

doms of those who wish to exercise their right to hold an opinion or exercise their freedoms of expression, the press, assembly and religion; and, the absence of an independent tribunal or a judge, at the time of committing a person to re-education through labour, may make the measure fall short of accepted international standards.

On the basis of the information received during the visit and these conclusions, the WG recommended that the government further revise the Criminal Law and the Criminal Procedure to:

- ♦ expressly incorporate in the Criminal Procedure Law a provision affirming the presumption of innocence until proven guilty by a court or tribunal;
- ♦ define the crime of “endangering national security” in precise terms;
- ♦ incorporate in the criminal law an exception, stipulating that the law will not regard as criminal any peaceful activity in the exercise of the fundamental rights guaranteed by the Universal Declaration; and
- ♦ establish a permanent independent tribunal for, or associate a judge with, all proceedings under which the authorities may commit a person to re-education through labour, in order to obviate the possibility of any criticism that the present procedure is not entirely in conformity with international standards for a fair trial.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 13, 130–134)

During the period under review no new cases of disappearance were transmitted, and two cases were clarified on the basis of information previously submitted by the government stating that both persons were in prison. Most of the 73 cases of disappearance reported to have occurred in China took place between 1988 and 1990, although several cases are said to have occurred in 1995 and 1996. The majority of these cases concern Tibetans.

Reportedly, some of the disappearances occurred after the individuals were arrested for writing or singing national poems or songs. Nineteen of the cases concerned a group of Tibetan monks who were reportedly arrested in Nepal, interrogated by Chinese officials while in detention and, allegedly, turned over to the Chinese authorities at the Jatopani border. One of the disappeared persons is said to have been arrested for having participated in a religious ceremony in which a prayer was offered for the long life of the Dalai Lama, and several others were reportedly arrested in Lhasa in 1995 and 1996 for having distributed leaflets containing political messages. Four monks, who reportedly disappeared in 1996, were allegedly accused of having produced pro-independence posters and leaflets containing prayers for the health and safety of the child, Gedhun Nyima, who was recognized by the Dalai Lama in May 1995 as the reincarnation of the late Panchen Lama, and who was reported to have disappeared. Several other persons are reported to have disappeared following celebrations to

mark the 30th anniversary of the founding of the Tibet Autonomous Region, while others were human rights activists involved in pro-democracy activities. One other case is said to have occurred in 1995 in Beijing and concerns a writer who was reportedly arrested two days after signing a petition entitled “Greeting the United Nations Year of Tolerance, We Appeal for the Realization of Tolerance in China”, on the occasion of the sixth anniversary of the 1989 Tiananmen Square incident. Three of the reported cases concerned persons who disappeared after the incidents in Beijing in 1989.

The Working Group (WG) noted reports received during 1996 stating that there was an emerging pattern of disappearances in Tibet which consisted of “recurrent detention”, by which a person is taken into custody for a few days or hours, then released, and the process repeated several days later. The government replied that such allegations were “groundless” and there were no such incidents.

With regard to allegations that the prison system in various parts of the country, in particular Tibet, falls under the jurisdiction of the Ministry of Public Services rather than that of the Ministry of Justice, the government replied that there is no such organ as the Ministry of Public Services, and the prison system is indeed under the jurisdiction of the Ministry of Justice. The government stated the public security authorities are charged by law with the responsibility for criminal investigation and are under the supervision of the People’s Procuratorate, which is also authorized to make investigations into cases directly received by it.

The government also provided information on 23 individual cases of reported disappearance, stating: in seven cases, the persons concerned had been arrested, tried, and were currently serving prison sentences; in five cases, the persons concerned had been detained and released; in two cases, the persons concerned could not be found; and, in six cases, the persons concerned did not exist. Three cases concerned the disappearance of the boy Gedhun Nyima, and his parents. On these cases the government stated that a small number of ill-intentioned people attempted to smuggle the boy abroad and endanger his personal safety. As a consequence, out of fear for his safety, the boy’s parents appealed to the government for protection and security measures had been taken to protect the boy and his parents. According to the government, both the boy and his parents were leading normal lives and enjoying good health.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 14, 17, 27, 32, 39, 57, 68, 94, 114; E/CN.4/1998/68/Add.1, paras. 77–86)

The Special Rapporteur (SR) continued to receive reports related to China’s nationwide anti-crime campaign of 1996, which led to the largest number of executions since 1983, accounting for as many as 80 per cent of executions worldwide during this period. More than 4,300 persons were reportedly executed, a figure believed to fall short of