In partnership with the Tibetan Canadian Cultural Centre (TCCC), the Canada Tibet Committee (CTC) hosted a workshop for the Tibetan community in Toronto on September 15, 2018. The purpose of the workshop was to share preliminary outcomes of the CTC research project on trade and human rights in Tibet, and to solicit the points of view of the community. This workshop report includes a summary of the presentations and discussion, a list of external resources, and the workshop agenda. It also provides preliminary results of the online survey that solicited Tibetan opinions from across Canada.
INTRODUCTION

In partnership with the Tibetan Canadian Cultural Centre (TCCC), the Canada Tibet Committee (CTC) hosted a workshop in Toronto on September 15, 2018. The purpose of the workshop was to share preliminary outcomes of the CTC research project on trade and human rights in Tibet, and to solicit the points of view of the Tibetan community.

Special guest speaker, Dr. Winnie Ng, offered insights into the struggle of Chinese workers to realize their human rights. Project coordinator, Carole Samdup, summarized the background paper and provided an overview of project results to date. Workshop participants presented their perspectives on the issues raised.

The workshop was attended primarily by young Tibetans, as well as guests from the Chinese democracy movement in Toronto, and TCCC representatives. The workshop was part of a broader initiative by the CTC to engage with the Tibetan community about the proposed Canada-China Free Trade Agreement (FTA). Workshop outcomes will inform a revision of the background paper to be published in the fall of 2018.

SUMMARY OF PANEL PRESENTATIONS

The workshop was opened by Sherap Therchin, Executive Director of the Canada Tibet Committee. In his welcome words, Mr. Therchin thanked the TCCC for providing a meeting room for the workshop and he acknowledged the presence of retired Senator Consiglio DiNino who is currently Chair of the CTC Board of Directors. Therchin then introduced workshop speakers Winnie Ng and Carole Samdup.

Presentation summaries:

- CAROLE SAMDUP: CTC trade project coordinator, and former executive director.
  
  Presentation Topic: Project introduction and rationale

Carole reminded participants that there is no “Canada-China Free Trade Agreement” in effect right now, nor are there any formalized FTA negotiations currently underway between Canada and China. The proposed agreement remains in a “feasibility” phase. The purpose of the project is to prepare for an imminent announcement that formal negotiations have been launched.

Why focus on trade?

1. It is important to acknowledge that securing more market access is the driving force behind Canada’s foreign policy with China. Government officials have described Canadian priorities in China as: attracting Chinese investment to Canada; opening new markets for Canadian exports to China; and bringing more Chinese students to Canada.
In addition, the Government of Canada maintains a network of at least 100 trade commissioners across China, including in Chengdu with responsibility for Sichuan. Moreover, of all the “mandate letters” written by Prime Minister Trudeau to guide his cabinet ministers, only one mentions China and that is to the trade minister.

2. The CTC mandate is to defend and promote human rights in Tibet. Having recognized that trade and investment are the dominant policy drivers with respect to Canada’s China policy, the CTC must develop a coherent message to keep Tibet on the government’s policy agenda during trade negotiations. CTC spokespeople will need an informed message which in turn requires an investment in learning.

3. Finally, the CTC has a long history of attention to economic and social rights in Tibet and advocacy around the trade agreement is a natural progression of that work. Since 1993, the CTC efforts have resulted in precedent-setting outcomes but have also highlighted obstacles to successful public advocacy around economic rights in Tibet. The project attempts to address some of those obstacles.

The CTC has no preconceived position on the trade agreement itself. The CTC does, however, expect the Government of Canada to carry out human rights due diligence in the form of a “human rights impact assessment” which has been recommended to states by the UN Human Rights Council. The CTC reserves the right to adopt a stronger position on the FTA depending how negotiations proceed. A summary of research results follows Winnie Ng’s presentation.

- Winnie Ng: Labour activist, Professor at Ryerson University, and Chair of the Toronto Association for Democracy in China. Presentation Topic: The human rights challenges faced by workers in China.

Winnie acknowledged that the City of Toronto sits on traditional territory of the Mississaugas of the Credit, the Anishnabeg, the Chippewa, the Haudenosaunee and the Wendat peoples. Winnie reminded participants that like Tibetan-Canadians, all non-indigenous Canadians came to this country as immigrants or refugees. She herself came to Canada from Hong Kong as a foreign student and has now been here for 50 years.

To set the context of discussion, Winnie explained that the purpose of bilateral (between 2 countries) free trade agreements is to eliminate barriers and tariffs in the interest of increasing market access across borders for goods and services. The agreements often contain enabling mechanisms for labour mobility as well. Each country negotiates in its national interest to facilitate cross-border trade, reduce barriers and maximize profit for the corporate sector. But it
is important to recall that “free” trade does not necessarily mean “fair” trade, especially with respect to worker rights.

From the perspective of organized labour, free market capitalism encourages corporations to go global in the name of maximizing profit. This means shopping for the cheapest labour and the most cooperative governments who will turn a blind eye to labour and environmental violations. Over the past decades, this has contributed not only to the relocation of production, but also to restructuring of the labour market itself to allow for more “flexibility”. The result is fewer benefits for workers and their families. To give an example, garment industry jobs have moved from Toronto to Mexico, then to the Pearl River Delta, and now to Vietnam, Cambodia, or Bangladesh. In the supply chain of cheap labour, workers are used, abused, and disposed of when they organize for better benefits and higher wages.

Here in Canada, trade unions support trade agreements that promote economic equality, encourage the creation of good jobs, support the interests of working people, and ensure ecological sustainability. Today, not a single trade agreement being considered or negotiated by the federal government meets those criteria.

If we look at trade agreements in this light, what can be said about the possible impacts of a Canada-China FTA on the labour rights of workers in China? Chinese workers do not enjoy freedom of association. In other words, independent trade unions do not exist and they cannot choose to join a union of their choice. There is no right to collective bargaining and no right to strike. The All-China Federation of Trade Unions (ACFTU) is the only trade union in China but it is part of communist party’s apparatus and its purpose is to promote workplace harmony. Even after the massive privatization of state-owned enterprises in the 1980s, ACFTU has failed to shift its role to the enabling of suitable structures for collective bargaining, or to encouraging membership participation in the election of union representatives. In many workplaces, the ACFTU union president is the wife of the Human Resources Director or Party Secretary at the workplace. In China, there is no genuine union representation or accountability to membership.

Chinese workers bear the brunt of the country’s transition to open market economic reforms which have forced millions of workers into unemployment without compensation or benefits. Those who are employed often find work in the sub-contracting system where conditions are poorly supervised. In July this year, China’s Ministry of Emergency Management reported an alarming number of workplace deaths and accidents, particularly in the construction industry (1700 deaths and more than 1700 accidents). The vast majority were migrant workers working for sub-contractors.
In the face of these obstacles, Chinese workers have been struggling to claim basic human rights. For example, 6,000 women workers went on strike at the Heavenly King Textile plant in 1994. Lasting 7 weeks, the walkout was the longest strike in China since 1949. Although the strike failed to establish the right to form an independent trade union, strike leaders were eventually freed from jail. In 2010, China’s largest private sector investor, Taiwan-based Foxconn, witnessed the tragic suicide of 13 young workers protesting a range of brutal management practices. Foxconn manufactures electronic devices for multinational companies including Apple, Microsoft, Samsung, Sony and others.

Today, Chinese workers are still standing up for their human rights and dignity. Despite the ongoing risk for worker leaders, who often face arrest for “inciting unrest” or “disrupting social order”, protests continue unabated. With the support of labour lawyers and non-governmental organizations, workers have made their situation known to the public at large and are amplifying their calls for more representation. There were more than 6,600 strikes or protests in the past 3 years alone. Labour activism has expanded from the Pearl River Delta region to inland provinces and from the manufacturing sector to construction, education, and the service industry. In fact, according to the China Labour Bulletin, there have been at least four worker protests over unpaid wages reported in the Tibet Autonomous Region since 2010. (https://www.clb.org.hk/)

Tibetan women workers like their counter-parts in China experience tremendous gender discrimination in addition to the day to day discrimination based on their culture and language. The report prepared the Tibetan Justice Centre in 1998 to the UN Committee on the Elimination of Discrimination against Women has highlighted unequal remuneration for work, sexual discrimination in recruitment, employment fines for women (maternity, toilet breaks etc.) and sexual harassment among other practices. In addition, many factories employ young female migrant workers who work excessive hours in unsafe conditions resulting in overwork, ill health, occupational disease and accidents and in some cases deaths by overwork. While it is most unfortunate and highly problematic that more current independent research cannot be conducted Tibetan Autonomous Region due to the highly restrictive designation by the Chinese government, one can surmise that gender discrimination persists for women workers including Tibetan women in China.

China has witnessed a renewed crackdown on labour rights organizations since 2015. Authorities have shut down “worker centres” and detained their leaders. Nevertheless, statistics show that the number of protests remains consistent at approximately 2600 recorded annually. This is an indicator that Chinese workers will not give up their struggle.
Turning attention to Canada’s potential trade agreement with China, it is important to remember that China is Canada’s second largest trading partner. So far, after three rounds of talks, Canada is maintaining its commitment to a “progressive” agreement that respects labour rights, gender equality, and environmental protection. But there are warning signs for workers in both countries. How will Canada and China decide to harmonize labour rights? Will it be a race to the bottom for workers in both Canada and China?

For example, take the growing phenomenon witnessed in Africa and other countries where Chinese companies investing in infrastructure construction bring in their own labour and confine workers in camps. No jobs are created for local communities and worker conditions in the camps are not monitored. As mentioned earlier, labour mobility is often part of trade negotiations but there are questions about what labour protections will apply to Chinese migrant workers in Canada. Determining which labour code will apply here could become a contentious issue that will impact labour standards for workers both here and in China.

In conclusion, Winnie noted Prof. Potter’s recommendation to Canadian trade negotiators (during the Vancouver workshop) that they adhere to the “3 Ps” which are preparation, patience, and perseverance. To that recommendation, Winnie adds her “3 Cs” approach which is that Canadian negotiators must be cautious, critical (be skeptical of the ‘promises’), and courageous. Winnie emphasized that the Government of Canada must maintain the political will to stand tall and defend core values of human rights, rule of law, gender and labour rights. What all of us want at the end of the process is a trade agreement that promotes the interests of working people in both countries.

- **Carole Samdup**: CTC trade project coordinator  **Topic**: Summary of research results

Carole described the project methodology which began with a review of available literature coupled with outreach to academics in various countries. These two processes informed a first draft of the background paper. The draft paper was submitted to the Government of Canada trade consultations process and its recommendations were discussed with trade officials in Ottawa, shared with civil society networks including the Ottawa-based Public Policy Forum, and presented to the Parliamentary Standing Committee on Foreign Affairs and International Trade.

Subsequently, the original draft paper was revised and shared with participants at three workshops – the first in association with the Human Rights Law Clinic at the University of Ottawa in March, the second in association with Himalayan Program at the University of British Columbia in May, and the third is today’s event. The CTC also submitted versions and/or excerpts of the background paper to various bodies of the United Nations.
Following today’s discussion, the draft paper will be revised again and the final conclusions will be published in the fall of 2018. Carole hopes that the final paper will inspire a number of future trade-related campaigns across Canada.

Summary of research outcomes

Initial mapping provided an overview of Canada’s human rights commitments; China’s human rights commitments; and the actual situation inside Tibet with respect to economic and social rights.

We noted the wide range of human rights treaties that have been ratified by both Canada and China and that impose a range of binding obligations. We looked as well at other multilateral commitments made by Canada and/or China including the International Finance Corporation (IFC) Performance Standards and the OECD Guidelines for Multinational Enterprises. We took note of the 2014 adoption by the China’s Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters of “Guidelines for Chinese Mining Companies Operating Abroad” and the subsequent Memorandum of Understanding with the OECD “setting out the conditions for co-operation to promote the implementation by Chinese companies of responsible business conduct in global mineral supply chains” (neither of these commitments applies domestically).

The research group also looked at domestic commitments such as Canada’s enhanced Corporate Social Responsibility (CSR) Strategy (“Doing Business the Canadian Way”), the recently announced Canadian Ombudsperson for Responsible Enterprise (CORE), and Canada’s announced “progressive trade” policy which includes attention to gender, indigenous rights, and labour. Recently-adopted Chinese legislation was cited as a potential obstacle to human rights including the cyber-security law; counter-terrorism law; and the NGO law.

To better document economic and social rights in Tibet, the CTC relied heavily on two sources of information: the work done over the past two decades by Prof. Andrew Fischer (Erasmus University, Rotterdam) and statistics provided by UN Development Program (UNDP) China. UNDP China compiles statistical information and presents it in the form of a “human development index” (HDI) by province. Statistics provided for 2016 indicate that of all Chinese provinces, Tibet is poorest and Qinghai – which is largely Tibetan-populated – is the 2nd poorest. The UNDP also produces a “living standard index” for China which looks at social and economic indicators such as access to water, roads, internet etc. Again Tibet ranks lowest and Qinghai is 2nd lowest.
As UNDP statistics are not disaggregated by ethnicity, the CTC relied on the approach suggested by Dr. Fischer to determine differences in well-being between Tibetans and non-Tibetans living or working in Tibet. He used Government of China data that differentiates between the rural (where most Tibetans live) and urban (where most non-Tibetans live) experience.

The CTC also took note of Dr. Fischer’s research on direct subsidies from Beijing to Tibet, which have failed to bring significant benefits to Tibetans. Instead subsidies have contributed to Tibet’s integration to China; encouraged the transfer of asset ownership from Tibetan to non-Tibetan actors; and increased the dependence of Tibet on continued support from Beijing. Urbanization – China’s response to Tibetan poverty – has further disadvantaged Tibetans who having lost access to traditional land and livelihoods are now relegated to self-employment or physical labour. It is a situation reminiscent of the First Nations experience in Canada. Moreover, within the context of denied political rights, Tibetans have little recourse available.

Five trade-related issues raised questions in relation to the fairness of a potential FTA between Canada and China.

**Stakeholder engagement/consultation:** The Government of Canada is consulting Canadians and designing a special process for indigenous consultation. Tibetans do not enjoy free access to information or freedom of expression and therefore cannot inform themselves or express consent. There is no level playing field in terms of free, prior and informed consent.

**National treatment:** National treatment is a central principle in all trade agreements meaning that foreign goods, services, and nationals must be treated equally to their domestic counterparts. Once the FTA is in force, Canadian business people should have rights to travel in Tibet on an equal basis to their Chinese counterparts and vice-versa. But Tibetans may not be able to visit Canada for business opportunities arising from the FTA because Tibetans are routinely denied access to travel documents. Canadian companies may be treated equally to Chinese companies under the FTA, while Tibetan-owned companies will still be disadvantaged which is discriminatory.

**Market access:** Market access anticipates the opening up of specific economic sectors. Of the sectors targeted by Canada, the following may have human rights implications for Tibet: internet & communications technology; tourism and cultural exchange; clean technology; agriculture (barley, dairy, water); construction; and resource extraction. Traditional Tibetan industries, such as wool or handicrafts, do not appear in Canada’s list of priority sectors.

**Labour:** Tibetan workers (like their Chinese counterparts) are denied the right to form free trade unions or engage in collective bargaining. This in turn limits their ability to advocate for better
wages or health and safety measures and it puts them at a disadvantage when compared with Canadian workers. Within China, the education gap and wage discrimination between Tibetan and Chinese workers add another layer of risk in terms of benefit sharing. Women workers may be particularly disadvantaged.

**Access to remedy:** The FTA will include an “enhanced” investment chapter to provide “full protection and security” for companies while offering no protection for people who experience negative human rights impact of corporate activity. Moreover, disputes will be resolved in international tribunals thereby excluding any semblance of Tibetan participation. Canada’s newly announced “ombudsperson” for the extractive sector will not resolve this problem because Canadian investigators will not be given access to Tibet, and Tibetans are not able to safely travel to Canada for the purpose of offering testimony.

**Recommendations** specific to each trade-related issue will supplement three overarching recommendations:

- Canada must carry out an ex-ante (before the agreement is concluded) human rights impact assessment that looks specifically at Tibet;
- Canada should consider adopting a statement akin to the US Policy Act of 2000 which asserts (in part) that US entities seeking to participate in the economic development of Tibet meet several conditions including conducting human rights impact assessments, ensuring Tibetan participation, allowing independent monitors, and excluding resettlement and transfer of land and resources to non-Tibetans;
- Canada must insist on diplomatic reciprocity as a precondition to moving forward with formal negotiations.

**BREAK-OUT GROUPS**

Participants broke into three smaller groups to discuss how or if lessons-learned from the research so far can be applied to other CTC advocacy objectives. The advocacy objectives suggested were: autonomy/Sino-Tibetan negotiations; self-determination and indigenous rights; corporate social responsibility; gender; climate change. Each group selected an issue and answered three questions: is this a trade-related issue and if so, how; what are some examples to illustrate how it is trade-related; and, what recommendation can be made to trade negotiators?

**Group 1 (autonomy/Sino-Tibetan negotiations)**

The FTA risks entrenching Beijing’s control over the Tibetan economy. The group therefore agrees that the effort to achieve genuine autonomy in Tibet is trade-related and moreover that unless the FTA negotiation is leveraged to secure more autonomy for Tibetans, it will be difficult to do so after the FTA is concluded.
The group recommends that Canadian diplomats adopt approaches that encourage China to grant more autonomy to Tibetans in accordance with Chinese law. These approaches could include enabling a meaningful consultative process in Tibet, or sponsoring an academic exchange about Canadian autonomy arrangements at the provincial level and with indigenous communities. The group also recommends that the final trade agreement be dependent on China’s return to the dialogue table with envoys of the Dalai Lama.

**Group 2 (climate change/environment)**

The group agrees that the issue of climate change and environment is trade-related. They believe that increased economic activity on the Tibetan plateau, including infrastructure construction and resource extraction, will contribute to climate change and could be an unintended consequence of free trade. The group noted that China’s Belt and Road initiative already threatens new pressures on the environment.

Suggested recommendations to Canada’s trade negotiators include adding clauses that will limit the carbon footprint of increased economic activity and/or impose financial consequences for negative environmental impacts. The group also recommends consulting environmental groups to identify areas of concern and to propose measures that might mitigate those impacts.

**Group 3 (self-determination/indigenous rights)**

The group agrees that this issue is trade-related because it relates to decisions about land rights, natural resources, and water policy. The group feels that cultural impacts of trade are relevant for this discussion, for example with respect to questions around language in the workplace. The group also believes that systemic discrimination plays a role in the under-employment of Tibetans and their full and informed participation in decision-making. Participants noted the lack of equitable profit sharing with local communities contrasted with high levels of subsidy that go primarily to Chinese companies headquartered outside of Tibetan areas.

The group proposes that Canada’s trade negotiators identify approaches that will create equitable employment opportunities for Tibetans, including the right to move freely across Tibet and China as well as travel to Canada. They also suggest that Canada create a preferential cooperation program that will facilitate partnerships between Canadian companies and Tibetan-owned companies. Finally, the group recommends that Canadian negotiators seek the means to carry out meaningful consultation with Tibetans in Tibet.

**CONCLUSION**

In the closing discussion, participants offered additional suggestions for the paper’s final revision including, in particular, the addition of a short analysis of the Australian experience following adoption of the Australia-China FTA.
Noting that traditional spiritual beliefs sometimes stand in stark contrast with free market ideology, participants suggested that the paper highlight spirituality as a central pillar of Tibetan culture.

Participants felt strongly that Tibetans should do more outreach to the Chinese community in Canada and build solidarity around issues of common interest such as human rights. They added that, if possible, it is also important to develop a dialogue between Tibetan-Canadians and Tibetans from Tibet perhaps via the Machik network (www.machik.org).

Finally, participants suggested reaching out to Canadian pension funds to alert them to the human rights risks their investments might unintentionally support.

Additional comments can be sent to Sherap Tharchin at sherap23@gmail.com. Workshop participants are invited to join the CTC email list by registering at www.tibet.ca. The email list provides regular updates about this and other CTC projects.

RESOURCES
This list compiles resources referred to during the workshop. The list is in alphabetical order by title.


China’s Subsidies to Tibet (video), Dr. Andrew M. Fischer, International Institute of Social Studies, Erasmus University, Netherlands, 2012 https://www.youtube.com/watch?v=9xkJYu2hYeE&t=10s


WORKSHOP AGENDA
September 15, 2018

9:00   Coffee & greetings
9:15   Welcome remarks
9:20   Project rationale, baseline positions, and process overview
9:45   Guest presentation: Winnie Ng, Chair, Toronto Association for Democracy in China. Topic: What are the human rights challenges faced by workers in China?
10:30  Reflection on project research results so far – concerns and priorities as identified in the background paper and from discussions in previous 2 workshops.
11:00  Health break
11:15  Tibet advocacy in the context of Canada-China trade negotiations (breakouts):
   • Autonomy / Sino-Tibetan negotiations + trade
   • Canadian companies in Tibet + trade
   • Self-determination / FPIC/ indigenous rights + trade
   • Gender
   • Climate change
12:00  Group report-backs and discussion
12:30  Where to from here?
13:00  Conclusion