

People's Republic of China
Report for the consideration of the Committee against
Torture in advance of their session on the fourth periodic
report to the Committee of the People's Republic of
China

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**Unrepresented
Nations and
Peoples Organization**



**دۇنيا ئۇيغۇر قۇرۇلتىيى
World Uyghur
Congress**

The Unrepresented Nations and Peoples Organization (UNPO) has prepared this report in collaboration with the World Uyghur Congress (WUC) for the consideration by the Committee Against Torture (CAT) on the eve of their session on the fourth periodical report submitted to it by the People's Republic of China (PRC) in line with the provisions as laid down in the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (hereafter "the Convention"). This report particularly focuses on the Muslim Uyghur population of East Turkestan (Xinjiang Uyghur Autonomous Region, XUAR), considering the fact that minorities are at larger risk within the PRC of being subjected to torture¹. The embracement of Islam makes the Uyghur population a simple scapegoat under the justification of the "war on terror".

Article 1 – definition of torture

Despite recommendations made by this very committee, which have been echoed by the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereafter "the Special Rapporteur"), the PRC has yet to bring their national law in accordance with the definition of torture within the Convention. A particular list of offenses has been deemed to relate to or result in torture, however, no overarching definition has been provided, leaving room for interpretation and loopholes for those that wish to do harm.

Article 2 – preventive measures – and Article 10 – education and information

With regards to the measures that the PRC is to take in order to prevent the occurrence of torture, it has become evident that law enforcement officers and other governmental officials burdened with the duties of maintaining public order are not sufficiently trained and penal measures against those that do inflict torture are not sufficiently in place². A culture of oppression thrives in detention centres, police stations and prisons in XUAR and torture as a means of racial discrimination is not sufficiently prevented. Even if the national legislation has laws and regulations in place with the aim of eradicating and criminalizing practises of torture, the implementation on the local level is severely lacking. Strengthening of the regional institutions and addressing flawed procedures can improve the dire situation.

Article 3 – extradition in the face of torture

Apart from having an obligation under the Convention to prevent nationals from being extradited to states where they upon extradition may face torture, the PRC itself has instigated an active policy of forcefully returning Chinese nationals, even if they have received refugee status or asylum in another state. Upon return in the PRC national minorities, such as Uyghurs, are facing a severe risk of being tortured as a form of punishment in addition to sentencing those forcefully returned persons to long jail sentences of alleged crimes, usually relating to 'subverting state power', 'separatism', 'undermining the unity of the country' or involvement in the illegal communication of 'state secrets'. Unfortunately, the PRC is not solely responsible for such acts, as other states, particularly those that are part of the Shanghai Cooperation Organization (SCO), wilfully cooperate with such practises even in the face of torture.

Perhaps the most well publicized case of such force repatriation is Mr. Husein Dzhelil³, an ethnic Uyghur who had obtained Canadian citizenship after being recognized as a refugee in 2001. When visiting family in Uzbekistan, Mr. Dzhelil was detained in March 2006 and extradited by Uzbekistan to the PRC in June of the same year, without contacting the Canadian

¹ The authors of this report subscribe to the definition of torture as has been laid down in Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

² For more information on the lack of criminalization of torture, please see that paragraph on Article 5 of the Convention.

³ Also known as Huseyin Celil.

authorities. Throughout his detention, PRC officials denied his requests for consular assistance by the Canadian *corps diplomatique*. Testimonials of Mr. Dzhelil reveal that in the first two weeks of his detention in the PRC he was deprived of sleep and food and that he regularly received threats to his life if he refused to sign an official document, which was later to be used as his 'confession' to the charges against him for 'plotting a split of the country' and 'joining a terrorist network'. Even though the Convention states that 'confessions' obtained under torture cannot be admissible in a court of law as evidence, Mr. Dzhelil was convicted for these alleged crimes on the basis of this document. On 2 February 2007 Mr. Dzhelil faced trial and despite continued requests from his side, Canadian officials were not allowed to attend the trial. On 10 July 2007 Mr. Dzhelil's life imprisonment sentence was finalized, as the regional court rejected his appeal.

Article 4 – criminalizing torture

Over recent years, the PRC has adapted its national laws in order to criminalize torture. However, UNPO believes that most of these legislative changes have been made in regards to heavily publicized events. As such, these pieces of legislation are very particular as to method and person and as such do not encompass complete criminalization of torture. The status quo seems to have led to a national legislation in which torture is a criminal offense only in certain cases and inflicted by certain (groups of) people, which is conduct inconsistent with the Convention.

One example torture which is not criminalized and rarely prosecuted in the PRC is forced abortion. In particular relation to the Uyghurs, forced abortion is used as a tactic of maintaining and even decreasing the population size. Since 1984, the PRC has carried out a coercive birth control and forced sterilization policies amongst the Uyghurs. Since then, under the pretext of ensuring a steady growth in "minority population", "improving the quality of minorities", and "eliminating economic inequalities", the PRC has launched a series of extensive birth control and forced sterilization campaigns all over Eastern Turkestan targeting Uyghur women. Officially, the one child policy only applies to the ethnic nationalities with a population of over 10 million in PRC. With a population of 8.6 million, the Uyghur are regarded as a "minority nationality" in their land and are in theory not subject to the provisions of family planning legislation in PRC. But in practice, the birth control and sterilization policies have been actively promoted and encouraged by the PRC government in the towns and villages of Eastern Turkestan. Clearly such policies are not only discriminatory, but also inflict severe suffering – both mental and physical – upon the victims. Thus far, little action can be taken by Uyghur women as the system for complaints and remedies is also heavily discriminatory and those who do press charges or complain usually face imprisonment with elevated chances of being tortured when incarcerated.

In addition, the Special Rapporteur has indicated that the *Reeducation through Labour* (RTL) constitutes a violation of the human rights to personal liberty and as such constitutes a form of inhumane and degrading treatment or punishment, which can even be considered mental torture, particularly in the light of the fact that RTL is used as a discriminatory punishment. Persistent reports have indicated that maltreatment is rampant in RTL facilities and that in particular ethnic minorities – such as the Uyghurs – are often targeted within these facilities. Furthermore, ethnic minorities are more often sentenced to serve time in such facilities for minor crimes than other Chinese citizens.

Article 11 – systematic review

Despite obligations under the Convention to conduct a systematic review of civil servants and their procedures with regards to suspects and detainees, reports received by UNPO indicated that such review – if conducted at all – is sincerely lacking. The bedrock for this lack of

implementation is the lack of independence within the Chinese judicial system. Police, the office of the prosecutor and courts are functioning under the supervision of the Chinese Communist Party (CCP) and are as such not operating independently. In addition, reports from abuse and ill-treatment in the RTL facilities, as well as the lack of responsiveness from the PRC with regards to the recommendations made by the Special Rapporteur in regards to the RTL, leads to suggest that these facilities are not subjected to regular intervals of independent review.

Article 12 – 14 impartial investigation

Due to the lack of impartiality within the Chinese judicial system, no investigations have been conducted to verify the use of torture within the borders of the PRC. This has been confirmed by continues report that UNPO receives of death penalty in custody in several state institutions, these include RTL facilities, police detention centres and prisons. Many of these deaths are the result of poor treatment and torture while in custody. On of the latest example is the death of Mutallip Hajim a wealthy Uyghur jade trader and philanthropist. In January 2008 Hajim was taken into custody by police in Hotan. On 3 March 2008 Hajim's body was returned to his family. Police instructed his family to bury him immediately and inform no one of his death. Hajim was thirty-eight at the time of his death. Occasional reports in the Chinese media suggest that on rare occasions, perpetrators are punished for such violations, but in many more cases documented by networks of Uyghur human rights activists other NGOs, official investigations hardly take place and perpetrators are met with impunity. When an investigation does take place it does not meet the Conventions requirement.

Article 15 – exclusion of evidence obtained through torture from any proceedings

The Criminal Procedure Law (CPL) does not prohibit the use of confessions obtained through torture or poor treatment as evidence before the courts as required by the Convention. While revision of the law has been discussed, within China's legislature, the National People's Congress to this day has not introduced new laws that would explicitly prohibit the use of torture. The CPL has been amended over the years and should guarantee people no longer to be confronted with torture this i not the case. In several recent cases documented by UNPO, courts have ignored allegations made by defendants that they were subjected to torture or other ill-treatment in police custody. Most of these perpetrators enjoy impunity for their acts. The widespread use of torture in East Turkestan is confirmed by numerous reports based on interviews with Uyghur refugees who suffered torture.