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## Genocide in China: Uighur Re-education Camps and International Response

By: Julia Stern<sup>1</sup>

Uighurs in the autonomous region of Xinjiang, China, have long faced discrimination at the hands of the Chinese Communist Party (“CCP”).<sup>2</sup> At the time of this writing, over the past five years, the oppression of Uighurs and other Muslim minorities has escalated to crimes against humanity and genocide.<sup>3</sup> Despite ongoing international pressure and sanctions to end these human rights violations, the situation in Xinjiang continues to worsen, evidenced by new information leaked or reported by former detainees.<sup>4</sup> China has also begun exerting its international power to pressure foreign countries to report Uighurs and has warned other countries against attending the United Nations Human Rights Council side panel on Uighur rights.<sup>5</sup> To date, the Chinese government has concealed the exact number of Uighurs detained in Xinjiang “re-education” camps and their treatment within these camps.<sup>6</sup>

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<sup>2</sup> U.S. House, Subcommittee on International Organizations, Human Rights and Oversight, *The Uighurs: A History of Persecution* (H.R. 111-28, 2009).

<sup>3</sup> Canadian Parliament, Statement by the Subcommittee on International Human Rights Concerning the human rights situation of Uighurs and other Turkic Muslims in Xinjiang, China (Oct. 21, 2020), <https://www.ourcommons.ca/DocumentViewer/en/43-2/SDIR/news-release/10903199>.

<sup>4</sup> Eli Meixler, *'I Begged Them to Kill Me.' Uighur Woman Tells Congress of Torture in Chinese Internment Camps*, (Nov. 29, 2018), <https://time.com/5467628/china-uighur-congress-torture/>.

<sup>5</sup> Agence France-Presse, *UN diplomats and activists describe Chinese pressure and 'threats' over Uyghur event at UN rights council*, (Apr. 2, 2019), <https://www.scmp.com/news/china/diplomacy/article/3004214/un-diplomats-and-activists-describe-chinese-pressure-and>.

<sup>6</sup> Wen Lii, *Taiwan Voices Support for Uyghurs in China The human rights crisis in Xinjiang foreshadows Taiwan's future under PRC control, and the island knows it*. (May 2, 2019), <https://thediplomat.com/2019/05/taiwan-voices-support-for-uyghurs-in-china/>.

This article will outline the historical relationship between the CCP and Uighur Muslims. As well as analyze the relationship between the CCP and international community to ascertain whether the CCP is committing genocide and, if genocide is occurring, how the international community can respond.

## I. BACKGROUND

To understand the legal and political situation surrounding the Uighur “re-education camps,” it is critical to first understand the history between Uighurs and the current Chinese Communist Party (“CCP”). The Uighurs (also spelled Uyghur or Uygur) are a Turkic-speaking, Muslim minority group located in the Autonomous Region of Xinjiang, China.<sup>7</sup> Xinjiang is culturally, linguistically, and historically part of a Turkic civilization distinct from the civilization that developed in China.<sup>8</sup>

The colonization of Xinjiang occurred following a fifteen-year revolt by Turkic Muslims against Han Chinese occupiers.<sup>9</sup> Colonizing Xinjiang allowed for the alleviation of population pressures and brought new economic opportunities to mainland China.<sup>10</sup> Once settled in the region, China created policies of both assimilation and destruction (of historical beliefs, practices, language, etc.).<sup>11</sup> Historically, China has participated in assimilation tactics that strengthen nationalism. One of China’s assimilation tactics occurred during and after the Cultural Revolution, when China forbade ethnic minorities from using their

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<sup>7</sup> Congressional Research Service, *Uyghurs in China*, (Jan. 4, 2021).

<sup>8</sup> Eric Hyer, *China’s Policy towards Uighur Nationalism*, 26 No. 1,80, *Journal of Muslim Minority Affairs*, (2006).

<sup>9</sup> Felix K. Chang, *China’s Central Asian Power and Problems* (1997).

<sup>10</sup> *Id.*

<sup>11</sup> *Ethnic Relations in Contemporary China*, *Pol. and Soc.*, 85-108 (Vol. 25, 2006).

native languages and suppressed traditional customs and practices.<sup>12</sup>

Xinjiang is known as an internal colony.<sup>13</sup> All non-Han groups of people were placed in an ethnopolitical category known as “minority nationalities” or *shaoshu minzu*.<sup>14,15</sup> This grouping makes it appear as if the conquered country has always been a part of China and “erases the difference between those who built their own states or empires in the past, which could easily fulfill the criteria for being recognized as independent states with their own seat in the United Nations.”<sup>16</sup> The concept that people in these colonized regions have an ancient history of being “Chinese people” is utilized to claim unity within the country and justify nationalist “re-education” and internment of Uighurs.<sup>17</sup>

It is important to note that western concepts of nationality and minority oppression do not necessarily apply to Chinese society. China has a complex composition of Chinese minority groups and a fusion of people creating a difference in the understanding of nationality and legal equality.<sup>18</sup> Uighurs have

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<sup>12</sup> Michael Dillon, *Religious Minorities and China*, Minority Rights Group International (2001).

<sup>13</sup> Barry Sautman, *Is Xinjiang an Internal Colony?*, Jstor, 239-271 (Vol. 2, No. 2, 2000).

<sup>14</sup> Jin Binggao, *When Does The Word 'Minority Nationality' [Shaoshu Minzu] [First] Appear in Our Country?* (1987).

<sup>15</sup> *Han dynasty*, Briticana (last visited Feb. 6, 2021) the Han dynasty establish what was considered Chinese culture. “Han” became the Chinese word denoting someone who is ethnically Chinese. <https://www.britannica.com/topic/Han-dynasty>

<sup>16</sup> *Id.* at 524.

<sup>17</sup> James Leibold, *Despite China's denials, its treatment of the Uyghurs should be called what it is: cultural genocide*, The Conversation (July 24, 2019), <https://theconversation.com/despite-chinas-denials-its-treatment-of-the-uyghurs-should-be-called-what-it-is-cultural-genocide-120654>.

<sup>18</sup> Rong Ma, *Ethnic Relations in Contemporary China: Cultural Tradition and Ethnic Policies since 1949*, 25:1 Policy and Society 85 (2006).

never fully assimilated into Chinese culture in the same way that many other minority nationalities in China have.<sup>19</sup>

According to the Council on Foreign Relations Report, the religious activities of Uighur Muslims are tightly controlled by government authorities, while Muslims in the rest of the country enjoy greater religious freedom.<sup>20</sup> Article 36 of the People's Republic of China's constitution guarantees citizens "freedom of religious belief" and the protection of "normal religious activities."<sup>21</sup> Article 36 prohibits "making use of religion to engage in activities that disrupt public order, impair the health of citizens, or interfere with the educational system of the State," and provides that "[r]eligious bodies and religious affairs are not subject to any foreign domination."<sup>22</sup> Despite the freedoms Article 36 provides, the undefined terminology makes it ambiguous whether "China's constitution protects the same range of belief that is recognized under international law."<sup>23</sup>

The religious control and treatment of Uighurs began to worsen in 1955 when Xinjiang was designated as an autonomous region instead of a province.<sup>24</sup> Due in part to the rich natural resources and economic potential in the region, an increased

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<sup>19</sup> Human Rights Watch, *Devastating Blows: Religious Repression of Uighurs in Xinjiang*, 10-13 (Vol. 17, Apr. 2005).

<sup>20</sup> Eleanor Albert, *Religion in China*, Council on Foreign Relations (Mar. 15, 2018).

<sup>21</sup> *China: Religion and Chinese Law*, *The Law Library of Congress, Global Legal Research Center* (June 2018), <https://www.justice.gov/eoir/page/file/1068681/download>.

<sup>22</sup> XIANFA art. 36 (1982, as amended in 1988, 1993, 1999, and 2004), the State Council of the People's Republic of China, [http://english.gov.cn/archive/laws\\_regulations/2014/08/23/content\\_281474982\\_987458.htm](http://english.gov.cn/archive/laws_regulations/2014/08/23/content_281474982_987458.htm).

<sup>23</sup> Congressional-Executive Commission on China, U.S. Government Publishing Office (Oct. 5, 2017), [https://www.cecc.gov/sites/chinacommission.house.gov/files/2017%20Annual%20Report%20\\_2.pdf](https://www.cecc.gov/sites/chinacommission.house.gov/files/2017%20Annual%20Report%20_2.pdf).

<sup>24</sup> Preeti Bhattacharji, *Uighurs and China's Xinjiang Region*, Coun. For. Rel. (May 29, 2012).

number of Han Chinese moved to Xinjiang.<sup>25</sup> As of December 20th, 2020 the Han Chinese form two-fifths of Xinjiang's total population.<sup>26</sup> Human rights watchdog organizations have documented that the economic benefits of resource extraction and development disproportionately benefit Han Chinese citizens while the Uighur people face increasing marginalization.<sup>27</sup>

The economic and geopolitical value of Xinjiang has contributed to tensions between ethnic groups in the region.<sup>28</sup> Xinjiang is China's largest base for cotton, lavender, and hops as well as a major area for sheep and cattle.<sup>29</sup> In 2012, Xinjiang's agriculture sector accounted for 17.6% of China's gross domestic product.<sup>30</sup> Xinjiang is also rich in mineral deposits, holding the largest reserves of oil, natural gas, and coal in the country.<sup>31</sup> When China colonized Xinjiang, leaders sought to control space, resources, and people by occupying land as well as establishing exclusionary property and coercive labor systems.<sup>32</sup> Due to this, economic disparities between Han Chinese and Uighurs have grown consistently since the 1980s.<sup>33</sup> Uighurs looking for jobs often face discrimination from employers who favor Han Chinese.<sup>34</sup> Additionally, Chinese economic policies encouraging

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<sup>25</sup> Hsieh & Falkenheim, *Supra* note 2.

<sup>26</sup> Amy Liu & Kevin Peters, *The Hanification of Xinjiang, China: The Economic Effects of the Great Leap West*, Stud. in Eth. and Nationalism, 267-270 (Vol. 17, 2017).

<sup>27</sup> Anthony Howell & C. Cindy Fan, *Migration and Inequality in Xinjiang: A Survey of Han and Uyghur Migrants in Urumqi*, 52:1 Eurasian Geo. & Econ., 119 (2011).

<sup>28</sup> Lui & Peters, *Supra* note 25 at 269-70

<sup>29</sup> Hong Kong Trade Development Council 2017

<sup>30</sup> *Id.*

<sup>31</sup> Lui & Peters, *Supra* note 25

<sup>32</sup> Evelyn Nakano Glenn, *Settler Colonialism as Structure: A Framework for Comparative Studies of U.S. Race and Gender Formation* (American Sociological Association, 2015).

<sup>33</sup> *Supra* note 20.

<sup>34</sup> *Id.*

immigration into Xinjiang have created a limited job market and prompted a population boom in the area.<sup>35</sup>

In 1997, Uighurs peacefully protested their treatment, demanding equality, religious freedom, and political autonomy.<sup>36</sup> In response, China initiated its “Strike Hard Campaign,”<sup>37</sup> sending armed police to dismantle the protests.<sup>38</sup> What resulted became known as the Ghulja Massacre.<sup>39</sup> Reports vary, but Chinese officials claim nine people were killed and nearly 200 were injured during the riots.<sup>40</sup> Uighur sources in Kazakhstan claim as many as 100 died.<sup>41</sup>

The aftermath of the protests marked a shift in Chinese policies towards Uighur separatists.<sup>42</sup> Chinese authorities executed leaders and jailed an estimated twenty-seven people for their roles in the unrest.<sup>43</sup> According to foreign nationals, by the end of the year, the Chinese military had killed closer to 200 Uighur nationalists and had arrested more than 2,000.<sup>44</sup> In retaliation to China’s response, separatists planted bombs in Yining and Urumqi,

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<sup>35</sup> *Id.*

<sup>36</sup> Dana Carver Boehm, *China's Failed War on Terror: Fanning the Flames of Uighur Separatist Violence*, 2 Berkeley J. Middle E. & Islamic L. 61 (2009).

<sup>37</sup> Human Rights Watch, *Anti-Crime Campaigns and Religious Repression*. (2005) “Strike Hard” is a term used to refer to anti-crime campaigns that mass arrest alleged criminals. These campaigns commonly result in the unlawful arrest and sometimes the wrongful execution of large numbers of people. According to Amnesty International, over 200 death sentences were recorded in Xinjiang because of such campaigns between 1997 and 2003.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Why is there tension between China and the Uighurs?*, BBC news (Sept. 24, 2014), <https://www.bbc.com/news/world-asia-china-26414014>.

<sup>41</sup> Hyer, *supra* note 3.

<sup>42</sup> Boehm, *Supra* note 34 at 64

<sup>43</sup> Murray Scot Tanner & James Bellacqua, *China's Response to Terrorism*, U.S.-China Economic and Security Review Commission (June 2016).

<sup>44</sup> Fergus Shiel & Sasha Chavkin, *China Cables: Who Are the Uighurs and Why Mass Detention?*, Intern. Consortium of Inves. J. (Nov. 24, 2019). *See also*: Uni. Of Central Arkansas, *China/Uighurs (1949-present)*.

killing several people.<sup>45</sup> China executed eight people for involvement in the bombings.<sup>46</sup>

Tensions came to a head during the Urumqi Protests in 2009.<sup>47</sup> After peaceful protestors ignored orders to disperse, Chinese police used force (fire hoses and batons) to break up the crowd.<sup>48</sup> The protestors fought back, and over 150 people (including both Han and Uighurs) were killed.<sup>49</sup> By July 8, 2009, police and army forces poured into cities across the region to enforce informal martial law.<sup>50</sup>

Violence continued between Uighurs and the Chinese government when, in 2012, six Uighurs reportedly tried to hijack a plane from Hotan to Urumqi.<sup>51</sup> Twenty-seven people died after police opened fire on (what state media described as) a mob armed with knives attacking government buildings.<sup>52</sup> In 2014, an estimated thirty-one people were killed with ninety more sustaining injuries when terrorists detonated a series of explosives at an Urumqi market.<sup>53</sup> The Urumqi attacks marked a shift in governmental treatment of Uighurs, who were blamed for the

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<sup>45</sup> Patrick E. Tyler, *In China's Far West, Tensions With Ethnic Muslims Boil Over in Riots and Bombings*, N.Y. Times (Feb. 28, 1997), <https://www.nytimes.com/1997/02/28/world/in-china-s-far-west-tensions-with-ethnic-muslims-boil-over-in-riots-and-bombings.html>.

<sup>46</sup> *Id.*

<sup>47</sup> Tania Branigan, *Ethnic Violence in China leaves 140 dead*, The Guardian (July 6, 2009), <https://www.theguardian.com/world/2009/jul/06/china-riots-uighur-xinjiang>.

<sup>48</sup> Edward Wong, *Riots in Western China Amid Ethnic Tension*, N.Y. Times, (Jul. 5, 2009). <https://www.nytimes.com/2009/07/06/world/asia/06china.html>

<sup>49</sup> Stanley W. Toops, *Understanding the Disturbances in Xinjiang*, E-International Relations (July 9, 2009), <https://www.e-ir.info/pdf/1818>.

<sup>50</sup> *Id.* After the protests, police and army forces were mass sent to Urumqi to control the region. Although martial law was never declared the crackdown served to act as an equivalent state of security.

<sup>51</sup> *Why is there tension between China and the Uighurs?*, BBC News (Sept. 26, 2014), <https://www.bbc.com/news/world-asia-china-26414014>.

<sup>52</sup> *Id.*

<sup>53</sup> Mary Tanner & James Bellacqua, *China's Response to Terrorism*, U.S.-China Economic and Security Review Commission (June 2016).



incident.<sup>54</sup> This led to increased unrest in the region throughout 2014.<sup>55</sup> In response, China launched its "year-long campaign to end terrorism."<sup>56</sup> A strategy based on three pillars: (1) enhanced regional economic growth, (2) stronger internal security capabilities; and (3) deepened control over ethnic and religious activities.<sup>57</sup> Ultimately, this campaign led to the current "re-education" centers.<sup>58</sup>

It is unclear how accurate the reporting on these violent incidents has been. The Chinese state media is heavily regulated and reports from people present at the incidents can differ from the official accounts.<sup>59</sup> Although Uighur separatists were blamed for the violence, independent sources have been unable to obtain definitive evidence as to the identities of those responsible for the

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<sup>54</sup> *Id.*

<sup>55</sup> Emily Rauhala, *China Now Says Almost 100 Were Killed in Xinjiang Violence*, *Time* (Aug. 4, 2014).

<sup>56</sup> *Supra* note 49

<sup>57</sup> *Supra* note 51

<sup>58</sup> *Id.* (“[A]cts of violence that Chinese officials and state media have labeled as terrorism do not meet the definitions of the term that are widely accepted outside of China. Concurrently, other cases of violent crimes that observers would describe as terrorism using these definitions are sometimes not described as terrorism by Chinese authorities.”).

<sup>59</sup> Beina Xu & Eleanor Albert, Council on Foreign Relations, *Media Censorship in China*, (updated Feb. 17, 2017) (“China has one of the world’s most restrictive media environments, relying on censorship to control information in the news, online, and on social media. Censorship guidelines are circulated weekly from the Communist Party’s propaganda department and the government’s Bureau of Internet Affairs to prominent editors and media providers. The government is particularly keen on blocking reports of issues that could incite social unrest, like official corruption, the economy, health and environmental scandals, certain religious groups, and ethnic strife.”).

attacks.<sup>60</sup> The East Turkestan Islamic Movement (“ETIM”), a militant group, have also been blamed for the violent incidents.<sup>61</sup>

Despite the severity of the bombing incidents, the violence Uighurs are known to have committed does not constitute a western definition of terrorism. The United States defines acts of terrorism as “premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents.”<sup>62</sup> Xinjiang has only sporadically erupted into violence and the violence has historically been directed at Chinese power structures and agents (e.g., police stations, government buildings)—not civilians.<sup>63</sup> Many of the incidents of violence stemmed from peaceful public protests, only occasionally organized by separatists, that turned violent following aggressive Chinese law enforcement tactics.<sup>64</sup>

## **DISCUSSION**

### **a. Uighurs and China’s “Re-education Centers”**

Since 2014, China has increasingly focused on security measures in Xinjiang. In Uighur-dominated areas government cameras, checkpoints, and police patrols were initiated.<sup>65</sup> Mass arrests and sentencings were carried out for several “terror groups.”<sup>66</sup> The Chinese state media published lists of people convicted of alleged extremist activity and sentenced them to

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<sup>60</sup> Sui-Lee Wee, *Chinese police blame separatist group for Urumqi bombing*: *Xinhua*, Reuters News (May 18, 2014), <https://www.reuters.com/article/us-china-xinjiang/chinese-police-blame-separatist-group-for-urumqi-bombing-xinhua-idUSBREA4H01O20140518>

<sup>61</sup> Beina Xu, Holly Fletcher & Jayshree Bajoria, *The East Turkestan Islamic Movement (ETIM)*, *Council on Foreign Relations* (last updated Sept. 4, 2014), <https://www.cfr.org/backgrounder/east-turkestan-islamic-movement-etim>.

<sup>62</sup> 22 U.S.C. § 2656f(d)(2) (Jan. 3, 2007).

<sup>63</sup> Boehm, *supra* note 34.

<sup>64</sup> *Id.*

<sup>65</sup> Philip Wen, *Terror threats transform China's Uighur heartland into security state*, Reuters (Mar. 30, 2017).

<sup>66</sup> Toops, *supra* note 47.

death.<sup>67</sup> The first reports of the mass detainment of Uighurs in "vocational schools" and "re-education" centers began in 2014.<sup>68</sup> The majority of Uighurs detained in the camps are held without being formally charged or an explanation as to why they have been detained.<sup>69</sup> It is common practice for the camps to hold prisoners indefinitely.<sup>70</sup>

In 2016, China began large-scale mosque destructions under the "mosque rectification" program.<sup>71</sup> In 2017, China revised its Regulations on Religious Affairs, stating, "the management of religious affairs should adhere to the principles of protecting legitimate religious activities, curbing and preventing illegal and extreme practices, resisting infiltration, and fighting crime."<sup>72</sup> Another article prohibited individuals and organizations from creating conflict between religious and non-religious citizens and "from using religion to undermine ethnic unity, divide the nation, or carry out terrorist activities."<sup>73</sup> These regulations substantially limit the freedom to practice religion within China and prevents the education or practice of religion without special permission.<sup>74</sup>

According to a 2009 Congressional-Executive Commission on China ("CECC") report, Chinese officials often deny the registration applications of religious groups that are not affiliated with one of the officially recognized patriotic religious

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<sup>67</sup> Tyler, *supra* 24.

<sup>68</sup> UHRP REPORT: The Mass Internment of Uyghurs: "We want to be respected as humans. Is it too much to ask?", Uyghur Human Rights Project (Aug. 23, 2018), [https://uhrp.org/press-release/mass-internment-uyghurs-\"we-want-be-respected-humans-it-too-much-ask\".html](https://uhrp.org/press-release/mass-internment-uyghurs-\).

<sup>69</sup> Lindsay Maizland, *China's Repression of Uyghurs in Xinjiang*, Council on Foreign Relations (June 30, 2020).

<sup>70</sup> *Id.*

<sup>71</sup> UHRP REPORT: Demolishing Faith: The destruction and Desecration of Uyghur Mosques and Shrines, Uyghur Human Right Project (Oct. 28, 2019), <https://uhrp.org/press-release/demolishing-faith-destruction-and-desecration-uyghur-mosques-and-shrines.html>.

<sup>72</sup> Religious Affairs Regulations, 2 ¶1, (2017).

<sup>73</sup> *Id.* at art. 4.

<sup>74</sup> *Id.* at art. 9.

associations.<sup>75</sup> For the religious minority of Uighurs, the regulations strictly control their lives.<sup>76</sup> For example, in 2008 the state prevented fasting during Ramadan.<sup>77</sup> Additionally, individuals have been arrested for getting up before dawn to eat—an imperative practice to ensuring Muslims stay nourished while observing Ramadan—schools and institutions forced all students to eat during fasting hours, and Muslim-owned restaurants were required to remain open during Ramadan.<sup>78</sup> China also limits and controls participation in Haj, the Muslim pilgrimage to Mecca, which is one of the five tenets of the Islamic faith, through passport management.<sup>79</sup> Uighurs who do get passports have to pledge they will not go on the Haj.<sup>80</sup> Furthermore, those who apply for passports must provide fingerprints, voiceprints, and DNA samples for analysis.<sup>81</sup>

A CCP internal security report concluded that the Uighur independence movement in Xinjiang is the main threat to China's stability.<sup>82</sup> An estimated one million troops are stationed in Xinjiang; with no immediate external threat, troops are seemingly positioned to control ethnic unrest and guard re-education centers.<sup>83</sup>

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<sup>75</sup> Toops, *supra* note 47.

<sup>76</sup> The Uighurs: A History of Persecution, Hearing before the Subcommittee on International Organizations, Human Rights and Oversight, 111 Cong. 28 (2009).

<sup>77</sup> *China bans Muslims from fasting Ramadan in Xinjiang*, Aljazeera (June 18, 2015), <https://www.aljazeera.com/news/2015/6/18/china-bans-muslims-from-fasting-ramadan-in-xinjiang>.

<sup>78</sup> *Id.*

<sup>79</sup> Toops, *supra* note 47. *See also*: The Embassy of Kingd. Of Saudi Arabia, *The Five Pillars Of Islam* (last visited Jan. 14, 2021), <https://www.saudiembassy.net/five-pillars-islam>.

<sup>80</sup> Toops, *supra* note 47.

<sup>81</sup> Kate Fitz Gibbon, *A Culture Destroyed: China Expunges Uyghur Identity*, Cultural Property News (Aug. 27, 2018), <https://culturalpropertynews.org/a-culture-destroyed-china-expunges-uyghur-identity/>.

<sup>82</sup> Tanner & Bellacqua, *Supra* note 41 at 12

<sup>83</sup> *Up to one million detained in China's Mass "re-education" Drive*, Amnesty International, <https://www.amnesty.org/en/latest/news/2018/09/china-up-to-one-million-detained/> (last visited Dec. 31, 2020).

### **b. Escalating Human Rights Violations**

Leaked government documents emphasize the breadth of tactics employed to control and isolate the Uighurs.<sup>84</sup> During the Urumqi protests, Chen Quanguo, the current Communist Party Secretary of Xinjiang, told thousands of police to prepare for a “smashing, obliterating offensive.”<sup>85</sup> He and his leadership team planned to detain Uighurs in large numbers, issuing a sweeping order to “round up everyone who should be rounded up.”<sup>86</sup> This phrase appears repeatedly in internal documents.<sup>87</sup> Authorities were told to look for specific behaviors like wearing long beards, giving up smoking or drinking, studying Arabic, and praying at mosques—behavior common among devout Uighur Muslims—as indicators of a potential detainee.<sup>88</sup>

The leaked documents further told authorities to refer to the detention centers publicly as “job training facilities” and to portray them as relatively mild methods to address the problem of Islamic “extremism.”<sup>89</sup> Chinese officials referred to Uighurs as people “infected” by the “virus” of Islamic radicalism that “must be quarantined and cured.”<sup>90</sup> Further, the government referred to the systematic detention of Uighurs as “*ying shou jin shou*,” a phrase typically used to demand officials be vigilant and comprehensive in collecting taxes; applied in this way, the phrase is dehumanizing to Uighurs.<sup>91</sup> Notably, the directives made no mention of judicial procedures for people being detained.<sup>92</sup>

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<sup>84</sup> Austin Ramzy & Chris Buckley, *The Xinjiang Papers: Absolutely No mercy’: Leaked Files Expose How China Organized Mass Detentions of Muslims*, N.Y. Times (Nov. 16, 2019), <https://www.nytimes.com/interactive/2019/11/16/world/asia/china-xinjiang-documents.html>.

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

Officials who failed to carry out the crackdown or did so slowly were punished and jailed.<sup>93</sup> Uighur officials were accused of protecting and shielding their fellow Uighurs.<sup>94</sup> Information on surveillance in Xinjiang showed the system flagged over one million people as potential threats simply for having a data sharing app on their phones.<sup>95</sup> Authorities ordered the individual investigation of 40,557 flagged people and stated that "if it is not possible to eliminate suspicion" they should be sent for "concentrated training."<sup>96</sup>

China consistently denies the internment of any Uighurs, instead claiming the facilities Uighurs are detained in are "vocational training centers" that emphasize "rehabilitation and redemption" and are part of efforts to combat terrorism and religious extremism.<sup>97</sup> A forensic analysis of satellite images of 39 of these facilities shows they are rapidly expanding.<sup>98</sup> Between April 2017 and August 2018, the facilities tripled in size, covering an estimated one million square meters, roughly the size of 140 soccer fields.<sup>99</sup> The construction of new facilities and expansion of existing facilities largely began around April 2017, one month before Beijing enforced new anti-extremism regulations in Xinjiang.<sup>100</sup> Before April, the site was a desert without a single building.<sup>101</sup>

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<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> Scilla Alecci, *How China Targets Uighurs 'One by One' for Using a Mobile App*, International Consortium of Invest. Journ. (Nov. 24, 2019), <https://www.icij.org/investigations/china-cables/how-china-targets-uighurs-one-by-one-for-using-a-mobile-app/>.

<sup>96</sup> *Data leak reveals how China 'brainwashes' Uighurs in prison camps*, BBC News (Nov. 24, 2019) <https://www.bbc.com/news/world-asia-china-50511063>.

<sup>97</sup> Philip Wen & Olzhas Auyezov, *Tracking China's Muslim Gulag*, Reuters Investigates (Nov. 29, 2018), <https://www.reuters.com/investigates/special-report/muslims-camps-china/>.

<sup>98</sup> *Id.*

<sup>99</sup> *Id.*

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

Notices posted to local government websites provide insight into the features of eighty of these camps. Documents include references to guardhouses, surveillance systems that leave “no blind spots,” automatic weapons and their safe storage, telecommunication “control systems” to monitor the content of “trainee” telephone conversations, and the forcible interruption of detainee phone calls.<sup>102</sup> Recently, the government has stopped publishing the notices and began deleting the old ones from the internet.<sup>103</sup>

Chen also called for the installation of technology-enhanced surveillance across Xinjiang.<sup>104</sup> Tens of thousands of security personnel were recruited to staff police stations and checkpoints.<sup>105</sup> Scanners equipped with facial recognition cameras have been installed in public places such as mosques, hotels, and transportation hubs.<sup>106</sup>

Within the detention centers, every aspect of a detainee’s life is monitored.<sup>107</sup> According to leaked documents, detainees are assigned a fixed bed position, fixed queue position, fixed classroom seat, and fixed station during skills work.<sup>108</sup> The documents also dictate how guards are to interact with detainees, by “implement[ing] behavioral norms and discipline requirements for getting up, roll call, washing, going to the toilet, organizing and housekeeping, eating, studying, sleeping, closing the door and so forth.”<sup>109</sup> Most disturbingly, the memo orders guards to “never allow escape, increase discipline and punishment of behavioral violations, promote confession, and [ensure] full video surveillance coverage of dormitories and classrooms free of blind spots.”<sup>110</sup>

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<sup>102</sup> *Id.*

<sup>103</sup> *Id.*

<sup>104</sup> Ramzy & Buckel, *supra* note 89

<sup>105</sup> *Id.* See also: Chris Buckley & Paul Mozur, *How China Uses High-Tech Surveillance to Subdue Minorities*, N.Y. Times (May 22, 2019).

<sup>106</sup> Wen & Auyezov, *supra* note 48.

<sup>107</sup> *Supra* note 101

<sup>108</sup> *Supra* note 56.

<sup>109</sup> *Supra* note 45.

<sup>110</sup> *Id.*

The leaked documents also include explicit directives to arrest Uighurs with foreign citizenship and to track Uighurs living abroad.<sup>111</sup> The document suggests, although does not outright state, that China's embassies and consulates are involved in the global search for Uighurs.<sup>112</sup>

Since Chen Quanguo's orders in 2017, mass detainments of Uighur Muslims have skyrocketed.<sup>113</sup> Between 800,000 to 2 million. Uighurs have been detained and sent to the "re-education" camps.<sup>114</sup> Authorities often refuse to issue information to relatives—especially to those living abroad—on the whereabouts of family members.<sup>115</sup> Overall, information on what happens in the camps is limited, but detainees who have fled China describe oppressive conditions.

Previous detainees Former detainees recounting their experiences have said they were subjected to political indoctrination including being forced to: pledge loyalty to China, renounce Islam, recite communist party policies, recite Chinese laws, sing the Chinese national anthem, and learn Mandarin. People who fail to correctly memorize dictums are denied food.<sup>116</sup> Further, detainees were forced to engage in self-criticism sessions and report on fellow detainees, relatives, and neighbors.<sup>117</sup>

Some detainees have reported prison-like conditions, with cameras and microphones monitoring their every move and remark.<sup>118</sup> Others recall instances of torture, including sleep

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<sup>111</sup> *Supra* note 57.

<sup>112</sup> *Id.*

<sup>113</sup> Chris Buckley, *The Leaders Who Unleashed China's Mass Detention of Muslims*, N.Y. Times (Oct. 13, 2018).

<sup>114</sup> Lindsay Maizland, *China's Repression of Uighurs in Xinjiang*, Council on Foreign Relations (last updated June 30, 2020) <https://www.cfr.org/background/chinas-repression-uighurs-xinjiang>.

<sup>115</sup> World Uyghur Congress, <https://www.uyghurcongress.org/en/current-issues/> (last visited Dec. 31, 2020).

<sup>116</sup> Gibbon, *supra* note 46.

<sup>117</sup> *Id.*

<sup>118</sup> CFR, *supra* note 59.



deprivation, interrogations, sexual abuse, forced abortions, and forced contraception.<sup>119</sup>

It is common knowledge that detention also disrupts and displaces families. Children whose parents have been sent to the camps are often forced to stay in state-run orphanages.<sup>120</sup> Uighur parents living outside of China have to choose between returning home to be with their children, thereby risking detention, or staying abroad, separated from their children and unable to contact them.<sup>121</sup> Foreign reporters who attempt to investigate the region are closely followed by Chinese security forces.<sup>122</sup> Police have also placed temporary roadblocks to block reporters from reaching the camps.<sup>123</sup>

**c. International Response, Asylum, and Refugees**

International response to Uighur detainments has been slow and limited. Although China does not sign on nor participate in many of the UN agreements, China still holds sway on the international field with influence over much of the world's trade and manufacturing.<sup>124</sup>

Uighurs attempting to flee Xinjiang face foreign immigration systems and difficulty obtaining visa documentation. At the height of detainments, Executive Order 13780 (“the travel ban”) was issued, severely impacting Muslim refugees and asylum seekers.<sup>125</sup> Executive order 13780 cut the refugee program in half, capping it at 50,000 people.<sup>126</sup> Now, new asylum policies have fundamentally changed the definition of persecution under the law

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<sup>119</sup> *Id.*

<sup>120</sup> Sigal Samuel, *China's Jaw-Dropping Family Separation Policy*, *The Atlantic* (Sept. 4, 2018).

<sup>121</sup> CFR, *supra* note 59.

<sup>122</sup> Wen & Auyezov, *supra* note 82

<sup>123</sup> *Supra* note 34,

<sup>124</sup> Scott Kastner, *Buying Influence? Assessing the Political Effects of China's International Trade*, *J. of Conflict Res.* 980-1007 (Vol. 60, 2016).

<sup>125</sup> Exec. Order No. 13780, 82 FR 13209

<sup>126</sup> *Id.*

making the claim extremely difficult to meet.<sup>127</sup> Further, persistent prejudices surrounding Muslims have greatly impacted refugee and asylum claims worldwide (most notably in western countries).<sup>128</sup> Uighurs have also tried to seek asylum in over fifty different countries including Turkey, Burma, and Laos.<sup>129</sup>

Even after fleeing, Uighurs face the risk of deportation and harassment at the hands of CCP officials.<sup>130</sup> Over four hundred Uighurs have experienced intrusive surveillance, scare tactics like death threats, intimidating phone calls and having their family members in China targeted to suppress their activities abroad.<sup>131</sup> Often harassment and threats are targeted at Uighur activists or former detainees who openly share their experiences.<sup>132</sup>

The Chinese government relentlessly pursues Uighurs and uses its influence to pressure host countries into returning Uighur refugees and asylum seekers.<sup>133</sup> In 2015, Thailand detained around fifty Uighurs and returned nearly one hundred to China.<sup>134</sup> In 2017, Egyptian authorities rounded up hundreds of Uighurs, including students, and deported them back to China.<sup>135</sup> Most are thought to

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<sup>127</sup> Marcia Brown, *After Uighurs Escape China, They Face the U.S. Asylum System*, The Amer. Prospect (Aug. 5, 2020), <https://prospect.org/world/after-uighurs-escape-china-face-u-s-asylum-system/>.

<sup>128</sup> UNHCR, *Global Trends: Forced Displacement in 2017* (2017). See also: Danielle Tomson, *The Rise of Sweden Democrats: Islam, Populism and the End of Swedish Exceptionalism*, Brookings (Mar. 25, 2020).

<sup>129</sup> CFR, *supra* note 59.

<sup>130</sup> *Tell China to Stop Targeting Uyghurs*, Amnesty International, <https://www.amnesty.org/en/get-involved/take-action/tell-china-to-close-its-secret-reeducation-camps-for-ethnic-minorities/> (last visited Dec. 31, 2020). See also: Eva Dou, *China's Muslim Crackdown Extends to Those Living Abroad*, The Wall St. J. (Aug 31, 2018).

<sup>131</sup> *Id.*

<sup>132</sup> Amnesty International, *Nowhere feels Safe: Uyghurs Tell of China-Led Intimidation Campaign Abroad* (last visited Jan 14, 2021).

<sup>133</sup> Scott Busby, Deputy Assistant Secretary, Senate Foreign Relations Committee, Subcommittee on East Asia, The Pacific, And International Cybersecurity Policy (December 4, 2018).

<sup>134</sup> CFR, *supra* note 59.

<sup>135</sup> *Id.*

have ended up in Xinjiang internment camps.<sup>136</sup> Once returned to China, Uighurs often disappear or are subjected to arbitrary detention, torture, and other serious human rights violations.<sup>137</sup>

In the past 20 years, over 300 confirmed Uighurs have been forcibly returned to China from 16 different countries.<sup>138</sup> These numbers do not include the Uighurs who were secretly returned to China by neighboring states.<sup>139</sup> These individuals are often students, refugees, and asylum seekers.<sup>140</sup>

Other foreign governments like Malaysia or Sweden have resisted Chinese pressure and refused to deport or return Uighur individuals to China.<sup>141</sup> Instead, these countries consider Uighur asylum claims or allow Uighurs to travel onwards to safe destinations.<sup>142</sup> Sweden and Germany's governments have enacted policies to halt all deportations of Uighurs from their respective countries until further notice.<sup>143</sup> Three resolutions from the European Parliament called on EU member states to refrain from returning Uighurs to China.<sup>144</sup>

In 2019, most western countries signed a letter to the UN human rights chief condemning China's actions.<sup>145</sup> In response the UN chief demanded access to the camps.<sup>146</sup> The European Union has called on China to respect religious freedom and change its policies in Xinjiang.<sup>147</sup> In 2019, Turkey became the only Muslim-

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<sup>136</sup> *Supra* note 64.

<sup>137</sup> *WUC Calls on Indonesia not to deport Uyghur Refugees To China*, World Uyghur Congress (Oct. 26, 2020), <https://www.uyghurcongress.org/en/press-release-wuc-calls-on-indonesia-not-to-deport-uyghur-refugees-to-china/>.

<sup>138</sup> *Id.*

<sup>139</sup> *Id.*

<sup>140</sup> *Id.*

<sup>141</sup> Busby, *supra* note 131

<sup>142</sup> *Id.*

<sup>143</sup> *Supra* note 84.

<sup>144</sup> *Supra* note 70.

<sup>145</sup> *Supra* note 71.

<sup>146</sup> *Id.*

<sup>147</sup> *European Parliament resolution on the situation of the Uyghurs in China* (last updated Dec. 18, 2019), [https://www.europarl.europa.eu/doceo/document/TA-9-2019-0110\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2019-0110_EN.html).

majority country to voice concern when its foreign minister called on China to ensure “the full protection of the cultural identities of the Uighurs and other Muslims” during a UN Human Rights Council session.<sup>148</sup>

Many Muslim countries with close ties to China have remained notably silent, seemingly prioritizing economic ties and strategic relationships with China.<sup>149</sup> In July 2019, more than three dozen states, including Pakistan and Saudi Arabia, signed a letter praising China’s “remarkable achievements” in human rights and its “counterterrorism” efforts in Xinjiang.<sup>150</sup>

International ability to intervene is limited. China is not a party to UN International Criminal Law (“ICC”) which prosecutes crimes against humanity and China resides on the UN Security Council, meaning it holds veto power over referrals to the ICC.<sup>151</sup>

In October of 2019, the United States imposed visa restrictions on Chinese officials who were believed to be responsible or complicit in the detention of Uighurs in Xinjiang.<sup>152</sup> The U.S. also blacklisted two dozen Chinese companies and agencies linked to abuses in the region blocking them from buying U.S. products.<sup>153</sup> In 2020, President Donald Trump signed a policy sanctioning individuals, including Chen Quanguo, for human rights abuses against Uighurs.<sup>154</sup> The law requires U.S. businesses and individuals selling products to or operating in Xinjiang to ensure

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<sup>148</sup> *Supra* note 54.

<sup>149</sup> CFR, *supra* note 59

<sup>150</sup> *Id.*

<sup>151</sup> Dan Zhu, China, The International Criminal Court, And Global Governance, Australian Instit. Of Inter. Aff. (Jan. 10, 2020), <https://www.internationalaffairs.org.au/australianoutlook/china-the-international-criminal-court-and-global-governance/>.

<sup>152</sup> Maya Wang, *US Takes Key Action for Human Rights in China*, Human Rights Watch (July 9, 2020) <https://www.hrw.org/news/2020/07/09/us-takes-key-action-human-rights-china#>.

<sup>153</sup> *Id.*

<sup>154</sup> Pranshu Verma, *U.S. Imposes Sanctions on Chinese Officials Over Mass Detention of Muslims*, N.Y. Times (Aug. 7, 2020).

their activities do not contribute to human rights violations, including the use of forced labor.<sup>155</sup>

U.S. policies preventing use of forced labor are also being expanded in the Uyghur Forced Labor Prevention Act, which passed in the U.S. House of Representatives on September 22, 2020.<sup>156</sup> If the bill becomes law, U.S. authorities would have more power to enforce the law.<sup>157</sup> For example, public companies would be required to certify to the Securities and Exchange Commission (“SEC”) that their products are not made using forced labor from Xinjiang.<sup>158</sup> If companies are found to have used forced labor from the region, they could be prosecuted for security violations.<sup>159</sup> It is estimated that more than 80,000 Uighurs have been transferred out of Xinjiang to work in factories across China between 2017 and 2019, and some of them were sent directly from detention camps.<sup>160</sup> Uighurs are thought to be working in factories that are in the supply chains of at least 82 well-known global brands in technology, clothing and automotive sectors including: Amazon,

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<sup>155</sup> Uyghur Human Rights Policy Act of 2020 § 3744, 116th Congress (2019-2020).

<sup>156</sup> Uyghur Forced Labor Prevention Act, H.R. 6210, 116<sup>th</sup> Cong. (2019-2020)

<sup>157</sup> Husch Blackwell, *Uyghur Forced Labor Legislation Could Create New Compliance Challenges For Importers*, JDSUPRA (Dec. 11, 2020).

<sup>158</sup> Reed Albergotti, *Apple lobbying against bill aimed at stopping forced labor in China*, Washington Post (Nov. 20, 2020)

<https://www.washingtonpost.com/technology/2020/11/20/apple-uyghur/> (“[T]he legislation has become the target of multinational companies including Apple whose supply chains touch the far western Xinjiang region, as well as of business groups including the U.S. Chamber of Commerce. Lobbyists have fought to water down some of its provisions, arguing that while they strongly condemn forced labor and current atrocities in Xinjiang, the act’s ambitious requirements could wreak havoc on supply chains that are deeply embedded in China.”).

<sup>159</sup> *Id.*

<sup>160</sup> Vicky Xu, Danielle Cave, James Leibold, Kelsey Munro, & Nathan Ruser, *Uyghurs for sale*, Australian Strategic Pol. Instit. (Mar. 1, 2020), <https://www.aspi.org.au/report/uyghurs-sale>.

L.L. Bean, Nintendo and BMW.<sup>161</sup> Already, lobbyists for corporations like Nike and Apple are trying to weaken the law.<sup>162</sup>

The location of Xinjiang is a critical link in China's supply chain. Particularly for a new Chinese trade plan the Belt and Road Initiative. Launched in 2013 by President Xi Jinping, the initiative plans to construct a new overland route through Xinjiang as well as a maritime route through the Indian Ocean and Persian Gulf.<sup>163</sup> The Belt and Road Initiative ("BRI") is a collection of development and investment projects stretching through Asia and Europe.<sup>164</sup> If successful, the Plan would significantly expand China's economic and political influence.<sup>165</sup> It is estimated that China has already spent 60 billion dollars on the BRI and plans to build physical infrastructure and around fifty special economic zones.<sup>166</sup> Some political science experts suggest the BRI is a large factor in the displacement and detainment of Uighurs.<sup>167</sup>

Therefore, Sanctions would be more effective if other governments imposed similar restrictions on the CCP as well as companies utilizing forced Uighur labor.<sup>168</sup> If the international community came together and universally imposed sanctions on China's trade and trade initiatives, an industry China currently dominates and receives immense funding from, it would put pressure on China to stop the interment and human rights violation of Uighurs. While criticisms and indictments from global leaders

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<sup>161</sup> *Id.*

<sup>162</sup> Albergotti, *Supra* note 156. "Human rights groups and news reports have linked many multinational companies to suppliers there, including tying Coca-Cola to sugar sourced from Xinjiang, and documenting Uighur workers in a factory in Qingdao that makes Nike shoes."

<sup>163</sup> *Id.*

<sup>164</sup> *Id.*

<sup>165</sup> *Id.*

<sup>166</sup> *Id.*

<sup>167</sup> Rushan Abbas, *I've fought China's slow-motion genocide of Uighur Muslims. Now, my family are victims*, USA Today (May 9, 2019) <https://www.usatoday.com/story/opinion/voices/2019/05/09/uighur-chinese-human-rights-violations-concentration-camps-column/1143252001/>.

<sup>168</sup> Amy K. Lehr & Mariefaye Bechrakis, *Combating Human Rights Abuses in Xinjiang*, Center for Stra. & Intern. Stud. (last visited Jan 14, 2021).

are a start, currently, no country is willing to stand against China and go further in their protection of Uighurs.<sup>169</sup> At minimum, collectively imposing sanctions on companies, agencies, and individuals involved in the human rights abuse of Uighurs would send a powerful message.

**d. Crimes Against Humanity and Genocide**

Under international law and the Rome Statute of the International Criminal Court (“ICC”), China—at minimum—is committing crimes against humanity.<sup>170</sup> Crimes against humanity are any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population:

- (1) Murder;
- (2) Enslavement;
- (3) Deportation or forcible transfer of population;
- (4) Imprisonment or deprivation of physical liberty;
- (5) Torture;
- (6) Rape, forced pregnancy, enforced sterilization, or any other form of sexual violence;
- (7) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender,
- (8) Enforced disappearance of persons;
- (9) Other inhumane acts causing great suffering, or serious injury to body or mental or physical health.<sup>171</sup>

Crimes against humanity can occur during peacetime.<sup>172</sup> Article 7(2)(a) of the Rome Statute determines that crimes against humanity must be committed in furtherance of a State or

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<sup>169</sup> UK Parliament, China’s Policy on its Uyghur Population (Oct. 12, 2020), <https://hansard.parliament.uk/Commons/2020-10-12/debates/AB40F283-1FA2-4784-AFE7-2F268C3985B/China%E2%80%99SPolicyOnItsUyghurPopulation>. See also: Alexandra Ma, *Why the Muslim world isn't saying anything about China's repression and 'cultural cleansing' of its downtrodden Muslim minority*, Business Insider (Aug 27, 2018).

<sup>170</sup> Rome Statute of the International Criminal Court, Art. 7, (Rome, 17 July 1998) UN Doc. A/CONF.183/9 of 17 July 1998 entered into force 1 July 2002.

<sup>171</sup> *Id.* at Art. 7

<sup>172</sup> *Id.*

organizational policy to commit an attack.<sup>173</sup> In contrast with genocide, crimes against humanity do not need to target a specific group.<sup>174</sup> Instead, the victim of the attack can be any civilian population, regardless of its affiliation or identity.<sup>175</sup>

Out of the ten possible crimes against humanity under the ICC, China is known to be perpetuating: imprisonment, forcible transfer of a population, persecution against a religious group, and enforced disappearances.<sup>176</sup> Additionally, China has been accused of committing torture, sexual violence, forced labor (enslavement), and murder.<sup>177</sup> Therefore, the systematic persecution of Uighurs through large-scale detention programs, the abuse of detainees, enforced sterilization, and denial of information regarding the fate of persons in state custody all constitute crimes against humanity.

Critically, as of writing this article, China's governmental actions have progressed past crimes against humanity into genocide. Article II of the Convention on the Prevention and Punishment of the Crime of Genocide narrowly defines genocide to mean acts committed with the *intent* to destroy, in whole or in part, a national, ethnical, racial, or religious group, including: (1) killing members of the group, (2) causing serious bodily or mental harm to members of the group, (3) deliberately inflicting conditions on the group calculated to bring about its physical destruction in whole or in part, (4) measures intended to prevent births within the group, and (5) forcibly transferring children of the group to another group.<sup>178</sup>

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<sup>173</sup> United Nations, *Crimes Against Humanity* (last visited Jan. 14, 2021) <https://www.un.org/en/genocideprevention/crimes-against-humanity.shtml>

<sup>174</sup> *Id.*

<sup>175</sup> *Id.*

<sup>176</sup> *Supra* note 135. *See also*: Ramzy & Buckley *supra* note 89.

<sup>177</sup> *Supra* note 153. *See also*: Gibbon *supra* note 114, CFR *supra* note 59.

<sup>178</sup> *Genocide Prevention and the Responsibility to Protect*, United Nations, <https://www.un.org/en/genocideprevention/genocide.shtml> (last visited Dec. 31, 2020).



Under Article I, genocide can take place whether in armed conflict, internationally, or in peaceful situations. Additionally, Article I dictate that the contracting parties to the convention have an obligation to prevent and punish the crime of genocide.<sup>179</sup>

The mens rea to commit genocide is proved on a case-by-case basis through evidence demonstrating a consistent pattern of behavior established before the genocidal acts.<sup>180</sup> These actions include political doctrine that gives rise to the acts, repetition of destructive and discriminator acts, and “deliberately and systematically targeting victims on account of their membership of a particular group while excluding the members of other groups.”<sup>181</sup>

When the Uighur detentions are viewed within the historical context of China’s treatment of Muslim minorities, a consistent pattern of governmental behavior against Uighurs forms and intent to destroy or remove Uighurs may be inferred.<sup>182</sup> China’s political doctrines have directly given rise to the present treatment of Uighurs.<sup>183</sup> China has effective state control of religious institutions with its national constitution giving citizens the freedom of “normal” religious practice, without defining what “normal” means.<sup>184</sup> Leaving “normal” undefined allows China to stipulate common Muslim practices as illegal.<sup>185</sup> These laws are specifically applied to the Xinjiang region and authorities have defined 26 religious activities as illegal, including wearing veils, homeschooling children, long beards, and praying in public.<sup>186</sup> Additionally, the “counter-terrorism” and “strike hard” campaigns have directly led to the genocidal acts of Chinese authorities.<sup>187</sup>

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<sup>179</sup> *Id.*

<sup>180</sup> *Rutaganda*, (Trial Chamber), December 6, 1999, para. 61-63.

<sup>181</sup> *Akayesu*, (Trial Chamber), September 2, 1998, para. 523-524,

<sup>182</sup> Liu & Peters, *supra* note 25. *See also: supra* not 49.

<sup>183</sup> Gibbon, *supra* note 114. *See also: Ramzy & Buckley supra* note 89.

<sup>184</sup> *Supra* note 21.

<sup>185</sup> *Id.*

<sup>186</sup> Ramzy & Buckley, *supra* note 89. *See also: supra* note 74.

<sup>187</sup> Tanner & Bellaqua, *supra* note 51.

Intent is further illustrated by the destruction of mosques, forced labor of Uighurs, surveillance, and restriction on Uighur rights as well as the phrasing utilized to dehumanize Uighur people in official Chinese directives.<sup>188</sup> Therefore, China has “the *intent* to destroy, in whole or in part, a national, ethnical, racial, or religious group.”<sup>189</sup>

The internment of Uighurs and their treatment by CCP fulfill the elements for acts of genocide under the UN Convention.<sup>190</sup> Elements of genocide two through five largely occur within the “re-education” centers.<sup>191</sup> Sexual violence, threats during interrogation, inhumane treatment, and torture all constitute serious bodily or mental harm.<sup>192</sup> Uighurs who have experienced detainment described prison-like experiences, including being shackled to chairs for days, interrogations, sleep deprivation, and sexual abuse, like being forced to smear ground chile pepper mixture on their genitals.<sup>193</sup> Additionally, mental harm has led to suicide and suicidal ideation.<sup>194</sup>

Methods of group destruction do not need to immediately kill those persecuted. Instead, the perpetrator can seek their physical destruction by forced subsistence diet, systematic expulsion from homes, or the reduction of essential medical

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<sup>188</sup> Ramzy & Buckley, *supra* note 89. *See also*: Vicky Xu , Danielle Cave , Dr James Leibold , Kelsey Munro & Nathan Ruser, *Uyghurs for sale*, Australian Strat. Pol. Instit. (Ma. 1, 2020).

<sup>189</sup> Convention on Genocide, Akayesu, (Trial Chamber), Sept. 2, 1998, para. 497. *See also*: Rutaganda, (Trial Chamber), Dec. 6, 1999, para. 48-49.

<sup>190</sup> UN, *supra* note 177.

<sup>191</sup> *Id.*

<sup>192</sup> Rutaganda, (Trial Chamber), Dec. 6, 1999, para. 51. *See also* Musema, (Trial Chamber), Jan. 27, 2000, para. 156; Bagilishema, (Trial Chamber), June 7, 2001, para. 59.

<sup>193</sup> Amie Ferris-Rotman, *Abortions, IUDs and sexual humiliation: Muslim women who fled China for Kazakhstan recount ordeals*, Washington Post (Oct. 5, 2019). *See also*: Abdul Mujahid, *Detained Uighur Muslims are sitting ducks for the coronavirus. China must close the camps*, USA Today (Feb. 14, 2020).

<sup>194</sup> CFR, *supra* note 49.

services below the minimum requirement.<sup>195</sup> It is likely the “re-education” centers themselves are meant to inflict on Uighurs conditions of life calculated to bring about their destruction. Uighurs have reported being denied food or have been forced to eat pork and dog meat against their religion, sleep deprivation, and torture.<sup>196</sup> Hygienic conditions have been described by escaped detainees as unsanitary.<sup>197</sup> Cells are described as being 430 square feet and holding around 60 people.<sup>198</sup> Each cell contains a single uncovered, unwall, hole in the corner as a toilet for all detainees to use.<sup>199</sup>

Element four of genocide, imposing measures intended to prevent births within a group, include: the practice of sterilization, forced birth control, separation of the sexes, and prohibition of marriages.<sup>200</sup> Recently, an Associated Press investigation found that China is subjecting thousands of Uighur women to pregnancy checks, forced intrauterine devices, sterilization, and abortions as

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<sup>195</sup> *Akayesu*, (Trial Chamber), September 2, 1998, para. 505-506. *See also Rutaganda*, (Trial Chamber), December 6, 1999, para. 52; *Musema*, (Trial Chamber), January 27, 2000, para. 157.

<sup>196</sup> Human Rights Watch, “*Eradiating Ideological Viruses*”: *China’s Campaign of Repression Against Xinjiang’s Muslims*, (Sept. 9, 2018). *See also*: CFR, *supra* note 59.

<sup>197</sup> Bill Bostock, *The Wuhan coronavirus has hit Xinjiang, where China has imprisoned at least 1 million Uighur Muslims. Its filthy detention camps will make inmates sitting ducks*, *Business Insider* (Jan. 24, 2020), <https://www.businessinsider.com/wuhan-coronavirus-xinjiang-uighur-squalid-detention-camps-2020-1>.

<sup>198</sup> John Sudworth, *China Uighurs: A model’s video gives a rare glimpse inside internment*, *BBC News* (Aug. 4, 2020). *See also*: Abdul Mujahid, *Detained Uighur Muslims are sitting ducks for the coronavirus. China must close the camps*, *USA Today* (Feb. 14, 2020).

<sup>199</sup> *Id.*

<sup>200</sup> Adrian Zenz, *China’s Own Documents Show Potentially Genocidal Sterilization Plans in Xinjiang*, *Foreign Policy* (July 1, 2020), <https://foreignpolicy.com/2020/07/01/china-documents-uighur-genocidal-sterilization-xinjiang/>.

population control measures.<sup>201</sup> Notably, the use of IUDs and sterilization has fallen nationwide but is rising sharply in Xinjiang.<sup>202</sup>

Families with parents moved to “re-education centers” have their children forcibly removed and given to another ethno-religion group.<sup>203</sup> More than 400 children have lost not just one but both parents to some form of internment, either in the camps or in prison.<sup>204</sup> Over 100 children have disappeared, assumably into orphanages, while their parents were detained abroad or within Xinjiang. Parents have not been given information about their child’s location.<sup>205</sup> Children who end up in foster care and orphanages are given a new Chinese name and placed with Han Chinese families.<sup>206</sup> Other children are sent to boarding schools.<sup>207</sup> According to CCP planning documents the schools are designed to assimilate and indoctrinate children at an early age, away from the influence of their families.<sup>208</sup> The schools are off limits to outsiders and heavily guarded.<sup>209</sup> Chinese ambassador Liu Xiaoming has claimed that no separation of children is taking place: parents simply need to give the names of their children and

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<sup>201</sup> *China cuts Uighur births with IUDs, abortion, sterilization*, The Associated Press (June 29, 2020),

<https://apnews.com/article/269b3de1af34e17c1941a514f78d764c>.

<sup>202</sup> *Id.*

<sup>203</sup> John Sudworth, *China Muslims: Xinjiang schools used to separate children from families*, BBC News (July 4, 2019), <https://www.bbc.com/news/world-asia-china-48825090>.

<sup>204</sup> *Id.*

<sup>205</sup> *Id.*

<sup>206</sup> Yanan Wang & Dake Kang, *China Treats Uighur Kids as ‘orphans’ after parents seized*, Associated Press (Sept. 21, 2018). *See also*: Gibbon, *supra* note 79

<sup>207</sup> Amy Qin, *In China’s Crackdown on Muslims, Children Have Not Been Spared*, N.Y. Times (Dec. 28, 2019, updated: Oct. 15, 2020), <https://www.nytimes.com/2019/12/28/world/asia/china-xinjiang-children-boarding-schools.html>

<sup>208</sup> *Id.*

<sup>209</sup> *Id.*

the government will locate them.<sup>210</sup> However, the threat of being detained and the change in their children's name makes this virtually impossible as the government tightly controls information.<sup>211</sup>

Finally, element one—killing members of the group—is the most controversial as admitting to evidence of systematic killing would pressure the international community to act despite China's economic power.<sup>212</sup> Additionally, reports of deaths are tightly controlled by state media and the true number of Uighurs who have died in detainment is unknown.<sup>213</sup> However, a prosecutor need only prove that “the perpetrator intentionally killed *one* or more members of the group, without the necessity of premeditation.”<sup>214</sup> Although it is difficult to obtain accurate information about the deaths of Uighurs within the state's control, since 2014, over ten Uighurs have mysteriously “died in custody.”<sup>215</sup> A former detainee described how the conditions within the “re-education” centers killed nine people within their cell.<sup>216</sup> Additionally, the President of the Uyghur Projects Foundation and senior advisor to the World Uyghur Congress claims that the total number of Uighur detainees in China and those presumed dead now exceeds the total number of Jews

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<sup>210</sup> *China denies Muslim separation campaign in Xinjiang*, BBC News (Jul. 7, 2019).

<sup>211</sup> *Uyghur Children's 'Identities Changed'*, Radio Free Asia (May 22, 2009).

<sup>212</sup> Lehr & Bechrakis, *supra* note 167. *See also*: Genocide Convention, Art. 1.

<sup>213</sup> Ivan Watson & Ben Westcott, *Watched, judged, detained: Leaked Chinese Government records reveal detailed surveillance reports on Uyghur families and Beijing's justification for mass detentions*, CNN (last visited Jan. 14, 2021.)

<sup>214</sup> *Semanza*, (Trial Chamber), May 15, 2003, para. 319

<sup>215</sup> Gibbon, *supra* note 114; *see also*, Office of International Religious Freedom, 2019 Report on International Religious Freedom: China – Xinjiang, Dep. Of Justice (June 10, 2019), <https://www.state.gov/reports/2019-report-on-international-religious-freedom/china/xinjiang/>.

<sup>216</sup> Congressional- Executive Commission on China, *The Communist Party's Crackdown on Religion in China*, H.H. 115 Cong. 2 (2019).

detained and killed during the Holocaust.<sup>217</sup> A government official in Xinjiang has reported that where there was once a population of 92,000 Uighur people in 2016, there remain only 20,000 people today.<sup>218</sup> More than 80% of the Uighur population has disappeared in four years.<sup>219</sup> Furthermore, China is enabling the potential mass death of Uighur people through detainment during a global pandemic.<sup>220</sup> Imprisoned Uighurs have limited access to hospitals, nutrition, and quarantine areas.<sup>221</sup> It is reasonably foreseeable that COVID-19 will spread rapidly and infect hundreds of vulnerable people.<sup>222</sup> More than a dozen coronavirus cases have already been reported in Xinjiang, but it is unknown if anyone in detainment is infected.<sup>223</sup>

Disturbingly, there is growing concern that detained Uighurs are being used as “kill-on-demand” emergency donors for Chinese Coronavirus patients.<sup>224</sup> According to the Journal of Biomedical Research, China has one of the lowest organ donor rates in the world, with a voluntary donor rate of only one for

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<sup>217</sup> CJ Werleman, *‘Death is Everywhere’ Millions More Uyghurs Missing*, Byline Times (Aug. 24, 2020), <https://bylinetimes.com/2020/08/24/death-is-everywhere-millions-more-uyghurs-missing/>.

<sup>218</sup> *Id.*

<sup>219</sup> Adrian Zenz, *Sterilizations, IUDs, and Coercive Birth Prevention: The CCP’s Campaign to Suppress Uyghur Birth Rates in Xinjiang*, China Brief (Vol 20, Jul 15, 2020).

<sup>220</sup> Suyash Desai, *Xinjiang in danger of severe Covid-19 outbreak*, Asia Times (Mar. 17, 2020).

<sup>221</sup> *Id.*

<sup>222</sup> Madeleine Carlisle & Josiah Bates, *With Over 275,000 Infections and 1,700 Deaths, COVID-19 Has Devastated the U.S. Prison and Jail Population*, Times (Dec. 28, 2020). *See also*: Juan Siliezar, *Jailing practices appear to fuel coronavirus spread, study says*, The Harvard Gazette (Aug 3, 2020).

<sup>223</sup> Abdul Malik Mujahid, *Detained Uighur Muslims are sitting ducks for the coronavirus. China must close the camps*, USA Today (Feb. 14, 2020), <https://www.usatoday.com/story/opinion/2020/02/14/coronavirus-uyghurs-china-muslim-concentration-camps-column/4739265002/>.

<sup>224</sup> Sir Geoffrey Nice, *Independent Tribunal into Forced Organ Harvesting from Prisoners of Conscience in China*, China Tribunal (2019). *See also*: CJ Werleman, *Are Uyghur Muslim Organs Being Illegally Removed to Save China’s Coronavirus Patients?* Byline Times (2020).

every two million citizens.<sup>225</sup> Of the 1.5 million Chinese citizens who need an organ transplant donor each year, fewer than 10,000 receive a successful match and organ, representing a supply-to-demand ratio of 1 for every 150.<sup>226</sup> Therefore, waiting times for a suitable donor take years however, recently COVID-19 patients have been supplied an organ in mere days.<sup>227</sup> The China Tribunal concluded that because there was no evidence that the infrastructure associated with China's transplantation industry had been dismantled, and without a reasonable explanation as to the source of readily available organs, forced organ harvesting had taken place.<sup>228</sup> Detainee reports include organ extractions on live victims, who are consequently killed by the procedures.<sup>229</sup>

Further, China's treatment of Uighurs should be considered cultural genocide. Although not formally recognized within international law, cultural genocide describes the systematic elimination of a group's identity through measures such as: forcibly transferring children away from their families, restricting the use of a national language, banning cultural activities, destroying schools, religious institutions, or culturally important sites.<sup>230</sup> Cultural genocide has long been discussed within the International Criminal Tribunal as well as during the drafting of

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<sup>225</sup> Matthew P. Robertson, Raymond L. Hinde & Jacob Lavee, *Analysis of official deceased organ donation data casts doubt on the credibility of China's organ transplant reform*, BMC Medical Ethics,

<sup>226</sup> *Id.*

<sup>227</sup> The Independent Tribunal into Forced Organ Harvesting from Prisoners of Conscience in China, (Mar. 1, 2020), [https://chinatribunal.com/wp-content/uploads/2020/03/ChinaTribunal\\_JUDGMENT\\_1stMarch\\_2020.pdf](https://chinatribunal.com/wp-content/uploads/2020/03/ChinaTribunal_JUDGMENT_1stMarch_2020.pdf)

<sup>228</sup> China Tribunal Final Judgement (Dec. 2018), <https://chinatribunal.com/wp-content/uploads/2019/06/Short-Form-Conclusion-China-Tribunal.pdf>.

<sup>229</sup> Saphora Smith, *China forcefully harvests organs from detainees, tribunal concludes*, NBC News (June 18, 2019).

<sup>230</sup> Kate Cronin-Furman, *China Has Chosen Cultural Genocide in Xinjiang—For Now*, Foreign Policy (Sept. 19, 2018), <https://foreignpolicy.com/2018/09/19/china-has-chosen-cultural-genocide-in-xinjiang-for-now/>.

the UN Declaration on the Rights of Indigenous Peoples.<sup>231</sup> Typically, cultural genocide occurs simultaneously, or as a precursor to, mass violence, but does not necessitate it.

In China and abroad, Uighurs are immersed in cultural genocide.<sup>232</sup> Early on, Chinese officials targeted academics, activists, and scholars as well as cultural figures.<sup>233</sup> Among those who have disappeared into the camps are “Xinjiang University officials including its President, Professors, and former Vice Provost of Xinjiang Medical Institute, Uighur economist and writer Gilham Tohti, pop star Ablajan Ayup (who is thought to have been detained for singing about Uighur language education), football player Erfan Hezim, a pro-footballer detained for “visiting foreign countries,” and a religious scholar, Muhammad Salih Hajim, who “died in custody.”<sup>234</sup>

Chinese officials often accuse Uighur academics of being “two-faced” and insufficiently loyal to the state, or of having “nationalist tendencies.”<sup>235</sup> Uighurs have practically every aspect of their lives restricted and monitored.<sup>236</sup> There are bans on activities that had been ordinary parts of daily Uighur life – prayers, giving traditional greetings, and fasting.<sup>237</sup> Uighurs can be jailed for refusing to drink alcohol or eat pork.<sup>238</sup> Talking or gathering in groups is forbidden.<sup>239</sup> Children in school are encouraged to report on any ‘disloyal’ talk by their parents or elders.<sup>240</sup> Dozens of graveyards and religious sites have been destroyed and the Uighur language has been banned in Xinjiang

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<sup>231</sup> Elisa Novic, *The Concept of Cultural Genocide: An International Law Perspective*, Cultural Heritage Law and Policy (Oxford University Press, 2016).

<sup>232</sup> Shriya Meesala, *The Muslim Uyghur Devastation and Cultural Genocide in the Xinjiang Province of China*, UAB Inst. For Human Rights (Nov. 9, 2020).

<sup>233</sup> Gibbon, *supra* note 79

<sup>234</sup> *Id.*

<sup>235</sup> *Id.*

<sup>236</sup> Watson & Westcott *supra* note 212.

<sup>237</sup> Gibbon, *supra* note 79.

<sup>238</sup> *Id.*

<sup>239</sup> *Id.*

<sup>240</sup> *Id.*



schools in favor of Mandarin Chinese.<sup>241</sup> The use of Uighur writing, signs, and pictures is prohibited. Inter-ethnic marriages are actively promoted to slowly breed out “Uighurness”. Advertisements offer cash and other material inducements to Han men who take a Uighur bride.<sup>242</sup>

As emphasized previously, within the detention centers Uighurs are subjected to political indoctrination, and torture when they fail to repeat laws and communist party dictum. Children have been forcibly removed from their parents stopping the passing of tradition and cultural identity.<sup>243</sup> Through such actions China is systematically destroying the traditions, values, and language of the Uighurs. Therefore, the UN should formally recognize the treatment of Uighurs as cultural genocide and create a new tribunal to hold perpetuates of cultural genocide criminally responsible.

### **Conclusion**

Ultimately, if true, the above alleged facts indicate that the CCP may have perpetrated all five acts prohibited under Article II of the UN Genocide Convention. The Chinese government should immediately grant the UN Office of the High Commissioner for Human Rights access to “re-education centers”, internal records, and detainees.

Further the CCP must halt widespread violations and abuses of human rights, repeal the “Regulation on De-extremification” policies, release all Muslims being arbitrarily detained in “re-education camps” and related facilities, end the enforced separation of Uighur children from their families, stop the practice of forcibly preventing births, and cease the deliberate destruction of the unique cultural heritage of the Uighur population.

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<sup>241</sup> Leibold, *supra* note 16.

<sup>242</sup> *Id.*

<sup>243</sup> *China: Xinjiang Children Separated from Families*, Human Rights Watch (Sept. 15, 2019).

Moreover, CCP authorities should stop pressuring the deportation of Uighur refugees, the surveillance and harassment of Uighurs abroad, and end financial benefits for companies using Uighur forced labor. If legal authorities choose not to deem China's internment and treatment of Uighurs as a genocide, the international community should still find that China is committing crimes against humanity upon the Uighurs and use this opportunity to recognize and charge China with cultural genocide. At minimum, the international community should place collective sanctions against CCP authorities and trade with China while human rights abuses remain.