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Against Women

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Shadow Report on Nepal

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ABBREVIATIONS AND ACRONYMS

CEDAW	Convention for the Elimination of Discrimination Against Women
DSP	Deputy Superintendent of Police
GoN	Government of Nepal
NGO	Non-Governmental Organization
NPA	National Plan of Action
TWA	Tibetan Women's Association
UN	United Nations

EXECUTIVE SUMMARY

Introduction

This shadow report has been prepared by the Tibetan Women's Association (TWA) in response to Nepal's combined fourth and fifth periodic report to the 49th session of the Convention for the Elimination of Discrimination Against Women (CEDAW). TWA is the second largest Tibetan Non-Governmental Organization (NGO) in the world with a focus on the human rights of Tibetan women in Tibet, Tibetan women in exile, and refugee women from Tibet. In keeping with their mission, TWA has developed this shadow report to address the treatment of Tibetan women in Nepal.

The Treatment of Women During Arrest

Nepal has reportedly taken several measures to close the inequality gap between the treatment of men and women. For instance, the National Plan of Action (NPA) is a social measure implemented by the Government of Nepal (GoN) in response to CEDAW in 2004. The NPA incorporates a number of measures adopted for the empowerment of women so that they may exercise and enjoy human rights and fundamental freedoms equal to men. Although GoN has taken this step to improve the status of women, several NGO reports show that it is not uncommon for Nepali police to sexually assault Tibetan women during arrest.

The Rights of Female Refugees in Nepal

Women who become internally displaced persons or refugees in foreign countries are much more vulnerable to abuses, such as trafficking and sexual abuse. They are known to be victimized in many ways—verbally, sexually, physically and mentally within refugee camps. Tibetan women, in particular, are at high risk of being deported and/or sexually harassed while crossing the Nepal border.

The Political Rights of Women in Nepal

The NPA aims to encourage the participation of women in the political process, which should include the right to peaceful assembly. However, this right is not respected in Nepal for either Tibetan men or women, as they are often detained and arrested without a warrant.

Recommendations

The Tibetan Women's Association calls on the Government of Nepal to protect and respect the rights of women by:

- Insisting that the Government of Nepal fully implement the provisions of CEDAW, ensuring that the stipulations therein are translated into appropriate legislation to effectively protect the rights of women in member countries.

- Taking all necessary action to end arbitrary arrests, including unlawful and preventive arrests, of Tibetans and others engaged in peaceful political activity or otherwise going about their daily lives.
- Publicly opposing the deportation of any Tibetan to China who faces a risk of persecution or torture there, and taking all necessary action, including the issuance of warnings and the imposition of disciplinary action, against Nepali police who threaten Tibetans with deportation.
- Issuing orders to all police officers to cease sexual assaults on female protesters. Investigations should be conducted into sexual assaults on protesters that have taken place since the submission of the last CEDAW report, and the individuals responsible should be prosecuted. Superior officers should also be held responsible for creating an environment in which officers under their command have sexually assaulted female protesters.

INTRODUCTION

This shadow report has been prepared by the Tibetan Women's Association (TWA) in response to Nepal's combined fourth and fifth periodic report to the 49th session of Convention for the Elimination of Discrimination Against Women (CEDAW). Past reports submitted in 1997 and 2003 respectively by the Government of Nepal (GoN) have lacked any mention of refugees or internally displaced people. The report submitted by Nepal in 2010 makes slight mention of refugee women in Nepal, but does not reference the plight of Tibetan women. Nepal claims that they have "been providing adequate protection and treatment to refugee women victimized by gender-based violence¹" but the Tibetan Women's Association claims that events documented since the submission of Nepal's first report to CEDAW in 1997 would show otherwise.

About the Tibetan Women's Association

The Tibetan Women's Association has 56 regional chapters and over 15, 000 members outside Tibet. Today, TWA is the second largest Tibetan NGO and the only women's NGO in exile that advocates human rights for Tibetan women in Tibet and works to empower Tibetan women in exile, in particular new refugee women from Tibet. TWA's tagline is 'Advocacy for home, Action in exile.'

ARTICLES 3 AND 4

MEASURES TO ACCELERATE EQUALITY BETWEEN WOMEN AND MEN

The Treatment of Women During Arrest

Articles 3 and 4 of the Convention are meant to guarantee basic human rights and fundamental freedoms, and to accelerate equality between men and women. Nepal has reportedly taken several measures to close the inequality gap between the treatment of men and women. The NPA has incorporated a number of measures adopted for the empowerment of women so that they may exercise and enjoy human rights and fundamental freedoms equal to men. However, numerous victims have reported that Nepali police repeatedly sexually assault Tibetan women, including girls less than 18 years of age, during arrest. Women reported male police officers groping their breasts and buttocks inside and outside their clothing—some reported that they had even been struck in the groin with a *lathi*².

A 2008 report by Human Rights Watch³ on the treatment of Tibetans in Nepal gathered key first hand accounts of the harassment faced by women during arrest. Human Rights Watch interviewed more than 90 Tibetan protestors, non-Tibetan protest eyewitnesses,

¹ Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women. Combined fourth and fifth periodic reports of States parties, Nepal. 9 November 2010.

² Appeasing China, Restricting the Rights of Tibetans in Nepal. Human Rights Watch, 2008.

³ Ibid, et al.

Tibetan community and religious leaders, Nepali medical personnel and policy officers, and United Nations personnel in Nepal to collect their data. The following stories are some of those that were reported through the interview process. The names of all the interviewees have been changed for security reasons.

Tashi Topgyal, age 17, said she was arrested at both the United Nations (UN) House and at the Chinese Embassy. She told Human Rights Watch that policemen touched her breasts and buttocks outside her clothes and also tried to touch her breasts inside her clothes. She said she could not identify the police officers that assaulted her because two or three men were all restraining her and touching her while they arrested her and put her into the police van. When she asked the police why they were touching her, they laughed at her. Tashi Dolma, age 25, reported that on several occasions the police touched her on the breasts and buttocks while they put her into a police van. Dawa Tsering, age 25, said that a police officer groped her while she was not fully conscious after she had fainted at a protest. She also reports being groped during arrest on several other occasions.

Nima Tsering, age 38, also told Human Rights Watch that she had her breast squeezed so forcefully by the police that she could not breathe properly. She said it was difficult to know which policeman did it, as there were so many policemen touching her through her clothes. Pelkyi, age 35, also reported having her breasts groped. Tenzin Jinpa, male, age 37, said that a group of girls who protested with him on 15 March 2008 at the UN House told him that the police touched their breasts. Tsering Tsomo, age 30, reported that on 24 March 2008 at a protest at the UN House a policeman tried to hold her breast, so she screamed; the following day another police officer tried to hold her breasts. An 18-year-old woman attending the same protest reported that the police touched her breasts and groped her groin area and tried to tear her clothes. The young woman also reported that on 28 March 2008, seven or eight policemen attempted to sexually assault her while arresting her, and when she resisted they verbally abused her and her friends with sexually harassing language. Tashi Tsomo, age 48, said that policemen tried to grab her breasts on 24 March 2008 when she was protesting at the Maitighar Mandala.

On 29 March 2008, following a demonstration at the Chinese Embassy Visa Section, Tibetan women told Human Rights Watch that policemen had been trying to put their hands inside women's trousers and touch them. Similar behavior was also reported following a protest at UN House on 21 March 2008.

Several women also reported being kicked or hit in the groin with a *lathi*, in some cases resulting in urinary tract injuries. Tashi Dolma, age 25, was kicked in the groin on 24 March 2008 while protesting at UN House. Nima Sangmo reported being kicked in the groin on 25 March 2008. Tsering Tsomo's friend was kicked in the groin on 24 March 2008.

The Deputy Superintendent of Police (DSP) at Boudha Police Station sexually harassed two female Tibetan protesters on 25 March 2008, ordering the women to be brought separately into his office between 10 and 11 p.m. The first, Tenzin Palzom, age 28, was brought in and had the door locked behind her after she said in a group setting that she

would continue to protest. The DSP said, “Why are you protesting? We could hand you over to the Chinese authorities.” He then proceeded to close the curtains in the room and said something like “The Chinese love her and he loves her too.” Tenzin Palzom panicked and tried to open the door. The DSP then pressed a button, and the door was opened from the outside and she was allowed to leave. Tenzin Palzom said, “I felt like I was going to be sexually assaulted by him.”

The second woman, Nima Sangmo, age 33, was then brought into the room. The DSP asked her for her name, address, the name of her husband, what work she and her husband did, how many children she had, the name of her housekeeper, and her phone number. Nima Sangmo was sitting on the sofa in the DSP’s office with the DSP sitting in front of her. The DSP asked if he could sit next to her and if he could have a kiss. Nima Sangmo replied no and was allowed to leave the office. As she left the room the DSP said “Can I have you⁴?”

The Rights of Female Tibetan Refugees in Nepal

Women who become internally displaced persons or refugees in foreign countries are much more vulnerable to abuses such as trafficking and sexual abuse. They are known to be victimized in many ways—verbally, sexually, physically and mentally—within refugee camps. Tibetan women, in particular, are at high risk of being deported and/or sexually harassed while crossing the Nepal border because they often travel alone and do not have caste definition or protection.

According to the GoN, Tibetans entering Nepal after 1989 do not have permission to stay as legal refugees within Nepal, nor does the law protect their human rights. However, the principle of non-refoulement, laid out in 1954 in the UN-Convention relating to the Status of Refugees, provides in Article 33(1) that:

"No Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion."

According to the principle of non-refoulement, the Nepali Government should allow Tibetan refugees safe passage through Nepal as they travel to other countries, such as India. It is important to note that the principle of non-refoulement not only forbids the expulsion of refugees to their country of origin but to any country in which they might be subject to persecution. In spite of the agreement, and as a result of Chinese pressure and involvement, there have been, and continue to be, violence and attacks towards Tibetans on the Nepali border.

Within the past ten years, there has been an increase of cases reported in the media of Tibetans being sent back to Tibet while crossing the Nepali border. In July 2010 Nepali authorities forcefully deported three Tibetan new arrivals from Humla district, two of

⁴ Ibid, et al.

whom—a young woman and a monk—are now believed to be in detention in China. It was the first case of refoulement by Nepal—a practice prohibited by international law—since 2003⁵.

In a hearing with the United States Senate Foreign Relations committee in 1997, welfare officers and medical examiners at the Kathmandu reception center stated that the rape of Tibetan women by Nepali police was routine. Additionally, nurses working at the Kathmandu reception center for Tibetan refugees stated that women who have been raped usually do not press charges because they fear deportation. Reporting rape can also lead to social ostracization for laywomen and, especially for nuns, expulsion from their order.

At the hearing, it was also reported that in December 1996, a Tibetan woman traveling in a group of seven Tibetans was raped 12 times by Nepali men in police uniforms. The group was allegedly told that if the woman did not comply with the police officers' demands, the entire group would be deported back to China. Two months into the official investigation, the Nepali Ministry of Home Affairs denied police involvement and had yet to arrest a suspect. Similar incidents of rape and threatened deportation also allegedly happened in November 1996 and January 1997⁶.

It is likely that the number of reported incidents of harassment and rape by police is not truly reflective of the actual number of incidents of harassment and rape. As it is, the high number of reports shows a need for the Government of Nepal to actively implement measures to ensure the safety of women, particularly Tibetan women, during detention and deportation across the Nepali border.

ARTICLE 7 AND 8

POLITICAL, PUBLIC AND INTERNATIONAL PARTICIPATION

The Political Rights of Tibetan Women in Nepal

The NPA aims to encourage the participation of women in the political process, which should include the right to peaceful assembly. However, this right is not respected in Nepal for either Tibetan men or women, as illustrated most recently by the actions of the Nepali police during the 2010 preliminary elections for the Tibetan General Elections for Kalon Tripa (Prime Minister) and the 15th Tibetan Parliament in exile. Despite being granted permission by Nepali authorities to conduct the 3 October 2010 preliminary election for Representatives of the Tibetan Parliament in exile, police stormed three voting centers of the Tibetan exile community—Jawalakel, Boudha, and Swayambhu—as voting was taking place and seized the ballot boxes⁷.

⁵ Annual Refugee Report Finds Tibetans at Risk in Nepal. International Campaign for Tibet, Press Release, 17 June 2011.

⁶ US Senate Foreign Relations Committee Hearing on Tibet, 13 May 1997.

⁷ Nepali police seize ballot boxes from Tibetan exile election. International Campaign for Tibet, 3 October 2010.

Not only does this act intervene with the democratic rights of the Tibetan people, there is also concern about the impact on the election results because the Tibetan population in Nepal represents a substantial section of the exile Tibetan electorate.

This has not been the only incident of Nepali police suppressing the political rights of Tibetans in the past. In 2008, Nepali police were quick to shut down three all-women rallies in Kathmandu, resulting in the arbitrary arrests of 560 Tibetan women on 11 May 2008⁸. Reasons for arrest were not given.

The arrest of three female Tibetan leaders protesting their resentment over the Chinese clampdown on Tibetans in Tibet on 19 June 2008 further illustrates the restrictions on the right to peacefully assemble. The arrested included the President of Regional Tibetan Women's Association, Mrs. Ngawan Sangmo, the Vice President of Tibetan Women's Association, Mrs. Tashi Dolma, and the Director of Tibetan Reception Center, Ms. Kelsang Chung. Tibetan protestors took to the streets wishing to show their solidarity with the Tibetans living under the Chinese repressive regime. According to civilian security officer Jaya Mukunda Khandal, these three women were arrested without warrant under suspicions of organizing the protests, and sentenced to 90 days of detention for damaging diplomatic relations between Nepal and China. TWA immediately organized a mass signature campaign, submitting more than 1500 signed petitions to the Nepali government, demanding the release of these three key leaders. These leaders were released on 8 July 2008, as it was decided by Nepal's Supreme Court on 7 July 2008 that these women could not be detained without any charges.

Nepali security has not refrained from reining in the Tibetan people in Nepal, especially the women, for expressing their resentment and exercising their basic human rights: freedom of speech and expression.

In Kathmandu on 21 April 2011, Nepali police disrupted a hunger strike consisting of approximately 30 Tibetans protesting in solidarity with the Tibetans in Ngaba and the monks of Kirti Monastery, who had been under increased crackdown by the Chinese Military during the weeks prior. A female Tibetan activist, Ms. Sonam Choedon, wore a shirt that read, "Save Tibet and stop the killing in Tibet" and was ordered to remove it immediately. When she objected to the unduly harassment and refused the order by Nepali police to remove her top in public, the Nepali police threatened to take all Tibetan hunger strikers to prison. Ms. Sonam Choedon was subjected to degrading harassment, including the order to remove her shirt in public. The harassment and unacceptable use of power by the Nepali police, who demanded public exposure of the Tibetan woman, is not only shameful but also completely unprofessional. TWA has written to the Nepali prime minister asking for an apology from the policeman responsible for this crime but has yet to receive a response.

The number of incidents in which the political rights of Tibetan women were restricted shows a need for the Government of Nepal to actively implement measures to ensure that these rights are respected.

⁸ Nepal arrests 560 Tibetan women. BBC, 11 May 2008

RECOMMENDATIONS

The Tibetan Women's Association calls on the Government of Nepal to protect and respect the rights of women by:

- Insisting that the Government of Nepal fully implement the provisions of CEDAW, ensuring that the stipulations therein are translated into appropriate legislation to effectively protect the rights of women in member countries. The National Plan of Action encourages women to participate in the political process but has no specific legal provisions to protect the rights of Tibetan women, particularly the right to peaceful assembly or protest.
- Taking all necessary action to end arbitrary arrests, including unlawful and preventive arrests, of Tibetans and others engaged in peaceful political activity or otherwise going about their daily lives.
- Publicly opposing the deportation of any Tibetan to China who faces a risk of persecution or torture there, and taking all necessary action, including the issuance of warnings and the imposition of disciplinary action, against Nepali police who threaten Tibetans with deportation.
- Issuing orders to all police officers to cease sexual assaults on female protesters. Investigations should be conducted into sexual assaults on protesters that have taken place since the submission of the last CEDAW report, and the individuals responsible should be prosecuted. Superior officers should also be held responsible for creating an environment in which officers under their command have sexually assaulted female protesters.