

## China - High

The treatment of Uighurs and other Turkic Muslim minorities in China's Xinjiang Uighur Autonomous Region (XUAR) is a matter of serious concern. The systematic targeting of specified groups and the violation of their human rights creates a high risk of atrocity crimes. Indeed, large-scale arbitrary detention on identity grounds may already constitute crimes against humanity.

The arrival of Chen Quanguo as Community Party Secretary in charge of XUAR in August 2016, along with a 92% upsurge in security spending in Xinjiang from 2016-17, has ushered in a dramatic increase in the scale and intensity of social and religious control in the region.<sup>1</sup> China's blunt approach to combatting 'religious extremism', which Chinese authorities assert is the driving force behind numerous violent attacks by Uighurs in recent years, has resulted in large-scale arbitrary detention, severe restrictions on religious practice, and pervasive surveillance and control of the Muslim population of Xinjiang. In August 2018, the UN Committee on the Elimination of Racial Discrimination likened Xinjiang to a 'no rights zone', where Muslim minority groups are 'being treated as enemies of the State based on nothing more than their ethno-religious identity'.<sup>2</sup>

Of particular concern in recent months are reports that upwards of a million Uighurs and other Turkic Muslim minorities are being detained in 're-education' or 'de-extremification' facilities for minor or seemingly arbitrary infractions, without formal charges, due process rights, or access to legal representation.<sup>3</sup> Former detainees have reported that they were subjected to abuse and torture, ill-treatment and forced political indoctrination.<sup>4</sup> Family members both within China and overseas also report that they have very limited or no access to information about persons held in detention, which resembles a program of enforced disappearances.<sup>5</sup> Reports suggest that in some cases, all adults of an extended family have been detained.<sup>6</sup> As a result, children are treated as de-facto orphans and reportedly taken into to state-run child 'welfare centres' while their parents and extended family members undergo 're-education training' sessions on Mandarin, Chinese law, ethnic and national unity, de-radicalisation and patriotism.<sup>7</sup> Detention for 're-education training' is reported to last anywhere from three months to two years.<sup>8</sup>

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<sup>1</sup> Adrian Zenz, "China's Domestic Security Spending: An Analysis of Available Data", China Brief, Vol 18, issue 4, 12 March 2018, <https://jamestown.org/program/chinas-domestic-security-spending-analysis-available-data/>

<sup>2</sup> "Committee on the Elimination of Racial Discrimination Reviews the Report of China", United Nations Office of the High Commissioner on Human Rights, Geneva, 13 August 2018,

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23452&LangID=E>

<sup>3</sup> "Eradicating Ideological Viruses: China's Campaign of Repression Against Xinjiang's Muslims", Human Rights Watch, 9 September 2018, <https://www.hrw.org/report/2018/09/09/eradicating-ideological-viruses/chinas-campaign-repression-against-xinjiangs>

<sup>4</sup> "Eradicating Ideological Viruses: China's Campaign of Repression Against Xinjiang's Muslims", Human Rights Watch, 9 September 2018, <https://www.hrw.org/report/2018/09/09/eradicating-ideological-viruses/chinas-campaign-repression-against-xinjiangs>

<sup>5</sup> Lily Kuo, "'My Soul, Where are you?': Families of Muslims Missing in China Meet Wall of Silence", *The Guardian*, 13 September 2018, <https://www.theguardian.com/world/2018/sep/13/uighur-xinjiang-family-missing-china-kazakhstan>

<sup>6</sup> Emily Feng, "Uighur Children Fall Victim to China Anti-Terror Drive", *Financial Times*, 10 July 2018, <https://www.ft.com/content/f0d3223a-7f4d-11e8-bc55-50daf11b720d>

<sup>7</sup> Emily Feng, "Uighur Children Fall Victim to China Anti-Terror Drive", *Financial Times*, 10 July 2018, <https://www.ft.com/content/f0d3223a-7f4d-11e8-bc55-50daf11b720d>; Gerry Shih, "In Western China, Thought Police Instill Fear", Associated Press, 17 December 2017,

<https://www.apnews.com/10207e125d564897934a27288855e34d>

<sup>8</sup> Gerry Shih, "In Western China, Thought Police Instill Fear", Associated Press, 17 December 2017, <https://www.apnews.com/10207e125d564897934a27288855e34d>

Along with the mass detention program, over the past year China has upscaled its unprecedentedly large police presence and sweeping surveillance system in Xinjiang. Chinese authorities have implemented surveillance systems that monitor the daily lives of Uighurs, including what they read, the content of their communications, and the people with whom they interact.<sup>9</sup> Data is reportedly used to profile persons at risk of extremist thought and violence, which is the basis for people being taken into ‘re-education’ programs. Authorities also reportedly collect Uighur’s DNA during medical check-ups, install a GPS tracking system on all vehicles, and monitor and control all mobile and online communications.<sup>10</sup> Due to its ‘big data’ surveillance program, constant police patrols, and ‘grid system’ of police checkpoints, Xinjiang has been characterized as ‘one of the most heavily policed places on earth’.<sup>11</sup> The impact of such pervasive surveillance and control on the local people’s basic rights and fundamental freedoms is a grave concern, and may amount to widespread or systematic religious persecution or other crimes against humanity.

The dramatic expansion of detention and surveillance programs in Xinjiang has occurred against the backdrop of increasing restrictions on religious practice in the region. In March 2017, XUAR authorities passed the Regulation on De-extremification, which prohibits a range of behaviours, such as “abnormal” beards, wearing full face covering veils in public places, and refusing to engage in state-sponsored cultural or education programs.<sup>12</sup> At a national level, in recent years China has introduced new and stricter social and religious regulations under amendments to the Criminal Law, and the adoption of the National Security Law of 2015, the Counter-Terrorism Law of 2016, the Cybersecurity Law of 2017, and the Revised Regulations on Religious Affairs of 2018. UN human rights experts have expressed concern that amendments to the legal code have “[e]stablished imprecise and too broad definitions on national security offenses related to ‘terrorism’ and ‘extremism’ that enabled abusive, arbitrary and discriminative prosecution and conviction”.<sup>13</sup>

Amidst international criticism that the systematic detention of Turkic Muslims has no basis under Chinese law, in October 2018, XUAR authorities amended the Regulation on De-extremification to allow local governments to “educate and transform” people who are “influenced by extremism” through enrolling them in “vocational training centres”.<sup>14</sup> Rather than address the risk of atrocity crimes, legal amendments that provide post-facto justification for the mass detention program exacerbate existing concerns that Chinese authorities are expanding the legal framework to allow for

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<sup>9</sup> Gerry Shih, “In Western China, Thought Police Instil Fear”, Associated Press, 17 December 2017, <https://www.apnews.com/10207e125d564897934a27288855e34d>

<sup>10</sup> Edward Wong, “Western China Region Aims to Track People by Requiring Car Navigation”, The New York Times, 24 February 2017, <https://www.nytimes.com/2017/02/24/world/asia/china-xinjiang-gps-vehicles.html> ; James A. Millward, “What It’s Like to Live in a Surveillance State”, The New York Times, 3 February 2018, <https://www.nytimes.com/2018/02/03/opinion/sunday/china-surveillance-state-uighurs.html>

<sup>11</sup> “Thought Police Create Climate of Fear in China’s Tense Xinjiang Region”, *South China Morning Post*, 17 December 2017, <https://www.scmp.com/news/china/policies-politics/article/2124651/thought-police-create-climate-fear-chinas-tense>

<sup>12</sup> English translation available at: “Xinjiang Uyghur Autonomous Region Regulation on De-extremification”, 30 March 2017,

<https://www.chinalawtranslate.com/%E6%96%B0%E7%96%86%E7%BB%B4%E5%90%BE%E5%B0%94%E8%87%AA%E6%B2%BB%E5%8C%BA%E5%8E%BB%E6%9E%81%E7%AB%AF%E5%8C%96%E6%9D%A1%E4%BE%8B/?lang=en>

<sup>13</sup> “Committee on the Elimination of Racial Discrimination Reviews the Report of China”, United Nations Office of the High Commissioner on Human Rights, Geneva, 13 August 2018, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23452&LangID=E>

<sup>14</sup> Nectar Gan and Mimi Lau, “China Changes Law to Recognise ‘Re-education camps’ in Xinjiang”, *South China Morning Post*, 10 October 2018, <https://www.scmp.com/news/china/politics/article/2167893/china-legalises-use-re-education-camps-religious-extremists>

even stricter control of China's minority and religious groups. On 12 November 2018, some of the UN's top human rights experts and Special Mandate holders conveyed a letter to China expressing their concern that the revised Regulation on De-extremification includes provisions that are in contravention of China's obligations under international law and pose a grave risk to fundamental rights in Xinjiang.<sup>15</sup>

### Recommendations

#### The government of China should:

1. Immediately halt alleged widespread violations of basic human rights and fundamental freedoms in XUAR, including arbitrarily depriving Turkic Muslims of their liberties or subjecting them to torture or mistreatment, and take active measure to prevent the re-occurrence or escalation of such violations in accordance with international human rights law and China's primary responsibility to protect its population from atrocity crimes.
2. Repeal the Regulation on De-extremification, as called for by the UN Working Group on Arbitrary Detention, Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on minority issues, the Special Rapporteur on freedom of religion or belief, and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.
3. Respond favourably to the requests of the above mandate holders to undertake an official visit to China, and accept technical assistance and advice to ensure that China's national security, counter-terrorism or counter-extremism laws and practices adhere to China's obligations under international human rights law, including the defendant's right to due process, legal counsel of choice, timely notification of families, and fair and public trials by an independent court.
4. Ensure an impartial and credible investigation of allegations of abuse, torture, and ill-treatment of persons held in detention Xinjiang, and take appropriate measures to ensure justice and compensation for victims.

#### The international community should:

1. Urge Chinese authorities to take immediate action to uphold fundamental rights and freedoms in Xinjiang. Specifically:
  - The OHCHR and Special Mandate holders should continue to call for the immediate release of persons involuntarily held in detention without due process, closely monitor the situation in Xinjiang, and be prepared to provide technical assistance.
  - The UN Human Rights Council should continue to urge China to uphold human rights of Turkic Muslims and to accept independent UN observers in Xinjiang.

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<sup>15</sup>Document OL CHN 21/2018, "Mandates of the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on minority issues; the Special Rapporteur on freedom of religion or belief; and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism", Letter dated 12 November 2018, Palais Des Nations, Geneva, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24182>

- The UN Office on Genocide Prevention and the Responsibility to Protect should closely monitor the situation and assess and communicate increasing risk of atrocity crimes in Xinjiang, as appropriate.
2. Recognizing the important influence they may have in urging China to reconsider its policies in Xinjiang, Muslim majority countries as well as neighbouring states whose nationals are allegedly detained in Xinjiang should urge China to respect the rights of its Turkic Muslim population.
  3. Civil society actors should closely monitor the situation and continue to raise awareness and visibility of the treatment of Turkic Muslims in Xinjiang and advocate for an end to any violations of their basic rights and fundamental freedoms.