

Trade and Human Rights in Tibet: Considerations for a human rights sensitive trade policy

Canada Tibet Committee



FREE
TRADE HUMAN
RIGHTS

Free trade is not a free pass: human rights matter.

This paper introduces discussion about the potential impact of Canada-China trade on human rights in Tibet. It includes an overview of relevant human rights commitments, describes how Tibetans are particularly disadvantaged within the Chinese economy, and highlights specific economic sectors that raise concerns. The paper concludes with recommendations for the Government of Canada and its policy-makers.



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*The Canada Tibet Committee (CTC) is a federally-registered not-for-profit organization founded in 1987. The CTC defends and promotes human rights and democratic freedoms in Tibet. The CTC is a founding member of the Canadian Coalition on Human Rights in China, and a member of the Canadian Network on Corporate Accountability.*

**Comments on this paper are welcome:**

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## Acronyms:

|        |                                                             |
|--------|-------------------------------------------------------------|
| APF    | Asia Pacific Foundation                                     |
| BRI    | Belt & Road Initiative                                      |
| BCIM   | Bangladesh-China-India-Myanmar Economic Corridor            |
| CCYT   | Canada China Year of Tourism                                |
| CERD   | Convention on the Elimination of Racial Discrimination      |
| CORE   | Canadian Ombudsman for Responsible Enterprise               |
| CTA    | Central Tibetan Administration                              |
| CTC    | Canada Tibet Committee                                      |
| CSR    | Corporate Social Responsibility                             |
| FIPPA  | Foreign Investment Promotion and Protection Agreement       |
| HDI    | Human Development Index                                     |
| HRIA   | Human Rights Impact Assessment                              |
| ICCPR  | International Covenant on Civil and Political Rights        |
| ICESCR | International Covenant on Economic, Social, Cultural Rights |
| ICT    | Information and Communications Technology                   |
| NCP    | National Contact Point                                      |
| NGO    | Non-governmental Organization                               |
| OECD   | Organization for Economic Cooperation and Development       |
| TAR    | Tibet Autonomous Region                                     |
| UNDP   | United Nations Development Program                          |

**Note on methodology and thanks:**

This paper is the result of a collaborative process that took place over the course of 2018. Initial consultations with academic experts highlighted key issues and informed a first discussion draft. Many thanks are due to Gabrielle Lafitte, Andrew M. Fischer, Sophia Woodman, and Robbie Barnett for their time and assistance. The discussion draft was reviewed during a series of workshops in Vancouver, Ottawa, and Toronto. We are indebted to the University of Ottawa Human Rights Research and Education Centre, the University of British Columbia's Himalaya Program, and the Tibetan Canadian Cultural Centre in Toronto for their support in hosting the workshops. We also acknowledge with thanks, the contributions of time and expertise from guest speakers at the workshops including: Alex Neve (Amnesty International); Garnett Genuis (MP); Penelope Simons (University of Ottawa); Greg Walton (Oxford University); Tsering Shakya (University of British Columbia); Pitman B. Potter (University of British Columbia); Michael Buckley (journalist); Matilde Bernabei (CTC Board member); Winnie Ng (Toronto Association for Democracy in China). It is important also to acknowledge the valued contributions provided by the Canada Tibet Committee's research team and in particular by team member Kunchok Dolma Yaklha. Finally, the project was made possible through a grant from LUSH Charity Pot for which the Canada Tibet Committee is sincerely grateful.

**Note on terminology:**

The word "Tibet" is often used in reference to the Tibet Autonomous Region (TAR) of China. In fact, the TAR – established in 1965 and encompassing approximately 1.2 million square kilometres (slightly smaller than the Province of Quebec) - is only one of three provinces comprising historical Tibet which encompasses an area of 2.5 million square kilometres. Historically, the three provinces of Tibet were: Kham, now incorporated into the western mountainous region of Sichuan, the northwestern tip of Yunnan and parts of Qinghai; Amdo, now comprising most of Qinghai and a western part of Gansu; and U-Tsang, now primarily the TAR. The TAR includes only about half of the estimated six million Tibetans living in present-day China. For the purposes of this report, the word "Tibet" and the phrase "Tibetan areas of China" indicate the broader historical boundaries and "TAR" indicates only central Tibet (U-Tsang).

## **Executive Summary:**

As part of their human rights obligations, states are expected to undertake human rights due diligence in all areas of endeavour including in the negotiation of trade agreements and other economic arrangements.

As part of its due diligence, the Government of Canada actively solicits the views of stakeholders about trade. The Government of China does not and Tibetans therefore have little or no access to information about trade agreements or their implications. At the same time, Tibetans experience systemic discrimination with respect to economic opportunity, labour rights, and gender equality. There is little or no opportunity for recourse because China lacks an independent judiciary and the expression of dissent commonly results in arrest.

In this context, it is a challenge for Canadian trade officials to determine trade measures that will deliver positive results in Tibetan areas of China. Although rising prosperity has led to high levels of economic growth across China, trade negotiators must consider why and how poverty continues to plague the Tibetan people. UN statistics confirm that Tibetan areas of China remain the poorest in all the country.

Although national law in China permits preferential treatment for autonomous areas, including the right to pursue cross-border economic activity independently, demands of the “market economy” are commonly cited as a reason that local decision-making is discouraged. Even in urban settings where there are diverse employment opportunities, Tibetans are disadvantaged by their ethnicity, lower education levels, and lack of fluency in Chinese language. The situation is reminiscent of First Nation communities in Canada who experience marginalization even in the midst of economic growth.

A current approach to Canada-China trade is to pursue sector-specific agreements. Among Canadian priority sectors for trade with China are some that could have negative impacts on human rights in Tibet unless targeted measures are adopted. These sectors include: information and communications technology; tourism and cultural exchange; extractives; clean technology; and, agriculture and food.

Efforts to establish a series of indicators to measure the impacts of Canadian trade in Tibet will encourage a better understanding of these complex issues in the interests of inclusivity, good governance and human rights for all.

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**Recommendations:**

To encourage a trade policy that is human rights compliant in Tibet, the Canada Tibet Committee makes six recommendations to the Government of Canada:

- In recognition of Tibet-specific political and economic vulnerabilities, Canada should adopt a “Canada Tibet Policy Act” to guide its relationship with the Government of China;
- Canada should ensure that human rights safeguards are integrated across all aspects of its trade policy with China including trade agreements, trade promotion, trade services, and export support;
- Canada should require reciprocal diplomatic access to Tibet before negotiating any trade or other bilateral agreements with China;
- In the negotiation of trade and investment agreements with China, Canada should incorporate human rights responsibilities for companies directly into the investment chapter of the agreement;
- Canada should facilitate access to justice in Canada for Tibetans whose human rights have been negatively affected by Canadian trade or investment;
- Canada should identify how its sectoral trade priorities with China will impact specific human rights in Tibet and it should adopt appropriate mitigation measures to address those impacts. Particular attention should be given to the following sectors: information and communications technology; culture and tourism; extractives and land rights; clean technology; and agriculture and food.

*Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.*

The Universal Declaration of Human Rights, Article 28

## I. INTRODUCTION

Although most Canadians agree that all government activity including trade must respect human rights, the current debate about Canada-China trade has exposed differing views about what that means in practice. Some believe that trade with China is inherently flawed and ill-advised simply because China is an authoritarian state with a well-documented history of systemic human rights abuse. Others suggest that economic cooperation will itself promote a rules-based system and lead China towards democracy, the rule of law, and human rights.

For Tibetans, who experience China's economic policies as strategies to deny agency over their development and embed political control of resources in inaccessible governmental processes, the perspective is understandably different. They desire economic development and the opportunity to enjoy the benefits of international trade, but are concerned about economic exclusion and the opaque nature of trade agreements.

This paper looks at Canada-China trade through a human rights lens with particular attention to potential impacts in Tibet. It describes how Tibetans are particularly disadvantaged within the Chinese economy and highlights economic sectors that raise human rights concerns. Finally, the paper offers preliminary recommendations, including a call for a government-led human rights impact assessment (HRIA).

A first version of this paper provided the basis for discussion at three workshops held in Ottawa, Vancouver, and Toronto. Subsequently, an online survey of Canadian-Tibetans sought community viewpoints. Outcomes of the workshops and survey informed this final version of the paper.<sup>1</sup>

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<sup>1</sup> Workshop reports and survey results are compiled in appendix i., and are available online at: [http://tibet.ca/en/campaigns/economic\\_rights](http://tibet.ca/en/campaigns/economic_rights)



## II. SHARED HUMAN RIGHTS COMMITMENTS

# HUMAN RIGHTS MATTER

Ratification of human rights treaties requires signatory states to respect, protect, and fulfill the commitments articulated in the treaty.<sup>2</sup> China has ratified more than twenty human rights treaties including five of the seven core human rights treaties, including the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) and the *International Convention on the Elimination of All Forms of Racial Discrimination* (CERD).<sup>3</sup> China has signed (but not ratified) the *International Covenant on Civil and Political Rights* (ICCPR).<sup>4</sup> In addition, China has made numerous promises to cooperate with international “corporate responsibility” initiatives.<sup>5</sup> Nevertheless, it adamantly refuses to incorporate human rights concerns into trade or investment agreements, dismissing them as political and not trade-related.<sup>6</sup> Worse, certain domestic legislation recently adopted may be problematic for human rights defenders, for example the 2015 Security Law, the 2016 Management of Foreign NGOs Law, the 2016 Counter Terrorism Law, and the 2016 Cyber Security Law.<sup>7</sup>

<sup>2</sup> *International Human Rights Law*, Office of the High Commissioner for Human Rights, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/InternationalLaw.aspx>

<sup>3</sup> The five core human rights treaties ratified by China are: Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1980; Convention on the Elimination of Racial Discrimination (CERD), 1981; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), 1988; Convention on the Rights of the Child (CRC), 1992; the International Covenant on Economic, Social and Cultural Rights (ICESCR), 2001.

<sup>4</sup> Signature without ratification requires the state to refrain in good faith from actions that violate the spirit and purpose of the treaty (but is not legally binding). See UN Fact Sheet “Understanding International Law”, United Nations, 2011,

[https://treaties.un.org/doc/source/events/2011/Press\\_kit/fact\\_sheet\\_1\\_english.pdf](https://treaties.un.org/doc/source/events/2011/Press_kit/fact_sheet_1_english.pdf)

<sup>5</sup> *Corporate Responsibility and Sustainable Economic Development in China*, US Chamber of Commerce, 2012,

[https://www.uschamber.com/sites/default/files/legacy/international/files/17296\\_China%20Corp%20Social%20Responsibility\\_Opt.pdf](https://www.uschamber.com/sites/default/files/legacy/international/files/17296_China%20Corp%20Social%20Responsibility_Opt.pdf)

<sup>6</sup> As explained by Pitman Potter in *Tibet and the Canada-China Free Trade Agreement: Workshop report* available at [http://tibet.ca/media/PDF/Workshop\\_report\\_Vancouver\\_2018.pdf](http://tibet.ca/media/PDF/Workshop_report_Vancouver_2018.pdf), Based on his research compiled in *Assessing Treaty Performance in China: Trade and Human Rights*, Pitman B. Potter, University of British Columbia Press, 2014 <https://www.ubcpres.ca/assessing-treaty-performance-in-china>

<sup>7</sup> “Canada and major powers tell China its new laws go too far”, *Globe & Mail*, March 1, 2016, accessed at <http://tibet.ca/en/library/wtn/13389>

For its part, Canada has ratified six of the seven core human rights treaties including both the ICCPR and the ICESCR.<sup>8</sup> In the Constitution Act of 1982, Canada adopted its *Charter of Rights & Freedoms*. The Charter guarantees human rights including free expression, equality, minority language education, mobility, and the protection of fundamental freedoms but does not include economic, social and cultural rights.<sup>9</sup>

Canada also cooperates with various initiatives that promote corporate social responsibility (CSR) at home and abroad including the OECD Guidelines for Multinational Enterprises, the UN Guiding Principles on Business and Human Rights, the IFC Performance Standards on Social and Environmental Sustainability. In 2015 Canada adopted a strategy to enhance CSR in the extractive sector and to guide corporate behaviour in other economic sectors.<sup>10</sup> The “Enhanced Corporate Social Responsibility Strategy to Strengthen Canada’s Extractive Sector Abroad” was the basis for precedent-setting penalties applied to China Gold International Resources for its refusal to participate in a review related to its operations in Tibet’s Gyama Valley.<sup>11</sup> Canada has also proclaimed a policy of “progressive trade” which incorporates the advancement of gender equality, climate action, and labour rights.

### III. RESPECTING HUMAN RIGHTS PRINCIPLES IN THE CONDUCT OF INTERNATIONAL TRADE

In his recently released report to the UN, the Independent Expert on Foreign Debt and Human Rights, Juan Pablo Bohoslavsky, said “In taking economic action or choosing the path of inaction, States and creditors must be guided by existing international human rights law relating to civil, cultural, economic, political and

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<sup>8</sup> Canada has not yet ratified the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*.

<sup>9</sup> *Your Guide the Canadian Charter on Rights & Freedoms*, Government of Canada, <http://canada.pch.gc.ca/eng/1468851006026#a7>. The Province of Quebec has adopted its own *Charte des droits et libertés de la personne*, which includes economic, social, and cultural rights.

<sup>10</sup> See *Canada’s Enhanced Corporate Social Responsibility Strategy to Strengthen Canada’s Extractive Sector Abroad* <http://www.international.gc.ca/trade-agreements-accords-commerciaux/topics-domaines/other-autre/csr-strat-rse.aspx?lang=eng>

<sup>11</sup> “Canada’s NCP sanctions mining company for failing to participate in corporate social responsibility consultations”, Lexology, June 2, 2015, <https://www.lexology.com/library/detail.aspx?g=50c8ac10-d5bc-4d25-860a-776df7939539>

social rights.<sup>12</sup> The Charter of the United Nations requires that each member state guarantee “universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.”<sup>13</sup> The principle is reinforced in the preamble of the *Universal Declaration of Human Rights*, which declares that “every individual and every organ of society” shall strive to secure the observance of human rights “by progressive measures, national and international”.

States are thereby duty-bound to identify inconsistencies between human rights treaty obligations and obligations that arise from trade or investment agreements. When potential inconsistencies are found, states must refrain from entering into those agreements.<sup>14</sup> If inconsistencies come to light only after agreements are signed, the pre-existing human rights commitments must still take precedence.<sup>15</sup>

Given these obligations, states are expected – at the minimum - to undertake human rights due diligence in the negotiation of trade agreements and economic policy-making. To that end, in 2011 the United Nations Human Rights Council adopted *Guiding Principles on Human Rights Impact Assessment of Trade and Investment Agreements*.<sup>16</sup> The Guiding Principles identify the purpose HRIA as: “to ensure that the trade and investment agreements they conclude are consistent with their obligations under international human rights instruments.”<sup>17</sup> Subsequently,

<sup>12</sup> *Guiding principles on human rights impact assessments of economic reforms*, Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights, Human Rights Council, March 2019 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/443/52/PDF/G1844352.pdf?OpenElement>

<sup>13</sup> Charter of the United Nations, art.55.c at <http://www.un.org/en/charter-united-nations/>

<sup>14</sup> Vienna Convention on the Law of Treaties, arts. 26 and 30, para.4 (b) as cited in [https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-59-Add5\\_en.pdf](https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-59-Add5_en.pdf)

<sup>15</sup> “In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.” UN Charter, article 103

<sup>16</sup> *Guiding Principles on Human Rights Impact Assessment of Trade and Investment Agreements*, UN Human Rights Council, 2011 [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-59-Add5\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-59-Add5_en.pdf)

<sup>17</sup> Ibid, summary

several UN treaty bodies and special procedures called upon states to conduct HRIA of trade agreements.<sup>18</sup>

In Canada, the Asia Pacific Foundation (APF) has supported the idea of human rights impact assessments for trade agreements. In a 2013 report, the APF suggested that “in concluding trade and investment treaties in Asia, the Government of Canada should assess and publicize the potential impact of these agreements on human rights development in those countries.” It further suggested that the government “provide assistance to communities to engage human rights impact assessment.”<sup>19</sup>

Despite these advances in linking human rights to trade, governments including Canada’s are often reluctant to incorporate HRIA into standard trade practices. They argue that human rights are solely a domestic responsibility having no extraterritorial nature or that trade will, on its own, lead to increased political freedom and uplift the poor.<sup>20</sup>

- **Stakeholder engagement and participation**

The UN Guiding Principles for HRIA make specific reference to the importance of public consultation *during* the negotiation of trade agreements, whether those agreements are comprehensive or sectoral in nature, “...no trade or investment agreement should be concluded in the absence of a public debate...”<sup>21</sup>

The specific reference to public debate, freely elected representation, and free expression as defining elements of legitimate consultative processes, flies in the face of realities in Tibet which lacks any of these features. Dissent, whether through

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<sup>18</sup> For example: the Committee on Economic, Social and Cultural Rights; the Committee on the Rights of the Child; the Committee on the Elimination of Discrimination Against Women; the Working Group on Business and Human Rights; and the Special Rapporteur on the Right to Adequate Food.

<sup>19</sup> *Advancing Canada’s Engagement with Asia on Human Rights*, Asia Pacific Foundation of Canada, 2013, p25, <https://www.asiapacific.ca/research-report/advancing-canadas-engagement-asia-human-rights>

<sup>20</sup> Some experts argue that human rights treaties do entail extraterritorial obligation. See the *Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights*. [https://www.etoconsortium.org/nc/en/main-navigation/library/maastricht-principles/?tx\\_drblob\\_pi1%5BdownloadUid%5D=23](https://www.etoconsortium.org/nc/en/main-navigation/library/maastricht-principles/?tx_drblob_pi1%5BdownloadUid%5D=23)

<sup>21</sup> *Guiding Principles on Human Rights Impact Assessment of Trade and Investment Agreements*, para 1.2

opposition to state policies, peaceful assembly, journalistic reporting or other means, is commonly met by detention and/or lengthy imprisonment.<sup>22</sup>

Citizens of Canada and China experience vastly different opportunities to express opinion regarding their respective governments' trade policies. The Government of Canada actively solicits the views of Canadians about trade. In 2016 Canadian Foreign Minister Chrystia Freeland (then Minister of International Trade) consulted with indigenous communities for this purpose.<sup>23</sup> Similarly, Global Affairs Canada opened a broad consultative process in 2017 to hear the views of Canadians about a potential free trade agreement with China, and it reported outcomes of that process on its website.<sup>24</sup> In contrast, the Government of China has made no comparable effort and is unlikely to do so. Even if the Government of Canada wishes to independently solicit the views of Tibetans in Tibet, China routinely obstructs requests by Canadian diplomats to visit Tibet.<sup>25</sup>

- **Right to equality and prohibition of discrimination**

The principle of “national treatment” applies in all trade agreements, ensuring that foreign goods, services, and nationals receive treatment equal to their domestic counterparts. A challenge to be addressed in any trade agreement between Canada and China, sectoral or otherwise, is that while Canadian nationals may

<sup>22</sup> In its submission to the UN Human Rights Council for China's 2018 Universal Periodic Review, Amnesty International reported that human rights defenders in China are systematically subjected to monitoring, harassment, intimidation, detention and imprisonment by authorities, and that Tibetans “continue to be charged with ‘separatism’ for peacefully exercising their rights to freedom of expression and maintaining their cultural identity”.

<https://www.amnesty.org/download/Documents/ASA1783732018ENGLISH.pdf>

<sup>23</sup> “Government of Canada discusses trade with indigenous leaders and organizations”, Global Affairs Canada, September 9, 2016, <http://news.gc.ca/web/article-en.do?nid=1122419>

<sup>24</sup> [http://international.gc.ca/trade-commerce/consultations/china-chine/what\\_we\\_heard-que\\_nous\\_entendu.aspx?lang=eng](http://international.gc.ca/trade-commerce/consultations/china-chine/what_we_heard-que_nous_entendu.aspx?lang=eng)

<sup>25</sup> Canadian Minister of Foreign Affairs Stéphane Dion revealed in 2015 that officials in the Tibet Autonomous Region (TAR) regularly delay travel permit approval for Canadian diplomats citing insufficient staff or by imposing convoluted application procedures. When permits are provided, he said, visits by Canadian diplomats are “tightly managed by local authorities” with little or no opportunity to interact with local residents. [http://randallgarrison.ndp.ca/sites/default/files/multisite/149171/field\\_content\\_files/order\\_paper\\_question\\_q-337\\_-\\_tibet\\_-\\_june\\_15\\_2016.pdf](http://randallgarrison.ndp.ca/sites/default/files/multisite/149171/field_content_files/order_paper_question_q-337_-_tibet_-_june_15_2016.pdf) In 2018, Foreign Affairs Minister Chrystia Freeland again confirmed that China had denied all requests by Canada's ambassador and diplomatic staff for permission to travel to Tibet. See “Inquiry of Ministry, Reply by the Minister of Foreign Affairs, question #Q-1858”, June 13, 2018. <https://www.ourcommons.ca/DocumentViewer/en/42-1/house/sitting-319/hansard>

receive treatment equal to that enjoyed by Chinese nationals, within China, Tibetans face systemic discrimination.



For example, although travel documents are essential for participation in international trade, almost no passports have been issued to ordinary Tibetans since 2012. Meanwhile, the number of passports issued to Chinese nationals has risen by 20% each year in the same period of time.<sup>26</sup> For those few Tibetans who have obtained travel documents, strict new regulations limit their activities outside of China and they are required to report for questioning by authorities upon return to Tibet. Such limitations, imposed only on Tibetans, have a discriminatory impact on both corporate competition and on corporate privacy. [Photo/CTA: This passport, issued by the Tibetan government in 1947, belonged to diplomat Tsepon Shakabpa]

With respect to labour rights, Tibetans like all workers in China, are denied the right to form a free trade union or to bargain collectively for better health, safety, and remuneration. Tibetan workers also face additional discrimination based on their ethnicity and lower levels of education. Skills development among Tibetans is outpaced by evolving demand and migrant workers from other parts of China fill the shortfall thereby entrenching inequalities. When Tibetans are hired, it is not uncommon for them to be paid lower wages than their Chinese counterparts doing the same work.<sup>27</sup> In theory, Tibetans should enjoy employment advantage in traditional industries such as wool processing and textiles, but these sectors have not received sufficient support in China's development strategy for Tibet.<sup>28</sup>

Finally, attaining equal treatment poses particular challenges for Tibetan women, who are poorly represented in the local decision-making bodies of government and remain significantly under-represented at the provincial and prefectural levels of

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<sup>26</sup> *Denial of Passports to Tibetans as China Intensifies Control*, International Campaign for Tibet, 2015, <https://www.savetibet.org/policy-alienating-tibetans-denial-passports-tibetans-china-intensifies-control/>

<sup>27</sup> See, *Evidence of overt Chinese discrimination against Tibetans in the job market*, International Campaign for Tibet, January 2012, <https://www.savetibet.org/evidence-of-overt-chinese-discrimination-against-tibetans-in-the-job-market/>

<sup>28</sup> There are exceptions. Best practice examples illustrate the potential of collaborative initiatives that encourage Tibetan employment. See for example Norlha Textiles <https://www.norlhatextiles.com/>

government.<sup>29</sup> In rural areas of Tibet, where most Tibetans live, statistics from 2009 (the most recent found) indicate that maternal mortality was eight times higher in Tibet than in other parts of China.<sup>30</sup> Disenfranchisement has led to a rise in the number of Tibetan women – particularly from nomadic communities – who have resorted to prostitution as a means of livelihood while others are trafficked under the guise of employment opportunity but instead are subjected to enforced servitude as “modern day slaves”.<sup>31</sup>

- **Accountability and access to remedy**

Although it is generally accepted that trade agreements must incorporate accountability measures and access to remedy for investors, there is no consensus about how to provide the same for affected communities. For example, research by the Canada Tibet Committee in 2012 identified 36 Canadian companies that had invested in Tibet since 1999. Of these, 21 were mining companies while others provided construction services and materials. None of the companies had conducted due diligence to assess human rights risks in project areas, nor had they received information about human rights sensitivities in Tibet from Canada’s trade commissioner or embassy staff in Beijing. Several company spokespeople claimed to be unaware of any political sensitivity in Tibet. At least 20 of the companies surveyed were the target of human rights campaigns at some point during the history of their investment.<sup>32</sup> Most ignored the campaigns, while two threatened lawsuits and one responded by funding a tour-guide training program for 20 Tibetans.<sup>33</sup> By 2017, virtually all investors identified had abandoned their investment or sold their interests to Chinese companies, citing logistic obstacles, difficulty obtaining needed licenses, and/or rampant corruption of local officials.

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<sup>29</sup> *2016 Human Rights Report: China (includes Tibet, Hong Kong, and Macau) – Tibet*, US Department of State, March 2017, <https://www.state.gov/j/drl/rls/hrrpt/2016/eap/265330.htm>

<sup>30</sup> *In the Shadow of Development: Maternal and child health in crisis in Tibet*, Tibetan Centre for Human Rights & Democracy, 2015, [https://www.ecoi.net/en/file/local/1068975/90\\_1429011590\\_2015-03-tchrd-in-the-shadow-of-development-maternal-and-child-health-in-crisis-in-tibet.pdf](https://www.ecoi.net/en/file/local/1068975/90_1429011590_2015-03-tchrd-in-the-shadow-of-development-maternal-and-child-health-in-crisis-in-tibet.pdf)

<sup>31</sup> “Tibet Battles Women Trafficking”, Radio Free Asia, 2012, <https://www.rfa.org/english/news/tibet/trafficked-08242012150928.html>

<sup>32</sup> Unpublished research by the Canada Tibet Committee (on file)

<sup>33</sup> *Connecting the Dots: Moving forward responsibly*, Bombardier, 2011, p.8 <http://www.bombardier.com/content/dam/Websites/bombardiercom/supporting-documents/Sustainability/Reports/CSR/Bombardier-CSR-Overview-2011-en.pdf>

Today, so-called Canadian companies in Tibet today are likely to be Chinese companies, often state-owned, that have registered in Canada to access capital or other benefits, but who do not subscribe to Canadian human rights values.<sup>34</sup>

In 2014, Canada and China entered into a Foreign Investment Promotion and Protection Agreement (FIPPA), a bilateral investment treaty with the objective to “promote investment based on the principle of sustainable development”.<sup>35</sup> In fact, the agreement offers full protection and security only to corporate investors.<sup>36</sup> Canadian companies in Tibet (including Chinese companies flying Canadian flags-of-convenience) could, as an expectation of protection, demand state action to stop leafleting, public protest, Internet activism, or other peaceful means of expression and dissent.

In a positive development, the Government of Canada announced in January 2018 that it will create the Canadian Ombudsman for Responsible Enterprise (CORE) in response to civil society demands that legal recourse be available in Canada for corporate abuse in other countries.<sup>37</sup> Human rights advocates expect that CORE will investigate complaints and accept testimony directly from members of affected communities. While the scope of its mandate is yet to be determined, CORE will confront serious limitations when dealing with situations in Tibet. Tibetans are routinely denied access to travel documents that would enable them to travel to Canada for the purpose of providing testimony. Moreover, CORE representatives will be unable to visit project sites in Tibet for investigative purposes because Canadian diplomats are routinely denied access to Tibet.<sup>38</sup>

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<sup>34</sup> For example, Vancouver-based China Gold International Resources operates a copper mine in Tibet’s Gyama Valley. China Gold is the only overseas listing of the largest gold producer in China, China National Gold Group Corporation (China National Gold) which is a state-owned enterprise. <http://www.international.gc.ca/trade-agreements-accords-commerciaux/ncp-pcn/statement-gyama-valley.aspx?lang=eng>

<sup>35</sup> Agreement Between the Government of Canada and the Government of the People's Republic of China for the Promotion and Reciprocal Protection of Investments, <http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/china-chine/fipa-apie/index.aspx?lang=eng>

<sup>36</sup> See Penelope Simons in *The Canada-China Free Trade Agreement: Ottawa workshop report*, Canada Tibet Committee, 2018 [http://tibet.ca/media/PDF/Workshop\\_report\\_Ottawa\\_2018.pdf](http://tibet.ca/media/PDF/Workshop_report_Ottawa_2018.pdf)

<sup>37</sup> “The Government of Canada brings leadership to responsible business conduct abroad”, Global Affairs Canada, January 17, 2018, [https://www.canada.ca/en/global-affairs/news/2018/01/the\\_government\\_ofcanadabringingleadershiptoresponsiblebusinesscond.html](https://www.canada.ca/en/global-affairs/news/2018/01/the_government_ofcanadabringingleadershiptoresponsiblebusinesscond.html)

<sup>38</sup> See footnote 26



#### IV. TIBET – AN ECONOMIC OVERVIEW

Although China's rising prosperity has led to high levels of economic growth in Tibetan areas, poverty continues to plague the Tibetan people. The Government of China points to an array of statistics illustrating higher incomes, increases in GDP, and significant investment from the central government,<sup>39</sup> but discriminatory policies coupled with ongoing political repression place Tibetans at the bottom of a two-class economic and social system based primarily on race.

As Australian sociologist Gabriel Lafitte notes, "the two economies sit side-by-side, but unconnected: a largely urban economy of immigrants financed by bottomless central subsidies enjoying incomes comparable to Beijing and Shanghai; and a neglected, under-invested rural Tibetan population whose comparative advantage in producing huge surpluses of wool and dairy products has never been plugged into the Chinese economy."<sup>40</sup>

- **Poverty and exclusion amidst economic growth<sup>41</sup>**

When China introduced its "western development strategy" for Tibet in the 1990's, subsidies from the central government became a key driver of the local economy. Subsidies increased significantly again after 2008, reaching 116% of GDP in 2012, an amount equivalent to 4.6 times the rural household income in the TAR.<sup>42</sup> Unfortunately, the influx of government money has not improved living standards for the average Tibetan family. Instead it has deepened Tibet's integration into China, transferred ownership of Tibetan assets to external actors, and increased dependence of the Tibetan economy on Beijing.<sup>43</sup>

<sup>39</sup> Tibet's GDP grew by 11% in 2015 up from 10.8% growth in 2014. A selection of 2015 data is found at <http://china-trade-research.hktdc.com/business-news/article/Fast-Facts/Tibet-Market-Profile/ff/en/1/1X000000/1X06BVUL.htm> derived from The *Tibet Statistical Yearbook 2015* which compiles data by administrative region and county in the TAR including wage levels, amount of arable land, industrial output by sector, and with some gender disaggregation. Statistics are not disaggregated by ethnicity as "Chinese" or "Tibetan".

<sup>40</sup> *China's 6<sup>th</sup> Work Forum Analysis: CCP fails to address uneven development, economic exclusion*, [www.rukor.org](http://www.rukor.org) blogspot, August 31, 2015, as posted at <http://tibet.ca/en/library/wtn/13254>

<sup>41</sup> For a detailed study of these issues, see *The Disempowered Development of Tibet in China*, Andrew Martin Fischer, Lexington Books, 2014, and *State Growth and Social Exclusion in Tibet: Challenges of Recent Economic Growth*, Andrew Martin Fischer, NIAS Press, 2005

<sup>42</sup> *Subsidizing Tibet: An Interprovincial Comparison of Western China up to the end of the Hu-Wen Administration*, Andrew M. Fischer, *The China Quarterly*, Vol. 221, 2015, p 73-99

<sup>43</sup> See Andrew Fischer explain at <https://www.youtube.com/watch?v=9xkEu2hYEtE&t=117s>



UN statistics confirm that Tibetan areas of China remain the poorest in all of China. The UN Development Programme (UNDP) compiles information by province in China and assigns a “human development index” to each for comparison purposes. In 2016, the index for the TAR was the lowest in China.<sup>44</sup> The UNDP also produces a “living standard index” for China which looks at social and

economic indicators including access to water, roads, internet, and more. Here the TAR again ranks lowest in all of China while Qinghai, a predominantly Tibetan area, is second lowest.<sup>45</sup> [Photo/CTC: Tibetans are typically engaged in manual work and are poorly integrated within Tibet’s modern economy]

The UN Special Rapporteur on Extreme Poverty and Human Rights, Philip Alston, has also cautioned that the plight of Tibetans is “highly problematic” and that “most ethnic minorities in China are exposed to serious human rights challenges, including significantly higher poverty rates, ethnic discrimination and forced relocation.”<sup>46</sup>

China’s response to Tibetan poverty has been to encourage urbanization, often through forced relocation. Yet even in cities where employment opportunities are diverse, Tibetans remain disadvantaged by their ethnicity, lower education levels, and lack of fluency in Chinese language. Consequently, they are often relegated to self-employment or to physical labour - a situation is reminiscent of First Nation communities in Canada who experienced marginalization even in the midst of economic growth.

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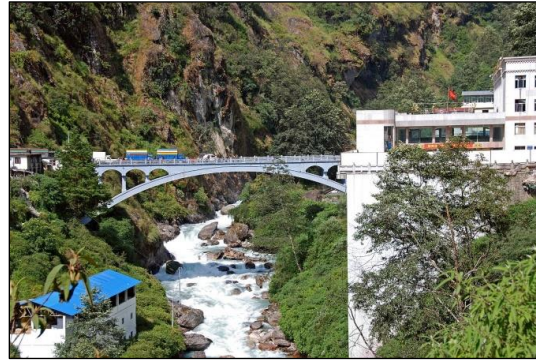
<sup>44</sup> *China Human Development Report*, UNDP-China, 2016 <http://www.cn.undp.org/content/china/en/home/presscenter/pressreleases/2016/08/22/launch-of-china-national-human-development-report-2016.html>

<sup>45</sup> *Living Standard Dimension of the Human Development Index: Measuring Poverty with Big Data in China*, UNDP-China, 2016 <http://www.cn.undp.org/content/china/en/home/library/poverty/the-living-standards-dimension-of-the-human-development-index--m.html>

<sup>46</sup> *Report of the Special Rapporteur on extreme poverty and human rights on his mission to China*, UN Human Rights Council, June 2017, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/076/79/PDF/G1707679.pdf?OpenElement>

- **Tibet as regional trader**

Despite remoteness and underdevelopment, Tibetans boast a centuries-long tradition as regional traders. In modern times, that tradition remains an objective for Chinese influence in the southern Himalaya. In January 2015, the third plenary session of the 10th Tibet People's Congress launched the "Himalayan Economic Rim Project" to facilitate trade and industrial development between Tibet, Nepal, India and Bhutan. The project will also connect Tibet to China's Belt & Road Initiative (BRI) and the Bangladesh-China-India-Myanmar Economic Corridor (BCIM).<sup>47</sup> Subsequent efforts to increase Tibetan trade with Nepal through a series of economic zones along the shared border have also been announced.<sup>48</sup>



[Photo/commons: Friendship Bridge between Nepal and Tibet]

Still, most Tibetan trade takes place with other parts of China which is itself a collective of sub-regions with cores and peripheries that operate in a manner similar to the international economy. The peripheral Tibetan areas are heavily dependent on China's industrialized eastern provinces and experience a growing interprovincial trade deficit. Although national law allows preferential treatment for autonomous areas, including the right to pursue foreign economic activity independently,<sup>49</sup> demands of the "market economy" and the need for centralized decision-making are commonly cited as reasons why local decision-making is not possible. Consequently, policies governing Tibet's economy are determined in Beijing by Party officials during the National Forums on Tibet Work which take place approximately every five years.<sup>50</sup>

<sup>47</sup> *Will Tibet become China's bridge to South Asia under the Belt and Road Initiative?* Tshering Chonzom Bhutia, *The Diplomat*, August 30, 2016, <https://thediplomat.com/2016/08/tibet-and-chinas-belt-and-road/>

<sup>48</sup> "Beijing floats 'Border Economic Zones' idea", *Kathmandu Post*, September 29, 2016 <http://kathmandupost.ekantipur.com/news/2016-09-29/beijing-floats-border-economic-zones-idea.html>

<sup>49</sup> "Law of the People's Republic of China on Regional National Autonomy" art.31, adopted 1984, amended 2011, <http://www.cecc.gov/resources/legal-provisions/regional-ethnic-autonomy-law-of-the-peoples-republic-of-china-amended>

<sup>50</sup> The most recent took place in Beijing in August 2015 during which President Xi Jinping announced various poverty alleviation programs including continued urbanization, improved social services, and

## V. KEY TRADE SECTORS AFFECTING HUMAN RIGHTS

A current approach to Canada-China trade is to develop sector-specific agreements rather than a full and comprehensive free trade agreement.<sup>51</sup> The Government of Canada has listed sectoral priorities for trade with China including some that are likely to have human rights consequences in Tibet. This section offers a short introduction to sectoral concerns.

- **Information and Communications Technology**

Several anecdotes demonstrate that the export of sophisticated information and communications technology (ICT) to China carries identifiable human rights risk. For example, following the Tiananmen Square massacre in 1989, Chinese authorities relied on a network of surveillance cameras to identify leaders in the democracy movement who had led the demonstrations. The cameras had been imported from the United Kingdom for the stated purpose of monitoring traffic flows and regulating congestion. Siemens Plessey, which manufactured and exported the cameras, and the World Bank, which had paid for their installation, claimed they had no idea that their “technologically neutral” product would be used in this way. Nevertheless, in 1995, the World Bank authorized funds to set up the same traffic flow system in Lhasa, the capital of Tibet, which at the time had no problems with traffic congestion.<sup>52</sup>

In a second example: in the early 2000’s, Nortel Networks – once Canada’s flagship corporation – invested substantially in the development of China’s nationwide digital surveillance network known as the “Golden Shield”.<sup>53</sup> China’s Golden Shield surveillance network has since been used to arrest human rights defenders and it

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preferential tax and investment initiatives. For analysis, see “China’s Tibet Work Forum: Important Policy Guidelines Given By Xi Jinping”, D.S. Rajan, Eurasia Review, August 27, 2015, <https://www.eurasiareview.com/27082015-chinas-tibet-work-forum-important-policy-guidelines-given-by-xi-jinping-analysis/>

<sup>51</sup> *Diversification Not Dependence: A Made-In-Canada China Strategy*, Public Policy Forum, October 2018 <https://ppforum.ca/wp-content/uploads/2018/10/DiversificationNotDependence-PPF-OCT2018-EN.pdf>

<sup>52</sup> This story is an excerpt from *China’s Golden Shield: Corporations and the development of surveillance technology in the Peoples Republic of China*, Greg Walton, Rights & Democracy, 2001 found at: <http://publications.gc.ca/site/eng/421743/publication.html>

<sup>53</sup> Ibid



has generated a “chill effect” discouraging expression of dissent.<sup>54</sup> Nortel subsequently invested directly in Tibetan areas of China, most notably in 2005 when it announced a contract with China’s Ministry of Railways to provide a digital wireless communications network for the controversial Gormo-Lhasa railway. Reports later indicated that Nortel’s sophisticated technology had also been used to facilitate tactical communications for up to 10,000 troops deployed along the route of the railway.<sup>55</sup>

[Photo/CTC: Damshung Station TAR, with Nortel communication tower]

These anecdotes highlight the need to monitor the end-use of technology exports.<sup>56</sup> Although in 2007 Canada entered into a binding agreement with China for “peaceful, non-military” collaboration in science and technology, the agreement does not include verification procedures to monitor end-use applications of the shared technology.<sup>57</sup> Today, China’s use of ICT (including biometric collection, artificial intelligence, and big data) to support its nationwide “social credit” system raises renewed concerns about human rights, including the rights to privacy and to effective remedy.<sup>58</sup> This state-of-the-art technology enables the Chinese state to identify and arrest human rights defenders in Tibet, and pro-democracy campaigners, trade union organizers and political dissidents across China. [Photo/FreeTibet: CCTV disguised as Tibetan prayer wheel]



<sup>54</sup> “Inside China’s surveillance state: how technology is tracking a nation”, Financial Times, July 20, 2018 <https://www.ft.com/content/2182eebe-8a17-11e8-bf9e-8771d5404543>

<sup>55</sup> *Sabotage angst along Tibet Railway*, Tibet Information Network, August 26, 2006, [http://tibet.ca/en/library/wtn/archive/old?y=2006&m=8&p=26\\_2](http://tibet.ca/en/library/wtn/archive/old?y=2006&m=8&p=26_2)

<sup>56</sup> Canada’s Military and Technology Export Control List includes “dual use” categories, but there are notable gaps and exceptions. See “What to do about dual-use digital technologies?”, Ron Deibert, Citizen Lab, University of Toronto, 2016 at <https://deibert.citizenlab.org/2016/11/dual-use/>

<sup>57</sup> *Agreement for Scientific and Technological Cooperation Between the Government of Canada and the Government of the People’s Republic of China*, article 3.e, <http://www.treaty-accord.gc.ca/text-texte.aspx?id=105085>

<sup>58</sup> *Submission to the Universal Periodic Review of China*, Human Rights Watch, March 29, 2018, <https://www.hrw.org/news/2018/03/29/submission-universal-periodic-review-china>

- **Tourism and Cultural Exchange**

Chinese authorities estimate that the TAR welcomed 23 million tourists in 2018, and predict this number will rise to 35 million by 2020.<sup>59</sup> What numbers do not reveal, however, is that the overwhelming majority of tourists in Tibet are from other parts of China. The number of foreign tourists is consistently low because independent travel in Tibet is highly restricted and no less than three special permits are required for entry.<sup>60</sup> Moreover, access to Tibetan areas can be cut off at any time without notice. Given these restrictions, Canadian efforts to promote tourism encounter predictable obstacles when it comes to Tibet.

In 2005, the *Cultural Agreement between the Government of Canada and the Government of the People's Republic of China* promised to encourage tourism and promote cultural exchange for “the study of languages, literature, culture and heritage, including those of indigenous groups, of each other's country”.<sup>61</sup> While laudable objectives, there are no examples found in which Canada has supported or participated in such projects in Tibet. Moreover, the development of cultural heritage destinations for tourism rings alarm bells for Tibetans who lament the so-called modernization of cultural sites as cultural appropriation. Recent experiences at Larung Gar and Yangchen Gar Buddhist Centres in Kardze, where thousands of religious practitioners were forcibly evicted to enable construction of a new tourist village, is a prime example.<sup>62</sup>

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<sup>59</sup> Observers dispute official numbers arguing that only 3 million tourists visited Tibet during 2015. “China’s Tibet tourism statistics just don’t add up”, Simon Denyer and CongCong Zhang, Washington Post, October 6, 2016, [https://www.washingtonpost.com/news/worldviews/wp/2016/10/06/tibettourism/?utm\\_term=.85862b1046b3](https://www.washingtonpost.com/news/worldviews/wp/2016/10/06/tibettourism/?utm_term=.85862b1046b3)

<sup>60</sup> See *One Passport, Two Systems*, Human Rights Watch, 2015 <https://www.hrw.org/report/2015/07/13/one-passport-two-systems/chinas-restrictions-foreign-travel-tibetans-and-others>

<sup>61</sup> The Agreement can be viewed at <http://www.treaty-accord.gc.ca/text-texte.aspx?id=105017>

<sup>62</sup> “China takes a chain saw to the center of Tibetan Buddhism”, New York Times, November 28, 2016 <https://www.nytimes.com/2016/11/28/world/asia/china-takes-a-chain-saw-to-a-center-of-tibetan-buddhism.html>.

See also, “The promotion of Kardze at the Shenzhen International Cultural Industries Fair” <http://www.prnewswire.com/news-releases/charming-ganzi-tibetan-autonomous-prefecture->

More recently, in an effort to support its domestic tourism industry, the Government of Canada designated 2018 as the “Canada-China Year of Tourism” (CCYT).<sup>63</sup> A stated goal of the project was to double the number of Chinese tourists to Canada by 2021. To that end the Government of Canada opened seven new visa centres in China including one in Chengdu which serves Tibetan areas.<sup>64</sup> Nevertheless, Canadian diplomats were unable to secure open access to Tibet for Canadian tourists and even Canada’s Ambassador to China was denied permission to visit Tibet *during* the CCYT.<sup>65</sup> Likewise, Canada made no discernable effort to attract Tibetan tourists to this country, for example by providing CCYT materials in Tibetan language on its website. These omissions effectively excluded Tibetans from equitable participation in the economic benefits of tourism that the CCYT claimed to promote.

- **Extractives and land rights**

Driven by demand for metals, energy and raw materials, and fueled by rapid growth and the large-scale construction of infrastructure, China now finds it financially feasible to extract mineral wealth from the Tibetan plateau.<sup>66</sup>

Facing both state-owned and private mining interests, Tibetans experience human rights violations that include: loss

of land rights, loss of traditional livelihoods, and devastating environmental destruction such as heavy metal pollution, contamination of drinking water, and the destruction of the native flora and fauna or of sites of cultural or sacred significance.<sup>67</sup> [Photo/CTA: Tibetan protest against mining project near Shigatse]



[welcomes-global-investors-and-visitors-to-ganzi-at-the-12th-china-shenzhen-international-cultural-industries-fair-300269615.html](https://www.pm.gc.ca/eng/news/2017/12/04/prime-minister-trudeau-welcomes-upcoming-canada-china-year-tourism)

<sup>63</sup> “Prime Minister Trudeau welcomes upcoming Canada-China Year of Tourism”, December 4, 2017 <https://pm.gc.ca/eng/news/2017/12/04/prime-minister-trudeau-welcomes-upcoming-canada-china-year-tourism>

<sup>64</sup> Canada-China Year of Tourism, <https://www.ic.gc.ca/eic/site/100.nsf/eng/home>

<sup>65</sup> See footnote 26

<sup>66</sup> Lafitte, Gabriel. “Tibet’s Mining Menace” May 2011 China Dialogue

<https://www.chinadialogue.net/article/show/single/en/4509-Tibet-s-mining-menace->

<sup>67</sup> *Assembly and Association Rights in the Context of Natural Resource Exploitation (in Tibet)*, Canada Tibet Committee, January 2015, <https://tibet.ca/media/PDF/SubmissionSRFreedomAssembly.pdf>

A second challenge results from government concessions of land and resources to commercial interests (be they state-owned, private, or foreign-owned). In such circumstances, the allocation of land rights by the central government “in accordance with market demands” is in reality determined by local administrators, usually without the involvement of the Tibetan land users or regard for existing agreements.<sup>68</sup> This situation is further complicated by an opaque jumble of individual contracts between individual investors and the state.<sup>69</sup>

Disputes over environmental damage or land use triggered by mining activity often lead to conflict but rarely result in resolution or compensation. The case of the Canadian company China Gold International Resources which operates a mine in TAR’s Gyama Valley, illustrates the typical dynamic: a massive landslide at the site resulted in the deaths of 83 miners and generated a review by the Government of Canada’s national contact point (NCP) for the Organization for Economic Cooperation and Development (OECD). The review highlighted human rights concerns, land expropriation, and environmental issues as well as the company’s failure to disclose important information.<sup>70</sup> Although the Government of Canada NCP issued a final statement that was sharply critical of the company and imposed penalties that are still in effect, the company nevertheless moved ahead with phase two of its project without having complied with a single NCP recommendation.<sup>71</sup>

- **Clean Technology**

Tibet is often described as the “roof of the world”, the “world’s water tower”, or the “third pole”. These are more than just slogans. They refer to Tibet’s unique

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<sup>68</sup> *Rethinking China’s Land Tenure Reform*, UN Food and Agriculture Organization, 2013, page 107, <http://www.fao.org/nr/tenure/land-tenure-journal/index.php/LTJ/article/viewArticle/62>

<sup>69</sup> *Land Deal Dilemmas: Grievances, Human Rights, And Investor Protections*, Kaitlin Y. Cordes, Lise Johnson and Sam Szoke-Burke, Colombia Centre on Sustainable Development, March 2016 [http://ccsi.columbia.edu/files/2016/03/CCSI\\_Land-deal-dilemmas.pdf](http://ccsi.columbia.edu/files/2016/03/CCSI_Land-deal-dilemmas.pdf)

<sup>70</sup> The case resulted in precedent-setting sanctions imposed on the company for non-cooperation with the review process. See *Final Statement on the Request for Review regarding the Operations of China Gold International Resources Corp. Ltd., at the Copper Polymetallic Mine at the Gyama Valley, Tibet Autonomous Region*, <https://www.international.gc.ca/trade-agreements-accords-commerciaux/ncp-pcn/statement-gyama-valley.aspx?lang=eng>

<sup>71</sup> *Canada is Back - but still far behind: An assessment of Canada’s National Contract Point for the OECD Guidelines for Multinational Enterprises*, OECD Watch, Above Ground, Mining Watch Canada, November 2016, page 4. <https://aboveground.ngo/wp-content/uploads/2017/01/Canada-is-back-report-web.pdf>



topography as the world's highest plateau (with an average elevation 4,500 meters) and its significance as the source of Asia's six largest rivers flowing into the world's ten most densely populated countries with a third of the global population. Tibet is home to the third largest store of ice and largest source of accessible fresh water on the planet. These attributes represent a common cause between the Tibetan and Canadian people.

Accordingly, on December 4, 2017, Canada and China issued a *Joint Statement on Climate Change and Clean Growth* highlighting principles that were reaffirmed a year later in Ottawa at the first bilateral ministerial-level conference held to discuss climate cooperation.<sup>72</sup> The statement envisions trade and investment opportunities for Canadian businesses exporting "climate friendly products and services" to China including nuclear, natural gas, and wood.<sup>73</sup> For China, a featured climate-friendly export has been electric buses with their lithium-ion batteries.



More than 90% of China's lithium reserves are located in Tibet.<sup>74</sup> The Chinese multinational corporation BYD Co. Ltd. holds exclusive rights to the precious lithium salts at Chabyer Tsaka Lake near Shigatse.<sup>75</sup> Although lithium extraction is closely associated with soil and water pollution affecting the human rights to health and to food,<sup>76</sup> BYD's

<sup>72</sup> "Canada and China strengthen partnership on climate and environment", Canada Newswire, November 1, 2018 <https://www.newswire.ca/news-releases/canada-and-china-strengthen-partnership-on-climate-and-environment-699317451.html>

<sup>73</sup> The *Canada-China Joint Statement on Climate Change and Clean Growth* can be accessed at <https://pm.gc.ca/eng/news/2017/12/04/canada-china-joint-statement-climate-change-and-clean-growth>

<sup>74</sup> *China's hi-tech ambitions to supplant the world's top manufacturing countries by extraction of rare strategic metals from Tibet*, Gabriel Lafitte, 2017, <http://rukor.org/innermost-veins-of-our-planet-1/>

<sup>75</sup> *Lithium: Tibet's Green Energy Treasure*, Free Tibet, 2017, <https://www.freetibet.org/lithium-tibet>

<sup>76</sup> For example, see *Lithium, water, and protest at Tibet's Minyak Lhagang Mine*, Tibet Policy Institute, June 2016 <http://tibet.ca/en/library/wtn/13458yak>

lithium ion batteries are imported to Canada in the name of “clean technology” but with scant attention to human rights violations in the supply chain.<sup>77</sup> [*Photo/Tibet Environmental Watch: Tibetans in Dartsedo County protest after lithium mine kills river fish*]

- **Agriculture and food**

The United Nations has described the human right to adequate food as a guarantee of accessible food, sustainably produced, and culturally appropriate.<sup>78</sup> Defending the right to food requires attention to such diverse concerns as land tenure, soil management, intellectual property, clean water, and political rights sufficient to support individual and community interests. For centuries, the Tibetan people have managed a sustainable food system based on the production of barley and yak-sourced dairy and meat. Beyond being traditional staples of the Tibetan diet, barley cultivation and yak husbandry are also important livelihoods in rural and pastoral communities of Tibet.<sup>79</sup>

Today, demand for barley has increased across China not for use as food but for beer production and feed for livestock. Although Tibet has a climate suited to barley cropping and thousands of years of experience breeding varieties that thrive in local conditions, access to new markets has been limited by poor infrastructure, restrictive land use controls, and lack of investment. Meanwhile, Canada with highly mechanized farms that enjoy significant government support, exported more than 1 million tonnes of barley to China in 2017,<sup>80</sup> a quarter of its total production.<sup>81</sup>

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<sup>77</sup> “BYD to Deliver First Electric Buses to Montreal and Longueuil”, BYD, August 6, 2018 <http://en.byd.com/usa/news-posts/press-release-byd-to-deliver-first-electric-buses-to-montreal-and-longueuil/> and “BYD Partnering with Canadian Province of Alberta For Development of ‘Smarter, Safer Transit Buses’”, EVObsession, September 6, 2018, <https://evobsession.com/byd-partnering-canadian-province-alberta-development-smarter-safer-transit-buses/>

<sup>78</sup> General Comment 12 on the Right to Adequate Food, UN Committee on ESCR, 1999, para 8, [http://www.fao.org/fileadmin/templates/righttofood/documents/RTF\\_publications/EN/General\\_Coment\\_12\\_EN.pdf](http://www.fao.org/fileadmin/templates/righttofood/documents/RTF_publications/EN/General_Coment_12_EN.pdf)

<sup>79</sup> A detailed study of food security challenges in Tibet is found at *Making Tibet Food Secure: Assessment of scenarios*, International Centre for Integrated Mountain Development, 2002, <http://agris.fao.org/agris-search/search.do?recordID=QZ2013000101>

<sup>80</sup> “China’s Thirst for High-End Beer Fuels Canadian Barley Surge”, Bloomberg News, December 3, 2018 <https://www.bloomberg.com/news/articles/2018-12-04/china-s-thirst-for-high-end-beer-fuels-surge-in-canadian-barley>

<sup>81</sup> Statistics and Market Information, Agriculture and Agri-food Canada, <http://agr.gc.ca/eng/industry-markets-and-trade/statistics-and-market-information/by-product-sector/crops-industry/outlook-for->

Tibetan dairy farmers have also fared poorly since the 1990s. As recently as twenty years ago production exceeded local demand, and trade provided important cash income for nomadic herders.<sup>82</sup> Today however, dairy production in Tibet has declined significantly because of state policies that forcibly removed nomadic communities from their land and reduced the number of yaks grazing on the plateau.<sup>83</sup> As a result, Tibetan dairy products have barely entered commodity chains in China except as niche “health” products, while China itself has turned to imports, including from Canada.<sup>84</sup> In 2016 for example, Canada sold 2750 tonnes of dairy products to China worth C\$5.9 million.<sup>85</sup> Increased imports will certainly have an impact on Tibetan dairy farmers. Already so-called “vegetable butter” (palm oil product) sent to Tibet by Shenzhen based conglomerates is displacing locally-produced butter that has been the mainstay of rural livelihoods for centuries.<sup>86</sup>

## VI. CONCLUSION

There is no doubt that Tibetan areas of China are less developed than Canada and that the Tibetan people have less access to basic political rights required to fully participate in international trade. In this sense, any potential agreements between Canada and China to facilitate trade between “equal partners” will certainly fail to reflect realities in Tibet. Instead, it is fair to assume that trade between Canada and China is likely to have negative impacts on human rights in Tibet unless steps are taken to avoid them. Or, put another way, steps must be taken to ensure that Canadian trade policies and agreements deliver the positive results they promise.

In considering what steps to take, Canada could look to the U.S. “Tibet Policy Act” as a useful model to consider.<sup>87</sup> It provides a framework for all aspects of the

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[principal-field-crops-in-canada/canada-outlook-for-principal-field-crops-2017-02-17/?id=1487697356376#a2](http://www.principal-field-crops-in-canada/canada-outlook-for-principal-field-crops-2017-02-17/?id=1487697356376#a2)

<sup>82</sup> *Poverty by Design: the Economics of Discrimination in Tibet*, Andrew Martin Fischer, Canada Tibet Committee, 2002 <http://tibet.ca/media/PDF/PovertybyDesign.pdf>

<sup>83</sup> Some of this is discussed by the UN Special Rapporteur on the Right to Adequate Food, Olivier De Schutter in his report “Mission to China”, UN Human Rights Council, January 2012, para 34-39, [http://www.srfood.org/images/stories/pdf/officialreports/20120306\\_china\\_en.pdf](http://www.srfood.org/images/stories/pdf/officialreports/20120306_china_en.pdf)

<sup>84</sup> *Milking Tibet*, June 2014, Rukor Blogspot, <http://rukor.org/milking-tibet/>

<sup>85</sup> Exports of Dairy Products by Country of Destination, Government of Canada <http://aimis-simia-cdic-ccil.agr.gc.ca/rp/index-eng.cfm?action=rR&pdctc=&r=139>

<sup>86</sup> “Freight train sends butter to Tibet”, China Global Times, February 11, 2019, <http://www.globaltimes.cn/content/1138486.shtml>

<sup>87</sup> *The Tibetan Policy Act of 2002*, H.R.1646 at <https://www.savetibet.org/policy-center/tibetan-policy-act/>. The Act requires ex-ante impact assessments for sensitive sectors of the economy,

American relationship with Tibetan areas of China and as such, is a valuable coherence tool. Equivalent Canadian legislation would include guidance for any Canadian entity seeking to participate in the economic, cultural or political development of Tibet and place respect for human rights principles at the cornerstone of associated policies and programs.

Canada may also wish to consider the value of HRIA exercises to minimize distributional challenges associated with increased trade in Tibetan areas of China and to maximize the benefits of trade. Such efforts could also address some of the legitimacy concerns related to trading with authoritarian states having poor human rights records. Attention to the human rights impacts of trade will also encourage stability, good governance, and sustainable development which are integral objectives of Canadian trade policy.

This paper is an initial exercise in the effort to understand the many intertwined issues affecting trade and human rights in Tibet. The Canada Tibet Committee hopes that it will inspire further debate, research, and analysis as Canada seeks to deepen its trading relationship with China while also promoting Canadian values and avoiding human rights harm.

## VII. RECOMMENDATIONS

**In recognition of Tibet-specific political and economic vulnerabilities, Canada should adopt a “Canada Tibet Policy Act” to inform its relationship with the Government of China:**

- The purpose of the Act is to avoid harm and to promote human rights in Tibetan areas of China;
- The Act will serve as a coordination framework to ensure consistency across Government of Canada policies and programs that affect Tibet, including trade and investment policy;
- The Act will promote Sino-Tibetan dialogue as an appropriate means for peaceful settlement of the Tibet issue;

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provides mechanisms for stakeholder engagement, encourages independent monitoring of the impacts of trade, excludes resettlement components from bilateral arrangements, and denies government support for projects that facilitate the transfer of land or natural resources to non-Tibetans.

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- The Act will provide guidance to Canadian companies, investors, and development professionals with interests in Tibet;
- The Act will include an annual public reporting process based on established indicators.

**Canada should ensure that human rights safeguards are integrated across all aspects of its trade policy with China including trade agreements, trade promotion, trade services, and export support:**

- Require ex-ante “human rights impact assessments” before the negotiation of bilateral trade agreements with China whether the agreements are comprehensive or sectoral in nature;
- Review its existing bilateral agreements with China to identify potential differential impacts in Tibet and adopt related mitigation approaches;
- Review its existing “corporate social responsibility” commitments with a view to advancing their implementation in Tibet;<sup>88</sup>
- Require that China ratify the *International Covenant on Civil and Political Rights*, and lift its reservation to Article 8 (labour rights) of the *International Covenant on Economic, Social and Cultural Rights* as a prerequisite of any future trade negotiations or bilateral agreements.

**Canada should require reciprocal access to Tibet before negotiating any trade or other bilateral agreements with China:**

- Seek to establish a “trade office” or other diplomatic presence in the Tibetan capital city Lhasa;
- Restrict Canadian visas for government officials from Tibetan areas of China until reciprocal access is given to Canadian diplomats seeking to visit Tibet;
- Require an immediate end of discriminatory restrictions on travel documents for Tibetans;
- When issuing tourist, student, or business visas to citizens of China for travel to Canada, attention should be given to fair and equal treatment for Tibetans.

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<sup>88</sup> Current CSR commitments are listed at <https://www.international.gc.ca/trade-agreements-accords-commerciaux/topics-domaines/other-autre/csr-rse.aspx?lang=eng>

**In the negotiation of trade and investment agreements with China, Canada should incorporate human rights responsibilities for companies directly into the investment chapter of the agreement:**

- Human rights obligations should be explicitly highlighted as legally relevant for consideration within dispute arbitration;
- Mandatory referral procedures for dispute arbitrators to consult or seek opinion from human rights experts or agencies should be incorporated within trade agreements;
- Human rights obligations on investors could be enforced through a number of different mechanisms mandated by the treaty including the obligation on the state parties to provide a civil remedy for victims of corporate-related human rights violations.

**Canada should facilitate access to justice in Canada for Tibetans whose human rights have been negatively affected by Canadian trade or investment:**

- Create a complaints mechanism within the local Canada trade office to hear complaints from Tibetan community members and to facilitate appropriate mitigation and/or compensation as required;
- Ensure that Canada-China trade agreements include countervailing measures and safeguards sufficient to allow for appropriate remedy to Tibetans who experience negative impacts of trade;
- Appoint a Canadian Ombudsman for Responsible Enterprise (CORE), mandated to compel documentation and conduct independent investigations into allegations of corporate wrong-doing including in Tibet.

**Canada should identify how its sectoral trade priorities with China will impact specific human rights in Tibet and it should adopt appropriate mitigation measures to address those impacts. Particular attention should be given to the following sectors.**

*Information and communications technology:*

- Convey to Chinese counterparts that the free flow of information both within China and between Chinese and Canadian citizens, including over the

Internet, is a necessary prerequisite to negotiations for expanded Canada-China trade;

- Review China's Cybersecurity legislation to identify conflicts with pre-existing Canadian privacy legislation or other legally binding obligations Canada has assumed as party to the *International Covenant on Civil and Political Rights*;
- Develop a code of conduct related to the export of dual-use technology to China and encourage Canadian researchers and exporters to join the Global Network Initiative.<sup>89</sup>

#### *Culture and tourism:*

- Take steps to ensure that joint initiatives designed to promote tourism are not associated with forced evictions of Tibetans from institutions or land;
- Initiate collaborative projects that encourage and promote the study and use of Tibetan language;
- Require reciprocal access for Canadian tourists wanting to visit Tibetan areas of China including immediate lifting of requirements for special entry permits and supervised group travel.

#### *Extractives and land rights:*

- Deny government loans, insurance guarantees, or other support for Canadian investment projects that facilitate the transfer of land or natural resources to non-Tibetans;
- Require both human rights and environmental impact assessments of Canadian extractive sector investment in Tibetan areas of China;
- Establish import controls on products imported from China and using conflict minerals from Tibet including lithium;
- Apply transparency requirements on Canadian investment projects in Tibet with respect to licensing of land rights.

#### *Clean technology:*

- Emphasize Canada's commitment to the *UN Framework principles on human rights and the environment* in bilateral cooperation agreements with China related to clean technology.<sup>90</sup> Special emphasis should be given to –

<sup>89</sup> <https://globalnetworkinitiative.org/>

- relevance and importance of freedom of expression (principle 5)
- importance of environmental and human rights assessment (principle 8)
- requirement of access to effective remedies (principle 10)
- effective enforcement of environmental standards on private actors (principle 12)
- protection of the right to lands, territories and resources of traditional communities (principle 15).

*Agriculture:*

- Take steps to ensure that Canadian food exports do not displace locally-produced and culturally appropriate food such as barley or dairy;
- Facilitate tariff exclusions in the interests of food security and local development of the Tibetan economy;
- Consider capacity-building cooperation (through an adjustment fund, aid-for-trade etc.) to discourage rural exodus and support skills development programs particularly for small-scale producers and women in Tibet;
- Provide explicit exemption for climate change policies within Canada-China trade agreement obligations.



Free trade is not a free pass: human rights matter.

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<sup>90</sup> *Framework principles on human rights and the environment*, John Knox, UN Special Rapporteur on Human Rights and Environment, Human Rights Council, A/HRC/37/59, March 2018  
<https://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/FrameworkPrinciplesReport.aspx>



## VIII. APPENDICES

### i. Project Resources

Online Cross-Canada Survey Results – Trade Campaign

Canada Tibet Committee

September 2018

[http://tibet.ca/media/PDF/Online\\_survey\\_results\\_2018.pdf](http://tibet.ca/media/PDF/Online_survey_results_2018.pdf)

*Tibet and the Canada-China Free Trade Agreement: Do human rights matter?*

Workshop Report

In association with the Tibetan Canadian Cultural Centre

September 2018

[http://tibet.ca/media/PDF/Workshop\\_report\\_Toronto\\_2018.pdf](http://tibet.ca/media/PDF/Workshop_report_Toronto_2018.pdf)

*Tibet and the Canada-China Free Trade Agreement*

Workshop Report

In association with the Himalaya Program, University of British Columbia

May 2018

[http://tibet.ca/media/PDF/Workshop\\_report\\_Vancouver\\_2018.pdf](http://tibet.ca/media/PDF/Workshop_report_Vancouver_2018.pdf)

*Canada-China Free Trade Agreement: Do human rights matter?*

Workshop Report

In association with Human Rights Research & Education Centre, University of

Ottawa

March 2018

[http://tibet.ca/media/PDF/Workshop\\_report\\_Ottawa\\_2018.pdf](http://tibet.ca/media/PDF/Workshop_report_Ottawa_2018.pdf)

Canada-China Trade Consultations

Written Submission to Global Affairs Canada

May 2017

<http://tibet.ca/blog/wp-content/uploads/2017/06/CCFTA.-screening.-May2017.pdf>

China's Subsidies to Tibet

Video presentation by Andrew M. Fisher

Canada Tibet Committee, 2010

<https://www.youtube.com/watch?v=gxkEu2hYEtE&t=119s>

## ii. Illustrative HRIA indicators

The goal of a human rights impact assessment (HRIA) is to provide guidance in the interests of concluding trade agreements that will increase inclusivity, enhance good governance, improve the well-being of people, and secure the enjoyment of human rights for all. That said, it is a considerable conceptual challenge to illustrate the causal *relationship* between a state's compliance with a specific trade measure and human rights outcomes.<sup>91</sup>

Much has been written about the use of human rights indicators to address this challenge and there are numerous resources available that can be adapted for use in HRIAs of trade agreements.<sup>92</sup> Selected indicators can also serve as the basis for an ongoing monitoring and evaluation process to accompany the trade agreement.

Using the Tibet example, this table illustrates how researchers might begin to conceive an HRIA exercise and select appropriate indicators. The table is simply an illustrative sample designed to generate discussion. It was presented to workshop participants for that purpose and to encourage an examination of the links between trade and human rights.

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<sup>91</sup> *The Continental Free Trade Area in Africa – a Human Rights Perspective*, UN Economic Commission for Africa & Friedrich Ebert Stiftung, 2017, page 44  
<https://www.uneca.org/publications/continental-free-trade-area-cfta-africa-%E2%80%93-human-rights-perspective>

<sup>92</sup> For example: *Getting it Right: Human Rights Impact Assessment Guide*, Rights & Democracy, 2011, <http://hria.equalit.ie/en/>; the UN Office of the High Commissioner for Human Rights compliance indicators for human rights: <http://www.ohchr.org/EN/Issues/Indicators/Pages/documents.aspx>; specialized agencies of the United Nations offer issue-specific indicators, for example the UN Food and Agriculture Organization (FAO) for the human right to food [http://www.fao.org/fileadmin/user\\_upload/righttofood/docs/1\\_assessment\\_checklist\\_en.pdf](http://www.fao.org/fileadmin/user_upload/righttofood/docs/1_assessment_checklist_en.pdf), and the UN Statistical Office for climate change, [https://unfccc.int/sites/default/files/resource/3\\_Ms.%20Reena%20Shah\\_UNSD\\_AdaptationPresentation\\_16July2018.pdf](https://unfccc.int/sites/default/files/resource/3_Ms.%20Reena%20Shah_UNSD_AdaptationPresentation_16July2018.pdf)

| TRADE OBJECTIVE                       | HUMAN RIGHTS IN LAW                                                                                                                                                                                                                                                                                                                                                                                                                          | HUMAN RIGHTS IN PRACTICE                                                                                                                                                                                                                                                                                                                                                                                                                             | SAMPLE INDICATORS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | BENCHMARKS                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| STAKEHOLDER ENGAGEMENT                | <p>The right to participate in public affairs (ICCPR 25.a and UDHR 21); the right to free expression and to hold opinions (ICCPR 19); the right to seek, receive and impart information and ideas of all kinds (ICCPR 19); the right to self-determination (ICCPR 1 and ICESCR 1)</p> <p>China's Law on Regional National Autonomy: guarantees related to local ownership of cross-border trade (art. 31); public consultation (art. 51)</p> | <p>Tibetan stakeholders are not consulted or informed about trade agreements in negotiation.</p> <p>Rural poor and women are particularly excluded from consultative processes.</p> <p>Cdn diplomats are denied access to Tibet and/or are closely monitored when meeting with Tibetans.</p> <p>Tibetans who express dissenting points of view are arrested and imprisoned.</p> <p>Principle of free, prior and informed consent is disregarded.</p> | <p>Implementation of UPR recommendations related to access to information and free expression in China and Tibet.</p> <p>Quality and distribution of Tibetan language information about the trade agreement.</p> <p>Number of community-based consultations in Tibet.</p> <p>Govt. adopts policy measures to protect land rights and traditional livelihoods of Tibetans.</p> <p>Number of meetings between Canadian trade negotiators and local officials in Tibet address gender, labour equity, and environmental issues.</p> <p>Number of arrests related to expressions of dissent.</p> | <p>China ratifies the ICCPR.</p> <p>China grants reciprocal diplomatic access to Tibet.</p> <p>Canada establishes a trade office in Lhasa.</p> <p>Radio Canada International launches Tibetan language programming.</p> <p>Canada publishes an annual report on the situation in Tibet with particular attention to human rights defenders (as per <i>Voices at Risk</i>).</p> |
| NATIONAL TREATMENT/NON-DISCRIMINATION | <p>International Convention on the Elimination of all Forms of racial Discrimination (CERD 1.c, art. 5 &amp; 6); Right to equality and non-discrimination (UDHR 2 &amp; 7 and ICCPR 27); right to an adequate standard of living (ICESCR 11); The right to freedom of association (UDHR, art.20); the right to equal pay for equal work (UDHR, art. 23.2); the right</p>                                                                     | <p>Discriminatory travel restrictions prevent Tibetan entrepreneurs from accessing trade opportunities in Canada.</p> <p>Tibet-owned businesses lack capacity to identify Canadian joint venture partners.</p> <p>Profits earned in Tibet are transferred to other parts of China</p>                                                                                                                                                                | <p>UN-CERD recommendations to China.</p> <p>UNDP provincial HDI for China.</p> <p>Number of Tibetans who request and receive passports for foreign travel.</p> <p>Exemption in trade agreements for sacred sites and cultural</p>                                                                                                                                                                                                                                                                                                                                                            | <p>China grants equal access to passports for Tibetans.</p> <p>China lifts reservation to article 8 of ICESCR.</p> <p>Canada establishes a quota for Tibetan visas to Canada including for trade and education purposes.</p> <p>Canada explicitly promotes Tibet-</p>                                                                                                          |

| TRADE OBJECTIVE                                | HUMAN RIGHTS IN LAW                                                                                                                                                                                                                                                                                                                                                                                                                                                     | HUMAN RIGHTS IN PRACTICE                                                                                                                                                                                                                                                                                                                                                                                                                          | SAMPLE INDICATORS                                                                                                                                                                                                                                                                                                                                                                                                                      | BENCHMARKS                                                                                                                                                                                                                                                                                                                                                    |
|------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                | <p>to equal remuneration (ICESCR, art. 7); the right to form a trade union (ICESCR, art. 8); the right to work (ICESCR, art. 6); Equality before the law (ICCPR, art. 26); Equality between men and women (ICCPR, art. 3).</p> <p>China’s Law on Regional National Autonomy: non-discrimination (art. 9); affirmative action (art. 22, 61, 67)</p>                                                                                                                      | <p>and not reinvested in the Tibetan economy.</p> <p>Benefits of enhanced trade with Canada accrue primarily to Chinese entrepreneurs.</p> <p>Value-added jobs resulting from the trade agreement accrue primarily to Chinese migrant workers in Tibet.</p> <p>Tibetan underemployment increases.</p>                                                                                                                                             | <p>traditions of Tibetan people.</p> <p>Affirmative action provisions to encourage Tibetan employment.</p> <p>Transparency measures related to pay equity.</p> <p>Number of Tibetan women-led companies exporting goods to Canada.</p>                                                                                                                                                                                                 | <p>Canada linkages through its trade services.</p> <p>Canada eliminates investor-state provisions that would act to discourage affirmative action policies to encourage Tibetan employment.</p> <p>Canada carries out a gender-analysis in Tibet to better understand vulnerabilities experienced by Tibetan women.</p>                                       |
| INVESTMENT / DISPUTE SETTLEMENT                | <p>The right to an effective remedy (ICCPR, art. 2); the right to be equal before the courts (ICCPR, art. 14.1); the right to informed of charge in the language which he understands (ICCPR, art. 14.2a); the right to equal protection under the law (ICCPR, art. 26; the right to freedom of expression and opinion (ICCPR, art.19)</p> <p>China’s Law on Regional National Autonomy: admin of justice, access to courts (art. 46); language of proceedings (47)</p> | <p>No independent judiciary, no due process.</p> <p>Companies invoke investor protections in trade agreements to quash dissent in Tibet.</p> <p>Chinese SOEs with Canadian offices use investor protections in trade agreements to quash dissent in Tibet.</p> <p>Broad definition of “investor” disadvantages Tibetans and risks loss of traditional Tibetan knowledge.</p> <p>Arbitration processes are not translated to Tibetan language.</p> | <p>Number of Canadian companies in Tibet that use Chinese state security services.</p> <p>Number of trade dispute arbitrations that implicate Tibet.</p> <p>Number of trade dispute arbitrations that provide remedy or compensation to Tibetans. Effectiveness of local and/or national judicial remedies for Tibetans in China.</p> <p>Number of Tibetans who to travel to Canada to provide testimony to parliament or to CORE.</p> | <p>Canada adopts a “Canada Tibet Policy Act”.</p> <p>Canada requires Canadian companies to comply with its CSR commitments.</p> <p>Canada excludes patent holders from the definition of “investor”.</p> <p>Canada appoints the Ombudsman for Responsible Enterprise.</p> <p>Provincial governments in Canada explicitly endorse federal CSR commitments.</p> |
| MARKET ACCESS – Information and Communications | <p>The human right to an international order in which all rights can be fully realized</p>                                                                                                                                                                                                                                                                                                                                                                              | <p>State avails itself of new technology to identify and arrest human rights defenders.</p>                                                                                                                                                                                                                                                                                                                                                       | <p>Number of human rights defenders arrested due to online surveillance.</p>                                                                                                                                                                                                                                                                                                                                                           | <p>China ratifies the ICCPR</p> <p>China amends its Cyber-Security</p>                                                                                                                                                                                                                                                                                        |

| TRADE OBJECTIVE                             | HUMAN RIGHTS IN LAW                                                                                                                                                                                                                                                                                                                    | HUMAN RIGHTS IN PRACTICE                                                                                                                                                                                                                                                                                                                     | SAMPLE INDICATORS                                                                                                                                                                                                                                                                                                                                                                  | BENCHMARKS                                                                                                                                                                                                                                                                                                   |
|---------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Technology                                  | (UDHR art. 28); the right to security of the person (UDHR, art. 3); the right to be free from torture (ICCPR, art. 7); the right to free expression and to information (ICCPR, art. 19); the right to privacy (ICCPR, art. 17)                                                                                                         | <p>Detained human rights defenders risk torture and are denied due process.</p> <p>Surveillance leads to collective punishment of families and communities.</p> <p>Chill effect on freedom of opinion and expression.</p>                                                                                                                    | <p>Reports of torture while in detention.</p> <p>Increases/decreases in human rights reporting from Tibet.</p> <p>Access to resources such as Radio Free Asia; Central Tibetan Administration; Globe &amp; Mail; Canada Tibet Committee</p>                                                                                                                                        | <p>Legislation adopted in 2017.</p> <p>Canada strengthens export controls related to dual-use technology. Canadian ICT companies join the Global Network Initiative (GNI).</p>                                                                                                                               |
| MARKET ACCESS – Tourism & Culture           | <p>The right to take part in cultural life (ICESCR, art. 15); the right to an adequate standard of living (ICESCR, art. 11); the human right to freedom of religion (ICCPR, art. 18)</p> <p>China’s Law on Regional National Autonomy: cultural development (art. 38); traditional medicine (art. 40); cultural exchange (art. 42)</p> | <p>Commercialization of Tibetan religious institutions.</p> <p>Cultural appropriation of traditional religion, handicrafts and medicine.</p> <p>Violations of land tenure systems, evictions, and forced relocation.</p> <p>Loss of traditional language.</p> <p>Exclusion from the financial benefits of tourism and cultural exchange.</p> | <p>Number of disputes related to forced evictions for tourism development in Tibet.</p> <p>Number of patents afforded to non-Tibetans for commercial use of traditional Tibetan medicine.</p> <p>Number of Tibetans permitted to travel abroad for religious pilgrimage.</p> <p>Number of Canadian tourists visiting Tibet.</p> <p>Number of Tibetan tourists visiting Canada.</p> | <p>Canada explicitly prohibits investment in projects that include forced evictions of Tibetans from their institutions or land.</p> <p>China eliminates special permits required for Canadian visitors to Tibet.</p> <p>Canada establishes a quota to encourage Tibetan tourists to visit this country.</p> |
| MARKET ACCESS – Extractives and land rights | The right to self-determination (ICESCR, art. 1); right to freedom of assembly (ICCPR, art. 21); the right to housing (UDHR, art. 25); the right to water (ICESCR, GC.15); the right to free expression (ICCPR, art. 19).                                                                                                              | <p>Foreign extractive companies license land rights without Tibetans community informed approval.</p> <p>Community leaders forced to transfer land under threat of</p>                                                                                                                                                                       | <p>Amount of land in Tibet expropriated for the extractive sector.</p> <p>Number of protests related to extractives.</p>                                                                                                                                                                                                                                                           | <p>Trade sanctions available for Canadian extractive companies found to violate human rights in Tibet.</p> <p>Moratorium on Canadian companies mining in Tibet.</p>                                                                                                                                          |

| TRADE OBJECTIVE                  | HUMAN RIGHTS IN LAW                                                                                                                                                                                                                                                | HUMAN RIGHTS IN PRACTICE                                                                                                                                                                                                                                                                                                                                                               | SAMPLE INDICATORS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | BENCHMARKS                                                                                                                                                                                                                                                                                                                                                                     |
|----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                  | China's Law on Regional National Autonomy: manage and protect natural resources (art. 28)                                                                                                                                                                          | imprisonment.<br><br>Tibetans excluded from benefits of trade in natural resources.<br><br>Human rights defenders are arrested for defending cultural rights related to sacred land.                                                                                                                                                                                                   | Statistics related to water pollution near mine sites.<br><br>Amount of compensation offered for land expropriation and loss of livelihood.<br><br>Transparency measures around investor-state contracts.                                                                                                                                                                                                                                                                                                              | Import controls on lithium mined in Tibet and products using lithium mined in Tibet.                                                                                                                                                                                                                                                                                           |
| MARKET ACCESS – Clean Technology | The human right to intellectual property (ICESCR, art.15); the right to health (ICESCR art. 12); the right to food (ICESCR art. 11); the human right to water (ICESCR, GC.15)<br><br>China's Law on Regional National Autonomy: environmental protection (art. 45) | Increased levels of pollution causing harm to health.<br><br>Failure to mitigate climate change impacts limits ability to produce culturally appropriate food.<br><br>Degradation of natural environment including water leads to loss of farming or herding livelihoods.<br><br>Forced evictions and resettlement of nomadic communities.<br><br>Environmental activists face arrest. | Indicators developed by UN Statistical Division – “Climate Change Statistics and Indicators”<br><br>Financial support for collaborative research projects btw Tibetan and Canadian universities related to climate change commonalities.<br><br>Canada-China trade agreements and MOUs include exclusions for climate-related legislation policies.<br><br>Tariff levels on China's clean tech exports to Canada known to exploit Tibet's environment.<br><br>Number of environmental activists arrested and detained. | Canada adopts the UN Framework Principles on Human Rights and the Environment as the underpinning for trade arrangements in the area of clean technology.<br><br>Canada prohibits the import of bottled water from Tibetan areas of China.<br><br>Canada requires EIA before insurance guarantees or other financial support to companies exporting clean technology to Tibet. |
| MARKET ACCESS – Agriculture      | The right to self-determination (ICESCR, art.1); the right to an adequate standard of living including the right to be free from hunger (ICESCR, art. 11); the right to water (CESCR,                                                                              | Tibetan livelihoods at risk because of competition from large-scale producers in China and other countries.<br><br>Indigenous innovation and                                                                                                                                                                                                                                           | Availability and affordability of culturally-appropriate food.<br><br>Cost differential between locally produced and imported food.                                                                                                                                                                                                                                                                                                                                                                                    | Canada excludes tariff reduction for commodities at the core of Tibetan livelihoods such as barley and dairy.<br><br>Canada encourages special safeguard measures to protect small producers                                                                                                                                                                                   |

| TRADE OBJECTIVE | HUMAN RIGHTS IN LAW                                                                                           | HUMAN RIGHTS IN PRACTICE                                                                                                                                                                                  | SAMPLE INDICATORS                                                                                                                                                                                                                      | BENCHMARKS                                                                                                                                                                                                             |
|-----------------|---------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                 | <p>GC.15)</p> <p>China's Law on Regional National Autonomy: local agriculture and agri-business (art. 63)</p> | <p>intellectual property is captured by foreign-owned agri-business.</p> <p>Lack of food security information systems in rural Tibet.</p> <p>Insufficient land and grazing rights for rural Tibetans.</p> | <p>Attention to gender-specific dimension of food security including for pregnant and nursing mothers.</p> <p>Accessibility and outcomes of recourse mechanisms.</p> <p>Coherence between national law and regional food policies.</p> | <p>and local production in Tibet.</p> <p>Canada seeks to apply the 2016 CEDAW General Recommendation related to protecting the rights of rural women in all aspects of its trade policy in Tibetan areas of China.</p> |