

China - High

It has been over a year since the UN Committee on the Elimination of Racial Discrimination characterised the Xinjiang Uighur Autonomous Region (XUAR) of China 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”.ⁱ China’s persistent defense of its policy as a successful effort to ‘prevent terrorism and extremism’ has undermined any meaningful improvement in the situation, which presents an ongoing risk of crimes against humanity.

Since 2016, the Chinese government has subjected an estimated 13 million Uighurs and other Turkic Muslims in XUAR to an intrusive system of mass surveillance, large-scale arbitrary detention, forced political indoctrination, and severe restrictions on movement and religious practice.ⁱⁱ Upwards of a million Uighurs and other Turkic Muslims have been remanded in state custody in what Chinese authorities refer to as ‘re-education’ or ‘de-extremification’ facilities.ⁱⁱⁱ Family members both within China and overseas continue to report that they have limited or no access to information about persons held in state detention,^{iv} and children of detained parents are being treated as de-facto orphans and placed in state-run institutions “without parental consent or access”.^v The government is also allegedly separating Uighur children from their parents and enrolling them in state boarding schools, which resembles a government-led “parallel campaign to systematically remove children from their roots” alongside the broader effort to “transform the identity of Xinjiang’s adults” through ‘re-education’ and religious repression.^{vi}

The Rome Statute of the International Criminal Court identifies widespread or systematic persecution on religious or cultural grounds as a crime against humanity, and defines persecution as “the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of a group or collectivity”.^{vii} In addition to the crime of persecution, China’s attacks on Turkic Muslims in Xinjiang may also amount to at least another three of the eleven acts of crimes against humanity defined under the Rome Statute, namely - “imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law”; torture; and enforced disappearance of persons. The mental anguish, deprivation and patterns of abuses Turkic Muslims suffer under the crippling mass surveillance system in Xinjiang^{viii} may also constitute the crime against humanity related to “other inhumane acts...causing great suffering, or serious injury to body or to mental or physical health.”^{ix} Recent reports also allege that Uighur and other Turkic Muslim women are subjected to forced abortions and sterilization, and that rape and other forms of sexual violence and humiliation against Uighur women in detention is “common” practice.^x If part of widespread or systematic attacks, sexual and gender-based violence against Uighur and other Turkic Muslim women could also amount to crimes against humanity.^{xi}

Arguably the first tangible policy response to the situation in Xinjiang occurred on 7 October, when the US government placed sanctions on 28 Chinese entities, including Xinjiang’s Public Security Bureau and eight Chinese companies that are leaders in surveillance and artificial intelligence technology.^{xii} A day later on 8 October the US announced visa restrictions on government officials implicated in repression in Xinjiang.^{xiii} This followed the US Senate unanimously passing the Uyghur Human Rights Policy Act, which, if ratified by the US House of Representatives, would require regular monitoring of the situation, including the forcible repatriation of Uighurs to China and an investigation into the Chinese companies involved in the construction and operation of detention facilities and the intrusive surveillance program in Xinjiang.^{xiv} Scrutiny of business links to Xinjiang has also expanded beyond the technology and construction sectors, and in mid-October Australian brands Cotton On and Target Australia decided to stop sourcing cotton from factories near mass internment facilities in Xinjiang.^{xv}

Some, mainly Western, states have also sought to maintain pressure on China at the UN, which has been met by staunch resistance and counter-tactics from the Chinese government. In early July, 22 countries issued a joint statement at the UN Human Rights Council urging China to end mass arbitrary detention and to allow the UN High Commissioner for Human Rights access to detention facilities in Xinjiang.^{xvi} Within days, UN ambassadors from 37 countries including Russia, Saudi Arabia, North Korea, Myanmar, Algeria, the Philippines and Zimbabwe released a statement defending China's treatments of Uighurs and commending "China's remarkable achievements in the field of human rights" through returning "safety and security" to Xinjiang.^{xvii} The US and Germany also raised the human rights situation in Xinjiang in a closed-door meeting of the UN Security Council in early July, which reportedly led to a "heated" exchange in which China denounced "unwarranted criticisms" and asserted that "Xinjiang matters are purely an internal affair for China, and have nothing to do with the Security Council's agenda".^{xviii}

China later changed tactics to proactively defend its policy in the UN Security Council. At the UN Security Council open debate on cooperation between the UN and regional organizations in countering terrorism threats on 25 September, China's ambassador issued a statement asserting that China's "deradicalization measures in Xinjiang" demonstrate China's "important contribution to the global fight against terrorism". The US delivered the most direct rejoinder to this claim, countering that "China, like all nations, has every right to respond to actual terrorist threats, but counterterrorism cannot be used as an excuse to repress the peaceful religious practices of Chinese Muslims and an entire minority group".^{xix} That same day, on 25 September, the US also co-sponsored an event with Canada, Germany, the Netherlands and the UK on the sidelines of the UN General Assembly, at which more than 30 countries and the EU condemned China's "horrific campaign of repression" in Xinjiang.^{xx}

Recommendations

The government of China should:

1. Immediately halt 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 measures to prevent the recurrence or escalation of such violations in accordance with international law and China's primary responsibility to protect all its population.
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 special procedures 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 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, including reports of sexual and gender-based violence, 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 universal human rights and fundamental freedoms in Xinjiang. Specifically:
 - The OHCHR and special procedures 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.
 - The Human Rights Council should continue to urge China to uphold human rights of Turkic Muslims and to accept independent UN observers in Xinjiang, and authorise the OHCHR to gather information to assess whether patterns of abuses in Xinjiang constitute crimes against humanity that are universally prohibited under international law.
 - The UN Office on Genocide Prevention and the Responsibility to Protect should closely monitor the situation and communicate the risk of atrocity crimes in Xinjiang.
2. All states should support accountability efforts for Chinese authorities and companies implicated in potential crimes against humanity in Xinjiang, including through targeted sanctions to disrupt technology supply chains.
3. Recognising the important influence they have in urging China to reconsider its policies in Xinjiang, Muslim majority countries as well as neighbouring states whose nationals are detained in Xinjiang should openly advocate for China to respect the rights of its Turkic Muslim population.
4. Civil Society actors should 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.
5. All actors should protect the rights of organisations and actors that are assisting Turkic Muslims who have left China and are working to collect and disseminate information on human rights violations in Xinjiang.

ⁱ “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.

ⁱⁱ ‘China’s Algorithms of Repression: Reverse Engineering a Xinjiang Police Mass Surveillance App’, Human Rights Watch, 1 May 2019.

ⁱⁱⁱ “Eradicating Ideological Viruses: China’s Campaign of Repression Against Xinjiang’s Muslims”, Human Rights Watch, 9 September 2018.

^{iv} Lily Kuo, “‘My Soul, Where are you?’: Families of Muslims Missing in China Meet Wall of Silence”, *The Guardian*, 13 September 2018.; Rob Schmitz, “Families of the Disappeared: A Search for Loved Ones Held in China’s Xinjiang Region”, *NPR*, 12 November 2018.; Kate Lyons, “Families of Missing Uighurs use Tiktok Video App to Publicise China Detentions”, *The Guardian*, 20 August 2019.

^v “China: Xinjiang Children Separated from Families”, Human Rights Watch, 15 September 2019.

^{vi} John Sudworth, “China Muslims: Xinjiang Schools used to Separate Children from their Families”, *BBC News*, 4 July 2019.

^{vii} Rome Statute of the International Criminal Court, Article 7.1(h).

^{viii} ‘China’s Algorithms of Repression: Reverse Engineering a Xinjiang Police Mass Surveillance App’, Human Rights Watch, 1 May 2019.

^{ix} For an overview of these acts as crimes against humanity, see: ‘The Persecution of the Uighurs and Potential Crimes Against Humanity in China’, Joint briefing report of the Global Centre for the

Responsibility to Protect and the Asia Pacific Centre for the Responsibility to Protect, April 2019, <http://www.global2p.org/media/files/2019-april-ughurs-brief.pdf>

^x Amie Ferris-Rotman, “Abortions, IUDs and sexual humiliation: Muslim women who fled China for Kazakhstan recount ordeals”, *The Washington Post*, 5 October 2019.; Elizabeth M. Lynch, “China’s Attacks on Uighur Women are Crimes Against Humanity”, *The Washington Post*, 22 October 2019.

^{xi} Ibid.

^{xii} Ana Swanson and Paul Mozur, “U.S. Blacklists 28 Chinese Entities Over Abuses in Xinjiang”, *The New York Times*, 7 October 2019.; Charles Rollet, “Xinjiang Backlash is Hitting Chinese Firms Hard”, *Foreign Policy*, 18 October 2019.

^{xiii} “U.S. Department of State Imposes Visa Restrictions on Chinese Officials for Repression in Xinjiang:”, Press Statement of Michael R. Pompeo, U.S. Secretary of State, 8 October 2019.

^{xiv} “US Senate Passes Legislation to Hold China Accountable for Rights Abuses in Xinjiang”, *Radio Free Asia*, 12 September 2019.

^{xv} Sophie McNeill et. al., “Cotton On and Target Australia Stop Buying Cotton from Xinjiang over Human Rights Concerns”, *ABC News*, 17 October 2019.

^{xvi} “UN: Unprecedented Joint Call for China to End Xinjiang Abuses”, Human Rights Watch, 10 July 2019.

^{xvii} “Nearly 40 countries defend China over Xinjiang internment camps in U.N. letter”, *The Japan Times*, 13 July 2019.

^{xviii} “U.S., Germany slam China at U.N. Security Council over Xinjiang: diplomats”, *Reuters*, 3 July 2019.

^{xix} Kevin Pinner, “China on the Offensive about Xinjiang—Raises Issue at U.N.”, *SupChina*, 25 September 2019.

^{xx} Humeyra Pamuk and David Brunnstrom, “U.S. leads condemnation of China for ‘horrific’ repression of Muslims”, *Reuters*, 25 September 2019.