



**China's Compliance with the International Covenant
on Economic, Social and Cultural Rights
Suggested List of Issues Relating to Non-Discrimination, Forced Labor, Access to
Education, and Freedom of Expression and Information**

Submitted by The Advocates for Human Rights
a non-governmental organization in special consultative status with ECOSOC since 1996

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The Advocates for Human Rights (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. A growing number of victims fleeing human rights violations against ethnic Uighur minorities in China have requested legal assistance from The Advocates in applying for asylum in the United States. First-hand information from asylum-seekers about the human rights violations they experienced in China has been used in this submission with their permission.

EXECUTIVE SUMMARY

1. Members of the Uighur ethnic minority group in China continue to face systemic discrimination and widespread violations of their human rights. These abuses occur not only in the Xinjiang region, where the majority of Uighurs reside, but wherever Uighurs reside or travel within China.
2. The Advocates has received direct information about human rights violations based on membership in the Uighur ethnic minority group from survivors seeking asylum in the United States. The firsthand experiences of The Advocates' clients demonstrate that China continues to discriminate against and violate the rights of Uighur people, and also fails to prevent discrimination against them by private actors or hold perpetrators accountable.¹ Their experiences are entirely consistent with many other reports of widespread human rights abuses against Uighurs in the context of an ongoing and systematic campaign of repression that includes mass detentions, oppressive surveillance, and discriminatory treatment based on ethnicity.²

China fails to uphold its obligations under the International Covenant on Economic, Social and Cultural Rights.

3. As the Committee on Economic, Social and Cultural Rights (the Committee) observed in its General Comment 20,³ in order for States to guarantee the enjoyment of all the Covenant rights without discrimination, as required by Article 2, paragraph 2, “discrimination must be eliminated both formally and substantively.” In other words, it must be eliminated both in law and in practice. China must undertake all necessary measures to eliminate discrimination against members of the Uighur ethnic minority group by both the government of China and by other actors within China.
4. Pursuant to Articles 6 and 7 of the Covenant, the State Party is obligated to ensure to “everyone to the opportunity to gain his living by work which he freely chooses or accepts,” and to enjoy safe and healthy working conditions and fair remuneration for their work. China must eliminate obstacles that discriminatorily prevent members of the Uighur ethnic minority group from equally enjoying these rights, and must cease all forms of forced labour imposed upon the group.
5. As provided in Article 13, para. 2(a) of the Covenant, China is obligated to ensure access to free, compulsory primary education to everyone within its jurisdiction. China must take all necessary measures to ensure that Uighur students do not experience discriminatory treatment in their access to education.

¹ The case information presented in this submission is compiled from intake and other interviews conducted by The Advocates for Human Rights with Uighur asylum seekers from China between 2018 and 2020 (hereinafter referred to as “Interviews conducted by The Advocates (2018-2020)”). Some details have been removed to maintain confidentiality and to protect the identities of clients and their families. Information is used with permission.

² See, e.g., Time, *After Tiananmen, the U.S. Protected Chinese Students in America. 30 Years Later, Uighurs Say It's Time to Do the Same for Them*, 31 May 2019, <https://time.com/5598045/china-tiananmen-uighur-immigration/>.

³ Committee on Economic, Social, and Cultural Rights, General Comment No. 20, Non-discrimination in economic, social, and cultural rights, E/C.12/GC/20, 2 July 2009, para. 8.

6. Article 15 of the Covenant imposes on the State Party the obligation to ensure the right of everyone to enjoy the benefits of scientific and technological progress, as well as the development of international contacts. China must cease the imposition of surveillance and monitoring that impose an undue and discriminatory burden on the communications and related freedom of expression of members of the Uighur ethnic minority, including the use of threats and intimidation to inhibit such expression.

I. Issue 1: Non-discrimination

7. In its 2014 Concluding Observations, the Committee recognized that the principle of non-discrimination has been incorporated in China's Constitution and in other laws.⁴ The Committee expressed regret, however, that China lacks a comprehensive anti-discrimination law to protect all marginalized and disadvantaged individuals and groups in their enjoyment of economic, social and cultural rights, and expressed concern about persistent and widespread discrimination against ethnic minorities, especially in the fields of employment, social security, housing, health and education. The Committee urged China to adopt such legislation, to strengthen its efforts to combat all forms of discrimination against ethnic minorities, and to ensure their enjoyment of all economic, social and cultural rights, including legal work, social security, adequate housing, public health care, and education.
8. In its State Party report, China responds that a number of its existing laws “provide for the application of the principle of non-discrimination in their related fields,” and that “the 2017 formulation of the General Provisions of the Civil Law stipulates that ‘all civil subjects have equal legal status in civil activities.’”⁵
9. Nonetheless, discrimination against members of the Uighur ethnic group continues unabated. The Advocates’ asylum clients report that they and their family have long experienced discrimination in several of the areas of concern, committed by both public and private actors, as a result of their membership in the Uighur ethnic minority group. For example, the family experienced difficulties in traveling outside of the Xinjiang region because they were frequently denied the ability to check in to hotels due to their ethnic origin. When they were permitted to check in to a hotel, police came to the hotel to question them. The family also was not permitted to own a home outside of Xinjiang and experienced difficulties in renting housing because of their ethnicity. As more fully described in paragraph 19 of this report, one client experienced discrimination in access to education because of his ethnicity.⁶ These experiences are consistent with human rights reports that Uighurs continue to experience difficulty finding housing due to discrimination, including rental listings that expressly prohibit them from applying (in some cases citing instructions from police).⁷

⁴ Committee on Economic, Social and Cultural Rights, *Concluding Observations on the second periodic report of China (including Hong Kong, China, and Macao, China), adopted by the Committee at its 40th Session* (23 May 2014), ¶ 14.

⁵ CESCR, Third periodic report submitted by China under articles 16 and 17 of the Covenant, due in 2019, E/C.12/CHN/3, 5 August 2020, ¶ 14.

⁶ Interviews conducted by The Advocates (2018-2020).

⁷ United States Department of State, *2019 Country Report on Human Rights Practices: China (includes Hong Kong, Macau, and Tibet)*, (hereinafter, “2019 Country Report: China”)11 March 2020, at 43, <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/>.

10. The Advocates' clients report that their families have also been forced, on a discriminatory basis, to relinquish their right to engage in legal work. The family previously owned a business. Chinese authorities forced the business to close. The father was arrested, and the mother was informed that she must close the business or he would not be released. The business remains closed today.⁸
11. The immediate family of The Advocates' clients has suffered discriminatory treatment by Chinese authorities by being required to provide blood samples for DNA collection and to undergo iris and facial-recognition scans. They were the only persons of Uighur origin living in their neighborhood, and non-Uighur neighbors were not required to participate in these procedures. When The Advocates' clients returned to China to visit their family, they were detained at the airport, where their passports were confiscated and they were forced to undergo the same biometric procedures.⁹ The U.S. State Department also reports information indicating that Uighurs and other minority groups are being subjected to the use of facial recognition technology.¹⁰ In April 2019, people with direct knowledge of China's expansive surveillance program targeting Uighurs said that Chinese authorities are using facial recognition scans, DNA tracking, and other technologies to track the movements of millions of Uighurs.¹¹ The resulting repression and intimidation discriminatorily restrict the ability of Uighurs to enjoy the panoply of rights guaranteed by the Convention.

12. Suggested questions related to non-discrimination:

- What measures are in place to ensure that members of the Uighur ethnic minority group are afforded equal, non-discriminatory status in their enjoyment of the rights secured by the Covenant?
- Please provide information on steps taken to ensure that Uighurs do not experience discrimination in access to housing.
- What training is provided to law enforcement authorities to ensure that they do not engage in discriminatory treatment against Uighur persons or communities, and how are violators held accountable?
- Please provide information on steps taken to ensure that Uighurs do not experience discrimination in relation to the right to operate a business.
- Please provide information regarding any required facial recognition, retina scanning, or DNA-collection programs involving civilians, including the purposes for such programs and to whom any such programs apply.

II. Issue 2: Forced labor

13. The Committee's 2014 Concluding Observations noted the repeal of Legislation on Re-education through Labour, as was recommended in its previous concluding observations

⁸ Interviews conducted by The Advocates (2018-2020).

⁹ Interviews conducted by The Advocates (2018-2020).

¹⁰ US State Department, 2019 Country Report: China, at 93.

¹¹ New York Times, *One Month, 500,000 Face Scans: How China is Using A.I. to Profile a Minority*, 14 April 2019, <https://www.nytimes.com/2019/04/14/technology/china-surveillance-artificial-intelligence-racial-profiling.html>.

(E/C.12/1/Add.107, para. 51), but expressed concern about a lack of effective implementation of this decision, particularly at the municipal and provincial levels (arts. 6 and 7).¹² The Committee urged China to ensure the effective implementation of the decision to abolish the Re-education through Labour system throughout China, as well as to ensure that no alternative or parallel system of forced labor is put in place, particularly at the local level.

14. China's State Party report asserts that all persons in labor camps had been released as of 28 December 2013.¹³ But the reality and threat of forced labor camps for members of the Uighur ethnic minority group exists today, in the guise of "vocational education and training centers" operated by the Chinese government justified by vague and vast counterterrorism allegations. Indeed, the camps into which Uighur people have been forced arose as part of a systematic campaign of repression, including mass detentions, against the group since 2017. Researchers examining satellite images found evidence in 2020 that the camps in the Xinjiang region are expanding.¹⁴ The U.S. government estimates that more than 1 million Uighurs have been arbitrarily detained and placed in camps since April 2017.¹⁵
15. An aunt, an uncle, and a cousin of Mr. A and Mr. B, all Uighurs who resided in the Xinjiang region, have been forced to spend time in labor camps in China. During his detention, one client was told that he would be required to go back to Xinjiang, and that every Uighur who studies outside of China must be put into a labor camp. The client's father was eventually able to obtain his release and the return of his passport, and he returned to the United States. But he is now understandably afraid that he will be sent to a labor camp if he returns to China and is therefore seeking asylum. He also fears for the safety and security of his family members and believes they have been threatened because he failed to return to China since the visit during which he was detained.¹⁶
16. The Advocates' client's fears for his own safety and for that of his family in his absence are consistent with reports of the experiences of other Uighur students in the United States. The chairman of the Washington, D.C.-based Uyghur Human Rights Projects stated in 2019 that many Uighur students in the United States know their families in China have been detained.¹⁷ Many Uighurs abroad have been denied passport renewal and offered only a one-way travel document back to China. Some reported that authorities threatened to put their family members into detention centers if they did not return.¹⁸

17. Suggested questions related to forced labor:

- Please provide information regarding any camps or centers where members of the Uighur ethnic minority group are required to go, regardless of their purpose, including the location and current population of each one.
- What criteria are used to determine who is required to go to any such camp or center?

¹² *Concluding Observations*, ¶ 22.

¹³ China's third periodic report, ¶ 65.

¹⁴ New York Times, *Night Images Reveal Many New Detention Sites in China's Xinjiang Region*, 24 September 2020, <https://www.nytimes.com/2020/09/24/world/asia/china-muslims-xinjiang-detention.html>.

¹⁵ US State Department, 2019 Country Report: China, at 2.

¹⁶ Interviews conducted by The Advocates (2018-2020).

¹⁷ Time, *supra*.

¹⁸ US State Department, 2019 Country Report: China, at 102.

- For what length of time are persons required to reside in any education camp or center? What are the criteria for release?
- Is involuntary work required of persons residing in education camps or centers? Please provide information regarding the nature of such work.

III. Issue 3: Access to education

18. The Committee's 2014 Concluding Observations welcomed China's efforts to establish nine years of free compulsory education but expressed concern that compulsory education is still not free and is often unaffordable for children in rural areas and poor urban areas.¹⁹ The Committee recommended that China ensure that the nine years of compulsory public education are free and take all necessary measures to reduce dropout rates for children belonging to ethnic minority groups. In its State Party report, China asserts that free nine-year compulsory education is universal.²⁰
19. One of The Advocates' clients was denied access to a free and equal education due to his ethnicity. His ethnic origin appeared on his official state identification card. Because of his identified ethnicity, he was not allowed to register for public schooling in the city outside Xinjiang where his family lived. As a result, he had to instead attend inferior private schools for which his family was required to pay tuition.

20. Suggested questions related to access to education:

- What laws, policies, and practices are in place to ensure that students of Uighur ethnicity in areas outside of Xinjiang are permitted to enroll in free public schools on the same basis as members of other ethnic groups?
- Please provide information showing the rate of enrollment in free public schools among members of Uighur and Han ethnic groups, relative to their representation in the general population, in each region of China.
- What measures are in place to ensure that Uighur students are provided with equal access to a free public education in every region of China?

IV. Issue 4: Cultural rights and freedom of expression and information

21. In its 2014 Concluding Observations, the Committee expressed concern about China's efforts to limit freedom of information and expression and urged China to take effective measures to remove restrictions on freedom of expression and information. China has not responded to the Committee's concerns.²¹
22. The Government of China continues to forcibly repress freedom of expression for members of the Uighur ethnic minority group. Both of The Advocates' clients were detained at the airport upon arriving in China for a visit. One client, a minor, was released after being interrogated. The other client was detained at a police station for two weeks. During that time, his mobile phone was taken from him. The U.S. State Department reports that Chinese authorities are

¹⁹ *Concluding Observations*, ¶ 35.

²⁰ China's third periodic report, ¶ 137.

²¹ *Concluding Observations*, ¶ 37.

known to force young Uighurs to provide access to their mobile phones in order to download their contents to be examined.²² During the two weeks he remained in police custody, this client was subjected to interrogation regarding his social media use in the United States and his conversations in the United States about his experiences in China. He was warned not to speak about his experiences in China at all while in the United States and was told that he must return to China every summer. Both clients report that their mobile phone communications are monitored and they are afraid to speak openly with their family members in China.

23. Human rights groups have reported that many Uighurs are subjected to extensive surveillance, including being forced to install spyware on their mobile phones and even being required to allow government agents to live in their homes.²³ Many Uighurs outside of China report that they are subjected to surveillance, and that their communications with family members in China are monitored. In addition to threats and acts of retaliation against relatives in China, Uighurs residing in other countries have reported being followed, photographed, or contacted and questioned by Chinese authorities.²⁴

24. Suggested questions related to freedom of expression and information:

- What measures has the State Party taken to ensure that Uighur individuals are not subjected to surveillance or monitoring measures that interfere with their rights to freedom of expression or information?
- What remedies are available for persons who believe they are being subjected to surveillance or monitoring that interferes with their rights?
- Please provide information regarding complaints the State Party has received about surveillance or monitoring, including the number of complaints received and how the State Party has responded to such complaints.
- What training is provided to law enforcement authorities to ensure that they do not improperly restrict the freedom of expression of individuals?
- What remedies are available for persons who have experienced restrictions of their freedom of expression in violation of their rights under the Covenant? How has the State Party responded to allegations of such restrictions?

²² US State Department, 2019 Country Report: China, at 96.

²³ US State Department, 2019 Country Report: China, at 3.

²⁴ The Atlantic, *Uighurs Can't Escape Chinese Repression, Even in Europe*, 20 August 2019, <https://www.theatlantic.com/international/archive/2019/08/china-threatens-uighurs-europe/596347/>.