

# HOUSING RIGHTS VIOLATIONS IN OCCUPIED TIBET

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## **Introduction**

The People's Republic of China (China) is engaged in housing rights violations in occupied Tibet which threaten the last remnants of the Tibetan people's rich cultural heritage. Since invading Tibet in 1949<sup>1</sup>, China has razed most of the thousands of historic and cultural monuments once found throughout Tibet<sup>2</sup>. Today, China continues to systematically demolish Tibetan settlements and impose architectural changes that threaten the integrity of Tibet's remaining historic and cultural settlements and monuments. These violations are part of China's broader colonialist aim of controlling Tibet's vast resources through assimilationist policies which threaten the Tibetan people's right to self-determination.<sup>3</sup> For instance, China is also engaged in settler infusion policies which have already reduced Tibetans to, a marginalized minority in their own land<sup>4</sup>. China further controls the Tibetan population through birth control policies which result in coerced and forced abortions and sterilizations of Tibetan women<sup>5</sup>. Therefore, China's housing rights violations must be viewed as one component of a complex colonial policy intended to absorb occupied Tibet into China.

## **1. Cultural Destruction through demotion of Housing and Monuments**

Housing is more than four walls and a roof. Its function is to provide safety, dignity and, in most cultures, privacy. It is the center, from which people develop social relationships and a sense of community, as well as creativity. The form, style and layout of housing are designed to serve the unique cultural needs of each society. In -some countries, such as Tibet, home also serves as the place of daily religious practice I e. Destruction of housing therefore threatens the whole fabric of a society<sup>6</sup>.

In the four decades of Tibet's occupation, China has expropriated Tibetan home owners, looted their property, and carried out large-scale demolition of traditional urban and rural settlements<sup>7</sup>. For instance, China's implementation of the 1980 Lhasa Development Plan has resulted in the rapid and widespread destruction of Tibetan structures in Lhasa, the capital of Tibet. Entire sections of Lhasa were obliterated by bulldozers. More than ten percent of central Lhasa's then remaining Tibetan housing was destroyed in the early months of 1990 alone. In 1990, China displaced 3500 Tibetans by eradicating 50 traditional Tibetan residential compounds in the heart of Lhasa<sup>8</sup>. From 1989 through 1993, more than one-half of the older stone homes in the Barkhor, the central area of, Lhasa, were demolished<sup>9</sup>. In 1993, 45 different construction sites were counted in the relatively small Barkhor area. China has replaced most Tibetan structures in Lhasa and elsewhere with buildings which conform to modern Chinese architectural styles<sup>10</sup>. In 1994, for, example, the 17th century historic

village of Shoel, which lies at the foot of the Potala, the former seat of the Dalai Lama and the Tibetan Government, was razed to make room for a gigantic Chinese plaza<sup>11</sup>." The rapid pace of construction has helped double Lhasa's size since 1989 to meet the housing needs of immigrating Chinese settlers. As a result, the historic Tibetan capital has been reduced to the "Tibetan quarter", which comprises only 2% of Lhasa today<sup>12</sup>.

Forced evictions and demolitions also take place in Tibet's rural areas where approximately 90 percent of the Tibetan population live. In 1993, for example, a dam construction project resulted in the displacement of 6000 Tibetans in Northeastern Tibet<sup>13</sup>.

Most tragically, during the earlier period of the occupation an estimated 6000 monasteries and monastic cities throughout Tibet were plundered and dynamited into rubble, depriving Tibetans of their most valued cultural and spiritual heritage<sup>14</sup>. Some limited rebuilding of these monasteries has begun. Reconstruction of monasteries requires Chinese permission. Government funds have mostly been spent on monasteries most likely to be visited by foreign tourists. Most reconstruction, however, is financed by local Tibetans through donations and volunteer labor. Some have been incarcerated for rebuilding their monasteries, even after permission was granted<sup>15</sup>.

## **2. Tibetans Disenfranchised and Discriminated Against in their Own Land**

Housing policies have become a mechanism of social control in Tibet. By limiting Tibetans' freedom of movement, restricting their right to choose where to live and depriving Tibetans of meaningful participation in planning and development decisions, China maintains effective control over the Tibetan population. Stringent residency and travel permit systems restrict Tibetans' ability to move freely<sup>16</sup>. Without protection from evictions and expropriations, many Tibetans are rendered homeless. More than 2000 families were homeless in Lhasa in 1992, and many more would have been homeless had they not been taken in by their families living in already crowded quarters<sup>17</sup>. Deprived of input in planning, and relocated by the government, many Tibetans find themselves stripped of their social fabric, in fear of living in the midst of political informers and in an atmosphere of uncertainty. As one Tibetan aptly put it, "now we cannot know who is beside us, below us or above us"<sup>18</sup>. China has also attempted to control political protests by demolishing traditional places for demonstrations, such as the narrow tank-proof alleyways which, until a few years ago, surrounded the Barkhor area and allowed Tibetans to escape police gunfire<sup>19</sup>.

Tibetans also suffer from housing discrimination. Throughout Tibet, Chinese settlers tend to be allocated more expansive housing, usually with running water, electricity and sanitary facilities, while Tibetan housing is more crowded, is often in a deteriorated state and is much less likely to be equipped with such amenities<sup>20</sup>. Virtually all of China's housing subsidies are spent in urban areas, with US\$4.50 spent on rural inhabitants and US\$128 on city dwellers. Yet 9 out of 10 Tibetans live in rural communities<sup>21</sup>. With 83 % of the China's state housing investments devoted to state-owned work units, few funds are available

to construct "Tibetan-style" housing or to renovate traditional Tibetan houses. Since many Tibetans do not work in Chinese Government work units, they are precluded from benefiting from these investments in newly-built housing<sup>22</sup>. At the same time, newly-constructed "Tibetan-style" buildings compare unfavorably with the old Tibetan homes. A 1990 survey of 400 "Tibetan-style" apartments found that these apartments' size, water, drainage, sewage and electrical facilities, as well as their physical design were inferior to conditions found in the traditional Tibetan houses which they replaced<sup>23</sup>. 374 apartments surveyed had no direct access to water or drainage and depended on a stand-pipe on each floor, shared on average by 40 people. Kitchens consisted of empty concrete boxes without a counter. Toilets were shared by 8 people and were described in the survey as health hazards. The buildings were devoid of customary courtyards, which traditionally provide vital community space. Building materials and style were inferior to the traditional thick-walled construction methods used for insulation from the extremely cold winter on the Tibetan plateau. Such practices not only leave Tibetans with inferior housing but have also led to a virtual extinction of traditional building knowledge inside Tibet, thus depriving Tibetans of their own culture and the ability to preserve it<sup>24</sup>.

### **3. International Law Violations**

While China's constitution, unlike that of many other communist countries, does not contain an explicit right to adequate housing, China usually voices ardent support for economic, social and cultural rights<sup>25</sup>. Yet its practices, especially in Tibet, are not congruent with such expressions. By ratifying a number of pertinent United Nations treaties, China has voluntarily obligated itself to uphold the internationally recognized human right to adequate housing<sup>26</sup>. Similarly, China is bound by the inviolable legal principle of "pacta sunt servanda", which holds that every treaty in force must be upheld in good faith by each ratifying country<sup>27</sup>.

Specifically, China has ratified the Convention on the Elimination of all Forms of Discrimination Against Women (Women's Convention), the Convention on the Elimination of All Forms of Racial Discrimination (Race Convention) and the Convention on the Rights of the Child (Child Convention)<sup>28</sup>. Article 14(2)(h) of the Women's Convention and Article 27 of the Child Convention provide for the human right to adequate housing. Article 5(e)(iii) of the Race Convention prohibits race discrimination and mandates equality as to everyone's enjoyment of the right to housing. Yet, as set forth above, Chinese housing policies in Tibet benefit Chinese settlers over Tibetans.

The transfer of Chinese people into Tibet, in and of itself, constitutes a violation of international humanitarian standards. Article 49 of the Fourth Geneva Convention prohibits an occupying power from transferring "part of its civilian population into the territory occupied"<sup>29</sup>. Article 55 of this Convention further prohibits destruction of real and personal property of the occupied people, except where absolutely necessary for military operations. China's destruction and looting of Tibet's monasteries and its continuing demolition of settlements is clearly contrary to its obligations under this Convention.

Article 9 of UNESCO's Declaration on Race and Racial Prejudice links housing rights with cultural identity and states that respect for the authenticity of the culture and values of racial and ethnic groups must be protected so as to assure equal protection with regard to housing<sup>30</sup>. The fundamental right to maintain cultural identity without repression or discrimination is gravely infringed when Tibetans have no say concerning the demolition of their homes or the planning of their settlements. China, as a UN member, is further morally bound by a series of resolutions adopted by the United Nations in the past ten years. For example, the UN Global Shelter Strategy of the Year 2000, adopted unanimously by the General Assembly in 1988 states that all states should "accept the fundamental obligation to protect and improve houses and neighborhoods, rather than damage or destroy them"<sup>31</sup>. The 1980 Lhasa Development Plan, however, rather than protecting housing, is designed to demolish Lhasa's old housing and cultural heritage.

The UN Committee on Economic, Social and Cultural Rights has issued detailed guidelines for states as to the content of the right to housing<sup>32</sup>. While these guidelines are not legally binding on China since it has not yet ratified the Convention under which this Committee was established, they are the most authoritative guidelines on international housing rights available. These guidelines frame the right to housing as including the right to live in security, peace and dignity. Future investigation of housing rights in Tibet should be conducted in accordance with the seven principles set forth in these guidelines. Very importantly for Tibetans, these include the legal right to tenure, the right to services, such as potable water, drainage sites, sanitation, heating and lighting as well as the right to habitable housing, including protection from cold, rain and threats to health. These guidelines further provide that housing must be culturally adequate. The guidelines recognize that housing policies, construction and development must enable the expression of cultural identity, rather than sacrifice culture in the name of modernization.

China's policies and practices are in violation of its international obligations and contrary to international standards. As a result, Tibetans today live in overcrowded, inadequately insulated housing, with lacking facilities. A marginalized minority in their own land, they are deprived of participation in housing decisions and face discrimination and complete obliteration of their culture. Effective intervention from the international community is necessary in order to halt the cultural genocide in Tibet.

#### **4. Recommendations**

China is urged to:

1. Immediately halt demolition of traditional Tibetan housing, expulsions and evictions.
2. Ensure meaningful Tibetan participation in all housing matters.
3. Cease the transfer of Chinese into Tibet.
4. Stop the construction of Chinese settlements and "Tibetan style" housing.
5. Permit and support the reconstruction of the old city of Lhasa by Tibetans.
6. Apply national and international protective laws and policies equitably and bring national law into compliance with international obligations.
7. Compensate Tibetans for past housing losses.
8. Recognize and support Tibetan culture and traditional skills.

9. Promote a sustainable human settlement policy consistent with Agenda 21 and the Global Shelter Strategy to the Year 2000.
10. Promote equitable forms of housing financing in urban and rural Tibet.
11. Permit international monitoring of housing rights in Tibet.

The international community is urged to:

1. Call on the UN Special Rapporteur on Housing to visit Tibet.
2. Call on China to come into compliance with international law and in the case of noncompliance, adopt appropriate resolutions and permissible sanctions bilaterally and multi-laterally.
3. Particularly assure that all pertinent UN bodies, including the Commission on Human Settlements and treaty monitoring committees take effective action to encourage China's compliance with international law and norms.
4. Call on UNESCO to take all action possible to halt housing rights violations in Tibet.
5. Urge China to implement requests I through 11 above.

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<sup>1</sup> Michael Van Walt Van Praag: *Tibet An Occupied Co@*, in *77te Anguish of Tibet*, Petra Kelly et al. eds. (Berkeley, 1991) at 60-64. The Tibetans' right to self-determination has been repeatedly recognized by the United Nations, in particular in General Assembly resolutions in 1961 and 1965. G.A. Res. 1723 (XVI), U.N. GAOR, 16th Sess., Agenda Item 83, U.N. Doc. A/L. 376 (1961); G.A. Res. 2079 (XX), U.N. GOAR, 20th Sess., Agenda Item 91, U.N. Doc. 4/L. 473 (1965)

<sup>2</sup> Scott L=kie, Centre On Housing Rights and Evictions: *Destmciion By Design-Housing Rights Violations in Tibet* (Netherlands, 1994), at 63-68, 85-114.

<sup>3</sup> Eric Kodier, *Population Transfer.- The Effects of Senier Infusion Policies on a Host Population's Right to Se#'-Detemlination*, 27:1 N.Y.U. J. INT'L. & Pol. 159 (1990); Also see note 1, supra.

<sup>4</sup> The Tibetan Government in Exile estimates 7.5 million Chinese and 6 million Tibetans in Tibet. A recent study concludes that an estimated 5.5 million Chinese and only 4.6 million Tibetans live in Tibet. See Tibet Support Group UK: *NewMajority-Chinese Population Transfer into 7-ibet* (London, 1995) at 158-59. For purposes of this paper Tibet is defined as the areas traditionally inhabited and governed by Tibet, including the Tibetan provinces of Kham, Amdo and U-Tsang. The Chinese designated area of the Tibet Autonomous Region only encompasses approximately 40% of traditional Tibet.

<sup>5</sup> Asia Watch, *Evading Scrutiny: VioLations of Human Rights after the Closing of Tibet* (Washington D.C.,1988) at 27; PRC officials admitted in 1992 that family planning has been implemented against Tibetans since the mid-1980's. Information Office of the State Council, *Tibet. - Its Ownership and Human Rights Situation (1992)*, reprinted in *China on Its Ownership of and Human Rights in Tibet*, BBC Summary of World Broadcasts, Sep. 24, 1992; see also International Committee of Lawyers for Tibet, *Denial of Tibetan Women's Right to Reproductive Freedom* (Berkeley, 1995).

<sup>6</sup> See note 2, supra, at 77, 115, 124.

<sup>7</sup> Hugh E. Richardson, *Tibet & Its History* (1984) at 201; John Avedon, *In Exile from the Land of Snaws* (1986) at 226; See also note 2, supra, at 65, 93-114.

<sup>8</sup> See note 2, supra, at 101-103.

<sup>9</sup> See note 2, supra, at 105-108.

<sup>10</sup> China News Analysis No. 1432, *Housing Reform: What's New?* (April 1, 1991), Hong Kong at 2, cited in note 2, supra, at 76. See also note 2, supra, at 106.

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- <sup>11</sup> See note 2, supra, at 106.
- <sup>12</sup> Tibet Daily, 27 February, 1991; Tibet Information Network, *YIN Housing Supplement 9th November.- Reconstruction of the Old city of Lhasa* at 2 (1-ondon, 1990). See also note 2, supra, at 87, 101.
- <sup>13</sup> The Tibet Bureau, Press Release February 1, 1993 as cited in note 2, supra, at 145. See also note 2, supra, at 142-147.
- <sup>14</sup> Petra Kelly et. al. eds., *The Anguish of Tibet*, at xii (Berkeley 1991).
- <sup>15</sup> International Campaign for Tibet, *Beijing's Control of Religion in Tibet* (Washington D.C. 1990) at 34-37.
- <sup>16</sup> See note 2, supra, at 115-117.
- <sup>17</sup> Tibet Information Network, *Statements on Economic Investments from Tibet* (London, 1992) as cited in note 2, supra, at 113
- <sup>18</sup> South China Morning Post, *Knocking out*, 8 December 1990.
- <sup>19</sup> See note 2, supra, at 104.
- <sup>20</sup> Asia Watch, *Human Rights in Tibet (February)* at 46 (Washington, D.C., 1988).
- <sup>21</sup> Department of Statistics of TAR (1989), *Economic and Social Statistics Yearbook of Tibet 1989*, Chinese Government, Beijing; Robbie Barnett, *Chinese Development Policy in Tibet.- Notes and Comments* (London, December 1989). See also note 2, supra, at 78.
- <sup>22</sup> US Government: *US State Department of Human Rights Country Report* (1990), China Chapter at 8. See also note 2, supra, at 75.
- <sup>23</sup> See note II, supra at 5-6. See also note 2, supra, at 132-135.
- <sup>24</sup> See note 2, supra, at 131.
- <sup>25</sup> For example, the following communist countries provide in their constitutions for a right to housing: People's Democratic Republic of Yemen, Equatorial Guinea, North Korea, Poland and Viet Nam. See also note 21 supra, at 5 *l*.
- <sup>26</sup> For legal implications of ratification of treaties see Article 14 of the Vienna Convention on the Law of Treaties, adopted on 23 October 1969, as contained in Council of Europe (1979) *Human Rights in International Law: Basic Text*, Strasbourg at 121-151.
- <sup>27</sup> *Id.*, Article 26 of the Vienna Convention on the Law of Treaties at 132.
- <sup>28</sup> Convention on the Elimination of All Forms of Racial Discrimination, adopted by UN General Assembly resolution 2106A (XX), December 21, 1965, entered into force on January 4, 1969, ratified by China December 29, 1981; Convention on the Elimination of All Forms of Discrimination Against Women, adopted by UN General Assembly resolution 34/180, December 18, 1979, entered into force on September 3, 1981, ratified by China November 4, 1980; Convention on the Right of the Child, adopted by UN General Assembly resolution 44/25, 20 November 1989, entered into force September 2, 1990, ratified by China March 2, 1992; For ratification dates see UN Centre for Human Rights, *Status of International Instruments*, United Nations (1993), Geneva.
- <sup>29</sup> Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Convention IV of August 12, 1949) as contained in *Basic Rules of the Geneva Conventions and their Additional Protocols*, International Committee of the Red Cross (Geneva, 1983).
- <sup>30</sup> Declaration of Race and Racial Prejudice adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization at its 20th session on 27 November, 1978.
- <sup>31</sup> UN Doc.A/43/8/Add.1 and General Assembly Res. 42/192 (annex).
- <sup>32</sup> General Comment No. 4 on the Right to Adequate Housing (Article 11 of the International Covenant on Economic, Social and Cultural Rights), paragraph 8, adopted by the UN Committee on Economic, Social and Cultural Rights on December 12, 1991 at its sixth session, UN Doc. E/C.12/1991/4 at 114-120.

