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## Human Rights Council

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Human rights situations that require the Council's attention

### **Written statement\* submitted by the Nonviolent Radical Party, Transnational and Transparty, a non-governmental organization in general consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 May 2011]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## **Second anniversary of the 5 July 2009 events in Urumqi, regional capital of the Xinjiang Uyghur Autonomous Region (XUAR), People's Republic of China: Two years of impunity\*\***

The Nonviolent Radical Party (NRP) is deeply concerned that nearly two years after the tragic 5 July 2009 events of Urumqi, the regional capital of the Xinjiang Uyghur Autonomous Region (XUAR), China, no independent investigation into the events had been allowed by the Chinese authorities and that the crackdown on Uyghur culture, identity, freedom of expression, and religion, as well as the economic discrimination of the Uyghurs continue.

### **Summary of the events of 5 July 2009**

On July 5, 2009, Uyghurs in the city of Urumqi staged a peaceful demonstration. The spark for the protest was government inaction on the killing of at least two, but possibly several dozen, Uyghur migrant workers by Han Chinese workers, at a toy factory in the city of Shaoguan, in the southern province of Guangdong.

The protest was organized and advertised as a peaceful demonstration and was announced on Uyghur-language websites, such as Salkin, Diyarim, and Uyghurbiz and notices about the protest were also circulated via SMS. It was widely reported that high school and university students were active in promoting the demonstration. According to witness accounts, the protesters were mostly young men and women, some of them carried Chinese flags, and they asked for an investigation into the Shaoguan killings, and expressed sympathy with the families of those killed and injured in Shaoguan. The demonstrators were reported to have initially numbered at least one thousand and to have later swelled into the thousands.

Chinese security forces moved in and used extreme force and violence to disperse and suppress the protest on July 5th. They beat and kicked demonstrators and used stun batons and tear gas on them. According to eyewitness reports received by human rights organizations such as Amnesty International, the violent crackdown resulted in the “deaths of possibly hundreds of people” and the same sources indicated that security forces fired on/shot at the demonstrators and extrajudicially killed people.

Media and human rights organisations reported that at some point during the night from 5 to 6 July, the authorities shut off the power in neighborhoods in Urumqi. Numerous witnesses confirmed that they heard gunfire all night long; some witnesses said that the only thing they saw was the flash of gunfire.

Some Uyghurs reacted to the violence of Chinese security forces with violence and killed and injured Han Chinese in violent attacks and attacked Han Chinese businesses on July 5th. In the days following July 5th, some Han Chinese carried out brutal attacks on and killed and injured Uyghurs and attacked Uyghur businesses.

In their accounts of the ethnic violence, the Chinese government and state media have downplayed violence by Han Chinese against Uyghurs and have largely focused their plans for prosecution on Uyghurs. In addition, only a limited number of official Chinese sources have even acknowledged that there was a demonstration on July 5th or that the events

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\*\* World Uyghur Congress (WUC), an NGO without consultative status, also shares the views expressed in this statement.

escalated from a peaceful demonstration. Instead, Chinese sources have largely referred to all events on July 5th as the “‘7-5’ [July 5] Serious Violent Criminal Incident of Beating, Smashing, Looting, and Burning” or simply the July 5 “riot”.

### **Official death toll**

In August 2009, the Chinese government announced that the official death toll from the July 2009 events was 197 people. However, Uyghur and human rights organizations believe that the real number is much higher, going into the thousands. The authorities have not provided names or other details of the dead.

According to the Chinese government’s explanation of the death toll, almost all of the people killed during the July 2009 events were killed by civilians and the majority of the victims were Han Chinese. The abundant evidence detailed above that Chinese security forces extrajudicially executed many Uyghurs, as well as the numerous accounts from Uyghur witnesses in Urumqi stating that many Uyghurs were killed in attacks by Han Chinese civilians in the days following July 5th, belie the official death toll itself and the Chinese government’s breakdown of the official death toll.

### **Root causes of the protests**

While the protest seemed to be sparked by the Shaoguan incident, the root causes lie in the longstanding discriminatory policies of the Chinese government towards the Uyghurs and the egregious repression of Uyghurs’ religious, political, educational, linguistic, and economic rights. In 2009, the UN Commissioner on Human Rights stated that “discrimination and the failure to protect minority rights” were the “underlying causes” of the protests.

### **Aftermath of the 5 July events**

Since the 5 July 2009 events, the authorities have arrested thousands of people, many of them during mass detentions, including mass roundups of young Uyghur men. An untold number of Uyghurs, including teenaged boys, have been subjected to enforced disappearances.

The Chinese authorities have ensured that defendants prosecuted in connection with the July 2009 events have been denied due process. Among other things, they have given judges and prosecutors special instructions on how to handle the July 5th cases. They have hand-picked the judicial personnel assigned to the trials according to political criteria. They have warned human rights lawyers against taking protest-related cases, which further means that defendants have not had access to legal representation of their choice.

The Intermediate People’s Court of Urumqi has arbitrarily sentenced at least 24 Uyghurs to death after trials plagued with the aforementioned politicization and lack of due process. At least 8 of these Uyghurs have already been executed according to official sources. Uyghur sources believe that the actual number of Uyghurs sentenced to death and executed is much higher. For these 8 Uyghurs, all of the following happened within four weeks: They were tried, convicted, and sentenced; their sentences were upheld by two appellate courts and they were executed. The speed with which these legal processes took place is emblematic of the lack of due process.

## **Information blackout**

On the night of July 5-6, 2009, the Chinese authorities instituted an information blackout in Xinjiang, which remained in place for many months, cutting off XUAR's residents from the outside world. The authorities: cut off internet access and e-mailing, international telephone communication, and text messaging capabilities in the region; shut down, censored, or otherwise made inaccessible websites run by Uyghurs in China; and deleted posts on internet forums that contain descriptions or pictures of the July 2009 protest. On May 14, 2010, the XUAR government announced that full internet service was being restored, however, many Uyghur websites remain cut off until today.

The "restoration" of the internet occurred in the midst of the continued detention of a significant number of Uyghur website staff and journalists who were arrested after July 5, 2009 and sentenced to harsh prison terms such as Gulmire Imin and Memetjan Abdulla (both life imprisonment), Gheyret Niyaz (15 years), Nijat Azat (webmaster of Shabnam), Dilshat Perhat (webmaster and owner of Diyarim), and Nureli (webmaster of Salkin) were convicted on charges of "endangering state security" in July 2010 after a closed, one-day trial to 10, 5 and 3 years respectively.

## **"Endangering State Security" (ESS) charges**

Most of the website staff members who have been sentenced thus far in connection with the July 2009 incidents were convicted on charges related to "endangering state security" (ESS). These include "subversion of state power", "separatism" and "leaking state secrets." The Chinese authorities have regularly and arbitrarily misused this vague provision to criminalize Uyghurs' peaceful exercise of their human rights and prosecute and imprison them. Crimes of ESS are defined in articles 102-113 of the PRC Criminal Law. Many of them carry the possibility of life imprisonment and capital punishment. In March 2006 the UN Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment stated that the "vague definition of [ESS crimes] leaves their application open to abuse particularly of the rights to freedom of religion, speech, and assembly," and recommended the abolition of such "political crimes."

The authorities' use of the ESS charge against Uyghurs has drastically increased in recent years. From 1998 to 2003, more than half of all ESS trials in China took place in Xinjiang, according to statistics published in the Xinjiang Yearbook. In 2008, the number of trials in XUAR courts involving ESS crimes and the number of indictments involving ESS crimes issued by the XUAR procuratorate offices approached the nationwide totals from 2007. In 2009, ESS trials in Xinjiang had increased by 63 percent over the previous year, according to the president of the XUAR Higher People's Court. In March 2010, Nur Bekri, Chairman of the XUAR government, told reporters that China had convicted 198 people in connection with the July 2009 events, in 97 separate cases. He further said that the investigations, prosecutions, and trials were continuing and that the total number of convictions would be higher. He refused to say how many defendants had been sentenced to death or executed, a part from the few published cases.

Although Nur Bekri said that the handling of the cases of these 198 people adhered to the principle of open trials, as of the date of his statement, Chinese media had reported on the convictions of far fewer individuals in connection with the events of July 2009. This discrepancy underscores the lack of transparency in the prosecutions of defendants in connection with the July 2009 events.

In January 2011, Chinese media published statistics on trials held in XUAR in 2010 on charges of "crimes against national security". According to the official numbers, 376 trials

had been conducted in 2010 for individuals charged with “endangering state security” in a series of cases. According to the Dui Hua Foundation, this reflects a 16 percent drop compared to the 437 cases concluded in 2009 but remains more than 30 percent above the number reported in 2008. It is assumed that a crackdown against “splittism” following the deadly riots in Urumqi on July 5, 2009, is primarily responsible for the increase in ESS cases over the past two years. Dui Hua also noted that “the number of defendants is likely to be much higher [than 376]. Court figures from the XUAR in the period from 1998 to 2003 show that there were more than three defendants, on average, in ESS cases. So, it is very likely that XUAR courts tried more than 1,000 defendants for ESS in 2010—and it is safe to conclude that the overwhelming majority were convicted.”

**The Nonviolent Radical Party calls on the Human Rights Council to urge the People’s Republic of China to:**

- Conduct an independent effective investigation into the events of July 2009 to clarify the exact death toll
- Immediately and unconditionally release all those who are only alleged to have protested peacefully on July 5th or who have been held without evidence and to ensure that those accused of cognizable crimes under international and domestic law are afforded due process, not subjected to torture or other forms of ill treatment, tried in an open and fair court, and given access to legal representation of their choice.
- Prove that the Xinjiang trials were conducted according to international standards, including allowing defendants to hire lawyers of their own choosing, allowing them access to their family and lawyers, and informing family members in a timely fashion of detentions, charges and trials.
- To address the root causes of the July 5th protest and the ethnic unrest, including the severe political and religious repression and economic discrimination to which Uyghurs are subjected and the dilution of Uyghurs’ language and culture.
- Receive and allow access to the XUAR for the UN Special Procedure mandate-holders, especially:
  - Special Rapporteur on Freedom of Religion or Belief (visited China in 1997; a new invitation was extended in 2004, however so far no visiting dates have been agreed),
  - Special Rapporteur on extrajudicial, summary or arbitrary executions (visit request since 2005, reminder sent in 2008),
  - Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (visit requested since 2002),
  - Special Rapporteur on the independence of the judges and lawyers,
  - Independent Expert on minority issues (visit requested on 30 July 2009).