



Unrepresented Nations and Peoples Organization (UNPO) Individual  
Stakeholder Submission to the Office of the High Commissioner for  
Human Rights regarding the Universal Periodic Review of the People's  
Republic of China during the 17<sup>th</sup> Session, Oct – Nov 2013

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### **Introduction to the Uyghurs, Inner Mongolians and Tibetans**

1. East Turkestan is a large territory to the west of China claimed by the People's Republic of China (PRC) as the Xinjiang Uyghur Autonomous Region (XUAR). It is the home of the Uyghur people, a Turkic ethnic group, most of whom are Sufi Muslims. For centuries, the Uyghurs have enjoyed different degrees of independence, but were eventually absorbed by the PRC in 1949. As of today, their situation remains critical. The government's crackdown on anyone supporting the Uyghurs' national ambitions has led China to falsely link Uyghur political activists to terrorist organizations, diverting international attention from what is truly happening in the region.

2. Inner Mongolia is an autonomous region (IMAR) under the PRC since 1947. Inner Mongolians represent approximately 17% of the population in the region and enjoy very little to no political autonomy. Traditionally pastoral and nomadic, these native communities have had to gradually change their lifestyle in order to adapt to the influx of Han Chinese immigrants, the increase of mining operations in their region in recent years, and the environment degradation that ensued.

3. The Tibetan Plateau, on the highlands of southern China, is the homeland of the Tibetan people. While the "Government of Tibet in Exile" headed by the 14<sup>th</sup> Dalai Lama remains in Dharamsala, India, the Tibet Autonomous Region (TAR) is controlled by the PRC. The situation in the Autonomous region remains abysmal with reports leaking out of continued repression and deep concerns over the unprecedented wave of self-immolations.

### **Main Issues of Concern**

#### **A. Civil and Political Rights**

4. In the last couple of years, the Chinese government has shown to be unwilling to engage in consistent political reforms. In 2011, the government announced the amendment of two important laws, the Law on Lawyers and the Law on State Compensation, as a means of laying the ground for the ratification of the International Covenant on Civil and Political Rights (ICCPR), which the country signed in 1998. Despite the judicial reforms, other aspects of the Chinese policy seem to be inconsistent with their alleged aspiration to join the International Covenant. In broad terms, by signing the ICCPR, the PRC has committed itself to refrain from acts that would otherwise defeat the object and purpose of the treaty and this is not the situation we have witnessed so far, as the following argument will show.

5. Since the infamous Tibetan riots of 2008, several demonstrations have taken place all around China, most of which led to severe repression by government authorities. In XUAR, July 2009, peaceful protests turned violent as police reportedly used excessive force to control Uyghur demonstrators, leading to the arbitrary arrests and disappearances of dozens, as well as the complete cut-off of communications until October 2009. To this day, Chinese authorities continue to silence those speaking out against the abuses following

the unrest. In 2011, ethnic Mongolians also staged peaceful demonstrations to express their collective grievances over the ecological destruction of Inner Mongolia. The Chinese government once again responded with brutality; the region came under heavy security and ultimately martial law was implemented in some districts. In the same year, China launched its largest crackdown on dissidents in recent years. Well over 100 activists were targeted in an attempt to quell anti-government protests.

6. Furthermore, the Chinese government remains resolute in its efforts to curb any potential opposition as journalists, members of minority communities and pro-democracy or human rights activists continue to be harassed and arbitrarily detained on a daily basis. The government makes use of various legal instruments to back its claims. Articles 103 and 105 of the Chinese Criminal Code, which consider a crime for anyone to plot against national unification or engage in subversive activities,<sup>1</sup> are the most frequently used to bring such criminal charges. The vagueness of their definition of these crimes often encourages open interpretation by security forces and abuse of minorities' rights to express their freedom of religion and speech. The figures for the so called "Endangering State Security" (ESS) crimes, which encompass China's most serious offences, remain unacceptably high. According to documents released by the Supreme People's Procuratorate, almost 2,000 people have been charged or indicted under these charges in 2011, which represents a decrease from the previous year, but remain well above the pre-2008 figures.<sup>2</sup> If China claims to be taking steps to further cooperate with the UN on human rights issues, these figures have shown otherwise.

## B. Torture and Ill Treatment

7. China is a State Party to the Committee against Torture (CAT), although the country does not yet recognize the Committee's competence to receive individual complaints. Nevertheless, the routine and widespread use of torture is a prolonged concern. In XUAR, following the riots of 2009, dozens of Uyghurs were reportedly tortured during illegal interrogations.<sup>3</sup> Uyghur families have come out publicly against these policies, claiming members of their families have since disappeared. However, as the government insists on rejecting the release of concrete data on the Chinese justice system, it becomes very difficult to understand the magnitude of what actually takes place in the country. Nonetheless, recent reports<sup>4</sup> collected from victims of torture, show that the country continues to violate articles 2 and 4 of the CAT, as there remains no clear definition of 'torture' under Chinese Criminal Law.<sup>5</sup> The country also infringes articles 12 - 14, for being unable to ensure a prompt and impartial investigation of torture cases.

8. Moreover, one positive step may be taken by the Chinese government, should it come through with its announcement to advance reforms of the "re-education through labor" system. The government stated

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<sup>1</sup> Cheung, Anne SY. 2011. *Exercising Freedom of Speech behind the Great Firewall: A Study of Judges' and Lawyers' Blogs in China*. Harvard International Law Journal. Vol 52. p. 262.

<sup>2</sup> Human Rights Journal. 2012. *Chinese State Security Arrests Stay High, Trials Soar*. Available at: [<http://www.duihuahrjournal.org/2012/11/chinese-state-security-arrests-stay.html>]

<sup>3</sup> *Disappearing China's Uighurs*. Amnesty International. Web. 11 February 2013. Available at: [<http://www.amnesty.org/en/news/disappearing-china-s-uighurs-2012-07-04>]

<sup>4</sup> *Death in Detention Draws Denigration*. Radio Free Asia. Web. 4 June 2012. Available at: [<http://www.rfa.org/english/news/uyghur/death-06042012180843.html>]; *Writers Arrested, China Attempt To Seal off Tibet From Outside Media*. The Tibet Post. Web. 17 July 2012. Available at: [<http://www.thetibetpost.com/en/news/tibet/2707-writers-arrested-china-attempt-to-seal-off-tibet-from-outside-media>]

<sup>5</sup> The Chinese Criminal Law, in its articles 247 and 248, prohibits the use of force or physical abuse. However, they do not mention the prohibition of infliction of severe mental pain and suffering, therefore not fully complying with the definition detailed on the CAT. The Chinese definition also does not mention acts of torture based on discrimination, such as inflicted upon Uyghurs, Inner Mongolians and Tibetans.

earlier this year that it will overhaul the five-decades-old program which allows people to be detained without a trial for petty crimes, political opposition and religious practices. However, it is not yet clear when these reforms will take place.

### C. Discrimination

9. Being a multi-cultural country, ethnic autonomy and equality are one of the core principles enshrined by the Chinese Constitution.<sup>6</sup> Apart from the Han majority, there are currently 55 recognized ethnic minorities in the country, accounting for less than 10% of its population.<sup>7</sup> Nonetheless, China has maintained its policies of keeping a tight grip over strategic border regions, such as Tibet, XUAR and Inner Mongolia, which are rich in natural resources and home to a large number of minority communities. In broad terms, China has been able to hold minority groups together through a policy of political suppression and economic stimulation. But the ethnic relations remain fragile, and for that same reason, the government does not adequately address their legitimate interests and grievances, often resorting to using severe punishment to quell their concerns, for what China considers “the incitement to undermine the unification of the State”.<sup>8</sup> The country recently adopted a series of national policies which address the rights of minorities but to a minimum extent, such as the National Human Rights Action Plan, NHRAP (2012-2015). This represents a positive development, but Chinese compliance to the plan should be watched closely. The previous NHRAP was marred by the government’s failure to implement most of its promises, especially in regards to ethnic minorities.

10. In the face of the laws protecting these minorities,<sup>9</sup> one may easily detect an overwhelming racial disparity in the country. In the autonomous regions of IMAR, XUAR and TAR, inequitable development strategies have accounted for benefits to be rarely reinvested in the local education and health. Minorities have thus experienced limited assistance as social exclusion is openly implemented. Restricted access to education, government services and employment are also issues of concern for these communities. In TAR, but also in XUAR, locals have been subjected to consistent discriminatory practices, as the government continues to make use of propaganda efforts to characterize Tibetan and Uyghur culture as backward and in need of modernization.<sup>10</sup> The so called ‘positive discrimination’ policies, which aim at integrating minorities by granting them educational admissions preference and family planning exceptions, do not entirely fulfil their purposes, as minorities often come to be framed as indolent and ungrateful toward the government.

11. The same disregard is witnessed in XUAR, where economic disparity has been the cause of ethnic tension between Uyghurs and Han Chinese. Experts have pointed out that discriminatory hiring practices have led to a wage gap in favour of the Han, and that once hired, Muslim men are denied the right to wear beards and women to wear veils.<sup>11</sup> These discriminatory practices eventually exclude Uyghurs from private sector jobs

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<sup>6</sup> China’s Constitution, in its article 4 reads “all nationalities in the People’s Republic of China are equal. The state protects the lawful rights and interests of the minority nationalities and upholds and develops a relationship of equality, unity and mutual assistance among all of China’s nationalities. Discrimination against and oppression of any nationality are prohibited [...]”. Constitution of the People’s Republic of China, adopted on December 4, 1982. Available at: <http://english.people.com.cn/constitution/constitution.html>.

<sup>7</sup> Committee on the Elimination of Racial Discrimination, CERD/C/SR.1943.

<sup>8</sup> Criminal Law of the People’s Republic of China. Article 103.

<sup>9</sup> The main provisions regulating the rights of minorities are found in the Constitution (articles 4, 112-122) and the Regional Ethnic Autonomy Law (REAL).

<sup>10</sup> International Campaign for Tibet. *60 Years of Chinese Misrule: Arguing Cultural Genocide in Tibet*. April 2012. p. 5.

<sup>11</sup> Council on Foreign Relations. *Uighurs and China's Xinjiang Region*. May 2012.

and civil service, in a region where they still constitute the majority of the population. All of these allegations, therefore, entail a violation of articles 2 and 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) ratified by China in 1982, which condemn racial discrimination and call on States to eliminate the issue. The government's position also shows a failure to comply with its obligations under yet another treaty, the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which China is party since 2001. Article 2(1) and (2) impose a duty on all parties regarding their responsibility to achieve the full realization of the rights of the Covenant, without discrimination of any kind. Article 7(1)(a) forbids discrimination in the field of wages. Since the last review, China has clearly not complied with its immediate obligation of non-discrimination.

12. In regards to religion, the government's acknowledgment of minorities' cultural rights has been quite selective. The suppression of cultural activities deemed 'evil' or 'separatist' has led China to censor and restrict the practice of Tibetan Buddhists and Muslim Uyghurs. Policies that discourage Tibetans from engaging in religious practice and direct attacks against Tibetan religious leaders have been considered as factors for the recent unrest in the region. Article 14 of the 'Implementing Measures for the Law on the Protection of Minors', a regional XUAR law states that "parents or other guardians may not permit minors to be engaged in religious activities". This is the only regional law to make such a restriction, clearly indicating its discriminatory nature towards the Uyghur minority. There is once again an apparent violation of Article 5 of the ICERD, as well as Article 30 of the Convention on the Rights of the Child (CRC),<sup>12</sup> which secures children belonging to minority or indigenous groups their right to profess and practice their own religion.

#### **D. Migration Policies**

13. The large scale policy of Han Chinese migration to regions with a distinct ethnic majority has sparked mounting protests in recent years. Chinese migration and further domination of economic opportunities have led to a shift away from traditional livelihoods in XUAR, Tibet and Inner Mongolia. The Chinese government claims that such policies are designed to promote economic development; however, as mentioned earlier, they have often created a division among these societies.

14. In XUAR, between 1949 and 2008, the Han population grew from approximately 7% to 40%<sup>13</sup> and while the initial migration movement was primarily orchestrated by the government, lately, the Han migration has been considered self-initiated. Yet, by openly promoting the existing opportunities in XUAR, Beijing continues to attract settlers into the region. Market incentives, profit driven business initiatives and government sponsored demolition of Uyghur communities have been crucial to assert this large scale immigration influx. China's efforts to undermine Uyghur culture and identity, therefore, demonstrate the country's greater campaign towards assimilating Uyghur communities. In Tibet, migration policies have led to the development of new economic standards and disregard for their traditional means of subsistence. In certain pastoral communities, the government's 'modernization' efforts have deprived Tibetans of their livelihoods and their connection to the land. If this influx of both people and money has brought new opportunities to the region, it has also been responsible for deepening the resentment among community members.

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<sup>12</sup> China has been a State Party of this convention since 1992.

<sup>13</sup> Howell, Anthony and Cindy C. Fan. *Migration and Inequality in Xinjiang: A Survey of Han and Uyghur Migrants in Urumqi*. Eurasian Geography and Economics, 2011, 52, No. 1, pp. 119–139.

15. In IMAR, immigration policies have also become evident throughout the years. Inner Mongolians are traditionally a nomadic people, but the influx of Han Chinese, originally sent to the region to cultivate land, has led to the establishment of new land use policies. The new agrarian culture has caused a series of biodiversity threats, including erosion and degradation of the grasslands. This accelerated the process of desertification, which China now aims at reversing by keeping Mongol herders away from their ancestral lands. As Mongols depend heavily on the grasslands for survival, they have been forced to abandon their homeland in order to maintain their lifestyle. With the practice still taking place to this day, China demonstrates an apparent violation of Article 1(2) of the ICESCR, as Inner Mongolians remain deprived of their own means of subsistence.

### **Recommendations**

*The Unrepresented Nations and Peoples Organization urges China to consider the following recommendations:*

*Take the necessary measures, consistent with national legislation, to ratify the ICCPR;*

*Strengthen the protection of ethnic minorities, in regards to their civil, religious and socio-economic rights;*

*Take the necessary steps to guarantee that economic and social development is translated into political, economic and social improvement for minorities;*

*Continue its efforts to discourage employment discrimination practices against members of minority groups, including Uyghurs, Tibetans and Inner Mongolians;*

*Ensure that the definition of torture under Chinese Criminal Law and other relevant laws and regulations is in compliance with Article 1 of the CAT;*

*Adhere to the OP-CAT;*

*Highlight the measures taken to ensure that all instances of torture are promptly investigated by an independent body and that perpetrators are brought to justice;*

*Accelerate its efforts aimed at abolishing administrative detention, including the Reeducation Through Labor System.*