

**IMPLEMENTATION OF THE CONVENTION ON
THE ELIMINATION OF ALL FORMS
OF RACIAL DISCRIMINATION IN
THE PEOPLE'S REPUBLIC OF CHINA**

**A PARALLEL NGO REPORT BY
HUMAN RIGHTS IN CHINA**

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*Submitted to the Committee on the Elimination of Racial Discrimination in advance of its
review of the thirteenth periodic report of the People's Republic of China on implementation of
the Convention on the Elimination of all Forms of Racial Discrimination*



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EXECUTIVE SUMMARY

Human Rights in China (HRIC) respectfully submits this report to the Committee on the Elimination of Racial Discrimination (Committee), in advance of the Committee's review of the Government of the People's Republic of China's (State party) combined tenth, eleventh, twelfth and thirteenth periodic reports on implementation of the International Convention on the Elimination of all Forms of Racial Discrimination (Convention).

HRIC recognizes that the challenges of Convention implementation are complex and ongoing. The State party's report focuses on formal legislation and policies, and provides limited information on implementation and impact. HRIC's report addresses specific areas of concern and presents a number of recommendations with the goal of providing constructive input into the Committee's review process and advancing the State party's implementation of the Convention.

Key Areas of Concern

HRIC's report focuses on the following areas of concern:

- ***Definition of racial discrimination:*** The State party's failure to adopt a definition of racial discrimination in conformance with the Convention undermines both the Committee's evaluation of the State party's obligations and the State party's ability to implement the Convention.
- ***Descent-based discrimination under the hukou system:*** Under the *hukou* household registration system, the distinction between rural and urban status, a descent-based characterization, substantially impacts the equal enjoyment of fundamental rights by rural *hukou* holders.
- ***Limited disaggregated information and information on implementation and impact:*** Although the State party addresses ethnic groups, its report is limited to formal descriptions of anti-discrimination laws and policies. Yet, as noted by this Committee in its prior reviews, there are serious ongoing concerns about China's ethnic groups and their right to equal enjoyment of fundamental rights and freedoms. *Without baseline information, benchmarks, and comparative indicators, a meaningful assessment of implementation progress is hampered.* The lack of socio-economic data disaggregated by ethnicity undermines the Committee's review as well as the State party's efforts to address more effectively the inequalities faced by ethnic groups, particularly the Tibetan, Uyghur and Mongol groups. Disaggregated socio-economic data would also be useful for identifying and combating descent-based discrimination against rural *hukou* holders. The State party's provision of generalized information, presented without comparative indicators, undermines its efforts to undertake measures to eliminate all forms of racial discrimination. Moreover, the State party's state secrets system presents obstacles to obtaining transparent and reliable information.

- ***State secrets system:*** The State party's state secrets system presents obstacles to obtaining transparent, comprehensive and reliable information relevant to Convention review and implementation, including the State party's reporting and ability to provide relevant and requested information.

Summary of Recommendations

HRIC's recommendations to the Committee are summarized generally as follows:

- ***Definition of racial discrimination:*** HRIC urges the Committee to press the State party to adopt a definition of racial discrimination in conformance with the Convention.
- ***Descent-based discrimination under the hukou system:*** HRIC urges the Committee to request that the State party provide specific information on current reforms to the household registration or *hukou* system, including the progress, timeframes, and impact of these reforms.
- ***Limited disaggregated information and information on implementation and impact:*** HRIC urges the Committee to require more detailed and comprehensive responses, including baseline information, benchmarks, and comparative indicators, from the State party to the Committee's prior information requests, and to make additional requests for statistical data disaggregated by basis of discrimination, particularly regarding the apportionment of relative benefits and burdens of economic development for Tibetans, Uyghurs and Mongols, and for rural inhabitants and rural-to-urban migrants.
- ***State secrets system:*** HRIC urges the Committee to request clarification from the State party as to whether and to what extent information requested from the State party is in fact classified as state secrets or why such information has not yet been provided. The Committee should also request that the State party provide updated information on the current status of reforms (if any) to the state secrets system.

RECOMMENDATIONS

HRIC makes the following recommendations in connection with the Committee's review of the State party's report. The recommendations are grouped according to three main areas of concern: first, the State party's failure to adopt a definition of racial discrimination in conformance with the Convention; second, the State party's failure to address descent-based discrimination under the *hukou* system; and third, the State party's failure to provide adequate information in response to the Committee's requests, thereby undermining an effective review.

Definition of racial discrimination

- HRIC urges the Committee to **press on its 2001 recommendation** that the State party **adopt a definition of racial discrimination** in compliance with **Article 1(1) of the Convention**. Specifically, the Committee should urge the State party to adopt a definition of racial discrimination that clearly prohibits discrimination on the basis of **race, colour, descent, or national or ethnic origin**, as set forth under Article 1(1).

Descent-based discrimination under the hukou system

- HRIC urges the Committee to **press the State party to provide specific information on current reforms** to the *hukou* household registration system, including specific details concerning the **progress, timeframes, and impact** of these reforms.
- In addressing inequalities between rural and urban areas, HRIC also urges the Committee to **request that the State party provide more detailed and comprehensive information**, including **baseline information, benchmarks, and comparative indicators**, regarding the **enjoyment of economic, social, and cultural rights by rural inhabitants**, including **rural-to-urban migrants**, and the measures taken to ensure that rural inhabitants have equal enjoyment of these rights.

Limited disaggregated information and information on implementation and impact

- HRIC urges the Committee to **press the State party to provide more detailed responses** to the Committee's 2001 requests for:
 - Socio-economic data, **disaggregated by national and ethnic group**;
 - Information on measures taken to prevent **gender-related racial discrimination**, including in the area of **trafficking and reproductive health**; and
 - Statistics, **disaggregated by nationality and region**, relating to **detention, imprisonment**, alleged, investigated and prosecuted cases of **torture, death sentences and executions**.

- In addition to requesting more thorough responses to its prior requests, the Committee should press the State party to provide **additional information** including:

With regard to the **arrest, detention, imprisonment and mistreatment of Tibetans** in the wake of the **March 2008 demonstrations**, the Committee should request information detailing:

- The **number of persons arrested, detained and imprisoned** after the March 2008 demonstrations, and the **current status or conditions** of those persons;
- The **number of cases investigated or prosecuted** as a result of the March 2008 demonstrations, and the **current status or outcomes** of those cases;
- Whether and to what extent **arrested, detained and imprisoned individuals** have **access to legal counsel**, and the **number of investigations or prosecutions** in which the held individuals have and have not been **represented by legal counsel**; and
- Whether and to what extent the requested information is in fact **classified as state secrets** or may instead be made available for review by the Committee.

Regarding the State party's participation in **regional agreements**, the Committee should request information on the State party's **participation in the SCO** and the impact of State party measures to implement the SCO on the State party's **obligations under international law**, including the Convention. The Committee should also request specific and detailed information on:

- The **databases maintained by the SCO's RATS mechanism**, the types of individualized information that is compiled and analyzed by RATS, and how that information is used and exchanged by the State party as an SCO member;
- The **number of individuals extradited** to or from the State party's jurisdiction pursuant to the Shanghai Convention, and **for what crimes**; and
- **Protections** for ensuring the **appropriate balance of national security and protection of rights** under international law standards.

The Committee should also request **detailed statistics, disaggregated by ethnicity**, on the **impact of economic development and ecological management policies** on the rights of the Mongols and other ethnic groups, including:

- The **number of ethnic group households that have been displaced and relocated** by the State party's desertification prevention programs;

- The **locations to which such households have been relocated**, and the **numbers relocated to the respective locations**;
- Whether and to what extent displaced ethnic group households have been **compensated for dispossession of their land and assets**, including livestock;
- Whether and to what extent the State party has implemented **economic, social and cultural adjustment programs, including occupational skills training**, for displaced ethnic group households relocated to urban areas; and
- Whether and to what extent displaced members of ethnic groups have been able to find **new occupations or livelihoods** in their new locations.

State secrets system

- To the extent that **any of the information requested above** is implicated by the **State party's state secrets system**, the Committee should specifically ask the State party to explain whether and to what extent information requested from the State party is in fact **classified as state secrets** or may instead be made available for review by the Committee.
- The Committee should also request that the State party provide **updated information** on the current **status of reforms** (if any) to the **state secrets system**, and whether regulations hindering implementation of the Convention will be assessed under such reforms.

PROGRESS UNDER SPECIFIC ARTICLES OF THE CONVENTION

ARTICLE 1: DEFINITION OF RACIAL DISCRIMINATION

Article 1(1)

*In this Convention, the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on **race, colour, descent, or national or ethnic origin** which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.*

Failure to adopt a definition of racial discrimination

1. The State party has not adopted a **definition of racial discrimination** in accordance with **Article 1(1)** of the **Convention**, as recommended in the Committee's 2001 Concluding Observations.¹ None of the laws and regulations cited in the State party's report, including its Constitution, the Regional Ethnic Autonomy Law (REAL) and the Rules of the State Council on Implementation of the REAL, contain a definition of racial discrimination in conformity with the Convention. The State party's response to the Committee's recommendation does not address all the bases set forth in the Convention.
2. The failure to adopt a definition of racial discrimination substantially hinders the State party's ability to **pursue, by all appropriate means and without delay, a policy to eliminate racial discrimination.**² It also hinders the Committee's capacity to assess measures taken by the State party to give effect to the Convention's provisions, including the elimination of distinctions, exclusions, restrictions and preferences **based on race, colour, descent, or national or ethnic origin** having the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms.³

Failure to incorporate descent-based discrimination into legislative, judicial, administrative or other measures to end racial discrimination

3. The State party's report, along with its Constitution, laws and regulations, **fail to address descent** as a prohibited basis of racial discrimination as set forth in Article 1(1). In the preamble to the Committee's General Recommendation XXIX on Article 1, Paragraph 1, of the Convention (Descent), the Committee urged States parties to take "measures to eliminate descent-based discrimination and remedy its consequences."⁴ The Committee affirmed that such discrimination includes

discrimination against “members of communities based on **forms of social stratification,**” including “**systems of inherited status,**” and instructed that such discrimination could be recognized by, among other things, the “**inability or restricted ability to alter inherited status.**”⁵

4. Under the State party’s household registration or *hukou* system, local authorities assign *hukou* designations to citizens that **restrict eligibility** for important **social benefits** based on “**agricultural**” (**rural**) or “**non-agricultural**” (**urban**) status. Moreover, children inherit their parents’ *hukou* status at birth, and despite attempts at official reform, the majority of rural *hukou* holders remain highly restricted in their ability to change their inherited status.⁶ The *hukou* system perpetuates **distinctions, exclusions, restrictions and preferences based on descent,** which have the **effect of nullifying and impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms.**
5. As a **descent-based group,** China’s rural *hukou* holders suffer discrimination resulting from a system of social stratification and inherited status. In fact, in Paragraph 69 of its report, the State party itself acknowledges serious rural-urban inequalities in areas including poverty, infrastructure, and access to education and healthcare.⁷ Adopting a definition of racial discrimination in conformance with the Convention that would treat rural *hukou* holders as a **descent-based group,** would advance not only the State party’s implementation of the Convention, but would also enhance its efforts to address the inequitable treatment of China’s **approximately one billion rural hukou holders,**⁸ including **over 200 million migrant workers.**⁹
6. **HRIC urges the Committee to press on its 2001 recommendation that the State party adopt a definition of racial discrimination in compliance with Article 1(1) of the Convention. Specifically, the Committee should urge the State party to adopt a definition of racial discrimination that clearly prohibits discrimination on the basis of race, colour, descent, or national or ethnic origin.**

ARTICLE 2: IMPLEMENTATION MEASURES

Article 2(1)

States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races...

Detailed and disaggregated statistics support the effective implementation of the Convention

7. This Committee has made repeated requests for **disaggregated socio-economic data** necessary to evaluate the State party's legislative, judicial, administrative or other measures and progress in implementing the Convention.¹⁰ Similar requests have been made in the concluding observations and recommendations of other treaty bodies, including the **Committee on Economic, Social and Cultural Rights (CESCR)**, the **Committee on the Elimination of Discrimination against Women (CEDAW)**, the **Committee on the Rights of the Child (CRC)** and the **Committee against Torture (CAT)**. HRIC notes that the State party report references its participation in the CESCR and CEDAW review processes as progress in implementing the Convention.¹¹

A table of representative requests for more detailed statistics, by both this Committee and other treaty bodies, is attached to this report as **Annex 1**.

8. Although the State party's report contains some disaggregated statistics, the provided **information does not fully respond** to the Committee's prior requests. First, because charts annexed to the State party's report are **limited to "ethnic groups,"** they exclude data that could be relevant to addressing the full range of prohibited discrimination, including **descent-based discrimination**. Second, while helpful, groupings of the populations of China's ethnic groups, both generally and by gender, provide **insufficient detail** to fully assess the scope and impact of racial discrimination.
9. Moreover, certain **aggregated economic statistics** in the State party's report paint an **incomplete picture** of ethnic discrimination in the Tibetan Autonomous Region, (TAR), the Xinjiang Uyghur Autonomous Region (XUAR) and the Inner Mongolia Autonomous Region (IMAR).¹² This is because the statistics **aggregate information**, for example, **incomes** of ethnic group members with those of **newly-settled Han Chinese**, who have migrated to these autonomous regions to enjoy development-generated employment that is largely unavailable to members of Uyghur, Tibetan or Mongol ethnicity.¹³ Without baseline information, benchmarks, and comparative indicators, a meaningful assessment of implementation progress is hampered. Detailed statistics for incomes and enjoyment of social and economic benefits,

disaggregated by ethnicity, and for impact of Han migration and development policies and incentives on local ethnic groups would assist the State party in addressing disparities between ethnic groups and Han Chinese migrants.

Obstacles posed by the state secrets system

10. One **significant obstacle** to obtaining **accurate, comprehensive and reliable information**, including information relevant to addressing racial discrimination, is China's **state secrets system**. The state secrets system consists of the *Law on the Protection of State Secrets of the People's Republic of China* (1988)¹⁴, the *Measures for Implementing the Law on the Protection of State Secrets of the People's Republic of China* (1990)¹⁵, and relevant provisions of the *State Security Law*¹⁶, the *Criminal Law*¹⁷, *Criminal Procedure Law*¹⁸, and the *Supreme People's Court Interpretation of Certain Issues Regarding the Specific Application of the Law When Trying Cases of Stealing, Gathering, Procuring or Illegally Providing State Secrets or Intelligence Outside of the Country*.¹⁹ The state secrets system sweeps a vast universe of data into a non-transparent black hole of protected information. The overbroad reach of the state secrets system makes it exceedingly difficult to constructively assess the State party's implementation progress.
11. State secrets are classified as **“Top Secret” (绝密)**, **“Highly Secret” (机密)** and **“Secret” (秘密)**. Classifications cannot be challenged or appealed. In addition, government documents that are not classified as state secrets can be designated as **“neibu” (Internal) (内部)** and banned from public circulation. There is no clear line between classified state secrets and *neibu* information because state secrets charges may be applied to a case that involves only *neibu* information. Also, information can be classified as state secrets **retroactively**. Individuals can be subject to criminal and administrative sanctions, and Party members can be subject to Party sanctions for either knowingly or unknowingly disclosing, leaking, divulging, or possessing state secrets.²⁰
12. A wide range of information relevant to the identification and prevention of racial discrimination is classified as state secrets. In fact, entire categories of **information related directly to the administration of ethnic group affairs** are explicitly classified as **“Top Secret” (绝密)**. The following are examples of regulations classifying relevant information, which would be helpful in evaluating the State party's implementation of the Convention.

| ETHNICITY-RELATED CATEGORIES OF CLASSIFIED INFORMATION | CLASSIFICATION |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| <p>“Analyses of important developments and information on anything that could seriously harm ethnic relations, or that for other ethnic reasons could endanger national unity or affect social stability”</p> <p>- <i>State Ethnic Affairs Commission (SEAC) and National Administration for the Protection of State Secrets (NAPSS)</i>²¹</p> | Top Secret 绝密 |
| <p>“Strategies and measures for dealing with the occurrence of major ethnic-related public order emergencies”</p> <p>- <i>SEAC and NAPSS</i>²²</p> | Top Secret 绝密 |
| <p>“Strategies and measures used in handling ethnic separatist activities”</p> <p>- <i>SEAC and NAPSS</i>²³</p> | Top Secret 绝密 |
| <p>“Secret intelligence involving the coordination of national security, the stability of social administration, ethnic unity ...and other especially important intelligence”</p> <p>- <i>Ministry of Public Security and NAPSS</i>²⁴</p> | Top Secret 绝密 |

13. Much of the information specifically requested in the Committee’s 2001 Concluding Observations may also be classified as state secrets. Specifically, the Committee’s requests for disaggregated statistics on **gender-related racial discrimination** in the area of **trafficking and reproductive health**, and on **detention, imprisonment, torture, death sentences and executions**, may be classified under the state secret system.

A table of state secrets regulations and classifications relevant to the Committee’s requests is attached to this report as **Annex 2**.

14. In response to the Committee’s request for information on the **State Ethnic Affairs Commission (SEAC)**, Paragraph 13 of the State party’s report describes SEAC’s role in “protecting the lawful rights and interests of ethnic minorities and in promoting the development of ethnic areas.” In addition to “formulat[ing] policy measures” to “support and help the ethnic minorities and ethnic areas,”²⁵ the SEAC also acts with the National Administration for the Protection of State Secrets (NAPSS) to promulgate regulations implementing the State Secrets law, including **classifying information related to implementation of the Convention**. Specifically, as noted above, SEAC and NAPSS regulations classify as “**Top Secret**” “information on anything that could seriously harm **ethnic relations**, or that for other **ethnic reasons** could endanger national unity or affect social stability,” and “strategies and measures” related to “**ethnic-related public order** emergencies” and “**ethnic**

separatist activities.²⁶ This raises serious concern over conflicts between SEAC's stated function of "protecting the lawful rights and interests of ethnic minorities" and its role in **controlling information** relevant to the State party's policies and practices that have an impact on the human rights and fundamental freedoms of ethnic groups.²⁷

15. **HRIC urges the Committee to press the State party for a more detailed and thorough response to the Committee's 2001 requests for:**

- Socio-economic data, **disaggregated by national and ethnic group;**
- Information on measures taken to prevent **gender-related racial discrimination**, including in the area of **trafficking** and **reproductive health; and**
- Statistics, **disaggregated by nationality and region**, relating to **detention, imprisonment**, alleged, investigated and prosecuted cases of **torture, death sentences and executions**

16. **HRIC also urges the Committee to clarify with the State party whether and to what extent information requested from the State party is in fact classified as state secrets or may instead be made available for review by the Committee. The Committee should also request that the State party provide updated information on the current status of reforms (if any) to the state secrets system, and whether regulations hindering implementation of the Convention will be assessed under such reforms.**

ARTICLE 5: EQUAL ENJOYMENT OF RIGHTS

Crackdowns on the civil and political rights of Tibetans

17. The State party's policies in the TAR have had the **effect of nullifying and impairing** the recognition, enjoyment and exercise, on an equal footing, of the **human rights and fundamental freedoms of Tibetans**. These include documented inequities arising from the persistent exclusion of Tibetans from meaningful political participation, the lack of sufficient protections for Tibetan culture and religion, and the disproportionate costs burdened by Tibetans in the course of economic development.²⁸ The State party's report also acknowledges the "wide gap" between ethnic regions like the TAR and more economically-developed areas, as well as the extent of "**absolute poverty in ethnic agricultural and pastoral areas**."²⁹
18. Failure to address fundamental inequalities suffered by Tibetans has contributed to unrest. Regrettably, the State party's current approach to the Tibet situation, which includes the **use of military force**, undermines **peaceful resolution through dialogue**.
19. Particularly disturbing are reliable reports of the **arrest, detention, imprisonment and mistreatment** of what is believed to be **thousands of Tibetans** following security crackdowns in the wake of the **March 2008 demonstrations**.³⁰ Regrettably, government authorities strictly regulated media access to the areas where demonstrations occurred. Information on the treatment and current status of detained and arrested Tibetans, and official responses and actions in the aftermath of the demonstrations, may be classified as **state secrets**. This raises serious concerns about the equal enjoyment of civil and political rights under Article 5, including rights to **security of the person** and protection by the State party against **violence and bodily harm**, to freedom of **opinion and expression**, and to freedom of **peaceful assembly and association**.
20. The State party has also placed **restrictions** on the **access** of Tibetan detainees to **legal assistance and representation**. Lawyers seeking to defend the civil and political rights of Tibetan detainees, including lawyers of majority Han Chinese ethnicity, have been questioned by authorities, put under surveillance, had their communications monitored, and have even been stripped of their licenses to practice law.³¹ This raises serious concern over the rights of Tibetan detainees to **equal treatment before tribunals** and in the **administration of justice** under Article 5, and under the State party's own Constitution and criminal procedure laws. Such actions also undermine the independence of the legal profession and the State party's goal of establishing a rule of law. Moreover, by prohibiting Han Chinese citizens from advocating on behalf of their Tibetan neighbors, the State party undermines the promotion of "**understanding, tolerance and friendship among nations and racial or ethnical groups**" as encouraged under the Convention.³²

21. **HRIC urges the Committee to request the State party to provide detailed information concerning the arrest, detention, imprisonment and mistreatment of Tibetans in the wake of the March 2008 demonstrations. Specifically, the Committee should make requests for information detailing:**

- The **number of persons arrested, detained and imprisoned** after the March 2008 demonstrations, and the **current status or conditions** of those persons;
- The **number of cases investigated or prosecuted** as a result of the March 2008 demonstrations, and the **current status or outcomes** of those cases;
- Whether and to what extent **arrested, detained and imprisoned individuals** have **access to legal counsel**, and the **number of investigations or prosecutions** in which the held individuals have and have not been **represented by legal counsel**; and
- Whether and to what extent the requested information is in fact **classified as state secrets** or may instead be made available for review by the Committee.

National security policies and the rights of Uyghurs

22. The State party's report cites developments in the XUAR, including reported increases in aggregated incomes and agricultural and industrial outputs. However, as noted by this Committee, economic development in minority areas does not *ipso facto* entail the equal enjoyment of economic, social and cultural rights in accordance with Article 5(e). Disaggregated information by ethnicity is necessary to assess whether these development policies benefit the predominantly Muslim **Uyghurs**. Without baseline information, benchmarks, and comparative indicators, a meaningful assessment of implementation progress is hampered.

23. Reports of the State party's **harassment and mistreatment** of Uyghurs under the banner of domestic security also raise serious concerns about the equal enjoyment of civil and political rights for Uyghurs, including the right to **freedom of conscience, thought and religion**.³³ The Committee's 2001 Concluding Observations reflect these concerns, noting that "distinctive religion is integral to the identity" of ethnic groups such as the Uyghurs.³⁴

24. The State party's participation in multilateral cooperation mechanisms such as the **Shanghai Cooperation Organization (SCO)** raises **additional concerns that have cross-border and regional impacts**. Under the framework of the **Shanghai Convention on Combating Terrorism, Separatism and Extremism (Shanghai Convention)**,³⁵ the State party is an active member of the **SCO**, which also includes the Republic of Kazakhstan, the Kyrgyz Republic, the Russian Federation, the Republic of Tajikistan, and the Republic of Uzbekistan. By linking the so-called "**three evils**" of "**terrorism**,"³⁶ "**separatism**"³⁷ and "**extremism**"³⁸ under the Shanghai Convention, the State party risks exploiting the presumptive legitimacy of anti-terrorism measures to violate the rights of Uyghurs.

25. The State party has long characterized the **Uyghurs'** peaceful expressions of ethnic, cultural, and religious identity as separatist, extremist or even terrorist threats.³⁹ Based on this characterization, the State party has cracked down hard against Uyghurs, including by **severely curtailing religious and cultural freedoms** during the period of Ramadan and increasing arrests and detentions.⁴⁰ The State party's invocation of a "war on terror" and separatist, extremist, or terrorist labels raise serious concerns regarding protections for ensuring an appropriate balance between national security and protection of human rights and fundamental freedoms under international norms and standards, such as the Johannesburg Principles.⁴¹
26. Under the SCO framework, racial discrimination issues might arise from the **cooperative efforts** of other **SCO member states**, some of which border the XUAR. For instance, the Shanghai Convention obligates member states to cooperate on **extradition**, raising serious concerns over individuals at risk of persecution, mistreatment or execution upon extradition to the State party's jurisdiction. SCO members also share **intelligence** via the **Regional Anti-Terrorist Structure (RATS)**, which has created a database with alarming potential for misuse. Finally, it is unclear whether any **oversight** is exercised by the State party or an SCO process concerning a member's application of one of the "three evil" labels to an individual or group operating within that particular member's borders.
27. **HRIC urges the Committee to request information regarding the State party's participation in the SCO and the impact of State party measures to implement the SCO on the State party's obligations under international law, including the Convention.**
28. **HRIC also urges the Committee to request from the State party specific and detailed information:**
- The **databases maintained by the SCO's RATS mechanism**, the types of individualized information that are compiled and analyzed by RATS, and how that information is used and exchanged by the State party as an SCO member;
 - The number of **individuals extradited** to or from the State party's jurisdiction pursuant to the Shanghai Convention, and for what crimes; and
 - **Protections for ensuring the appropriate balance of national security and protection of rights under international standards.**

Economic development and impact on Mongol culture

29. The State party's report places emphasis on economic development policies and reported increases in aggregated incomes in the IMAR to suggest improvements in the lives of **Mongols**.⁴² Moreover, without baseline information, benchmarks, and comparative indicators, a meaningful assessment of implementation progress is also hampered. However, the State party report's **lack of detailed information** disaggregated by ethnicity, combined with reports of **mass displacements** of Mongol

herdsmen and their households, raises grave concerns about the equal enjoyment of rights by members of the Mongol ethnic group.

30. For instance, the State party's "**eco-development**" policies have resulted in the **forced displacement and relocation** of hundreds of thousands of **Mongol herders and their families** away from their ancestral lands. Reports state that approximately **800,000** Mongols have been dispossessed of their land and livestock since 2001, forced impossibly to adapt to living conditions and occupations for which they have inadequate preparation or training.⁴³ The State party's policies give rise to serious concerns about the destruction of the Mongol group's **pastoral culture and way of life**.
31. **HRIC urges the Committee to request that the State party provide detailed statistics, disaggregated by ethnicity, on the impact of IMAR economic development and ecological management policies on the rights of Mongols and other ethnic groups. Specifically, the Committee should request detailed disaggregated information related to the following:**
- **The number of ethnic group households that have been displaced and relocated** by the State party's desertification prevention programs;
 - **The locations to which such households have been relocated, and the numbers relocated to the respective locations;**
 - Whether and to what extent displaced ethnic group households have been **compensated for dispossession of their land and assets**, including livestock;
 - Whether and to what extent the State party has implemented **economic, social and cultural adjustment programs, including occupational skills training**, for displaced ethnic group households relocated to urban areas; and
 - Whether and to what extent displaced members of ethnic groups have been able to find **new occupations or livelihoods** in their new locations.

Descent-based discrimination against rural hukou holders⁴⁴

32. Under the State party's *hukou* household registration system, close to **one billion rural hukou holders**⁴⁵ experience **unequal enjoyment of their fundamental rights** under Article 5 of the Convention. Due to barriers to alteration of *hukou* status, rural *hukou* holders suffer descent-based discrimination and unequal access to social welfare benefits in comparison to their urban counterparts. These inequalities undermine both the State party's stated policy to "place people first" and its efforts to build a "harmonious society characterized by democracy, rule of law, equity and justice."⁴⁶
33. Through the ***hukou system***⁴⁷, all citizens are given their *hukou* identification through a registration process administered by local public security authorities. In 1963,

authorities began categorizing citizens into either “**agricultural**” (rural) or “**non-agricultural**” (urban) residents according to their **particular place of residence**. Children inherit their parents’ *hukou* status when they are born, thereby **inheriting their social identities** through descent.⁴⁸

34. **The State party links social benefits and rights to *hukou* identification**, thus creating the effect of **impairing the equal enjoyment of rights** by rural *hukou* holders. This state-constructed *hukou* identity serves as the basis for systematically depriving rural *hukou* holders of core rights and perpetuates their economically and politically disadvantaged status, including after they migrate to urban areas. Though **narrow channels for crossing *hukou* barriers** exist, such as becoming an officer in the military or passing college entrance exams,⁴⁹ these channels are not available to the majority of migrant workers and rural residents.⁵⁰ Eligibility for public benefits and services based on *hukou* status constitute descent-based preferences that put rural *hukou* holders on unequal footing with urban *hukou* holders. Ongoing problems of the *hukou* system have been recognized by the State party, as reflected in reform efforts.
35. Since the Committee’s last review in 2001, the State party has further implemented a series of ***hukou* reforms** in an attempt to address the wide gap and growing inequalities between rural and urban residents, including reforms to lessen the effect of discrimination against rural *hukou* holders. Some examples of reform include:
- At the provincial level there are trends towards **abolishing or relaxing the distinction between an “agricultural” and “non-agricultural” *hukou*** and allowing rural residents to **obtain an urban *hukou*** after meeting certain requirements (e.g., **possession of a stable job and stable residence**).
 - Recently at the national level, the **National Development and Reform Commission** indicated that restrictions in the *hukou* system will be abolished by 2020.
 - In April 2009, the State party’s **Human Rights Action Plan (2009-2010)** referenced pushing forward *hukou* reforms to relax requirements for settling in cities.

For details on select State party reforms since 2001, see **Annex 3**.

36. Notwithstanding the State party’s reform efforts, there has been only **limited effect on the elimination of *hukou*-based discrimination**, which has even been perpetuated in some cases. Ongoing problems include:
- For most rural *hukou* holders who migrate to urban areas, **requirements to obtain a local *hukou*** such as having a “stable job or source of income” and a

“stable place of residence for a specified period of time” are **too difficult** to overcome.⁵¹

- **The implementation** of *hukou* reforms initiated at the provincial level is **uneven** from one province to the next.⁵²
- **At the national level**, although the State party’s Human Rights Action Plan (2009-2010) referenced *hukou* reforms, **the scope** of the reforms are **limited** to “small and medium-sized cities” without a specific timeframe or implementation mechanism.⁵³

37. In face of this ongoing *hukou*-based discrimination, there have been **civil society efforts to challenge the restrictions for obtaining a local urban *hukou***. For example, since April 2007, Beijing public interest lawyers **Cheng Hai [程海]** and **Li Subin [李苏滨]** have filed several lawsuits against the public security departments to request a change of *hukou* status. The lawyers requested that the public security authorities observe the Regulations on Household Registration [中华人民共和国户口登记条例]. Through these lawsuits, the lawyers’ goal was to promote institutional changes in the *hukou* system that would allow every citizen the right to obtain a *hukou* in his or her habitual residence⁵⁴.

As of May 2009, the lawyers have not won any of the lawsuits at the lower trial levels and are still pursuing appeals. Pending the court’s decisions, public security authorities continue to implement regulations that restrict the majority of rural *hukou* holders, both rural residents and migrant workers, from changing their *hukou* status.

Two Lawyers’ Lawsuits

Lawyers Cheng Hai [程海] and Li Subin [李苏滨] are originally from other provinces but have lived in Beijing for many years. After several unsuccessful attempts at applying to change their original *hukou* into a Beijing *hukou* based on the **Regulations on Household Registration** [中华人民共和国户口登记条例] (“RHR”) passed by the Standing Committee of the NPC (the highest legislature in China), they filed lawsuits against the Beijing Public Security Department for refusing their application to grant them a Beijing *hukou*.

Lawyers Cheng and Li argued that the RHR requires citizens to register as inhabitants in their *habitual residence* (Art. 6) and when they leave their original habitual residence for more than 3 months, they must apply to change their original *hukou* to one in their new habitual residence (Art. 16). The lawyers claimed that according to the RHR, they have the right to acquire a Beijing *hukou* because Beijing is their current *habitual residence*. However, the Beijing Public Security Department used lower-level regulations promulgated by the Ministry of Public Security and the Beijing government to restrict them from acquiring such a *hukou*. The two lawyers argued that the **lower-level regulations contradict the higher-level RHR**, and that the public security authorities should observe the higher-level RHR instead of the lower-level regulations. The lawyers have not won any of the lawsuits, but they have continued to appeal the court decisions as of May 2009.⁵⁵

38. The over **200 million**⁵⁶ **rural-to-urban migrant workers** continue to face descent-based discrimination due to their inability to change their *hukou*. Through the State party's measures, which link *hukou* identification with provision of public rights and services, descent-based discrimination disadvantages these migrants in a number of significant areas, including **education, employment, healthcare, housing and political participation**.

- **Education**

- Although the Ministry of Finance⁵⁷ has abolished the collection of “**temporary student fees** [借读费],” an **additional educational fee** is levied on migrant children based on their *hukou* status, the majority of migrant families are still paying these fees⁵⁸, which constitute a significant portion of the average migrant's annual income.⁵⁹
- Students with an urban *hukou* in large cities can be admitted into the city's universities with a lower exam score⁶⁰, which has the effect of impairing equal enjoyment of educational rights for rural *hukou* students.

- **Employment**

- *Hukou*-based discrimination is still prevalent in the workplace.⁶¹ Local governments of large cities have used regulations and policies to **exclude migrants from the enjoyment of employment opportunities**.⁶²
- Even if hired, those who do not have a local urban *hukou* usually do not enjoy equal **wage** and **benefits** compared to local urban *hukou* holders.⁶³
- Migrant workers are especially vulnerable to such discrimination because they are often **unaware of their rights** and do not have financial or legal resources to combat the discrimination.

- **Healthcare**

- Access to many health care insurance programs are conditional on having a local urban *hukou*. Thus, rural migrants are often **denied medical care** in urban areas and are **restricted** in their **ability to obtain subsidized healthcare**.⁶⁴

- **Housing**

- In most large cities, the government provides **preferential housing benefits only to local urban hukou holders** to purchase and rent housing at a lower cost.⁶⁵

- **Political Participation**

- **Hukou registration** is commonly **linked to voting rights**. Without a local *hukou*, migrants are often required to vote in their place of registration. Localities such as Beijing have undertaken reforms for allowing migrants to vote in their place of habitual residence. These reforms, however, generally require migrants to first return to their place of *hukou* registration and obtain official approval to vote in their place of actual habitual residence.⁶⁶ These

burdensome requirements have the effect of **restricting** the ability of poor **migrants to exercise their voting rights on equal footing** with urban *hukou* holders.

39. During the current **economic crisis**, many migrant workers are now being **forced to return to rural areas** as a result of widespread unemployment.⁶⁷ In March 2009, figures showed that the number of unemployed migrant workers had risen to **23 million**.⁶⁸ This trend raises concerns that a massive number of displaced migrant workers, desperate for work, are even more vulnerable to exploitation in the workforce, thereby amplifying existing *hukou*-related discrimination.⁶⁹ Other concerns include:

- As migrant workers are forced to return to their hometowns, additional conflicts and problems arise from **land contracts**. Many migrant workers, believing that they would work in the cities long-term, leased out their land to neighbors to farm. However, upon their forced return, the migrant workers renege on their contracts and reclaim the land, sometimes through violence.⁷⁰
- Migrant workers, after their return to their hometowns, experience both the lack of employment opportunities and the **unequal social rights and benefits** to which rural *hukou* residents in general are subject.

40. The failure to meaningfully address **descent-based discrimination** against China's approximately one billion people rural *hukou* holders not only undermines the Committee's comprehensive review of the State party's progress, but also the State party's implementation of the Convention. **The State party has acknowledged** that the *hukou* system and resulting *hukou*-based discrimination **require reform**.⁷¹ Inclusion of the discrimination of rural *hukou* holders under the Committee's review would **contribute** to the State party's **reform efforts** and **effective implementation** of the Convention.

41. **HRIC urges the Committee to press the State party to provide specific information on current reforms to the *hukou* household registration system, including specific details concerning progress, timeframes, and impact of these reforms on the equal enjoyment of human rights and fundamental freedoms protected under the Convention.**

42. **In addressing inequalities between rural and urban areas, HRIC also urges the Committee to request that the State party provide more detailed and comprehensive information, including *baseline information, benchmarks, and comparative indicators*, regarding the enjoyment of economic, social, and cultural rights by rural inhabitants, including rural-to-urban migrants, and the measures taken to ensure that rural inhabitants have equal enjoyment of these rights.**

ANNEXES

Annex 1

Previous requests by the Committee and other treaty bodies for disaggregated statistical information

| TREATY BODIES AND SPECIAL MECHANISMS | SPECIFIC REQUEST |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> • Concluding observations of the Committee on the Elimination of Racial Discrimination (CERD), 27 September 1996, para. 23⁷² • Concluding observations of CERD, 8 September 2001, para. 250⁷³ • Concluding observations of the Committee on Economic, Social and Cultural Rights, 13 May 2005, para. 40⁷⁴ • Concluding observations of the Committee on Economic, Social and Cultural Rights, 13 May 2005, para. 67⁷⁵ | <ul style="list-style-type: none"> • Comprehensive information regarding the composition of the population, the geographic areas where minority nationalities are concentrated, their standard of living and other educational and social indices [...] also as far as possible with respect to those [minorities] dispersed in various regions [...] information regarding the legal protection available to dispersed minorities relative to the rights provided for in the Convention. • Socio-economic data, disaggregated by national and ethnic group, and information on measures taken to prevent gender-related racial discrimination, including in the area of trafficking and reproductive health. • Statistics, disaggregated by nationality and region, relating to detention, imprisonment, alleged, investigated and prosecuted cases of torture, death sentences and executions. • Updated annually collected comparative data disaggregated by sex, age and rural/urban regions in the fields of all the provisions in the Covenant, paying particular attention to the disadvantaged and marginalized groups. • Annual comparative data, disaggregated by rural/urban regions, the percentage of gross domestic product allotted for education, health and housing programmes, in particular in the ethnic minority regions. • Detailed information, including disaggregated comparative statistics, to evaluate progress made and obstacles encountered in the implementation of all the provisions of the Covenant in the ethnic minority regions, including in XUAR and TAR. |

| TREATY BODIES AND SPECIAL MECHANISMS | SPECIFIC REQUEST |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> • Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding observations: China, 24 November 2005, para. 23⁷⁶ • Concluding comments of the Committee on the Elimination of Discrimination against Women, 25 August 2006, para. 14⁷⁷ • Concluding observations of the Committee against Torture, 21 November 2008, para 2, para 15⁷⁸ | <ul style="list-style-type: none"> • Reliable and comprehensive statistical data on all areas covered by the Convention and ensure that such data are systematically made available to the public in a timely manner in all parts of the State party. • Developing central databanks for statistics on children for the mainland and the SARs, so as to ensure that statistical data are used for the development, implementation and monitoring of appropriate policies and programmes for children. • Study obstacles to data collection and to enhance the collection and the wide availability of sex disaggregated statistical information, by region and by ethnic group, in regard to each of the provisions of the Convention. • Statistical data relevant to the monitoring of the implementation of the Convention at the national level, disaggregated by gender, ethnicity, age, geographical region and type and location of place of deprivation of liberty, including data on complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment, detention conditions, abuses by public officials, administrative detention, death penalty cases, and violence against women, ethnic and religious minorities. |

Annex 2

Relevant state secret classifications and previous requests by the Committee for disaggregated statistical information

| 2001 COMMITTEE REQUEST FOR INFORMATION | CLASSIFICATION CATEGORY | CLASSIFICATION |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>“[S]ocio-economic data, disaggregated by national and ethnic group, and information on measures taken to prevent gender-related racial discrimination, including in the area of trafficking and reproductive health.” (Paragraph 250)</p> | <ul style="list-style-type: none"> • “Compiled data at the provincial level and higher regarding the trafficking of women.”⁷⁹ | Secret (秘密) |
| | <ul style="list-style-type: none"> • “Figures on cases of kidnapping and trafficking in humans and figures on those kidnapped or sold; cases involving the kidnapping and trafficking of women belonging to ethnic minorities.”⁸⁰ | <i>Neibu</i> /Internal (内部) |
| | <ul style="list-style-type: none"> • Statistics on “the number of deaths resulting from problems with surgical birth control procedures or family planning” and “the number of induced abortions.”⁸¹ | National, provincial or autonomous region level: Highly Secret (机密) Prefectural level: Secret (秘密) County level: <i>Neibu</i> /Internal (内部) |
| | <ul style="list-style-type: none"> • “Statistics from family planning departments at the county level and higher on the gender and sex ratio of second and third-born children” and “cases of deaths or disabilities resulting from problems with surgical birth control procedures or family planning.”⁸² | <i>Neibu</i> /Internal (内部) |

| 2001 COMMITTEE REQUEST FOR INFORMATION | CLASSIFICATION CATEGORY | CLASSIFICATION |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| <p>“[S]tatistics, disaggregated by nationality and region, relating to detention, imprisonment, alleged, investigated and prosecuted cases of torture, death sentences and executions.” (Paragraph 250)</p> | <ul style="list-style-type: none"> • “Compiled information and statistics that have not yet been made public on criminals that have been arrested, captured, sent for reeducation-through-labor or juvenile rehabilitation, or taken in for shelter and investigation in any directly-administered municipality, autonomous region or province throughout the country.”⁸³ | Secret (秘密) |
| | <ul style="list-style-type: none"> • “Statistics and compiled information on death sentences nationwide.”⁸⁴ | Top Secret (绝密) |
| | <ul style="list-style-type: none"> • “Statistics and compiled information on death sentences within provinces, autonomous regions or directly-administered municipalities.”⁸⁵ | Highly Secret (机密) |
| | <ul style="list-style-type: none"> • “Statistics and specific case details regarding the use of torture to extract confessions and corporal punishment abuse that led to serious consequences.”⁸⁶ | Highly Secret (机密) |
| | <ul style="list-style-type: none"> • “Statistics on criminal cases, and on those arrested in connection with such cases, that have not yet been made public either national wide or within provinces, autonomous regions or directly-administered municipalities.”⁸⁷ | Secret (秘密) |
| | <ul style="list-style-type: none"> • “Statistics and compiled information on death sentences within provincially-administered municipalities.”⁸⁸ | Secret (秘密) |
| | <ul style="list-style-type: none"> • “Annual or monthly statistics on national cases involving the sentencing, ratification or implementation of the death penalties.”⁸⁹ | Top Secret (绝密) |
| | <ul style="list-style-type: none"> • “Annual or monthly statistics cases tried at the provincial, autonomous region or directly-administered municipality level, as well as all military cases that involve the sentencing, ratification or implementation of the death penalty.”⁹⁰ | Highly Secret (机密) |

| 2001 COMMITTEE REQUEST FOR INFORMATION | CLASSIFICATION CATEGORY | CLASSIFICATION |
|----------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|
| | <ul style="list-style-type: none"> • “Annual or monthly statistics on cases tried by intermediate people’s courts involving the sentencing or implementation of the death penalty.”⁹¹ | Secret (秘密) |
| | <ul style="list-style-type: none"> • “Criminal judiciary forms for reporting statistics on cases other than those involving the death penalty tried by people’s courts at the intermediate level and above.”⁹² | Secret (秘密) |
| | <ul style="list-style-type: none"> • “Statistics nationwide and for any province, autonomous region or directly-administered municipality on the number of new prisoner executions and unusual deaths in prisons, juvenile detention facilities and reeducation-through-labor facilities.”⁹³ | Highly Secret (机密) |
| | <ul style="list-style-type: none"> • “Statistics at the level of province, autonomous region or directly-administered municipality below on the number of new prisoner executions and unusual deaths in prisons, juvenile detention facilities and reeducation - through-labor facilities.”⁹⁴ | Secret (秘密) |
| | <ul style="list-style-type: none"> • “Compiled annual and quarterly statistics on prisoners currently in detention nationwide.”⁹⁵ | Secret (秘密) |
| | <ul style="list-style-type: none"> • “Case details and guidelines on how to handle foreign inquiries regarding criminal and economic cases of definite significance concerning state security, national unity or foreign relations that have been handled by lawyers and not yet made public.”⁹⁶ | <i>Neibu</i> /Internal (内部) |
| | <ul style="list-style-type: none"> • “Data on instances of police officers causing injuries or disabilities to prisoners or reeducation-through-labor inmates and instances of police officers violating the law or discipline.”⁹⁷ | <i>Neibu</i> /Internal (内部) |

| 2001 COMMITTEE REQUEST FOR INFORMATION | CLASSIFICATION CATEGORY | CLASSIFICATION |
|----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|
| | <ul style="list-style-type: none"> • “Information not yet released on the investigations or trials of cases of judicial administration officers who violate discipline.”⁹⁸ | <i>Neibu</i> /Internal (内部) |
| | <ul style="list-style-type: none"> • “Statistics and information not yet made public on any judicial administration work that is not a state secret.”⁹⁹ | <i>Neibu</i> /Internal (内部) |

Annex 3

(Compiled by Human Rights in China)

Select hukou reforms

- **2001** – The **State Council issues an Opinion**¹⁰⁰ on reforming the *hukou* system in small cities to allow rural residents to obtain an urban *hukou* under certain circumstances such as having a legal and stable place of residence and a stable income. The Opinion authorizes local governments to implement *hukou* reforms, bringing about reforms such as allowing “floating populations” to acquire a local *hukou* under certain circumstances.¹⁰¹
- **2003** – **Local governments initiate *hukou* reform measures** such as abolishing the “blue stamp” *hukou*¹⁰² and the distinction between an “agricultural” and “non-agricultural” *hukou*, and further relax the requirements for obtaining a local *hukou*. Some local governments begin to allow those with a higher education or expertise in certain fields to obtain a local urban *hukou*.¹⁰³
- **End of 2008** – **Thirteen** out of thirty-four **provinces, autonomous regions and municipalities** have implemented reforms to abolish the distinction between an “agricultural *hukou*” and “non-agricultural *hukou*” as well as unify the registration system in rural and urban areas.¹⁰⁴
- **January 2008** – **Ma Liqiang, deputy secretary general of China’s official National Development and Reform Commission**, indicates that restrictions in the *hukou* system will be eliminated by 2020 (but does not set a specific timetable).¹⁰⁵ However, the Ministry of Public Security (MPS) is of the opinion that the *hukou* system will not be abolished but rather, the requirements for obtaining an urban *hukou* will be made more lenient.¹⁰⁶
- **March 2008** – It was reported that 14 government agencies led by **the State Council** are working on *hukou* reforms to establish a uniform *hukou* system in urban and rural areas to alleviate the restrictions on changing one’s *hukou*.¹⁰⁷ The MPS has drafted an Opinion¹⁰⁸ on reforms of the *hukou* administration system based on discussions with other government agencies.¹⁰⁹ However, the MPS spokesperson does not present a specific timeframe for the reforms.¹¹⁰
- **April 2009** – **The National Human Rights Action Plan of China (2009-2010)** specifically includes reform of the *hukou* household registration system as a goal and states, “Efforts will be made to push forward the reform of the household registration system to gradually relax the requirements for settling down in small and medium-sized cities.”¹¹¹ Reforms are limited to small and medium-sized cities and neither a timeframe nor implementation mechanism is indicated.

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³⁶ Under the Shanghai Convention, “terrorism” is defined to include, among other things, any act “intended to cause death or serious bodily injury to a civilian, or any other person not taking an active part in the hostilities in a situation of armed conflict or to cause major damage to any material facility, as well as to organize, plan, aid and abet such act, when the purpose of such act, by its nature or context, is to intimidate a population, violate public security or to compel public authorities or an international organization to do or to abstain from doing any act, and prosecuted in accordance with the national laws of the Parties.” Shanghai Convention Art. 1.1.1.

³⁷ The definition of “separatism” includes “any act intended to violate territorial integrity of a State including by annexation of any part of its territory or to disintegrate a State, committed in a violent manner, as well as planning and preparing, and abetting such act, and subject to criminal prosecuting in accordance with the national laws of the Parties.” Shanghai Convention Art. 1.1.2.

³⁸ The definition of “extremism” includes any act “aimed at seizing or keeping power through the use of violence or changing violently the constitutional regime of a State, as well as a violent encroachment upon public security, including organization, for the above purposes, of illegal armed formations and participation in them, criminally prosecuted in conformity with the national laws of the Parties.” Shanghai Convention Art. 1.1.3.

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⁴⁶ United Nations Human Rights Council, Working Group on the Universal Periodic Review, “National Report: China,” UN Doc. A/HRC/WG.6/4/CHN/1. November 10, 2008.

⁴⁷ During the mid-1950s, in order to stem what was referred to as the “blind flow” of migrants into the city, the State party imposed a number of administrative mechanisms, and also sought to impose controls on the population as a means of maintaining order through provisional rules for a system of population registration.

These policies culminated in the 1958 Regulations on Household Registration [中华人民共和国户口登记条例]. However, it was not until 1963, that the Ministry of Public Security (MPS) began categorizing citizens into either “agricultural” (rural) or “non-agricultural” (urban) residents, which was strengthened by a State Council notice in 1977. See Kam Wing Chan and Li Zhang, “The *Hukou* System and Rural-Urban Migration in China: Processes and Changes,” *The China Quarterly*, No. 160, December 1999; Yao Xiulan [姚秀兰], “Evolution and reform of Chinese domicile registration system” [论中国户籍制度的演变与改革], *Shenzhen Daxue Faxue* [深圳大学法学], 2004, No.5, available at http://journal.chinalawinfo.com/Article_Info.asp?Id=127148.

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⁵⁵ “Fangtan Cheng Hai: wei he xuanze huji susong” [访谈程海：为何选择户籍诉讼], *Xin Jing Bao* [新京报], May 5, 2007, available at http://www.gongmeng.cn/sub_r.php?zyj_id=1471; *Hukou qianyi di yi an gongmin heshi neng ziyou qianxi* [户口迁移第一案 公民何时能自由迁徙], September 20, 2007, *Falü Yu Shenghuo* [法律与生活], available at http://www.gongmeng.cn/sub_r.php?zyj_id=1568. Li Subin [李苏滨], “Hukou qianyi an shang su zhuang” [户口迁移案上诉状], *China Human Rights Defenders*, May 28, 2007, http://crd-net.org/Article/Class53/200705/20070528151026_4461.html.

⁵⁶ See note 9.

⁵⁷ Notice of the Ministry of Finance and the National Development and Reform Commission on Promulgating the 100 Administrative Charging Items to be Cancelled and Stopped from Collection [财政部、国家发展改革委关于公布取消和停止征收 100 项行政事业性收费项目的通知], issued by the Ministry of Finance and the National Development and Reform Commission, promulgated November 13, 2008, effective on January 1, 2009.

⁵⁸ *China Labor Bulletin*, “The Children of Migrant Workers in China,” May 11, 2009, <http://www.clb.org.hk/en/node/100457>.

⁵⁹ In 2006, migrant laborers in Chinese cities earned an average of 966 yuan (US\$120) per month, much more than the average farmer, but still very low compared to urban residents. “Migrant Workers Earn Average Monthly Income of US\$120,” October 23, 2006, *Xinhua*, http://www.chinadaily.com.cn/bizchina/2006-10/23/content_714421.htm.

⁶⁰ “Ren da daibiao tiyi quanguo tongyi gaokao lüqu fen shu xian” [人大代表提议全国统一高考录取分数线], Nanfang Dushi Bao [南方都市报], March 9, 2006, <http://www.china.com.cn/chinese/news/1147689.htm>.

⁶¹ “Da xue sheng jiuye gaobai: ‘huji qishi’、’shenti shexian’ rang ren zuo nan” [大学生就业告白: “户籍歧视”、“身体设限”让人作难], Renmin Wang [人民网], April 18, 2007, <http://npc.people.com.cn/GB/28320/80124/80126/5633677.html>; “Jizhe diaocha: jiuye qishi ‘yin hun bu san’,” [记者调查: 就业歧视“阴魂不散”], Renmin Wang [人民网], January 8, 2007, <http://acftu.people.com.cn/GB/67561/5258189.html>; “Zhichang chongtu ‘jiu zong zui’ zhi huji qishi” [职场冲突“九宗罪”之户籍歧视], Renmin Wang [人民网], May 17, 2007, <http://npc.people.com.cn/GB/71673/5746102.html>.

⁶² For example, migrants are only permitted certain types of work, usually the least desirable, such as in slaughterhouses, cleaning, mining, and on construction sites. They are also prevented from working in sectors such as finance, real estate and advertising. See 2000 nian Beijing shi yunxu he xianzhi shiyong waidi renyuan de hangye、zhiye fanwei [2000年北京市允许和限制使用外地人员的行业、职业范围], issued by Beijing Labor and Social Security Bureau [北京市劳动和社会保障局], promulgated and effective on December 1, 1999. In November 2008, the Beijing municipal government announced a system that will provide employers annual subsidies of up to 10,000 *yuan* (US\$1,470) for employing jobseekers with a Beijing urban *hukou*. Migrants without such a *hukou* are explicitly denied the same employment opportunities, therefore reinforcing the discriminatory nature of the urban *hukou* system. Human Rights Watch, “China: Economic Crisis Increases Risks for Migrant Workers,” January 23, 2009, <http://www.hrw.org/en/news/2009/01/23/china-economic-crisis-increases-risks-migrant-workers>.

⁶³ According to a 2004 survey, migrant workers suffer *hukou* discrimination in the areas of wages, pension, medical insurance, unemployment insurance and participation in the work union. While there may be other reasons to explain differential treatments, such as human capital and difference of enterprises, the study shows that *hukou* discrimination is a major factor in differential treatments to urban workers and migrant workers. See Yao Xianguo [姚先国] and Lai Puqing [赖普清], “Zhongguo laozi guanxi de chengxiang huji chayi” [中国劳资关系的城乡户籍差异], Zhejiang da xue jing ji xue yuan jing ji yan jiu [浙江大学经济学院经济研究], No. 7, 2004.

⁶⁴ See note 6.

⁶⁵ There are several housing benefits in Beijing that migrants do not enjoy. First, the “Housing Fund System” [住房公积金制度] enables working urban *hukou* holders to have a portion of their paychecks invested into a housing fund. When they are ready to purchase, the account additionally allows them to secure loans from the bank at a lower interest rate. Second, the “Economically Affordable Housing” [经济适用房制] government policy enables Beijing *hukou* holders to purchase housing at a substantially lower price. Third, the “Low-rent Housing Program” [廉租房制度] ensures that Beijing *hukou* holders who do not meet a minimum income enjoy a lower rent for housing.

⁶⁶ See note 6.

⁶⁷ “Painful Lunar New Year for China’s Migrant Workers,” The Wall Street Journal, January 23, 2009.

⁶⁸ Peter Foster, “China’s jobless migrant workers hits 23m,” Telegraph, March 25, 2009, <http://www.telegraph.co.uk/news/worldnews/asia/china/5047758/Chinas-jobless-migrant-workers-hits-23m.html>.

⁶⁹ Human Rights Watch, “China: Economic Crisis Increases Risks for Migrant Workers,” January 23, 2009, <http://www.hrw.org/en/news/2009/01/23/china-economic-crisis-increases-risks-migrant-workers>.

⁷⁰ “Migrants mass return tests rural officials,” Xinhua, March 5, 2009, http://www.chinadaily.com.cn/china/2009-03/05/content_7542787.htm.

⁷¹ For example, see Annex 3 on select *hukou* reforms since 2001.

⁷² United Nations' Committee on the Elimination of Racial Discrimination. "Concluding Observations of the Committee on the Elimination of Racial Discrimination: China." CERD/C/304/Add.15, para. 23. September 27, 1996.

⁷³ See note 1.

⁷⁴ United Nations Economic and Social Council, Committee on Economic, Social and Cultural Rights, "Concluding observations of the Committee on Economic, Social and Cultural Rights: People's Republic of China," UN Doc. E E/C.12/1/Add.107, para. 40. May 13, 2005.

⁷⁵ *Ibid.*

⁷⁶ United Nations' Committee on the Rights of the Child, "Concluding Observations: China," UN Doc. CRC/C/CHN/CO/2, para. 23. November 24, 2005.

⁷⁷ United Nations' Committee on the Elimination of Discrimination Against Women, "Concluding comments of the Committee on the Elimination of Discrimination against Women: China," UN Doc. CEDAW/C/CHN/CO/6, para.14. August 25, 2006.

⁷⁸ United Nations' Committee Against Torture, "Concluding Observations of the Committee Against Torture: China." UN Doc. CAT/C/CHN/CO/4, para. 15. November 21, 2008.

⁷⁹ Regulation on State Secrets and the Specific Scope of Each Level of Secrets in Women's Work, [妇女工作中国家秘密及其密级具体范围的规定], issued by the All-China Women's Federation [中华全国妇女联合会] and the National Administration for the Protection of State Secrets [国家保密局], promulgated on April 24, 1991, Art. 3.2.4.

⁸⁰ Regulation on State Secrets and the Specific Scope of Each Level of Secrets in Public Security Work [公安工作中国家秘密及其密级具体范围的规定], issued by the Ministry of Public Security [公安部] and the National Administration for the Protection of State Secrets [国家保密局], promulgated on March 28, 1995, and effective on May 1, 1995, Art. 3.5.

⁸¹ Regulation on State Secrets and the Specific Scope of Each Level of Secrets in Family Planning Work, [计划生育工作中国家秘密及其密级具体范围的规定], issued by the State Family Planning Commission (now State Population and Family Planning Commission) [国家计划生育委员会, 现更名为国家人口与计划生育委员会] and the National Administration for the Protection of State Secrets [国家保密局], promulgated on May 16, 1995, Art.3.1.2, 3.1.3, 5.1,5.2, 5.5.

⁸² *Ibid* Art. 5.4, 5.5.

⁸³ Regulation on State Secrets and the Specific Scope of Each Level of Secrets in Public Security Work, [公安工作中国家秘密及其密级具体范围的规定], Art. 2C2.

⁸⁴ Regulation on State Secrets the Specific Scope of Each Level of Secrets in the Work of the People's Procuratorates, [检察工作中国家秘密及其密级具体范围的规定], issued by the Supreme People's Procuratorate [最高人民法院] and the National Administration for the Protection of State Secrets [国家保密局], effective on January 15, 1996, Art.3A2.

⁸⁵ *Ibid.*, Art. 3B4.

⁸⁶ *Ibid.*, Art. 3B5.

⁸⁷ *Ibid.*, Art. 3C2.

⁸⁸ *Ibid.*, Art. 3C3.

⁸⁹ Regulation on State Secrets the Specific Scope of Each Level of Secrets in the Work of the People's Courts, [人民法院工作中国家秘密及其密级具体范围的规定], issued by the Supreme People's Court [最高人民法院] and the National Administration for the Protection of State Secrets [国家保密局], promulgated on July 31, 1995 and effective on August 8, 1995, Art. 3A3.

⁹⁰ *Ibid.*, Art. 3B3.

⁹¹ *Ibid.*, Art. 3C3.

⁹² *Ibid.*, Art. 3C4.

⁹³ Regulation on State Secrets the Specific Scope of Each Level of Secrets in Judicial Administration Work, [司法行政工作中国家秘密及其密级具体范围的规定], issued by the Ministry of Justice [司法部] and the National Administration for the Protection of State Secrets [国家保密局], promulgated on August 31, 1995 and effective on October 15, 1995, Art. 2B1.

⁹⁴ *Ibid.*, Art. 2C3.

⁹⁵ *Ibid.*, Art. 2C2.

⁹⁶ *Ibid.*, Art. 4.5.

⁹⁷ *Ibid.*, Art. 4.8.

⁹⁸ *Ibid.*, Art. 4.12.

⁹⁹ *Ibid.*, Art. 4.16.

¹⁰⁰ Guowuyuan pi zhuan gonganbu guanyu tuijin xiaochengzhen huji guanli zhidu gaige yijian de tongzhi, [国务院批转公安部关于推进小城镇户籍管理制度改革意见的通知], issued by the State Council [国务院], promulgated March 30, 2001 and effective on March 30, 2001.

¹⁰¹ See note 51.

¹⁰² The “blue-stamp” urban *hukou* is open to a wider population, and more cities and towns including large cities. Eligibility is primarily based on the assessed “contributions” to the urban economy. Kam Wing Chan and Li Zhang, “The *Hukou* System and Rural-Urban Migration in China: Processes and Changes,” *China Quarterly*, 1999 Dec (160):818-55, available at <http://csde.washington.edu/downloads/98-13.pdf>.

¹⁰³ See note 51.

¹⁰⁴ “Huji gaige hai you duoshao lu yao zou? 13 sheng qu shi quxiao nongye hukou” [户籍改革还有多少路要走? 13省区市取消农业户口], *Zhongguo Xinwen Wang* [中国新闻网], December 20, 2008, <http://www.chinanews.com.cn/gn/news/2008/12-20/1495608.shtml>.

¹⁰⁵ Fu Jing and Wang Bo, “Hukou should be scrapped,” *China Daily*, January 23, 2008, http://www.chinadaily.com.cn/china/2008-01/23/content_6414434.htm.

¹⁰⁶ Tong Dahuan [童大焕], “Yiju ‘ti du quanli’ pojie huji gaige nanti” [依据“梯度权利”破解户籍改革难题], *China Youth Daily* [中国青年报], January 26, 2008, available at http://news.xinhuanet.com/politics/2008-01/26/content_7498360.htm.

¹⁰⁷ Xu Bing [许斌], “Huji gaige, zhuyao shi she bao zhidu gaige” [户籍改革，主要是社保制度改革], March 5, 2008, *Jin Yang Wang* [金羊网], http://ycwb.com/ycwb/2008-03/05/content_1814890.htm.

¹⁰⁸ Gonganbu guanyu jin yi bu gaige huji guanli zhidu de yijian (song shengao) [《公安部关于进一步改革户籍管理制度的意见》(送审稿)]

¹⁰⁹ Yang Gengshen [杨耕身], “Huji guanli zhidu gaige ying gai you mingque shijianbiao” [户籍管理制度改革应该有明确时间表], *Hua Shang Bao* [华商报], March 5, 2008, available at <http://news.sohu.com/20080305/n255530166.shtml>.

¹¹⁰ “Qiwang zao kan dao huji gaige shijian biao” [期望早看到户籍改革时间表], *Xin Wen Hua Wang* [新文化网], March 6, 2008, http://www.xwhb.com/gb/08lh07/2008-3/6/083610191795932_335.html.

¹¹¹ See note 53.