice must not be applied in a manner that would effectively remove the right to freedom of religion or belief<sup>12</sup>.

## **2. Violations of Freedom of Religion or Belief in Tibet**

Freedom of religion or belief encompasses the right to choose, adopt, have, hold and replace beliefs.

The International Covenant **prohibits coercive measures including the use or threat of physical force or penal sanctions, or other policies and practices which have the same intention or effect, to compel believers to recant their religious beliefs.** The Chinese government in Tibet has a number of policies and measures in place that seek to forcibly influence and change people's religious beliefs.

### **2.1. Patriotic re-education**

The Chinese Communist Party's **patriotic re-education programme is aimed at changing the fundamental elements of thought, conscience and religious belief.**

Patriotic re-education is commonly referred to as 'Love your Country, Love your Religion', although there are signs that the Chinese government is rebranding the programme, for instance a monk recently interviewed by foreign press referred to having had 'education about the law' after he interrupted another government organised trip in Jokhang Temple, Lhasa in 2008 to shout about the lack of freedom in Tibet<sup>13</sup>.

Originally launched as a five-year programme in 1996, patriotic re-education has been expanding since May 2006 and has been significantly extended since the March 2008

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<sup>9</sup> China has signed but not ratified the ICCPR. As a result the ICCPR does not directly bind China. However it remains a source of international legal obligations, as many of its principles are reflective of customary international law and in accordance with Article 18 of the 1969 Vienna Convention on the Law of Treaties, China is obliged to abstain from acts which would defeat the object and purpose of a treaty which it has signed.

<sup>10</sup> UN Human Rights Committee, General Comment 22: The Right to Freedom of Thought, Conscience, Religion (Art. 18), Paragraph 1. (1993) CCPR/C/21/Rev.1/Add.4. (General Comment 22)

<sup>11</sup> Ibid. Paragraph 3

<sup>12</sup> Ibid. Paragraph 8

<sup>13</sup> <http://nytimes.com/2010/06/30/world/asia/30tibet.html>

protests which swept across the Tibetan plateau. Historically patriotic re-education campaigns have been aimed at monasteries and nunneries but the campaign has been extended to schools and institutions of higher education. It is worth noting that patriotic re-education campaigns are often concentrated in monasteries and nunneries that follow the Dalai Lama's Gelukpa lineage<sup>14</sup>.

**Failure to comply with patriotic re-education campaigns has resulted in physical punishment such as beatings, in monks and nuns being expelled from monasteries and nunneries, detention and even imprisonment.**

Patriotic re-education is carried out by *ledon rukhag* (work teams) of trusted Chinese and Tibetan officials. Work teams can vary from three to 20 individuals, depending on the size of the institution. The frequency and length of visits can vary from five days to four months, depending on whether the monastery or nunnery has been deemed politically active or troublesome in the past. Chinese state media reported that in 2009 alone more than 2,300 officials were sent to 505 monasteries and nunneries in the Tibetan Autonomous Region to ***“promote legal awareness of monks and nuns and dissuade them from being duped by separatist forces and ensure the normal practice of Buddhism.”***<sup>15</sup>

**The two main objectives of patriotic re-education are**

- **to instil in people that they must love the Chinese “Motherland” and place it before their religion**
- **to compel them to denounce the Dalai Lama.**

Not only are monks forced to verbally denounce the Dalai Lama but they can also be forced to take other symbolic actions that fundamentally contravene their religious beliefs. For example in Kirti monastery in Ngaba County, Sichuan Province monks were required to step on a photograph of the Dalai Lama as part of their patriotic education. Monks who refused were beaten by security forces.<sup>16</sup>

‘Love your country, love your religion’ sessions involve studying four handbooks: ‘Law’, ‘The History of Tibet’, ‘Crushing the Separatist’, and ‘Contemporary Policies’. Reading and discussion of these books is often followed by an examination. To pass these exams and establish themselves as good patriots, monks and nuns must:

- oppose separatism;
- deny Tibet was ever or should ever be independent from China;
- agree that the Dalai Lama is destroying the unity of the Motherland,
- and recognise Gyaltzen Norbu, the Chinese appointed Panchen Lama, as the ‘true’ Panchen Lama.

The Dalai Lama is not only the spiritual and political leader of the Tibetan people, he is also regarded as a reincarnation of the Buddha of Compassion. Forcing Tibetan Buddhists, especially those who follow the Gelukpa tradition to denounce the Dalai Lama is deeply painful. For example, chant master Lobsang Jamyang from Tongkhor monastery refused to

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<sup>14</sup> There are four main schools of Tibetan Buddhism, Geluk, Nyingma, Kagyu and Shakya. The Gelukpa tradition is the most common in Tibet.

<sup>15</sup> Special Topic Paper: Tibet 2008 – 2009, Congressional Executive Commission on China, pg 34 citing China Focus: Legal Education at Tibetan Monasteries Bears Fruits,” Xinhua (Online), 9 March 09. Sonam Rigzin (Suolang Renzeng), Deputy Head of the United Front Work Department of the TAR Communist Party Committee, made the remark.

<sup>16</sup> US State Department International Religious Freedom Report 2008, China

denounce the Dalai Lama even if it would cost his life. A number of incidences of suicide have also been recorded after patriotic re-education sessions.

**Forcing monks and nuns to change or recant their deeply held religious beliefs is a violation of the absolute right to freely have beliefs of one's own choosing.**

Like re-education through labour, **patriotic re-education seeks to break the will and alter the personality of the individual. The UN has characterised re-education through labour as a systematic form of inhuman or degrading treatment or punishment, if not torture that leads to “submissiveness and a culture of fear.”**<sup>17</sup> Patriotic re-education recreates these conditions.

Patriotic re-education aims to promote national unity and is therefore justified by the Chinese government on notions of state interest, an impermissible limitation on freedom of religion under international law; the government also justifies the programme on public order grounds, on the basis that socialism forms part of the body of principles which underpin the state. However, the UN Human Rights Committee has made clear that **“If a set of beliefs is treated as official ideology ... this shall not result in any impairment of the freedoms under article 18 or any other rights recognized under the Covenant nor in any discrimination against persons who do not accept the official ideology or who oppose it.”**<sup>18</sup>

Below is an account from 2007 from a nun, aged 30, who attended Nagar nunnery in Changa township, Lhundrup County, Tibetan Autonomous Region. Her name is withheld.

*“I remember when the work teams came to teach the nuns patriotic education. The classes were all about loving the nation and the differences between the old Tibet and the new one. We were told to denounce separation and that none of us would be allowed to stay in the nunnery if we failed our patriotic re-education test. None of us listened... The launch of patriotic re-education at the nunnery was supposed to last three months. At first the officials stayed in the township, but because we didn't listen to them, they moved into the nunnery, brought more officials in and stayed for a total of six months. By the end of this time, all but the oldest and youngest nuns had been expelled.*

*Of the 80 or so nuns living at the nunnery when they arrived, only 13 were allowed to stay... Six of the nuns who were allowed to stay were old women. They were taken to Changa and kept in the township office for five days. They were blamed for teaching younger nuns the old ways and told to stop. I think this was meant as a warning to the remaining nuns.*

A Briefing Booklet on Law and Order published by Lhasa Municipality Law and Order Information Department (April 2009) sets out the following sanctions for failure to participate in patriotic re-education sessions:

- skipping of one patriotic education class results in a 10 Yuan **fine**
- If in one year they attend only two patriotic education classes they will be fined 20 Yuan and will undergo a **preventive counselling** education session
- If in one year they attend only three to four patriotic education classes they will be fined 30 to 40 Yuan and placed under **surveillance** for a period of one year.

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<sup>17</sup> Report of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pg 22 (E/CN.4/2006/6/Add. 6)

<sup>18</sup> UN Human Rights Committee, General Comment 22: The Right to Freedom of Thought, Conscience, Religion (Art. 18), Paragraph 10. (1993) CCPR/C/21/Rev.1/Add.4

- During this one-year surveillance period if they only attend five patriotic education classes they will be **permanently expelled from the monastery/nunnery**.<sup>19</sup>

Evidence from Tibet illustrates other more serious consequences of unsatisfactory participation including physical abuse<sup>20</sup>, detention and imprisonment. In April 2008 **protests against patriotic re-education in Tongkhor monastery resulted in the shooting of at least eight unarmed civilians**<sup>21</sup>.

### **3. The right to manifest religion in worship, observance, practice and teaching**

The freedom to manifest religion can be exercised individually or in community, in public or private<sup>22</sup>. It includes a broad range of acts, which the Human Rights Committee outlined as including:

- *Worship*: ceremonial acts giving direct expression of belief, the building of places of worship, the display of symbols, and the observance of holidays and days of rest.
- *Observance*: participation in rituals associated with certain stages of life, and the use of a particular language customarily spoken by a group.
- *Practice and Teaching* of religion includes acts integral to the conduct by religious groups of their basic affairs, such as the freedom to choose their religious leaders, priests and teachers, the freedom to establish seminaries or religious schools and the freedom to prepare and distribute religious texts or publications.<sup>23</sup>

As previously explained, the right to manifest religion can be limited but these limitations must be set out in law, necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others. Any limitation must be proportionate and any limitation must not effectively remove the right to freedom of religion or belief.

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<sup>19</sup> Briefing Booklet on Law and Order. Published by Lhasa Municipality Law and Order Information Department, Tibet Autonomous Region (TAR). April 2009 as reproduced in the Annual Report 2009, Tibetan Centre for Human Rights and Democracy

<sup>20</sup> In April 2010 in Machu Tibetan Secondary School students were forced to denounce the Dalai Lama as part of a re-education campaign. Several students who refused were beaten.

<sup>21</sup> In April 2008 a protest started at Tongkhor monastery, Kardze Prefecture in Sichuan Province following a patriotic re-education session during which attempts were made to force monks to denounce the Dalai Lama. The monks voted to refuse to co-operate with the authorities resulting in the deployment of approximately 3,000 armed police that afternoon.

The police raided the monastery and arrested two monks, Geshi Sonam Tenzing and Tsultrim Phuntsog, for possessing photographs of the Dalai Lama. On the following day, 370 monks from the monastery attempted to march with 400 Tibetan laypeople to the local government offices in the town. On route the protesters called for the release of the monks and also chanted “We don’t have freedom” and “Dalai Lama must return to Tibet.” The road leading into the town was blocked by hundreds of armed police and a stand-off ensued. The police open fire using live rounds killing at least eight of the unarmed protesters.

<sup>22</sup> Paragraph 4 General Comment 22

<sup>23</sup> Ibid

### **3.1 Practice and teaching**

#### **3.1.1 Freedom to choose religious leaders**

*The ability to freely choose religious leaders, priests and teachers is a core element of the ability to manifest religious belief through practice and teaching.*

UN Human Rights Committee<sup>24</sup>

The Chinese government is well aware of the extremely important role of religious leaders in Tibetan monastic and lay society. **Efforts to control reincarnations have subsequently been put at the centre of China's policies to cement its rule in Tibet.**

In Tibetan Buddhism it is believed that when a tulku<sup>25</sup> dies, his reincarnation can be identified through specific rituals and signs. The reincarnated lama then continues the teaching of his predecessor to the next generation. Belief in the unbroken lineage of these reincarnated tulkus has been central to Tibetan Buddhism since the 12th century.

Tulkus are of extreme importance in Tibetan society. As well as religious leadership, many tulkus exercise social and political leadership within their communities.

State interference in the selection of tulkus has taken place for decades, but was formalised in 2007 through Order No. 5, *China's State Religious Department Affairs on Management Measures for the Reincarnation of Living Buddhas*<sup>26</sup>.

Traditionally, tulkus are identified by their principal disciples, high-ranking lamas of the monastery or the heads of the lineages (all of whom now live in exile). These individuals determine the reincarnate through:

- Interpreting any predictions left by the previous incarnation as to the whereabouts and nature of his rebirth.
- Conducting tests in which the child or candidate for reincarnation of the lineage is asked to pick out articles that belonged to the previous incarnation which have been set out with similar articles and objects.
- Consultation with oracles and other forms of divination.

**Under State Order No. 5 control is taken away from the monasteries and effectively handed over to the state.** The process of identifying a reincarnate in Tibet is now highly regulated by the state as opposed to being carried out according to religious edicts. The state-authorized Democratic Management Committee (DMC) is responsible for suggesting potential candidates, who must then be submitted to the autonomous regional government for approval. Reincarnations of 'Living Buddhas' "with a great impact" must be approved by higher levels of government<sup>27</sup>. Once an approved list of candidates is agreed the Buddhist Association of China (the state-authorized religious association) establishes a reincarnation guidance team, which guides the search team established by the relevant monastery<sup>28</sup>. Once the reincarnate has been identified it is reported to the relevant Government Religious Affairs Department for approval. Approved reincarnates are provided with a "living Buddha"

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<sup>24</sup> UN Human Rights Committee, General Comment 22: The Right to Freedom of Thought, Conscience, Religion (Art. 18), Paragraph 4. (1993) CCPR/C/21/Rev.1/Add.4

<sup>25</sup> In Tibetan Buddhism tulku is the term for a reincarnate being, often a high ranking lama, such as the Dalai Lama is one, who can choose the manner of his (or her) rebirth. There are approximately 100's of Tulkus in Tibetan Buddhism currently.

<sup>26</sup> 'Living Buddhas' is a Chinese state reference to tulkus; this is not a term that Tibetans would use.

<sup>27</sup> Article 5, Order No. 5 of China's State Religious Department Affairs on Management Measures for the Reincarnation of 'Living Buddhas' in Tibetan Buddhism (2007) (Order No. 5)

<sup>28</sup> Article 7, Ibid.

permit, and the DMC of the relevant monastery recommends a scripture teacher and prepares a training plan, which must be submitted to the government for approval<sup>29</sup>.

Traditionally, the head of a lineage - for example the Dalai Lama - would be involved in the identification of high ranking lamas, but this is now prohibited under Order No 5, which states that "Reincarnating Buddha's shall not be interfered with or be under the dominion of any foreign organisation or individual"<sup>30</sup>. **The reference to 'foreign' serves to exclude all the heads of the four Tibetan Buddhist lineages who all reside in India in order to practise freely without interference.**

In some instances the traditional practice of identifying reincarnates is now undertaken by Tibetan lamas in secret in order to preserve the practice which is integral to the Tibetan Buddhist faith. Once the reincarnate is identified he often chooses to leave Tibet to guarantee the survival of the lineage and to be educated and practise without state interference. The most high-profile recent case of this is the head of the Kagyu School of Buddhism, the 17<sup>th</sup> Karmapa. Despite being authorised by the Chinese government the Karmapa fled to India in 1999, citing lack of religious freedom as his motivation to leave.

Those who refuse to abide by the procedures for reincarnation, as provided under Order No. 5, risk civil liability or criminal prosecution and may be disqualified from religious practice.<sup>31</sup>

**These procedures contravene the traditional procedures for recognising a reincarnated tulku in Tibetan Buddhism. A matter that was based purely on spiritual considerations has now been converted into a bureaucratic, government-controlled appointment process devoid of its religious context. It is aimed at weakening and ultimately destroying the influence in Tibet of Tibetan Buddhist religious leaders such as the Dalai Lama.**

**The intent and impact of such measures is to effectively incorporate Tibetan Buddhist clergy into the administrative apparatus of the Chinese state. National security and ideological differences are not sufficient justifications for controlling the selection of religious leaders; nor has the Chinese government specified any other reason or necessity to support this action. This constitutes a grave violation of religious belief and an attempted usurpation of control over Tibetan Buddhism.**

### 3.1.1.1 The role of His Holiness the 14<sup>th</sup> Dalai Lama and the future Dalai Lama

One of the core motives behind State Order No. 5 is to control the selection and education of the next reincarnation of the Dalai Lama. Stamping out loyalty and devotion to the current Dalai Lama and eradicating his influence in Tibetan society, to the extent of banning photographs of him, is central in China's Tibet policy to promote what it refers to as 'stability'.

*"The Dalai Lama is not merely a religious figure, he is also a mastermind of separatist activities. No sovereign country in the world would allow the hanging of a portrait of a person like that."*

Deputy Secretary of the Communist Party in Tibet and vice-chairman of the regional government Hao Peng to foreign press on 1 July 2010

In addition to the religious role the Dalai Lama plays as the Head of the Gelukpa School of Tibetan Buddhism, the Dalai Lama is also the political leader of Tibet. For most Tibetans the

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<sup>29</sup> Articles 9-10, 12

<sup>30</sup> Article 2, Ibid.

<sup>31</sup> Article 11, Order No. 5, Article 40, 41, 46, Regulation on Religious Affairs (2005)

current Dalai Lama, His Holiness the 14<sup>th</sup> Dalai Lama Tenzin Gyatso, is also the symbol of Tibetan national unity and identity. He was recognised as the 14<sup>th</sup> Dalai Lama at the age of two in eastern Tibet and assumed full authority as head of the Tibetan state in 1950, at the age of 15 during the Chinese invasion of Tibet. After the failed uprising against Chinese rule in 1959 the Dalai Lama escaped to India and was granted asylum.

Since then he has resided in Dharamsala, India, where he set up the Tibetan Government-in-Exile. In 1989 he was awarded the Nobel Peace Prize "for his consistent resistance to the use of violence in his people's struggle to regain their liberty"<sup>32</sup>.

Despite living in exile for over 50 years his influence and command in Tibetan society remains as strong as ever. During the 2008 protests that swept across the Tibetan plateau almost all protests used slogans or images showing support for the Dalai Lama.

**Efforts have been made for many decades to discredit the Dalai Lama. This has intensified in the last decade through various techniques (including patriotic re-education, see above) and increasingly aggressive rhetoric against the Dalai Lama. In 2008 Tibet's Communist Party Secretary Zhang Qingli labelled the Dalai Lama a "wolf in monk's robes" and warned of "a life and death struggle with the Dalai clique."<sup>33</sup>**

The 'Tibet Branch' of the Buddhist Association of China amended its charter in February 2009, classifying the Dalai Lama as a threat to Tibetan Buddhism and as the "*ringleader of the separatist political associations which seeks Tibetan independence*"<sup>34</sup>. Language characterising the Dalai Lama as a "separatist" (essentially a traitor) creates the conditions for monks and nuns who maintain religious devotion to the Dalai Lama to be accused of separatist activities even if they do not engage in overt political activity.

In view of the political and religious significance of the Dalai Lama, much debate has been had and continues regarding the process of identifying the 15<sup>th</sup> reincarnation of the Dalai Lama. In 2004, His Holiness the 14<sup>th</sup> Dalai Lama said in an interview with the US Time magazine,

*"The purpose of reincarnation is to fulfil the previous [incarnation's] life task. My life is outside Tibet, therefore my reincarnation will logically be found outside. But then, the next question: Will the Chinese accept this or not? China will not accept. The Chinese government most probably will appoint another Dalai Lama, like it did with the Panchen Lama. Then there will be two Dalai Lamas: one, the Dalai Lama of the Tibetan heart, and one that is officially appointed."<sup>35</sup>*

The Chinese government asserted their determination to select the next Dalai Lama in 2009. Jampa Phuntsog, the then-Chairman of the 'People's Government' of the Tibetan Autonomous Region<sup>36</sup>, emphasised the Chinese state position that Tibetans will only be able to regard as legitimate a Dalai Lama approved by the Chinese government in accordance with official procedure.<sup>37</sup>

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<sup>32</sup> Award Ceremony Speech by the Chairman of the Norwegian Nobel Committee, Egil Aarvik, 1989

<sup>33</sup> Reuters, 19 March 2008

<sup>34</sup> Xinhua, 18 February 2009

<sup>35</sup> Time Magazine, 18 October 2004

<sup>36</sup> The 'People's Government', is led by a Chairman, who has almost always been ethnically Tibetan. In practice, however, the Chairman is subordinate to the branch secretary of the Communist Party of China.

<sup>37</sup> Special Topic Paper: Tibet 2008 – 2009, Congressional Executive Commission on China, pg 39

### 3.1.1.2 The Panchen Lama and the Dalai Lama

The Panchen Lama is the second highest ranking lama in the Gelukpa tradition and has traditionally been one of the most important religious leaders for Tibetans. The 11<sup>th</sup> Panchen Lama, recognised by the Dalai Lama, was effectively disappeared, along with his family, by Chinese authorities in 1995 at the age of five and has not been seen since. The Chinese government has since selected its own candidate. (See below for more details)

The significance of the control that has been taken by the Chinese government over the Panchen Lama lies in the relationship between the Panchen Lama and Dalai Lama. As well as being the second most important figure in the Dalai Lama's Gelukpa school of Tibetan Buddhism, the Panchen Lama also traditionally recognises the Dalai Lama's next reincarnation. Traditionally, the Dalai Lama also recognises the reincarnation of the Panchen Lama. Government control over the 11<sup>th</sup> Panchen Lama is particularly significant as the Panchen Lama will play a primary role in the identification of the next Dalai Lama.



The last known picture of the 11th Panchen Lama, prior to his abduction

### 3.1.1.3 The disappearance of the 11<sup>th</sup> Panchen Lama

In addition to the pivotal role the Panchen Lama plays in identifying the reincarnate of the Dalai Lama, the influence of the Panchen Lama within Tibetan society has meant significant efforts have been made to co-opt the post of the Panchen Lama into the state machinery.

Following visions and other traditional procedures by the senior lamas of the Panchen Lama's monastery at Tashi Lumpo, in 1995 the Dalai Lama recognised five-year-old Gedhun Choekyi Nyima as the 11<sup>th</sup> reincarnation of the Panchen Lama. Three days later the Chinese government declared the choice invalid and within days Gedhun was seized from his hometown in Tibet, along with his parents, and taken to an unknown location. Despite repeated requests from Governments and the United Nations, 25 years later the Chinese government continues to deny access to him or to disclose his whereabouts or well-being.

Chadrel Rinpoche, the abbot of Tashi Lumpo monastery, who led the search in 1995 was imprisoned for six years.

### 3.1.1.4 Gyaltsen Norbu, the fake Panchen Lama

Six months after Gedhun's abduction the Chinese government announced that it had selected its own Panchen Lama, Gyaltsen Norbu, by drawing his name from a golden urn, an unorthodox method of selection unrecognised by Tibetan Buddhists. Gyaltsen Norbu became the state-sponsored Panchen Lama against the wishes of the Tibetan people who refer to him as the 'Panchen Zuma' - the fake Panchen. Since his selection Gyaltsen, the son of two Communist Party members, has lived and been educated in Beijing, groomed for a political role as the public face of Buddhism in China. His rare visits to Tibet are carefully stage-managed and heavily policed.

"When the Panchen Zuma<sup>38</sup> makes a visit Tibetans are commanded to go for his blessings. If there is religious freedom in Tibet then why do they have to force people to get blessings from a Lama? In the schools, the Chinese officials distribute scarves

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<sup>38</sup> In Tibet the Government appointed Panchen Lama is known as "Panchen Zuma" which means false Panchen

and badges, and tell everyone to formally receive the Panchen Zuma. If anyone disregards this, they are punished. In some monasteries, monks are given gifts and money and told in flattering speeches to receive the Panchen Zuma graciously, so this is like doing a business deal.”<sup>39</sup>

A corollary of freedom to manifest religious belief is the ability to choose whether or not to make public or to manifest your beliefs. According to Article 18 of the Universal Declaration of Human Rights individuals cannot be compelled to participate in religious rituals.

Gyaltzen Norbu has been appointed Vice-President of the Buddhist Association of China and in March 2010 became the youngest member of the People’s Political Consultative Conference (CPPCC), China’s top legislative advisory body. He has already made appearances with Communist Party leaders and publicly praised Chinese rule in Tibet.

Following the Dalai Lama’s flight into exile efforts were made to co-opt the previous 10<sup>th</sup> Panchen Lama, arguably as counter-influence to the Dalai Lama. The 10<sup>th</sup> Panchen Lama was selected as a member of the Standing Committee of the National People’s Congress and in December 1954 he became the Deputy Chairman of the Chinese People’s Political Consultative Conference. Despite his position in the political hierarchy he criticised the Chinese policy in Tibet and was subsequently imprisoned between 1964 and 1978. Even after his release he was a fervent propagator of religious freedom and the rights of the Tibetan people. His death in 1989 set in motion the search for his reincarnation. He remains an extremely revered figure for Tibetans and his image is still commonly displayed in Tibet today.

### 3.1.2 Conduct by religious groups of their basic affairs

In addition to its efforts to dictate the selection of religious leaders in Tibetan Buddhism, the Chinese government seeks to influence and control the practices of the monks and nuns in fundamental ways. The intent of these measures is to exercise control over basic elements of monastic life including admission to institutions of religious education and study, access to teachers and spiritual leaders, observance of religious ceremonies and rituals and engaging in prayer and devotion. Refusal to accept the non-religious elements incorporated into monastic life by the Chinese administration— respect for socialism and the unity of the ‘motherland’ – can often be the basis for denying a monk or nun their religious rights, a right of fundamental importance to their sense of self.

As with other restrictions on religious practice in Tibet, these measures constitute unjustified limitations upon religious practice and deny Buddhist clergy the ability to act in accordance with and pursue their religious faith. These measures are directed against the general corpus of the Tibetan Buddhist clergy and impose significant limitations upon their rights and pursuit of their beliefs..

#### 3.1.2.1 Administration of monasteries and nunneries

Since the mid-1990’s monasteries and nunneries have been managed by Democratic Management Committees (DMCs). DMCs were created to replace the monastic bodies which had for centuries overseen all religious and administrative aspects of monastic life.

DMCs are generally composed of government-approved or ‘patriotic’ monks. In some monasteries, these include communist party cadres and government officials. By controlling the composition and functions of the DMC, the Chinese government can keep a close eye on all activities of monasteries.

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<sup>39</sup> Name Withheld, monk, Lhasa.

DMCs are responsible for implementing government policies on religion, ensuring adherence to government policies, managing religious activities and administration including finances, education, travel, security and discipline.

### 3.1.2.2 Admission

To gain admission all prospective monks and nuns must now pass an examination set by the Chinese administration. In addition to questions to test their knowledge of Buddhism the exams also test their knowledge of Chinese political ideology.

According to information from Lhasa's Ramoche Monastery, monks were asked, "Do you agree that the 'separatist' groups should be cracked down on? How do you think the solidarity of the motherland can be achieved? The monastery should sustain itself and not on the support of the people, what is your opinion?" The monks who did not answer the questions automatically failed and were denied admission."<sup>40</sup>

### 3.1.2.3 Restrictions on numbers and ages of monks and nuns

Since the 1990s each monastery is assigned an annual government quota; once this has been filled, no more permits are issued for new monks. That said, a large number of monks often do live unofficially in monasteries without permits. However, those who are not registered are not able to participate in certain religious ceremonies such as prayer assembly; they also go into hiding when 'patriotic re-education' work teams visit the monastery. Whereas monasteries traditionally began educating children at a young age, under Chinese law it is illegal for anyone under 18 to enter monastic life. The ability of the state to enforce this law varies from region to region, so in some areas children do still reside in Tibetan monasteries, hiding when officials visit.

### 3.1.3 Freedom to prepare and distribute religious texts or publications

The freedom to prepare and distribute religious texts is an essential component of religious instruction and education. Through these documents beliefs are disseminated and clergy and lay-believers receive instruction and deepen their understanding of their faith. Texts are used to create a record of stories and traditions and safeguard this knowledge for future practitioners, and are also important in proselytising and for disseminating information to non-believers.

The Chinese government seeks to control the content and availability of religious publications and imagery to ensure a state-sanctioned version of Tibetan Buddhism and in an attempt to marginalise the role of the Dalai Lama as Tibetans' spiritual leader.

The Chinese regulatory framework sets out a number of conditions for religious publication. Publications may not contain content which:

- harms the concord between religious and non-religious citizens;
- harms the concord between different religions and within a religion;
- discriminates against or insults religious or non-religious citizens;
- broadcasts or glamorizes ethnic splittism, religious extremism or terrorism;
- violates the principle of independence and self-governance;
- violates laws and regulations as they are decreed.<sup>41</sup>

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<sup>40</sup> Lobsang Tenzin and Thupten Nyima, in an interview with TCHRD about the control of and interference by government officials in their monastery.

<sup>41</sup> Interim Measures of the Tibetan Autonomous Republic (TAR) on Religious Affairs, Decree No. 73 of the TAR People's Government (2006), Article 10

These conditions effectively prohibit the production of publications that refer to or contain images of the Dalai Lama. Religious organisations and places of religious activity that wish to establish a printing house for scriptures must obtain approval from the Tibetan Autonomous Region government religious affairs department and the news publication department.<sup>42</sup>

In May 2010 a new administrative measure was issued in the Tibet Autonomous Region which requires printers to obtain detailed personal information from anyone wishing to print or photocopy documents plus a description of the content to be printed and the number of copies to be printed.

Like most businesses in Lhasa, printing shops are owned and run by Chinese migrants who do not read or understand Tibetan and are therefore unable to understand the content of the materials to be photocopied. **The new rule has in effect made it impossible to copy Tibetan language religious scriptures and texts because the printers cannot legally print a document whose contents they cannot describe.**

Tibet Watch<sup>43</sup> researchers called a number of photocopy shops and in addition to the conditions set by the new rule they were informed that they were further instructed by police to not print anything in Tibetan which had not been approved by the police.

## **3.2 Worship**

### **3.2.1. Display of symbols**

Religious imagery can be used as part of worship and observance of faith and as a symbolic source of spiritual guidance. Public demonstration of faith is a significant element of religious belief for many individuals, of which religious imagery forms an important component.

#### **3.2.1.1 Images of the Dalai Lama**

Since 1994, displaying images of the Dalai Lama has been prohibited and is potentially punishable with imprisonment. In some cases even owning a photograph was considered illegal, although the strictness with which the ban is enforced varies from area to area. In some areas photos are seen discreetly displayed; in other areas, monasteries and homes are searched so the display of these photographs is practically non-existent.

*“In recent years, the restriction on photos of His Holiness has been intensified. It is not allowed for anyone to keep a photo of His Holiness, let alone to keep a photo in the monasteries. The Chinese officials frequently visit each household to check, and it was announced that anyone caught with a photo of His Holiness would be fined 500 Yuan and might have to face a prison sentence, depending on the seriousness of the matter. At the beginning of 2005 my auntie and her husband were caught with a photo of His Holiness in their home. They were detained for two days, then released when they paid the 500 Yuan fine.”<sup>44</sup>*

A nun from Tsongon, Qinghai Province reported that she was beaten by soldiers after she refused to hand over an image of the Dalai Lama on her necklace. She was repeatedly

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<sup>42</sup> Ibid, Article 11

<sup>43</sup> Tibet Watch is a UK registered charity promoting the human rights of the Tibetan people by providing accurate information for the purposes of education.

<sup>44</sup> Name withheld, monk, Nyi Thargyal monastery, Nyiku township, Kandze [Ganzi] county, Sichuan Province.

punched and kicked and was tied to a pillar and threatened with a gun, told that she would be killed if she did not hand the image over.

### 3.2.2 Ceremonial acts giving direct expression of belief



Armed police at Mount Kailash, May 2010

#### 3.2.2.1 Pilgrimages

Travel to attend holy sites is restricted in Tibet. Since 2002 pilgrims have also been required to obtain permits to go to the sacred mountain, Mount Kailash, in Ngari Prefecture. Attempting to travel without one is a criminal offence.

Standing at 6,714 meters the mountain is a sacred place to Tibetans, Hindus and Jains. Tibetan Buddhist circumambulate the mountain clockwise, sometimes while performing prostrations, which usually lasts three days, sometimes longer. They believe that pilgrimage to Mount Kailash will generate merit and therefore positively influence the quality of their future lives.

Pilgrimage to Mount Kailash is thought to be especially auspicious during the Saka Dawa Festival, which marks the Buddha's Enlightenment. Recent video footage (photo above) from Mount Kailash during the Saka Dawa festival depicts scores of soldiers watching over the pilgrims, a common sight at religious gatherings in Tibet. This level of policing of a religious activity is disproportionate and unnecessary.

#### 3.2.2.2 Restrictions on religious ceremonies and events

The holding of religious ceremonies and rites is a basic component of religious activities and constitutes an element of the worship and observance of religious belief. In many faiths such ceremonies are the main way for individuals to exercise their faith in community with others, to participate fully in religious life and to observe and mark important spiritual events. Many ceremonies have a strong ritualistic component and constitute physical manifestations of central tenets of an individual's belief.

**In Tibet, all religious practices concerning the Dalai Lama, such as honouring his birthday or the conducting of long life prayers, have been banned.**

On 14 March 2007 several hundred Tibetans gathered in Lhasa to perform long life prayers for the Dalai Lama, a banned ritual. The mass long-life prayers and incense burning coincided with a similar ceremony being conducted for the Dalai Lama in Dharamsala, his home in exile in India. Several hundred troops were deployed and dispersed the crowd leading to clashes, arrests and injuries.

Large-scale, outdoor religious events in Tibet require a permit from the local government. Events which are deemed to "disrupt the unity of all nationalities or impair social stability" are prohibited.

In January 2010, Chinese authorities in Barkham County banned the third annual winter session of a religious congregation which was to be held at Gyalrong Tsodhun Kirti Monastery. The monastery had spent close to five months seeking permission from the local

authorities, as well as from the county office, to organise the annual event, but permission was refused on the basis that it was “political and unlawful.” Following the decision severe restrictions were imposed and the entire monastery was put under strict surveillance.

In practice, the Chinese government has not authorised the provision of permits for many traditional religious ceremonies out of concern that large gatherings of individuals may turn into protests. This is in violation of freedom of religion and association as it limits significantly the ability of Buddhists to observe traditional festivals and ceremonies and to engage in educational exchanges. Chinese restrictions also limit the rights of monks and nuns to mark important ceremonies within the confines of their orders. Whilst restrictions on public gatherings are not inherently contrary to international law, the Chinese government’s complete ban on certain religious events constitutes a disproportionate strategy for managing religious events and subsequently constitutes a denial of basic rights.

In March 2009, 600 monks at Sey monastery near Ngaba town in Sichuan Province sought to celebrate the Monlam Chenmo Festival, an important festival inaugurated in 1409. The monks were told by officials stationed at the monastery that they were not permitted to perform a prayer ceremony. The monks left the monastery and went towards Ngaba town in protest shouting that they should be allowed to observe the Monlam prayer ceremony. They were stopped by police and returned to the monastery. Subsequently the police surrounded the monastery until the protest subsided.

#### **4. Removal of Religious Rights as Punishment for ‘splittist’ activities**

In July 2008 Free Tibet obtained a prefectural order setting out a series of measures, including the removal of religious rights, to be taken against monasteries, monks and nuns as punishment for taking part in “turbulent activities” in the Kandze Autonomous Prefecture in the Kham region of Tibet (Chinese Province: Sichuan).

‘Turbulent activities’ were defined as: voicing or distributing splittist slogans or fliers, flying the banned Tibetan flags, or participating in demonstrations.

For so-called individual “masterminds behind activities of splittism and disturbance” in addition to being punished by law,

*“their religious rights will be removed completely by dismissing them from their monasteries. Removal of their religious rights will remain in effect even after dismissing them from the monasteries whereby they will not be allowed join any other monastery ...”*

As for members of the Monastic Management Committees, not only would their “civil, political, governance, religious association rights be removed”, but they would be made an example of on regional news and televisions.

*“You know, religion is very harmful to the development of a nation. First of all, it acts as a hindrance to material progress and secondly, it weakens the race. Your mind is somewhat like a scientist’s, so you can understand what I mean. Religion is poison.”*

Chairman Mao to the Dalai Lama, 1959

## **Appendices**

### **A1 Historical context**

Since the establishment of the Peoples Republic of China in 1949 the ability of individuals to exercise their freedom of religious belief has been tightly circumscribed. The Chinese Communist Party (CCP) sees religious belief as a primitive historical phenomenon and has adopted the approach of carefully managing and regulating the practice of religion with a view to its ending. As stated in the official Communist Party policy on religion in 1982 “*We Communists are atheists and must unremittingly propagate atheism.*”<sup>45</sup> Since 1949, a number of distinct stages can be delineated which will be briefly examined here in order to help clarify the overarching aims and themes which still guide the approach of the Chinese Communist Party (CCP) to religion today.

In the immediate post-1949 period the exercise of religion became more tightly regulated as the Communist party sought to accelerate its programmes of social transformation and political revolution. Here the first signs of the enduring approach of the Chinese Communist Party towards religion can be seen with the establishment of formal state institutions, such as the Buddhist Association of China, which were responsible for the management of specific religions. Five religions were given official recognition Buddhism, Catholicism, Protestantism, Taoism and Islam. These institutions were co-opted into furthering the Party’s political agenda ensuring that religion was consonant with socialism. Religions and religious institutions had no special status and, like all other elements of society, were not exempt from the need to engage in revolutionary reform.

This approach was continued until the advent of the Cultural Revolution in the 1960s when, in an attempt to coerce individuals to give up their religious beliefs, religious practices were banned and vast numbers of religious artefacts were destroyed. During this period Tibet was particularly hard hit. More than 6,000 monasteries in Tibet were destroyed and their contents – religious images and statutes – were destroyed or looted and millions of ancient and priceless manuscripts burnt.

The destruction caused by the cultural revolution generated impetus for a wide-ranging reform movement in the late 1970’s and an increasing openness in Chinese society. Leaders of the reform movement adopted a more permissive approach to religion in recognition of the need to re-establish social order and of the important role that religions and religious belief played in that regard. The role of religion in Chinese society was explicitly addressed in 1982 in a policy statement by the CCP on religion entitled “Document 19: The Basic Viewpoint and Policy on the Religious Question during Our Country’s Socialist Period.” Document 19 highlighted the fact that the fact that the policy of direct coercion, as had been adopted during the Cultural Revolution, had proved to be an inappropriate and ineffective approach to addressing religious issues. As a result, the CCP affirmed that all Chinese citizens, except for members of the Communist Party, were entitled to the freedom of religion and that their religious practices were to be accorded respect.

However, this remained in the context of an overall view that regarded belief in religion to be backward and of a commitment to the ending of religious practices through education and propaganda. Recognition of the freedom of religious belief was a pragmatic response to a social reality, not an affirmation of an inherent right of the individual.

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<sup>45</sup> Document 19: The Basic Viewpoint and Policy on the Religious Question During Our Country’s Socialist Period, Chinese Communist Party, 31 March 1982

*The basic policy the Party has adopted toward the religious question is that of respect for and protection of the freedom of religious belief. This is a long-term policy, one which must be continually carried out until that future time when religion will itself disappear.*<sup>46</sup>

This approach can be seen in the Party's extension of protection only to *normal* religious beliefs, which was incorporated into Article 36 the 1982 Constitution of the People's Republic of China. What constitutes a normal religious belief has never been defined in any Chinese law or policy statement but the overarching concern of China on religion is its adaption to socialist society, a requirement which is demonstrated in this report, to render the official policy of freedom of religion illusory. Additional factors that impact upon the understanding of normal religious belief are the desire to ensure that religious belief is practiced in a way which accepts the leadership of the Party and government, the absence of foreign domination and the safeguarding of national and ethnic unity.<sup>47</sup>

Despite the Communist Party's aim to end religion, the practice of religion has continued to revive and grow in China. According to the most recent statistics released by the Chinese government in 1997 there are over 100 million followers of various religious faiths, more than 85,000 sites for religious activities, 300,000 clergy and over 3,000 religious organizations. These figures are often said to understate by some margin the prevalence of religious belief, a conclusion which is supported by a poll of 4,500 people undertaken by the East China Normal University in 2007 which estimated that 31% (approx. 300 million) of Chinese citizens above the age of 16 are religious.<sup>48</sup>

However (or indeed as a result) religion is increasingly regulated. Document No 6, issued by the CCP in 1991, states

*“the objective of regulating religious affairs is to channel religious activities into the framework of laws, regulations and policy, and not to interfere in the normal religious activities or the internal affairs of religious bodies.”*

However, in practice the granting of protection to only those religious activities which the CCP regards as normal has resulted in significant interference in the internal affairs of many religions and the placement of excessive restrictions on the freedom of religion. In recent years in Tibet, as is shown in this report, the central tenets of Tibetan Buddhism and the basic affairs of Tibetan religious groups have come under state control.

## **A2 Current domestic legal framework on religion**

Article 36 of the Constitution of China (1982) sets out the basic principle that citizens of China “enjoy” the freedom of religious belief. It provides that:

*No state organ, public organization or individual may compel citizens to believe in, or not to believe in, any religion; nor may they discriminate against citizens who believe in, or do not believe in, any religion.*

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

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<sup>46</sup> Document 19: The Basic Viewpoint and Policy on the Religious Question During Our Country's Socialist Period, Chinese Communist Party, 31 March 1982, Section IV.

<sup>47</sup> White Paper on Freedom of Religious Belief in China 1997. See also China: State Control of Religion, HRW (1997)

<sup>48</sup> [http://www.chinadaily.com.cn/china/2007-02/07/content\\_802994.htm](http://www.chinadaily.com.cn/china/2007-02/07/content_802994.htm). China Daily, 7 February 2007, last accessed on 22 June 2010.

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

As highlighted, neither the Constitution nor any other law, regulation nor policy defines what constitutes “normal religious activities.” This Article must also be read in conjunction with Article 33 of the Constitution which requires citizens in the exercise of their rights to perform the duties prescribed by the Constitution and the law and Article 55 which states that:

*“The exercise by citizens of the People's Republic of China of their freedoms and rights may not infringe upon the interests of the state, of society and of the collective, or upon the lawful freedoms and rights of other citizens.”*

The Constitution lists several duties which the exercise of the freedom of belief is therefore then subject to, including the duties to

- safeguard the unity of the country and the unity of all its nationalities (Article 52)
- safeguard the security, honour and interests of the motherland (Article 54)

It would also include a duty to exercise the freedom of religion in accordance with the four basic principles: uphold the socialist road, the dictatorship of the proletariat, leadership of the Party, and Marxist, Leninist, Mao Zedong thought.<sup>49</sup> It is clear then that the constitutional grant of freedom of religion is contingent upon a variety of other laws and regulations.

The freedom of religion is also set out in several other laws including, in precisely the same terms as the Constitution, Article 11 of the Law on Autonomy in Nationality Regions (1984, 1991) applicable to the Tibetan region. Other elements of the freedom of religion are also covered such as: protection for the property of religious organisations,<sup>50</sup> the right to stand for election regardless of religious belief,<sup>51</sup> the prohibition of discrimination in educational opportunity<sup>52</sup> or employment based upon religion.<sup>53</sup> Article 251 of the Criminal Law of the Peoples Republic of China provides for the punishment of state officials who illegally deprive citizens of their right to religious beliefs.

Since 2005 several subsidiary regulations regulating religious affairs have been enacted. The Regulation on Religious Affairs (2005) has the purpose of “ensuring citizens' freedom of religious belief, maintaining harmony among and between religions, preserving social concord and regulating the administration of religious affairs.”<sup>54</sup> It addresses the establishment of religious associations, educational institutions, and sites for religious activities, religious personnel, outdoor religious events and religious property.

Specific regulations<sup>55</sup> for the Tibetan Autonomous region (TAR) were enacted in 2007 to give effect to the 2005 regulation. This regulation “taking into account the actual circumstances of the TAR” sought to safeguard religious freedom, protect religious concord and social harmony and regularise the administration of religious affairs.<sup>56</sup> This regulation went even further than previous enactments placing a duty on the government to carry out supervision, inspection and guidance and to:

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<sup>49</sup> Potter, “Belief in Control: Regulation of Religion in China” (2003) *The China Quarterly* 317 at 325

<sup>50</sup> Article 77, *The General Principles of Civil Law* (1986)

<sup>51</sup> Article 3, *Law on Elections to National and Local People's Congresses* (1986) and Article 9, *Organisation Law on the Village Committees* (1987)

<sup>52</sup> Article 9, *The Education Law* (1995)

<sup>53</sup> Article 12, *The Labour Law* (1995)

<sup>54</sup> Article 1, *Regulation on Religious Affairs* (2005)

<sup>55</sup> *Interim Measures of the Tibetan Autonomous Region on Religious Affairs* (2007). Adopted on 18 May 2006 by the 11<sup>th</sup> session of the Standing Committee of the Tibetan Autonomous Region's People's Government. Issued on 19 September 2006 by Decree No. 73 of the TAR People's Government

<sup>56</sup> *Ibid*, paragraph 1(a)

*“actively lead religious organisations, places of religious activity and religious personnel to be patriotic, protect the state and be beneficial to the people, further unity and guide religion to be appropriate for a socialist society.”*

A series of other regulations, including Order No. 5 of China’s State Religious Department Affairs on Management Measures for the Reincarnation of ‘Living Buddhas’ in Tibetan Buddhism, the Tibetan Autonomous Region Cultural Relics Protection regulations as well as other official government policy and other documents such as the Briefing Booklet on Law and Order Published by Lhasa Municipality Law and Order Information Department influence the freedom of religion.

The overall tenor is one of increasing control and interference by the government over the internal administration of religion.

### **A3 China’s position on freedom of religion**

At the international level China often reiterates the importance and its support for the freedom of religion.<sup>57</sup> China consistently argues that it protects the freedom of religion and only limits the exercise of that right in a manner consistent with international law. As this report shows, the limitations that China imposes fail to meet the requirements of international law and, by design or by effect, the extent of the regulation of religious belief in China amounts to a direct attack upon the free exercise of religion.

China does not specify precisely the grounds upon which it limits freedom of religion although the constitutional limitations – to protect against disruptions of public order, impairment of the health of citizens or interference with the educational system of the state - are frequently mentioned. Nor does it state why the multiplicity of measures that it has promulgated, are necessary to achieve those aims. It is also important to note that limitations based upon grounds of national security are not permitted to be placed upon the free exercise of religion.<sup>58</sup>

The state’s objective in establishing regulations for religious belief must be from the standpoint of the “neutral and impartial organiser of the exercise of various religions, faiths and beliefs.”<sup>59</sup> It is not the role of the state to determine whether religions or beliefs, or the means used to express such beliefs are legitimate.<sup>60</sup> It is clear that the China is seeking to control the exercise of Tibetan Buddhism.

Despite the Chinese government’s assertion that it is merely ensuring that religious beliefs are manifested in accordance with the law, several of their efforts in effect seek to change Tibetan religious beliefs, violating the absolute nature of that right. Indeed the coerced nature of much of patriotic re-education, and its attempt to secure the denouncement of the Dalai Lama (given his sacred status), violates the personal integrity, dignity and humanity of the individual and may additionally amount to cruel, inhuman or degrading treatment and in specific cases torture.

The increased formalisation and legalisation of the measures the Chinese Government has taken with respect to Tibetan Buddhism clearly illustrates the extent of their ambition. Whilst

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<sup>57</sup> See for example the report of the Special Rapporteur on Freedom of Religion and Belief (28 February 2008) A/HRC/7/10/Add.1. 57.

<sup>58</sup> UN Human Rights Committee, General Comment 22: The Right to Freedom of Thought, Conscience, Religion (Art. 18), Paragraph 8. (1993) CCPR/C/21/Rev.1/Add.4.

<sup>59</sup> Şahin v. Turkey, 44 Eur. H.R. Rep. 99, 125 (2005)

<sup>60</sup> Manoussakis v. Greece, App. No. 18748/91, 23 Eur. H.R. Rep. 387, 400-01 (1996)

some have codified existing practices other changes are far reaching. They seek, through control over the selection and appointment of religious leaders, control over the functioning of monasteries, control over the admission, training, movement, teaching and discipline of members of the clergy, control over religious ceremonies, simply to dictate the entire functioning of the Tibetan Buddhist religious establishment. Whilst limitations in the exercise of religion currently imposed upon lay Tibetan Buddhists are significantly less, with the extent of control attempting to be exercised by the State over the religious establishment and its avowed atheism, the future is bleak.