

China Xinjiang Risk: Very High/Ongoing

Since early 2017, reports have emerged of large-scale arbitrary detention and mass surveillance, forced political indoctrination, severe restrictions on movement and religious practice, torture and inhumane treatment, forced sterilisation, forced separation of children from parents, forced labour and killings of persons in detention in the Xinjiang Uighur Autonomous Region ('XUAR' or 'Xinjiang') of China. The alleged victims are predominantly Uighur and other Turkic Muslim minorities. After detailed study of the evidence and relevant facts, in October 2020 the Asia Pacific Centre for the Responsibility to Protect issued a report which concluded that:

1. The Chinese government is committing crimes against humanity, including: persecution, imprisonment, torture, forced sterilisation, and enslavement. The evidence may also substantiate further crimes against humanity of enforced disappearance, murder, and rape.
2. There is evidence that genocidal acts may have occurred in Xinjiang, in particular acts of imposing measures to prevent births and forcible transfers. There is also evidence that raises concerns of acts including killing, serious bodily and mental harm, and inflicting conditions that are calculated to bring about physical destruction have occurred in Xinjiang. These cannot yet be substantiated but there is clearly a case to answer.¹

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.² 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.³ Former Uighur detainees have described conditions in re-education camps as variously involving crowded cells, indoctrination that drove some to suicide, waterboarding,⁴ food deprivation as punishment, beatings, being shackled to chairs for extended periods of time, sleep deprivation, forcibly being drugged, electrical shock treatment, rape and sexual humiliation, and other forms of extreme physical and mental abuse.⁵ Family members both

¹ https://r2pasiapacific.org/files/5818/applying_legal_tests_xinjiang_nov2020.pdf

² 'China's Algorithms of Repression: Reverse Engineering a Xinjiang Police Mass Surveillance App', Human Rights Watch, 1 May 2019.

³ 'Eradicating Ideological Viruses: China's Campaign of Repression Against Xinjiang's Muslims', Human Rights Watch, 9 September 2018.

⁴ Simon Denyer, "[Former inmates of China's Muslim 'reeducation' camps tell of brainwashing, torture](#)", *Washington Post*, 17 May 2018 (last accessed 28 September 2020).

⁵ See, eg, United States Congressional-Executive Commission on China, *Testimony of Mihrigul Tursan* (Hearing relating to the Communist Party's Crackdown on Religion in China, 28 November 2018) ([online](#)) esp 3-4; Philip Wen and Olzhas Auyezov, "[Tracking China's Muslim Gulag](#)", *Reuters*, 29 November 2018 (last accessed 28 September 2020); Simon Denyer, "[Former inmates of China's Muslim 'reeducation' camps tell of brainwashing, torture](#)", *Washington Post*, 17 May 2018 (last accessed 28 September 2020); Amie Ferris-Rotman, "[Abortions, IUDs and sexual humiliation: Muslim women who fled China for Kazakhstan recount ordeals](#)", *Washington Post*, 5 October 2019 (last accessed 28 September 2020); "[China turns Muslim 're-education' camp detainees into cheap labour force, human rights group claims](#)", *Agence France-Presse*, 4 March 2019 (last accessed 28

within China and overseas continue to report that they have limited or no access to information about persons held in state detention,⁶ and children of detained parents are being treated as de-facto orphans and placed in state-run institutions “without parental consent or access”.⁷

Enslavement and forced labour, practices evident in North Korea too, appear common. In March 2020, ASPI released a report “conservatively” estimating that, between 2017 and 2019, more than 80,000 Uighurs were transferred out of Xinjiang to work in factories across China.⁸ In many cases, the transfer has been reported as being directly from a re-education camp.⁹ Forced labour or otherwise reducing a person to a servile status can amount to the crime of “enslavement” under international law,¹⁰ which occurs when “any or all powers attaching to the right of ownership are exercised” over a person.¹¹ International jurisprudence regards as salient indications of enslavement: “elements of control and ownership; the restriction or control of an individual’s autonomy, freedom of choice or freedom of movement; and, often, the accruing of some gain to the perpetrator”.¹² The victim’s consent or free will is absent.¹³

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.¹⁴ Numerous acts of persecution have occurred against Turkic Muslim minorities, particularly Uighurs, in Xinjiang. Indeed, the alleged facts amenable to characterisation as “persecution” are too vast to cover comprehensively in this Report. Those focused on are: widespread destruction of Uighur cultural and religious heritage (including property, language, and customs); and the organised mass detention and “re-education” of Uighurs and other Turkic Muslims (including

September 2020); Ruth Ingram, “[Confessions of a Xinjiang Camp Teacher](#)”, *The Diplomat*, 17 August 2020 (last accessed 29 September 2020).

⁶ 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.

⁷ “China: Xinjiang Children Separated from Families”, Human Rights Watch, 15 September 2019.

⁸ Vicky Xiuzhong Xu, Danielle Cave, James Leibold, Kelsey Munro and Nathan Ruser, *Uyghurs for Sale: ‘Re-education’, forced labour and surveillance beyond Xinjiang* (ASPI, Policy Brief, Report No. 26/2020) (*‘ASPI Forced Labour Report’*). ASPI’s estimate is derived from data collected from Chinese state media and official government notices.

⁹ See, eg, [China turns Muslim ‘re-education’ camp detainees into cheap labour force, human rights group claims](#)”, *Agence France-Presse*, 4 March 2019 (last accessed 28 September 2020). See further *ASPI Forced Labour Report*, 14, 18.

¹⁰ See *Kunarac et al v Prosecutor*, Case No IT-96-23 & 23/1-A, Judgment, 22 February 2001, [534]-[535], [542].

¹¹ *Kunarac et al v Prosecutor*, Case No IT-96-23 & 23/1-A, Judgment, 12 June 2002, [117]; ICC Statute Art 7(2)(c); Bassiouni, *Enslavement as an International Crime*, 467.

¹² *Kunarac et al v Prosecutor*, Judgment Trial Chamber) [542].

¹³ *Ibid.*

¹⁴ John Sudworth, “China Muslims: Xinjiang Schools used to Separate Children from their Families”, *BBC News*, 4 July 2019.

associated crimes of imprisonment, forcible transfer, torture, forced sterilisation, and enslavement considered later in the Report).¹⁵

There have been numerous and credible reports of Uighur historical and holy places being destroyed and desecrated in Xinjiang. Using satellite imagery, the Australian Strategic Policy Institute (ASPI) recently found that of a sample of 533 mosques across Xinjiang, 31.9% had been destroyed, 32.8% were damaged, and 35.3% were undamaged.¹⁶ Extrapolating this data to mosques across Xinjiang, approximately 16,000 mosques may have been damaged or destroyed and 8,450 completely demolished since 2017.¹⁷ Besides mosques, ASPI's data and analysis suggested that 30% of other sacred sites (included shrines (*mazar*), cemeteries, and pilgrimage sites) have been demolished, mostly since 2017, and an additional 27.8% have been damaged in some way.¹⁸ This evidence is consistent with individual reports published by NGOs and media of deliberate destruction of mosques and other culturally significant sites.¹⁹ Reports also document destruction of historic Uighur neighbourhoods and old cities,²⁰ and re-ordering of Uighur households.²¹ Reports further indicate that Muslims are prevented, including by official regulation, from: performing traditional rituals and ceremonies, using Arabic, giving their children traditional names, growing beards, wearing Islamic clothing and

¹⁵ The evidence considered later in the Report as to whether the genocidal acts of imposing measures to prevent births and forcible transfers are established may also meet the threshold of "persecution" as a crime against humanity: see Kupreškic [636] (noting that the key difference between persecution and genocide is the threshold of intent—"While in the case of persecution the discriminatory intent can take multifarious inhumane forms and manifest itself in a plurality of actions including murder, in the case of genocide that intent must be accompanied by the intention to destroy, in whole or in part, the group to which the victims of the genocide belong").

¹⁶ Nathan Ruser, *Cultural erasure: Tracing the destruction of Uyghur and Islamic spaces in Xinjiang* (Policy Brief, Report No. 38/2020, Australian Strategic Policy Institute) 7 ('ASPI, *Report on Cultural Erasure*'). The *New York Times* reports having independently verified "many of the details in ASPI's report": Chris Buckley and Austin Ramzy, "[China Is Erasing Mosques and Precious Shrines in Xinjiang](#)", *New York Times* (25 September 2020) (last accessed 28 September 2020).

¹⁷ ASPI, *Report on Cultural Erasure*, 3-4, 8.

¹⁸ *Ibid* 5.

¹⁹ See Lily Kuo, "[Revealed: New evidence of China's mission to raze the mosques of Xinjiang](#)", *The Guardian* (7 May 2019) (last accessed 26 September 2020) (identifying 31 mosques and two shrines that had suffered significant structural damage between 2016 and 2018, including 15 that had been completely destroyed); Matt Rivers, "[More than 100 Uyghur graveyards demolished by Chinese authorities, satellite images show](#)", *CNN* (3 January 2020) (last accessed 26 September 2020) (documenting the destruction of over 100 Uighur cemeteries); Agence France-Presse (AFP), "['No space to mourn': The destruction of Uyghur graveyards in Xinjiang](#)", *South China Morning Post* (12 October 2019) (last accessed 26 September 2020) (identifying, with assistance from satellite imagery analysts Earthrise Alliance, the destruction of at least 45 Uyghur cemeteries since 2014 including 30 of them since 2017).

²⁰ See, eg, William Drexel, *Kashgar Coerced: Forced Reconstruction, Exploitation, and Surveillance in the Cradle of Uyghur Culture* (Uyghur Human Rights Project, Report, June 2020) https://uhrp.org/sites/default/files/UHRP-Kashgar-Coerced-Report-06_03_20%20Final.pdf (last accessed 26 September 2020).

²¹ See Timothy A. Grose, "If you don't know how, just learn: Chinese housing and the transformation of Uyghur domestic space" (2020) *Ethnic and Racial Studies* 1; Shohret Hoshur, "Uyghurs in Xinjiang Ordered to Replace Traditional Décor With Sinicized Furniture", *Radio Free Asia* (9 January 2020) <https://www.rfa.org/english/news/uyghur/furniture-01092020165529.html> (last accessed 26 September 2020).

face coverings, and selling and buying halal food.²² Each amounts to restriction of Uighur and Muslim customs.

Reports of the situation in Xinjiang have documented instances in which Uighur or other Turkic Muslims have been taken away by authorities to “re-education” camps without identifying to friends and family where they have been taken to or for how long. Such instances suggest the crime of “enforced disappearance”, which is defined in the ICC Statute as the “arrest, detention or abduction of persons by, or with the authorisation, support or acquiescence of, a State or political organisation, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of law for a prolonged period of time”.²³ The “essence” of the crime has been articulated as “that the friends and families of the direct victims do not know whether the persons concerned are alive or dead”.²⁴

Enforced disappearances are also common,²⁵ especially of Uighur intellectuals and prominent cultural figures.²⁶ Relevant evidence is also contained in the “Xinjiang Papers” leaked to the *New York Times*.²⁷ One paper is a directive advising local officials of how to engage with students returning to the Xinjiang “and whose family members are being punished during the ‘Strike Hard’ campaign”.²⁸ The document advises officials as to how to handle questions about the location and fate of their relatives without any specificity. Officials are to give only a vague reference to where relatives are—“in a training school set up by the government” because “they have come under a degree of harmful influence in religious extremism and violent terrorist thoughts”—and for an indeterminate period of time—“an extended period”.²⁹

²² See Network of Chinese Human Rights Defenders and Equal Rights Initiative, *Joint Civil Society Report Submitted to the Committee on the Elimination of Racial Discrimination for its Review at the 96th Session of the combined fourteenth to seventeenth periodic report of the People’s Republic of China (CERD/C/CHN/14-17)*, 16 July 2018 ([online](#)).

²³ ICC Statute, Art 7(2)(i).

²⁴ Robert Cryer, Håkan Friman, Darryl Robinson, Elizabeth Wilmschurst, *An Introduction to International Criminal Law and Procedure* (3rd ed, Cambridge University Press: 2014) 260.

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²⁶ See, eg, “Detained and Disappeared: Intellectuals Under Assault in the Uyghur Homeland”, *Uyghur Human Rights Project* (21 May 2019) <https://uhrp.org/press-release/update—detained-and-disappeared-intellectuals-under-assault-uyghur-homeland.html> (last accessed 27 September 2020) (identifying at least 435 intellectuals “interned, imprisoned, or forcibly disappeared”); Magnus Fiskesjö, “China’s Thousandfold Guantánamos”, *Inside Higher Ed* (8 April 2019) <https://www.insidehighered.com/views/2019/04/08/universities-should-not-ignore-chinas-persecution-scores-leading-academics-opinion> (last accessed 27 September 2020); Rachel Harris, “Cultural Genocide in Xinjiang: How China Target Uyghur Artists, Academics, and Writers”, *The Globe Post* (17 January 2019) <https://theglobepost.com/2019/01/17/cultural-genocide-xinjiang/> (recounting the circumstances of the disappearance of Uighur singer, Sanubar Tursan).

²⁷ See Austin Ramzy and Chris Buckley, “The Xinjiang Papers”, *The New York Times* (16 November 2019) <https://www.nytimes.com/interactive/2019/11/16/world/asia/china-xinjiang-documents.html> (last accessed 27 September 2020) (‘the Xinjiang Papers’). The full text of all 403 pages reportedly leaked to the *Times* have not been made publicly available at the time of writing.

²⁸ “Document: What Chinese Officials Told Children Whose Families Were Put in Camps”, *The New York Times* (16 November 2019) <https://www.nytimes.com/interactive/2019/11/16/world/asia/china-detention-directive.html> (last accessed 27 September 2020).

²⁹ *Ibid*.

In terms of genocide, there is significant evidence available to establish forced sterilisation as having occurred in Xinjiang. As a matter of law, the crime of “forced sterilisation” occurs when: (1) the perpetrator deprives one or more persons of biological reproductive capacity; and (2) the conduct was neither justified by the medical treatment of the person nor carried out with their genuine consent.³⁰ Individual reports by NGOs and news agencies documenting interviews with Uighur women,³¹ as well as doctors that have treated Uighur women both in Xinjiang and abroad,³² are strong evidence that numerous women have been sterilised by Chinese authorities and without their genuine consent. The occurrence of these sterilisations is consistent with official government statistics, which document a significant decline in birth rates in Xinjiang and a disproportionate rise in sterilisations in Xinjiang as compared to the rest of mainland China.³³ Individual reports which document sterilisations as variably having occurred against patients’ wills, without genuine consent, or without informing the patient of the procedure,³⁴ prove that some, if not most, of these sterilisations have occurred forcibly.

The international response to atrocity crimes in China has been lacklustre at best. On 4 December the US House of Representatives, on a vote of 401-1, overwhelmingly passed an amended version of the Uyghur Human Rights Policy Act passed by the US Senate in September.³⁵ The bill requires 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.³⁶ It also calls on President Trump to impose sanctions on senior officials responsible for serious human rights abuses of Uighurs and other Turkic Muslims in China under the Global Magnitsky Act, and specifically names Chen Quanguo, which would represent the first sanctions directly on a member of China’s politburo. Before coming into effect, a reconciled version of the House and Senate bills needs to be agreed by Congress and endorsed by President Trump. In mid-January, the US Congress resumed negotiations on a reconciled bill, an effort given added impetus by the release of the annual report of the US bipartisan Congressional-Executive Commission on China that stated that there are “strong

³⁰ ICC Elements of Crimes, Art 7(1)(g)-5, Elements 1 and 2.

³¹ Gulchehra Hoja, “[Uyghur Women, Rarely Informed About Forced Birth Control Procedures, Suffer Lifelong Complications](#)”, *Radio Free Asia*, 3 August 2020 (last accessed 2 September 2020);

³² Gulchehra Hoja, “[Uyghur Women, Rarely Informed About Forced Birth Control Procedures, Suffer Lifelong Complications](#)”, *Radio Free Asia*, 3 August 2020 (last accessed 2 September 2020);

³³ See Adrian Zenz, *Sterilizations, IUDs, and Mandatory Birth Control: The CCP’s Campaign to Suppress Uyghur Birthrates in Xinjiang* (Jamestown Foundation, June 2020) (available [online](#)).

³⁴ See See Gulchehra Hoja, “[Uyghur Women, Rarely Informed About Forced Birth Control Procedures, Suffer Lifelong Complications](#)”, *Radio Free Asia*, 3 August 2020 (last accessed 2 September 2020); Associated Press, “[China cuts Uighur births with IUDs, abortion, sterilization](#)”, *Associated Press*, 29 June 2020 (last accessed 2 September 2020); Gulchehra Hoja and Shohret Hoshur, “[Xinjiang Hospitals Aborted, Killed Babies Outside Family Planning Limits: Uyghur Obstetrician](#)”, *Radio Free Asia*, 17 August 2020 (last accessed 2 September 2020).

³⁵ “US House approves Uighur Act calling for sanctions on China’s senior officials”, *The Guardian*, 4 December 2019.; Daniel Flatley, “U.S. House passes Xinjiang Bill, Prompting Threat from China”, *Bloomberg*, 4 December 2019.

³⁶ “US Senate Passes Legislation to Hold China Accountable for Rights Abuses in Xinjiang”, *Radio Free Asia*, 12 September 2019.

arguments based on available evidence” of crimes against humanity linked to the mass detention program in XUAR.³⁷

Along with the US, in recent months a number of countries have publicly identified China’s human rights violations as atrocity crimes and have called on China to respect the rights of its Turkic Muslim. A Canadian parliamentary committee labelled Chinese policy “genocide” whilst the British parliament has begun to consider following the US in imposing sanctions.³⁸ The issue was also raised by a joint a statement on Xinjiang issued on behalf of 23 countries at a UN General Assembly Third Committee session on the Committee for the Elimination of Racial Discrimination in late October.³⁹

China has reacted with predictable hostility.⁴⁰ Condemnation of China’s policy by the UN and Western governments and media continues to rankle Beijing. In December, China responded by ramping up its political propaganda, including through editorials in state-run media and documentary videos posted on Twitter and YouTube.⁴¹ China also secured support for a rebuttal statement issued by Belarus on behalf of 54 countries, including Pakistan, Russia, Egypt, the Democratic Republic of Congo and Serbia. This statement defended China’s policies in XUAR, noting China’s “remarkable achievements in the field of human rights” through successfully returning “safety and security” to Xinjiang where “the human rights of people of all ethnic groups there are safeguarded”.⁴² This mirrored the strategy China adopted in the UN Human Rights Council in July. In response to a letter of concern issued by 22 (mostly Western) states, UN ambassadors from 37 countries including Russia, Saudi Arabia, North Korea, Myanmar, Algeria, the Philippines and Zimbabwe issued a letter commending China’s counter-terrorism policy.⁴³ Arab and Muslim-majority states also continue to refuse to speak out against China’s treatment of Turkic Muslims, with some even voicing support for China’s policies in Xinjiang.⁴⁴

UN human rights experts have made similar arguments in recent months, but have stressed that security and human rights are mutually dependent. In a letter to China’s representative

³⁷ “Congressional-Executive Commission on China Annual Report 2019”, 116 Congress First Session, 18 November 2019.; See also Joshua Lipes, “China’s Actions in Xinjiang may amount to ‘Crimes Against Humanity’, says US Rights Report, *Radio Free Asia*, 8 January 2020. <https://www.rfa.org/english/news/uyghur/cecc-01072020190715.html>

³⁸ <https://www.aljazeera.com/news/2020/10/22/china-rejects-canada-report-accusing-beijing-of-uyghur-genocide>

³⁹ “Joint statement on human rights violations and abuses in Xinjiang”, Statement delivered by Ambassador Karen Pierce, UK Permanent Representative to the UN at the Third Committee session on the Committee for the elimination of racial discrimination, Foreign and Commonwealth Office, 29 October 2019

⁴⁰ “China warns US that criticism over detention of Uighurs is not ‘helpful’ for trade talks”, *Reuters*, 29 October 2019.

⁴¹ Chris Buckley and Austin Ramsay, “Facing Criticism over Muslim Camps, China Says: What’s the Problem?”, *The New York Times*, 9 December 2019.; Jo Kim, “Why China’s Xinjiang Propaganda Fails”, *The Diplomat*, 16 December 2019.

⁴² Ibid.

⁴³ “Nearly 40 countries defend China over Xinjiang internment camps in U.N. letter”, *The Japan Times*, 13 July 2019.

⁴⁴ “China’s global power damps criticism of Uighur crackdown”, *Financial Times*, 23 December 2019. <https://www.ft.com/content/51a1bf9a-2015-11ea-92da-f0c92e957a96>

to the UN in Geneva, in early November twelve senior UN human rights experts, including 10 UN Special Rapporteurs and two Working Group chairs, expressed concern that China's 2015 Counter-Terrorism Law had enabled measures that "not only violate fundamental rights but also may contribute to further radicalization of persons belonging to the targeted minorities, creating major and growing pockets of fear, resentment and alienation. The disproportionate emphasis placed by the authorities on the repression of rights of minorities risks worsening any security risk".⁴⁵

Recommendations

The government of China should:

1. Immediately halt violations in XUAR that may amount to crimes against humanity and genocide, and take active measures to prevent the recurrence or escalation of such violations.
2. Direct the government in XUAR to repeal the 2017 Regulation on De-extremification, and respond favourably to the requests of UN special procedures mandate holders to undertake an official visit to China with unhindered access to detention facilities in Xinjiang.
3. Accept OHCHR technical assistance and advice to ensure that its national security, counter-terrorism or counter-extremism laws and practices adhere to China's obligations under international law.

All concerned states should:

Examine what bilateral measures they could take to encourage China to immediately halt violations in XUAR and take tangible steps to apply pressure and uphold accountability.

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, and continue to urge China to uphold the human rights and fundamental freedoms of Turkic Muslims and to accept independent UN observers in Xinjiang.

The UN Human Rights Council should:

Urgently establish an investigation to gather information to assess whether patterns of abuses in Xinjiang constitute crimes against humanity that are universally prohibited under international law.

⁴⁵ OL CHN 18/2019, Letter from the Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the right to education; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on minority issues; the Special Rapporteur on the right to privacy; the Special Rapporteur on freedom of religion or belief; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment", Palais Des Nations, Geneva, 1 November 2019.