

# North-East Asia

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During 2004–5, the situation has worsened in China for some groups such as the Tibetans and Uighurs, sometimes under the guise of the fight against terrorism and extremism, while in most other countries of the region it has largely remained stagnant or improved slightly. The treatment of migrants and ‘new’ minorities is also beginning to emerge as an area of concern and effort in the region, particularly in Japan and South Korea and to perhaps a lesser extent Taiwan.

## China

Minorities in China, including the territories of Hong Kong, Macau and Tibet, constitute an extremely diverse and substantial grouping in what is still the world’s most populous state. Ethnic minorities, known as ‘nationalities’, are officially 55 in number (not including the majority Han Chinese). In addition to this, more than 120 nationalities are said to exist, and even this number does not necessarily include all religious minorities such as the Falun Gong, or ‘newer’ minorities. The human rights record of China is often criticized as being very poor, both by some Western governments and in various international reports, but the particular plight of most minorities in the ‘Middle Kingdom’ remain largely overlooked in the flood of attention to this record.

Overall, their lot during 2004–5 has not improved significantly: on the contrary, the international ‘War on Terrorism’ and slogan of ‘national security’ have been a godsend for Chinese authorities intent on crushing separatist and autonomist movements in restive parts of the country, particularly in the north-western province of Xinjiang (Xinjiang Uighur Autonomous Region) where the Muslim, Turkic-speaking Uighur minority are concentrated (according to the official 2000 census, approximately 45 per cent of the 19 million people in Xinjiang are Uighurs), and to a lesser extent, Tibet. As reported by Amnesty International, the view that human rights could be curtailed under the ‘War on Terrorism’ umbrella was particularly apparent in China in the last few years (Amnesty International, *Regional Overview 2004: Asia and the Pacific*). Under the guise of cracking down on terrorists and other extremists, arrests, detentions and even torture and other violations of the rights of minorities have been conducted without evoking a huge amount of criticism from the outside world. Another general

noteworthy and worrying trend in China is the growing identification of the country with an increasingly blatant Han Chinese form of nationalism as the country appears to move away from the traditional doctrines of communism. Officially, and in conformity with what could be described as Marxist doctrine, the Chinese Communist Party still opposes forced assimilation and allows autonomy to the minority nationalities, so that they can retain their own characteristics. It is under this policy that the government has set up numerous autonomous areas throughout China, many of which are identified with specific nationalities, as did the former Soviet Union in the past.

The practice and reality in 2004–5 is not so benevolent for most minorities, especially those in Tibet and Xinjiang, but also in most parts of the country. Huge infrastructure developments continued in 2004–5, and their disastrous effects on minorities are now beginning to appear, though with hardly any reaction from the international community. Two new major rail-lines, one to Lhasa, the capital of Tibet, and the other to the Xinjiang city of Kashgar, are being finished, and billions of dollars more are being invested to build highways, some with the financial backing of international agencies such as the World Bank. Ostensibly to assist in the economic development of these regions and to improve their transportation infrastructure, these projects however are connected to government policies that are clearly discriminatory and favour almost exclusively individuals of Han Chinese background.

The World Bank and much of the international community have remained largely silent and even complicit in what is in effect a surreptitious ethnic ‘transmigration programme’: recruitment for the thousands upon thousands of road- and rail-building jobs are mainly targeting Han Chinese in other parts of the country, and some estimates admit that, for Tibet alone, the new rail-line will open the door for some 900,000 Han Chinese annually to move into the ancient ‘Land of the Snow’, attracted by various employment opportunities and even financial incentives from the Chinese central authorities. In other words, government policies are clearly discriminatory as they favour and support overwhelmingly the Han Chinese, and are leading to the Uighurs, Tibetans and other minorities being swamped and rendered

increasingly powerless in the face of a mammoth influx and settlement of people of Han Chinese background.

Employment practices by public authorities in Tibet, Xinjiang and other parts of China have seemed to be increasingly discriminatory, partially fuelled by the growing numbers of Han Chinese settling in these provinces, and often resulting in the effective exclusion of minorities from various jobs because of language requirements. Though officially supportive of minority languages, reports continue to indicate that even where minorities represent a very high percentage or even a majority in a region, civil service offices refuse or are unwilling to use local languages in their activities (Article 121 of the Constitution of the People's Republic of China states that: 'In performing their functions, the organs of self-government of the national autonomous areas employ the spoken and written language or languages in common use in the locality'). Recruitment of civil servants is often based on fluency in Chinese, with no consideration of knowledge of local languages, with the result that minorities are clearly and unreasonably disadvantaged by this Chinese-language bias and find that they will be passed over for employment opportunities in favour of ethnic Hans.

The discriminatory position attributed to the Chinese language as the almost exclusive language of employment opportunities for government and government-supported initiatives in regions where there are substantial minorities thus has augmented the complete dominance of Han Chinese in almost all areas of political and economic significance. While minorities generally do have access to school instruction in their own language, they are still relegated in practice to the lower echelons of society with few job opportunities unless their language is also used as a language of work, particularly in those regions such as Tibet, Xinjiang and others with very large and territorially concentrated populations:

*'In many areas with a significant population of minorities, there were two-track school systems which used either standard Chinese or the local minority language. Students could choose to attend schools in either system. However, graduates of minority language schools typically needed one year or more of intensive Chinese before they could handle course work at a Chinese-language university. Despite the government's*

*efforts to provide schooling in minority languages, the dominant position of standard Chinese in government, commerce, and academia put graduates of minority schools who lacked standard Chinese proficiency at a disadvantage. The vast majority of Uighur children in Xinjiang attended Uighur-language schools and generally received an hour's Chinese language instruction per day. Tuition at Chinese-language schools in Xinjiang was generally more costly, and thus, most Uighur children living in rural areas were unable to afford them.'* (US State Department, *Country Reports on Human Rights Practices 2004: China*)

Chinese authorities tend, however, to emphasize that nationalities enjoy equality through the system for regional autonomy for ethnic minorities, and that they have the right to receive instruction in their own language, and that this is in fact more respectful of the identity of minorities than what is in place in many Western states. (This autonomy is unfortunately in most cases more illusory than real, with real positions of power usually kept in the hands of Han Communist Party cadres, and Han Chinese generally being employed in most senior positions. For example, out of 25 new appointees to various parts of the judiciary at local and Tibetan Autonomous Region levels, only four were Tibetan, according to the Free Tibet Campaign, August 2005.) Additionally, Chinese authorities will refer to new measures such as increasing investment and improving education and the legal system, and poverty alleviation for (only) 22 ethnic minorities in the government's 10th Five-Year Plan (2001–5).

The government published in February 2005 a White Paper on 'Regional Autonomy for Ethnic Minorities in China' which emphasizes that China's policy of Regional National Autonomy is 'critical to enhancing the relationship of equality, unity, mutual assistance among different ethnic groups, to uphold national unification, and to accelerate the development of places where regional autonomy is practiced and promoting their progress'.

While this White Paper and other developments show that authorities are discussing the situation of minorities, international outside reports have continued to be more critical of the reality in the field of respecting the rights of minorities. The UN Special Rapporteur on the Right to Education concluded that in effect there was discrimination in the implementation of the country's minority

education policy in relation to minorities, and especially in relation to the imposition of the Chinese language in detrimental ways:

*'Education imposed upon minorities, enforcing their children's obligation to receive compulsory education, violates human rights when it denies their religious or linguistic identity.'* (Special Rapporteur Katarina Tomaševski, *The Right to Education Report, Addendum, Mission to China*, November 2003)

Indeed, even relatively recent regulations hailed as emphasizing the equality of minorities are in fact double-edged. Regulations approved on 22 May 2002 by the 15th session of the 7th Tibetan Autonomous Region People's Congress were described by the *China Daily* as 'the first government regulation[s] ever passed in China on preserving an ethnic language'. They permit the use of either Tibetan or Chinese in the region, but since authorities are not obliged to use Tibetan with the local population, but can use Chinese, this will increasingly lead to the marginalizing of the Tibetan language with the increased influx of Han Chinese, and the de facto bias and discriminatory disadvantaging of the Tibetan-speaking population.

The overall evolution in the treatment of religious minorities is also one of mixed messages. Officially, as the Chinese authorities often indicate, there is no restriction on the religious beliefs of individuals in private. Authorities however have often cracked down, often brutally, against unsanctioned religious activities, especially those of groups that are deemed a threat to the authority of the Communist Party or to be linked with 'separatist' or 'terrorist' threats. There are also new regulations adopted in 2004 and in force since 1 March 2005 which are likely to increase the state's overview and control over all religious activities, as well as to ban those of unrecognized religious groups. (On the potential significance of these regulations see HRIC Special Report, *Devastating Blows: Religious Repression of Uighurs in Xinjiang*, Human Rights Watch, April 2005.)

The US State Department reports that the 'freedom to participate in officially sanctioned religious activity increased in many areas of the country, but crackdowns against unregistered groups, including underground Protestant and Catholic groups, Muslim Uighurs, and Tibetan

Buddhists continued and worsened in some locations' in 2004 (US State Department, *Country Reports on Human Rights Practices 2004: China*).

There does not seem to have been let-up in the targeting and harsh treatment of practitioners of the Falun Gong spiritual movement, with Amnesty International reporting that more than 1,000 are alleged to have died during or soon after their detention and ill-treatment, even torture (Amnesty International *Report 2005: China*). During 2004, it seems that the same criminal laws that had been used to incarcerate and suppress the activities of the Falun Gong were being used against newer religious minorities, especially evangelical Protestant groups that refuse to register officially (Human Rights Watch, *World Report 2005*).

It has perhaps even become worse for the Muslim Uighurs (see in particular HRIC Special Report, *Devastating Blows: Religious Repression of Uighurs in Xinjiang*, Human Rights Watch, April 2005). Armed with the 26 August 2002 support of the US that the East Turkestan Islamic Movement (ETIM) should be recognized as an international terrorist organization, Chinese authorities have cracked down heavily and unrelentingly on some Islamic religious practices, and even on use of the Uighur language in 2004 and 2005, whether these are connected to ETIM or not. This includes a prohibition against those under 18 receiving Quran instruction at home and a prohibition of private madrasas and mosques. The government published in December 2003 a 'terrorist list' of organizations, such as the World Uighur Youth Congress, that it viewed as terrorist entities. However, there is no clear evidence that most of these advocate violence. Many Uighurs continued to receive long prison terms and to be executed for separatist or terrorist activities.

Even cultural or religious popular events may fall foul of the 'War on Terrorism' in Xinjiang. The Xinjiang Party Secretary issued instructions to all local authorities from February 2002 to crack down on 'separatist techniques', one of which was 'using popular cultural activities to make the masses receptive to reactionary propaganda encouraging opposition', permitting the intimidation, arrest and detention of Uighur cultural and human rights activists, and even poets writing about a blue pigeon, as occurred in 2005.

On a more positive side, it must be emphasized that the Chinese government does recognize that

minorities have rights, and seems to make efforts to demonstrate that their rights in relation to language, religion and culture are respected. The practice, however, seems to be still quite removed from the rhetoric.

## Taiwan

The situation of the indigenous peoples of Taiwan, who linguistically belong to the Austronesian (Malayo-Polynesian) group, has been improving slightly in the last few years. Although about 98 per cent of the population is of Han ancestry, a dozen officially recognized indigenous peoples number almost half a million (in 2004), or close to 2 per cent of the country's population. Most of these are also Christians, whereas most Han are members of the Buddhist majority.

One of the main legal-political developments for the indigenous peoples of Taiwan in 2004–5 has been the drafting of a new constitution that includes an explicit recognition of the rights of indigenous peoples, including a right of autonomy presented as self-determination. This autonomy would potentially extend to the use of traditional lands, language, customary law and other rights. These reforms are part of a long-term process which is expected to be completed by 2008. Indigenous languages have additionally started to be supported by authorities, after decades of active government suppression, with a number of initiatives for total language immersion education being set up after 2001 in some districts. A special affirmative action programme also started in 2005 covering the admission of indigenous students to university, and 2004 legislation requires that, for a firm with 100 employees or more wishing to compete for government contracts, at least 1 per cent of its employees must be Aborigines. (This is a quota required under the 2001 Indigenous Peoples Employment Rights Protection Act.) On the negative side, a 5 per cent hiring quota for Aborigines in firms established in free-trade zones under the 2003 Statute Governing the Establishment and Management of Free Trade Ports was heavily criticized in 2005 and may be reduced.

Despite Mandarin being the first language (mother tongue) of slightly more than 20 per cent, and therefore a 'minority language', it is the main and almost exclusive language used by public authorities. (The language of about 67 per cent of

the country's population is actually Southern Fujianese, also called Minnanese.) The Hakka-speaking minority (about 11 per cent of the population) has only recently started to see its language being taught in primary schools – in the years just prior to 2004–5 – though this seems to be limited to a few hours a week. Overall, it seems that in this period the government has continued to follow a more inclusive and tolerant approach towards its minorities, although its language policies could still be seen as discriminatory in some respects.

Amnesty International still reports rampant social discrimination in 2004, with indigenous people subjected to discrimination in employment in the cities. The unemployment rate among indigenous people was 15 per cent – compared to an average of 4 per cent for the population as a whole – and 48 per cent received less than a third of the average wage (*Amnesty International Report 2005: The State of the World's Human Rights*).

Freedom of religion is widely respected, and religious minorities are not subjected to any form of visible discrimination. However, in 2004–5 they are still not permitted to have religious instruction in their own private schools accredited by the Ministry of Education, although if a minority school is not accredited by the Ministry of Education it can provide religious instruction.

One area that has been of increasing concern is the treatment of 'new' minorities in Taiwan. Minorities who have arrived since the 1990s in Taiwan as migrant workers, especially Filipinos, Indonesians and Thais, have become in 2004–5 more vocal, even violent, over their limited legal protections. A violent riot by more than 1,500 mainly Thai migrant workers erupted in August 2005 over poor working conditions and alleged abuses of workers building a mass transit railway project in Kaohsiung Taiwan, leading to the resignation of Council of Labour Affairs Chairwoman Chen Chu.

## Japan

Usually viewed as a fairly homogeneous state, Japan has nevertheless non-negligible numbers of religious, linguistic and ethnic minorities. In addition to those that could be described as traditional or national minorities such as the Buraku people (Burakumin), the Ainu people (widely recognized as indigenous) and Okinawans, there are two other broad

categories: those originally from neighbouring countries such as Korea and China who have a fairly long-standing presence in the country, and newer minorities of migrants from Asia, the Middle East, Africa and Latin America.

Few positive developments have occurred for the Ainu during 2004–5, despite high hopes following a 1997 court ruling and subsequent legislation passed by the Diet to develop programmes for the promotion of Ainu culture and traditions. There have been calls from international organizations for Japan to ratify the ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries in order to provide greater recognition for the rights of the Ainu as an indigenous people (Concluding Observations of the Committee on the Elimination of Racial Discrimination: Japan, March 2001). Members of the UN Committee on the Elimination of All Forms of Racial Discrimination also noted that the Okinawans could be considered a minority, and that information on their situation should be submitted by the Japanese government in the future.

There is in Japan a large number of religious minorities, with no reports of repression or oppressive measures against them. The only issues that have remained involving religious minorities during this period is the allegation from members of the Unification Church and Jehovah's Witnesses that police do not always intervene when church members are kidnapped by family members in order to force their deprogramming.

One minority group, whose situation in 2004–5 could be said to have become worse from a legal and political point of view, is Japan's estimated 3 million Buraku people, a social caste who have tended to live in isolated neighbourhoods (Dowa), and tend to be victims of long-ingrained social discrimination with regard to job opportunities and other areas where they may interact with other members of society.

There were intense efforts by the Burakumin to have new laws adopted to replace legislation which expired in March 2002 (the Law Concerning Special Government Measures for Regional Improvement Special Projects), under which various special measures to assist and develop Dowa districts had been in place for a number of decades; a special scholarship programme was also discontinued. They have not succeeded in having the government of

Japan adopt a national law against discrimination that would protect the Burakumin and other minorities, despite some discussion of a new law against discrimination in the Japanese Diet in 2004–5. This has led to criticisms from international bodies, including from the UN Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance during a recent visit to Japan. A bill discussed in 2004 in the Japanese Diet for a new human rights commission also was of concern to the UN Committee on the Rights of the Child, regarding the degree of independence proposed for such a body. A new bill in 2005 does not seem to address these concerns.

A slight, mainly symbolic, improvement has however occurred in 2004–5 for minorities who are long-term residents of Japan, with a local court for the first time ruling in April 2005 that a provision dealing with acquisition of citizenship to be unconstitutional. (There are 2 million 'foreigners' residing in Japan, a large number of whom are long-term residents or even individuals born in the country.) Citizenship still remains difficult to obtain for 'new' minorities from non-Japanese ethnic background.

While many, though far from all, Koreans living in the country hold Japanese citizenship and are long established in Japan, there are persistent complaints of social discrimination and other obstacles, including in education where students graduating from private Korean-language schools would not have their studies recognized in some cases for admission to university. (There were thought to be over 600,000 individuals of Korean descent living in Japan at the end of 2004.) This changed in September 2003 with changes to the School Education Act, now permitting graduates of a number of non-Japanese-language schools – mainly Korean – to become eligible to take university entrance examinations. In 2004–5, many universities admitted graduates from Korean and non-Japanese-language schools other than those listed in the national legislation. There was still no official financial support for private minority schools during this period, however, a situation considered as discriminatory by some of these minorities, especially the Koreans.

Newer minorities, including mainly Brazilian, Chinese, Filipino, Peruvian and Thai workers, continued to appear vulnerable to exploitation, prejudice and discrimination. While there is

legislation against racial discrimination and international treaties that may be used under Japanese law to protect them, courts in Japan have tended in 2004–5 to interpret these obligations restrictively, either for example in terms of access to employment opportunities and employment, or access to private facilities that bar foreigners with their ‘Japanese Only’ policies.

As for the rights of foreign workers, legislation such as the Labour Standards Law and the Employment Security Law in theory apply to all workers in the country, but in practice they remain largely at the whim of their employers, especially in the case of workers in irregular situations. There are continuing reports of safety standards being ignored for illegal workers and of below-minimum-wage salaries being paid. There has been pressure exerted on Japan, mainly from NGOs (for example by the International Steering Committee for the Campaign for Ratification of the Migrants Rights Convention), during 2004–5 to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

### North Korea

The Democratic People’s Republic of Korea (DPRK or North Korea) is one of the world’s most homogeneous countries in linguistic and ethnic terms, and its government one of the most repressive. There is only a Chinese minority (of perhaps around 50,000). There has in 2004–5 been no change in the language policies of the regime of Kim Jong Il, General Secretary of the Korean Workers’ Party (KWP). The Korean language is the exclusive language of state authorities at every level.

Religious minorities do exist and are more significant in demographic terms, and their treatment at the hands of authorities has been one of unabated persecution and repression in 2004–5. There is no majority religion in the country since the total of all religious practitioners is apparently less than 50 per cent, with even traditional religions such as Buddhism now thought to have relatively few active adherents (US State Department, *International Religious Freedom Report 2004: Democratic People’s Republic of Korea*).

While the Constitution in theory provides protection for freedom of religious belief, in practice this is severely restricted by the authorities unless it is under the auspices of officially recognized groups

linked to the government. A Russian Orthodox church was, however, being built in 2004 in Pyongyang. Reports in 2004–5 continue to appear from religious and human rights groups of harsh treatment, and even of torture, of members of religious minorities involved in non-sanctioned religious practices.

Widespread condemnation of North Korea’s human rights record, and its treatment of its religious minorities in particular, from numerous international organizations and the international community has continued. There was a third resolution at the 2005 session of the UN Commission on Human Rights condemning its human rights record, as well as the appointment in 2004 of a UN Special Rapporteur on the Situation of Human Rights in the Democratic People’s Republic of Korea. The US also adopted a ‘North Korean Human Rights Act of 2004’ to ‘promote human rights and freedom’ in that country.

### South Korea

The Republic of Korea (South Korea) is less homogeneous than its northern neighbour. It has seen an influx of ‘new’ minorities attracted by the country’s strong economic output, much as in Japan and Taiwan, and also has significant religious minorities. The Chinese, at between perhaps 1 to 3 per cent of the population of the country constitute the largest ethnic minority in South Korea, and many of them are relatively recent arrivals. There is no clear majority religion in the country, though close to half may be Christians.

It is however in the numerical strength of religious minorities and their treatment that the south distinguishes itself markedly from North Korea. These minorities, and all religious practices in general, continue to be treated benignly in 2004–5. One notable problem for one minority involves the issue of military service and Jehovah’s Witnesses in South Korea. Since legislation does not permit any exemption or alternative service for those who have a religious objection to serving in the country’s armed forces, members of this minority were still being imprisoned for their refusal in 2004–5. A number of district courts, prior to and during 2004, had acquitted conscientious objectors who were Jehovah’s Witnesses of criminal charges over their refusal to serve in the military. In August 2004 however, the Constitutional Court handed

down a judgment confirming the constitutionality of legislation mandating the imprisonment of conscientious objectors who are members of a religious minority. It was reported in 2005 that a member of the National Assembly has proposed new legislation that would permit alternative service to qualified candidates, including members of minorities who would object for religious reasons. Amnesty International reported that in June 2004, 'at least 758 conscientious objectors, mostly Jehovah's Witnesses, were detained for refusing to perform compulsory military service' (*Amnesty International Annual Report 2005*).

Some progress occurred for migrant workers in August 2004 with the entry into effect of the Employment Permit System Act. On the face of it, the legislation provides a first legal framework to control and monitor migrant workers, and some protection of basic rights. The legislation also would permit the immediate detention and deportation of undocumented workers who have stayed in South Korea for more than four years (migrant workers are only permitted to work in South Korea for a maximum of three years, and only for one employer). Reports mention the deportation of some 3,000 migrant workers, and the voluntary departure of perhaps 10,000 more, between November 2003 and January 2004. There were some estimates of 180,000 undocumented migrant workers not registered with the authorities at the end of 2004.

When a Migrant Workers Trade Union was formed on 24 April 2005, the response of the authorities was to crack down on the leaders of this and other migrant workers' rights organizations, with the president of the Migrant Workers Trade Union being arrested in May 2005 and detained by immigration authorities. Such crackdowns on the leadership of migrant workers groups have occurred repeatedly in 2004 and 2005. This has been followed by new legislation adopted by the National Assembly in March 2005 imposing harsher punishments on local businesses hiring illegal migrant workers.

## Mongolia

Minorities in Mongolia have not seen any major developments in 2004–5. Overall, they continue to be treated in a rather benign way. Kazakhs, most of whom are Muslim and speak their own language, are the largest minority at about 4 per cent of the population and represent about 85 per cent of the

population of the western province of Bayan-Olgii. Their status in 2004–5 in Bayan-Olgii, a province established during the former Socialist period, has continued, with the result that Kazakhs are not visibly subjected to discriminatory practices by authorities, are prominent in the administration of the province, and operate Islamic schools for their children. Religious minorities appear to be protected by the Constitution, which enshrines the freedom of religion. The government generally respects this in practice, although there were reports in 2004 of some bureaucratic delays and harassment in registration of certain groups.

There have been no legislative changes in 2004–5 on the use of minority languages. Though Article 8 of the Constitution in theory guarantees to 'national minorities' the right to primary education in their own language, the continued absence of specific legislation to apply this constitutional provision means that, in reality, minorities – with the exception of the Kazakhs – still cannot enjoy this right. This could be deemed to be discriminatory in relation to the treatment of some of the largest minorities in the country, such as the Chinese, who account for 2 per cent of the population, and Russians who also account for 2 per cent.

The United Nations Development Programme (UNDP) and government of Mongolia have collaborated on a number of initiatives that have reformed the administration of the country in the 1990s, the Programme for Governance and Economic Transition and the Management Development Programme, which appear to have had a beneficial impact for minorities in 2004–5. Though not sanctioned in legislation, the decentralization of public administration under these programmes has apparently led to a greater use of minority languages by local authorities, who now have more autonomy and responsibilities. Previously, the highly centralized Mongolian administration meant an almost exclusive use of the Mongolian (Khalka) language, to the exclusion of minority languages.

The issue of minorities in 2004–5 does not figure prominently in the work or activities of international organizations involved in Mongolia, such as the UNDP, with various official reports remaining largely silent on even the existence of these in the country. This may however be due to the overall relatively benign treatment of minorities in Mongolia. ■