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Dear Special Rapporteur Nyaletsossi Voule,

The Tibet Advocacy Coalition<sup>1</sup> submits this briefing to the United Nation (UN) Special Rapporteur on the rights to freedom of peaceful assembly and association to provide information on, and raise serious concerns about, China's negative policies that affect the internal freedom of movement of Tibetans as well as their rights to privacy, non-discrimination and other related rights. China's most recent policies, including those affecting Tibetans' basic rights to move in their own territory, are inconsistent with China's obligations to guarantee fundamental human rights of the Tibetan people.

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<sup>1</sup> The Tibet Advocacy Coalition (TAC), an umbrella organization comprising five Tibet advocacy groups including the Tibet Justice Center (TJC), the International Tibet Network (ITN), Students for a Free Tibet, Tibet Initiative Deutschland and the Tibetan Youth Association in Europe, engages in independent and expert advocacy, legal research, and education. The TAC and the Boston University School of Law International Human Rights Clinic (IHRC) collaborate on various projects working to promote human rights, refugee protection, and self-determination for the people of Tibet at the UN.

Tibetans have been subject to numerous and egregious human rights violations since China invaded and occupied Tibet<sup>2</sup> in 1950. China is using its highly sophisticated technology-based security system to turn the Tibet Autonomous Region (TAR) into a surveillance state. It has placed the TAR under military lockdown, where every move made by Tibetan people is closely monitored and tracked. The surveillance is used to prevent Tibetans from moving freely throughout Tibet and China, and to keep them from participating in their religious, cultural, and political events. The surveillance operates in tandem with policies euphemistically called ‘re-education’ and ‘re-housing’ that forcibly remove Tibetans from their homes, relocate them to inadequate housing, and cut them off from their traditional ways of life. These policies have engendered widespread fear in Tibetan communities, and have an intimidating effect on Tibetans’ religious, political and cultural expression. These actions violate rights guaranteed under the International Covenant on Economic, Social, and Cultural Rights (ICESCR), International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Elimination of Violence Against Women (CEDAW),<sup>3</sup> and the Convention on the Rights of the Child (CRC).<sup>4</sup> Specifically, these policies threaten Tibetans’ rights that include the right to internal freedom of movement, the right to equality and non-discrimination, the right to take part in cultural life, the right to adequate living standards and livelihoods, and the right to adequate housing. Therefore, we respectfully request an on-site observation so the SR can investigate the barriers to Tibetans’ internal freedom of movement within the TAR and the rest of Tibet.

Internal freedom of movement is guaranteed under international human rights law.<sup>5</sup> While China has yet to ratify the International Covenant on Civil and Political Rights (ICCPR) despite signing it over 21 years ago, as a signatory, China must act in good faith and not impose policies that defeat the object and purpose of the Covenant.<sup>6</sup> The International Convention on the Elimination of all forms of Racial Discrimination (ICERD), Article 5 also guarantees freedom of movement and residence within the borders of the state.<sup>7</sup> China is a party to ICERD and thus is bound by all rights and obligations implicated in the treaty. While certain restrictions on internal freedom of movement are allowed under international law, they must be strictly necessary for that purpose, proportionate and non-discriminatory.<sup>8</sup> China’s restrictions on Tibetans’ freedom of movement,

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<sup>2</sup> The references to Tibet in this submission encompass the Tibet Autonomous Region (TAR) and Tibetan Autonomous Prefectures (TAPs) under the Provinces of Sichuan, Qinghai, Gansu and Yunnan. Following China’s invasion of Tibet in 1949/50 the original geographical territory of Tibet was separated into various administrative units under the Chinese state. The area that makes up the TAR is only a fraction of the area that has historically comprised Tibet.

<sup>3</sup> Convention on the Elimination of All Forms of Discrimination against Women, Dec. 18, 1979, 1249 U.N.T.S. 13; 19 I.L.M. 33 (1980), ratified by China in 1980.

<sup>4</sup> Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3; 28 I.L.M. 1456 (1989), ratified by China in 1992.

<sup>5</sup> International Covenant on Civil and Political Rights, art. 12, Dec. 16, 1966 999 U.N.T.S. 171; *see also* the Universal Declaration of Human Rights, art. 13, Dec. 8, 1948, G.A. Res. 217A (III), U.N. Doc. A/810 at 71 (1948).

<sup>6</sup> Vienna Convention on the Law of Treaties art. 18, *opened for signature* May 23, 1969, 1155 U.N.T.S. 331.

<sup>7</sup> International Convention on the Elimination of All Forms of Racial Discrimination, Dec. 21, 660 U.N.T.S. 195, 212, ratified by China in 1981.

<sup>8</sup> CCPR General Comment No. 27: Art. 12 (Freedom of Movement) CCPR/C/21/Rev.1/Add.9 (1999) Sect. 14 states “Article 12, paragraph 3, clearly indicates that it is not sufficient that the restrictions serve the permissible purposes; they must also be necessary to protect them. Restrictive measures must conform to the principle of proportionality; they must be appropriate to achieve their protective function; they must be the least intrusive instrument amongst those which might achieve the desired result; and they must be proportionate to the interest to be protected.” *See*

however, is discriminatory and hence, not necessary for any legitimate ‘interest of the state’, as will be shown below.

Freedom of movement is a prerequisite for the enjoyment of a broad range of civil, political, economic, social and cultural rights. The existence of some rights, such as the right of Tibetans to participate in cultural life, depends to a large extent on the ability to move freely. The principle of non-discrimination is particularly relevant, especially in relation to the differential treatment of Tibetans and Chinese living under China’s rule. Equality of citizens and protection of human rights are protected under article 33 of the Chinese Constitution.<sup>9</sup> Thus restrictions on freedom of movement can lead to limitations on a range of other fundamental human rights. China has positive obligations under international human rights law to ensure that the human rights of Tibetans living under its rule are upheld.

Restrictions on internal freedom of movement result in further human rights violations regarding the right to freedom of assembly and association. The right to freedom of assembly and association is provided in ICCPR Art. 21 and under the Chinese Constitution, Art. 51. However, the restrictions on exercise of this right present in the Chinese constitution are incongruous with those guaranteed with ICCPR. Art. 51 restricts its exercise as "rights may not infringe upon the interests of the state" whereas under ICCPR, the only permissible restrictions on the exercise of this right are "those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.

### Violation of Tibetans’ Internal Freedom of Movement

1. Persons and Actors Affected:
  - a. All Tibetans inside Tibet and inside China
  - b. Tibetans living outside of Tibet and China
2. Allegations:
  - a. Restrictions on Tibetans’ right to freedom of movement
  - b. Mass forcible relocations of Tibetan nomads and forced evictions
  - c. Limiting freedom of movement within Tibet and China through targeted checkpoint procedures
  - e. Discriminatory administrative procedures for Tibetans to obtain travel permissions to move within Tibet
  - f. Complete bans on travel during sensitive dates, including religious holidays
  - g. Restrictions on Tibetan’s ability to participate in religious festivals and visit the religious and cultural center in Lhasa

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*also id.* Sect. 18 (indicating that restrictions under Art. 12 need to be consistent with the fundamental principles of equality and non-discrimination.)

<sup>9</sup> The Constitution of the People’s Republic of China on Regional, [http://www.npc.gov.cn/zgrdw/englishnpc/Constitution/node\\_2825.htm](http://www.npc.gov.cn/zgrdw/englishnpc/Constitution/node_2825.htm)

- h. Restrictions on Tibetan children’s right to be educated on and participate in Tibetan cultural practices
  - f. Violations of the ICERD, CRC, CRPD, CEDAW, and the Chinese Constitution
3. Reprisals:
- a. Forcible relocation and forcing sedentary way of live on relocated Tibetan nomads, eradicating Tibetans’ traditional way of life
  - b. Arrest and detention of Tibetans found harboring “sensitive information” including photographs of the Dalai Lama
  - c. Arrest and detention of Tibetan government employees, retired government employees, students, and the families of students found participating in public displays of religious activity
  - d. Forcible “patriotic re-education” of Tibetans with dissenting political views
4. Perpetrators:
- a. The Government of the People’s Republic of China
  - b. Tibetan Autonomous Region Authorities

### Internal Freedom of Movement in Tibet: Background Information

Tibetans are systematically denied the right to freedom of movement by discriminatory policies and practices by the Chinese authorities. Through a series of policies that China implemented between 2008 and 2012 onwards, Tibet has become increasingly militarized, and Tibetans have faced growing restrictions on their ability to move freely within Tibet.<sup>10</sup> Chinese authorities routinely monitor and censor Tibetan telecommunications, internet activity, and messaging, while tightening restrictions on Tibetan language broadcasts.<sup>11</sup> Meanwhile, China gives incentives to Chinese settlers and tourists to visit the region and to settle there while Tibetans lack free mobility rights even within the TAR.<sup>12</sup>

Starting in 2018, the Chinese government has been increasingly deploying mass-scale surveillance systems.<sup>13</sup> Chen Quanguo, the TAR’s previous People’s Republic of China Party Secretary, oversaw the implementation of the most sophisticated surveillance system in China in the TAR, which has since been mirrored in Xinjiang after he was appointed Party Secretary in Xinjiang. This surveillance system includes the mass collection of biometric data including DNA and voice samples,<sup>14</sup> which help support Chen Quonguo’s policy of “grid-style management,” where urban communities are segmented into geographic zones so security staff can

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<sup>10</sup> Human Rights Watch World Report China Events of 2018  
<https://www.hrw.org/world-report/2019/country-chapters/china-and-tibet>

<sup>11</sup> Human Rights Watch, *One Passport, Two Systems China’s Restrictions on Travel by Tibetans and Others* (July 13, 2015)  
<https://www.hrw.org/report/2015/07/13/one-passport-two-systems/chinas-restrictions-foreign-travel-tibetans-and-others>.

<sup>12</sup> Dorjee, Rinzin, *China’s Urbancide in Tibet*, THE DIPLOMAT (Mar,17, 2017), accessed July 11, 2018.  
<https://thediplomat.com/2017/03/chinas-urbancide-in-tibet/>.

<sup>13</sup> Human Rights Watch World Report China Events of 2018  
<https://www.hrw.org/world-report/2019/country-chapters/china-and-tibet>

<sup>14</sup> Nicole Kobie, *The Complicated Truth About China’s Social Credit System*, WIRED (June 7, 2019). These systems are being deployed without privacy protections in place.

systematically observe all activity.<sup>15</sup> The grid management surveillance system divides an area into “grids”, neighborhoods each with 10-15 families. For each grid there is a designated person responsible for monitoring and forwarding information on people’s daily life, allowing the Chinese authorities to prevent political dissent from an early stage.<sup>16</sup> This system aims at monitoring society to “thoroughly ensure no shadows, no gaps, no cracks, not giving hostile forces even the slightest opportunity” and in order to “strengthen surveillance and secret intelligence.” Measures taken include house to house investigations compiling “big data” including names, ages, addresses, income sources for each member of the household, and other personal details.<sup>17</sup> China’s “Benefits of the Masses” campaign in Tibet stationed over 20,000 Chinese officials within the grid system to interrogate and categorize Tibetans according to their political views, designating those with undesirable views for “patriotic re-education.”<sup>18</sup>

Such surveillance has led to the troubling development of a “social credit system,” which issues punishments and rewards based on behavior and trustworthiness. ‘Misbehavior’ or ‘untrustworthy’ acts result in the loss of certain rights. For example, an individual caught jaywalking or playing music too loudly on a train might lose the right to buy airline or train tickets, restricting the ability to travel. The “big data” information being collected is used to develop policing programs aimed at preventing dissent.<sup>19</sup> These systems are being deployed without privacy protections in place.<sup>20</sup> Surveillance systems are combined with police check points to create “virtual fences,” so that people who are deemed potential threats trigger an alarm whenever they try to leave a neighborhood or enter a public place.<sup>21</sup>

Tibet’s capital city of Lhasa is a focal point of the surveillance-driven lockdown in the TAR. Tibetans are required to obtain multiple documents at multiple levels of government in order to get permission to visit Lhasa—none of which are simple or easily obtained-- and are then subject to police checkpoints. These documents are not required for Chinese visiting Lhasa, nor do the latter face such checkpoints.<sup>22</sup> As a result, it has become almost impossible for Tibetans from elsewhere to visit Lhasa, which is the cultural and religious center of their community.<sup>23</sup> In

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<sup>15</sup> Adrian Zenz, *Chen Quanguo: The Strongman Behind Beijing’s Securitization Strategy in Tibet and Xinjiang*, CHINA BRIEF (2017)  
[https://www.academia.edu/35726562/Chen\\_Quanguo\\_The\\_Strongman\\_Behind\\_Beijings\\_Securitization\\_Strategy\\_in\\_Tibet\\_and\\_Xinjiang](https://www.academia.edu/35726562/Chen_Quanguo_The_Strongman_Behind_Beijings_Securitization_Strategy_in_Tibet_and_Xinjiang).

<sup>16</sup> Natalie Thomas, *China deploys mass surveillance to secure streets around ancient Tibetan temple*, REUTERS (Nov. 30, 2015)  
<https://www.reuters.com/article/us-china-tibet-surveillance/china-deploys-mass-surveillance-to-secure-streets-around-ancient-tibetan-temple-idUSKBN0TJ13420151130>

<sup>17</sup> Human Rights Watch, *China: ‘Benefit the Masses’ Campaign Surveilling Tibetans* (June 18, 2013)  
<https://www.hrw.org/news/2013/06/18/china-benefit-masses-campaign-surveilling-tibetans>.

<sup>18</sup> *Id.*

<sup>19</sup> Nicole Kobie, *The Complicated Truth About China’s Social Credit System*, WIRED (June 7, 2019).

<sup>20</sup> Human Rights Watch World Report China Events of 2018  
<https://www.hrw.org/world-report/2019/country-chapters/china-and-tibet>.

<sup>21</sup> In Xinjiang, these surveillance systems exist to instill fear and target Muslims; in the TAR, those same systems target Tibetans. Chris Buckley and Paul Mozur, *How China Uses High-Tech Surveillance to Subdue Minorities*, N.Y. TIMES (May 22, 2019).

<sup>22</sup> Human Rights Watch World Report China Events of 2018  
<https://www.hrw.org/world-report/2019/country-chapters/china-and-tibet>

<sup>23</sup> *Id.*

practice, these hurdles to accessing the capital prevent Tibetans from participating in and celebrating religious ceremonies that are extremely important to Tibetan culture.<sup>24</sup>

When Tibetans do attempt to travel to the capital, they are ethnically profiled and subject to a number of restrictions not applied to Chinese travelers. Tibetans must first obtain permission from the state, and then are forced to travel through police checkpoints where they are routinely interrogated and subjected to both body and luggage search, ostensibly to check for carrying “sensitive information.”<sup>25</sup> Tibetans found to be harboring sensitive information at these checkpoints face detention and fines.<sup>26</sup> Though Tibetans are always subject to these travel restrictions, such restrictions are heightened during religious celebrations and politically sensitive days when police checkpoints are reinforced with military personnel.<sup>27</sup>

Tibetans’ freedom of movement is not only restricted within and to Lhasa. Other Chinese policies severely limit whether and how Tibetans can move within Tibet, including policies of forced relocation. The PRC State Council launched the Western Development Strategy (“WDS”) in 2000, describing it as China’s first comprehensive, regional development plan to boost the economies of the western provinces, including Tibetan land currently occupied by China.<sup>28</sup> Many WDS initiatives involve plans to rehouse Tibetans, forcing nomads into a sedentary lifestyle, and create infrastructure connections to areas outside of Tibet. WDS policies of “Comfortable Housing” and “Environmental Migration” are aimed at either temporarily or permanently removing Tibetans from their homes and lands by forcibly evicting them and resettling nomadic Tibetan families elsewhere.<sup>29</sup>

Additionally, China has implemented Neidixizang classes, a policy which takes promising Tibetan students aged between 11 and 15 years old from their hometowns to be educated in boarding schools in Beijing and faraway provinces. These Tibetan children are denied the opportunity to visit home for at least four years.<sup>30</sup> Programs like Neidixizang classes that “reeducate” Tibetans have been compared to the United States policies towards Native Americans during the country’s Western expansion.<sup>31</sup>

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<sup>24</sup> *Id.*

<sup>25</sup> Tibet Advocacy Coalition independent primary research for CERD report, carried out in June 2018.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> China Business Review, *Economic Development Policies for Central and Western China*, The Magazine of the US-China Business Council, (Nov. 1, 2010),

<https://www.chinabusinessreview.com/economic-development-policies-for-central-and-western-china/>

<sup>29</sup> “*They Say We Should Be Grateful*” *Mass Rehousing and Relocation Programs in Tibetan Areas in China*, HUMAN RIGHTS WATCH (June 27, 2013)

<https://www.hrw.org/report/2013/06/27/they-say-we-should-be-grateful/mass-rehousing-and-relocation-programs-tibetan>

<sup>30</sup> Roseann Rife, *A Tibetan language advocate’s journey to imprisonment*, AMNESTY INTERNATIONAL (May 7, 2018), <https://www.amnesty.org/en/latest/campaigns/2018/05/tibetan-language-advocate-journey-to-imprisonment/>.

<sup>31</sup> Chinese citizens themselves are drawing these parallels, but appear to view the process favorably. When asked to draw comparisons between the United States’ treatment of Native American Indians and China’s treatment of Tibetans, Chinese students replied “The world is changing and developing. We should make the Indians suit our modern life. The Indians are used to living all over the plains and moving frequently, without a fixed home, but it is very impractical in our modern life.... We need our country to be a powerful country; we must make the Indians adapt to our modern life and keep pace with the society. Only in this way can we strengthen the country.” Another student elaborated: “First, I will use my friendship to help [the Tibetans]. But if they refuse my friendship, I will use war to develop them, like the Americans did with the Indians.” Peter Hessler, *Tibet Through Chinese Eyes*, THE ATLANTIC (Feb. 1999).

China's policies in Tibet have created a surveillance state which targets Tibetans on account of their race, nationality, ethnicity, and religion in order to control their movements throughout Tibet and China. These policies result in widespread violations of Tibetans' individual right to equality and non-discrimination, the right to take part in cultural life, the right to adequate living standards and livelihood, and the right to adequate housing, in addition to a violation of Tibet's collective right to self-determination.

### Violations of the Right to Equality and Non-Discrimination

The mass surveillance and military lockdown of the TAR that targets Tibetans violates their rights to equality and non-discrimination. Based on available evidence, Tibetans are discriminated against for their race and nationality in circumstances where restrictions on Tibetans freedom of movement are not imposed on their Chinese counterparts. ICERD Article 2 prohibits State Parties from discriminatory treatment based on race, color, descent, or national or ethnic origin.<sup>32</sup> China's differential treatment between Chinese citizens and Tibetans with regard to their ability to travel violates Tibetans' rights to equality and non-discrimination as guaranteed by ICERD. Unlike mainland Chinese, Tibetans are subjected to the indignities of body searches and onerous checkpoints when attempting to travel within the TAR.<sup>33</sup> They are further subjected to questioning about their religious and political opinions. If their answers are deemed to be suspicious by the Chinese authorities,<sup>34</sup> or if they are found to be carrying items deemed suspicious, they risk being detained.<sup>34</sup> Prohibited items include photos, information about the Dalai Lama, or sacred religious items that Tibetans value, particularly when they are traveling for religious purposes.<sup>35</sup>

The prohibition against carrying such items is a means of discouraging Tibetans from traveling to participate in religious and cultural activities and of discouraging political dissent against repressive Chinese policies. These restrictions are even more oppressive when Tibetans attempt to visit their capital, Lhasa. During holidays and politically sensitive dates, armed military personnel accompany the usual police presence. This has become so omnipresent that some Tibetans have come to accept the surveillance and the accompanying violations of their right to move freely throughout Tibet as simply part of their daily lives.<sup>36</sup> Even if national security were a valid reason for such discrimination, the level of surveillance and the barriers imposed on travel demonstrate that these restrictions—imposed only on Tibetans-- outweigh any legitimate aim of the state, and systematically violate Tibetan's rights to equality and non-discrimination.<sup>37</sup>

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<sup>32</sup> International Convention on the Elimination of All Forms of Racial Discrimination, Dec. 21, 1965 S. Exec. Doc. C, 95-2 (1978); S. Treaty Doc. 95-18; 660 U.N.T.S. 195, 212, ratified by China in 1981.

<sup>33</sup> Tibet Advocacy Coalition independent primary research for CERD report, carried out in June 2018.

<sup>34</sup> Within the TAR, there are explicit prohibitions on the display or sale of the Dalai Lama's image, and such photos provide evidence of "separatism," a "vaguely defined crime under Article 4 of China's 1993 State Security Law, involving acts intended to "dismember the State." See Free Tibet Media Release, Eighteen Year Sentence for Tibetan Monk Accused of "Separatism" (April 4, 2014) <https://freetibet.org/news-media/pr/eighteen-year-sentence-tibetan-monk-accused-separatism> citing China 1993 Security Law, Art. 4, <http://www.china.org.cn/english/China/218754.htm>.

<sup>35</sup> Tibet Advocacy Coalition independent primary research for CERD report, carried out in June 2018.

<sup>36</sup> Tibet Advocacy Coalition independent primary research for CERD report, carried out in June 2018.

<sup>37</sup> The Committee on Economic, Social, and Cultural Rights General Comment No. 20 states "Differential treatment based on prohibited grounds will be viewed as discriminatory unless the justification for differentiation is reasonable and objective. This

## Violations of the Right to Take Part in Cultural Life

China is engaging in widespread and systematic violations of Tibetans' right to take part in cultural life in violation of ICESCR Article 15.<sup>38</sup> Restrictions on travel for religious festivals prevent Tibetans from participating in important cultural traditions. For example, Chinese authorities recently sent out a notice detailing new restrictions on Ganden Ngchoe, a major annual festival in Lhasa.<sup>39</sup> Students and government employees were banned from participating at all, and students' parents were notified that they would be found responsible should their school-age children be caught participating.<sup>40</sup> Such restrictions prevent Tibetan government workers and students from accessing and participating in important aspects of their cultural heritage. Furthermore, authorities have imposed tight travel restrictions on Yachen Gar Tibetan Buddhist Center by barring visits from outsiders and setting up vehicle checkpoints. Checkpoints are staffed by police who are assisted by surveillance cameras and drones to prevent people from moving into and out of the area "illegally."<sup>41</sup> Similarly, holidays falling on politically sensitive dates have been cancelled. For example, classes have been held on weekends which coincide with politically sensitive dates to prevent students from traveling to celebrate, such as when the Dalai Lama's birthday fell on a Saturday or when March 10, the anniversary of the 1959 Tibetan uprising, fell on a Sunday.<sup>42</sup>

Increased security and monitoring of Tibetans taking part in cultural activities are intended to, and do deter Tibetans from exercising their cultural and religious rights. Both uniformed and plain clothes police officers monitor crowds at Tibetan religious gatherings, and sometimes close down the events. Police surveillance has been increasingly evident at public assemblies at monasteries in recent years, as these have grown more popular amongst Tibetans. Surveillance of religious activities has grown along with the efforts to prevent students from attending them, as the state has focused on discouraging Tibetan students from understanding and developing their cultural and religious identities.<sup>43</sup>

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will include an assessment as to whether the aim and effects of the measures or omissions are legitimate, compatible with the nature of the Covenant rights and solely for the purpose of promoting the general welfare in a democratic society. In addition, there must be a clear and reasonable relationship of proportionality between the aim sought to be realised and the measures or omissions and their effects. A failure to remove differential treatment on the basis of a lack of available resources is not an objective and reasonable justification unless every effort has been made to use all resources that are at the State party's disposition in an effort to address and eliminate the discrimination, as a matter of priority."

<sup>38</sup> International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3; S. Exec. Doc. D, 95-2 (1978); S. Treaty Doc. No. 95-19; 6 I.L.M. 360 (1967), ratified by China in 2001.

<sup>39</sup> Radio Free Asia, *China sets new restrictions on Tibetan religious festival in Lhasa* (Dec. 20, 2019).

<sup>40</sup> *Id.*

<sup>41</sup> Since May 2019, about 3,500 monks and nuns have been forced to leave Yachen Gar, and those who remain are subject to increasingly onerous restrictions imposed by some 600+ Chinese officials permanently stationed at the center. Travel permits are only issued to residents allowed to remain. *Travel Restrictions Imposed on Sichuan's Yachen Gar Buddhist Center*, Radio Free Asia (Jul. 15, 2019) <https://www.rfa.org/english/news/tibet/travel-07152019152423.html>.

<sup>42</sup> Radio Free Asia, *China sets new restrictions on Tibetan religious festival in Lhasa* (Dec. 20, 2019).

<sup>43</sup> *Id.*



The institution of Neidixizang classes that force the 're-education' of promising Tibetan students in Chinese schools away from their homes further separates young Tibetans from their traditional cultural and religious life. These students must live in a Chinese-dominated environment with no opportunity to take part in Buddhist religious practices or Tibetan cultural practices, and are forbidden from travelling home for between 4 and 7 years. They are schooled in the national curriculum with little emphasis on Tibetan language. When most students return to Tibet following graduation, they are not proficient in Tibetan and are more comfortable in Chinese than Tibet culture. This policy removes children from their parents, prevents them from travelling home, and seeks to sever young Tibetans from their religious and cultural identities so that even upon return, they are unable to meaningfully engage in their communities' cultural activities.<sup>44</sup>

### Violations of the Right to Adequate Living Standards/Livelihoods

In implementing the Western Development Strategy, China is failing to fulfill its obligation to ensure an adequate standard of living for Tibetans as guaranteed by ICESCR Article 11.<sup>45</sup> Since 2006, the Chinese government has implemented large-scale programs as a component of WDS that relocate and "rehouse" Tibetans. Two million people, almost two-thirds of the rural TAR population, have been rehoused as of 2013 and at least twenty percent of those rehoused were relocated, sometimes at great distances from their former residences. Additionally, between 50 and 85 percent of the 2.25 million Tibetan nomads have been forcibly and permanently resettled into inadequate, township-like housing areas.<sup>46</sup>

An inspection team from the State Development and Reform Commission of the State Council issued a 2009 report that confirmed complaints by Tibetans, detailing inadequate housing design, waste of construction materials, and increased risk that households will default on the mandatory bank loans contracted to rebuild or renovate their houses.<sup>47</sup> Moreover, these policies involve massive forced evictions.<sup>48</sup> Tibetans are being removed from their housing and/or land to new, culturally inappropriate settlements against their will and without their prior involvement in the re-housing decisions. Interviews with Tibetan victims of the policies show that rehousing was not voluntary, and that they were offered no alternative but to move. Finally, Tibetans are rehoused without any real possibility of challenging the decision or process of eviction- many interviewed Tibetans indicated fear that if they challenged the policy, they would face severe reprisal from authorities.<sup>49</sup>

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<sup>44</sup> Roseann Rife, *A Tibetan language advocate's journey to imprisonment*, AMNESTY INTERNATIONAL (May 7, 2018), <https://www.amnesty.org/en/latest/campaigns/2018/05/tibetan-language-advocate-journey-to-imprisonment/>.

<sup>45</sup> ICESCR, art. 11. The UN Committee on Economic, Social, and Cultural Rights has issued guidance regarding the key obligations of state parties to guarantee an adequate standard of living, focused on obligating states to ensure access to and availability of resources (often, food, water, and housing), which are essential to the realization of this right.

<sup>46</sup> "They Say We Should Be Grateful" *Mass Rehousing and Relocation Programs in Tibetan Areas in China*, HUMAN RIGHTS WATCH (June 27, 2013)

<https://www.hrw.org/report/2013/06/27/they-say-we-should-be-grateful/mass-rehousing-and-relocation-programs-tibetan>

<sup>47</sup> *Id.*

<sup>48</sup> Forced eviction is defined as "the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection." Committee on Economic, Social and Cultural Rights, General Comment No. 7 (1997) on the right to adequate housing: forced evictions.

<sup>49</sup> *Id.*

## Violations of the Right to Adequate Housing

China's implementation of the Western Development Strategy has also led to widespread violations of Tibetans' right to adequate housing guaranteed under the CERD Articles 5 and 7.<sup>50</sup> In addition to targeting nomadic herders through policies designed to eliminate their culturally-rooted occupations and lifestyles, China's resettlement policy in the TAR has expanded to non-herders, with a goal of relocating the majority of the Tibetan rural population. Since 2006, China has implemented a "Comfortable Housing Policy" in Tibet, through which over 2 million people have been re-housed. As a consequence of this policy, about twenty percent, or 280,000 Tibetans, have been relocated, often from great distances. Many Tibetans also indicate that the new settlements are significantly inferior to their prior homes, and that benefits China promised in return for moving never materialized. Contrary to China's narrative that the government has "solved housing difficulties," official figures show the mandatory self-financing and bank loans that comprise up to 75 percent of the rehousing costs place a massive financial burden on many Tibetan households. This rehousing policy has resulted in "increased living costs, indebtedness, loss of assets, and the profound alteration of community structures," all of which indicate that these settlements will no longer be sustainable once investment from the central government ends.<sup>51</sup>

## The Right to Self-Determination

All of the individual rights violations discussed above stem from the core violation of the Tibetan people's collective right to self-determination. The right to self-determination is guaranteed in ICESCR article 1, ICCPR article 1, and CERD article 2 to the Tibetan people, who retain this right despite China's occupation. ICCPR provides for the rights of peoples to self-determination as well as the right of ethnic, religious, or linguistic minorities to enjoy their own culture, to profess and practice their own religion or to use their own language. Tibetans are subject to wide-scale human rights violations as a result of China's long occupation of Tibet. China has put Tibet under lockdown, creating a surveillance state in order to maintain political control over the region and to prevent Tibetans from collectively engaging in religious and political activity. Checkpoints, body searches, and high-tech tracking serve as deterrents to cultural expression and ultimately, to political unity and organization amongst Tibetans. Similarly, policies which prevent Tibetans from engaging in their traditional community structures and livelihoods weaken the coherence of Tibetan communities and increase China's control over the TAR and the Tibetan people. These policies are designed to deny Tibet and the Tibetan people the right to self-govern and determine their own political status. As China is a signatory to all of these international covenants, it is bound to respect the right to self-determination as defined by international law.

## Recommendations:

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<sup>50</sup> ICERD, art. 5 and 7.

<sup>51</sup> "They Say We Should Be Grateful" *Mass Rehousing and Relocation Programs in Tibetan Areas in China*, HUMAN RIGHTS WATCH (June 27, 2013) <https://www.hrw.org/report/2013/06/27/they-say-we-should-be-grateful/mass-rehousing-and-relocation-programs-tibetan>

In light of CERD's Concluding Observations that recommended that China "revise its regulations and practices to ensure non-discriminatory determination on passport applications and freedom of movement for Tibetans who would like to travel within and beyond Tibet Autonomous Region and abroad",<sup>52</sup> and Australia's UPR recommendation that China "cease restrictions on freedom of movement of the Uighurs and Tibetans and allow the media and United Nations and foreign officials to access Tibet"<sup>53</sup>, the Tibet Advocacy Coalition recommends that the Special Rapporteur request China to:

- Lift the restrictions on Tibetans' right to internal freedom of movement, including the system of security checkpoints that arbitrarily prevent Tibetans from travelling freely within Tibetan areas and to and from other areas under Chinese control. Any exception must comply with international human rights law, which means that restrictions are justified only for imperative reasons of security and only in response to a specific security threat, and applied in non-discriminatory fashion to all Chinese, not just Tibetans.
- Facilitate access of independent human rights monitors to Tibet to investigate sweeping violations of Tibetans' right to freedom of internal movement.
- Lift the restrictions on Tibetans' right to internal freedom of movement in order to ensure that the rights of Tibetans' to participate in cultural life and to freedom of association and assembly are fully respected, including lifting restrictions on travel to religious festivals across various TAPs and in and out of the TAR that prevent Tibetans from participating in important cultural traditions.
- Cease all relocations and arbitrary displacement of Tibetans from their lands, until an independent human rights expert can review existing policies and practices to determine whether such actions comply with international human rights law. The principle of voluntariness of movement entails that any decision to move must be made freely (without duress, compulsion or undue influence) and based on accurate and objective information.
- Provide a full account of the human rights impact of the surveillance of Tibetans including detailed evidence of what privacy and other safeguards China has built into its surveillance system of Tibetan communities. This evidence should be provided ahead of the 4th Universal Periodic Review in 2022/3.
- Provide detailed evidence of the differential treatment of Tibetans compared to that of Chinese citizens with regard to internal freedom of movement within and out of Tibetan areas. This should include full disclosure and details of the laws, policies and practices that differentiate between Tibetans, Chinese settlers and tourists, particularly in and out of Lhasa and the TAR. Such evidence must include policy documentation linked to

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<sup>52</sup> CERD Concluding Observations, Freedom of Movement Para. 43(a), CERD/C/CHN/CO/14-17

<sup>53</sup> Third Universal Periodic Review Cycle China, Australia Recommendation 28.317

access passports, the use of ID cards, checkpoints and other requirements that violate the right to internal freedom of movement.

- Verify, before any restrictions are imposed, that the restriction is indeed needed for a *legitimate* security purpose and that the harm to the Tibetan population will be *proportionate*. Any law or policy must specify the nature of the restriction and the period of time it will remain in force.