

Analysis Report of the UN OHCHR Compilation of NGO Reports on UPR of China

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A. Executive Summary

1. On February 9, 2009, the United Nations Human Rights Council (UNHRC) is to review China's human rights records for the first time in its universal periodic review (UPR) procedure. Over twenty independent NGOs have submitted reports to UNHRC to provide independent information on China's human rights conditions. The UN Office of High Commissioner for Human Rights (OHCHR) is in charge with compiling a summary report of these NGO reports to UNHRC. The summary report is one of three key documents for UPR of China.
2. OHCHR's summary report excluded all complaints of gross and systematic human rights violations against multiple victim groups, including Falun Gong, Uyghur, Tibetans, Christians, and human rights lawyers and defenders.
3. OHCHR's summary report used information from institutions that are not independent from the Chinese government to counter criticisms from independent NGOs' criticism of the Chinese government's human rights abuses.
4. OHCHR's summary report downplayed many other systematic human rights problems in China.
5. The whitewash of the Chinese government's severe and extensive human rights violations by OHCHR's summary report cannot be the result of simple oversights but an elaborated effort.
6. The issue is serious not only because it undermines the fairness of UPR of China, but more because it threatens the credibility of UPR.

B. Background

In May 2006, to save itself from the embarrassment of its Human Rights Commission being controlled by and used for the protection of the world's worst human rights abusers, the United Nations abolished the Commission and formed the Human Rights Council.

One new process established by the Council is the UPR of human rights records of all member states of the UN. This is a main difference between the Council and its demised predecessor. It is widely expected that whether the Council will succeed or fail will depend on whether this new process enables the UN to genuinely look into situations of major human rights abusers, particularly with respect to powerful ones

such as China.

The UPR mechanism was designed to be based on three reports: a 10-page national report from the state under review (SUR), a 10-page summary of reports of the appropriate UN experts on SUR, and a 10-page summary of objective, credible and reliable information provided by NGOs and other relevant stakeholders. The Office of the High Commissioner for Human Rights (OHCHR) is responsible for compiling the latter two reports.

While the community of human rights activists has had a concern over whether UPR would genuinely scrutinize records of human rights abusers, whether those abusers would continue to protect each other in the process, and whether other states would have the political will to stop them, few, in any, expected that OHCHR would itself be used to undermine the fairness and transparency of the UPR process in order to shield human rights abusers from being scrutinized.

It is therefore shocking to see that OHCHR has done just that in its compilation of NGO reports on UPR of China.

In the following sections, we present an analysis of how OHCHR has manipulated reports submitted by independent human rights NGOs to exclude information on gross and systematic human rights violations against multiple victim groups in China. We show how questionable information from groups that are not independent of the Chinese government is given equal weight to objective, credible and reliable information from independent human rights groups and is used to counter-balance, dilute or shift focus from credible criticism of China's human rights practices. We also show a pattern of how OHCHR has echoed, catered to and relied on themes and wording from the reports by groups that are not independent of the Chinese government to whitewash the horrific human rights conditions in China and explain them away as implementation issues rather than Chinese government's deliberate violations.

Our analysis is by no means exhaustive, but aims to provide sufficient evidence to show that the whitewash of the Chinese government's severe and extensive human rights violations by OHCHR's summary report cannot be the result of simple oversights but an elaborated effort to mislead UNHRC in its UPR of China.

C. Omitting gross and systematic human rights violations against multiple groups in China

Among others, Falun Gong, Tibetans, Uyghurs, Christians, and human rights lawyers and defenders are five groups that have been subjected to gross and systematic human rights violations by the Chinese government for prolonged periods in China. Many independent NGOs have described in their submission to the UPR of China gross and systematic human rights violations against these groups. OHCHR has excluded, without an exception, all description of gross and systematic human rights violations against these groups. This is a direct violation of the Council's mandate to address gross and systematic human rights violations.

1. Falun Gong

Several NGOs, including The Falun Gong Human Rights Working Group, Amnesty International, the Becket Fund, Human Rights Without Frontier International (HRWFI), and Lawyers Rights Watch Canada have described in their reports the Chinese government's gross and systematic human rights violations against the Falun Gong.

These have been omitted from OHCHR's summary report.

2. Christians

The European Centre for Law and Justice (ECLJ), The Becket Fund, and HRWFI have described in their reports severe persecution of unregistered Christian churches by the Chinese government.

However, these have been completely omitted from OHCHR's summary report. In fact, there is no mention of Christian, Catholics, bible or church at all in OHCHR's summary report.

3. Uyghurs

Several independent NGOs, including the World Uyghur Congress and the Uyghur Human Rights Project of the Uyghur American Association (WUC-UHRP), the Islamic Human Rights Commission, Unrepresented Nations and Peoples Organization, Human Rights Without Frontiers International, and Human Rights Watch (HRW) have described in their reports gross and systematic human rights violations by the Chinese government against the Uyghurs.

The gross and systematic human rights violations against the Uyghurs have been omitted from the OHCHR's summary report.

4. Tibetans

Several independent NGOs, including the Tibetan UPR Forum, the Tibetan Women's Association The Becket Fund, the Islamic Human Rights Commission, Reporters sans Frontiers, Unrepresented Nations and Peoples Organization, Human Rights Without Frontiers International, and Human Rights Watch (HRW) have submitted reports on the Chinese government's gross and systematic human rights violations against the Tibetans.

The gross and systematic human rights violations against the Tibetans have been omitted from OHCHR's summary report.

5. Human rights lawyers and defenders

Several NGOs, including Amnesty International, Centre on Housing Rights and Evictions, Chinese Human Rights Defenders, China Human Rights Lawyers Concern Group, Human Rights First, Human Rights in China, and Lawyers Rights Watch Canada have described gross and systematic human rights violations against human rights lawyers and defenders by the Chinese government.

Like the other four groups, the gross and systematic violations against human rights lawyers and defenders were omitted from OHCHR's summary report.

D. Whitewashing severe violations

While it is understood that a summary report can only extract selected materials from original documents, it is the important information, points that are emphasized in the original documents that should be selected. OHCHR's summary report, however, selected against important information on China's human rights abuses. Violations that did get filtered into the summary report are sporadic and downplayed to trivialize the abuses.

The summary report's whitewashing and under-reporting of human rights abuses can be illustrated by the space allocation. Even with the most relaxed standard, the word count of all descriptions of abuses or offenses is only 39.9% of the summary report.

Some specific analysis of the downplay are provided below.

1. Christians

As mentioned above, OHCHR's summary report omitted all information about human rights violations against Christians by the Chinese government.

2. Uyghurs

Reports submitted by WUC-UHRP and UNPO highlighted three areas of major concern: the prohibition of Uyghur language education and the associated destruction of Uyghur culture and history; the forcible transfer of Uyghur young women away from their homeland and consequent violations; and the exploitation of the war on terror as an excuse to intensify repression against the Uyghurs. These major concerns have all been omitted from OHCHR's summary report.

Other severe violations of fundamental rights such as jailing, torture and killing of Uyghurs, suppression of speech, and discrimination and sexual exploitation of Uyghur women have also been omitted from the summary report. Only six offenses against the Uyghurs made into the summary report: inequality of education and employment opportunities, discriminatory signs against the

Uyghurs, restriction of religious and cultural practices, shut down of Uyghur websites, demographic changes in East Turkestan/Xinjiang area, and labeling of Uyghurs as “terrorists.” Removing the background of systematic violations, these scattered reporting of violation in effect downplayed the severity and extent of violations.

3. Falun Gong

The Falun Gong Human Rights Working Group pointed out in its report that the Chinese government’s violent persecution of Falun Gong is the most serious human rights crisis in the world today. The report described how the Chinese government’s persecution of Falun Gong has violated every article of the Universal Declaration of Human Rights (UDHR) and all international human rights laws and treaties that are based on UDHR, including: deprivation of dignity and personal freedom, and all basic rights; deprivation of the right to life, liberty and personal security; slavery; torture and cruel, inhuman or degrading treatment or punishment; deprivation of protection of law, access to legal help, and a fair trial; arbitrary detention; destruction of families; deprivation of freedom of movement, right to nationality, and right to asylum; deprivation of fundamental civil and political rights; deprivation of basic economic, social and cultural rights, and right to personal development. In OHCHR’s summary report, however, the persecution of Falun Gong is limited to a portion of a paragraph in “Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life.” Most significantly, the killing of over 3,000 Falun Gong practitioners was omitted.

Lawyers Right Watch Canada reported that lawyers are forbidden from representation in Falun Gong cases, and that the CCP has forbidden Chinese “courts” from accepting lawsuits on behalf of Falun Gong practitioners, but OHCHR’s summary report only contains the later point, effectively downplaying the violations that Falun Gong practitioners and human rights lawyers are subjected to.

4. Tibetans

In a manner that is very similar to its treatment of the Uyghur reports, OHCHR’s summary report left out and downplayed many severe violations that Tibetans suffer under the rule of Chinese government. Only eight scattered offenses against the Tibetans made into the summary report: inequality of education and employment opportunities, posting of discriminatory signs against Tibetans, disappearance of hundreds of Tibetans participating in the March 2008 protests, prohibit of lawyers’ presentation, restriction of religious and cultural practices, shut down of Tibetan websites, high maternal and infant mortality rate, and loss of habitat area.

Some of these scattered offenses were further downplayed. For example, in OHCHR’s summary report, the Tibetan Women’s Association is quoted as stating, “maternal and infant mortality rate remains high,” while the Tibetan Women’s Association’s original statement is, “In the Tibetan Autonomous Region (TAR), maternal and infant mortality rate remain among the highest in the

world.”

5. Human rights lawyers defenders

Lawyers Rights Watch Canada, China Human Rights Lawyers Concern Group, and Human Rights First have provided comprehensive information on how human rights lawyers and defenders are subjected to various forms of abuse. Most of these were omitted in OHCHR’s summary report. In particular, the revocation of human rights lawyers’ licenses to practice law and thereby defend their clients is not mentioned at all in OHCHR’s summary report. This is a significant downplay of abuse.

6. Other Victims

Many NGOs have described in their reports other groups of victims suffering the Chinese government’s human rights violations, including labors, child labor, petitioners, dissidents, journalists, and victims of forced house eviction. The plight of these victims were either omitted, or only minimally touched upon by the summary report.

E. Giving groups that are not independent equal weight to independent NGOs

Another very disturbing aspects of the OHCHR’s summary report is that it gave reports from groups that are not independent of the Chinese government equal weight to those from independent NGOs..

Of the 46 NGOs that submitted reports for UPR of China, 19 are in mainland China, and two are in Cuba. These cannot be considered as independent NGOs. Some are actually part of the Chinese government. For example, chair and vice chairs of the All-China Federation of Trade Unions, and chair and vice chairs of the All-China Women's Federation are referred as “leaders of the Party and country” by the Chinese government’s own media. Some others are affiliates of the Chinese government, e.g., the Institute of Law-Chinese Academy of Social Sciences, the Center for the Study of Human Rights at Nankai University, China Tibetology Research Centre, and the China Disabled Persons' Federation.

Information from institutions that are subsidiaries or affiliates of the Chinese government cannot be considered credible and reliable; at best they are supplement to China’s national report. Some examples are: the claim by the All China Federation of Trade Unions that Chinese trade unions have made great achievements in safeguarding workers’ rights and interests, the claim by the China Association for the Preservation and Development of Tibetan Culture (CAPDTC) that tremendous changes have occurred in the Tibet Autonomous Region over the past 50 years, and the claim by the China Economic and Social Council (CESC) that the Sichuan earthquake and the successful Beijing Olympics stimulated the growth of civil society in China. These statements are simply untrue.

Information from these institutions not only constituted approximately 40% of OHCHR’s summary report,

but also, in many cases, was used to counter criticism from NGOs that are independent of the Chinese government. For example, while the Tibetan Women's Association's report criticized the Chinese government's practice of discouraging the use of the Tibetan language, OHCHR's summary report quoted instead the China Tibetology Research Centre's claim that the Tibetan language is now widely applied in the education system in TAR, and that the study and use of the Tibetan language are high on the agenda of various levels of governments.

Many people in the UN are familiar with government-organized NGOs (GONGOs). It is unclear why OHCHR gave those Chinese GONGOs the same weight as independent NGOs. OHCHR has a China desk that has the expertise to identify and verify the nature of different entities in China. In addition, there are enough information from the independent NGOs for OHCHR to know that there is no independent NGOs inside China. Human Rights in China stated in its report, "The PRC has no independent institutional and human rights infrastructure." Reporters sans Frontiers stated in its report, "Reporters Without Borders strongly regrets the absence of independent human rights NGOs in China." The International Trade Union Confederation stated in its report, "Contrary to UN and ILO standards, workers are not free to form or join trade unions of their choice. Only the All China Federation of Trade Unions (ACFTU) is recognized in the law."

F. Pitching progress on paper and downplaying deterioration in reality

As mentioned above, the description of real violations accounted for less than 40% of the summary report. The majority of the space is taken up by discussions and listings of laws and regulations that the Chinese government has issued, refined, or enhanced, of technical difficulties of enforcing these laws and regulations, of laws and regulations that the Chinese government should issue, and of international treaties that the Chinese government should rectify. These descriptions have a general pattern of "although great improvement in the area of rule of law has been achieved, significant challenges still remain" or "despite the promulgation of laws designed to protect certain rights, the implementation of these laws needs improvement."

This pattern is very similar to how the Chinese government answers international human rights inquiries: by listing sets of effective legislative, administrative and judicial measures to show "progress" in rule of law, and attribute all human rights issues to technical problems that remain to be solved. In its shadow report to the UN Committee Against Torture, the Falun Gong Human Rights Working Group had thoroughly exposed the Chinese government's deceptive human rights practice as "progress on paper and deterioration in reality." Lawyers Rights Watch Canada in its report to UPR of China stressed on the point that the Chinese Communist Party uses the "legal" system to facilitate, rather than to prevent persecution and human rights abuses. The laws are not designed to protect human rights but to deceive the international society.

It is not surprising the Chinese government uses such a deceptive tactic to escape international scrutiny of its human rights records. It is, however, disturbing that the OHCHR adopted the same approach in its summary report, particularly when so many independent NGOs have presented facts on the deteriorated human rights conditions in China. In doing so, the summary report served to shift the main reason of China's horrific human condition from the abusive Chinese government to some legal or technical difficulties.

Even when discussing legal and technical difficulties in protecting human rights, OHCHR's summary report is insincere. Many NGOs, including Amnesty International, Human Rights First, Human Rights in China, Lawyers Rights Watch Canada, and China Human Rights Lawyers Concern Group, have discussed several key legal issues, such as China's violation of international human rights obligations, serious problems in the administration of justice, and lack of institutional and human rights infrastructure. These valuable discussions have all been omitted from the summary report.

G. Result of an elaborate effort

From our analysis it ought to be clear that the selective omission of information on gross and systematic human rights violations by the Chinese government and other serious human rights issue in China is not the result of simple oversight on the part of OHCHR, but a deliberate and elaborate effort. Here we provide a few more examples to prove beyond any doubt of such deliberate elaborate effort.

Example one: As mentioned about, reports submitted by WUC-UHRP and UNPO highlighted three areas of major concern: the prohibition of Uyghur language education and the associated destruction of Uyghur culture and history; the forcible transfer of Uyghur young women away from their homeland and consequent violations; and the exploitation of the war on terror as an excuse to intensify repression against the Uyghurs.

While OHCHR's summary report omitted all these major concerns, it pick the following from the WUC-UHRP report to incorporate into its compilation report, "a national human rights institution with ethnic minorities representation and genuine participation would be vital."

Example two: As mentioned above, ECLJ submitted a report on the Chinese government's severe violations against Christians. While OHCHR failed to include that in its summary report, it picked the following from EJLC's report to put into the summary report, "European Centre for Law and Justice (ECLJ) noted that MSAR and HKSAR allow the Falun Gong to practice freely."

Example Three: The summary quoted the following from the HRW report, "a precise assessment of the human rights situation in Xinjiang is complicated by the fact that some sectors of the Uyghur separatist

movement have resorted to violence in pursuit of national independence.” Immediately before the quoted part, in the original report, is this, “Available evidence indicates that human rights violations are pervasive, but restrictions on the flow of information have meant that they are poorly documented. Violations range from arbitrary arrest and execution after summary trials to curbs on freedom of expression, association, and religion.” This part of the original report was omitted.

Example Four: The summary report quoted the following from the Tibetan Women’s Association’s report, “Maternal and infant mortality rate remains high.” Tibetan Women’s Association’s original statement is, “In the Tibetan Autonomous Region (TAR), maternal and infant mortality rate remain among the highest in the world.”

Example Five: The summary report stated, “Amnesty International (AI) noted that since the Supreme People’s Court (SPC) resumed its review of death sentences on 1 January 2007, authorities have claimed a drop in their number.” What the summary report left out is the following statement in the original AI report, “In the absence of full national statistics it is impossible to assess how the reinstatement of review by Supreme People’s Court (SPC) of all death sentences has affected the application of the death penalty in China, including whether it has brought about a reduction in death sentences and executions.”

There are ample of other similar examples in the summary report. These examples compel one to wonder what OHCHR was looking for in order to make these manipulative and out-of-context quotes, but one thing is certain: they are not simple oversights but a deliberate and elaborate effort.

H. Concluding Remarks

In this analysis report we have provided evidence and an analysis of how the OHCHR’s summary report has manipulated and misrepresented reports from independent NGOs in order to cover up China’s gross and systematic human rights violations.

We do realize how serious the allegations that we have raised are, and we did hesitate about whether to go public with our findings. We expect others to have doubts about our findings. We encourage interested parties to read the relevant original documents to find out for themselves, and here is the link:

<http://www.upr-info.org/Documents-for-the-review,459.html>

We believe that there is no possibility that the OHCHR as a whole is behind the manipulative report. While OHCHR is responsible for this summary report that we believe is wrong, we know the difference between responsibility and the actual wrongdoing.

With that said, we present this analysis report for all concerned citizens to see and judge for themselves.