

# UYGHUR TRIBUNAL



## JUDGMENT

Beyond reasonable doubt the People's Republic of China committed torture and crimes against humanity against the Uyghurs and, by the imposition of measures to prevent births intended to destroy a significant part of the Uyghurs in Xinjiang as such, committed genocide

9th of December 2021

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*Sir Geoffrey Nice (Chair), Nick Vetch (Vice Chair), Tim Clark, Professor Raminder Kaur, Dame Parveen Kumar, Professor David Linch, Professor Ambreena Manji, Professor Audrey Osler and Catherine Roe*

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**2021**



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## **Tribunal Members**

Sir Geoffrey Nice QC (Chair)

Nick Vetch (Vice Chair)

Tim Clark

Professor Raminder Kaur

Professor Dame Parveen Kumar

Professor David Linch

Professor Ambreena Manji

Professor Audrey Osler

Catherine Roe

## **Date**

9 December 2021



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# Account of How the Uyghur Tribunal Came into Being

On 9 December 2021, the Judgment of the Uyghur Tribunal—a ‘people’s tribunal’—found that the government of the People’s Republic of China (PRC Government) had committed crimes against humanity and genocide against the Uyghurs of Xinjiang. The Judgment has generally been well received and has not been the subject of any substantive criticism or attack. Most or all the 12 parliaments from around the world who have resolved that the PRC Government has perpetrated these crimes against its Uyghur minority have in some way relied on the Judgment, subsequent to its delivery.<sup>i</sup>

Reception of the Judgment may have reflected, in part, the cautious procedure of the Tribunal, which operated on the following basis:

- None of the Members of the Tribunal had any specialist knowledge or expertise in the PRC or the issues confronting Uyghurs.
- Members of the Tribunal were appointed on condition that any with legal backgrounds of any kind (only three of the nine) would *not* apply their own legal knowledge but would accept legal advice and direction given to the Tribunal by independent legal experts; the Tribunal would be rather like a jury in a regular national jury trial.
- There was no prosecutor or ‘prosecution case’.
- The Members of the Tribunal reviewed evidence and themselves *inquired*—and, to a limited extent, investigated—to reach their Judgment.
- As much relevant evidence as possible, including evidence favourable to the PRC, was assembled by Counsel to the Inquiry and presented at live evidence hearings.
- All evidence was given in public.

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<sup>i</sup> Including the Irish Senate, the Taiwanese Parliament, the European Parliament and the UK House of Commons.

- All, or very nearly all, witnesses identified themselves publicly by their own names.
- The PRC Government was invited on several occasions to attend Tribunal hearings and, indeed, to take part if they wished.
- No inferences adverse to the PRC Government were drawn from the PRC Government's failure to attend or to cooperate in any other way; no inference was drawn from their attacks on the tribunal or on individual witnesses.
- Tribunal decisions on facts were made according to the strictest test of 'proof beyond reasonable doubt'.
- Only law that was absolutely clear and the subject of direction or explanation by independent legal experts would be applied to the factual findings made by the Tribunal Members.
- The Judgment contained no recommendations as to how others—such as governments, businesses, professional organisations, NGOs and schools—should act.
- Once Judgment was delivered, Tribunal Members would in no way become activists in the Uyghur cause.

Other people's tribunals have operated—and continue to operate—in significantly different ways. In particular, they often have experts of various kinds and/or lawyers or 'jurists' as panel members and do not use people who could more easily be seen as disinterested jurors. They nearly all make recommendations of many kinds at the end of their judgments or reports. Panel members of such tribunals are not infrequently already committed to the matter or cause into which the tribunal is inquiring and continue to be, or become, activists in that cause once the tribunal has finished its work.

Even if the way the Uyghur Tribunal was run is appropriate for today's age, there is no guarantee that it will be seen that way in years to come.

For the benefit of present and future readers of the Judgment, this Account traces the route to how it operated.

The Tribunal's Chair, Sir Geoffrey Nice (GN), and Members of the Uyghur Tribunal were informed as to best procedures for them to follow by, among others:

- the 1966–1967 Russell Tribunal, also known as the International War Crimes Tribunal, Russell–Sartre Tribunal, or Stockholm Tribunal

- the so-called ‘Comfort Women Tribunal’—formally the Women’s International War Crimes Tribunal on Japan’s Military Sexual Slavery, which delivered Judgment in 2000
- the Iran Tribunal, an International People’s Tribunal, which delivered Judgment in 2013 (on which GN had worked)
- the International People’s Tribunal on Crimes Against Humanity in Indonesia 1965 (on which GN served as a ‘judge’).<sup>ii</sup>

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<sup>ii</sup> Membership of the Uyghur Tribunal, listed at footnote 5 of the Judgment, may be contrasted with these four other Tribunals:

The Russell-Sartre Tribunal comprised:

- Wolfgang Abendroth, JD, Professor of Political Science, Marburg University
- Tariq Ali, journalist and political campaigner
- Günther Anders, writer and philosopher
- Mehmet Ali Aybar, international lawyer; Member of Turkish Parliament; President, Turkish Workers’ Party
- A.J. Ayer, British philosopher and logician
- James Baldwin, African American novelist and essayist
- Lelio Basso, international lawyer; Deputy of Italian Parliament and Member of the Commission of Foreign Affairs; Professor, Rome University; President of PSIUP (Italian Socialist Party of Proletarian Unity)
- Julio Cortázar, writer, novelist and essayist
- Lázaro Cárdenas, former President of Mexico
- Stokely Carmichael, Chairman, Student Nonviolent Coordinating Committee
- Lawrence Daly, General Secretary, UK National Union of Mineworkers
- Simone de Beauvoir, writer and philosopher
- Vladimir Dedijer, MA, JD, Tribunal chairman and President of Sessions, historian
- David Dellinger, American pacifist; Editor, Liberation; Chairman, Fifth Avenue Parade Committee
- Isaac Deutscher, historian
- Miguel Ángel Estrella, ambassador to United Nations Educational, Scientific and Cultural Organization
- Haika Grossman, Jewish liberation fighter, jurist
- Gisèle Halimi, Paris lawyer; attorney for Djamilia Bouhired; author of works on French repression of Algeria
- Amado V. Hernandez, poet laureate of the Philippines; Chairman, Democratic Labor Party; Acting President, National Organization of Philippine Writers
- Melba Hernandez, Chairman, Cuban Committee for Solidarity with Viet Nam, now the Cuba-Viet Nam Friendship Association
- Mahmud Ali Kasuri, Member of the National Assembly of Pakistan, Senior Advocate Supreme Court of Pakistan
- Sara Lidman, Swedish writer
- Kinju Morikawa, attorney; Vice-Chairman, Japan Civil Liberties Union

There were lessons to be learnt from each of these tribunals.

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- Carl Oglesby, Past President, Students for a Democratic Society; playwright; political essayist
- Bertrand Russell (Tribunal Honorary President), peace activist; philosopher; mathematician
- Shoichi Sakata, physicist, educator
- Jean-Paul Sartre (Tribunal Executive President), philosopher, writer, playwright, political activist
- Laurent Schwartz, Professor of Mathematics, Paris University
- Alice Walker, author and activist

Peter Weiss, playwright, novelist; experimental film director

The Comfort Women Tribunal included:

- Gabrielle Kirk McDonald, former President of the International Criminal Tribunal for the Former Yugoslavia
- Carmen Argibay, member of the Supreme Court of Argentina and President of the International Association of Women Judges
- Christine Chinkin, Professor of International Law in London and participant in many UN Observer Missions
- Willy Mutunga, President of the Kenyan Bar Association and of the Kenya Human Rights Commission.

The Iran Tribunal Judges were:

- Johann Kriegler, a former judge of South Africa's highest court
- Professor Michael Mansfield of City University, London
- John Dugard, a South African professor of international law
- Professor Patricia Viseur Sellers, a visiting fellow at Kellogg College of Oxford University, England
- Makau W. Mutua, Dean of the UB Law School
- Margaret Ratner Kunstler Civil rights attorney.

The Indonesia Tribunal judges were:

- **Chair: Zak Yacoob**, (retired) Justice of the Constitutional Court of South Africa, Former Chancellor of the University of Durban-Westville
- **Mireille Fanon Mendes-France**, member of the Permanent People's Tribunal, served as a judge in several people's tribunals; Chair of the UN Working Group of Experts on People of African Descent; Director of Association Frantz Fanon
- **Cees Flinterman**, former member of the UN Human Rights Committee for the International Covenant on Civil and Political Rights (ICCPR), former member of the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW), Honorary Professor of International Human Rights Law, Maastricht University, Netherlands

Lord Bertrand Russell and Jean Paul Sartre established the Russell Tribunal into war crimes committed by the government of the United States of America (USA) in the Vietnam War. This ‘people’s tribunal’, as it came to be called, was *not* concerned with an internal persecution—as many people’s tribunals are—but with an international war and with the government of a country not *normally* known for doing the worst of things. It established the potential power of decision-making by people who were neither officials of international organisations or other states nor judges. Although members of Russell’s tribunal seem *not* to have been at all neutral and were already opposed to the USA’s conduct of the Vietnam War, the tribunal showed how concerned citizens—members of the public (in a way)—can collectively do something about the gravest of crimes committed somewhere on Planet Earth when governments and official bodies fail to act as they should. (There has been no US or international evidence-based accountability process dealing with possible US war crimes in the Vietnam War and it can be argued that there should have been).

The Comfort Women Tribunal dealt with truly dreadful crimes against women from many countries enslaved to serve the sexual desires of Japanese military in WWII. The International Military Tribunal for the Far East, which, after WWII, dealt with crimes by the Japanese military in time of war, did not trouble with crimes against civilian women. The Comfort Women Tribunal delivered its judgment in 2000 and found guilt proved including of the then-dead Emperor himself. By this time, no other country was going to ‘try’ the powerful and geopolitically important country that Japan had become for

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- **John Gittings**, well known for his work on modern China and the Cold War as well as peace studies; former chief foreign leader-writer and journalist with the Guardian (1983–2003), research associate at the School of Oriental and African Studies (SOAS) China Institute
  - **Helen Jarvis**, Vice-President of the Permanent People’s Tribunal and member of the International Advisory Committee of UNESCO’s Memory of the World program; former Chief of the Victims Support Section of the Extraordinary Chambers in the Courts of Cambodia (ECCC)
  - **Sir Geoffrey Nice**, QC, Former Lead Prosecution Counsel in the Slobodan Milosevic case at the International Criminal Tribunal for Yugoslavia (ICTY) and prosecutor of other ICTY cases
  - **Shadi Sadr**, Founder and Director of Justice for Iran, award-winning and leading human rights lawyer on Iran, co-author of Crime and Impunity, Sexual Torture of Women in Islamic Republic Prisons.

such crimes. Japanese governments since 2000 may hate the Judgment; but it stands without evidence-based challenge of any significant kind. The Tribunal demonstrated the power of a people's tribunal to fill a gap in knowledge that—even in 2000—was thought too sensitive for any official body to fill.

The Iran Tribunal dealt with whether, in the 1980s, the government of the Islamic Republic of Iran had violated human rights in a way to constitute crimes against humanity and thereby breached its human rights *obligations* towards its citizens. The crimes alleged were horrifying. The first half of the proceedings were in London (called the Truth Commission) with a second part in the Hague. After intensely moving evidence—all given in public—the Tribunal chaired by Johann Kriegler, a former President of South Africa's Constitutional Court, delivered its Judgment. The 'Verdict' at the end of that Judgment was that the government of the Islamic Republic of Iran was accountable for crimes against humanity committed against its own citizens in the period 1980–1989 and was responsible for gross violations of human rights against its own citizens. It was possible for GN—who, despite originally being sceptical about the possible value of the tribunal, became involved in it as a counsel for the tribunal—to see just how profound was the benefit of a public judgment to victims of Iran's criminal regime. The impact and positive effect of the Iran Tribunal's Judgment was as great for those directly affected by the atrocities as anything GN had seen at an official UN tribunal where he had once worked. But the Tribunal's effectiveness did not end there.

In 2019, one of the perpetrators identified as guilty in the Iran Tribunal's public Judgement was unwise enough to be on a plane that landed at Stockholm. He was arrested, tried under Sweden's universal jurisdiction for certain grave crimes, convicted and imprisoned for life. The Tribunal's Judgment and the evidence on which it was based had been relied on heavily by the Swedish court.

Of critical value in the formation of the Uyghur Tribunal—and of the China Tribunal that preceded it, of which more below—was that the Iran Tribunal could not have functioned without the drive of Babak Emad who led the Iranian diaspora to pursue the aim of having an independent tribunal assess their countrymen's and countrywomen's persecution through killings, torture, rape and other suffering. Hamid Sabi, who escaped from Tehran on the last flight out in 1979 to become a highly successful international lawyer based in London, was the Tribunal's *pro bono* counsel. He ensured universal standards were respected in the gathering and presentation of evidence and

also ensured that the Tribunal members would apply the highest standards of proof and analysis of the law in their Judgment.

Between them, Babak Emad and Hamid Sabi demonstrated how, for civil society activity of this general kind, there *has* to be a driving force—whether individuals or an organisation—with a real interest, not the adopted interest of outsiders, in the subject matter. More importantly, they demonstrated that any such individual(s) or organisation(s) had to demonstrate absolute integrity by standing back from the work of the tribunal itself that must enjoy complete independence. The interested individual or organisation would have to be willing to live with and respect whatever decision the tribunal might make.

The Indonesia Tribunal, in its Final Report, found the government of the State of Indonesia to have been responsible for, and guilty of, crimes against humanity and associated crimes committed in a broad widespread systematic attack against the Communist Party of Indonesia. It is understood that the findings have been of considerable effect. It was possible from GN's role on that Tribunal as a 'judge' to see how difficult it may be for human rights specialists or those with legal training to set aside all their life experience in the process of operating with the complete objectivity that is required of disinterested jurors.

With different personal experience of these last two named tribunals, GN found himself, in 2017, approached by Ben Rogers of Christian Solidarity Worldwide with a request to write a legal opinion for the International Coalition to End Transplant Abuse in China (ETAC) about whether crimes had been committed in the forced organ harvesting (killing to extract the organs) of prisoners of conscience, especially practitioners of Falun Gong, in the PRC.

ETAC had been unable to 'cut through' to governments or international organisations despite the existence of a very great deal of well-researched and published evidence showing persecution of Falun Gong and others by killing them to harvest their internal organs for use in commercial transplantation.

At the time of ETAC's approach, major Western countries probably wanted trade with the PRC more than they wanted to deal with alleged grave human rights abuses in the far-off PRC. Any major newspaper enjoying advertising revenue from Chinese businesses might do the same thing as Western



governments did—look away. The general public, who might find the specific allegations of ‘forced organ harvesting’ hard to believe, might not want to lose the benefits of trade with the PRC, and so would follow leaders and influencers, never kicking up a fuss.

Susie Hughes and Wendy Rogers of ETAC have written, at the Uyghur Tribunal’s request, the Foreword that follows this Account to explain how they experienced the China Tribunal’s birth and life. The Foreword does not take account of how, when asked by Ben Rogers to prepare a legal opinion on criminality of the PRC Government in the forced organ harvesting of the Falun Gong and others, GN said no-one would take any notice of anything he wrote and that a people’s tribunal *might* be more effective!

With doubts and some hesitation, ETAC decided to form a tribunal, acting with advice from GN, who was to serve as Chair, and Hamid Sabi, who agreed immediately to act as Counsel to the Tribunal. ETAC were determined to have a tribunal that was in all ways diverse<sup>iii</sup> but that consisted of ‘big names’, people at the level of former United Nations (UN) Human Rights Commissioners and similar. It was easy to see why and to sympathise with this preference. The membership of other tribunals—see footnote 2 above—all included that level of well-known public figures. Hamid Sabi and GN gave such names and addresses as they had who, along with others, were written to by ETAC. GN accepted that he would happily surrender his role and serve as a tribunal member if a ‘big name’ made being chair a condition of accepting the invitation. None of the ‘big names’ accepted; some did not even reply. ETAC accepted that perhaps a wider membership in accordance with its policy of diversity was necessary. And so there were five: Nick Vetch, businessman; Martin Elliott, transplant surgeon and outgoing clinical director of the United Kingdom’s (UK) most prestigious children’s hospital (both known to GN

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<sup>iii</sup> The Tribunal Charter stated the following: ‘In order to provide a multi-disciplinary international approach to examining the evidence, members of the Tribunal shall be diverse in regards to professional background, gender, nationality and cultural background. The professional backgrounds of members of the Tribunal will include expertise in: the Law, Human Rights, China Human Rights, Medicine, International Relations, Politics and Business. (In alignment with the Commissions of Inquiry and Fact-Finding Missions on International Human Rights and Humanitarian Law – Guidance and Practice, 2015).’ See: <https://chinatribunal.com/tribunal-charter/>

from other activities); Arthur Waldron, history professor, Penn' University (a China specialist but not a lawyer or human rights activist); Andrew Khoo from Malaysia, an eminent human rights lawyer very well-known and regarded in the specialist field; and GN, a UK barrister who had prosecuted war crimes for the UN. The first three of these were all eminent and well known in their own fields but would not register as names with the general public; neither, come to that, would GN. To complete and balance the Tribunal, Regina Paulose and Shadi Sadir, lawyers who had legal and human rights profiles, were approached. Fortunately, they both accepted almost immediately.

Things then proceeded as set out in the Foreword. ETAC in general—Susie Hughes, in particular—were completely supportive, totally industrious and, most important of all, understanding of the need to remain completely separate from the Tribunal members, who communicated, as necessary, through Hamd Sabi and GN.

Although four of the Tribunal members had legal backgrounds of different types, they acted as legally qualified jurors do in regular criminal trials, setting aside their own legal knowledge and acting on legal advice or opinions from independent lawyers who were retained to advise on the relevant law.

The China Tribunal moved with maximum speed once formed. Having accepted responsibility to do something that just might have beneficial consequences—and even save lives—there was no alternative. The first hearings were on 8–10 December 2018. To surprise—and with significant effect, as the Foreword reveals—the Tribunal made an interim finding at the end of the first hearings. A second session of public hearings was held on 6 and 7 April 2019.

In the course of work on the China Tribunal, it became clear that Uyghurs had probably been victims of forced organ harvesting and subject to other acts of persecution.

Ben Rogers, who had originally got GN to help with the Falun Gong, asked if he could meet Uyghur activists. He did, taking with him the expressed enthusiasm of Nick Vetch and Hamid Sabi to help if they could. The activist group had funds and wanted something done. They had thought of paying a well-known human rights lawyer USD 1 million to prepare a report or similar. But they were not sure what they really wanted to do. Could GN, Nick Vetch and Hamid Sabi help? Well, yes and no. The group had no leader

and lacked cohesion. It had no *clear* objective. Babak Emad, Hamid Sabi and Susie Hughes (and ETAC generally) had demonstrated how having an activist leader in any commissioning group and a clear objective were *essential* for success of any kind.

So, nothing came of the meeting.

The China Tribunal delivered its Judgment on 17 June 2019, and the printed version of the Judgment was published in March 2020.<sup>iv</sup> The Judgment made no recommendations, contrary to initial inclination of some members. The policy not to make recommendations may be seen to have worked. The China Tribunal Judgment took time to have effect possibly because of prevailing pro-PRC sympathies of politicians, businesses and professional bodies in the UK and elsewhere. However, in the last couple of years, as the Foreword shows, it has been part of significant and very important developments in changes in national laws and in professional practice.

Dolkun Isa, Chairman of the World Uyghur Congress (WUC), had been a significant Uyghur witness at the China Tribunal. In June 2020, he approached GN and asked him, together with Nick Vetch and Hamid Sabi—again to act as Counsel—to form the Uyghur Tribunal. The Tribunal was formed.

By the start of the Uyghur Tribunal’s work, political thinking was changing—hostility towards the PRC seemed to be everywhere for various reasons, including that the COVID-19 pandemic was initially tracked to the PRC.

All work of the Tribunal was done during COVID-19 pandemic restrictions and lockdowns.

The WUC provided initial funding (see below) with crowd funding support coming later, organised by those working for the Tribunal. Members of the Tribunal were not allowed to contribute financially to the Tribunal.

The Members of the Tribunal were recruited from a pool of people of known integrity, esteemed in their own walks of life but with no particular interest

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<sup>iv</sup> The printed version of the Judgment took some time to prepare given that the Tribunal was dependent on volunteer/*pro bono* working.

in China, the PRC or the Uyghurs. Everyone in the pool, it is interesting to note, was willing, as required, to work completely unpaid and without expectation of any other kind of reward. The panel was selected to provide maximum diversity although—for logistical reasons, including the need to cope with the limitations on travel caused by the pandemic—all were to be based in the UK.

The logistical challenges (particularly during a pandemic) were formidable. Evidence from witnesses from around the world had to be collected and assessed, and statements had to be taken—often from traumatised victims who spoke no English.

The Tribunal stored and analysed all evidence on an electronic database for use by Tribunal members before, at and following the evidence hearings.

A hearing venue had to be procured, and travel of dozens of people attending the hearings had to be coordinated. Visas for witnesses needed to be obtained, and security issues addressed. Media and journalists had to be briefed, and all hearings were live streamed across the world.

All this was done for a total of approximately GBP 300,000. Few of the team assembled had any experience of such an endeavour; for some younger members, this was their first meaningful work experience of any sort. Members of the Tribunal's work force were unpaid or lightly paid, at most.

Those running the Tribunal, led by GN, Nick Vetch and Hamid Sabi, met members of WUC and other Uyghur organisations very regularly by Zoom but did not meet in person until the first day of evidence hearings at Church House in London in June 2021.

The entire endeavour had to work on the basis of trust on all sides. Dolkun Isa and all at WUC, together with all others including Bahtiyar Omer (Director) and Muetter Iliqod (Project Analyst) of the Uyghur Transitional Justice Database (UTJD) were sources of much of the evidence that would be relied on. They behaved with manifest integrity throughout and fully understood that the Tribunal would work completely independently. No-one in WUC—indeed, no one but the Tribunal Members and Hamid Sabi—knew what the Judgment would be until it was announced towards the end of the 2¼ hour reading of the Judgment on 9 December 2021.

It cannot be emphasised enough how the integrity, honesty and commitment of activists commissioning a tribunal such as the Uyghur Tribunal are critical to its own integrity and possible success. This was something Tribunal members were reminded of when a different possible supplier of potentially useful evidence (favourable to the Uyghurs) sought to bargain provision of the evidence for a return of another non-monetary kind. The offer and bargain were swiftly rejected. The value of the trust that the Tribunal had in WUC and UTJD was highlighted by the experience.

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Looking back on how the Tribunal was formed and how it operated and considering its Judgment, it is possible to recall that several important decisions were made partly instinctively, partly as a result of articulated reasoning. In consequence, there is bound to be some after-the-event justification in any favourable review of the approach that the Tribunal took.

Nevertheless, it may be thought that the Uyghur Tribunal Judgment did—and does—stake a claim for the non-specialist citizen to do really important things when let down by governments or international bodies. There can be little doubt that a well-ordered world respecting the Universal Human Rights—which most countries say they espouse—would not allow the problems faced by the Uyghurs to go without formal or informal investigation (as had been the case until the Tribunal started its work).

Also, by working according to the strictest tests of proof and declining to make recommendations, the Tribunal avoided overreach and effectively insisted on being seen as a disinterested decision-making body, free of any pressure beyond the desire all members felt to answer accurately the question asked of them. And, it should be noted, it is the integrity and reliability of the seven members who could *not* be subject to *ad hominem* attacks—of the kind that could be made on GN and Nick Vetch for having organised the Tribunal—that rendered the Judgment impregnable. The PRC Government has said nothing adverse to or about any of the other seven.

It may also be thought that the value of people's tribunals of various kinds may merit reconsideration—repositioning them perhaps within the world's overall polity—in light of the following general argument that supports, even if a little 'after the event', the way the Uyghur Tribunal operated.

The argument considers the general proposition, often enough made, that people's tribunals are irrelevant because they have no power or authority.

In the Russell Tribunal, Jean Paul Sartre explained why that Tribunal's lack of power was of real value:

*... We are powerless: that is the guarantee of our independence ....  
As we do not represent any government or party, we cannot receive orders.*

However, there are other arguments more available over 50 years after he spoke.

Laws that bind countries, whether about conduct of wars or treatment by a state of its own people, are in the service of the people; the people are not in the service of the laws, and the laws stay in place even if no official body of any state or international organisation does a thing to enforce them. That has always been the position, but there are many more bodies now than in Sartre's time that *do* have duties to perform in protection of the world's citizens from breach of the international law. We now have experience of the practical limitations and restrictions by which performance those duties have been constrained.

For example, contracting Parties of the Genocide Convention—the 1948 Convention on the Prevention and Punishment of the Crime of Genocide—owe duties pursuant to the undertaking they gave under Article 1 of the Convention to act in the face of genocide occurring anywhere on the globe. Since January 1951 (when the Convention entered into force), no Contracting Party has ever acted expressly in response to that duty; victims of genocides had lacked the protection that the Convention intended they should have.

Procedures, sometimes dressed as limitations of jurisdiction, can often be insufficient to see done for victims what the world citizen might expect—as, for example, with the very limited juridical and territorial reach of the International Criminal Court (ICC). It lacked jurisdiction to prosecute aggression in respect of Russia's attack on Ukraine in 2021, even when it was clear that the crime has been committed, simply on technical grounds. The ICC generally lacks jurisdiction over crimes committed on the territory of non-States Parties. In those cases, the law is still in place for victims, but the

fact that, for example, Russia, the PRC, the USA and India (among others) are not States Parties means victims of grave crimes on those territories may be unable to have the benefit of universal laws simply due to inability to get round the lack of ICC jurisdiction.<sup>v</sup>

Sometimes procedures are simply disregarded or set aside, and sometimes practices are introduced to block or slow down the laws being used and applied. It will normally be the work of politicians, judges and lawyers that will have created these obstacles. A UK Government determination that genocide has occurred—or is occurring or likely to occur—would trigger immediate UK action to protect the victims of genocide (Article 1 of the Convention, above). The UK’s self-imposed ‘practice’ of requiring a court to determine whether genocide has occurred before it does anything responsive to a genocide is used to justify doing nothing, despite it being known that there is no court or judge with jurisdiction to do the job! The UK Government could readily decide for itself that genocide was happening or likely to happen and act accordingly. It always decides not to because of the ‘practice’ notionally to allocate the critical factual issue to a hypothetical judge it knows not to exist.

In functioning international courts and tribunals—the International Criminal Tribunal for Yugoslavia (ICTY), for example—political interference with investigations or charging decisions has been evidenced; no doubt, similar political acts have happened in other places. Any such interference with potential criminal cases concerning *human* victims (as opposed, e.g., to cultural sites) serves to deny that they are actually entitled to the law at all despite it having been designed to protect and serve them and being fully in place and in force.

Criticisms of people’s tribunals, just as with criticisms of comprehensive legal systems (national or international), look at them as a whole:

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<sup>v</sup> The case of the *Mavi Marmara* at the ICC may show why it is a jurisdiction issue rather than a law issue that is involved. Passengers on the *Mavi Marmara*, attacked by the Israel Defence Force at sea in 2010, had their alleged suffering of war crimes at Israel’s hands considered by the ICC simply because—unknown to most or all of them—the vessel was sailing under the flag of the Comoros Islands, a States Party of the ICC. Had the vessel been sailing under a non-States Party (e.g., Indian, PRC, UK or US) flag, there would have been no jurisdiction. War crimes are of universal application; it was simply the otherwise irrelevant fact of sailing on a vessel under a Comoros flag that allowed jurisdiction.

What is their point? People's tribunals have no power to do what comprehensive legal systems would do—arrest suspects, call witnesses, get other countries to cooperate, try suspects, convict if appropriate and sentence! [hypothetical example]

And, it is true, informal people's tribunals do none of these things.

Criticisms of comprehensive formal systems, on the other hand, look at specific failures to deliver part of the systems—such as lack of investigations, corruption of charging processes and deficiency of trial systems leading to wrong verdicts.

But both types of criticism fail to concentrate on the core starting point of any and every accountability process: What happened? Are—or may—crimes be proved?

This core question can readily be asked by anyone, alone or in a group. No licence is needed to ask the question or, indeed, to answer it. And there is no strength in the argument that judges are better equipped than laymen—or the Members of the Uyghur Tribunal—to answer composite factual and legal questions, provided the tests of proof to be applied are strict and the law is explained accurately and clearly. After all, jurors called at random off the UK's list of voters are trusted with such decisions and, in the UK (and many other countries that use juries), all international crimes including genocide may be dealt with by randomly selected juries.

People's tribunals and similar civil society processes that ask and answer such questions, in whatever reliable way they choose,<sup>vi</sup> establish for everyone

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<sup>vi</sup> There is a temptation for informal bodies *without* power to proceed in a manner as similar as possible to how those who *do* have power proceed. Sometimes this leads to, for example, people's tribunal members being addressed as 'judge' (which they are not in any formal sense); for the 'judges' to wear robes and the people in front of them to be asked to rise then they enter the hearing room (as, it has to be said, did happen in the China Tribunal but not in the Uyghur Tribunal); and for the process to have prosecutors (when there is no prosecution to be brought only an investigation to be had). But why? If formal court systems—with qualified judges and a prosecutor and all their formality—have failed, why imitate them? Why highlight the informal process's *lack* of power by mimicking what cannot be matched? The matter in hand can, and probably should, be dealt with in as informal a way as consistent with reaching the best possible answer. The trappings of a quasi-court do nothing to help that. A people's tribunal is, after all, a tribunal of people. It is in that that its strength lies.



to see a starting point—a first building block—of accountability. Providing that they go no further with recommendations, they leave those who *do* have formal powers to do one of several things. They could accept the reliability of the decision made and get on with what follows for the proper exercise of their own formal powers. They could challenge the reliability of the decision made on properly argued grounds—no-one, as it happens, has challenged the accuracy of the findings of the Uyghur Tribunal. They could look away and pretend they have not read the Judgment. To do that, however, would be to abdicate responsibility to act in accordance with duties owed to blameless victims. Doing that would be to yield to a criminal state. What country or international body with relevant powers would want to do that?

Geoffrey Nice  
January 2023  
Adisham, Canterbury  
UK

# Foreword

The Uyghur Tribunal investigated the alleged genocide and crimes against humanity against Uyghur, Kazakh and other Turkic Muslim populations by the Government of the People’s Republic of China (PRC).<sup>vii</sup> The Uyghur Tribunal was formed in 2020, following a request from Dolkun Isa, President of the World Uyghur Congress, to Sir Geoffrey Nice QC. Isa had participated as a witness in the China Tribunal. He asked Sir Geoffrey to establish and chair an independent people’s tribunal to investigate ‘ongoing atrocities and possible genocide’ against the Uyghur people. The request to Sir Geoffrey came in the wake of his leadership of the China Tribunal, likewise an independent people’s tribunal set up to investigate alleged crimes that no states or governments were willing to probe.

The China Tribunal had its genesis in an online meeting in January 2017. This was the first meeting of the International Advisory Committee (IAC) of the International Coalition to End Transplant Abuse in China (ETAC).<sup>viii</sup> ETAC is a registered charity dedicated to ending transplant abuse, principally forced organ harvesting from prisoners of conscience, in the PRC. At that meeting, the IAC grappled with one of the main challenges facing ETAC and other advocates and researchers—namely, the failure of governments, professional groups and the public to take seriously the claims of forced organ harvesting in the PRC. Evidence collected over many years<sup>ix</sup> had been variously disputed; discounted as biased, unconvincing, out of date or anti-China propaganda; or otherwise ignored by key individuals and groups. This at times convenient scepticism was partly due to the readiness of some governments and international transplant organisations to accept the PRC Government’s ‘reform narrative’ despite the lack of any evidence to support the claims and the failure of

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<sup>vii</sup> <https://uyghurtribunal.com/>

<sup>viii</sup> <https://endtransplantabuse.org/>

<sup>ix</sup> Matas, D. & Kilgour, D. (2009). *Bloody harvest*. Seraphim Editions;  
Gutmann, E. (2014). *The slaughter*. Prometheus Books;

Kilgour, D., Matas, D. & Gutmann, E. (2016). *An update*. <https://endtransplantabuse.org/an-update/>

the PRC Government to adhere to internationally accepted norms of transparency regarding donor sources for organs.

At the IAC meeting, it was felt that, to overcome this scepticism and inertia, it would be valuable to obtain a legal opinion to consider the available evidence regarding forced organ harvesting from prisoners of conscience in the PRC and identify what international crimes might have been committed. As it happened, one member of the IAC, Ben Rogers, knew Sir Geoffrey, who he described at ‘one of the finest legal minds in the land’. Rogers agreed to approach him to see if he would be willing to write a legal opinion about the strength of the evidence of forced organ harvesting. The legal opinion could, depending on its finding, inform future ETAC research or be used in lobbying and outreach work.

As Rogers describes in his book,<sup>x</sup> when he asked Sir Geoffrey to consider writing a legal opinion, ‘he looked me in the eyes and said with a smile, “Why don’t we go one better? Why don’t we establish an independent people’s tribunal?”’ There was some consternation when Rogers reported the conversation back to us at ETAC—what was a people’s tribunal and how on earth could we fund one? However, the offer from Sir Geoffrey was too good to pass up, especially as it came with agreement from Hamid Sabi to act as Counsel to the Tribunal. So we formed the China Tribunal Steering Committee to meet with Sir Geoffrey, find out what a people’s tribunal involved and assess whether we could establish one to investigate forced organ harvesting in the PRC. Sir Geoffrey generously offered to chair a tribunal if we went ahead, taking particular pains to spell out the complementary but very distinct roles of ETAC and the Tribunal. ETAC would be responsible for developing the Tribunal Charter,<sup>xi</sup> recruiting Tribunal members, collating a brief of evidence, advising about potential witnesses and providing logistical support. However, ETAC would have no influence over how the Tribunal conducted its investigations, which witnesses it called or how it weighed the evidence, nor would it be privy to the Tribunal’s deliberations. Sir Geoffrey also pointed out that many people’s tribunal judgments simply gather dust as there is no mechanism or mandate to trigger legal action, no matter the gravity of the findings.

The process of recruiting Tribunal members took place over late 2017 and early 2018. We sought to appoint a panel with diverse members, a range of expertise and,

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<sup>x</sup> Rogers, B. (2022). *The China nexus, thirty years in and around the Chinese Communist Party’s tyranny*. Optimum Publishing International.

<sup>xi</sup> <https://chinatribunal.com/tribunal-charter/>

importantly, with no prior knowledge of or views about forced organ harvesting in the PRC. Based on advice from the ETAC IAC, we developed a wish list of Tribunal members and set about inviting them. Undoubtedly, Sir Geoffrey's agreement to chair the Tribunal paved the way for what was otherwise an unsolicited approach from an unknown non-government organisation (NGO) making the onerous request for *pro bono* participation for 12 or more months in a people's tribunal investigating an issue that few had heard about. Recruitment was slow, and, after some persuasion, we followed Sir Geoffrey's advice to consider a wider range of potential participants. The China Tribunal's final membership comprised Sir Geoffrey Nice (Chair), Professor Martin Elliott (UK specialist in cardiothoracic surgery), Andrew Khoo (one of Asia's leading human rights lawyers), Regina Paulose (US lawyer with experience of a people's tribunal), Shadi Sadr (Iranian human rights lawyer and member of two previous people's tribunals), British businessman Nicholas Vetch and Professor Arthur Waldron (American historian specialising in the PRC).

On 10 December 2018, after three days of public hearings, the CT unexpectedly issued an Interim Judgment that stated 'it is beyond doubt, that forced harvesting of organs happened on a substantial scale, and by state organised or approved organisations and individuals'.<sup>xii</sup> This finding generated significant international media attention.<sup>xiii</sup>

On 17 June 2019, after two further days of open hearings in April 2019, the Summary Judgment was delivered, in front of an audience packed into the Grand Connaught Rooms in Covent Garden in London.<sup>xiv</sup> The Tribunal's unequivocal conclusion was that:

Forced organ harvesting has been committed for years throughout China on a significant scale and that Falun Gong practitioners have been one – and probably the main – source of organ supply. The concerted persecution and medical testing of the Uyghurs is more recent and it may be that evidence of forced organ harvesting of this group may emerge in due course.

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<sup>xii</sup> <https://chinatribunal.com/interim-judgement/>

<sup>xiii</sup> See: <https://press.chinatribunal.com/press/>

<sup>xiv</sup> <https://chinatribunal.com/final-judgment/>

The China Tribunal noted that this amounts to a crime against humanity and that anyone engaging with the Chinese state ‘should recognise that, to the extent revealed in this [Judgment], they are interacting with a criminal state’. The Tribunal did not make a finding of genocide:

To arrive at the conclusion that the crime of genocide (as legally defined) has indeed been committed, such forced organ harvesting must have been carried out with the specific intent to destroy, in whole or in part, these groups. The Tribunal has not been able to find such requisite specific intent.

Nonetheless, the Tribunal Judgment emphasised that ‘specific intent does not necessarily make a crime of Genocide worse in real wickedness than an individual Crime Against Humanity proved by the same set of facts’.

The finding made headlines around the world, thus achieving one of ETAC’s primary aims of raising awareness of forced organ harvesting. It is hard to overestimate the ongoing impact of the China Tribunal. The credibility of the process and integrity of the Tribunal members mean that a wide range of audiences (e.g., legal, medical, governments and NGOs) find the Judgment convincing and compelling. The meticulous collection and interrogation of all the available evidence in the China Tribunal Full Judgment (March 2020) is an outstanding resource. Any reader can follow the evidence and the Tribunal’s reasoning, which leads inexorably to the conclusion that forced organ harvesting in the PRC amounts to a crime against humanity.

There is not sufficient space here to detail the full breadth of the China Tribunal’s impact, which has far exceeded ETAC’s hopes and expectations. Instead, we highlight a few key events and initiatives in which the Tribunal Judgment was influential. At an international level, in June 2021, 12 UN Special Rapporteurs and human rights experts issued a correspondence to China (AL CHN 5/2021)<sup>xv</sup> regarding allegations of forced organ harvesting from Falun Gong practitioners, Uyghurs, Tibetans, Muslims and Christians in the PRC. The letter cites evidence from two witnesses to the China Tribunal. In the associated press release,<sup>xvi</sup> the

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<sup>xv</sup> <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26382>

<sup>xvi</sup> <https://www.ohchr.org/en/press-releases/2021/06/china-un-human-rights-experts-alarmed-organ-harvesting-allegations>

Special Rapporteurs mention the ‘credible evidence’ they have received, which includes findings from the China Tribunal.

In May 2022, the European Parliament passed a resolution on ‘Reports of continued organ harvesting in China’ (P9\_TA(2022)0200).<sup>xvii</sup> The resolution specifically mentions the Full Judgment of the China Tribunal. The chief finding of the China Tribunal is listed as one of its concerns—that is, that ‘the practice of organ harvesting from living prisoners on death row and prisoners of conscience in the People’s Republic of China may amount to crimes against humanity’. A number of national governments, including those of Israel, Spain, Taiwan, Italy, Norway, Belgium, South Korea, Canada, France and the UK, have strengthened their laws in various ways to combat aspects of trafficking in organs, including forced organ harvesting.<sup>xviii</sup>

The China Tribunal Judgment, by providing a credible and comprehensive source of evidence, has had a positive impact on the willingness of members of the international community of organ transplant clinicians to speak out. Multiple professional associations, including British and Canadian medical societies, UK and Australian Royal Medical Colleges and the American Public Health Association have, citing the China Tribunal Judgment, issued statements of alarm and concern about unethical transplant practices in the PRC.<sup>xix</sup> The International Society of Heart and Lung Transplantation cites the China Tribunal in its statement on transplant ethics, which underpins its 2022 policy of no longer accepting submissions related to transplantation and involving either organs or tissue from human donors in the PRC.<sup>xx</sup>

Likewise, victim communities<sup>xxi</sup> and NGOs have invoked the China Tribunal Judgment in ongoing activism. Highlights of this include a joint letter from 65 NGOs to the UN Special Rapporteurs, a submission from 70 NGOs on the 2021

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<sup>xvii</sup> [https://www.europarl.europa.eu/doceo/document/TA-9-2022-0200\\_EN.pdf](https://www.europarl.europa.eu/doceo/document/TA-9-2022-0200_EN.pdf)

<sup>xviii</sup> For further details, see: <https://endtransplantabuse.org/legislation/>

<sup>xix</sup> For example, see: <https://www.cma.ca/news-releases-and-statements/cma-supports-proposed-legislation-criminalize-coercion-organ-donation>; <https://apha.org/Policies-and-Advocacy/Public-Health-Policy-Statements/Policy-Database/2021/01/13/Building-a-Public-Health-Response-to-Organ-Transplant-Abuse-in-China>; <https://www.racp.edu.au/news-and-events/media-releases/racp-statement-on-organ-trafficking/>

<sup>xx</sup> [https://ishlt.org/ishlt/media/documents/ISHLT\\_Statement\\_Transplant-Ethics\\_2022.pdf](https://ishlt.org/ishlt/media/documents/ISHLT_Statement_Transplant-Ethics_2022.pdf)

<sup>xxi</sup> <https://endtransplantabuse.org/virginia-counties-pass-resolutions-condemning-ccps-forced-organ-harvesting-2021/>

US ‘Stop Forced Organ Harvesting’ Bill and various presentations at human rights events.<sup>xxii</sup>

Finally, the China Tribunal Judgment is heavily cited in the ‘Legal Advisory Report and Policy Guidance’ issued by Global Rights Compliance.<sup>xxiii</sup> These documents report on the business and human rights obligations of, and risks of complicity for, stakeholders associated with organ transplantation medicine. Specifically, they explore the human rights risks of international collaborations in transplant medicine, research and training, with a focus on the PRC. This world-first analysis is a potent tool for triggering institutions such as hospitals and universities to attend to their transplant-related human rights obligations.

In short, the China Tribunal Judgment has been and continues to be hugely influential in raising awareness of and triggering legal, professional and social responses to the horror of forced organ harvesting in the PRC. ETAC remains immensely grateful to Sir Geoffrey for suggesting this people’s tribunal and ensuring the rigour and credibility of its findings, and to the China Tribunal members for their outstanding contributions.

Distinguished Professor Wendy Rogers  
Chair, International Advisory Committee  
International Coalition to End Transplant Abuse in China

Susie Hughes  
Executive Director  
International Coalition to End Transplant Abuse in China

January, 2023

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<sup>xvii</sup> Copies may be accessed via the ETAC website:

<https://endtransplantabuse.org/over-70-civil-society-organisations-urge-for-co-sponsorship-of-the-us-stop-forced-organ-harvesting-bill-of-2021/>

<sup>xviii</sup> <https://globalrightscpliance.com/project/do-no-harm-policy-guidance-and-legal-advisory-report/>

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# Uyghur Tribunal Judgment

As delivered at Church House Westminster on Thursday 9 December 2021.

## INTRODUCTION

1. This is the Judgment of the Uyghur Tribunal, a people's tribunal, formed to consider allegations that the government of the People's Republic of China (PRC Government) has committed genocide, crimes against humanity and torture against Uyghur, Kazakh and other ethnic minority citizens in the northwest region of China, known as Xinjiang or, formally, the Xinjiang Uyghur Autonomous Region (XUAR).<sup>1</sup>
2. No legal or other specialist knowledge is required to understand the Judgment. There are 34 Appendices referred to below and indexed immediately after the Judgment itself at paragraph 210; they in no way affect the Judgment itself.

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<sup>1</sup> The Tribunal was tasked with considering whether crimes had been committed against Uyghurs, Kazakhs and other Turkic Muslim minorities in Xinjiang. This Judgment will refer, by way of shorthand, to this wider group as 'Uyghurs'.

In this Judgment, 'Xinjiang' (and occasionally 'XUAR') will be used to describe the geographical area of concern, although it is understood that 'East Turkistan' is the preferred term of Uyghurs and other Turkic peoples in the PRC and diaspora communities. The Tribunal has, at all times, been neutral in respect of all political (or near-political) issues, such as preference for a name, and uses the term 'Xinjiang' but has not converted the term 'East Turkistan' to 'Xinjiang' when the term is used in expert reports or evidence recorded verbatim.

Names in square brackets [ ] are of *expert* witnesses, together with references to where their evidence can be found on the Uyghur Tribunal website: <https://uyghurtribunal.com>. These references follow text on the main subject area about which witnesses spoke, although experts often covered more than one subject area.

Few *fact* witnesses are named in the Judgment itself. All are named in the Appendices, subject to any continuing security concerns meriting anonymity in individual cases.

All evidence relied on for the Judgment is available on the Uyghur Tribunal website.

3. The allegations are of the gravest human rights violations and international crimes.
4. This Judgment is about possible *state* responsibility for certain crimes. The law on state responsibility is separate from but *in substance* close, or identical, to the law on individual criminal responsibility. The Tribunal has been guided in its work by the Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) and, for alleged crimes against humanity, the 1998 'Rome Statute' of the International Criminal Court (ICC) that entered into force in 2002.
5. It may be said by lawyers that the law in regard to these crimes, and particularly genocide, is uncertain or that the attribution of state responsibility differs from attribution of individual responsibility or that it would be appropriate for the present law to be broadened in scope. But this Tribunal will not seek to interpret, enlarge or narrow the established law. Instead, acting much like a jury, the Tribunal, working *pro bono*<sup>2</sup>, has heard evidence, has determined which facts are proved and has applied relevant existing law, as advised by experts in the law. That advice on the law has been reduced to the equivalent of what might be said by a judge in a trial providing a direction to be understood easily by a jury. Just as a jury announces its decision and its work is done, so will the work of this Tribunal be done today (Judgment delivered 9 December 2021).
6. It is accepted that bringing any *state* to accountability at the UN or the International Court of Justice (ICJ) for the type of crimes under consideration is very different from bringing an *individual* to account for such crimes at a national or international *criminal* court or tribunal. Neither process is something for the Tribunal to initiate; if at all, others must do this.

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<sup>2</sup> In other parts of the world, the term can have different meanings, some of which allow the person providing a *pro bono* service to be paid. For this Tribunal, the United Kingdom (UK) model of *pro bono publico*, as regularly engaged in by UK lawyers and others, applies; the term means precisely what it says—for the public good entirely without financial return. Funding required for other purposes—witness travel, venue hire, and for some of those working on the Tribunal—came initially from the World Uyghur Congress.

7. One feature of the international legal landscape, relevant whenever genocide is considered, is Article 1 of the Genocide Convention, which reads:

The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

Appendix 1, ‘A Short Note on the History of the Term “Genocide”, its Use and Misuse’, at paragraphs 211–246 below.

8. The undertaking, to which 152 countries, including the PRC, United States of America (USA) and UK are committed, is an obligation about which the world’s highest court, the ICJ, has said:

In fact, a State’s obligation to prevent, and the corresponding duty to act, arise at the instant that the State learns of, or should normally have learned of, the existence of a serious risk that genocide will be committed.<sup>3</sup>

9. The duty to act *as soon as a state learns of a genocide* has rarely been discharged. Instead, awareness of the duty may have made states disinclined even to *acknowledge* genocides may be occurring to avoid the duty that would drive them to act. That disinclination to follow the Genocide Convention, on learning of the allegations against the PRC Government, may have led to the many reports and opinions—referred to later—pressing governments to do their duty; even to this Tribunal coming into existence.
10. The Tribunal Members, working with no preconceptions, have assessed evidence to decide whether the government of the PRC, a great, powerful and successful nation, has been and is *attacking*—with the intent of *destroying*—a *part*, or *parts*, of its own population.
11. If so, it has done so sometimes in full view on the streets, sometimes behind closed doors, sometimes in hospitals, sometimes in purpose-built detention centres and sometimes in people’s own homes.

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<sup>3</sup> Judgment of the ICJ in *Bosnia v Serbia* (para. 431):  
<https://www.icj-cij.org/public/files/case-related/91/091-20070226-JUD-01-00-EN.pdf>

12. These allegations have not been dealt with in a public evidence-based way by the UN, by courts, national or international, or by governments save—without publication of its reasoning—by the US.<sup>4</sup>
13. In response to a request,<sup>5</sup> this people’s tribunal—as others including the China Tribunal (<https://chinatribunal.com/>) had done before—was willing

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<sup>4</sup> President Trump’s outgoing Secretary of State Pompeo announced on his last day in office in early 2021 that the PRC Government had committed genocide against the Uyghurs. President Biden’s incoming Secretary of State Blinken adopted the assertion. However, nothing has been made public of the evidence on which this assertion has been made or of the reasoning leading to the conclusion about genocide. Its timing, coupled with outgoing President Trump’s attitude to the PRC Government, have allowed some to question whether there was a political component to the decision and announcement. Only sight of the evidence relied on and the reasoning leading to the announcement can dispose of this question. The Tribunal’s requests to the US Secretary of State for evidence and reasoning have been denied. The Pompeo/Blinken announcement is of no evidential value to the Tribunal.

<sup>5</sup> The Tribunal is sequential to, but separate and independent from, the Independent China Tribunal into Forced Organ Harvesting from Prisoners of Conscience in China. Sir Geoffrey Nice and Nick Vetch have served on both tribunals. Uyghurs featured in the China Tribunal Judgment to a limited extent. In June 2020, Dolkun Isa, President of the World Uyghur Congress, formally requested that Sir Geoffrey Nice establish and chair an independent people’s tribunal to investigate ‘ongoing atrocities and possible Genocide’ against the Uyghurs, Kazakhs and other Turkic Muslim populations. Dolkun Isa’s request was accepted, and the terms of his request, as amended to include the word ‘Kazakhs’, constitute the Tribunal’s mandate. All Tribunal Members and most senior Tribunal staff have been or are working *pro bono*.

- Tribunal membership:
- Tim Clark, ex-senior partner city law firm, board member, trustee, and chair of NGOs
- Professor Raminder Kaur, based in the School of Global Studies, University of Sussex
- Professor Dame Parveen Kumar, Emeritus Professor of Medicine and Education at Barts
- Professor David Linch, Professor of Haematology, University College London
- Professor Ambreena Manji, Professor of Law, Cardiff University
- Sir Geoffrey Nice QC (Chair), barrister; prosecuted Milošević, UN ICTY, 1998–2006; Chair China Tribunal
- Professor Audrey Osler, Professor of Education, University of South-Eastern Norway
- Catherine Roe, not-for-profit chief executive and consultant
- Nick Vetch (Vice Chair), businessman, Trustee Fund for Global Human Rights.

No Member of the Tribunal, Counsel to the Tribunal, members of the management or researchers has any special interest in Uyghurs or Kazakhs or other Turkic Muslim groups in the PRC.

For general logistical reasons, and due to particular difficulties associated with Covid-19, it was decided to have all Tribunal Members resident in the UK and not to have international membership (as had been the case with the China Tribunal). In recruitment of Members of the Tribunal, expressions of interest were sought from people without particular interest in

to assess the allegations. It has done so *because* the allegations have been left unresolved and *because* there are duties falling on governments, and on all of us, to know the truth or falsity of allegations about fellow humans suffering from the commission of grave human rights violations and breaches of international law.

14. See for connected issues:

Appendix 2, ‘Uyghurs and the China Tribunal’, at paragraphs 247–249 below.  
Appendix 3, ‘Duties of States’, at paragraphs 250–254 below.  
Appendix 4 ‘History of People’s Tribunals’, at paragraphs 255–267 below.

15. *Had* any other official body or court, domestic or international, determined or sought to determine these issues, the Tribunal would have been unnecessary and would not have been formed or would have ceased its work—as has been made plain from the outset.<sup>6</sup>

Appendix 5, ‘Some Background’, at paragraphs 268–278 below.

## INITIAL OBSERVATIONS

16. The Tribunal has borne in mind that the allegations themselves and much of the evidence provided by witnesses came from people predisposed against the PRC, the Chinese Communist Party (CCP) or communism itself. Further, it would be errant to conceive of the Tribunal’s work as the examination of a

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the Uyghur people or in the PRC generally but who, in combination, would be diverse in all possible ways and who were willing to deal with the unresolved allegations.

Uyghur Tribunal *pro bono* senior management/staff:

- Hamid Sabi, Tribunal Counsel; international arbitration lawyer; Counsel to Iran and China Tribunals
- Dr Aldo Zammit Borda, Tribunal Co-Counsel, Head of Research; Reader in Law at City, University London
- Dr Nevenka Tromp, Lecturer, University of Amsterdam; Leadership Research Team at ICTY, 2000–2012
- Aarif Abraham, barrister who acted on a fee-paid basis.

<sup>6</sup> A late (last-minute) proposal by the United Nations Human Rights Council (UNHRC) to present a report about the Uyghurs at roughly the time of this Judgment came unexpectedly. The Tribunal offered the UNHRC all assistance it could with its (the Tribunal’s) extensive database.



bad state to see quite how bad it is, as some witnesses may appear to think. Not at all. The PRC and the CCP is an enormous government machine running a vast country with the needs of the world's largest national population to be met. Its own values may be respected save where its actions are contrary to international norms or in breach of international law. Avoiding prejudgement or prejudice may be achieved by thinking of the PRC Government and CCP as doing good for their people except to the extent that, in part, they *may* be shown to be doing bad things. No other starting point for an investigation could be just or 'fair'.<sup>7</sup>

17. It is essential to recognise that actions seen as wholly wrong and beyond justification by citizens of liberal democracies might to citizens of China seem genuinely acceptable and justified for the public good. It is best to partition whatever may be *unquestionably* beyond justification and in breach of internationally recognised norms as set out in the 1948 Universal Declaration of Human Rights and the laws on genocide, crimes against humanity and torture from what citizens in Xinjiang *may* find unobjectionable.<sup>8</sup>

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<sup>7</sup> As explained in a fuller note in Appendix 6, 'Fairness as a Concept', at paragraphs 279–286 below, the Tribunal has exercised caution before crediting the common law (i.e., UK/US etc.) notion of 'fair trial' or of 'fairness' itself with universal application or even with ready understanding and acceptance outside countries with an Anglo-Saxon background. This caution is of particular importance when considering the government and people of a country culturally distant from Europe and from Anglo-Saxon based systems of law, however much that system may have dominated all international judicial procedures since the Nuremberg and Tokyo trials that followed WWII.

In so far as proper to pay regard to 'fairness' and 'fair trials' at all, the Tribunal has had in mind Article 10 of the 1948 Universal Declaration of Human Rights—referring to the rights of *individuals*—which in English says, 'Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him'. 'Rights' arising in processes for determination of crimes applicable to individuals may be seen as helpful to consider for determination of allegations made against a state and its government.

<sup>8</sup> There *are* matters that are unquestionably beyond justification and in breach of internationally recognised norms, as made most clear by the 1948 Universal Declaration of Human Rights. Further, the Tribunal recognises that, if humanity is single across the globe, universal human rights anywhere engage obligations not just of governments but also of *citizens everywhere* who can only do their best to ensure rights are enjoyed by others if properly informed. This is why, without any other public evidence-based process determining these issues, the Tribunal has done its work. Any notion that rights and duties concerning universal human rights are *only* to be mediated by governments and international bodies for and on behalf of individual citizens

18. It is also necessary to view some of the events of which the Tribunal has heard through a clear lens. Countries *are* entitled to seek to maintain their boundaries—that entitlement has recently been defended in Spain and the UK, by way of example. Where separatist movements exist, they often involve lethal or other violence where blame may be difficult to apportion. The response by states to terrorism or separatism may result in the suspension of previously accepted norms—for instance, the British introduced detention without trial during the Northern Ireland ‘troubles’. Some citizens of some countries may well tolerate, or even prefer, authoritarian governments, have no particular desire for *liberal* democracy and may tolerate as acceptable the use of physical force and violence in pursuit of state aims, which would seem anathema to citizens of liberal democracies. Notwithstanding these differences, the Tribunal has been determined to apply universal standards, including those set by the Universal Declaration of Human Rights and the Genocide Convention, to which most countries including the PRC are committed, effective from shortly after the end of WWII.
19. With these cautions in mind, evidence heard at the Tribunal’s Hearings in June and September, largely accepted by the Tribunal, shows that in Xinjiang and at the hands of some *part* or *parts* of the PRC Government and the CCP:
- a. Hundreds of thousands of Uyghurs—with some estimates well in excess of a million—have been detained by PRC authorities without any, or any remotely sufficient reason, and subjected to acts of unconscionable cruelty, depravity and inhumanity. Sometimes up to 50 have been detained in a cell of 22 square metres so that it was not possible for all to lie on concrete (or similar) floors, with buckets for toilets to be used in view of all in the cell, observed at every moment by CCTV.

Muetter Iliquid testimony, 12 September 2021, lines 246–259: <https://uyghurtribunal.com/wp-content/uploads/2022/07/UT-210912-Muetter-Iliquid.pdf>; Muetter Iliquid testimony, 4 June 2022: <https://>

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cannot survive a ‘what if’ consideration of, say, genocide being committed in an immediate neighbouring country of a state whose government prefers to trade rather than to intervene. Would the citizens of the state have no personal duty towards the citizens of the neighbouring country? Even if only to boycott traded goods? Geographical proximity does not strengthen, and geographical distance does not dilute, the duty humans owe to humans anywhere; at most, distance affects ability to act.

[uyghurtribunal.com/wp-content/uploads/2022/01/UT-211110-Muetter-Illiquid.pdf](https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211110-Muetter-Illiquid.pdf); Uyghur Transitional Justice Database, ‘ANNUAL REPORT 2021: The Persecution of Uyghurs in East Turkistan’ (2nd ed.): <https://uyghurtribunal.com/wp-content/uploads/2021/06/04-1120-JUN21-Muetter-Illiquid-UTJD-Annual-Report-English.pdf>

- b. Many of those detained have been tortured for no reason, by such methods as pulling off fingernails, beating with sticks, detaining in ‘tiger chairs’ where feet and hands were locked in position for hours or days without a break, confined in containers up to the neck in cold water, and detained in cages so small that standing or lying was impossible.
- c. Many of those detained have been shackled by heavy metal weights at their feet and sometimes with feet and hands connected, immobilised for months on end.
- d. Detained women—and men—have been raped and subjected to extreme sexual violence. One young woman of 20 or 21 was gang-raped by policemen in front of an audience of a hundred people, all forced to watch.
- e. Women detainees have had their vaginas and rectums penetrated by electric shock rods and iron bars. Women were raped by men who had paid to be allowed into the detention centre for the purpose.
- f. Detainees were fed with food barely sufficient to sustain life and frequently insufficient to sustain health—food that could be withheld at whim to punish or humiliate.
- g. Detainees were subjected to solitary confinement in cells permanently dark or permanently lit, deprived of sleep for days at a time and ritually humiliated.

All evidence in both written and oral form is available on the Tribunal’s website (<https://uyghurtribunal.com>).

- 20. Full understanding of the treatment of the Uyghurs is only possible by reading, viewing and recalling the evidence in whole.
- 21. Any *single* witness statement would, in nearly all cases, and if accepted as true, contain accounts of mental and physical cruelty and suffering sufficient to cause sustained outrage in nations that count themselves as free and civilised.

22. There is also evidence of people dying as a result of their treatment in detention centres and some evidence of detainees, often comparatively young detainees, being removed from cells by force, never to be seen or heard of again.
23. But there is no evidence of organised *mass* killings. Indeed, it is clear that detainees, are allowed back into society, sometimes after as short a period of detention as 3–6 months—often to be detained again—sometimes after long periods in detention and sometimes after sustained torture.
24. Marie van der Zyl, President of the Board of Deputies of British Jews, wrote to the Chinese Ambassador to the UK in July 2020: ‘Nobody could watch the segment of the BBC’s [British Broadcasting Corporation’s] Andrew Marr show on which you appeared yesterday and fail to notice the similarities between what is alleged to be happening in the PRC today and what happened in Nazi Germany 75 years ago: People being forcibly loaded onto trains; beards of religious men being trimmed; women being sterilised; and the grim spectre of concentration camps’. *Such* images have led others to make comparisons with the Holocaust; it was, of course, the Holocaust that led to ‘genocide’ becoming a term of general use and then a defined crime. Such comparisons may be well intentioned but are unhelpful. The evidence of what has happened to the Uyghurs is *not* the Holocaust, not just due to the lack of evidence of mass killings but also due to the return of those detained to society—never something intended for Jews taken to concentration or death camps.<sup>9</sup>
25. Genocide in law is more broadly defined than the common conception of mass murder of a specific group.<sup>10</sup> Genocide can be established in law by

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<sup>9</sup> Another stark contrast with the Holocaust comes from Han Chinese men being encouraged to marry Uyghur women, thereby to achieve assimilation, in part at least, of one ethnicity into another. This was never contemplated by anti-Semites in Nazi Germany or anywhere.

<sup>10</sup> See Google search results for ‘[oxford languages genocide](#)’ for an example of modern non-specialist understandings of genocide. See also:

<https://www.oxfordlearnersdictionaries.com/definition/english/genocide>

On 11 March 2021, the BBC observed in ‘How do you define Genocide’, ‘Genocide is understood by most to be the gravest crime against humanity. It is defined as a mass extermination of a particular group of people—exemplified by the efforts of the Nazis to eradicate the Jewish population in the 1940s’. These and similar definitions, while usually acknowledging the

actions that result in the *killing of no one*, although such a form of the crime has never, in over 70 years, been dealt with to conclusion on that basis alone by any court. It is hoped that the precise formulation of this broader definition has been in the mind of some of those enthusiastically using the term in regard to the Uyghurs.

26. The Tribunal has had all these matters in mind, together with a need to respect how the term ‘genocide’ came into existence due to the suffering of the Jews, in its review of the law and the facts, especially in its consideration of the allegations of genocide.

## **HOW THE TRIBUNAL HAS APPROACHED THE EVIDENCE**

Appendix 7, ‘Practice, Procedure, the Human Rights Reputation of the PRC, the Presumption of Innocence and Approach to Evidence’, at paragraphs 287–312 below.

27. Victim witness evidence generally was accepted as reliable; although, on occasion, not every word was considered accurate, as might be expected given failings of memory that can follow trauma. The Tribunal takes the opportunity of recognising the courage required by many if not all these witnesses in providing their evidence. Two witnesses were not relied on at

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broader definitions in the Convention and some modern criminal statutes, probably reflect non-specialist contemporary usage of the term.

On 22 January 2021, the *Economist* summed up the issue as follows: ‘the dictionary definition of “genocide” is simple. Just as “homicide” means killing a person and “patricide” means killing your father, so genocide means killing a people, such as an ethnic or religious group. The examples that spring most readily to mind are the Holocaust and, perhaps, the mass murder of Tutsis in Rwanda in 1994. As a result, many people were perplexed when Donald Trump’s secretary of state, Mike Pompeo, on his last full day in office, used the word “genocide” to describe what China’s government is doing to the Uyghurs, a mostly Muslim ethnic group, in Xinjiang, a western region of China. His successor, Anthony Blinken, agreed with him, but to many it sounded like the wrong word. Granted, China is treating the Uyghurs with horrific cruelty. It has locked up 1m or more of them in re-education camps, where they are beaten if they seem to revere Allah more than the president, Xi Jinping. But no one thinks China is carrying out mass slaughter in Xinjiang. The confusion arises because the UN’s convention on genocide, which was drafted after the second world war, defines it exceptionally broadly, in ways that are quite different from the popular understanding of the term.’

all, *not* because they were disbelieved but out of an abundance of caution. One, a former policeman, might have been tested by reference to state records held by the PRC Government that were not available to the Tribunal (the PRC Government failed to respond to the many invitations to take part in the Tribunal’s proceedings). The other, Ethan Gutmann, is discussed at paragraph 60 below.

28. This first-hand evidence was supplemented by expert evidence covering a wide range of topics.
29. Criticisms by the PRC Government of the Tribunal, its working and the evidence it received were assessed.
30. No adverse factual inference of any kind was drawn against the PRC Government or any other body for failure to respond positively to requests for evidence or assistance made by the Tribunal.
31. Opinions on final issues—whether crimes have been committed—have been read in reports and opinions, and heard in evidence, but no attention is paid to those opinions by the Tribunal.
32. The Tribunal had to consider, as a matter of critical importance, whether action and behaviour evidenced by a limited number of witnesses could be extrapolated as reflective of what has been happening to the Uyghurs in Xinjiang generally. A confluence of consistent evidence from unrelated or unconnected witnesses, documentary evidence, academic papers, media reports and public documents from the PRC provided a uniform picture of life in Xinjiang. For example, it showed the scale and speed of construction of detention centres, the treatment of Uyghurs within those detention centres, the destruction of mosques and state surveillance of extreme intrusive capacity. The Tribunal found it possible—cautiously but confidently—to extrapolate from individual accounts to reach broader conclusions.<sup>11</sup>

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<sup>11</sup> After the September hearings, there were some informal fact-checking discussions involving Members of the Tribunal; nothing of any kind adverse to the PRC emerged.

## WITNESS EVIDENCE

33. From evidence given in person to the Tribunal, where the core evidence of all but one fact witness (see paragraph 366 below) has been accepted, the following further non-exhaustive list of facts were found proved:
- a. At ‘classes’ in detention centres, detainees were forced to learn and sing songs in praise of the CCP and the PRC in the presence of guards and at risk of being dragged from the class and tortured to the point of screaming within hearing of those still in the class.
  - b. Detainees were forced to take medicines by mouth or by injection that affected reproductive functioning of women and possibly of men—or that had other undisclosed mind-affecting effects.
  - c. Detainees were forced to provide blood samples and subjected to other medical testing for no disclosed reason.
  - d. Pregnant women, in detention centres and outside, were forced to have abortions even at the very last stages of pregnancy. In the course of attempted abortions, babies were sometimes born alive but then killed.
  - e. By means of intense monitoring, surveillance, facial recognition and advanced technologies specifically targeted at Uyghurs and other ethnic minorities, parts of Xinjiang have become, to some of those ethnic minorities, an open-air prison.
  - f. Neighbours, members of families and other members of the community were incentivised or coerced in various ways to spy on each other.
  - g. Actions of seeming insignificance may arbitrarily have resulted in detention, sometimes leading to the destruction of families and livelihoods and the risk of extreme violence.
  - h. Religious, cultural, political and business leaders have been imprisoned, ‘disappeared’ and, in some cases, known to have been killed or died.
  - i. Children as young as a few months were separated from their families and placed in orphanages or state-run boarding schools. In some cases, the parents of these children did not know if their children were alive or dead.
  - j. A systematic programme of birth control measures had been established forcing women to endure against their will removal of wombs and to undergo effective sterilisation by means of intrauterine devices (IUDs), which were only removeable by surgical means.
  - k. Uyghur women have been coerced into marrying Han men with refusal running them the risk of imprisonment for themselves or their families.

- l. 'Family friends'—mostly Han men—have been imposed on Uyghur households for weeks at a time to monitor and report on the households' thoughts and behaviours. Children have been questioned. The Han men sometimes slept in the same bed as the family: in some cases, when the Uyghur man was in a detention centre. Consequences included sexual harassment and non-consensual sex, along with interference with many cultural and religious habits and customs.
- m. A large-scale enforced transfer-of-labour programme had been implemented, both within the region but also into 'mainland' China. Often separated from their families, the transferees were forced to live in segregated dormitories.
- n. A large number of emblems of Muslim faith were removed from buildings, with many mosques destroyed completely, desecrated or converted to other uses as cafes and tourist centres, with burial grounds bulldozed and built over.
- o. Symbols or acts of religiosity have been suppressed, and, when observed or detected, acts of faith were punished. Wearing veils, wearing beards, praying, studying religious literature or any acts of adherence to the Muslim faith have resulted in long prison sentences.
- p. The use of the Uyghur language has been punished. Children from an early age have been denied education in their native language and have been punished for the use of it.
- q. Land, money and business assets have been arbitrarily appropriated by the state and, in many cases, given or sold to members of the majority Han population.
- r. Communities have been subject to destruction of swathes of houses, often centuries old, and the relocation of occupiers to places at significant distances from their erstwhile homes.
- s. The PRC Government has also sought control of Uyghurs living outside China by threats direct to them or to their family members in the PRC.
- t. Many members of the diaspora have had no information of their families, not even being enabled by PRC officials to know if their husbands, wives, parents or children were alive.
- u. The PRC Government has imprisoned, sometimes for long prison sentences, relatives of those who have spoken out publicly about circumstances of life in Xinjiang.
- v. The PRC Government has compelled countries where it can exert economic pressure to return Uyghurs to China to face fates unknown.



Appendix 8, ‘Targeting Cultural, Religious, Intellectual and Business Leaders’, at paragraphs 313–322 below.

Appendix 9, ‘Killing in Detention’, at paragraphs 323–329 below.

Appendix 10, ‘Medical Testing and Forced Consumption of Drugs’, at paragraphs 330–346 below.

Appendix 11, ‘Coercive Marriages and Imposed Han Relatives’, at paragraphs 347–362 below.

Appendix 12, ‘Confiscation of Land, Property and Business Assets’, at paragraphs 363–368 below.

Appendix 13, ‘Destruction of Intellectual, Cultural, Language and Religious Uyghur Identity’, at paragraphs 369–404 below.

## SANCTIONS

34. On 26 March 2021, the PRC Government announced that various bodies and individuals, including this Tribunal and its Chair, would be subject to sanctions in these terms:

- a. *The United Kingdom (UK) imposed unilateral sanctions on relevant Chinese individuals and entity, citing the so-called human rights issues in Xinjiang. This move, based on nothing but lies and disinformation, flagrantly breaches international law and basic norms governing international relations, grossly interferes in China’s internal affairs, and severely undermines China-UK relations. The Chinese Foreign Ministry has summoned British Ambassador to China to lodge solemn representations, expressing firm opposition and strong condemnation. The Chinese side decides to sanction the following nine individuals and four entities on the UK side that maliciously spread lies and disinformation: Tom Tugendhat, Iain Duncan Smith, Neil O’Brien, David Alton, Tim Loughton, Nusrat Ghani, Helena Kennedy, Geoffrey Nice, Joanne Nicola Smith Finley, China Research Group, Conservative Party Human Rights Commission, Uyghur Tribunal, Essex Court Chambers. As of today, the individuals concerned and their immediate family members are prohibited from entering the mainland, Hong Kong and Macao of China, their property in China will be frozen, and Chinese citizens and institutions will be prohibited from doing business with them. China reserves the right to take further measures.*

b. *China is firmly determined to safeguard its national sovereignty, security and development interests, and warns the UK side not go further down the wrong path. Otherwise, China will resolutely make further reactions.*<sup>12</sup>

35. These sanctions, only later supported by a law passed on 10 June 2021,<sup>13</sup> had some very limited effect on evidence available to the Tribunal, as will be explained below.

## **FACTUAL EVIDENCE FROM VARIOUS REPORTS**

36. A number of independent and reputable reports have been published, including:

- July 2020: The Bar Human Rights Committee of England and Wales, ‘Responsibility of States under International Law to Uyghurs and other Turkic Muslims in Xinjiang, China’ (the Bar Human Rights Report)
- 26 January 2021: a barristers’ set of chambers in London published an Opinion titled ‘International criminal responsibility for crimes against humanity and genocide against the Uyghur population in the Xinjiang Uyghur Autonomous Region’ (the Essex Court Chambers Opinion)
- 29 January 2021: Yael Grauer’s report for *Intercept* (the Yael Grauer Intercept Report)
- March 2021: Newlines Institute for Strategy and Policy report titled ‘The Uyghur Genocide – An Examination of China’s Breaches of the 1948 Genocide Convention’ (the Newlines Report)
- 19 April 2021: Human Rights Watch (HRW) report titled ‘Break Their Lineage Break Their Roots’ (the HRW Report)
- June 2021: Amnesty International report titled “‘Like we were enemies in a war’: China’s mass internment, torture, and persecution of Muslims in Xinjiang’ (the Amnesty International Report)
- 19 October 2021: Australian Strategic Policy Institute (ASPI) International Cyber Policy Centre report titled ‘The Architecture of Repression: Unpacking Xinjiang’s Governance’, by Vicky Xiuzhong Xu, James Leibold and Daria Impiombato (the ASPI Report)

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<sup>12</sup> [https://www.fmprc.gov.cn/mfa\\_eng/xwfw\\_665399/s2510\\_665401/2535\\_665405/t1864](https://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/2535_665405/t1864)

<sup>13</sup> The PRC Anti-Foreign Sanctions Law (AFSL) was promulgated on 10 June 2021.

- November 2021: United States Holocaust Memorial Museum report titled ‘To Make Us Slowly Disappear’ (the Holocaust Memorial Museum Report).

37. Some of those reports are, to an extent, syntheses of other work. Some contain primary evidence. Most or all cover the law, and not only the law with which the Tribunal is concerned but also other routes to possible legal remedies or redress. The authors of all but one were invited to give evidence to the Tribunal, and all except one declined. Professor John Packer and Yonah Diamond, principal authors of the Newlines Report, came to London to give evidence in person, and the Tribunal was and is very grateful to them in that regard.

38. Evidence relied on in these reports included some that overlapped with that provided direct to the Tribunal and referenced at paragraph 33 above and some from different sources. There was not found to be any material contradictions between the differing sources of evidence.

Appendix 14, ‘Legal Conclusions from Other Reports’, at paragraphs 405–446 below.

Appendix 15, ‘Factual Evidence from Various Reports’, at paragraphs 447–474 below.

39. The Yael Grauer Intercept Report, the HRW Report, the Amnesty Report and the ASPI Report added detail for the Tribunal to consider—as set out in detail at Appendix 14, including as a few examples:

- use of the ‘anti-terrorism sword’ at checkpoints into which people had to plug their phones that captured everything on their phones
- the #MeTooUyghur social media campaign that recorded complaints of disappearances—over 11,500 testimonies as of December 2020
- one account of a detainee made to sit in a tiger chair with arms cuffed and chained and legs chained, with his body tied to the back of the chair, urinating and defecating in the chair in which he stayed for three nights and dying after release
- return to use of show trials, previously condemned by the PRC Government, one in the northern Xinjiang city of Ghulj in May 2014 of 7,000 mostly Uyghur, alleged ‘separatists’ and ‘terrorists’ in a sports stadium, sentenced before a crowd of 7,000

- significant return to use of campaign-style governance, including the anti-terrorist and the re-education campaigns
- an account in leaked police papers demonstrated how mass incarceration included invasion of a detainee’s family with members checked daily by the local neighbourhood committee for what they were doing and for their emotional response to the detention of their son/brother.

## **EXPERT EVIDENCE**

40. The Tribunal heard from a wide range of expert witnesses covering many topics including:

- history of plans for control in Xinjiang
- political structure of Xinjiang
- building and imprisoning of 100,000s of people in detention centres, detaining community and religious leaders, siting of factories within or beside detention centres
- methods of surveillance
- many consequences for Uyghur population numbers of control measures taken, including:
  - o detail of local control by local community police and visiting of so called ‘family’ members
  - o mass sterilisation
  - o separation of children and families by children being sent to boarding schools
  - o transfer of labour by forceful encouragement and other pressure
  - o destruction of mosques and restriction of religious practice.

Sean Roberts:

<https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211110-Sean-Roberts.pdf>

Dolkun Isa:

<https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211109-Dolkun-Isa.pdf>

Abdulahakim Idris:

<https://uyghurtribunal.com/wp-content/uploads/2022/07/UT-210910-Abdulahakim-Idris.pdf>

Jessica Batke:

<https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211217-Jessica-Batke.pdf>

Christian Tyler:

<https://uyghurtribunal.com/wp-content/uploads/2022/07/UT-210911-Christian-Tyler.pdf>

Bahram Sintash:

<https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211217-Bahram-Sintash.pdf>

Julie Millsap:

<https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211217-Julie-Millsap.pdf>

Conor Healey:

<https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211217-Conor-Healy.pdf>

Geoffrey Cain:

<https://uyghurtribunal.com/wp-content/uploads/2022/07/UT-210912-Geoffrey-Cain.pdf>

Laura Harth:

<https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211220-Laura-Harth.pdf>

Charles Parton:

<https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211220-Charles-Parton.pdf>

Peter Irwin:

<https://uyghurtribunal.com/wp-content/uploads/2022/07/UT-210913-Peter-Irwin.pdf>

Appendix 16, ‘Expert Evidence’, at paragraphs 475–508 below.

Appendix 17, ‘Chronology / History’, prepared by the Tribunal itself, at paragraphs 509–575 below.

## **EXPERT EVIDENCE FROM REPORTS NOT PRODUCED BY WITNESSES BUT AVAILABLE TO THE TRIBUNAL TO READ**

41. The same reports referred to in paragraph 36 above included broad commentary and often opinion on criminality, on the law generally and on the difficulties and impediments preventing the bringing of action or formal complaint to any court, international or domestic.
42. The Bar Human Rights Report identified routes to remedy in the event that crimes including crimes against humanity and genocide were proved. It expressed no opinions of its own on the culpability of the PRC. The author of the Report was unable to give evidence to the Tribunal.
43. The Essex Court Chambers Opinion found there to be a credible case amounting to crimes against humanity and genocide. The authors, led by Alison MacDonald QC, declined to give evidence in support of this Opinion even *before* the imposition of sanctions by the PRC on her and on her professional chambers,<sup>14</sup> following which the Opinion was removed from the chambers' website.<sup>15</sup> The Opinion failed to deal with several substantive matters in regard to the law on genocide.<sup>16</sup>

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<sup>14</sup> She explained thus: 'The legal Opinion which I and my colleagues drafted was not based on any independent factual investigations, but rather, as we set out in the Opinion, a range of publicly available evidence which we were not able to independently verify. Accordingly, the extent of the conclusions which we felt able to reach are set out in the Opinion itself, and we would not be able to add anything additional in testimony at the hearing. However, we would be pleased if you would make use of the written Opinion in any manner which would be of assistance to your investigation.'

<sup>15</sup> These sanctions affected the Tribunal, a 'sanctioned' entity, only in respect of availability of lawyers to advise the Tribunal—dealt with below—and with deterring a woman lawyer from joining the Tribunal's Counsel team. They had significant effect on the composition of Essex Court Chambers but drew no uniform condemnation from the legal profession of England and Wales, although The Inner Temple, The Prime Minister, The Lord Chancellor, The Justice Minister, the Bar Council of England and Wales, The Bar of Ireland, The Bar Council of Northern Ireland, The Law Society, The Faculty of Advocates of Scotland, The American Bar Association, LAWASIA and Ali Malek QC, the Treasurer of Gray's Inn, on his own behalf did speak or write in opposition to the sanctions. Many lawyers' organisations of different types with significant financial interest at risk did not. Notably, so far as known, the large, famous City of London law firms and other prestigious sets of barristers' chambers said nothing.

<sup>16</sup> The Tribunal expresses considerable surprise that individuals, collectives or other bodies willing to assert under the liberty of freedom of speech that a country, and even its president,

44. The HRW Report concluded that crimes against humanity were proved to have been committed but said of the allegations of genocide that HRW had ‘not documented the existence of the necessary genocidal intent at this time’. Nonetheless, it noted that ‘nothing in the report precludes such a finding and, if such evidence were to emerge, the acts being committed against Turkic Muslims in Xinjiang—a group protected by the 1948 Genocide Convention—could also support a finding of genocide’. The HRW witness Maya Wang, giving evidence in respect of another issue, confirmed that this HRW position was unchanged.

Maya Wang:

<https://uyghurtribunal.com/wp-content/uploads/2022/07/UT-210910-Maya-Wang.pdf>

45. Amnesty International, like HRW, may be cautious in its reaction to allegations of this gravity about the PRC Government. Like most other reports, the Amnesty International Report suggested that crimes against humanity may have happened but expressed no view in the main text about genocide, referring only in a footnote to other reported opinions. The footnote concluded with an extract from the *Economist* that said:

‘Genocide’ is the wrong word for the horrors of Xinjiang: To confront evil, the first step is to describe it accurately ...

<https://www.economist.com/leaders/2021/02/13/genocide-is-the-wrong-word-for-the-horrors-of-xinjiang...>

46. It is reasonable to assume that the Amnesty International Report’s authors, who felt unable to participate in the Tribunal’s work directly, were not willing to describe what their report found as genocide.
47. The Newlines Report’s very clear objective, as explained in evidence by Packer and Diamond, is to establish that *state* attribution for genocide may require a lower standard of proof than that required for individuals. It also argued that intent for a state can be proved without making findings about any individual’s intention.

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may have committed genocide and crimes against humanity would not take the opportunity of advancing those assertions in a proper public setting when invited. The Tribunal has relied on all matters in the Essex Court Chambers Opinion that need to be considered if in any way *favourable* to the PRC or CCP but takes no notice of the opinions expressed on culpability for genocide, crimes against humanity or torture.

See John Packer and Yonah Diamond, ‘Report on China’s State Responsibility for Breaches of the Genocide Convention’ (Section 4, p. 8–10); see also transcript of the testimony on 11 September 2021, lines 394–429: <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211217-John-Packer-and-Yonah-Diamond.pdf>

48. Such intent, it argues, could be established from a collection of objective facts that are attributable to the state, including official statements, a general plan, state policy, a pattern of conduct and repeated destructive acts, which have a logical sequence and result, or may result, in the whole or part destruction of the relevant group. The report found genocide against the Uyghurs established by each and every act prohibited in Article II of the Genocide Convention, explaining in the main body of the report that ‘The intent to destroy the Uyghurs as a group is derived from objective proof, consisting of comprehensive state policy and practice ... which President Xi Jinping, the highest authority in China, set in motion’.
49. Explaining—accurately—that state responsibility for breaches of the Genocide Convention is *not* a matter of *criminal* liability and that states may *not* be prosecuted or found criminally culpable for genocide, the Newline Report argues that the heightened criminal law standard of proof does not apply. Rejecting the need for proof beyond reasonable doubt, it had applied a ‘clear and convincing’ standard of proof as sufficient for findings of breach of the Convention by a state.
50. Packer and Diamond framed several important questions for the Tribunal to consider. However, the Tribunal is not the appropriate body to attempt to broaden the law on genocide or to run any risk of dealing with genocide other than by the strictest standard of proof—that of the ‘beyond reasonable doubt’ test. A people’s tribunal that does not apply established and readily understood law to facts proved according to the strictest test may well reduce its public value, which comes from providing unassailable findings of fact and law for others to use.
51. Packer and Diamond may have inadvertently given encouragement to those who thought the Tribunal would only succeed if it found genocide—a wholly inaccurate understanding of the Tribunal’s function. They did, however, demonstrate how those who wish to make pronouncements about criminal culpability of nation states should have the courage to give evidence in public to support their opinions. The Tribunal repeats its gratitude to Packer and Diamond, who demonstrated how the freedom of speech enjoyed by citizens of some countries is a privilege.



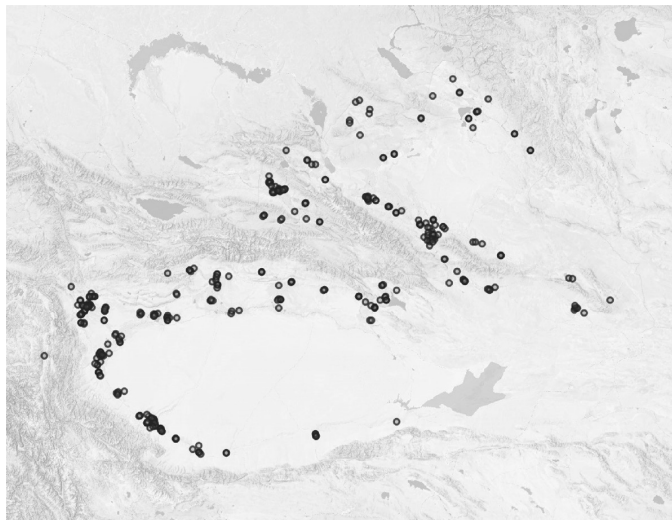
52. Thousands of police files including a database used by the Ürümqi City Public Security Bureau and the wider Xinjiang Public Security Bureau were hacked in 2019 and leaked to journalist Grauer, whose 29 January 2021 report for Intercept is referred to at paragraph 39 above.<sup>17</sup>
53. The same data, shared by her with ASPI, led to their subsequent ASPI Report, which expresses no opinion in regard to criminality but importantly pointed to the 2014 Counterterrorism and the 2017 Re-education Campaigns and how the CCP's 'war against the Uyghurs' intensified over that period. The report contained much helpful material but was published too late for the authors to be asked to give formal evidence or for its content to be discussed with other witnesses.
54. The report (see also Appendix 17 below) concludes, among other things, how:
- a. The 2017 Re-education Campaign was a continuation of the 2014 Counterterrorism Campaign to stabilise the situation, consolidate, normalise and to achieve 'comprehensive stability' by the end of 2021. The 2017 campaign was expanded to include mass coerced labour assignments, mandatory birth control measures and more intense indoctrination. The cycle of mass trauma and abuse in the campaigns in Xinjiang bear Xi's imprimatur: his saying in at least three separate speeches between 2014 to 2020 that 'the party's Xinjiang governance methods and strategies are completely correct' and that '[we] must adhere to them in the long term'.
  - b. The Fanghuiju programme had officials and sometimes civilians visiting or occupying the homes of Uyghurs and other indigenous families, indoctrinating and surveying families as fictional family members of the very men and women they might consign to the detention camps. The 'Trinity' mechanism ensures that every neighbourhood and village is co-managed by neighbourhood or village committee officials, police officers and external Fanghuiju work teams. During Xi Jinping's 2014 inspection tour of Xinjiang, he reportedly gave high praise to the mechanism. The Neighbourhood Committee's functions now include issuing travel permits for Uyghur residents, monitoring residents' actions and emotions in their homes, committing individuals to re-education

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<sup>17</sup> Unfortunately, Grauer was not invited to give evidence, but the Tribunal has had the advantage of her written report.

camp and subjecting relatives of those detained to ‘management and control’ orders that are akin to house arrest.

- c. The Political and Legal Affairs Commission (PLAC) oversees the police, the procuratorate, the court, the justice department and other security organs, all ultimately answerable to the CCP via the PLAC. Xi Jinping has dubbed the political and legal affairs system the party’s ‘knife handle’ and insisted that the handle be firmly in the hands of the party and the masses.
- d. During Xinjiang’s campaigns, law enforcement decisions are hasty, harsh and arbitrary,<sup>18</sup> with senior officials promulgating new laws and regulations that contradict existing ones to meet the expedient needs of the campaigns. On the ground, local officers openly boast about acting outside legal process—with the endorsement of senior leaders and state media.
- e. Nathan Ruser, a witness at the Tribunal, produced this map produced in the ASPI report, showing Xinjiang detention facilities as at 24 September 2020:



<https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211214-Nathan-Ruser.pdf>

<https://uyghurtribunal.com/wp-content/uploads/2022/07/UT-210912-Nathan-Ruser.pdf>

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<sup>18</sup> In 2019, a Xinjiang official told HRW, as reported by ASPI, that, at one stage during the Re-education Campaign: ‘There were quotas for arrests in all the locales, and so we began to arrest people randomly: people who argue in the neighbourhood, people who street fight, drunkards, people who are lazy; we would arrest them and accuse them of being extremists. There was not enough room for them all in the centres, so they built new ones.’

- f. Dissemination of policy—‘propaganda’ to some—was a prominent feature of the campaigns,<sup>19</sup> and, in December 2017, the Xinjiang Party Committee launched a second round of ‘Becoming Family’, now effectively merged with the Fanghuiju programme and answerable to Xinjiang Party Secretary Chen Quanguo (see paragraph 54(b) above and 63 below), sending more than 1.12 million cadres and civilians into indigenous households for a five-day stay every two months.
  - g. Of interest, many senior Chinese officials who experienced personal trauma during the Cultural Revolution helped orchestrate the Xinjiang crackdown with revolutionary zeal. Two of the most notable cases are Zhu Hailun and President Xi Jinping. Both men were subjected to re-education as teenagers (Zhu in Xinjiang and President Xi in rural Shaanxi) and, subsequently, claimed their experience of hard labour was transformative.
55. The Report comments that after becoming ‘redder than red’ to survive his family’s ordeal during the Cultural Revolution, President Xi turned to Mao’s playbook in mobilising the vast resources of the Chinese bureaucratic system to manufacture stability and conformity across the nation. The Uyghurs and other indigenous communities have borne the brunt of those efforts, and the two campaigns discussed in this report have led to increased interethnic distrust and resentment between Han and indigenous communities in Xinjiang.
56. The Holocaust Memorial Museum Report (November 2021: <https://www.ushmm.org/genocide-prevention/reports-and-resources/the-chinese-governments-assault-on-the-uyghurs>) relied, in part, on evidence presented to this Tribunal. As with the ASPI Report, it contains helpful material but

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<sup>19</sup> During the Re-education Campaign, the Justice Department played a leading role in mobilising and organising propaganda lecture groups, primarily through its ‘Propaganda Lecture Office to Promote Harmony and Prevent Crimes’. In April 2017, the Xinjiang United Front Work Department held a series of ‘three loves, three oppositions’ seminars in Ürümqi that lasted more than 10 days, with nearly a thousand representatives from all sectors of Xinjiang society in attendance. ‘Three loves, three oppositions’ is a slogan shortened from a President Xi quote: ‘Love the Communist Party of China, love the motherland, love the big family of the Chinese nation-race; oppose separatism, oppose extremism, oppose violence’.

was published too late for its authors to be invited to give evidence to the Tribunal.

Appendix 18, ‘ASPI Report’, at paragraphs 576–639 below.

Appendix 19, ‘Holocaust Memorial Museum Report’, at paragraphs 640–643 below.

57. The Holocaust Memorial Museum Report explains how:
- a. As early as the late 1980s, Uyghurs voiced discontent about the state’s preferential treatment of the Han Chinese community, the majority ethnicity in China. The preferential treatment given to the Han Chinese led to socioeconomic inequalities between the communities, resulting, in 1990, in rebellion in the town of Baren in Xinjiang’s Kashgar prefecture against restrictions on the practice of Islam imposed by the PRC Government. The state responded with force, killing an estimated 1,600 Uyghurs.
  - b. In 1997, in Ghulja county in Ili prefecture, northern Xinjiang, a similar protest was met with a violent crackdown by authorities, including arbitrary arrest, torture and summary executions of Uyghur demonstrators. Since at least the 1960s, tens of thousands of Uyghurs have sought refuge from what they saw as repression, fleeing China.
  - c. In 1998, a small group of Uyghurs, numbering in the hundreds, came together in Taliban-controlled Afghanistan, with the intent of launching a religiously inspired insurgency against Chinese rule. The group was referred to by the PRC Government as the ETIM [East Turkestan Islamic Movement] but does not appear to have used that name itself. It reportedly had a strained relationship with both Al Qaeda and the Taliban, the latter maintaining a diplomatic relationship with the PRC during the time that it governed Afghanistan. By December 2001, most of the Uyghurs associated with the group had fled Afghanistan or been killed, resulting in the group’s effective dismantling.
  - d. Despite there being few violent events in Xinjiang between 1997 and 2008, the PRC Government increasingly profiled the Uyghurs as terrorists or potential terrorists and marginalised them.
  - e. In the 2009 incident, nearly 200 people were reportedly killed, and hundreds injured, with the vast majority of the officially recorded casualties being identified by authorities as Han Chinese. Uyghur organisations claimed a massive undercounting of Uyghur casualties. Deepening restrictions on

the entire Uyghur community in Xinjiang followed, with roadblocks and checkpoints. Uyghurs who lived in Xinjiang's main towns were required to return to their towns and villages of origin to receive passbooks, called 'people's convenience cards', which severely restricted their freedom of movement. By 2016, Uyghurs with passbooks could no longer leave their hometowns, with the authorities demanding that residents install surveillance software on their phones and that drivers install a Chinese-made satellite navigation system in their vehicles. In 2016, voice pattern collection systems were purchased by the police bureaus in Xinjiang, following the 'Notice to Fully Carry Out the Construction of Three-Dimensional Portraits, Voice Pattern, and DNA Fingerprint Biometrics Collection System'.

f. In a white paper published in July 2019 by China's State Council Information Office, the government denied the Uyghurs' Turkic ancestry, stating that 'Islam is neither an indigenous nor sole belief system of the Uyghurs' but was imposed by the expansion of the Arab Empire, and that 'theocracy' and 'religious supremacism' were a betrayal that needed to be opposed.

58. The report felt able to build on its own March 2020 announcement that there was a reasonable basis to believe that the CCP had perpetrated the crimes against humanity of persecution and of imprisonment or other severe deprivation of physical liberty against Uyghurs. Its present report analyses additional information available in English in the public domain concerning the treatment of China's Uyghur community in Xinjiang and finds there is now a reasonable basis to believe that the crimes against humanity of forced sterilisation, sexual violence, enslavement, torture and forcible transfer are also being committed. The limited nature of verifiable information presents clear challenges to the legal analysis of the presence of genocidal intent, says the report. This is by design, with the PRC Government continuing to impede the flow of information concerning its crimes against the Uyghurs of Xinjiang. The information that has made its way into the public domain gives rise to serious concerns that the PRC Government may be committing genocide against the Uyghurs, concludes the report.

59. The fact that the Holocaust Memorial Museum Report reached these conclusions relieves the Tribunal of some of the concerns that it felt (see paragraph 26 above and paragraphs 645–648 below) about genocide being applied in circumstances so clearly *not* like the Holocaust.

60. The work of expert witness Gutmann, an investigative journalist, needs particular mention. His evidence will *not* be relied on because, although the Tribunal has no reason *not* to accept his research, Gutmann himself considers it to be ‘work in progress’. He invites consideration as *possible* that young detainees in their mid- to late-twenties were medically examined, found as fit and, having been marked fit on record cards, were used for forced organ harvesting—that is, being killed for their organs to be extracted and sold. Evidence supporting this as *possible* includes not only a pattern of disappearance of young detainees but also evidence of continuation of organ transplantation as a major, extremely lucrative business in the PRC as a whole. Gutmann identified at least one site where a hospital detention centre and crematorium are co-located, a short drive from an airport that has a special express lane in ‘Departures’ for the transportation of organs. Gutmann does not claim that his theoretical possibility is sufficiently confirmed by incontrovertible evidence. He is, no doubt, continuing in his work. If such a practice is going on, killing Uyghurs and others for commercial purposes would have different objectives and intentions from those being considered by this Tribunal, and it is left to others to prove or disprove his theory.<sup>20</sup> Gutmann gave evidence at both the June and September hearings, and the Tribunal is appreciative of his clear devotion to the problem and of the evidence he gave. Gutmann also gave evidence at the earlier China Tribunal, which investigated forced organ harvesting from prisoners of conscience in China.

Appendix 20, ‘Ethan Gutmann’, at paragraphs 644–655 below.

See also Maya Mitalipova:

<https://uyghurtribunal.com/wp-content/uploads/2022/03/UT-211220-Maya-Mitalipova.pdf>

and Appendix 10, ‘Medical Testing and Forced Consumption of Drugs’, paragraphs 330–346 below.

See also:

<https://chinatribunal.com/final-judgment/>

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<sup>20</sup> The Transplantation Society (TTS) and World Health Organization (WHO) were considered by the China Tribunal in its Judgment at paragraphs 410–413, and it is not certain that either has sufficient capacity to do this.

## **MATERIAL FROM LEAKED DOCUMENTS AND EVIDENCE IN PUBLIC DOMAIN ABOUT PRC GOVERNMENT POLICY AND PRACTICE**

61. There have been several leaks of what are said to be genuine PRC Government documents that must necessarily be treated with the greatest of caution. In all cases, leaked documents coming to the Tribunal have been put into evidence by experts who have themselves tested the documents for authenticity; in some cases, authenticity has been verified by newspapers, other media and academics. No leaked document, so far as known to the Tribunal, has been challenged as to authenticity or reliability by the PRC Government.

Appendix 21, 'Leaked Documents', at paragraphs 656–662 below.

62. It is worth observing that leaking of material is evidence that there *are* those within China who may disagree with government policy.
63. Amnesty International's summary about leaked documents can be relied on.

Since November 2019, journalists, scholars, and human rights groups published half a dozen caches of leaked Chinese government documents related to the situation in Xinjiang. Together, they form the most comprehensive source of documentary evidence about the government's actions and intentions with respect to the system of persecution and mass internment in Xinjiang.

In November 2019, The New York Times reported that it had obtained more than 400 pages of internal Chinese government documents. According to The Times, the documents, known as the 'Xinjiang Papers', 'confirm the coercive nature of the crackdown in the words and orders of the very officials who conceived and orchestrated it.' The documents included information about senior government officials ordering mass detentions, including speeches by President Xi Jinping in which he calls for an all-out 'struggle against terrorism, infiltration, and separatism' using the 'organs of dictatorship' and showing 'absolutely no mercy'. The documents also reveal that government officials who were insufficiently supportive of the campaign were purged, and that the internment camp system expanded greatly after the appointment of Xinjiang Party Secretary Chen Quanguo, who has been quoted as saying 'round up everyone who should be rounded up'.

In November 2019, the International Consortium of Investigative Journalists [ICIJ] released another cache of government documents. Known

as the ‘China Cables’, these documents included what has been described as an ‘operations manual’ for running the internment camps in Xinjiang. This manual—known as the ‘Telegram’—includes instructions for camp officials about ‘how to maintain total secrecy about the camps’ existence’, ‘methods of forced indoctrination’, and the points system used to evaluate detainees. The cache also includes four intelligence briefings—known as ‘bulletins’—that reveal information about the government’s mass data gathering and surveillance programme, including the IJOP, and how information the IJOP [Integrated Joint Operations Platform<sup>21</sup>] gathered was used to ‘select entire categories of Xinjiang residents for detention’.

Two other leaked government documents contain government records on several thousand people in total who were arrested and sent to internment camps in Xinjiang between 2017 and 2019. The documents—referred to as the ‘Karakax list’ and the ‘Aksu list’, after the locations in Xinjiang where the people named in the documents lived—contain, among other things, the official reasons given for why individuals were detained and interned.

Elise Anderson:

<https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211216-Elise-Anderson.pdf>

64. The most recent cache of leaked documents, the Xinjiang papers, came directly to the Tribunal—from a source that cannot be identified—during the September evidence hearings. Following a preliminary assessment, it was determined that an academic with pre-existing knowledge of the matters to be dealt with should be engaged to analyse the documentation. Various possibilities were considered. Given the need to have an evidential hearing ahead of 9 December, Dr Adrian Zenz was approached. Under conditions of strict security, arrangements were made for the material to be passed, first to him and thereafter to two peer reviewers, Professor James Millward and Dr David Tobin. The cache closely matched documents that were leaked to the *New York Times* (NYT) in 2019, but the NYT have stated that the provider of the documents to the Tribunal was not the NYT itself. Zenz, Millward and

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<sup>21</sup> An application platform that detects ‘irregularities’ or ‘deviations’ coming from multiple sources of information, to regulate, control and even to send Uyghurs to detention. Examples of ‘irregularities’ relied on as limited as ‘not socialising with neighbours’ or ‘often avoiding using the front door’.



Tobin reported on the documents in a live-streamed third hearing of evidence on 27 November 2021.

## **MATERIAL NOT PROVIDED DESPITE REQUESTS**

65. The Tribunal has no power to enforce provision of documents or attendance of witnesses. Nevertheless, it has sought material from sources where it is known or believed evidence exists that would assist the Tribunal in its work.
66. Specific requests for information have been made to the US, UK and Japanese governments, and to the PRC Government itself, none of which have been met. The Tribunal will draw no inferences of any kind, adverse or favourable to the PRC Government or to any other party in this regard. It reaches its conclusions on the evidence it *does* have, nothing else.
67. It is appropriate to set out what has been sought to complete the Tribunal's public record.
  - a. Request to Secretary of State Blinken, who adopted outgoing Secretary of State Pompeo's assertions of genocide by the PRC Government, for evidence and reasoning in support of the assertion was acknowledged verbally by the US Embassy in London. Evidence and reasoning not supplied and never, to date, made public.
  - b. Japan, reported on 29 December 2020 by *Kyodo News*, to have provided evidence of China's forceful detaining of Muslim Uyghurs to the USA, possibly leading to the USA stepping up criticism of the PRC, including by the Vice-President in July 2019, claiming that the 'Communist Party imprisoned more than a million Chinese Muslims, including Uyghurs, in internment camps where they endured around-the-clock brainwashing'. Request for material was not acknowledged.
  - c. The UK Government has been in contact with the Tribunal from time to time. The government has assisted the Tribunal at the Tribunal's request with securing visas for some witnesses coming from overseas to give evidence at both the June and September hearings of evidence in London. However, requests for assistance by provision of usable evidence, including by Freedom of Information (Act) requests, have all been declined.
  - d. The NYT was known, before the cache of papers was delivered direct to the Tribunal in September 2021, to have a set of Xinjiang papers of

which it had only published a part. The Tribunal—by direct requests from its Chairman to NYT journalists—made several requests for access to the balance of papers, which were not acceded to.

68. Correspondence between the Tribunal and the PRC Government, US Secretary of State, the Embassy of Japan in London, High Commission of Australia in London and the UK Government, including the Freedom of Information requests, are all produced in Appendix 22, ‘Correspondence with the USA, Japan, Australia, UK Government and Embassy of the PRC’, at paragraphs 663–664 below.
69. There *are* matters and information that governments may justifiably keep from their own people and, therefore, from a people’s tribunal. However, where there is real and pressing public interest in the truth of allegations as serious as those being dealt with by the Tribunal, it is unfortunate that the Tribunal has not been assisted in the seeking of that truth. Documents available to governments that are not themselves producing material that they *may* have relied on confidentially (e.g., the US) or could have relied on themselves had they performed public fact-finding exercises, should—in principle—be disclosed to the public.
70. Several parliaments around the world have voted, in different terms, to assert that genocide has been happening in Xinjiang following debates that demonstrated a high level of public concern for the Uyghurs.<sup>22</sup> The Tribunal

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<sup>22</sup> The Canadian House of Commons approved a motion to recognise China as committing genocide against Muslim minorities on 22 February 2021 referencing detention camps and measures intended to prevent births pertaining to Uyghurs and other Turkic Muslims.

On 25 February 2021, the Netherlands Parliament passed a non-binding resolution designating China’s actions against the Uyghurs a genocide: ‘China is engaged in acts covered by United Nations Resolution 260, including holding penal camps and implementing measures designed to prevent births within a specific group’.

On 22 April 2021, the UK House of Commons passed a non-binding motion declaring human rights abuses in Xinjiang as a genocide: ‘Uyghurs and Other Ethnic and Religious Minorities in the Xinjiang Uyghur Autonomous Region are Suffering Crimes Against Humanity and Genocide’.

In May 2021, the Lithuanian Parliament voted a resolution to recognise that Chinese abuses against the Uyghurs constitute genocide, based—inter alia—on the UN Charter and Universal Declaration of Human Rights of 1948, the Convention against Torture, the International Covenant on Civil and Political rights (ICCPR) and the Genocide Convention.

The Senate of the Czech Republic unanimously passed a motion in June 2021 to condemn

has not sought access to briefing papers provided in those parliaments or necessarily been able to listen to the debates.

71. It has not been clear on what legal basis these assertions have been made, and it may be thought that they have been advanced by some parties with a collateral political objective.

## FACTUAL CONCLUSIONS

72. The Tribunal's decision-making has been methodical: considering written and oral witness statements and evidence, reaching factual conclusions based on evidence considered reliable and finally applying the law to those findings.
73. Different standards of proof have been applied in varying judicial settings, but the Tribunal will apply the most conservative of these, with the highest bar of 'proof beyond reasonable doubt'. Applying this test will best eliminate uncertainty for all and avoid risk of any *possible* unfairness falling on the PRC Government.

Appendix 23, 'Standard of Proof', at paragraphs 665–669 below.

74. It is important to recognise the methodical planning necessary for a state to embark on a policy such as the PRC Government has in Xinjiang. Every detention will have been planned by someone. Every decision to keep in detention, and the decisions when and on what terms to release, will have been made and recorded, probably in writing.<sup>23</sup> Policies—even if not each act that happened to those detained—will have been planned, probably in writing. New detention buildings constructed with 'dark rooms' free of CCTV used for torture, cells with limited or no regular lavatory facilities, will have

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the treatment of Uyghurs as both genocide and crimes against humanity: 'there are massive violations of human rights and freedoms, genocide and crimes against humanity, ethnic discrimination, and the suppression of cultural, religious and political identity in the PRC, in particular in the Autonomous Regions of Tibet and Xinjiang'.

In Belgium, the Parliament's foreign relations committee passed a motion in June 2021 to condemn China's treatment of Uyghurs as crimes against humanity and stated there was a 'serious risk of genocide' in Xinjiang.

<sup>23</sup> The leak of documents considered in the ASPI Report, paragraph 36(g) above, includes some written records of visits to families of detainees.

been planned in writing, on architects' and engineers' drawings. Decisions to interrogate or torture individuals for whatever perceived breach of some rule will have been made within a chain of command and probably recorded in writing. Orders were placed for torture equipment—electric shock sticks, tiger chairs and whips. Evidence of a detainee being obliged to go to a bucket for a lavatory in full view of all in the cell is evidence of someone watching by CCTV the man or woman using a bucket for a lavatory in full view of, and embarrassed and humiliated by, others. Evidence of a man having to kneel at the opening of the door through which food would only be passed if he sang a song is evidence of someone having planned it and watching it happen. Evidence of someone being beaten or abused in his cell by other 'cooperating' cell mates or guards was planned and authorised by someone. Someone being taken from a cell for torture out of sight of cameras was ordered or approved and planned to terrorise the man or woman being tortured into believing he or she really had no hope. The comprehensive, invasive surveillance systems that penetrated every aspect of life, along with the birth control and abortion measures, are evidence of those things being planned, manned and seen through.

75. This evidence—of gross human rights breaches at a minimum—reveals not just the suffering of victims but also that thousands of individuals who planned the systems in operation were trained—and trained others—to do all that was necessary to bring the systems into force. Professionals—such as architects, engineers and medics—were content for their skills to be used for such systems, all being readied by the PRC Government to disregard the rights of fellow citizens.
76. Were those individuals careless of the rights of others from the start? May some of them—not the rapists or torturers, of course—genuinely believe that what they were doing was for the good of the PRC overall? Did the PRC Government, by whatever stratagem, create an enormous force of individuals for whom the rights of others meant nothing measured against the demands of the state, or perhaps were not seen as wrong?
77. The role and responsibility of those individuals, along with their and others' perceptions of how right or wrong they were to do, or allow to be done, whatever happened, is bound to be complicated. Their responsibility is not for this Tribunal to consider.<sup>24</sup> However, the *fact* of their being, or being

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<sup>24</sup> All literature shows that, even were the PRC to change substantially at some stage, so as to review its own and its citizens' historical wrongs, protective walls of guilt, shame, avoidance and

made to be, willing—in thousands—to do what was done is relevant in itself *and* for what it may show of the overall intention of the PRC Government. Creating a workforce of this kind—or using an already existing and willing workforce—is clearly reflective of a need and intent to get certain things done.

78. With all these background facts in mind, the Tribunal has been able to analyse the evidence it has received by issue, summarised as follows:

## **WAS THERE A PLAN?**

79. Intermittent and fluctuating tension between the indigenous people in the region, including the Uyghurs and Han-centric China, intensified in 2014 following the spilling out of violence into ‘mainland’ China. The CCP launched the ‘War on Terror’, the purpose of which was to eradicate the perceived security threat posed by its Muslim minority population but also to transform the region into a more integrated part of China for, among other purposes, economic benefit.
80. President Xi Jinping had come to power in 2013 and visited the XUAR in 2014, during which he demanded an all-out ‘struggle against terrorism, infiltration and separatism ... that would show absolutely no mercy’ (see paragraph 63 above). Xi Jinping’s responsibility for what followed is covered in part by the Xinjiang papers passed to the Tribunal and the subject of evidence on the 27 November 2021, dealt with at paragraph 88 below.
81. In 2016, Chen Quanguo was appointed XUAR Party Secretary. As Party Secretary in the Tibet Autonomous Region from 2011, he had achieved control by extreme surveillance, detention and other measures.
82. In 2017, the ‘XUAR De-Extremification Regulation’ was introduced as regional policy that legalised the ‘re-education internment’ strategy.
83. President Xi returned to the region in 2017 and, on 31 March 2017, the General Office of the Standing Committee of the region’s People’s Congress said: ‘It was emphasised that the Regulation constitutes the implementation

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denial would make any fair assessment of citizen responsibility extremely hard or impossible to set out with clarity.

of the Central Government’s policy decisions and deployments, especially to implement the important instructions and requirements of General Secretary Xi Jinping’.

84. In July 2019, XUAR Governor Shorat Zakir said, ‘Comrade Xi Jinping at the core has attached great importance to Xinjiang work ... and has devoted a lot of effort to Xinjiang work’.

See Amnesty Report, ‘China: “Like We Were Enemies in a War”: China’s Mass Internment, Torture, and Persecution of Muslims in Xinjiang’, page 136:

<https://www.amnesty.org/en/documents/asa17/4137/2021/en/>

85. These policies intensified into 2018 with a speech to ‘break their lineage, break their roots, break their connections’ (paragraph 36). The manifestation of these policies continued to evolve into multiple but seemingly interlinked plans at every level of regional, local and community government over successive years. It encompassed every facet of life for Uyghurs. There were policies and plans for birth control, sterilisation, forcible labour transfer, placement of children into state boarding schools and orphanages, imposition of Han into Uyghur homes, destruction of mosques and mass internment.
86. The regulations and plans were often target-based with incentives and penalties for those officials who respectively succeeded and failed.
87. A surveillance system developed to monitor every minute detail of Uyghur life has been deployed so comprehensively and with such sophistication that it has rendered the region a virtual outdoor prison.
88. *Before* receipt of the leaked Xinjiang papers in September 2021, the Tribunal concluded that the policies required construction of hundreds of buildings, deployment of thousands—or, more likely, hundreds of thousands—of personnel at very substantial cost. The Tribunal concludes that this vast apparatus of state repression could not exist if a plan was not authorised at the highest levels and that it was ordered to be implemented by every layer of government. The Tribunal is satisfied that a comprehensive plan for the enactment of multiple but interlinked policies targeting the Uyghurs had been formulated by the PRC Government. This conclusion was reinforced *later* by analysis of the Xinjiang papers by Zenz and, independently, by Millward and Tobin.

## **THE LEADERSHIP AND CENTRAL GOVERNMENT RESPONSIBILITY.**

89. Extracts from Tobin (et al.)’s statement(s) make clear the centralised power structures that exist within the body politic of the PRC:
- a. The political system of the PRC is a centralised party-state, with no meaningful separation of the state from ruling party, the CCP. Strategic decision-making is made by the party while the state manages the daily affairs of government in accordance with party policy.
  - b. Since Xi Jinping’s rise to power, decision-making has been increasingly centralised, most notably with the end to Presidential term limits, Xi’s rapid accession to the Central Military Commission (CMC), and the inscription of ‘Xi Jinping thought’ in official state ideology as one of the ‘guides to action’ in the CCP constitution
  - c. Xi has centralised power and consistently explained that ethnic policy is a national security matter pertaining to China’s Great Revival and national sovereignty so that he has been able to implement ‘fusion’ policy without significant opposition.
  - d. Direct connections between ethnic policy and national security were restated in recent high-level ethnic affairs meetings, announcing that central directives must be obeyed and that all ethnic policy work must be conducted ‘from the perspective of national rejuvenation’ to maintain China’s sovereignty and security.

David Tobin:

<https://uyghurtribunal.com/wp-content/uploads/2021/11/27-Nov-Statement-David-Tobin.pdf>

<https://uyghurtribunal.com/wp-content/uploads/2022/07/UT-210910-David-Tobin.pdf>

Rachel Harris, ‘Chapter 3: Torture and Sexual Violence in the Camps’:

<https://uyghurtribunal.com/wp-content/uploads/2022/08/State-Violence-in-Xinjiang-A-Comprehensive-Assessment.pdf>

Laura Murphy, ‘Chapter 1: Forced Labour’:

<https://uyghurtribunal.com/wp-content/uploads/2022/08/State-Violence-in-Xinjiang-A-Comprehensive-Assessment.pdf>

Joanne Smith Finley, ‘Chapter 4: Destruction of Religious Practice and Heritage’; ‘Chapter 5: Cultural Destruction’:  
<https://uyghurtribunal.com/wp-content/uploads/2022/08/State-Violence-in-Xinjiang-A-Comprehensive-Assessment.pdf>

Rian Thum:

<https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211220-Rian-Thum.pdf>

Rukiye Turdush:

<https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211220-Rukiye-Turdush.pdf>

Nyrola Elimä:

<https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211116-Nyrola-Elima.pdf>

90. The Tribunal was presented with an organogram that set out the hierarchy and interconnectedness of different state and CCP agencies, from which it could be seen that all power flowed from the most senior echelons of government.<sup>25</sup>

Appendix 24, ‘Organogram’, at paragraphs 670–679 below.

Millward drew attention to the specific centralisation of ethnic and religious policy:

When Xi Jinping came to power in 2013, he embarked on a radical revision of the PRC diversity system. He transferred the State Ethnic Affairs Commission and the State Administration for Religious Affairs, formerly under the State Council, to reside instead under the United Front Work Department of the Communist Party. In other words, he moved the bureaucracies dealing with ethnicity and religion out of the government, and under more direct Party control.

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<sup>25</sup> The Tribunal commissioned Dr Nevenka Tromp and two Tribunal researchers to prepare the organogram of state, government and party of the PRC from public state documents to identify post holders and the multiplicity of positions held by post holders. The organogram was checked and confirmed for accuracy by other witnesses.



James Millward:

<https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211220-James-Millward.pdf>

<https://uyghurtribunal.com/wp-content/uploads/2021/11/27-Nov-Millward-Statement-converted.pdf>

91. The leaking to the Tribunal of the Xinjiang papers and their subsequent analysis by Zenz reinforces the understanding *previously* evidenced by Millward, Tobin and others that the PRC Government's policy—of such importance to the perceived national security threat—was initiated and directed by the Party Secretary of the CCP, President Xi and, given his control over the apparatus of state power, by the most senior officials including members of the Standing Committee of the Politburo.
92. Documents from 2104 show that President Xi authorised the local Xinjiang government to draft what became the 'De-Extremification Regulation', which is intimately linked to the re-education campaign and the internment camps that came with it.
93. The speeches made in 2014 by President Xi together with other top officials, including Li Keqiang and Yu Zhengsheng, were mandated to be studied by party and state cadres as they contained the 'strategic deployment of the Party Central Committee for Xinjiang work' and were aimed to 'convey and learn the spirit of General Secretary Xi Jinping's series of important speeches'.
94. A second series of speeches from 2017 and 2018 directly implicate Xinjiang's Party Secretary and Politburo member Chen Quanguo and his deputy Zhu Hailun in an intensification of President Xi's 2014 policy, including the 'rounding up all who should be rounded up' instructions.
95. These documents of the highest and second-highest classification directly link President Xi Jinping to the policies and actions that have been implemented in Xinjiang.
96. The Tribunal is satisfied that President Xi Jinping, Chen Quanguo and other very senior officials in the PRC Government and CCP bear primary responsibility for acts that have occurred in Xinjiang. The Tribunal recognises that the perpetration of individual criminal acts that may have occurred, whether rape or torture, will not have been carried out with the detailed

knowledge of President Xi and others. But the Tribunal is satisfied that these acts have occurred as a direct result of policies, language and speeches promoted by President Xi and others and, furthermore, that these policies could not have been established in a country with such rigid hierarchies as the PRC without implicit and explicit authority from the very top.

97. **Torture**

98. The Tribunal is satisfied, as set out previously, that within the PRC's detention and penal system, barbaric, cruel and sadistic torture was perpetrated.

Appendix 25, 'Torture, Insanitary Conditions, Overcrowding, Malnutrition, Withholding of Medical Care, Brainwashing and Surveillance in Prisons and Detention Centres', at paragraphs 680–761 below. (Detention centres/facilities/camps are dealt with in nearly all Appendices and throughout this Judgment and are not subject of a separate Appendix).

99. **Rape and sexual violence**

100. The Tribunal is satisfied, as set out previously, that rape and other sexual violence within the detention and penal system was widespread.

Appendix 26, 'Rape and Sexual Violence', at paragraphs 762–771 below.

101. **Religious and cultural destruction**

Appendix 27, 'Mosques and Other Religious and Cultural Property and Urban Settlement', at paragraphs 772–778 below.

102. Satellite imagery identified the destruction of, or damage to, approximately 16,000 mosques or 65% of the previous total in the region, evidence matched by direct observations of witnesses. In addition, cemeteries and other sites of religious significance have been destroyed. Uyghurs are punished by imprisonment and torture for displays of religious adherence, including attending mosque, praying, wearing of headscarves and beards and not drinking alcohol or not eating pork.

Appendix 28, 'Forcible Drinking of Alcohol, Smoking, Beards, Headscarves and Other Clothing', at paragraphs 779–782 below.

103. The Tribunal is satisfied that the PRC Government has implemented a comprehensive policy of destruction of physical religious sites, conducted a systematic attack on Uyghur religiosity for the stated purpose of eradicating religious *extremism*.

104. For ‘the disappeared’ generally:

Appendix 29, ‘People Reported Disappeared in Prison’, at paragraphs 783–787 below.

Appendix 30, ‘People Detained and Disappeared’, at paragraphs 788–811 below.

105. Most witnesses gave evidence that members, sometimes many, of their families had been imprisoned. Often, they had no knowledge of the whereabouts of their relatives. One man told how 14 of his nieces and nephews had disappeared. He did not know where they were or whether they were even alive. The Tribunal was only able to hear from a limited number of such witnesses in person but received evidence of thousands of people reporting the incarceration of thousands of relatives or friends.

106. The Tribunal is satisfied that the PRC Government has built a very extensive network of detention and penal institutions, that it has imprisoned hundreds of thousands and maybe a million and more Uyghurs without substantive cause and without any recognisable or legitimate legal process.

107. **Birth control**

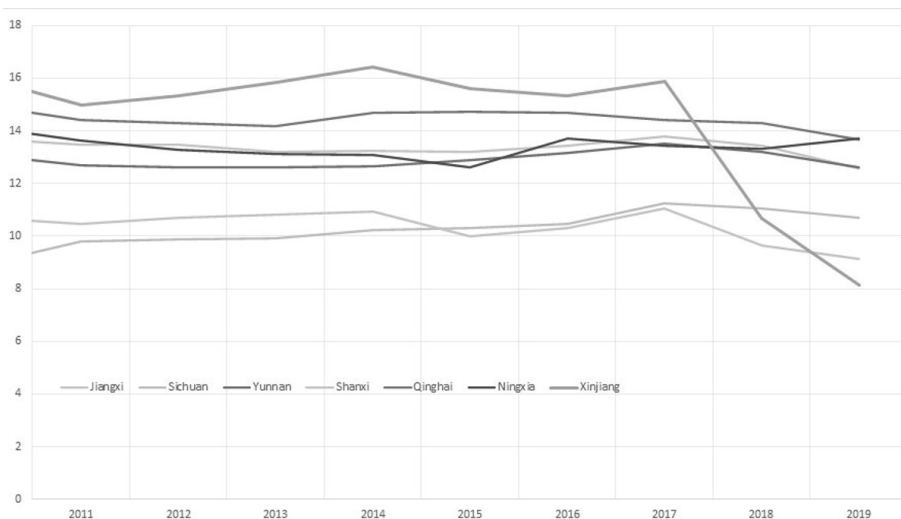
Appendix 31, ‘Population Control, Family Planning, Birth Rates, Forced Abortions and Forced Sterilisation’, at paragraphs 812–859 below.

108. In 2016, the PRC Government amended the one child policy introduced in 1979 to allow its citizens to have two children per couple. In 2021, in response to falling birth rates, the policy was again changed to allow couples to have three children.

109. The same restrictions had not previously applied to ethnic minorities in Xinjiang, who had been permitted to have two children and, in rural and remote areas, up to four.

110. In 1949, the Han made up 6.7% of the region's population, but a dramatic increase to 41.6% was seen by 1978. However, a combination of low Han birth rates and out-migration caused the Han population to drop to 31.6% by 2018.
111. In contrast, between 2005 and 2015, the Uyghur population grew rapidly. This led to a debate within the PRC Government and academic circles that consistently described Uyghur and other minority population growth as 'excessive' and, between 2015 and 2019, conflated religious extremism and population growth. A May 2015 government teaching broadcast noted that 'religious extremism begets re-marriages and illegal extra births'; in an academic paper, Liao Zhaoyu wrote that 'the imbalance of the ethnic minority and Han population composition in Southern Xinjiang has reached an unbelievably serious degree'. See paragraph 816 below.
112. In 2017, policy intensified when the government embarked on a region-wide campaign, 'regarding continuing to deeper implement the special campaign to control birth violations'.
113. The result was a steep rise in prosecutions and internments (of Uyghurs) for birth control violations, as evidenced in official and leaked government papers: the Karakax list identified reasons for imprisonment of individuals for birth control violations as being the most frequent.
114. The authorities deployed an extensive examination programme of Uyghur women of childbearing age, 'testing all who need to be tested'.
115. By 2019, it was planned that over 80% in the rural southern four minority prefectures would be subjected to 'birth control measures with long term effectiveness'. In 2018, Xinjiang fitted 45 times more net-added IUDs per 100,000 of the population than China as a whole (963 vs. 21.5). Between 2015 and 2018, Xinjiang placed 7.8 times more net-added IUDs per capita than the national average.
116. In addition, in 2019, the authorities formulated a plan to conduct widespread sterilisation including in two counties in Hotan (in the South) intended to sterilise, respectively, 14.1 and 34.3% of all women of childbearing age.

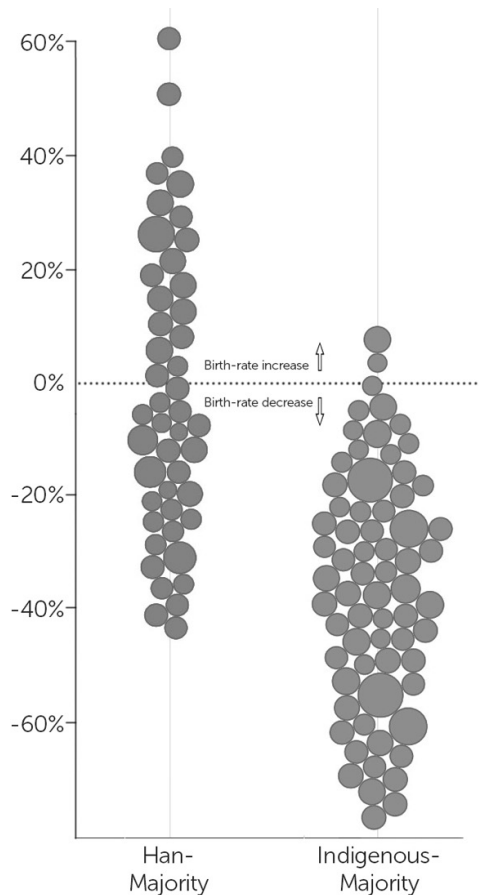
117. The Tribunal heard evidence from multiple witnesses who had been forced into abortions themselves or, as in the case of one witness, who, when working in a hospital, witnessed the forced abortion of near-term babies. In a 2021 report to the Tribunal, the Uyghur Transitional Justice Data quoted a hospital employee who worked as an obstetrician and witnessed the killing of babies immediately after being born.
118. These policies resulted in a marked reduction in birth rates and a decline in population growth, a reversal of trends evident in the recent past—reducing Han births and increasing Uyghur births. At the region-wide level, birth rates in Xinjiang remained relatively stable and moderate since creation of the PRC. For the first decade of the one-child policy from 1979 to 1989, the birth rate in Xinjiang was in fact lower than China’s average; under subsequent family-planning policies since 1990, the XUAR’s birth rate stabilised at roughly 125 per cent of China’s national average but decreased significantly in 2018 and 2019 to 80%. This is illustrated in the figure below comparing population declines in the region with those in provinces including Jianxi, Sichuan, Yunnan, Qinghai and Ningxia, all in ‘mainland’ China.



119. Between 2015 and 2018, the natural population growth rates of Uyghurs in the southern Xinjiang prefectures declined by 73.5% and, by 2018 and 2019, in several counties, dropped to zero or became negative.
120. Across the 29 counties in Xinjiang with indigenous-majority populations for which The Tribunal has 2019 or 2020 data, the birth rate has fallen by 58.5

percent from the 2011–2015 baseline average. In those counties that are over 90 per cent indigenous, the birth rate fell at an even greater rate, showing a 66.3 per cent decrease in 2019–2020. For example, 99 per cent of the population in Hotan County in southern Xinjiang is Uyghur. Hotan experienced a drop in birth rate from 25.41 per thousand people in 2012 to 7.41 per thousand in 2018, a decrease of 70.8 per cent. This is the continuation of a distinct pattern across Xinjiang since the region-wide crackdown began, in which birth rates have decreased drastically and disproportionately in counties with large non-Han populations.

121. The figure below shows the change in crude birth rate in XUAR from a pre-crackdown baseline to the 2018 birth rate with counties sorted into Han majority and Indigenous majority.<sup>26</sup>



<sup>26</sup> Intentionally left blank

122. For unstated reasons, the authorities ceased publishing significant amounts of population data for the year 2019. In a report to the Tribunal, Zenz set out a range of possible outcomes in regard to the reductive impact of this policy of ‘population optimisation’, as it has been described by the state authorities. Using data extracted from Chinese academic papers, including a peer-reviewed paper from Xinjiang University, he conservatively estimated a projected reduction of the population of between 2.6 and 4.6 million or between 20 and 34 per cent of Uyghurs who would have been alive by 2040 when compared to the present population projections had the state not embarked on the policies and actions it has. The Tribunal fully recognises that these are estimates and projected some 19 years into the future, but the *scale* of the state’s interference in the natural reproductivity of the Uyghur population is already manifest and must have a significant impact on the size of that population in due course. The Tribunal accepts Zenz’s broad, if necessarily imprecise, range of projected reductions.

123. Leibold and Ruser explain, to similar effect (see paragraphs 839–840 below):

The crude birth rate statistics show significant demographic shifts across Xinjiang. There are now hundreds of thousands fewer births in parts of Xinjiang compared with what would have been expected prior to the crackdown, but the missing children are disproportionately in indigenous-majority areas. Based on complete data from 2018, Han-majority counties had, on average, a very slight increase in the birth rate compared to pre-crackdown levels: around 1000 more children were born in 2018 than would have been if the birth rate had stayed static at the pre-2017 baseline. This shows that in Han-majority counties, the birth rate has remained essentially stable. In comparison, almost all indigenous-majority counties had decreases in the number of children born, totalling 162,700 fewer children in 2018 than would have been expected before the crackdown. In 2019, at least 186,400 fewer children were born in Xinjiang compared to what would have been expected if birth rates had remained static at the pre-2017 baseline. Although complete county-level data for 2019 has not been released, based on the information that has been published, roughly 95 per cent of Xinjiang’s missing births in 2019 appear to be in indigenous-majority counties.

124. They further explained: the population optimisation strategy has three components: a) in-migration of Han, b) out-transfer of ethnic minorities,

with the most effective policy lever being c) a reduction of Uyghur birth rates. The latter is due to practical constraints on the scale of the two former components.

125. The Tribunal is satisfied that the PRC Government has effected a deliberate, systematic and concerted policy with the objective of ‘optimising’ the population in Xinjiang by means of a long-term reduction of the Uyghur and other ethnic minority populations to be achieved through limiting and reducing Uyghur births.

126. **Transfer of children**

Appendix 32, ‘Treatment of Children, Forced Separation, Details of Orphanages and Details of Boarding Schools’, at paragraphs 860–901 below.

127. Between 2017 and 2019, PRC Government figures record a 43.5 per cent increase to 880,400 primary and middle Uyghur school children being placed in Han-run and Han-staffed boarding schools. This policy was, according to the Xinjiang Education Department, deliberately designed to isolate children from the influences of their families. Parents have been unable to resist the policy, and involuntary separation has been widespread, in part because some families have suffered the internment of one or both parents.

128. The Tribunal is satisfied that the PRC Government has embarked on a deliberate policy of separating children from their families into state care for the purpose of eradicating their Uyghur cultural identity and connections.

129. **Forced labour**

Appendix 33, ‘Forced Labour and Forcible Transfer within the Region and to “Mainland” China’, at paragraphs 902–939 below.

130. The Tribunal has received evidence, including by means of satellite imagery, of the construction or conversion of hundreds of very large factories, in some cases co-located with internment camps. According to state media, hundreds of thousands of Uyghurs have been inducted into labour programmes, including 611,500 in Hotan alone in 2018. The transfers have been within the XUAR and also into ‘mainland’ China.



131. The Tribunal is satisfied that the PRC Government has orchestrated a large-scale enforced labour programme for more economic development, security, profit and population ‘optimisation’ under the officially stated goal of ‘poverty alleviation’.
132. Before turning to the law, it may be helpful to take a step back from the facts as found and consider the emerging picture from a different angle.

## THE EVIDENCE OF TON ZWAAN

133. Sociologist and genocide expert Dr Ton Zwaan’s evidence was taken late.<sup>27</sup> However, that allowed, by chance, for its value to come at the best place for the Tribunal’s consideration. Most often, crimes are defined by a country’s lawmakers and such sociological significance as there may be in the *setting* of particular crimes—rape, child abuse offences, drug-taking—comes later. For genocide as a crime, the sociological understanding came first and, although Raphael Lemkin’s concept was not adopted in full by the UN in 1948, the *selection* of acts to qualify as the *crime* of genocide came later. Four passages from Dr Zwaan’s evidence are worth setting out, beginning appropriately with a quotation from Lemkin himself:
134. Generally speaking, genocide does not necessarily mean the immediate destruction of a nation, except when accomplished by mass killing of all the members of a nation. It is intended rather to signify a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups (...) The objectives of such a plan would be the disintegration of the political and social institutions of culture, language, national feelings, religion, [and] economic existence of national groups, and the destruction of the personal security, liberty, health, dignity, and even the lives of the individuals belonging to such groups. (Lemkin, 1944: 79)
135. Drawing on scholarship of previous events categorised as genocides, Dr Zwaan explains:

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<sup>27</sup> Dr Ton Zwaan, retired associate professor of social science and genocide studies at the University of Amsterdam and the Netherlands Institute of War-, Holocaust- and Genocide studies; for full witness statement, see:

<https://uyghurtribunal.com/wp-content/uploads/2021/11/Ton-Zwaan-Note-for-the-Members-of-the-Uyghur-Tribunal-converted.pdf>

136. In a general sense, genocide might be seen as an organized process of systematic persecution and destruction of a considerable group or category of people by other people, under the auspices of a state or political regime. Who belongs to the target group is defined by the persecutors, and the persecuted are not persecuted for who they individually are, think, do or have done, but exclusively because in the eyes of hostile others they are members of the target group which is to be destroyed. As such, genocides are primarily a consequence of ideological convictions and the power of ruthless political regimes.
137. Further, he notes:
138. ... but the most well-known, large-scale and vicious genocides of the past century have been the result of three ‘families’ of political ideology: communism; national-socialism and fascism; and radical ethnic nationalism. To be sure, there are substantial differences between these ideologies and the regimes which espoused them, but they share what I have called elsewhere a ‘genocidal infrastructure’ of leading ideas, i.e., where such a cluster of ideas is dominant and determines the outlook and policies of the political elite at the helm of the state the chances that mass atrocities and genocidal activities will ensue are high.
139. Dr Zwaan explains how, for China:
140. The Chinese authorities may refrain from genocidal mass killing, but the regime and its security services dispose of many means of what are called ‘crushing techniques’—already developed in Mao’s time: sharp surveillance, forced ‘re-education’ in ‘schools’ (detention centres, camps), forced labour, and endless restrictions and harassments. The victims may stay alive, but their freedom of living is nevertheless to a high degree destroyed.
141. For the sociologist, Dr Zwaan thought, genocide may be rooted, or take root in, many policies with different intentions. He was disinclined to allow for *good* motives of a state to be associated with *bad* where genocide was happening or likely to occur, although protection of a state against terrorists and protection by a state of its borders can always be a legitimate state action, subject to how it is achieved.
142. Finally, for any who think the present allegations of genocide need not be taken seriously because mass killing is not alleged, Dr Zwaan reminds us:

143. ... intentions are not fixed givens, but they tend to evolve and develop through time. In the case of the murder of the Jews by the German national socialists it took more than seven years and the outbreak of WWII before their antisemitism culminated in the decision that Jews should be killed. In the Ottoman Empire and nascent Turkish nationalism, the idea of massive deportation and killing of the Armenians and other minorities had been brewing for at least two decades before WWI, during which it happened under a radical Turkish nationalist regime, installed by a coup d'état in 1913.
144. It is unrealistic to think that the legal concept of genocide can be severed completely from its sociological root(s). Indeed, some contemporary arguments for development of genocide's legal scope—consider the Newlines Report above—clearly look for an expansion of scope where the legal test could be met by a number of observed activities, rather compatible with Dr Zwaan's approach that allowed for many policies and intentions. And, as Newlines' Packer accepted in answer to the Tribunal when giving evidence, legally defined genocides are a section of the much larger collection of activities sociologists identify as genocides—*sensing*, from Dr Zwaan, how what is happening to the Uyghurs appears to a *sociology* genocide expert may not be unhelpful for those having to focus on what *may* be a legally defined one. On intention itself, the sociologist's view—expressed firmly in Dr Zwaan's written note—about the difficulty of proving intent is the lawyers' recurring problem in genocide trials. Dr Zwaan's evidence does not loosen the tests that must apply for any finding of genocide in law; it helps explain why such findings are hard to reach.<sup>28</sup>

## LAW

145. Appendix 34, 'Law', at paragraphs 940–960 below.

The two very distinguished legal experts originally willing to help the Tribunal had to withdraw, completely understandably, on account of the effects sanctions would have—on others not themselves—if they *did* help. It

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<sup>28</sup> When Jews were taken to concentration camps, those who were strong enough were put to work as forced labourers. The rest, including the elderly, children, pregnant women and the sick, were immediately killed in gas chambers if the camp had them, killed in other ways or just left to die where gas chambers did not exist. This has implications for the Uyghur case where forced labour is valued as much as intent to keep Uyghur numbers down and control.

was felt that the Tribunal should not invite fresh UK lawyers to be any part of the Tribunal’s now-sanctioned environment. The Tribunal turned instead to, and was grateful for assistance of, Andrew Khoo from Malaysia, known to the Chair and Vice Chair from the China Tribunal, whose independence and legal skills were valued. He has worked with members of the Counsel team to provide advice about the law that the Tribunal has reduced to a set of sequential directions—as a judge directing a jury might—capable of being understood by lay citizens, non-lawyers and non-specialists. Correspondence with Andrew Khoo and Counsel is referenced in Appendix 34 below. The large font passages in what follows are the core of the legal direction and the small font passages provide additional helpful commentary.

**146. For torture, proof is required<sup>29</sup> of:**

- a. ... any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions. (Even if the perpetrator’s motivation is entirely sexual, it does not follow that the perpetrator does not have the intent to commit an act of torture or that his conduct does not cause severe pain or suffering, whether physical or mental, since such pain or suffering is a likely and logical consequence of his conduct.<sup>30</sup>

**147. For crimes against humanity, proof is required<sup>31</sup> of:**

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<sup>29</sup> By the Convention against Torture, ratified by the PRC in 1988.

<sup>30</sup> ICTY, *Prosecutor v. Kunarac, Kovac and Vukovic*, ‘Appeals Judgement’, IT-96-23-T and IT-96-23/1-A, 12 June 2001 (para. 153): <https://www.icty.org/x/cases/kunarac/acjug/en/>

<sup>31</sup> Under Customary international law, as codified by Arts. 2 and 3, ILC, draft Articles on Crimes against Humanity, provisionally adopted by the ILC at its 67th Session (2015), A/70/10 (p. 50, commentary pp. 58–72) and Art. 7, Rome Statute of the ICC (17 July 1998, entered into force 1 July 2002).

- a. Commission of certain crimes or prohibited acts when committed as part of a widespread or systematic attack directed against a civilian population. The relevant prohibited acts of crimes against humanity for the purposes of the Tribunal are listed later.
- b. An ‘attack’ is not limited to the use of force but encompasses any mistreatment of the civilian population.
- c. ‘Widespread’ refers to the large-scale nature of the attack and the number of targeted persons.
- d. ‘Systematic’ refers to the ‘organized nature of the acts of violence’. The existence of a plan or policy can be indicative of the systematic character of the attack, but it is not a distinct legal element.
- e. The perpetrator—the perpetrator actually doing the relevant act for crimes against humanity—must know that there is a widespread or systematic attack against a civilian population and that his or her acts are part of that attack but need not have detailed knowledge of the attack or share the purpose of it.

148. **For genocide, proof is required<sup>32</sup> of:**

- a. Certain prohibited acts committed with an intent to destroy, in whole or in part, a protected group, as such—‘as such’ meaning that the offence ‘requires intent to destroy a collection of people who have a particular group identity’.<sup>33</sup>
- b. The protected groups are national, ethnical, racial or religious groups and no others.
  - i. The protected group must constitute a collection of people with a particular group identity, which must be defined positively and have unique distinguishing characteristics either objectively or subjectively ascertained. If subjective, from the psyche of the perpetrator, the

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<sup>32</sup> Genocide is a norm accepted and recognised by the international community of states as a whole, from which no derogation is permitted (Art. 53, 64 VCLT, 1969). According to the ILC, ‘Those peremptory norms that are clearly accepted and recognized include the prohibitions of aggression, genocide, slavery, racial discrimination, crimes against humanity and torture, and the right to self-determination’ (‘Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries’, November 2001, Supplement No. 10 (A/56/10) (ch. IV.E.1., pp. 112–113.); Genocide Convention, 1948 (entered into force 12 January 1951), Art. 2.

<sup>33</sup> See ICTY, *Prosecutor v. Milomir Stakić*, ‘Appeal Judgment’, IT-97-24-A, Appeals Chamber, 22 March 2006 (para. 20): <https://www.icty.org/x/cases/stakic/acjug/en/061116.pdf>

group should still be, in some form, ‘stable’ or ‘permanent’ such that victims cannot ordinarily be dissociated from the group.

- ii. A protected group cannot be defined negatively.
- iii. When assessing genocide, the acts or omissions of perpetrators must include at least one of the prohibited acts; other culpable acts such as arbitrary detention, enforced disappearances and other general human rights violations, in and of themselves, are not within scope.

149. The underlying prohibited acts of genocide, each of which is required to be volitional or intentional, are:

- a. killing members of the group:  
The material elements of killing are equivalent to the elements of murder.
- b. causing serious bodily or mental harm to members of the group:  
The bodily or mental harm caused must be of such a serious nature ‘as to contribute or tend to contribute’ to the destruction of the group. Such harm may include torture, rape, sexual violence and non-fatal physical violence that causes disfigurement or serious injury to the external or internal organs. The harm must be inflicted intentionally. The harm does not need to be inflicted on each and every member of the group.
- c. deliberately inflicting on the group conditions of life calculated to bring about its physical destruction, in whole or in part:  
The acts may include systematic expulsion from homes; denial of medical services; and the creation of circumstances that would lead to a slow death, such as lack of proper housing, clothing and hygiene or excessive work or physical exertion. The acts must be carried out ‘deliberately’.
- d. imposing measures intended to prevent births within the group:  
The intended measures may be evidenced, inter alia, by ‘sexual mutilation, the practice of sterilization, forced birth control, separation of the sexes and prohibition of marriages’.
- e. forcibly transferring children of the group to another group:
  - i. The forcible transfer must be of at least one child from the protected group to another. A child is a person under the age of 18.
  - ii. The term ‘forcibly’ is not confined to physical force but may include

other forms of coercion such as threat of violence, psychological pressure, duress and detention.

150. Three of the five acts above require proof of a result (i.e., killing, causing serious bodily or mental harm and the transfer of children from one group to another). Two do not demand such proof (i.e., the conditions of life element and measures intended to restrict births).
151. The intent to destroy the protected group, in whole or in part, as such:
  - a. The intent required for genocide is a specific intent to destroy, in whole or in part, a protected group, as such. This specific intent distinguishes genocide from other international crimes as it requires that the perpetrator is targeting an individual because they belong to the protected group rather than as an individual *per se*. Specific intent has been described in the following way: ‘For any of the acts charged to constitute genocide, the said acts must have been committed against one or more persons because such person or persons were members of a specific group, and specifically, because of their membership in this group. Thus, the victim is singled out not by reason of his individual identity, but rather on account of his being a member of a national, ethnical, racial or religious group.’
  - b. The specific intent must be directed at the destruction of the protected group. The destruction need not objectively occur but merely be intended.
152. The term ‘destroy’, in respect of the intent requirement, is limited to the physical or biological destruction of all or part of the group.
  - a. This restrictive interpretation has been advanced by the International Law Commission, the jurisprudence of all international courts to date and some academics. The original basis for this interpretation is said to be found in the preparatory works to the Genocide Convention whereby ‘cultural genocide in the form of destroying a group’s national, linguistic, religious, cultural, or other existence was ultimately (despite a proposal by the Ad Hoc Committee) not included in the Convention’. Cultural destruction or destruction resulting in ‘mere dissolution of the group’, therefore, have not been accepted by the ICC, ICTY (International Criminal Tribunal for the former Yugoslavia) or the International Criminal Tribunal for Rwanda (ICTR).

b. It has been pointed out that where there is physical or biological destruction, there are often also simultaneous attacks on the cultural and religious property and symbols of the targeted group, attacks that may legitimately be considered as evidence of an intent to physically destroy the group. In one case, the Trial Chamber took into account as evidence of intent to destroy the group the deliberate destruction of mosques and houses belonging to members of the group. Specific intent to destroy may thus be found in direct oral and/or written statements made by perpetrators advocating for the destruction of a protected group. However, because direct evidence of intent is, in most cases, lacking, specific intent may be inferred from the surrounding facts and circumstances in which prohibited acts occur. When assessing specific intent, consideration ought to be given to all the evidence collectively. The circumstances of the case may include: ‘(a) the general context of the perpetration of other culpable acts systematically directed against that same group, whether these acts were committed by the same offender or by others, (b) the scale of atrocities committed, (c) their general nature, (d) their execution in a region or a country, (e) the fact that the victims were deliberately and systematically chosen on account of their membership of a particular group, (f) the exclusion, in this regard, of members of other groups, (g) the political doctrine which gave rise to the acts referred to, (h) proof of the mental state with respect to the commission of the underlying prohibited acts, (i) the repetition of destructive and discriminatory acts, (j) the existence of a plan or policy, and (k) the perpetration of acts which violate the very foundation of the group or considered as such by their perpetrators’. Ordinarily, other culpable acts do not constitute prohibited acts, but they may be considered as evidence pointing towards the specific intent of a perpetrator to destroy the group. The existence of a plan or policy is not a legal element of the crime of genocide; it may become a possible relevant factor to prove the specific intent. But, just the same, evidence of policies or motives of alleged perpetrators may not be reflective or relevant at all to the issue of intent; generally, motive is irrelevant. Intent (i.e., a psychological state of mind) must attach to the commission of crimes; however, policies or motives may be achieved through the commission of crimes.

153. A perpetrator—a top-level perpetrator for genocide—ordering or bringing about the relevant act or acts—must ‘clearly seek to produce the act charged’ or, in other words, have ‘the clear intent to cause the offence’.



- a. It is sufficient that a perpetrator's specific intent is directed at the destruction of the group 'in part' as opposed to the whole. Where only part of a protected group is targeted, that part must constitute a substantial part of that group such that it is significant enough to have an impact on the group as a whole. In determining substantiality, non-exhaustive considerations may include:
  - i. as a starting point, the numerical size of the targeted part (evaluated not only in absolute terms, but also in relation to the overall size of the entire group)
  - ii. the prominence of the part of the group within the larger whole; whether the targeted part is emblematic of the overall group or essential to its survival
  - iii. the area of the perpetrators' activity and control and the perpetrators' potential reach.
154. Where an inference is drawn as to specific intent, that inference must be the only reasonable inference from the totality of the evidence.
155. States are prohibited from committing any act of genocide, which means they must refrain from:
  - a. the commission of prohibited acts by its own organs, agents and/or officials
  - b. the commission of prohibited acts by others acting on their behalf or at their direction and control.
156. In addition, as a matter of customary international law and treaty, states must not be complicit in prohibited acts committed by others within its state (Genocide Convention, Art. 3(e), 4, 5) and must use all means reasonably available to prevent genocide and to punish persons where the crime has occurred (Genocide Convention, Art. 1, 4). The latter would necessarily entail efforts at investigating whether genocide has occurred and/or is occurring. States must enact necessary legislation to give effect to its obligations under the Genocide Convention (Genocide Convention, Art 5).
157. The attribution of crimes to state organs, agents and officials is not to be confused with other duties on states under customary international law or the Genocide Convention, as detailed above. For instance, states have an (ongoing) duty to prevent genocide. That duty necessarily is prior to the

commission of genocide and entails a duty to stop (prevent) further prohibited acts once genocide might have begun.

158. In respect of state attribution, a state absent a person (organ, agent or official) cannot commit a crime as the ILC and the ICJ have rejected the notion of state crimes and there is no consistent state practice or significant jurisprudence relating to the same. However, that does not preclude a finding of state responsibility for genocide where no individual has been convicted of the crime.
159. With the above advice and commentary on law in mind, the Tribunal noted particularly how the words ‘destroy’ or ‘destruction’ have no single and unique meanings and are always context specific<sup>34</sup> and that destruction has to be ‘physical or biological destruction’. *Physical* destruction is *in part* sufficiently contextual because killing members of a group would clearly be *physical* destruction—of a kind—of a constituent part of the group. ‘Biological destruction’ has not, so far as the Tribunal’s lawyers have ascertained, ever been adequately defined by any court.
160. The Tribunal found interesting that in the first draft of the Genocide Convention in 1947, three categories of genocide were defined (bold emphasis added):
  - a. **Physical** genocide; **causing the death of members of a group or injuring their health or physical integrity by:**
    - i. **group massacres or individual executions**
    - ii. subjection to **conditions of life**, which, by lack of proper housing, clothing, food, hygiene and medical care, or excessive work or physical exertion, are **likely to result in the debilitation or death of the individuals**
    - iii. mutilations and biological experiments imposed for other than curative purposes
    - iv. **deprivation of all means of livelihood**, by confiscation of property, looting, curtailment of work, denial of housing and of supplies otherwise available to the other inhabitants of the territory concerned.

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<sup>34</sup> Any inclined to doubt this point should construct some sentences using either word and try them out without embellishment on a willing collaborator, such as ‘I will destroy your garden’, ‘I will destroy your company’, ‘His reputation faced destruction’ or ‘the train set and toys had been destroyed’. The response, if context has not already been made clear, is likely to be ‘how?’

- b. **Biological** genocide; restricting births by:
  - i. **sterilization and/or compulsory abortion**
  - ii. **segregation of the sexes**
  - iii. **obstacles to marriage.**
  
- c. **Cultural** genocide; destroying the specific characteristics of the group by:
  - i. **forcible transfer of children to another human group**
  - ii. forced and systematic exile of individuals representing the culture of a group
  - iii. prohibition of the use of the national language even in private intercourse
  - iv. systematic destruction of books printed in the national language or of religious works
  - v. prohibition of new publications
  - vi. systematic destruction of historical or religious monuments or their diversion to alien uses, destruction or dispersion of documents and objects of historical, artistic, or religious value and of objects used in religious worship.

161. The second draft by the Ad Hoc Committee meeting between 5 April and 10 May 1948 included (bold emphasis added):

Genocide is a crime under international law whether committed in time of peace or in time of war.

- a. Article 2: [**‘Physical and biological’ genocide**]
- b. In this Convention, genocide means any of the following deliberate acts committed with the intent to destroy a national, racial, religious or political group, on grounds of the national or racial origin, religious belief or political opinion of its members:
  - i. Killing members of the group
  - ii. Impairing the physical integrity of members of the group
  - iii. Inflicting on members of the group measures or conditions of life aimed at causing their deaths
  - iv. **Imposing measures intended to prevent births within the group.**
- c. Article 3 [**‘Cultural’ genocide**]
- d. In this Convention, genocide also means any deliberate act committed with the intent to destroy the language, religion or culture of a national,

racial or religious group on grounds of the national or racial origin or the religious belief of its members such as:

- i. Prohibiting the use of the language of the group in daily intercourse or in schools, or the printing and circulation of publications in the language of the group
- ii. Destroying or preventing the use of libraries, museums, schools, historical monuments, places of worship or other cultural institutions and objects of the group.

162. Later iterations developed from this first draft ended up with the formulation in the Genocide Convention (copied in most statutes although some national statutes criminalising genocide have amended or extended the definition):

a. **Article 2**

- b. In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:
  - (a) Killing members of the group
  - (b) Causing serious bodily or mental harm to members of the group
  - (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part
  - (d) Imposing measures intended to prevent births within the group
  - (e) Forcibly transferring children of the group to another group.

163. Given that ‘destroy’ in the Genocide Convention as finally formulated is not defined and that there has been limited consideration by courts of the prohibited acts set out in the Convention except in regard to killing, causing serious bodily and mental harm, and deliberately inflicting conditions of life calculated to destroy members of the group, the Tribunal considers that it might be prudent to have in mind how biological destruction was first narrowly conceived—even if lawyers tell the Tribunal that it should not.<sup>35</sup>

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<sup>35</sup> It is unclear to the Tribunal how, although ‘cultural genocide’ (specifically including ‘**forcible transfer of children to another human group**’) in the *first* draft was excluded altogether in *second* and subsequent rounds of drafting the Convention, ‘**Forcibly transferring children of the group to another group**’ reappeared in the limited list of five acts in the final adopted version: wholly unexplained as to what form—physical or biological or other—of destruction it might now be.

164. Legal scholars and practitioners often enough argue that there is actually little *need* for the crime of genocide when the present formulation of crimes against humanity usually covers all acts that might constitute genocide and crimes against humanity are equally as serious. The only real difference is the particular intent—state of mind—of the potential offender or offending state. Without *adopting* this argument, the Tribunal can observe that it might be unwise to venture into territory where the law is not *absolutely* clear if that lack of clarity<sup>36</sup> might be used to attack the Tribunal’s Judgment and deflect attention from matters of substance that can be dealt with, if at all, as crimes against humanity.

Andrew Khoo (transcript of evidence):

<https://uyghurtribunal.com/wp-content/uploads/2022/07/UT-210913-Andrew-Khoo.pdf>

Legal Directions by Counsel to the Tribunal Hamid Sabi, Aarif Abraham; Aldo Zamit Borda:

<https://uyghurtribunal.com/wp-content/uploads/2022/09/UT-Legal-Directions-Applicable-Law-AA-04.10.2021-Final.pdf>

## **FURTHER CONCLUSIONS NOW FOCUSED ON LEGAL ISSUES**

165. The Tribunal, having reviewed all evidence and made primary findings of fact, considered relevant topics in isolation as set out above, followed relevant parts of the legal advice it has received and reached the following conclusions:

### **TORTURE**

166. The Tribunal has considered acts by which severe pain or suffering, whether physical or mental, qualifying as torture have been recorded by every witness giving evidence about detention centres throughout Xinjiang, the failure of any recorded discipline or control of those reported over time as having tortured detainees and those being interviewed, together with the general evidence of top-down control in *all* matters—and is satisfied beyond reasonable doubt

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<sup>36</sup> For discussion of who benefits from lack of clarity in the law, see Appendix 34, ‘Law’, at paragraphs 940–960 below.

that torture has been inflicted throughout the period leading up to 2021, by or at the instigation of, or with the consent or acquiescence of, public officials or other persons acting in official capacities of the PRC Government and/or CCP.

## **CRIMES AGAINST HUMANITY**

167. For acts to constitute crimes against humanity, they have to be part of a widespread and systematic attack directed against a civilian population, with knowledge of the attack.
168. First, was there—is there—an attack on the Uyghurs? Could it simply be that bad things happened to lots of people in the PRC—intense surveillance, being sent to detention centres, being forced to undergo abortions or sterilisation operations—and the Uyghurs were just part of the suffering general public? The number of Uyghurs detained, the number of mosques and graveyards destroyed or rendered unfit for purpose, the sterilisations and abortions, the repression of use of language and practice of religion and the separation of Uyghur children from their parents all show that there was, indeed, an attack on the Uyghurs wholly without justification, even if some of them had sought separation from China and even if some Uyghurs had perpetrated acts of violence, as happened by way of example as in the years 1997–2000 and later in Ürümqi in 2009 and in the Kunming train attack of 2014.
169. Second, was that attack widespread and systematic? The phrase ‘widespread’ refers to the large-scale nature of the attack and the number of targeted persons, while the phrase ‘systematic’ refers to the organised nature of the acts of violence and the improbability of their random occurrence. The attack on the Uyghurs has covered a wide geographical area, with the construction of detention centres, the destruction of mosques and the interference in the lives of Uyghurs occurring across the entire region. The attack has been dispersed across the XUAR but has been particularly concentrated and impactful in the southern area of Xinjiang, which is majority populated by Uyghurs. The attack has been highly organised and systematic, including the deployment of an all-pervasive technology-based surveillance system, including the Integrated Joint Operating Platform (IJOP), which monitors—by means of artificial intelligence as well as human intervention—every facet of Uyghur life; it is hard to conceive of something more systematic as a means to launch an attack.

170. Reviewing the 11 qualifying acts for crimes against humanity:

- a. **Murder**: requires proof that the act or omission was committed with intent to kill or cause serious bodily harm to one or more persons. There have been deaths in the penal system caused by neglect, withholding of medical treatment, torture and rape and sexual violence; however, the Tribunal is unable to attribute the necessary mental state that these deaths were deliberately intended. The fact that they occurred must reflect that the PRC Government has treated those in its custody with callousness, brutality and cruelty; however, absent proof of intent, the crime against humanity of murder is not proved.
- b. **Extermination**: requires proof that killings constituting murder occur on a mass scale. 'Mass scale' refers primarily to the number of killings but does not suggest a numerical minimum. There is no evidence of mass killing; therefore, the crime against humanity of extermination is not proved.
- c. **Enslavement**: requires the exercise of any or all powers attaching to ownership over one or more persons, such as by purchasing, selling, lending or bartering. The Tribunal is satisfied that there is evidence of large numbers of people being forced or coerced into labour in factories and other work establishments both within the Xinjiang region and into 'mainland' China, but there is no evidence of the exercise of ownership over individuals by, for example, trading them. Therefore, the crime against humanity of enslavement is not proved.
- d. **Deportation and forcible transfer**: forcible transfer being the forcible or coercive displacement of persons from the area in which they are lawfully present, without grounds permitted under international law to another location. The Tribunal received evidence of large-scale forced or coercive labour transfers, of villages being knocked down without owners' or occupiers' consents and occupants being relocated, sometimes considerable distances. The crime against humanity of deportation or forcible transfer of population is therefore proved beyond reasonable doubt.
- e. **Imprisonment or other severe deprivation of physical liberty**: in violation of fundamental rules of international law. The evidence of a million or many more being imprisoned without any, or any reasonable, cause and without any or any proper process leaves the Tribunal satisfied beyond reasonable doubt that the crime against humanity of imprisonment or severe deprivation of physical liberty is proved.

- f. **Torture**: see above for torture as a free-standing international crime, for which the test is similar to the test appropriate for crimes against humanity. The Tribunal is satisfied beyond reasonable doubt that the crime against humanity of torture is proved.
- g. **Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation and any other form of sexual violence**: rape being sexual penetration, however slight, of the vagina or anus of the victim by the penis of the perpetrator or any other object used by the perpetrator where such sexual penetration occurs without the consent of the victim. The definition of rape may also encompass ‘invasion’ of any part of a victim’s body. The perpetrator must intentionally commit the act being aware that the victim does not consent to the act. The Tribunal is satisfied beyond reasonable doubt that the crime against humanity of rape and enforced sterilisation, which may include other forms of sexual violence, is proved.
- h. **Persecution**: being acts that discriminate in fact and deny fundamental human rights laid down in international law and are carried out with the intention to discriminate on political, racial, ethnic or religious grounds against any identifiable group or collectively, which are universally recognised as impermissible under international law. Evidence of economic deprivation and/or discrimination of a personal nature, plunder of property, discriminatory judicial and legal practice, restrictions placed on family life, exclusion from certain professions, restrictions placed on rights of citizens coupled with attacks on a civilian population, seizure, collection, segregation and forced transfer of civilians to camps all constitute acts of persecution. The Tribunal is satisfied beyond reasonable doubt that the crime against humanity of persecution is proved.
- i. **Enforced disappearances**: being the arrest, detention or abduction of persons by, or with the authorisation, support or acquiescence of a state or a 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 the law for a prolonged period of time. The Tribunal received overwhelming evidence of multiple cases of people missing or disappeared in some cases involving all or most of a family’s members. The Tribunal is satisfied beyond reasonable doubt that the crime against humanity of enforced disappearance of persons is proved.
- j. **Apartheid**: the Tribunal did not consider this crime, incompletely articulated in legal authorities to date.
- k. **Inhumane acts**: being the infliction of great suffering or serious injury



to body or to mental or physical health by means of an inhumane act. These crimes are in a ‘residual category’, which encompasses acts not specifically enumerated. The Tribunal received evidence that it could include within this category, including the forcible imposition of Han people into Uyghur family homes; the pervasive surveillance systems installed throughout the region, rendering it an open-air prison; the destruction of mosques and cemeteries; the repression of religious and cultural expression; and forced or coerced marriages. The Tribunal is satisfied beyond all reasonable doubt that the crime against humanity of other inhumane acts is proved.

171. Further, in light of the public way Uyghurs were discriminated against overall, for all facts proved, the Tribunal is satisfied beyond reasonable doubt that perpetrators knew of the widespread or systematic attack against the Uyghur part of the population and that their acts were part of that attack, even if they may not have had *detailed* knowledge of it or shared its purpose.

## **GENOCIDE**

172. Recalling (see paragraphs 160–171 above) that:

- a. There has been limited consideration by courts of the prohibited acts set out in the Genocide Convention except in regard to killing, causing serious bodily and mental harm and deliberately inflicting conditions of life calculated to destroy on members of the group
- b. ‘Biological’ destruction’ has not been adequately and definitively defined
- c. There is no legal authority on how to approach multiple and mixed intents and acts—that is, how to deal with any circumstance where an intention to achieve destruction by one method is delivered by another.

173. For genocide, proof is required of:

- a. Certain prohibited acts being committed with an intent to destroy (physically or biologically), in whole or in part, a protected group, as such—the protected groups being national, ethnical, racial or religious groups and no others.
- b. The protected group being a collection of people with a particular group identity that must be defined positively and have unique distinguishing characteristics either objectively or subjectively ascertained.

174. Recalling:

- a. The intent, or *mens rea*, required for genocide is a specific intent to destroy, in whole or in part, a protected group, as such. This specific intent distinguishes genocide from other international crimes as it requires that the perpetrator is targeting an individual *because* they belong to the protected group rather than as an individual *per se*.
- b. The specific intent must be directed at the destruction of the protected group. The destruction need not objectively occur but merely be intended.
- c. Specific intent to destroy may be found in direct oral and/or written statements made by perpetrators advocating for the destruction of a protected group.
- d. Ordinarily, 'other culpable acts' do not constitute prohibited acts, but they may be considered as evidence pointing towards the specific intent of a perpetrator to destroy the group. In short, and utilising a popular formulation, 'the whole is greater than the sum of its parts'.

175. Remembering in particular that:

- a. The existence of a plan or policy is not a legal element of, nor a requirement for, the crime of genocide but it *may* become a possible relevant factor to prove the specific intent.
- b. Motive is generally irrelevant.
- c. Intent (i.e., a psychological state of mind) must attach to the commission of crimes.
- d. Policies or motives *may* be achieved through the commission of crimes.
- e. It is sufficient that a perpetrator's specific intent is directed at the destruction of the group 'in part' as opposed to the whole. Where only part of a protected group is targeted, that part must constitute a substantial part of that group such that it is significant enough to have an impact on the group as a whole. In determining substantiality, non-exhaustive considerations may include, as a starting point: the numerical size of the targeted part (absolute but also relative to the overall group).
- f. In imposing measures intended to prevent births within the group, the intended measures themselves, together with an intent to biologically destroy, would meet the legal elements for genocide; the actual consequences for future birth rates may not be necessary, although such consequences, if they happened, may be instructive for identifying a perpetrator's destructive intent.

176. The Tribunal finds, first, that it is incontrovertible that the Uyghurs are a distinct ethnic, racial and religious group and, as such, can be defined positively and as a protected group for the purposes of the Genocide Convention.
177. The Tribunal then considered, second, whether there is evidence establishing any or all the five prohibited acts, necessary for proof of genocide:
- a. **Killing:** there has been evidence of killings in various ways, but the evidence does not show it to have been carried out on a scale that could threaten the *destruction* of the group in whole or in part.
  - b. **Causing serious bodily or mental harm to members of the group:** there has been considerable harm, both mental and physical, done to this group, including by rape, torture, separation of the children from their families, destruction of their places of worship, suffocating surveillance, forced labour, razing of their homes, dehumanisation and persecution. But the Tribunal is unable to conclude that the state intended to *destroy* them by means of such harm.
  - c. **Deliberately inflicting on the group conditions of life calculated to bring about its destruction:** there has been systematic expulsion from homes; in prison, there has been withholding of medical attention and the provision of meagre amounts of food of poor nutritional value, rape and torture of prisoners; generally, there has been surveillance as a condition of life—in combination, acts that may and most likely have damaged the health and longevity of those to whom it is done; but the Tribunal was unable to conclude that this threatens the *destruction* of the group.
  - d. **Imposing conditions intended to prevent birth:** the PRC Government has put in place a comprehensive system of measures to ‘optimise’ the population in Xinjiang with a particular focus on the southern region, which is majority Uyghur populated. It has sought to rebalance the respective Han and Uyghur populations, increasing the former and reducing the latter by orchestrating in-migration of Han, out-migration of Uyghurs for labour purposes but, most effectively, by reducing the birth rates and population growth of Uyghurs. This may even result in a reduction of the *overall* population over time. The tools of its policy include sterilisation by removal of wombs, widespread forced insertion of effectively irremovable IUDs equating to mandatory sterilisation and forced abortions. These policies will result in significantly fewer births in years to come than might otherwise have occurred. The population of Uyghurs in future generations will be smaller than it would have been

without these policies. This will result in a partial destruction of the Uyghurs. In accordance with the Genocide Convention's use of the word 'destroy', this satisfies a prohibited act required for the proof of genocide but leaves unresolved whether the state *intended* this destruction and, if it did, whether the part to be destroyed was a sufficient part.

- e. **Forcibly transferring children;** the PRC Government has removed thousands, maybe hundreds of thousands, of children from the care of their families, sometimes with one or both of their parents imprisoned. These children, sometimes as young as a few months, have been placed in Han-run state institutions including boarding schools and orphanages. Some parents have not known where their children are or even whether they are alive or dead. These children have been removed not only from their homes and communities but also from their cultures. These acts are grave threats to the integrity of the Uyghur group and could be a means by which the state could effect its destruction over the longer term; but the law has not been sufficiently developed for the Tribunal to conclude that they qualify as one of the acts of intended destruction.<sup>37</sup>

178. The general caution exercised by the Tribunal in making determinations about genocide referred to at paragraph 163 above was especially active when the 'intention' element of the crime was considered. It is clear that 'destruction'—even articulated as 'physical and biological destruction'—does not have a unique meaning and it is easy to imagine circumstances where an intention to destroy by one means might be associated with an inconsistent destructive act, itself consistent with some *different* but unproved intention. The Tribunal has taken into account all of the policies and conduct concerning birth control measures exercised by the PRC Government and is satisfied beyond reasonable doubt that imposing measures to prevent Uyghur births matched the revealed *intention* of the PRC leadership's policies, explained at paragraphs 79–96 above—that had evolved into plans at every level of regional, local and community government—to reduce the Uyghur population, thereby to destroy it *to an extent* by birth control and sterilisation.

179. Thus, and so far:

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<sup>37</sup> The fact that 'forcible transfer of children' was included in the first draft of the Genocide Convention in 1947 under 'cultural genocide', was missing from subsequent drafts but then reappeared under a (presumed) different category of genocide reinforces the Tribunal's caution. It is unfortunate that definition sections were not a part of the Convention.

## IN THE JUDGMENT OF THE UYGHUR TRIBUNAL:

180. **Torture** of Uyghurs attributable to the PRC Government is established beyond reasonable doubt.
181. **Crimes against humanity** attributable to the PRC Government is established beyond reasonable doubt by acts of deportation or forcible transfer, imprisonment or other severe deprivation of physical liberty, torture, rape and other sexual violence, enforced sterilisation, persecution, enforced disappearance and other inhumane acts.
182. As to **genocide**, and as will be clear from paragraphs 176–178 above, all elements of an intended genocide to be accomplished by a Genocide Convention-listed act imposing measures to prevent births within the group are established, subject only to whether the ‘part’ subject of the intended destruction would qualify. If the ‘part’ is sufficiently large, then genocide would be proved.
183. The Tribunal recognises that this may be the first public evidence-based determination of a genocide under Article II(d) of the Genocide Convention (or of crimes under statutes in similar terms).
184. The Tribunal would, as a whole, prefer *not* to make such a finding and to allow findings of genocide in law to match more closely the likely general public understanding of the word.
185. The Tribunal recognises that a finding of genocide based on control of childbirth may even seem to some close to lawful management by governments of societies elsewhere; in the back of some minds might be awkward and uncomfortable considerations of worldwide unsustainable population growth.
186. Between 1945 and 1948, men and women who had had experience of one, and usually two, world wars and wanted to save us from the worst that we could do to ourselves, drafted, among other things, the Universal Declaration of Human Rights and the Genocide Convention. In the drafting process of the Convention, other possible modes of genocide—for example, of political groups—were decidedly left out, but ‘imposing measures intended to prevent births’ was decidedly left in. It would be defiant of the wisdom of those men

and women, whose experience of the worst of humanity was *personal*, *not* to find a breach of the Convention *if* one is proved.

187. The Tribunal feels some unease about making findings of this crime on the basis of evidence that links the crime to the very highest political figure of a country. It would seem altogether more appropriate for such things to be dealt with by governments or international organisations.
188. However, governments have no courage to do such things; neither does the UN where a powerful state is involved.
189. Thus, it falls to this Tribunal to make clear on the basis of the findings above that the ‘unborn’ part of the Uyghur ethnicity of Xinjiang—calculated by consideration of the likely numbers of Uyghurs in years to come measured against the likely number of Uyghurs there *would* have been had the Uyghurs not been treated in the way they were by measures to prevent births—constitutes a ‘substantial part’ for purposes of the Genocide Convention.
190. Accordingly, on the basis of evidence heard in public, the Tribunal is satisfied beyond reasonable doubt that the PRC Government, by the imposition of measures to prevent births intended to *destroy* a significant part of the Uyghurs in Xinjiang, as such, has committed genocide.
191. This Judgment, with no evidence of any *mass* killing, *may* be thought to diminish the perceived status of genocide as a crime. In one way it *may* do that—if so, in *one* way, that is not *necessarily* a bad thing. The use of superlatives—‘world’s gravest crime’ and hyperbole—‘crime of crimes’—when attached to tragedy brings public attention, sometimes at a cost to other tragedies able to attract less attention despite being as serious. The suffering of the Uyghurs has attracted public attention by superlative and hyperbolic expressions of concern for reasons that may not be entirely clear. Other suffering that *has* included large scale killings—of those without religious affiliation killed in North Korea, of the Christians killed in Nigeria or of Yazidi men and women in Syria—but with no or less ability to have the label ‘genocide’ attached to their suffering have found it harder to gather public sympathy and support. In addition, *most* of those affected in Xinjiang, it should be recalled, are still alive, and their lives may, at some stage, improve beyond how they presently are.

192. Further, in truth, genocide is *not* necessarily the worst of all possible crimes: activating a dirty bomb in a city might not be genocide despite the death and devastation it would cause; the ‘Twin Towers’ attack was terrorism but not genocide.
193. Why should what has been happening to the Uyghurs be taken so seriously?
194. The Genocide Convention was concerned, at its creation in 1948, with the survival not of individuals but of groups—of national, ethnic, racial and religious groups. It looked *forward* to how they might be saved from destruction and to stimulating actions in support of their existence even before a first act of destruction may have occurred. That ambition, it might be thought, is as important today as then. Ours is a world of many nations, ethnicities, races and religions, all of which are entitled to survive, all of which are supported by the Universal Declaration of Human Rights,<sup>38</sup> none of which is to be extinguished.
195. But some might say that what happens in Xinjiang is merely the encouragement to assimilation of groups, assimilation being something that has happened naturally throughout recorded history and that, for the PRC, might bring greater security of borders and a country of single character. Such thinking might be misguided, given the experience of so many ethnicities to survive despite attack, but assimilation by ‘encouragement’/force would set at nought

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<sup>38</sup> Article 1 All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2 Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3 Everyone has the right to life, liberty and security of person.

Article 15 (1) Everyone has the right to a nationality. (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

**Article 18 Everyone has the right to freedom of thought, conscience, and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.**

the value of diversity experienced everywhere in everything humans do and how they live.

196. Even without Dr Zwaan’s important observation about how long *murderous* genocides may take to develop, it can be said that the method of genocide identified in this Judgment—a genocide, the intention for which is evidenced by other crimes of humanity and the use of torture—is indeed grave. Even if some of the surrounding support for the Uyghurs—in governments and parliaments and the media—may have been driven, in part, by envy of China’s success or by fear of China or its unfamiliar political system, to many in the West, their support was justified.
197. The Tribunal, nevertheless, makes no recommendations.
198. The Tribunal has no power of any kind to sanction the PRC Government or individuals in the PRC. It assumes politicians, civil society, non-government organisations (NGOs) and powerful individuals who may have some powers of sanction and who can make their voices heard on issues to which this Judgment may relate will do so. Much of the material dealt with by the Tribunal has been, for some time, in the public domain from other sources, and it could reasonably have been *expected* that governments, organisations and businesses interacting with the PRC will have *already* factored in what was revealed in that material and now in this Judgment.
199. It is worth recalling that the US government, through Secretary of State Pompeo and his successor Secretary of State Blinken, *have* asserted genocide has been occurring, although without revealing evidence or reasoning on which the assertion is based. Some sanctions *have* been imposed by the USA, the European Union (EU), the UK and other countries in respect of human rights abuses by the PRC Government,<sup>39</sup> but these sanctions have been imposed without a clear link to the undertaking in Article I of the Genocide Convention to prevent and to punish *at the instant* a state learns of, or should have learned of, a serious risk that genocide will be committed.

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<sup>39</sup> The EU, UK and Canada imposed sanctions on Chinese officials and entities for human rights violations in Xinjiang. The EU targeted four Chinese officials, along with the Xinjiang Public Security Bureau. The UK and Canada did the same. The USA placed sanctions on top Chinese officials as part of a multinational effort to punish Beijing for human rights abuses against the largely Muslim Uyghur minority group.



200. Staying with the accusers, those several parliaments that found genocide by the PRC Government reached accurate conclusions even *without* the weight of evidence considered by the Tribunal. Perhaps governments of *their* countries that have *not* acted under their Genocide Convention undertakings should now be more respectful of their legislators' opinions.
201. It is unfortunate that no efforts have been made by those or other countries to have the issue dealt with at the ICJ, as might happen if a country had the courage to take the matter there notwithstanding the PRC's reservation concerning that court's jurisdiction. Maybe the reservation would now be found *not* to be of effect; maybe the PRC, if confident of its position, would not want to hide, as if in shame, behind the reservation.
202. From the PRC Government's and CCP's points of view, there is no appeal from the Judgment of this people's tribunal—or from the other opinions adverse to the PRC. They all stand unless corrected.
203. China is one of the oldest continuous civilisations existing today and yet it faces determinations supported by evidence that would show it to be—in part—that its government—not its people—is wholly wicked. The determinations cover a period when the PRC has been establishing itself as the most powerful nation on earth, or soon to be the most powerful. It is the most populous and perhaps the most financially successful of nations. Was conduct of which the Tribunal has heard and read *necessary* for it to achieve what is clearly within its ambitious grasp? Might China, instead, have achieved all it seeks—and to have become a country to envy, emulate and admire—*without* being in its approach towards the Uyghurs, as this Judgment reveals, *uncivilised*? May what the Tribunal has been dealing with have been avoidable, unnecessary human tragedy—sad in the extreme for all observers to behold—devastating and worse to have experienced as victim. Could the wonderful, diverse entity of China have expected better of itself? Could we have expected better of China?
204. The PRC is said to want to expand its influence economically and by other means. It has—within grasp—an even greater power to influence the world by submission of its actions to the world's highest courts (the ICJ and the ICC); it would be leadership by *example*: a willingness to expose conduct of state or individuals to international public review, something the rest of the

world's *citizens* might want even if something that their own governments—especially if governments of large and powerful states—might fear.<sup>40</sup>

205. Before the PRC Government should reject the idea, given the worldwide concerns about treatment of the Uyghurs and other Turkic Muslims and now this Judgment, might it on behalf of its 1.4 billion citizens, consider just what those in *other* countries who buy T-shirts of cotton coming from Xinjiang, computers from other parts of China and so on must think of a country that fears its own people using their intellects freely; applies barbaric methods of torture to people as if hoping to change their minds for good; or perhaps just to get them to conform for a time through fear; squashes a million and more of its people together into cells so small they cannot all even lie down to rest; so coarsens its citizens working in detention centres as to allow women citizens to be raped or gang-raped and men to be raped when in the custody of the state.
206. Those not from China understand that preserving what in translation is called ‘face’ is of critical importance to all in China, leaders and followers. Does the PRC Government think this conduct does anything to preserve ‘face’ and dignity? Does it think those from foreign lands will be unaffected by the truth that has emerged and emerges further in this Judgment? Will its leaders—and its citizens—really keep ‘face’ as these facts are ever better known?<sup>41</sup> Might its own citizens prefer to see this Judgment and other opinions adverse to the PRC subject to international scrutiny?
207. The Tribunal’s work—lasting a little over a year and accomplished with *pro bono* or lightly paid researchers and otherwise wholly dependent on the unpaid contributions of very many people—has been comparatively straightforward. It is work that has been done in the shortest time possible because it is recognised that making public gross wrongs committed in other countries *can* have positive effects even without actual government-to-government or UN-to-government confrontation. It is work, the product of

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<sup>40</sup> It is always the biggest and most powerful countries—such as China, Russia and the USA—that appear to want supervision to be of other countries while their own escape oversight—as the USA did with any criminality in Vietnam or Russia for the great famine. Until this immunity and impunity end any well-ordered world order remains for the mere citizen a distant dream.

<sup>41</sup> After WWII, German citizens, even those born after the war ended, were for many decades to live personally burdened by Germany’s national shame.

which *may* now limit the brutality of crimes against humanity and genocide demonstrated in various forms, may save lives, may allow the unborn to be born, may save women from having their ability to give life brutally destroyed. Once *needing* to be done, as the work done by the Tribunal was, it had to be done urgently.<sup>42</sup>

208. A final reflection: if rights are truly universal, they are matched by *universal* duties. And those duties are personal. Not only is your right as an immediate neighbour your neighbour's duty to uphold, but your neighbour's right—even on the other side of the planet—is similarly your duty to uphold, if ever possible. International bodies, nation states and big NGOs deliver some parts of the citizen's duty, but that does not mean that personal duty, to be honoured citizen-to-citizen wherever possible, does not exist. That personal duty *can* be delivered in part through the ballot box that elects leaders who do, or often do not, respect and support the rights of citizens everywhere. The personal duty includes choices of how and where to deploy influence, of how to spend money and time, of where to study and with whom. If the citizen is left—by governments or other bodies that avoid finding and revealing certain truths—uncertain about events near or far away, a citizen's duty that might be activated is suppressed. That is why, when governments avoid the Genocide Convention undertaking, it is appropriate for citizens, as in this Tribunal, to do what governments fear to do, which is no more than to fill a gap in knowledge that could and should have been filled by others.
209. The Tribunal has respected the PRC and its people, recognising that there are significant differences of culture between them and citizens of Western democracies, differences in the approach of PRC citizens to authoritarian government even to the point of accepting levels of government violence against its own citizens. It has, accordingly, considered only the clearest breaches of international standards and law to which the PRC Government is fully committed, acting with caution and care to reach its decisions.

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<sup>42</sup> It is worth observing how the same work could have been done much more swiftly, thus to achieve earlier and perhaps greater good, by teams of paid employees working for, for example, a UK Government ministry. Might government capacity and resources have been better used than by challenging even the *possibility* of making a genocide determination at all, as happened when resisting an amendment to the UK's Trade Bill in 2021 that would have outlawed *any* trade agreement with a genocidal state?

210. Maybe the public, whom the Tribunal serves—better informed of world affairs if less experienced in the realities of war than the drafters of the 1948 documents—would have more concern for victims in far off lands than their leaders might expect. Maybe *they* could see sense in having a document easier to apply than the Genocide Convention, such as a convention to prevent crimes against humanity, to drive their own countries to act *without delay* when a million and more are interned in order for their minds, born free, to be trained to follow a single line of thinking, their bodies to be at the disposal of those who would rape or torture, their rights to bring new life into the world curtailed not just in the genocidal way identified but by effective separation of the sexes though forced labour, by their children created in human relationships lost not through death but through non-human alienation achieved by being entered into a model making machine. Maybe they, more than their political leaders and international bodies, know that wherever and whenever gross human suffering occurs, action must follow. From the needless suffering of fellow citizens anywhere in the world, it can never be right to look away.<sup>43</sup>

Sir Geoffrey Nice (Chair)

Nick Vetch (Vice-Chair)

Tim Clarke

Professor Raminder Kaur

Professor Dame Parveen Kumar

Professor David Linch

Professor Ambreena Manji

Professor Audrey Osler

Catherine Roe

CHURCH HOUSE WESTMINSTER 9 December 2021

*In the 'transformation-through-education' camps, life and death do not mean the same thing as they do elsewhere. A hundred times over I thought, when the footfalls of guards woke us in the night, that our time had come to be executed. When a hand viciously pushed clippers across my skull, and other hands snatched away the tufts of hair that fell on my shoulders, I shut my eyes, blurred with tears, thinking my end was near, that I was being readied for the*

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<sup>43</sup> 'Never look away' is a phrase borrowed from the title of a Florian Henckel von Donnersmarck film, without other thematic connections being implied.

*scaffold, the electric chair, drowning. Death lurked in every corner. When the nurses grabbed my arm to ‘vaccinate’ me, I thought they were poisoning me. In reality, they were sterilising us. That was when I understood the method of the camps, the strategy being implemented: not to kill us in cold blood, but to make us slowly disappear. So slowly that no one would notice.*<sup>44</sup>

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<sup>44</sup> Haitiwaji, G. & Morga, R. (2021). *Rescapée du Goulag Chinois [Survivor of the Chinese Gulag]*. Editions des Equateurs; see also:

<https://www.theguardian.com/world/2021/jan/12/uighur-xinjiang-re-education-camp-china-gulbahar-haitiwaji> (quoted in the Holocaust Memorial Museum Report)

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## APPENDIX 1

# A Short Note on the History of the Term ‘Genocide’, its Use and Misuse

211. In recent decades, the word ‘genocide’ has become common currency in many languages of many or most countries around the world. It is a term now difficult to use accurately in light of several conflicting legal cases dating from 1993, competing theories of legal academics and a desire by some academics and lawyers to see the present legal definition broadened.
212. The history of development of the term is rarely explained for its full significance.
213. The term, originally a sociological concept, was coined by Raphael Lemkin in the course of WWII.
214. Lemkin gave a sociological meaning to his term and participated in the formulation of the subsequent criminal definition set out in the Genocide Convention).
215. The 1915 massacre of Armenians by the then–Ottoman Empire motivated Lemkin to coin the term ‘genocide’. For a helpful narrative, see: Powers, S. (2002). *A Problem from Hell: America and the Age of Genocide*. Harper Collins).
216. Lemkin was thwarted in his attempt to have the term ‘genocide’ cast as a crime in the Charter of the International Military Tribunal that defined crimes to be charged at the Nuremberg trials, although the word featured as a term of description in the indictments and in speeches of prosecutors.



217. Lemkin saw how the Judgment of the Nuremberg Tribunal limited crimes against humanity to acts committed in wartime and did not cover crimes committed in peacetime (before the war started). Thus interpreted, crimes charged at Nuremberg could not serve to bring a nation or its leaders to book for any crimes—such as extermination of the Jews—committed against a state’s own citizens in peacetime. The Tribunal’s Judgment made this clear by only convicting Nazi Germany’s leaders in respect of acts of extermination/genocide where those acts were linked to a ‘war crime’ (see Schabas, W. (2012). *Unimaginable Atrocities*. Oxford University Press, pp. 106–111).
218. This led to Lemkin’s determination to have the UN adopt the Genocide Convention that he helped to draft. It was adopted by the UN in 1948 and came into force in 1951 once 20 countries had ratified or acceded to it.
219. By 2019, some 152 states had ratified or acceded to the Genocide Convention to become ‘Contracting Parties’. Contracting Parties confirmed ‘that genocide, whether committed in time of peace or in time of war is a crime under international law which they undertake to prevent and to punish’.
220. In due course, genocide became a defined crime in many international and national criminal statutes.
221. However, the first conviction for genocide only occurred 50 years after the Genocide Convention was adopted on 2 September 1998. On that day, at the ICTR, Jean-Paul Akayesu was found guilty of genocide and crimes against humanity for acts he engaged in and oversaw while mayor of the Rwandan town of Taba.
222. Subsequently, genocide—by both its sociological and legal meanings—has attracted public attention and concern, possibly due to it being rooted in conception of the Holocaust of the Jews (*not* the Armenian massacre that first engaged Lemkin).
223. This short history of one person—Raphael Lemkin—*single-handedly* having a term he created used as a descriptor at the major Nuremberg trials, adopted by the UN in the Genocide Convention and then becoming an identifiable punishable crime in various national and international statutes—even the ‘crime of crimes’—adds to its power to generate emotional response. In a way, for many, it is *Lemkin’s* achievement and *Lemkin’s* crime.

224. And yet, as it happens, the crime of ‘crimes against humanity’ has a longer, less narrow and non-personalised etymology and, when *properly* considered, *can* cover all the actions nowadays considered as genocide.
225. It is only the mental state element to be established in the mind of the person committing genocide that is unusual, very specific and—indeed—hard to prove. The mental state in someone else committing the very same acts could, in theory, be different—non-genocidal—but no less wicked and justify conviction of no less criminal ‘crimes against humanity’.
226. Yet, ‘crimes against humanity’ generates nothing like the same emotional response as ‘genocide.’
227. International humanitarian law (IHL), also referred to as the ‘laws of armed conflict’ and of which the crime of genocide and crimes against humanity are important parts, is the law that regulates the conduct of war. To some who believe there is, or has until recently been, a global world order of IHL, or of human rights law,<sup>45</sup> it comes as a surprise to discover that the great powers never wanted the Genocide Convention to be passed and did not ratify it for decades.
228. The 1947–1948 drafting history of the Genocide Convention is of some interest and significance. William Schabas, as long ago as 2008 for the Audio-Visual Library of International law, provided this helpful summary:
- a. Drafting of the Convention proceeded in three main stages. First, the United Nations Secretariat composed a draft text. Prepared with the

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<sup>45</sup> See International Committee of the Red Cross (ICRC) for a summary of the relationship between IHL and human rights law, including: ‘IHL, the origins of which are ancient, was codified in the second half of the 19th century, under the influence of Henry Dunant, the founding father of the International Committee of the Red Cross’; ‘Human rights law is a set of international rules, established by treaty or custom, on the basis of which individuals and groups can expect and/or claim certain rights that must be respected and protected by their States’; see:

<https://www.icrc.org/en/document/what-difference-between-ihl-and-human-rights-law>

IHL and international human rights law are complementary bodies of international law that share some of the same aims. Both IHL and human rights law strive to protect the lives, the health and the dignity of individuals, albeit from different angles—which is why, while very different in formulation, the essence of some of the rules is similar.

assistance of three experts, Raphael Lemkin, Vespasian Pella and Henri Donnedieu de Vabres, it was actually a compendium of concepts meant to assist the General Assembly rather than any attempt to provide a workable instrument or to resolve major differences. Second, the Secretariat draft was reworked by an Ad Hoc Committee set up under the authority of the Economic and Social Council. Finally, the Ad Hoc Committee draft was the basis of negotiations in the Sixth Committee of the General Assembly, in late 1948, which agreed upon the final text of the Convention, submitting it for formal adoption to the plenary General Assembly.

- b. Certain aspects of the drafting history of the Convention have figured in subsequent interpretation of some of its provisions. For example, the definition of genocide set out in article II is a much-reduced version of the text prepared by the Secretariat experts, who had divided genocide into three categories, physical, biological and cultural genocide. The Sixth Committee voted to exclude cultural genocide from the scope of the Convention, although it subsequently agreed to an exception to this general rule, allowing 'forcible transfer of children from one group to another' as a punishable act.
- c. The Genocide Convention was the first human rights treaty adopted by the General Assembly of the United Nations. It focuses attention on the protection of national, racial, ethnic and religious minorities from threats to their very existence. In that sense, it sits four-square within the priorities of both the United Nations and the modern human rights movement, aimed at the eradication of racism and xenophobia. Furthermore, it stresses the role of criminal justice and accountability in the protection and promotion of human rights.
- d. In its report to the United Nations Secretary-General in January 2005, the International Commission of Inquiry on Darfur insisted that crimes against humanity might, in some cases, be just as serious as genocide. Its comments highlighted what is often a sterile debate about whether to characterise acts as genocide or as 'mere' crimes against humanity. Indeed, crimes against humanity was the label attached to the Nazi atrocities at Nuremberg, and it remains one of the 'most serious crimes of concern to the international community as a whole' listed in the Rome Statute of the International Criminal Court. Nevertheless, alongside the legal definition of genocide, rooted in the 1948 Convention and confirmed in subsequent case law, there is a more popular or colloquial conception. In practice, this lay understanding of genocide is more akin to crimes against humanity, in that it comprises a broad range of mass atrocities.

229. In final form, the Genocide Convention reads, so far as relevant to the Tribunal's work:

### **Article 1**

The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

### **Article 2**

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.<sup>46</sup>

230. The undertaking by states given in Article 1 is—or should be—of great value to mankind, *requiring* states, as it does, to act *whenever* there is a risk of genocide or when genocide is happening.

231. Since its creation, however, the undertaking has been denied some or most of its effect due to the failure of states to respond to the imperative of Article 1. In the case of the UK and other countries, respect for the Genocide Convention has been avoided by a recurring tactic of positing that only judges can determine whether genocide is or has been happening despite there being, in effect, no judge able to make such a determination in any recognised national or international judicial process or court.

232. In 1951, the ICJ delivered an ‘Advisory Opinion Concerning Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide’<sup>47</sup>.

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<sup>46</sup> Although not often mentioned, there is in the Genocide Convention the potential for any party bringing an application to the ICJ to make a request under Art. XVI ‘... *for the revision of the present Convention ... by means of a notification in writing addressed to the Secretary General. The General Assembly shall decide upon the steps, if any, to be taken in respect of such request*’.

<sup>47</sup> The Opinion included: ‘The principles underlying the Convention are recognised by civilised

However, no alleged genocide was charged anywhere during the Cold War. The crime featured in international statutes of the *ad hoc* Tribunals for the Former Yugoslavia and Rwanda in 1993; it was, then and thereafter, charged in respect of killings committed in various conflicts.

233. From the mid-1990s on, the term started to draw general application, especially when used as a label by celebrities and others seeking attention to, and support for, particular victims of alleged state persecution.<sup>48</sup>
234. Government leaders remained cautious about the term, *occasionally* allowing themselves to use it, or deciding tactically or instrumentally *not* to use it when circumstances mean that they *should*, but failure to use the term means action required of the government can be avoided.<sup>49</sup>
235. It may well suit both celebrities and others *informally* to label events as genocide *and* governments to accept a false binary distinction between the worst possible acts being genocide and anything less being little, or nothing, of concern.

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nations as binding on States even without any conventional obligation. It was intended that the Convention would be universal in scope. Its purpose is purely humanitarian and civilising. The contracting States do not have any individual advantages or disadvantages nor interests of their own, but merely a common interest. This leads to the conclusion that the object and purpose of the Convention imply that it was the intention of the General Assembly and of the States which adopted it, that as many States as possible should participate. This purpose would be defeated if an objection to a minor reservation should produce complete exclusion from the Convention. On the other hand, the contracting parties could not have intended to sacrifice the very object of the Convention in favour of a vague desire to secure as many participants as possible. It follows that the compatibility of the reservation and the object, and the purpose of the Convention is the criterion to determine the attitude of the State which makes the reservation and of the State which objects. Consequently, question I [Can the reserving State be regarded as being a party to the Convention while still maintaining its reservation if the reservation is objected to by one or more of the parties to the Convention but not by others?], on account of its abstract character, cannot be given an absolute answer. The appraisal of a reservation and the effect of objections depend upon the circumstances of each individual case.’

<sup>48</sup> For the role of celebrities’ use of the term ‘genocide’, see:

<https://scholarcommons.usf.edu/cgi/viewcontent.cgi?article=1059&context=gsp>

<sup>49</sup> For an article that draws together threads about the history and use of the term genocide by the US in particular but also by Tony Blair’s government, see:

<https://www.theatlantic.com/international/archive/2011/08/inside-colin-powells-decision-to-declare-genocide-in-darfur/243560/>

236. Those with informal power achieve something for a cause by labelling an event as genocide. The person—sometimes a film star or celebrity—who is no part of any government or official body using genocide as a label, brings to the labelled suffering group greater focus for themselves or enables civil society to put pressure on governments and thereby to have more of a particular type of power.
237. For states, a genocidal act—almost never *actually* found to be established by one government against another—*would* require immediate action under the Genocide Convention by the government itself and by all other governments of Contracting Parties to the Convention. No labelling—let alone any judicial finding—of genocide and the state can wash its hands of responsibility.
238. For those holding formal and informal power, failure to label particular events genocide can lead to disregard—however terrible may be the actual suffering and however grave the actual criminality of a state.
239. It would have helped, and would help now, if governments, courts and international bodies found a better way of describing genocide than by superlative adjectives, knowing that the adjectives themselves makes proving the named crime much harder. Maybe the victims and the general public would be rather more interested in knowing what happened, why and at whose hands if less time were spent arguing over a title and not over how best to stem unimaginable atrocities of *all* kinds, *however* named.
240. Strong currents of opinion have developed, on use *and* non-use of the term, some hoping for the definition of genocide to be expanded to include ‘cultural genocide’—as it did in the first-ever UN draft for the Genocide Convention. Overall, the public, with best intentions, may have been allowed or encouraged to use the term in an imprecise way.
241. The Judgment of this Tribunal deals with events in Xinjiang (regularly said to be genocidal) in a detached and objective way to decide whether what is shown to have been happening, or to be happening, is indeed genocide *according to law*. To do this, from the start, the Tribunal in its work has determined to make findings according to the strict legal definition of the law on genocide without fear of consequence and without being in any way able to seek to revise, amend or reinterpret the law.

242. The Tribunal's Judgment may help with such difficulties as have arisen from excessive or over-enthusiastic deployment of a term originally intended for use in the most strictly defined circumstances.
243. The Tribunal considers the following of paramount importance.
244. First, many wicked criminal acts—by states or individuals—can readily be characterised as genocide *and/or* as crimes against humanity without the choice of criminal term necessarily being in itself of great significance.
245. Second, the particular mental state required for genocide has been identified for all peoples of the world to use and to merit consideration and determination (proof) where appropriate. That exercise has been regularly avoided by governments but enthusiastically counted as satisfied by parliaments, celebrities and activists in particular causes.
246. Third, there may be a duty of government to make people understand what genocide is in law and what it is not.

## APPENDIX 2

# Uyghurs and the China Tribunal

247. The China Tribunal, an independent people's tribunal, was established in 2019 to inquire into allegations that the PRC Government was engaging in forced organ harvesting from Falun Gong practitioners and other prisoners of conscience, and what criminality, if any, was occurring (<https://chinatribunal.com/tribunal-charter/>).

248. The following paragraphs in the China Tribunal Judgment explain how the Uyghurs featured in that Tribunal's work and the findings:

8. Uyghurs living in Xinjiang, while not ETAC's [the International Coalition to End Transplant Abuse in China's] main focus, nevertheless feature significantly in this Judgment. Uyghurs are ethnically and culturally a Turkic people living in the area of Central Asia commonly known as East Turkistan that includes present-day Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan Uzbekistan and, currently, the Xinjiang region of China, which officially became part of Communist China in 1949. Separatist Uyghur groups sought independence and in the 1990s, open support for independence increased after the collapse of the Soviet Union and the emergence of independent Muslim states in Central Asia.

9. Tensions between the Uyghurs and the PRC escalated in 2009 with, by way of example, large-scale ethnic rioting in the regional capital, Urumqi, where some 200 people were killed in the unrest, most of them Han Chinese, according to PRC officials. In June 2012, six Uyghurs reportedly tried to hijack a plane from Hotan to Urumqi before they were overpowered by passengers and crew. There was bloodshed in April 2013 and in June that year 27 people died in Shanshan County after police opened fire on what state media described as a mob armed with knives attacking local government buildings. These accounts of possible violence by Uyghurs are



only of relevance for this Judgment because the definition of prisoners of conscience, in its original form, includes a restriction that such people do not advocate or condone personal violence; the PRC may argue that Uyghurs seeking independence do use personal violence.

10. ETAC was asked by the Tribunal what was their position on Uyghurs being ‘prisoners of conscience’. ETAC’s China Tribunal Steering Committee stated: ‘ETAC regards anyone who has been imprisoned/detained simply for being a member of the persecuted group in question as a prisoner of conscience. We therefore regard the vast number of Uyghur people in China who have been and are currently detained simply because they are Uyghurs, as prisoners of conscience. If individuals have been detained due to violent behaviour or incitement to violence each case would need to be judged in a court that abides by the principles of the rule of law, including the principle that no person, official, political party or government agency is above the law, to determine if that individual is guilty. Collective punishment on the basis of ethno-religious identity is a grave violation of fundamental human rights.’

11. Although the evidence concerning Uyghurs has been far less in quantity than the evidence about Falun Gong practitioners, the Tribunal has approached those Uyghurs about whom evidence has been given on the basis that they are prisoners of conscience.

465. There is insufficient evidence to make a conclusion of forced organ harvesting from the Uyghurs. But the vulnerability of the Uyghurs to the will of the PRC to establish and maintain complete control over them by incarceration is obvious. The vulnerability of the Uyghurs to being used as a bank of organs is also obvious.

249. Footnote 318 of the China Tribunal included the following:

The conclusions the Tribunal reached about Uyghurs have not been changed by material such as this [material not specifically considered by the Tribunal and coming to light after the Tribunal’s evidence hearings], but there can be little doubt that such material, and the very considerable number of reports about incarceration of and torturing of Uyghurs, makes even more pressing the need for their suffering past and present to be addressed with the utmost urgency.

## APPENDIX 3

# Duties of States

250. Certain crimes under international law—including genocide, crimes against humanity, torture, slavery, apartheid and racial discrimination—are such that, as a matter of international law, states *other* than states where the crimes may be being committed, *must* ensure they are not committed and, where possible, to prohibit such crimes and protect individuals from them.

251. In the case of alleged *genocide*, Article 1 of the Genocide Convention states:

The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

[See also Appendix 1 above]

252. To honour this *particular* undertaking, all parties to the Genocide Convention, including the UK, must first be able to identify genocides and potential genocides as they are occurring or when it is probable that they are about to occur. To be compliant, the World's highest court, the ICJ, has explained:

In fact, a State's obligation to prevent, and the corresponding duty to act, arise at the instant that the State learns of, or should normally have learned of, the existence of a serious risk that genocide will be committed.<sup>50</sup>

253. In light of these overall duties, governments might have been expected to establish procedures not only for identifying current or prospective genocides but *also* current incidents of crimes against humanity and to make their determinations public. However, no such procedures are known

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<sup>50</sup> Judgment of the ICJ in *Bosnia v Serbia* (para. 431):

<https://www.icj-cij.org/public/files/case-related/91/091-20070226-JUD-01-00-EN.pdf>

to exist. In the UK, by way of example, any *possibility* of having such a governmental procedure in respect of possible *genocides* has been eliminated by a government protocol—not in any way prescribed by the Genocide Convention—to the effect that only a judge can make a determination about genocide, although, as is well known, there is effectively no possibility of activating *any* judge in *any* system to make such a determination.<sup>51</sup> The UK Government’s determination to have, and stick by, this protocol—despite the many reports alleging genocide by the PRC Government and a unanimous vote in the House of Commons in 2021 that genocide *is* being committed—has allowed it to take no Convention-driven action in respect of the allegations about the Uyghurs. For the UK Government, the Convention might as well not exist.

254. Once allegations were raised about alleged genocide, alleged crimes against humanity or other alleged grave human rights abuses being committed by the PRC Government against Uyghurs—in the way these allegations have been raised—the issues *had* to be dealt with properly by someone—which is why this Tribunal came into being; although, as has always been made clear that, if any public body had done the work in a proper way (in public and evidence-based) the Tribunal would have ceased to exist.

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<sup>51</sup> No country—and certainly not the UK—has the courage to take the PRC to the ICJ in the way the Gambia took Myanmar to that court. And, in any case, the PRC entered a ‘reservation’ about ICJ jurisdiction when it acceded to the Genocide Convention that could bar the ICJ from acting. The PRC is not a ‘States Party’ to the ICC Rome Statute, and there is little or no chance of any PRC official being proceeded against by the ICC. There are no domestic procedures in the UK or in other countries where the PRC can be pursued for breaches of the Genocide Convention or any other binding convention.

## APPENDIX 4

# History of People's Tribunals

255. The following is a short history of people's tribunals and an account of the jurisdiction of such tribunals to act, taken from the China Tribunal Judgment.

People's tribunals are formed of citizens and make decisions about important issues that have not been, and are not being, dealt with by formal national or international judicial or similar bodies when, on some reckonings, they should be.

The several people's tribunals that have operated over time have determined their jurisdiction to act on different bases.

For example, the 'Comfort Women' Tribunal, the Iran Tribunal and the 'Indonesia Tribunal', which all dealt with historic, concluded events for which there were still surviving victims, rooted their jurisdiction in the authority of victims:

256. The 'Comfort Women' Tribunal (Women's International War Crimes Tribunal For the Trial of Japan's Military Sexual Slavery) explained:

*This is a Peoples' Tribunal, a Tribunal conceived and established by the voices of global civil society. The authority for this Tribunal comes not from a state or intergovernmental organisation but from the peoples of the Asia-Pacific region, and indeed, the peoples of the world to whom Japan owes a duty under international law to render account. Further this Tribunal steps into the lacuna left by states and does not purport to replace their role in the legal process. The power of the Tribunal, like so many human rights initiatives, lies in its capacity to examine the evidence, develop an historical record, and apply principles of international law to the facts as found. The Tribunal calls upon the*

*government of Japan to realise that the greatest shame lies not in this recording of the truth about these crimes, but in its failure to accept full legal and moral responsibility for them. (para 8)*

*... This Peoples Tribunal acts out of the conviction that the cornerstone of the international domestic rule of law is legal accountability—the calling to account of individuals and states for policies that grossly violate established norms of international law. To ignore such conduct is to invite its repetition and sustain a culture of impunity. In part because of its failure to prosecute the Turkish officials for the genocide against the Armenians in the early 20th century, Hitler was emboldened to pursue his crimes against the Jews, communists, Roma, gays and others, in the belief that such crimes would not be punished ... (para 9)*

257. The Iran Tribunal said:

*The Tribunal's jurisdiction is the jurisdiction given to it by the Campaign and the Legal Steering Committee on behalf of those who have suffered horrific pain and injuries, both mental and physical as a result of the crimes alleged. The Tribunal was to exercise its jurisdiction by rendering a judgment based on the evidence presented. The integrity and independence of the Tribunal guaranteed the fairness and objectiveness of its final judgment.*

258. The International People's Tribunal on Crimes Against Humanity in Indonesia 1965 asserted:

*As a people's tribunal, the Tribunal derives its moral authority from the voices of victims, and of national and international civil societies. The Tribunal will have the format of a formal human rights court, but it is not a criminal court. It has the power of prosecution but no power of enforcement. The essential character of the Tribunal will be that of a Tribunal of Inquiry.*

259. The first of several post-WWII people's tribunals, the 1966 'Russell-Sartre Tribunal' into US foreign policy and intervention in Vietnam, dealt with an armed conflict, continuing at the time the tribunal was doing its work. The French philosopher, Jean-Paul Sartre, in his inaugural statement to the Russell Tribunal, looked back to the Nuremberg trials and forward, as he hoped, to

the creation of a permanent successor to Nuremberg. He observed how, at that time, ‘neither governments nor the masses are capable of forming one’.

260. Since then, despite Sartre’s gloom, The Rome Statute was signed on 17 July 1998 and entered into force on 1 July 2002, creating the ICC, no doubt thought by some as having universal jurisdiction.
261. In truth, it is effective only over part of the world and some of its citizens. The treaty establishing the court was not ratified by the PRC or several other great powers.
262. Reverting to how things looked in the 1960s, Sartre, in his address, went on to speak of how easy it would have been to create a universal body:

*It would have sufficed that the body created for the judgement of the Nazis had continued after its original task, or that the United Nations, considering all the consequences of what had just been achieved, would, by a vote of the General Assembly, have consolidated it into a permanent tribunal, empowered to investigate and to judge all accusations of war crimes ...*

263. Explaining how and why no such body had been created, he suggested that:

*There are, in fact, two sources of power for such a body. The first is the state and its institutions. However, in this period of violence most governments, if they took such an initiative, would fear that it might one day be used against them and that they would find themselves in the dock with the accused.*

*The other source is the people, in a revolutionary period, when institutions are changing. But, although the struggle is implacable, how could the masses, divided by frontiers, unite and impose on the various governments an institution which would be a true Court of the People?*

264. Speaking of the Russell Tribunal itself, he said:

*We are perfectly aware that we have not been given a mandate by anyone ... But it [the Russell Tribunal] is not a substitute for any*

*institution already in existence: it is, on the contrary, formed out of a void and for a real need ... The Russell Tribunal believes ... that its legality comes from both its absolute powerlessness and its universality ...*

*We are powerless: that is the guarantee of our independence. ... As we do not represent any government or party, we cannot receive orders.*

*From the very fact that we are simple citizens, we have been able, in co-opting ourselves from all over the world, to give our Tribunal a more universal structure than that which prevailed at Nuremberg ...*

265. Sartre connected the Russell Tribunal to what he detected as a universal spirit coming to life—a sadly short life, he feared—at the time of the Nuremberg trials. However, that same universal spirit may have been the driving force for all the informal people’s tribunals that have been created since WWII, when a world order was developing.
266. From 1993, various formal war crimes tribunals—for conflicts in the former Yugoslavia, in Rwanda and elsewhere—have been created, appropriate to the age and the problems they dealt with and inspired by that same spirit and the developing world order.
267. Informal people’s tribunals drew on changing social and political cultures, together with the world order that had created the formal tribunals, motivated by the same spirit of which Sartre spoke.

## APPENDIX 5

# Some Background

268. Establishment of the Tribunal coincided with an escalation of focus on the issue and the actions of the PRC Government by NGOs, governments and parliaments globally and heightened attention from the media.<sup>52</sup> There has been widespread condemnation of the PRC Government for having committed, or for committing, genocide of the Uyghurs.
269. By the time of delivery of the Judgment on 9 December 2021, the following parliaments and one government had made statements/pronouncements:
- The **Canadian House of Commons** approved a motion to **recognise China as committing genocide** against Muslim minorities on 22 February 2021, referencing detention camps and measures intended to prevent births pertaining to Uyghurs and other Turkic Muslims.
  - On 25 February 2021, the **Netherlands Parliament** passed a **non-binding resolution** designating China's actions against the Uyghurs a genocide: 'China is engaged in acts covered by United Nations Resolution 260, including holding penal camps and implementing measures designed to prevent births within a specific group'.
  - On 22 April 2021, the **UK House of Commons** passed a **non-binding motion** declaring human rights abuses in Xinjiang as a genocide: 'Uyghurs and other ethnic and religious minorities in the Xinjiang

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<sup>52</sup> By contrast, all work on the China Tribunal up and until delivery of its Judgment in June 2019 was done when there was little or no public interest in the treatment by the PRC Government of any minority group (Falun Gong practitioners and prisoners of conscience generally for the China Tribunal). Governments of the UK and Australia, by way of example, always expressed uncertainty about the sufficiency of evidence reviewed by the China Tribunal—positions that may have changed since, in line with changes in public and general parliamentary opinions about the PRC.



Uyghur Autonomous Region are suffering Crimes Against Humanity and Genocide’.

- In May 2021, the **Lithuanian Parliament** voted a resolution to recognise that Chinese **abuses against the Uyghurs constitute genocide, based**—inter alii—on the UN Charter and Universal Declaration of Human Rights of 1948, the Convention against Torture, the ICCPR and the Genocide Convention.
- In June 2021, the **Senate of the Czech Republic** unanimously passed a motion to condemn the treatment of Uyghurs as **both genocide and crimes against humanity**: ‘there are massive violations of human rights and freedoms, genocide and crimes against humanity, ethnic discrimination, and the suppression of cultural, religious and political identity in the PRC, in particular in the Autonomous Regions of Tibet and Xinjiang’.
- In June 2021, in **Belgium, the Parliament’s foreign relations committee** passed a motion to condemn China’s treatment of Uyghurs as crimes against humanity and stated there was a ‘**serious risk of genocide**’ in Xinjiang.
- In early 2021, **President Trump’s outgoing Secretary of State Pompeo** announced on his last day in office that the PRC Government had committed genocide against the Uyghurs. President Biden’s incoming Secretary of State Blinken adopted the assertion.

270. The Uyghur Tribunal makes the following *general* observations about expressions of opinion by other bodies, governments and parliaments; public opinion; and genocide.

271. The Tribunal had originally intended neither to seek nor to rely on *opinions* of others on issues it was to deal with in any way. That would have involved *completely* disregarding the expressions of opinion in reports listed at paragraphs 36–60 in the Judgment (above) and other similar expressions. The number of these expressed opinions, and the regular reference to them made by parliaments and governments, made this unrealistic. The factual elements in the report have been considered and relied on when the Tribunal was satisfied that it was appropriate to do so, and opinions on whether crimes have been committed have been recited, but the Tribunal has attached *no weight to any opinion* expressed in these or any other documents on ‘final’ issues—commission of crimes—that are for the Tribunal alone and to be determined on the basis of evidence presented to the Tribunal and nothing else.

272. Expressions of opinion by governments and parliaments about PRC Government genocide of the Uyghurs (and other groups) failed in most or all cases to follow any public hearings of evidence or detailed discussion about the requirements in law for proof of genocide. Proof of the specific mental element essential to establish commission of genocide according to the present law is difficult and must exclude even the possibility of an alternative mental state resulting in the perpetration of the act in question. It is not clear that any government or parliament pronouncing on genocide by the PRC Government of the Uyghurs has gone through such a process of reasoning.<sup>53</sup>
273. Pronouncements by governments or parliaments have played no part in the work of the Tribunal save to the extent that evidence in those pronouncements may have been expressly relied on.
274. This Judgment, in contrast to all other processes and pronouncements referred, follows *public* hearings of evidence, consideration by the Members of the Tribunal of a considerable quantity of written material and reasoned decision-making by the Members.
275. It fills a gap in public knowledge left by national and international governments, courts and other bodies. The public needs that gap to be filled with accurate information based on findings reached to a very high level of proof about what may have been done, and what is being done, to Uyghurs and other Muslim groups in Xinjiang by the PRC Government itself.
276. The reason for this gap being left empty and not *properly* filled by bodies with authority to do so is of no concern to the Tribunal.<sup>54</sup>

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<sup>53</sup> The US Government pronouncements by Pompeo and Blinken *may* be the exception, but reasoning in the report that they must have relied on has never been made public.

<sup>54</sup> Of note, the UK Government, throughout 2020 and into 2021, applied great pressure to parliamentarians to avoid *any* ‘official’ findings of genocide being made against *any* country *unless* made by a judge (all in respect of a general Trade Bill that eventually passed into law without the full protection against trading with genocidal countries that had been intended by some). Under present national and international systems, there is no judge or court who/that can decide on alleged genocide by the PRC Government of the Uyghurs—an allegation that featured heavily in UK parliamentary debates on the bill—or almost by any other country of any alleged genocide. It was significant that such pressure was deployed by the government in this direction rather than in finding a way of having possible genocide by the PRC Government decided authoritatively and swiftly—by a judge or otherwise—where allegations of genocide

277. Public opinion played no part in the Judgment of the Tribunal. It may be thought generally to the public good that the public—worldwide or otherwise—appear concerned about *alleged* suffering of fellow humans. But public opinion is not based on verifiable evidence and can, easily enough, be to an extent ‘fashionable’ or even fickle.<sup>55</sup> It has played no part in this Judgment.

278. However, the apparent strength of public opinion may reveal that there is a need for the work that has been done by this Tribunal.

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were made on the basis of substantial available material. It is easy to assert—as has been asserted by many politicians, NGOs and commentators on a regular basis—that the UK Government’s concern was, in truth, to avoid *any* acknowledgement by it of possible genocides (by any country but, for immediate purposes, by the PRC) that would trigger action to be taken pursuant to the undertaking of Article 1 of the Genocide Convention. The UK Government seemed unconcerned with settling *for its own public* an issue of clear concern to them. It was in a position to ignore proper human rights and general public concern simply by its decision only to follow judge-made decisions on genocide, despite no judge being available anywhere to deal with such an issue. It was thereby easily able also completely to disregard the unanimous vote of the UK House of Commons on genocide by the PRC Government (see paragraph 253 above).

<sup>55</sup> The variation in levels of apparent public concern about different alleged suffering groups—Yazidi women, Nigerian Christians, Rohingya Muslims and North Korean camp detainees—is enough in itself to show how and why public opinion, or absence of it, is best disregarded in decision-making of the kind this Tribunal has performed.

## APPENDIX 6

# Fairness as a Concept

279. Concepts of fairness—as in ‘fair trial’ or ‘fair hearing’—may be *thought* to be largely innate. Not so, even though the 1948 Universal Declaration of Human Rights, Article 10 says in English: ‘Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination. (In French, it reads: ‘Toute personne a droit, en pleine égalité, à ce que sa cause soit entendue équitablement et publiquement par un tribunal indépendant et impartial, qui décidera, soit de ses droits et obligations, soit du bien-fondé de toute accusation en matière pénale dirigée contre elle.’). The English term is more or less untranslatable even into French or German, and doing *justice* by all parties concerned in the present exercise was best achieved by considering *rights* of citizens and their governments’ acts and *duties*. The rest of the Universal Declaration speaks of other individual rights and the Genocide Convention effectively of both rights and duties.
280. Citizens of some countries might reckon the ‘fair trial’ concept to be ancient and perhaps look to the 1215 Magna Carta of King John of England for a source of the concept in due [judicial] process, where it is said:

Article 39 No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any way, nor will we proceed with force against him, or send others to do so, except by the lawful judgment of his equals or by the law of the land.

281. The term ‘fair trial’ would have made no sense to anyone in 1215.<sup>56</sup> Its present

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<sup>56</sup> The word *fair* dates back to before the year 900. The Old and Middle English adjective *fæger* meant ‘suitable, agreeable or pleasing to the sight’ and could be said of people and parts of them, as well as things and places, as well as ‘beautiful, handsome or attractive’ (people) and ‘bright, clear, pleasant’ (said of a day, or the weather). By around the year 1000, the sense

use in description of judicial processes may be no more than 150 years old.<sup>57</sup> Even within that time, the term ‘fairness’ when applied to judicial (or similar) proceedings may have moved from qualifying *process* of proceedings to reflecting *rights of parties* to the process.<sup>58</sup> Those rights, and ‘fair trial’ itself, are now reflected in various modern instruments setting out recognised international norms for dealing with *individuals* accused of crime, in particular and in addition to the 1948 Universal Declaration of Human Rights, Article 10:

Universal Declaration, Article 11: ‘... right to be presumed innocent until proved guilty according to law in a public trial’

International Covenant on Civil and Political Rights 1966

Article 14:

everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.....[French text: Toute personne a droit à ce que sa cause soit entendue équitablement et publiquement par un tribunal compétent, indépendant et impartial, établi par la loi, qui décidera soit du bien-fondé de toute accusation en matière pénale dirigée contre elle, soit des contestations sur ses droits et obligations de caractère civil.]..... ... Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law ... ; To be tried in his presence, and to defend himself in person or through

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‘morally good’ had been added. The adjective can be traced back to the Proto-Germanic word *fagraz* and the Proto-Indo-European root *pek-* (to make pretty). It is related to the Old Saxon *fagar*, the Old Norse *fagr*, the Swedish *fager* and the Old High German *fagar* (all meaning ‘beautiful’), as well as the Gothic *fagrs* (fit) and the Lithuanian *puošiu* (I decorate). The sense ‘light complexion or colour,’ usually said of people’s skin, eyes or hair, appeared around the year 1200. ‘According to justice or propriety’ became common in the early 13th century, and ‘equitable, impartial, just or free from bias’ expanded upon the former in the mid-14th century. Many more meanings have been added since, most based on expansions or figurative uses of the older meanings. The adverb comes from the verb, and also dates back to before the year 900, when the Old English *fægere* meant ‘beautifully’. The sense ‘honourably’ appeared around the year 1300, while ‘correctly’ and ‘direct’ are from the mid-14th century, and ‘clearly’ from the early 16th century. See:

<https://daily.wordreference.com/2020/07/21/intermediate-word-of-the-day-fair>

<sup>57</sup> A modern definition from Merriam Webster for general use is ‘marked by impartiality and honesty: free from self-interest, prejudice, or favouritism’: <https://www.merriam-webster.com/dictionary/fair>

<sup>58</sup> Langford, I. (2009). ‘Fair trial: The history of an idea’. *Journal of Human Rights*, 8(1), 37–52. <https://www.tandfonline.com/doi/full/10.1080/14754830902765857>

legal assistance of his own choosing; ... To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him; Not to be compelled to testify against himself or to confess guilt.

282. A passage in ‘Fair Trial: The History of an Idea’, a 2009 article in the *Journal of Human Rights*<sup>59</sup> by Ian Langford, reveals, including by citation from other scholarship, how the term ‘fair trial’ is untranslatable or barely translatable into two other major European languages, French and German,<sup>60</sup> and that

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<sup>59</sup> <https://www.tandfonline.com/doi/full/10.1080/14754830902765857> (p. 49–50):

What is peculiar to the modern West ... is that its favoured formulation for this principle of respect has come to be in terms of rights. This has become central to our legal systems—and in this form has spread around the world. But in addition, something analogous has become central to our moral thinking. The notion of a right, also called a ‘subjective right’, as this has developed in the Western legal tradition, is that of a legal privilege which is seen as a quasi-possession of the agent to whom it is attributed. (Taylor 1989: 11)

The changes in the use of *fair trial* that I have described track this change in the history of ideas. The criteria for a *fair trial* began to attach themselves to the individual defendant rather than the trial process as a whole, becoming ‘quasi-possession’ of the defendant. The language of fair trial laws reflects the change in possessive expressions such as ‘enjoy,’ ‘have,’ and ‘entitled to.’ For example, ‘in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial’ (United States Constitution 1791: Amendment VI) and ‘everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law’ (European Convention for the Protection of Human Rights and Fundamental Freedoms 1950: Art. 6, ‘Right to a fair trial’).

It seems to me that the human right to a fair trial has sprung from the courtrooms of England and Wales rather than from ‘something inherent in human beings.’ It is part of what the legal historian J. H. Baker has called ‘the insular and arcane learning of a small band of lawyers’ that by a ‘breath-taking twist of fate’ has spread around the world:

Having stood its ground in the land of its birth, the English common law became a force to rival the civil law beyond the seas. The men who sailed for the new world in the seventeenth and eighteenth centuries, and those who built the British Empire in the eighteenth and nineteenth centuries, took the common law with them as a matter of course. By a breathtaking twist of fate, the insular and arcane learning of the small band of lawyers who argued cases in a corner of Westminster Hall became the law by which a third of the people on earth were governed and protected, the second of the two great systems of jurisprudence known to the world. (Baker 1990: 34)

<sup>60</sup> <https://www.tandfonline.com/doi/full/10.1080/14754830902765857> (p. 49):

A dictionary of untranslatable words includes an entry for ‘fair’ by Catherine Audard as follows:

The untranslatable *fairness* has become of new interest today because of the original use by the American philosopher John Rawls. In the French translation of his work *A Theory of Justice* [...] *fairness* is rendered as *équité* [equity IL] ... the English term *fairness* combines in such

the present-day meaning and use of *fair trial* is no more than 150 years old. Langford suggests (p. 49):

Further doubt concerning the universality of the idea of a fair trial comes from the history of European ideas. Its modern use may be an English reflection of a change peculiar to European thought. The change in the use of fair trial to a ‘person-centred’ usage appears to have followed the attachment of ‘subjective rights’ to persons after the Enlightenment. In the seventeenth century Locke developed what has been called a ‘... radically subjectivist view of the person’ (Taylor 1989: 172) that was very influential in the British Enlightenment. Eventually a concept of the individual developed that set the climate for a novel respect for the whole human species.

283. Noting, in particular, the difference of French and English language where ‘fair trial’ is mentioned as a term, the Tribunal has exercised caution before crediting the notion of ‘fair trial’ (clearly not ‘innate’) or of ‘fairness’ itself with universal application or even with ready understanding and acceptance outside countries with an Anglo-Saxon background. This caution is of particular importance when considering the government and people of a country culturally distant from Europe and from Anglo-Saxon based countries that operate a particular system of law, however much that system may have dominated all international judicial procedures since the Nuremberg and Tokyo trials that followed WWII.

284. In addition to those international instruments referred to above dealing with concepts of fairness or rights applicable to individuals in trials, there have

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a peculiar way several semantic fields that some languages, such as German, have chosen to borrow rather than to translate it. For its part, French has borrowed the expression *fair play*, but in other respects it has to be satisfied with equivalents (*honnêteté, impartialité, justice* and *équité*) none of which articulates in the same way the central ideas of honesty, impartiality, justice, and equity that correspond to the term *fairness*. (Audard 2004: 439–441)

The legal scholar, George Fletcher considers ‘fairness’ to be untranslatable:

Remarkably, our concept of fairness does not readily translate into other languages. While the concept of justice appears, it seems, in all cultures, it is virtually impossible to find a suitable translation for fairness in European or Semitic languages. As a result, the term is transplanted directly in some languages such as German and Hebrew, and absent in others, such as French that are resistant to adopting loan words that carry unique meanings. Why has Anglo American culture cultivated this distinct concept of fairness? (Fletcher 1996: 81)

been many procedural codes for investigation and trial of individuals for alleged international offences by the ICTY, ICTR and the ICC and other international or mixed national–international courts and tribunals.

285. For example:

The (Rome) Statute of the ICC contains only one reference to ‘fair trial’ at Article 69 (4):

The Court may rule on the relevance or admissibility of any evidence, taking into account, *inter alia*, the probative value of the evidence and any prejudice that such evidence may cause to **a fair trial or to a fair evaluation of the testimony of a witness**, in accordance with the Rules of Procedure and Evidence. (emphasis added)

286. But it contains, under Article 67, identification of several rights, of which the following are considered of possible significance to the Tribunal’s work:

679(a)

Rights of the accused

... the accused shall be entitled to a public hearing ... :

- i. 4 (e) To examine, or have examined, the witnesses against him or her and to obtain the attendance and examination of witnesses on his or her behalf under the same conditions as witnesses against him or her. The accused shall also be entitled to raise defences and to present other evidence admissible under this Statute;
- ii. 6 (g) Not to be compelled to testify or to confess guilt and to remain silent, without such silence being a consideration in the determination of guilt or innocence;
- iii. 8 (i) Not to have imposed on him or her any reversal of the burden of proof or any onus of rebuttal.

2 ... In addition to any other disclosure provided for in this Statute, the Prosecutor shall, as soon as practicable, disclose to the defence evidence in the Prosecutor’s possession or control which he or she believes shows or tends to show the innocence of the accused, or to mitigate the guilt of the accused, or which may affect the credibility of prosecution evidence.



## APPENDIX 7

# Practice, Procedure, the Human Rights Reputation of the PRC, the Presumption of Innocence and Approach to Evidence

287. The Tribunal is composed of Members from diverse backgrounds. To ensure all members were equal participants in decision-making, any who had special expertise—for example, in law or China—understood at recruitment that they would be asked to deploy their expertise (if at all) *only* to ensure that all members fully understood any technicalities of the evidence presented. Otherwise, they were to be as if jurors acting on evidence of fact and the expertise of others, including expertise of independent advisers about the law, to make their judgment.
288. All Members of the Tribunal and its senior staff have worked *pro bono*. All witnesses have provided evidence without charge except for travel and accommodation expenses, in some cases.<sup>61</sup>
289. The Tribunal has proceeded without any form of ‘Statute’—of the kind some people’s tribunals have created—or formal rules of procedure and evidence

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<sup>61</sup> Three members of the Tribunal’s management team have been paid at modest rates of pay. Some researchers, often junior lawyers, were paid at rates of pay well below any open market rate. A staff of over 20 individuals assisted the Tribunal in different roles as researchers and assistants. The Tribunal is extremely grateful for their contribution. However, due to security considerations, only the name of the few who have consented to their name being stated are mentioned. These are: Holly Armstrong-Crowley, Soraya Bauwens, Sapandeep Singh Maini-Thompson, Yassar Tahir and Anouk Wear.

but according to recognised standards, identical to those applied in the China Tribunal and set out below.

290. Further, it was not thought necessary to write a detailed charter<sup>62</sup> or ‘statute’<sup>63</sup> for the Tribunal—documents normally crafted by national governments or international bodies for the workings of formal courts and tribunals that, unlike people’s tribunals, have powers of sanction of individuals or even of states.
291. It would be inappropriate, over-respectful and unnecessary to imitate processes and mechanisms adopted by formal courts or tribunals that, in different ways, have too often failed in their undertakings.
292. The China Tribunal confronted the Human Rights Reputation of the PRC in the following way, as explained at paragraphs 80–82 of the China Tribunal Judgment:

80. However, all members of the Tribunal were aware in general terms that the PRC had a reputation for abject failure to respect the 1948 Universal Declaration of Human Rights’/ and the evidence considered by Tribunal members overall left them certain that throughout the last 20 years the PRC has been in substantial breach of at least Articles 2, 3, 5, 6, 7, 8, 9, 10, 11, and 13 of the Declaration, and of Articles 6, 7, 9, 10, 12 and 14 of the International Covenant on Civil and Political Rights of 16 December 1966 (which the PRC signed in 1998 but has not ratified).<sup>64</sup>

81. However, the Tribunal’s certainty about these breaches has not, in any way, affected its decision-making process or its final judgment. Where these breaches may be relevant to the Tribunal’s Judgment, it is explained, for example, in paragraph 459 below. Furthermore, where the Tribunal is certain these breaches are of no relevance, the ‘presumption

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<sup>62</sup> See, for example, the Charter of The Women’s International War Crimes Tribunal On Japan’s Military Sexual Slavery:

<https://journals.openedition.org/droitcultures/2189>

<sup>63</sup> See, for example, the New Statute of the Permanent People’s Tribunal:

[http://permanentpeopletribunal.org/wp-content/uploads/2019/05/Statute-of-the-PPT\\_ENG\\_FINAL.pdf](http://permanentpeopletribunal.org/wp-content/uploads/2019/05/Statute-of-the-PPT_ENG_FINAL.pdf)

<sup>64</sup> [https://wiki2.org/en/International\\_Covenant\\_on\\_Civil\\_and\\_Political\\_Rights#Parties\\_to\\_the\\_Covenant](https://wiki2.org/en/International_Covenant_on_Civil_and_Political_Rights#Parties_to_the_Covenant)

of innocence' has been applied. There is no presumption of innocence in the PRC.<sup>65</sup> The Tribunal applies the presumption of innocence to its task by looking only at evidence it judges relevant to any decision it has to make. It reaches its decision on that evidence and nothing else. Thus, where breaches of the Universal Declaration of Human Rights, or of the International Covenant on Civil and Political Rights are of no relevance to a particular decision, the Tribunal has not allowed the breaches to prejudice the PRC; instead, it has behaved as if the evidence related to an imaginary country with the best human record.<sup>66</sup> Applying the presumption of innocence, and other practices explained later, should allow those considering this Judgment to follow and to have confidence in the reasoning of the Tribunal.

82. Members of the Tribunal have set aside anything, but evidence judged as admissible.<sup>67</sup>

293. All Members of this, the Uyghur Tribunal, found themselves in a position similar to that of the Members of the China Tribunal (two members common to both), but it is necessary to identify ways in which the approach of *this* Tribunal was different from that of the China Tribunal where the PRC's general reputation is concerned. The Tribunal Members shared with the previous Tribunal's Members certainty that throughout the last 20 years the

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<sup>65</sup> Evidence from Clive Ansley (Appendix 2A, Witness 32), an expert on the laws of China, explains that there is no presumption of innocence in operation in trials in the PRC. Indeed, as Ansley makes clear at paragraphs 67–88 of his statement, the PRC Government applies no presumption of innocence—only a presumption of guilt. The purported introduction of a presumption of innocence, set out in the Revised Criminal Procedure Law of 1996, Art. 12, was a sham—an attempt to mollify overseas critics and impress a foreign audience. It consists of the tautological assertion that: 'No person shall be found guilty without having been judged as such by a People's Court, in accordance with law'. Ansley observes, and this is consistent with evidence before the Tribunal, that the wording of the article does not actually address the issue of presumption of innocence, or the onus of proof to which the presumption gives rise.

<sup>66</sup> If imagining a purely fictitious country is not possible, Denmark and New Zealand are examples of countries with high human rights rankings on some scales. See, for example:

[https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2018-June-Online-Edition\\_0.pdf](https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2018-June-Online-Edition_0.pdf)

<sup>67</sup> This may be difficult for people who live in the PRC to believe. The need to be able to do this is ingrained into the cultures of the countries where Tribunal members live. It is a matter of individual responsibility that each member of this Tribunal—just like any judge or juror in countries that operate the rule of law—can articulate a decision made by reference to admissible evidence and nothing else.

PRC Government has been in substantial breach of at least Articles 2, 3, 5, 6, 7, 8, 9, 10, 11 and 13 of the Universal Declaration of Human Rights and of Articles 6, 7, 9, 10, 12 and 14 of the ICCPR of 16 December 1966. This Tribunal went through processes similar to those of the China Tribunal to eliminate prejudgement or prejudice affecting this Judgment notwithstanding that certainty. However, the China Tribunal was concerned with acts of individuals (for example, in hospitals, prisons and political bodies) *across* China for which certainty about human rights abuses by individuals within the immense PRC *might* have affected the Tribunal Members' thinking, had they not taken steps to ensure they acted *only* on evidence presented.

294. The procedural approach of the China Tribunal, set out at paragraphs 74–78 of the China Tribunal Judgment, reads:

74. With no formal statute and no formal rules of procedure and evidence, the Tribunal - as with other People's Tribunals - has made 'free evaluation' of evidence. For example, it has not imposed on itself any requirements of corroboration or counted as inadmissible hearsay evidence. However, it has kept in mind the additional caution that assessment of any evidence other than direct oral evidence may require, and has considered all possible objections to the accuracy of the evidence presented before accepting it.
75. The approach to evidence not given personally by witnesses at the Tribunal but which came in documents (including videos) is as it would be for any similar work of reportage, analysis, expert analysis, government committee report etc. Namely, the document is searched for internal inconsistencies and incompatibility with other material relied on by the Tribunal. It is checked for the nature and reliability of footnoted and other underlying material. Only when it has met these levels of checking has it been included or relied on in this Judgment, and with the proviso that material that has not been produced by witnesses heard by the Tribunal may have less value than evidence from witnesses in person.
76. The Tribunal has made all possible efforts to attend to the rule – enshrined in many legal systems as paramount in importance – of 'hearing the other side', by asking the PRC to make its case known, but with no success.
77. The Tribunal and ETAC [the NGO that commissioned the China Tribunal – similar in function to WUC for this Tribunal] have made contacts with all those who might be able to help with expressing views favourable to the PRC.

78. With the PRC failing to engage and there being no individual or official body to put forward any view that might count as the PRC position, the Tribunal considered asking a lawyer to operate as an *amicus curiae* (friend of the Tribunal) and to argue the presumed position of the PRC and cross-examine witnesses in accordance with that position. But the PRC's position has barely been articulated and any *amicus* engaged would have no access to individuals from the PRC to say what its position might be and no access to evidence that might be helpful to the PRC. It was decided that use of an *amicus* would not help decision-making and would run the risk of apparently bolstering evidence that may be adverse to the PRC because the *amicus* would simply not be able to argue much, if anything, beyond what the Tribunal members themselves would do in testing evidence presented.
295. With all the above in mind, the Tribunal's determination to be 'fair' in the sense explained in Appendix 6 above to the PRC, as well as to those making allegations, has been reflected by:
- a. Having all witness evidence given in public wherever possible
  - b. Making all written material relied on—including witness statements of witnesses not called to give evidence in person but relied on—publicly available
  - c. Making all written and video material considered but *not* used or relied on available publicly (on the Uyghur Tribunal website)
  - d. Inviting the PRC Government on several occasions to participate in proceedings; as the PRC Government failed to acknowledge or respond to any invitations, it is not possible to say precisely what participation could have taken place had it accepted the invitations
  - e. Not allowing any adverse factual inference to be drawn by any failure on the part of the PRC Government to engage with the Tribunal or to answer questions asked of it by the Tribunal or others. However, this approach does not mean that if significant documents are unaccountably removed, it is not possible to regard the removal as indicative of a realisation that the documents are significant. That may make conclusions reached by experts analysing the documents concerned more justifiable.
296. Wherever possible, evidence about particular topics or issues has been assessed in isolation and without reference to general background for the reason given above.

297. The Tribunal's database has thousands of documents and hundreds of full witness statements. Allegations—including detention without cause, torture, brainwashing, assault, rape, forced sterilisation, forced introduction of IUDs, organ testing and blood sampling—are made in hundreds of statements and other material recording individuals' experiences. Only a very small percentage of those statements have been the subject of evidence in person by witnesses to the Tribunal. Those witnesses have been selected by Counsel to the Tribunal to be representative; however, inevitably, they will sometimes have been selected on grounds of gravity of the particular act. All witnesses who gave evidence to the Tribunal in person are referenced in one way or another in the Judgment and Appendices, as are others whose material is available in written form. The evidence given by some witnesses is given in extensive summaries while others are recorded in brief or as a footnote. This allows a full picture to be given. There are obvious reasons for selecting the gravest of a category of actions from a wide range to show what was initiated or allowed by state authorities, if and whenever it was. But it must always be recalled that, for example, any rape is a rape; any torture is torture. And, of course, any murder is a murder, however described.
298. Despite the very particular (legal) allegations made against the PRC Government, the Tribunal preferred not first to *seek* out things in evidence that might make good those allegations. Rather, it preferred to attend to evidence presented, to identify factual topic areas of concern that arose naturally from the evidence and only then to start the process of asking questions of the lawyers about possibly relevant crimes. This process avoided the Tribunal being a lawyer-led search for offences according to law but, rather, to be an examination of evidence and assessment of facts to which analysis by law might then, and then only, be helpful—and *fair* to the PRC.
299. Nevertheless, with a mandate focused on genocide, crimes against humanity and torture, the Tribunal knew that it would, at some stage, have to ask whether things shown to have been done to the Uyghur and other Turkic peoples may have been committed with genocidal intent, may have been part of a widespread or systematic attack by government on the peoples concerned or may have qualified as torture. It was able to consider with open mind—not having to follow any prosecutor's 'case'—what the evidence showed, aware of what legal matters it might have to consider in due course. With factual conclusions forming, it was able to ask for and receive advice or instruction on the relevant law to reach its conclusions.

300. People setting out histories of personal suffering need courage to do so, either at all or certainly in public; and wherever there is the risk of a powerful body—in this case a powerful state—seeking to block evidence, great demands of fortitude and even courage are made of witnesses.
301. Without cross examination by an ‘opposing party’, it may be easier for a witness to lie.<sup>68</sup> However, there should be no presumption of *disbelief* in what people say about facts, providing caution is exercised wherever there is a *reason* for doubting some piece of evidence (the ‘reasonable doubt’).<sup>69</sup>
302. Loyalty to a cause, or to others seen as victims, *may* encourage overstatement of events and desire for other—even unstated or unrevealed—benefits such as presence by being a witness in a country in which asylum might be sought and this could lead to people making overstated or false allegations of suffering.
303. Inconsistency between accounts given by the same witness at different times is always a cause for particular caution about accepting the evidence. One witness, Mr Jiang, a policeman, was noted to have given evidence *subsequent* to the evidence he gave to the Tribunal containing significant additional details. The Tribunal had no particular reason to doubt Mr Jiang but realised the PRC might, from state archives, have material to use in cross examination of him *had* they participated in the Tribunal’s work and that, hypothetically, such material could have turned the Tribunal’s caution generated by Mr Jiang’s

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<sup>68</sup> ‘Cross examination’ of witnesses may be valuable in eliciting untruthful or unreliable evidence. However, without a contrary case on the basis of which to cross-examine any witness, all that can be done, as was done, is to explore critically what a witness says. The PRC Government had for some witnesses made general allegations including of lying or of having done other reprehensible or criminal things but without providing detail on which witnesses could be challenged.

<sup>69</sup> In presenting his five-member report, Tobin made references to their reliance on evidence that could be ‘triangulated’. Such evidence is what scientists and other researchers prefer. But it should not be considered that lack of an ability to triangulate any particular piece of evidence does not mean that it cannot be true or simply should not be relied on simply because not triangulated. In the search for truth, the truth-finders must deal with what is available and assess that. In its work, the Tribunal: sometimes had precise triangulation, sometimes had a form of ‘triangulation’ on the basis of similar facts being evidence in a pattern that excluded any possibility of fabrication, sometimes had evidence properly susceptible to the argument, ‘why would anyone put themselves to giving such an account if it were not true’ and, sometimes, had simply to decide, as humans do all the time, whether what is being said is honest and accurate.

developing narrative into doubt. In these circumstances, it was decided that the proper course, notwithstanding Mr Jiang being the only ‘insider’ witness heard by the Tribunal, was not to rely on his evidence at all.

304. This constituted no slur on Mr Jiang but reflected the need for great caution by the Tribunal and the *possibilities* of inaccuracy spelt out above.
305. The Tribunal also considered the attacks—often simply unspecified personal *ad hominem* attacks—occasionally made publicly against particular witnesses by organs of the PRC. These were put to witnesses wherever possible, and no such attack was found to be justified.
306. The Tribunal noted how, after the first hearings in June 2021, people thought to have ‘disappeared’ at the hands of the PRC Government were paraded alive at press conferences; but it noted that nothing was said in the press conferences about there having been contacts between the witnesses and the persons said by those witnesses to have ‘disappeared’ when they were thought to be missing. There was no reason to doubt the honesty of the witnesses giving accounts of the prolonged inability to contact relations and loved ones or of the distress they suffered as a result of prolonged and unexplained absences of those who had, indeed, ‘disappeared’.
307. Several witnesses gave accounts to media and to committees in parliaments around the world. Any discrepancies in accounts, where noticed, were considered but found of no consequence to the accuracy of the *core* of evidence. For *all* these witnesses, the cores of their evidence were found proved to the highest standard.
308. Patterns of similar evidence may, if there is no evidence or possibility of collusion between witnesses giving similar accounts of certain kinds of wrongdoing, confirm general reliability of evidence given.
309. Failure of the PRC Government to answer questions asked by the Tribunal concerning particular witnesses, or on general matters, can *never* add weight to the *evidence* and it could lead to no adverse inference being drawn against the PRC Government or CCP.
310. As explained in paragraph 32 of the Judgment, a significant issue for the Tribunal was whether evidence from a mere 33 witnesses, characterised as



‘fact witnesses’, who dealt with what happened to them or what they saw or heard, could be enough to prove more allegations generally. Could the evidence of just these few witnesses on such things as conditions in detention camps or enforced abortions be extrapolated so that the particular things evidenced could be said to have happened or to be happening, elsewhere and throughout Xinjiang? Resolution of this issue is explained at paragraph 32 of the Judgment above.

311. The use of the Term ‘Judgment’ is intentional and purposeful. It follows and reflects use by other Tribunals such as the Comfort Women Tribunal and the Iran Tribunal.
312. The decisions by a people’s tribunal, formed and conducted in the way the China Tribunal and the Uyghur Tribunal have been, is quite as authoritative as a judgment by a court or criminal jury would be. Applying the strongest possible test of proof beyond reasonable doubt (see paragraph 73 of the Judgment above and Appendix 32 below) with conservative interpretation of the present law makes this Tribunal’s decisions equivalent in strength to a jury’s verdict in a criminal trial. In these circumstances, ‘Judgment’ is appropriate (as ‘verdict’ might be, although never used) and requires all those who should to act on the basis of the Judgment being correct whereas any lesser term would positively encourage governments (for example) to sit back and say: ‘only an opinion’.

## APPENDIX 8

# Targeting Cultural, Religious, Intellectual and Business Leaders

### SUMMARY

Evidence of pattern of religious, cultural and community leaders being targeted in different ways.

### EVIDENCE

313. Professor Rachel Harris said that the collaborator in her research project, Professor Rahile Dawut of Xinjiang University, was detained without charge in 2017.<sup>70</sup>
314. In 2018, *Radio Free Asia* (RFA) reported the death in custody in Ürümqi of Muhammad Salih Hajim (82), a prominent Islamic scholar (see paragraph 319 below).<sup>71</sup>
315. A Uyghur Human Rights Project (UHRP) paper dated March 2019 documented 386 known cases of intellectuals interned, disappeared or imprisoned since 2017, including 101 students and 285 scholars, artists and journalists. This report is the third UHRP has published on the persecution of the Uyghur intellectuals. Between October 2018 and January 2019, the known number of intellectuals impacted rose from 231 to 386. Of the 386, only four are known

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<sup>70</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/08/State-Violence-in-Xinjiang-A-Comprehensive-Assessment.pdf> (p. 34)

<sup>71</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/08/State-Violence-in-Xinjiang-A-Comprehensive-Assessment.pdf> (p. 41); see also, regarding death in custody of respected scholars:

<https://www.rfa.org/english/news/uyghur/scholar-death-01292018180427.html>

to have been released. At Xinjiang University alone, 21 Uyghur faculty and employees have been affected.<sup>72</sup>

316. This broad targeting of all cultural figureheads is underscored by detention of celebrities beyond the realm of high culture: for instance, Erfan Hezim, the footballer who moved down the leagues to Shaanxi Chang'an Athletic following a year in detention, or philanthropist businessman Nurtay Hajim, given a life sentence in 2018. Cornell University Professor Magnus Fiskesjö describes mass arrests of cultural figures 'as an intentional, well-planned, multipronged genocide, targeting the dignity of whole peoples and cultures by humiliating their best and brightest, including our fellow scholars'.<sup>73</sup>
317. In her statement, Rushan Abbas stated: 'When I did that, my father Abbas Borhan, an Uyghur scholar, academic writer and a public figure, who was only 59 years old at the time, lost his professional job as the president of the Xinjiang Uyghur Autonomous Region Science and Technology Council. He was forced to retire as retaliation for my activism in the United States.'<sup>74</sup>
318. In the 2021 Uyghur Transitional Justice Database (UTJD), the authors Muetter Iliquid et al. highlighted the targeting of intellectuals and other community leaders setting out category and gender characteristics of 354 individuals. Case studies included the testimonies of Yashar Hemdullah who spoke of his father Hemdullah Abdurahman who was arbitrarily detained: 'He studied Turkology at Beijing (Peking) Minzu (Nationalities) University. After graduation, he had been working in the Dictionary Division at the Regional Committee on Ethnic Language and Writing of the Uyghur Autonomous Region (aka Xinjiang or East Turkestan). During his tenure at this position, he had participated in numerous projects on compiling Uyghur dictionaries such as the Annotated Dictionary of Uyghur Language (total seven volumes/books), the Dictionary of Uyghur Handicrafts, and he had published many

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<sup>72</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/08/State-Violence-in-Xinjiang-A-Comprehensive-Assessment.pdf> (p. 63); see also, regarding detention of Uyghur cultural leaders:

<https://uhrp.org/report/detained-and-disappeared-intellectuals-under-assault-uyghur-homeland-html/>

<sup>73</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/08/State-Violence-in-Xinjiang-A-Comprehensive-Assessment.pdf> (p. 63)

<sup>74</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211116-Rushan-Abbas.pdf>

academic papers: My dad is fluent in many languages such as Japanese, Arabic, Turkish, etc.’. Abduweli Ayup (who testified to the Tribunal) is a Western-educated linguist and poet who operated the Uyghur Language School in Kashgar. He is a strong proponent of linguistic human rights, specifically, the right for the intergenerational transmission of language and culture. Ayup was arrested on 19 August 2013 by the Chinese State Security Police for promoting linguist rights of Uyghur people through his online writings and opening a mother language kindergarten in Kashgar.<sup>75</sup>

319. In their 2021 report, UTJD included the example of Muhammed Salih Hajim as having been targeted for his religious leadership. Hajim has been described as one of the most respected and influential Uyghur religious scholars. He is credited with being the first scholar to translate the Quran into Uyghur in 1986. At the age of 82, Hajim was detained along with his daughter and other relatives by the Chinese authorities. Hajim died in Chinese police custody, approximately 40 days after his detention. Many in the Uyghur community suspect he was tortured, but the PRC Government refused to release Muhammed’s body to his family on the grounds that it might spark unrest. Abidin Ayup is a respected religious leader: he was born on 1 February 1928. Ayup worked as an Imam at Kayrak Mosque in Atush for 30 years and was 89 years old when he was arrested. It is unclear when the exact detention took place, but the available evidence makes it reasonable to hypothesise that it was sometime between January and April 2017.<sup>76</sup>
320. Bahram Sintash, in his report ‘Elimination of Uyghur Identity’ stated that his father, Qurban Mamut, a well-known intellectual and journalist, was detained in 2017. He was the editor of *Xinjiang Civilisation*, a journal centred on Uyghur culture, history and politics. He was one of 380 intellectuals identified in the report, including religious scholar Nurmuhammed Tohti who is known to have died or been killed sometime in 2019.<sup>77</sup>

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<sup>75</sup> Witness statement and transcript:

<https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211109-Abduweli-Ayup.pdf>

See also:

<https://uyghurtribunal.com/wp-content/uploads/2022/07/UT-210912-Muetter-Iliquid.pdf>  
(p. 19)

<sup>76</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/07/UT-210912-Muetter-Iliquid.pdf>  
(p. 40)

<sup>77</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211217-Bahram-Sintash.pdf>  
(pp. 21–25)

321. In UTJD's 2021 report, Iliqad identifies a number of religious leaders who have been detained, including Muhammed Salih Hajim and Abidin Ayup (see above paragraph 319).<sup>78</sup>
322. UTJD set out the analysis of their database of those interned, including educated professional people including professors, civil servants, doctors and others.<sup>79</sup>

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<sup>78</sup> Ibid.

<sup>79</sup> Ibid.

## APPENDIX 9

# Killing in Detention

### SUMMARY

No evidence of mass killing of those in detention but a significant number of deaths as a result of methods of detention, torture and other violence and lack of care, including medical attention, of those in detention.

### EVIDENCE

323. Quelbinur Sidik told of seeing a dead young woman: ‘The girl looked dead to me. I don’t remember how I finished teaching all morning that day. Later at noon, my Chinese friend told [said] the girl was dead long before they got her to the hospital. The reason was her period didn’t stop for more one and half month, and they didn’t even bother to take her to a hospital during that period. She lost too much blood and died as a result.’<sup>80</sup>
324. Sidik: ‘My house is on the first building, and the police returned the body of a Uyghur man to his mother who lives on the third floor of third building. The reason for his death, “he just died” according to the police. No man can enter our building. I am Uzbek, my neighbour below my floor is Tatar. I went to her house and asked her “let’s go and visit to that lady who lost her son, no matter what”. Her name was I believe Mrs. Ayshem. I saw her talking about her son who have disappeared. She told me that herself even. After hearing her son’s death, I visited her house in the third floor of 3rd building with my Tatar neighbour. As we entered her house, we saw there were several cadres from neighbourhood committee who were sitting with her. Seeing us, she cried and lamented. Soon after we entered her house, several young men took her son’s body for burial. She cried and so did we. There were none except

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<sup>80</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211029-Quelbinur-Sidik.pdf> (para. 41)

neighbourhood committee cadres and us. So, we stayed for a while. The most shocking thing is her son's body was returned to her house. It was because there were many people died on that day that her son could not get his turn to be buried. Mrs. Ayshem cried very hard. I don't know if they washed the dead young man's body and how they buried him. Seeing this we all, including the neighbourhood committee members, cried. This kind of death certainly a lot in 2017–2018. I have never heard the thing that “even dead men are in line to get buried”. So that was real tragedy.’<sup>81</sup>

325. Gulbahar Jelilova: ‘In the hospital there were people with clothes of different colours. Depending on the colour different things happened to them. There were some people in orange clothes, according to a roommate they will be taken away for “sleeping”. I asked her why they can't sleep in the room. Then she told me they will be killed via injection. I was very sad to hear that. She also told me they have to sign a paper before they will be taken away and family members are not informed. Those with blue coloured clothes got a sentence of 15-20 years.’<sup>82</sup>

326. Omer Rozi: ‘I was returned to the normal prison where there were 3–4 Uyghur and 2 Han prisoners in my cell. Every 2 weeks, prison guards would come to my cell and beat the Uyghur prisoners. My Uyghur cellmate, called Obulkasim, had a piece of metal underneath his shoe which he sharpened using the bricks in the cell. Obulkasim wanted to stab the prison guards with this. He tried to do this but failed. As a result, he was shot so many times in front of us that his flesh was all over the cell. I was forced using 2 trash bags to pick up his flesh after this.’<sup>83</sup>

327. Mihrigul Tursun: ‘The most horrific days for me were when I would witness the suffering and death of cellmates. The nights were the busiest time in the camps: a lot of activities such as transfers of people between cells or removals of dead bodies would happen at night. In the silence of the night, we would sometimes hear men from other cells groan in agony. We would hear beatings, men screaming, and people being dragged in the hallways, as

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<sup>81</sup> Ibid (para. 76).

<sup>82</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-Gulbahar-Jelilova.pdf> (para. 36)

<sup>83</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211111-Omer-Rozi.pdf> (para. 6)

the chains on their wrists and ankles would make terrible noise on the floor. The idea that these men could be our fathers or brothers was unbearable. I witnessed nine deaths in my cell during those three months. If my small cell, number 210, in a small county, could see nine deaths in three months, I cannot imagine how many deaths must have occurred all over the region. Due to these shocks, I started to have seizures, which I had never experienced before.’<sup>84</sup>

328. Tursun: ‘One victim was a sixty-two-year-old woman named Gulnisa. She had red rashes all over her body, her hands would tremble, and she could not eat anything. She seemed really sick but the doctors in the camp determined that she was fine. The doctors were supposed to say this, because if they said an inmate was sick, they would be perceived as sympathetic or supportive of their patients. One night, Gulnisa was humiliated for not having memorised her lines in Chinese and she was crying as she went to sleep. She did not snore that night. Her body was cold when we tried to wake her up the next morning. She had died in her sleep. There was another woman, called Patemhan. She was twenty-three-year-old. Her mother had died, and her husband, father and brother were all taken to camps. Her crime was attending a wedding in 2014 held according to Islamic traditions, so there was no dancing, singing, or drinking alcohol. She said that all of the four-hundred people who attended that wedding were arrested and taken to camps. When she was taken to the camp, she had left her two children in the backyard. She had spent a year and three months in the camp, and she agonised every day over the whereabouts of her children. She had a bleeding for over a month but was denied medical treatment. One night, while she was standing with other women, she suddenly collapsed and stopped breathing. Several people with masks came. They dragged her by her feet and took her away.’
329. Baqitali Nur: ‘I saw people died due to harsh tortures. There were people who were beaten to death at around 12 or one o’clock at night. One was there today, but not the next day. No one knew where they were taken to. They were just dragged out from the cell and never came back again. Two of those I saw died. One of them was from Yapchan town. The other one’s name was Baratjan, who was the father of a young man named Muhammadeli. They beat him to death. Baratjan was a butcher in Chapchal county. I stayed with

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<sup>84</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211116-Mihrigul-Tursun.pdf> (para. 10)



his son in the same cell while Baratjan in the neighbouring cell. Once we saw him when we were in the hall together. Muhammadeli said “My dad is also here, he is my dad, brother Baqitali.” “Yes, I know your father well, he is a butcher in Chapchal county.” We communicated other things with body language because it was not possible there to talk to each other. Baratjan was sentenced to 13 years in prison. Even though he had been sentenced, they beat him to death anyway. Together with him, another young man from Chapchal was also beaten to death, his name was Turghun.’<sup>85</sup>

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<sup>85</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211130-Baqitali-Nur.pdf> (para. 12)

## APPENDIX 10

# Medical Testing and Forced Consumption of Drugs

### SUMMARY

Much evidence of unaccounted-for medical testing where reasons for or results of test were never given to those detained.

### EVIDENCE

330. Sidik told of her interaction with a nurse: ‘In addition, there are two Chinese nurses for the men’s camp there, and on Monday, detainees do not attend classes for two hours. Because in these two hours on Monday, the nurses extract blood from those detainees. Also did unknown injections to male detainees. After that, one tablet is given. White, crumbly tablets. I saw this white, small pill with my own eyes, (the little pill is so small, too)...’<sup>86</sup>
331. Sidik: ‘Later, I found out that all females here get shots to stop all menstrual cycle. They are given random medicine periodically, which also controls their menstrual cycle. They do blood tests to check any contagious diseases among inmates. Some inmates experience side effects like severe bleeding from the shots and pills.’<sup>87</sup>
332. Omir Bekali told of how he underwent medical testing upon his arrest on 26 March 2017: ‘I was handcuffed, and a black hood was placed on my head. They said this was the rule and they did this to everyone. Three policemen

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<sup>86</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211029-Quelbinur-Sidik.pdf> (para. 21)

<sup>87</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211029-Quelbinur-Sidik.pdf> (para. 45)

took me to a place like a hospital where a full body examination took place while my hood was still on. Blood and urine samples were taken. Then I was placed on a bed. They applied a cold gel on different parts of my body, so I thought they were doing ultrasound. I could hear them speaking about my examination, but I could not see anything, I was terrified that they might cut me open and remove my organs. They checked my lungs. These tests lasted for two hours. Then I was taken to a police station where I was given an eye test. My eyelids were held open while they were instructing me to look left, right, up and down. They would take photographs of the positions of the irises of my eyes. They then took my fingerprints and recorded my voice. This procedure lasted for another hour.’<sup>88</sup>

333. Bekali: ‘We gave blood from time to time. We were forced to take unknown medicines.’
334. Sayragul Sauytbay told of how detainees were forced to undergo medical testing: ‘I also know that detainees were forced to undergo medical tests. In the name of preventing infectious diseases, they forcibly injected detainees with medicine and forced them to take pills. They forced people to agree to it. Those injections and pills are extremely damaging to one’s health, it also damages the neurological system, and prevent birth. They took blood samples from detainees they drew blood periodically. I didn’t experience medical examination, but all the detainees did. Each detainee had a medical file. There were times that I was ordered to organise the medical files. And while doing that I saw the information in the file with my own eyes. In the medical file, the blood type, any infectious disease, 5 different test results of the liver, detailed results of blood tests, Xray results, for example, if the file belongs to a female detainee, it has information whether or not she had a IUD inserted, the date when fitted, the date it was removed, how many children she has, and whether or not she had given birth, when was the last time they had her period, their menstrual cycle etc. Basically, whatever the information related to one’s health all clearly recorded in the file. Prior to bringing detainees to the internment camp, they were taken for the medical check-up, and they brought their medical files with them. When they line them up to enter the camp one by one, they have their files in their hands. Taking blood

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<sup>88</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211108-Omer-Bekali.pdf> (para. 3)

samples was regular practice, however I didn't see other medical check-ups with my own eyes.<sup>89</sup>

335. Abduweli Ayup recounted his experience of being medically tested following his second detention in Ürümqi in August 2013: 'After this ordeal, I was taken to a hospital. As I had a hood placed over my head, I don't know which hospital it was. You have to strip off, but this time there were no prisoners, criminals, around me. Just the police and the doctor. Because there was a doctor with a white uniform, I felt happy because in my expectation doctor is better, doctor is more human than police. Because of that I wasn't so terrified. The first time (in Kashgar) I stripped off I feel very bad, but the second time (in Urumqi), because of the doctor there I believed that doctor couldn't do that, doctor is not so bad like that. I stripped off and they took a picture of my front side and asked they me to read something. I know they carried out a full body check, X-ray, taking saliva, urine, poop, and blood samples, applying a cold gel before examining different body organs. Then they took my facial recognition data. This was done by the doctor and the police helped him. The doctor wrote it down and the police took the picture.'<sup>90</sup>
336. Tursunay Ziyawudun: 'They also give us all kinds of vaccinations at every turn. Every fifteen days we had to be vaccinated and then we had to take medication under police surveillance. A lot of people started to become delirious after that. After taking the medication, I just didn't know anything. I couldn't think about anything. I couldn't do anything. It was a kind of confusion. I can only describe the effect. There were 2 types of pills that we had to swallow. One makes you feel really groggy and tired. The other one makes you feel like something is moving under your skin. They are white in colour. They were given to us as vitamins. However, you get very thirsty with these pills. Then many women have interrupted their periods. By one woman even more than 8 months. Her name was Aliya. Another woman conversely came to much blood. Her name was Roshangul. We didn't get it how it worked. With me, I don't see because of pills, I see because of beatings. I got

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<sup>89</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211109-Sayragul-Sauytbay.pdf> (para. 42–45)

<sup>90</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211109-Abduweli-Ayup.pdf> (para. 13–14)

a lot of bleeding. I think the pills were for sterilization on the one hand and on the other control minds.’<sup>91</sup>

337. ‘There was a big bus inside the camp I could see from the cell window. The bus was equipped with lab and medical instruments and used for performing medical test for camp detainees. I saw healthy people entering the bus come out in a bad condition.’<sup>92</sup>

338. Zumret Dawut: ‘In one room, they took our fingerprints and photos. In another room, they took a blood sample and placed it in a bag with the words “DNA” on it. In another room, they took our eye scans. And in the next room, they took vagina tests. And in another room, a doctor did another test that I did not know what it was. I was also forced to take an ultrasound. These tests took the whole day, as there were many women and many women, including myself, were crying.’<sup>93</sup>

339. Dawut: ‘In addition to giving us medicine, they also took our blood every fifteen days. Every time, after they took my blood, I felt very dizzy. On two occasions while I was in the camp, I was also inoculated with a substance – I did not know what it was. I am not sure whether this was the effect of the medicine, but I began feeling very languid. I stopped thinking also about my children or about conditions outside the camp.’

340. Gulbahar Jelilova was detained in a in a prison in Ürümqi: ‘I was then given a bottle and I was asked to urinate in the small bottle at the corner of the room. Everyone was looking at me doing this. I later learnt this was used to check whether I was pregnant or not. They also took my blood. There was a strange instrument, a piece of wood always moving around taking my photos. The urine control was important to the guards and had they found I was pregnant then they would have made me have an immediate abortion at this point. I saw this happen a lot of times to women there and shared a room with

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<sup>91</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211111-Tursunay-Ziyawudun.pdf> (para. 19)

<sup>92</sup> Ibid.

<sup>93</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211111-Zumret-Dawut.pdf> (para. 10)

other women who explained they were pregnant and had to have immediate abortions.<sup>94</sup>

341. Jelilova: ‘Every week, twice a week, we got some medicine. We have to take it immediately with the water they give us to accompany it. We had to show our hands. They also took some blood just after we received this medication.’<sup>95</sup>
342. Jelilova: ‘On the night of arrival at the No.3 prison, I was stripped naked for a medical examination. They took blood sample and urine sample before placing me in a cell. In less than one week, I along with other prisoners with black hoods over our heads were taken to an unknown place, there was medical equipment in the corridor, we were examined, and blood samples were taken, and we also had ultrasound tests. We were examined once a week stripped naked. I fainted once when I was in the No.3 prison, I was taken to the prison hospital where I saw many other prisoners and we all had medical examinations almost daily. In the No. 2 prison, there is a big medical clinic, we were examined regularly taking blood samples and ultrasound tests. We had injection once every 10 days. On the 27th of August 2018 before I was due to be released, I was taken to a big prison hospital for a check-up.’<sup>96</sup>
343. Shemsiye Tursun: ‘They took me then to the county hospital for check-ups. They did blood, urine, X-ray, Ultra-sound etc tests. In the basement, they put me in a computerised machine fully naked. They did a vagina test, which caused an extreme pain. Since then, my period stopped for seven months.’<sup>97</sup>
344. Baqitali Nur: ‘At the beginning they took once or twice my blood sample. We didn’t know why they took tithe gave me injections once or twice. At one time they injected in my arm, saying it was for cold. Then they gave me a blue drug, they said that I got a cold and I should take tithe monitored you to make sure you took the drug. When I refused to take it, “why don’t you take

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<sup>94</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-Gulbahar-Jelilova.pdf> (para. 10–11)

<sup>95</sup> Ibid (para 20).

<sup>96</sup> Ibid (para. 43).

<sup>97</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/02/UTFW2-005-Shemsiye-Tursun.pdf> (para. 4)

it?” they shouted and put it into my mouth by force. “Take it, otherwise you won’t get better,” they said. We didn’t know which kind of drug it was.’<sup>98</sup>

345. Gulzire Awulqanqizi: ‘Upon entering the camp, I was given a uniform: a red tee-shirt, black trousers, and trainers. Then they cut my hair short, they injected me with a substance, and they took blood samples for tests. They kept taking a blood sample every once in a while. I do not know what the purpose of these medical procedures were. I was told the injection was an “anti-flu shot” that costs 250 Yuan [CNY 250]. They forced me to sign an agreement to receive the injection and then proceeded to the injections. I was then given hot water to drink for three days. The injection seemed to alter my senses: prior to taking it I would spend my time missing my daughter, but after the injection I could only think of my stomach, it was hard to think. They held a meeting a week after the injection, where they said, “You do not know it yet, but after a year and a half, the injection will show its results.” Following the injection, many women stopped menstruating. This happened to me as well. Now, my period lasts fourteen days when in the past it used to last three to five days. I have children but after leaving the camp I can never have children again. I also do not feel well, I have no energy, I feel tired all the time and I get severe headaches. We were also regularly forced to take unknown pills.’<sup>99</sup>

346. Orynbek Koksebek was arrested in November 2017 and was medically tested: ‘They drove me to a large office building. It was shiny like a hospital, and everyone was wearing white medical clothing. But it was also somehow different from a hospital—I couldn’t tell you exactly how. We went from room to room for different examinations. There were several doctors, male and female, and they checked all over my body, from head to toe. I don’t speak Chinese. I couldn’t understand what people were saying I wanted to resist, but I was afraid. They took my blood pressure, checked, body head and heart. They took urine, blood, and stool samples also. They also took an X-ray.’<sup>100</sup>

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<sup>98</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211130-Baqitali-Nur.pdf> (para. 10)

<sup>99</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211206-Gulzire-Aulhan.pdf> (para. 3)

<sup>100</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211201-Orynbek-Koksebek.pdf> (para. 5)

## APPENDIX 11

# Coercive Marriages and Imposed Han Relatives

### SUMMARY

Evidence showed that there was both coercion and incentives for marriages to take place between Uyghurs and non-Uyghurs, especially of Uyghur women and Han Chinese men. In addition, Han (mostly men) were imposed on Uyghur families for long periods of time.

### EVIDENCE

347. Darren Byler, Assistant Professor of International Studies at Simon Fraser University in Vancouver set out, in his paper entitled ‘Negative Eugenics, Sexual Violence and Involuntary Surveillance’, the state-sponsored mechanisms and conditions for coercive marriage of Uyghur women to Han men<sup>101</sup>. The combined effects of the removal of many Uyghur men (aged 18–55) from the community into detention and the stigmatisation of the families left behind the imposition of Han ‘family friends’ into Uyghur households, often with the Uyghur man in detention, fear of sexual violence from these Han men, fear of detention in the event of refusal, state-sponsored incentives and coercion are forcing Uyghur women to marry Han men.
348. Based on interviews carried out by Byler, between two-thirds and three-quarters of the men incarcerated are aged between 18 and 55. The families left behind are designated ‘three categories’ people, suffer considerable disadvantages and are seen as posing elevated risk by the authorities. The

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<sup>101</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211214-Darren-Byler.pdf>



result has been that women have felt obliged to ‘divorce’ their husbands to escape this burden.

349. Byler explained that some interviews indicated that a significant number of partners of detainees have divorced their husbands as a way of escaping stigma and finding a new marriage partner. These divorces were also precipitated by the sexual violence that was permitted by visits from state workers in Muslim homes as part of a ‘becoming family’ homestay assessment program. A Kazakh woman named Sholpan Amerkhan, who fled across the border to Kazakhstan in 2018, told Byler that during the regular visits in the homes of ethnic minority women whose husbands had been taken to the ‘re-education’ camps, Han male ‘relatives’ often pressured women to drink liquor and dance with them. She said, ‘The Han men always went to the female’s homes. There were a lot of divorces as a result of this.’ She said she was not sure if the women were raped in these visits, but since this was widely believed to be the case in the village, the visits drove many women to feel they had no choice but to leave their husbands. If they severed familial ties and denounced their husbands as religious ‘extremists’, they were often no longer subjected to mandated state visits by the ‘relatives’. Sholpan’s own sister-in-law left her husband for this reason. She told Sholpan, ‘Being part of your husband’s family is just too complicated’.
350. In Byler’s interviews and in unverified social media posts, there has also been some limited evidence that women have remarried the Han ‘relatives’ who were sent to live in their homes. He explained:
351. ‘In both circumstances of sexual violence—inside and outside the camps—Uyghur and Kazakh women are unable to provide freely given consent to Han men. Outside the camp refusal of Han men “relative” visits, just as the refusal of an IUD emplacement, could result in a minimum in being placed on a watchlist of potentially “untrustworthy” people. Combined with other activities deemed suspicious it could also result in detention. That is to say, that because of the pervasiveness of coercion it is nearly impossible for Uyghurs and Kazakhs to give voluntary consent to state orders of any type.’
352. Incentives and disincentives are widely deployed by the authorities including monetary gifts and the chance of advancement or at least avoidance of the penalties suffered as being ‘three categories’. In May 2019, Xinjiang authorities announced that the children of mixed ethnicity marriages in which

one parent is Han would receive 20 extra points on college entrance exams, while children where both parents are ethnic minorities would only receive 15 (cut down from 50 points, a 70 per cent decrease).

353. The coercion and pressure are part of a deliberate state-sponsored policy.
354. Byler quotes anthropologist Mou Tao: ‘In the future, we must impose strict punishment on irresponsible remarks regarding marriages between young Uyghur and Han men and women and prevent isolation and threats toward those who intermarry. The government must also introduce relevant policies and measures to ensure the regular communication between young Uyghur and Han men and women. In addition to creating a good social atmosphere, appropriate rewards should also be given to the marriage of Uyghurs and Han; and care and preferential policies should be given to the children that come from Uyghur and Han marriages which face more social pressure.’<sup>102</sup>
355. In an article for *SupChina*, dated 7 August 2019, Byler recorded how in May 2019, a young Uyghur graduate student in Europe—referred to as Nurzat—received a WeChat video call from his panic-stricken girlfriend in a small city in southern Xinjiang. The young woman, called Adila, told him that she would break up with him if he didn’t come back within the next several months to marry her. She said her parents were forcing her to do this. They thought that the risk of her being chosen for marriage by a Han young man was too high. They needed to find a Uyghur husband for her now to protect her. Adila told Nurzat, ‘Please don’t blame me for doing this. A lot of Uyghur women are rushing to get married now. Everyone is afraid.’<sup>103</sup>
356. Byler recounted what a female Uyghur in exile said: ‘If Uyghur women refuse an offer of marriage, what is to stop officials from branding these women, or their families, as “suspicious”, to be taken away without charge or trial, never

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<sup>102</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211214-Darren-Byler.pdf> (p. 11)

<sup>103</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/08/State-Violence-in-Xinjiang-A-Comprehensive-Assessment.pdf> (p. 62); regarding coercion in some of these interethnic marriages, see also:

<https://thechinaproject.com/2019/08/07/uyghur-love-in-a-time-of-interethnic-marriage/>

to be seen again? Under these circumstances, how could a woman dare to refuse an unwanted marriage?’<sup>104</sup>

357. Quelbinur Sidik described how, in May 2017, she and her husband were ‘paired’ with a ‘twin relative’. The Han Chinese man visited her home once in every three months. She described the ‘five together’: cook, eat, study and travel. She quoted him, ‘you did not make me enjoy, you did not sleep with me’. She said, ‘I tell him I just toast with them and I allow him to do whatever he wants to do with me with disgust’.<sup>105</sup>
358. Zumret Dawut testified that following her release from detention, the authorities imposed a family of four Han Chinese to live with her family. They spent 10 days every month, even sleeping with her family. They took her children into their rooms, separately, and questioned them.<sup>106</sup>
359. Mihrigul Tursun told of the imposition of police officers imposed on her at home after her release: ‘Later, my father and two police took me to Cherchen. Until I got a little better, two police stayed at our home seven days, 24 hours. They would be replaced once a week. They slept and ate with us. When my father was not at home, they would sexually harass me and my mother. We tried everything to keep my father at home.’<sup>107</sup>
360. Elise Anderson and UHRP said the Qaraqash papers confirmed implementation of the Xinjiang ‘Becoming Family Programme’, including these instructions:
361. ‘At times, the big brothers and sisters feared the Uighurs might be slippery, that however cheerfully they might open their houses or declare their loyalty to the Chinese nation, beneath their smiles and gestures of wholesome secularism there might lurk darker allegiances, uncured attachments to their “diseased” religious ways. But there were simple ways to test for this kind of thing. One could offer a host a cigarette or a sip of beer; a hand could be

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<sup>104</sup> Ibid (p. 63).

<sup>105</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211029-Quelbinur-Sidik.pdf> (para. 64, 66)

<sup>106</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211111-Zumret-Dawut.pdf> (para. 27–28)

<sup>107</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211116-Mihrigul-Tursun.pdf> (para. 14)

extended in greeting to a little sibling of the opposite gender, staying alert for signs of flinching. Or one could go out to the market for some freshly ground meat and propose that the family make dumplings. And then wait and watch to see if the Uyghurs would ask what kind of meat was in the bag.’<sup>108</sup>

362. The ‘Becoming Family’ policy sends Party cadres to regularly undertake multi-day ‘homestays’ with Uyghur families. The government called the observers ‘big sisters or brothers’, echoing the exact language of early CCP development policies in East Turkistan that placed the Uyghur as a backward people in need of civilising influences from more advanced societies. However, the intense repressive turn in the region means the current use of the term has taken on a more intimate form. ‘Big sisters and brothers’ are cadres, predominantly Han, tasked with gauging the loyalty of Uyghurs. HRW described the programme thus: ‘During these visits, families are required to provide officials with information about their lives and political views and are subjected to political indoctrination’. The ‘Becoming Family’ policy limits remaining Uyghur spaces free from state intrusion and constitutes a gross violation of privacy. In an extended essay for *ChinaFile*, Byler detailed not only the presumption of Uyghur lip service to CCP fealty but also the special emphasis placed on ordinary expressions of religious affinity that is built into the ‘Becoming Family’ program.

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<sup>108</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211216-Elise-Anderson.pdf> (pp. 16–17)

## APPENDIX 12

# Confiscation of Land, Property and Business Assets

### SUMMARY

Evidence of confiscation of assets, including money, without any process, with or without detention having occurred first.

One seizure of USD 11m associated with long prison sentence for exporter.

Transfer of land and other assets to Han, sometimes as part of inducement to move to or be in Xinjiang.

### EVIDENCE

363. Melikzat Habibul said that in 2016, the authorities decided that she and her sister Bahargul were earning too much money from their clothes export business and, therefore, confiscated USD 20,000 without any due process.<sup>109</sup>
364. Habibul also said that her brother-in-law, Abdurehim Abdukader had the majority of his 350-acre farm confiscated following his detentions dated between May 2015 and April 2017, leaving him with a small piece of land the size of a garden.<sup>110</sup>
365. Dr Laura Murphy cited 73,000 farmers in Aksu province who were forced to give up their land with little or no compensation.<sup>111</sup>

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<sup>109</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211117-Melikzat-Habibul.pdf> (para. 3)

<sup>110</sup> Ibid (para 7).

<sup>111</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/08/State-Violence-in-Xinjiang-A-Comprehensive-Assessment.pdf> (p. 20); see also: [http://web.archive.org/web/20210210160442/http://www.aksxw.com/aksxw/content/2020-11/24/content\\_1140150.html](http://web.archive.org/web/20210210160442/http://www.aksxw.com/aksxw/content/2020-11/24/content_1140150.html)

366. [Mr Jang (whose evidence was not relied on for procedural reasons)<sup>112</sup> testified that many (Han) Chinese officials, including policemen, did not want to stay in Xinjiang because the environment was so restrictive. Incentives had to be attractive, including ‘free land which was previously confiscated from Uyghurs’.]<sup>113</sup>
367. Mehmud Tevekkül said that, under the leadership of Zhu Hailan, Deputy Secretary of XUAR, he and others were forced to change farming practices for less effective ones and 70–80 fields belonging to local families were taken away for not following orders and were given to Chinese migrants.<sup>114</sup>
368. According to a *Wall Street Journal* (WSJ) article based on a study carried out by UHRP, since 2019, Xinjiang Courts have confiscated at least 150 assets belonging to at least 21 individuals valued at a total of USD 84.8m. These individuals included Abdujehil Helil, a wealthy (previously, it is assumed) Uyghur exporter who was stripped of USD 11m in personal assets after he was sentenced to 14 years in prison. ‘This is probably the tip of the iceberg’, said Nicole Morgret of UHRP. The WSJ analysis of corporate records of companies in Hotan indicates that orders by municipal authorities to freeze Uyghur assets increased sharply in 2018. Ruzi Hemdul told the WSJ that much of his families’ assets have been auctioned off and that his two brothers have not been heard of since 2019 and 2020. He said, ‘they catch wealthy people so that they can retake their wealth’.<sup>115</sup>

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<sup>112</sup> Mr Jang (Wang Leizhan), a policeman who had served in Xinjiang, testified before the Tribunal on 7 June 2021. The Tribunal decided, on procedural grounds, not to admit his evidence, although there was no apparent reason to doubt him.

<sup>113</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT211116-Wang-Leizhan.pdf> (para. 5)

<sup>114</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211119-Mehmud-Tevekkul.pdf>

<sup>115</sup> <https://www.wsj.com/articles/chinas-xinjiang-crackdown-reaps-millions-of-dollars-in-assets-for-the-state-11632494787>

## APPENDIX 13

# **Destruction of Intellectual, Cultural, Language and Religious Uyghur Identity**

### SUMMARY

Division and separation of family members destroying Uyghur identity. IJOP identifying people for sanction by any form of religious observance.

Suppression of every religious practice on grounds of extremism.

### EVIDENCE

369. Religious and cultural practice for Uyghurs has become so restricted that religious observance is largely impossible. The detention of many Uyghurs separates husbands from wives and prevents intergenerational cultural transmission. XUAR Regulations on De-Extremification, published on 31 March 2017 mandate coercive sinicisation of both language and culture.<sup>116</sup>
370. According to the Aksu list, IJOP flags people for suspicious behaviour including studying or reciting the Quran or allowing one's children to do so or wearing religious clothing.<sup>117</sup>
371. Quelbinur Sidik described the 'twin relative' imposed on her questioning her religiosity and if she dresses in Muslim attire. He asked, 'every Friday, Muslim men go to Mosque, your husband may go to a mosque on Friday'.

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<sup>116</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/08/State-Violence-in-Xinjiang-A-Comprehensive-Assessment.pdf> (p. 54)

<sup>117</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/09/Human-rights-watch-China-Big-Data-Program-Ta-rgets-Xinjiangs-Muslims-4-December-2020-pdf.pdf>

She was forced to deny her and her husband's faith: 'No, he does not know how to pray, you see he drinks wine'.<sup>118</sup>

372. In his article 'Violent Paternalism' (2018), Byler described the work of 'big brothers and sisters' assigned to occupy homes of Uyghur 'relatives'. He interviewed these state workers and the behaviour they observed in the 'little brothers and sisters'. Had a Uyghur host just greeted a neighbour in Arabic with the words '*Assalamu Alaykum*'? That would need to go in the notebook. Was that a copy of the Quran in the home? Was anyone praying on Friday or fasting during Ramadan? Was a little sister's dress too long or a little brother's beard irregular? And why was no one playing cards or watching movies?<sup>119</sup>
373. Abduweli Ayup, who worked for Zhu Hailan, the party chief of Kashgar City, between 13 January and July 1998 quotes Zhu: 'Especially he says treat their religion very strictly, it's the origin of the problem'.<sup>120</sup>
374. The CCP claims it must halt the 'penetration of extremification' within society, as outlined in the XUAR Regulations on De-extremification (2017). Stated goals include 'making religion more Chinese' (Art. 4); prohibiting the rejection or refusal of public goods (e.g. alcohol or cigarettes); the 'generalization of the concept of halal into areas beyond halal foods' (Art. 9); leading believers to 'establish correct beliefs' (Art. 13); and guiding believers to 'correctly handle the relationship between law and religion' while confirming 'correct faith' (Art. 35). Yet, the true aim of in Xinjiang seems rather to be to erase the religious (Islamic) identity of Uyghur communities, via cleansing. Intrusive religious policing practised in Xinjiang since 2012 has accelerated since the arrival of new Party Secretary, Chen Quanguo, in 2016.<sup>121</sup>
375. CCP officials in the region have adopted the lexicon of pathology, treating

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<sup>118</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211029-Quelbinur-Sidik.pdf>

<sup>119</sup> Byler, D. (2018). 'Violent paternalism: On the banality of Uyghur unfreedom'. *The Asia-Pacific Journal*, 16 (24:4). <https://apjpf.org/2018/24/Byler.html>

<sup>120</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211109-Abduweli-Ayup.pdf>

<sup>121</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/08/State-Violence-in-Xinjiang-A-Comprehensive-Assessment.pdf> (p. 40); see also:

<http://theasiadialogue.com/2018/06/15/islam-in-xinjiang-de-extremification-or-violation-of-religious-space/>



religion as a disease. The Party's use of phrases such as 'contracting illness' (*ganran bingdu*), 'penetrate like an intravenous needle' (*guanchuan diandi*), and 'cure' or 'reform through criticism' exposes an escalation of the CCP's rhetoric: Turkic Muslims must be treated as patients. Their treatment reflects Chinese state practices for handling severe mental illness, addiction and disease.<sup>122</sup>

376. 'Members of the public who have been chosen for re-education have been infected by an ideological illness. They have been infected with religious extremism and violent terrorist ideology, and therefore they must seek treatment from a hospital as an inpatient.'<sup>123</sup>

377. In practice, the most innocuous activities can be construed as religious extremism. Such practices include growing a beard (especially a long one); praying regularly; inviting too many people to one's wedding; giving children names of Islamic origin; appearing too religious (e.g., wearing veils, headscarves or long clothes in Muslim style); reciting an Islamic verse at a funeral; washing bodies according to Islamic custom; holding strong religious views; allowing others to preach religion; teaching the Quran to one's children; asking an imam to name one's children; attending the mosque regularly; studying or teaching 'unauthorised' forms of Islam; praying at a mosque other than on a Friday (the traditional day of prayer in the Central Asia region); attending Friday prayers outside of one's own village; making the pilgrimage to Mecca; or possessing illegal religious content on a mobile phone or computer (including text messages containing religious language, Quranic verses or graphics).<sup>124</sup>

378. Restaurant staff told Professor Joanne Smith Finley that: 'It's better to be in

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<sup>122</sup> <https://www.theatlantic.com/international/archive/2018/08/china-pathologizing-uyghur-muslims-mental-illness/568525/>

<https://www.hrw.org/reports/2002/china/China0102-02.htm>

<https://uyghurtribunal.com/wp-content/uploads/2022/08/State-Violence-in-Xinjiang-A-Comprehensive-Assessment.pdf> (pp. 41–44); see also:

<https://www.chinafile.com/reporting-opinion/viewpoint/once-their-mental-state-healthy-they-will-be-able-live-happily-society>

<sup>123</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/08/State-Violence-in-Xinjiang-A-Comprehensive-Assessment.pdf>

<sup>124</sup> Ibid.

Urümchi now, as there's no freedom in the south. There, young men can't even grow a short beard or moustache—all facial hair is forbidden now. Only older men are allowed to grow a longer beard. Women are forbidden to wear the niqab or burqa.' Finley's academic colleague R confirmed on 21 September 2016 that women could not wear the hijab in the south and added that southerners wearing the niqab were frequently refused entry to Urümchi and given one-way tickets to leave. The migrant taxi driver from Hotan observed that 'a lot of people have been put in prison down south for very small things, like wearing veils and growing beards.' Finley heard this repeated many times during the 2016 field trip.<sup>125</sup>

379. The Chinese authorities characterise the repression as 'spontaneous thought liberation movement' that is now 'cleansing' Xinjiang, 'blazing across the prairie' and enabling the masses to 'throw rogue religious extremists into the grave of history'. At Kashgar's Heytgah Mosque, there were no worshippers when Smith Finley visited in 2018. A security guard told her that retired men are wary of going in the mosque because they'll have their retirement benefits stopped if they do, government employees can't go in because they need to earn money, and the businessmen who used to go in are now too scared.<sup>126</sup>
380. Smith Finley asked of the receptionist at the Nu'erlan (Bright or Dazzling) Hotel in Kashgar: 'What time do folks go in the mosque?', to which he replied, after a short pause, with a polite smile: 'They don't go in the mosque'.<sup>127</sup>
381. On 11 July 2018, Smith Finley visited smaller neighbourhood mosques in Kashgar: 'I found these padlocked and secured with razor wire, without exception. Locals told me no-one had entered them for over a year. In some cases, the crescent had been removed from the dome, and when I enquired what had happened to it, neighbours replied, "they [local authorities] took it away!" All the mosques were adorned with the PRC flag and covered in framed propaganda posters on the outside walls or running digital screens

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<sup>125</sup> Ibid (p. 43).

<sup>126</sup> Ibid (p. 45); see also:

<http://www.chinafile.com/reporting-opinion/viewpoint/now-we-dont-talk-anymore>

<sup>127</sup> Ibid (p. 46).

detailing the regulations on “de-extremification”, “ethnic unity work” or “illegal religious activities” (as at the Heytgah mosque).<sup>128</sup>

382. Tursunay Ziyawudun testified that on her detention on 10 April 2017, an Imam told her not to pray, that it was wrong, not to wear a headscarf, not to believe in God and that she had to believe in the communist party.<sup>129</sup>
383. Zumret Dawut testified that the police forced her and her husband to install a special app on their phone. Every time she said anything related to the Muslim religion, the police would ring. Their internet routers were replaced by ones issued by the authorities, and she felt they were being constantly monitored.<sup>130</sup>
384. Following her detention in March 2018, Zumret Dawut said she was regularly interrogated about her religion and asked, ‘does Allah exist?’; further, if she stayed silent, the guards beat her. In the end, she had to learn to say Allah did not exist.<sup>131</sup>
385. Gulbahar Jelilova said that in the women’s prison, they were punished if they spoke Uyghur: ‘You are forbidden to speak Uyghur, only speak Chinese’. They would feed her and her inmates only if they spoke Chinese.<sup>132</sup>
386. Habibulla Achad testified: ‘In 1983 I started to attend a religious school. Between the 1980s to 1990s, the Chinese government permitted legal Islamic education. Since 1990, I stopped attending this school as it was heavily controlled by the police – it wasn’t an open educational system anymore. Around that time, people around me (including my father’s friends) told me they wouldn’t be able to protect me in the future as they had access to the new policies that those with a religious background would be targeted for arrest by the authorities. Starting in 1991, there was several rebellions

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<sup>128</sup> Ibid (p. 48).

<sup>129</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211111-Tursunay-Ziyawudun.pdf> (para. 3, 44)

<sup>130</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211111-Zumret-Dawut.pdf> (para. 4)

<sup>131</sup> Ibid (para. 21).

<sup>132</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-Gulbahar-Jelilova.pdf> (para. 24)

in Kuchar county. Since then, the government started to arrest people who attended Islamic religious school secretly. In Kucha, I attended the final judgement for 5 boys (names: HimiTalip, Helil Altun, Idris Omer, Memet Yunus, Himit Mehsum) – they were sentenced to death as it was claimed they committed theft. They all studied Islam; they were the best students at the Islamic religious school. Except for this they had committed no crimes or had criminal records. Besides them, between 1992 – 1994, a lot of people from Kurchar county were secretly arrested. The two heads of the Islamic religious school were arrested. Hundreds of other students who attended that Islamic school were secretly arrested too. I believe those boys were arrested because of their appearance in a video, where a leader of the school, Karim Kari, gave a speech in 1990s. His speeches were non-political speeches, which promoted a moderate form of Islam. Once his speech was recorded and the video was leaked out to Chinese authorities – anyone identified in this video was arrested. I was there when the video was taken, but luckily, I was behind a tree and so I could not be identified.’<sup>133</sup>

387. Gulbahar Haitwaji testified as to the restrictions on use of the Uyghur language: ‘Once a month we had the opportunity to contact our local families or relatives by phone, but each time we were accompanied by the police or camp staff and they recorded all conversations in detail, and it was forbidden to communicate in Uighur but only in Chinese. Communication in other languages was also forbidden in the camps, only Chinese was allowed, and if anyone was caught, he or she would be severely punished.’<sup>134</sup>
388. Rushan Abbas said: ‘My three younger sisters-in-law, Turannisahan Idris (aged 47), Buayshehan Idris (aged 42) and Buhedichehan Idris (aged 32) are all housewives raising kids at home. Their so-called “excessive religious activities” by the CCP were wearing a headscarf and regularly praying at home.’<sup>135</sup>

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<sup>133</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211115-Habibulla-Achad.pdf> (para. 3)

<sup>134</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211116-Gulbahar-Haitiwaji.pdf> (para. 8)

<sup>135</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211116-Rushan-Abbas.pdf> (para. 5)

389. According to Smith Finley, the PRC's 2015 Counter-Terrorism Law defines terrorism so widely that it criminalises dissent or religiosity.
390. Rushan Abbas says, in 2018, her brother in law Abduherim (aged 44) was sentenced to 21 years in jail for fasting in Ramadan and obeying the dietary restrictions of Islam.<sup>136</sup>
391. In his statement, Mr Jang (whose evidence was not relied upon for procedural reasons; see paragraph 366 above) says that Uyghurs were tortured while in custody to force them to reject their religion.
392. Mihrigul Tursun recounted in her statement: 'There was another woman, called Patemhan. She was twenty-three-year-old. Her mother had died, and her husband, father and brother were all taken to camps. Her crime was attending a wedding in 2014 held according to Islamic traditions, so there was no dancing, singing, or drinking alcohol. She said that all of the four-hundred people who attended that wedding were arrested and taken to camps.'<sup>137</sup>
393. In a section in his paper 'Negative Eugenics...', entitled Trustworthiness Assessment Form, Byler described the highly intrusive surveillance and accreditation system implemented by the authorities in the XUAR. 'In as many as tens of thousands of cases, years of WeChat history was used as evidence of the need for Uyghur suspects to be "transformed." The state also assigned an additional 1.1 million Han and Uyghur "big brothers and sisters" to conduct week-long assessments on Uyghur families as uninvited guests in Uyghur homes; over the course of these stays, the relatives tested the "trustworthy" qualities of those Uyghurs that remained outside of the camp system by forcing them to participate in activities forbidden by certain forms of Islamic piety such as drinking, smoking, and dancing. As a test, they brought their Uyghur hosts food without telling them whether the meat used in the dishes was halal or not. These "big sisters and brothers" focused on the families of those who had been taken away by the police over the past decade. They looked for any sign of resentment or any lack of enthusiasm in Chinese patriotic activities. They gave the children candy so that they would tell them the truth about what their parents thought. The system of surveillance went far beyond these intentional assessments. Instead, it began

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<sup>136</sup> Ibid.

<sup>137</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211116-Mihrigul-Tursun.pdf>

to target and transform—or eliminate and replace—aspects of Muslim social life itself.’ Over 2020, Byler analysed parts of a 52 gigabyte internal police dataset obtained by *The Intercept*. The dataset contains close to 250 million rows of data that make up tens of thousands of police files. These files were recovered largely from the Mobile Police System of Ürümqi, the standardised mobile policing system nested within the larger IJOP.

394. This surveillance rendered any religious visible adherence—if not impossible—highly risky, and the net effect, according to Byler, is that: ‘While the mosque remains open, the number of people who entered the mosque to pray during the first 4 months of 2018 had dropped by 96.52% as compared to 2017 when 80,211 people attended the mosque to pray. In total, it continues, “there are 167 believers remaining in the precinct jurisdiction. Among those people, 5 of them are the relatives of the ‘three categories people.’” The remaining attendees are elderly and have residency permits to live in the district.’<sup>138</sup>
395. In their 2021 report, UTJD (referenced Roberts 2018: 246) states: ‘The National People’s Congress of the PRC, directly controlled by the Communist Party, officially approved the counter-terrorism law on December 27, 2015 that came into effect at the turn of the year, criminalizing almost all Uyghur dissenting voices, traditions, and Islamic belief and practices as indications of terrorism and extremism; moreover, this law was complemented by the “de-extremification regulations” that further encroaches upon Uyghur’s public expressions of their religiosity, allowing to legally persecution “Uyghurs’ thoughts, appearance, and behaviour”’.<sup>139</sup>
396. The Tribunal considered the report ‘Genocide in East Turkistan’ by Rukiye Turdush and has made use of material that is of a factual nature. In her statement, she drew attention to the disadvantages that weighed on students who conducted tests in language other than Chinese: ‘Students are classified into different types according to the education they receive Min Kao Han (minority students tested in the Chinese language) receive more advantage than Min Kao Min (minority students tested in their own language). For example, they receive additional point scores in university entrance exams, and can

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<sup>138</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211214-Darren-Byler.pdf>

<sup>139</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/07/UT-210912-Muetter-Iliqud.pdf>  
(p. 34)

choose a better university. The Ministry of Education of China announced the bonus points policy on Gaokao (university entrance exam website) and promised that Min Kou Han students will get additional 50 points.<sup>140</sup>

397. Turdush noted how, in 2017, RFA confirmed that the Uyghur language was totally banned in all schools of the Hotan district of East Turkistan. The ‘Genocide in East Turkistan’ report also mentioned that schools prohibited believing in religion, participating in any kind of religious activities and wearing any kind of religious apparel in preschool education. Another regulation called ‘Five rules for Mandarin Education in Hotan Area’ was implemented in the education system from primary schools to higher education, so that everyone in school is generally required to use the Chinese language and banned from using Uyghur language in public activities, as well as during the administration process.<sup>141</sup>
398. In her paper, ‘Educational Policies of the PRC and the Uyghur People’ (August 2021), Julie Millsap quotes the Diplomat as follows: ‘In the Chinese Communist Party’s drive to erase markers of Uyghur identity, the Uyghur language is a target because it is a Turkic language with many words of Arabic origin, and loan words from Persian, and written in an Arabic-based script. These aspects of the Uyghur language serve to connect Uyghurs with Turkic and Islamic communities. The CCP seeks to sever these affinities and is using Mandarin language assimilation as a tool to reorient Uyghur identity.’ In the same paper, Millsap also quotes Schluessel explaining the state’s use of the term ‘bilingual education’ as ‘a euphemism for the mandatory increase in the use of Mandarin in minority-language-speaking children’s school environments in place of the languages that are those students’ everyday medium of communication’.<sup>142</sup>
399. Millsap quotes international human rights lawyer Elizabeth Bewicke: ‘First, classrooms where Uyghur is the language of instruction have received only half the number of supplies, such as paper and toys, as Mandarin speaking schools. At the same time, education in minority languages has been increasingly restricted to the transitional phase of learning and is only being

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<sup>140</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211220-Rukiye-Turdush.pdf> (p. 10)

<sup>141</sup> Ibid (p. 12).

<sup>142</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211217-Julie-Millsap.pdf>

used as a primary method for instruction long enough to enable the student to learn in Mandarin. Moreover, while the law provides that “minority nationalities shall whenever possible, have textbooks in their own language, and use their languages as the media of instruction,” reports demonstrate that educational books are published in Mandarin only.’

400. In addition to the restriction on teaching material, ‘at least 1,000 primary school teachers lost their jobs from 2010–2011 because of their Mandarin level. One teacher of 20 years at Nogayto primary school who lost her job, with 30 other teachers from her village, told RFA: “We are good educators who love the students, but now the government will only allow people who speak perfect Mandarin to teach them.” A professor at the Xinjiang Early Childhood Training College also reported that 20 Uyghur professors at his school had no lessons to teach because the government required that their classes be taught in Mandarin. In 2011, only 12.7% of minority teachers in East Turkestan, or 18,342 of 144,780 total teachers, could teach bilingually.’
401. In his statement, Erbakit Otarbay said that he had been questioned about his religiosity: ‘They said they found a video clip about how to pray on my phone using WhatsApp and said I watched it. I insisted it is not about praying, it is about religious advice. I also told them that we do not pray 5 times a day in Kazakhstan. They said I violated the law by watching illegal videos and installing an illegal App on my phone.’<sup>143</sup>
402. Gulzire Awulqanqizi told of the prohibition of any form of religious expression in prison: ‘We also had to go the toilets in pairs, so one could keep an eye on the other. This was particularly to prevent forbidden religious expression like ablutions. Once, I accompanied an older lady to the toilet and she accidentally splashed urine on her feet. The guards noticed that she had rinsed herself clean and they saw it as ritual washing, so they punished me, who was watching her, by handcuffing my hands behind my back for twenty-four hours.’<sup>144</sup>
403. Gulzire Awulqanqizi told of being forced to eat pork: ‘Once, for a Chinese holiday, they made us eat pork. They actually forced us to eat pork: if you refused, as I did once or twice, they would put you in cuffs and lock you up,

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<sup>143</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211130-Erbakit-Otarbay.pdf>

<sup>144</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211206-Gulzire-Aulhan.pdf>



saying your ideology is wrong and you must become friends with the Chinese people. They would handcuff you to a “tiger chair” and ask “Why are you refusing to eat this food provided by the Communist Party?” and they would reprimand you. If you kept refusing, they would take you to another, harsher facility, so eventually I stopped refusing this food.’<sup>145</sup>

404. In his statement, Abdulusam Muhammad said that when he returned to his home in November 2015, he found that anyone with religious knowledge had been arrested, including ordinary people, imams and secretaries of mosques.<sup>146</sup>

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<sup>145</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211206-Gulzire-Aulhan.pdf>

<sup>146</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211201-Abdusalam-Muhammad.pdf>

## APPENDIX 14

# Legal Conclusions from Other Reports

405. Most or all the reports referred to in Appendix 9 also covered the law—not only the law with which the Tribunal is concerned but other possible legal routes to remedy or redress.
406. For a matter of such importance and gravity as possible genocide of a significant ethnic group, it might be thought desirable for *all* possible reports of this kind to be presented in person (assuming—unlikely as it happens—that there would have been time). However, this was not to be, and all but the Newlines Report had to be considered in this Judgment as printed but without a witness to question. Most reports also made recommendations generally or about possible remedies along different routes. The Tribunal did not dwell on these as its function is limited to fundamental findings on a limited number of issues.
407. In July 2020, the Bar Human Rights Committee of England and Wales published a briefing paper titled, ‘Responsibility of States under International Law to Uyghurs and other Turkic Muslims in Xinjiang, China’ (the Bar Human Rights Report).<sup>147</sup>
408. The Bar Human Rights Report said of itself: ‘This Briefing Paper aims to provide a high-level overview of the international human rights and international criminal law framework applicable to the alleged ill-treatment, repression and abuse of Uyghur and other Turkic Muslim communities by the Chinese State’. Its conclusions were based on evidence available

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<sup>147</sup> [www.barhumanrights.org.uk/wp-content/uploads/2020/07/2020-Responsibility-of-States-to-Uyghurs\\_Final.pdf](http://www.barhumanrights.org.uk/wp-content/uploads/2020/07/2020-Responsibility-of-States-to-Uyghurs_Final.pdf)

elsewhere and, thus, to the Tribunal. It focused on legal remedies and, among conclusions, noted:

- a. Treaties possibly breached by the PRC Government in its treatment of Uyghurs include:
  - i. Convention on the Elimination of All Forms of Racial Discrimination ('CERD')
  - ii. Convention on the Prevention and Punishment of the Crime of Genocide ('Genocide Convention')
  - iii. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment ('UNCAT')
  - iv. Convention on the Elimination of All Forms of Discrimination against Women ('CEDAW')
  - v. Convention on the Rights of the Child ('CRC')
  - vi. Slavery Convention.
- b. International organisations could request an Advisory Opinion from the ICJ on matters of concern including obligations of States under treaties, matters which require clarification or development of international law, and measures to strengthen peaceful relations between States. While the outcome of all of the various processes identified in the Report are non-binding, they can have significant symbolic impact, which can feed into the HRC's Universal Periodic Review of State compliance with international human rights norms.
- c. States Parties to the Genocide Convention have a duty, independent of China's own duty, to prevent genocide and/or punish perpetrators of the crime. (Art I). The ICJ has concluded that States that have the '*capacity to effectively influence*' other States have a duty to employ all means reasonably available to them to prevent genocide, including in relation to acts committed outside their own borders. That duty is one of conduct rather than result.
- d. The obligation to prevent genocide is engaged from the moment the State learns, or should know, of the existence of a serious risk that genocide will be committed. Thus, it is incumbent upon all States to consider, in light of the information available to them, whether genocide is being committed or whether there is a serious risk that genocide may be committed, and if so, to take all available diplomatic, legal and other lawful measures to prevent genocide
- e. China is not a party to the Rome Statute of the International Criminal Court ('Rome Statute'). That does not, however, detract from China's

responsibility under customary international law to protect all persons in its jurisdiction from crimes against humanity, as well as to investigate and prosecute perpetrators of such crimes, including public officials and persons acting on behalf of the State.

409. The principal author of the Bar Human Rights Report declined to attend to give evidence to the Tribunal
410. On 26 January 2021, Alison Macdonald QC, Jackie McArthur and Naomi Hart Lorraine of Essex Court Chambers, a barristers' set of chambers in London, published an opinion under the title, 'International Criminal Responsibility for Crimes against Humanity and Genocide against the Uyghur Population in the Xinjiang Uyghur Autonomous Region'.<sup>148</sup>
411. The Essex Court Chambers Opinion was prepared for Global Legal Action Network, the World Uyghur Congress and UHRP. The Opinion became publicly available by being, in some way, posted on the Chambers' website, an unusual act given that barristers' chambers are effectively cooperatives of independent barristers, each self-employed in private practice.
412. It concluded (referencing the Law of the Rome Statute) that:
  - a. There was evidence of crimes against humanity being committed against the Uyghur population, within the meaning of Art. 7 of the Rome Statute of the International Criminal Court and that as part of a widespread and systematic attack on the Uyghur population of XUAR, there was an arguable case that the *actus reus* requirements for the following specific crimes against humanity have been fulfilled: a. Enslavement (Art. 7(1)(c)), by the use of forced labour by former and current inmates of detention facilities. b. Imprisonment or other severe deprivation of physical liberty (Art. 7(1)(e)), constituted by widescale deprivations of liberty of members of the Uyghur population held in detention facilities without charge or trial. c. Torture (Art. 7(1)(f)) in detention facilities including by use of Tiger Chair and sexual violence. d. Rape (Art. 7(1)(g)) in detention facilities. e. Enforced sterilisation (Art. 7(1)(g)) of Uyghur women, as part of efforts to reduce the Uyghur population. f. Persecution (Art.

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<sup>148</sup> <https://uhrp.org/statement/authoritative-legal-opinion-concludes-that-treatment-of-uyghurs-amounts-to-crimes-against-humanity-and-genocide>

- 7(1)(h)), ranging from the deprivation of liberty to sexual violence and enslavement, directed against persons on the basis that they are members of the Uyghur population and/or Muslim. g. Enforced disappearance (Art. 7(1)(i)) of members of the Uyghur population.
- b. On Genocide, that there was evidence that the crime of genocide was currently being committed in XUAR. First, the Uyghur population of XUAR constitutes an ethnical group within the meaning of Art. 6 of the Rome Statute. Second, it is at least arguable on the available evidence that there is an intent to destroy, in whole or in part, the Uyghur population of XUAR as such. The evidence also demonstrates that the *acta rei* listed below are taking place in the context of a “manifest pattern of similar conduct” directed against the Uyghur population. Third, there was sufficient evidence to amount to an arguable case that the *actus reus* requirements for the following specific crimes of genocide have been fulfilled, with respect to members of the Uyghur population:
    - a. Causing serious bodily or mental harm (Art. 6(b)) to Uyghurs in detention, including acts of torture and forced sterilisations.
    - b. Imposing measures intended to prevent births within the group (Art. 6(d)).
    - c. Forcibly transferring children of the group to another group (Art. 6(e)).
  - c. China as a State may be accused of being criminally responsible for genocide. There would be a high threshold for establishing such responsibility. The most significant barrier will be proving the requisite special intent. In this respect, it may be possible to rely on the specific genocidal intent of certain senior officials; otherwise, it would be necessary to establish that a genocidal intent is the only possible inference available from the pattern of persecutory conduct.
  - d. For ***Individual criminal responsibility*** The report observed: we consider that the structural elements of indirect perpetrator liability under Art. 25(3)(a) of the Rome Statute are made out in respect of each of Xi Jinping, President of the PRC and General Secretary of the CPP of the People’s Republic of China and General Secretary of the Chinese Communist Party; Zhu Hailun, Party Secretary of the Xinjiang Political and Legal Committee from 2016 to 2019, and now Deputy Secretary of the Xinjiang People’s Congress and Chen Quango Party Secretary of XUAR since 2016. China is a tightly controlled single-party State. It is therefore highly unlikely that an attack on the scale of that which the evidence reveals, and especially systematic detention on such a scale, would be carried out by State authorities other than on the orders of senior State officials. Further, leaks of Chinese government papers

provide significant evidence tying the political leadership to the attack on Uyghurs in XUAR. On the basis of those leaked documents, taken together with the other available evidence, we conclude that there is a credible case that: a. Xi Jinping controls the overall direction of State policy, and has made a range of speeches exhorting the punitive treatment of Uyghurs. b. Chen Quanguo and Zhu Hailun have acted upon that overall policy by devising and implementing the measures which have been carried out in the Xinjiang Uyghur Autonomous Region, including mass detention and surveillance. As to the mental element necessary for individual criminal responsibility, the evidence suggests that each of these individuals has devised and implemented measures which they are aware are (and which they intend to be) committed on a widespread scale, based on a policy directed against the Uyghur population. In light of the evidence, we consider that there is a credible case against each of these three individuals for crimes against humanity. There is also a plausible inference that each of them possesses the necessary intent to destroy the Uyghurs as a group, so as to support a case against them of genocide (as well as supporting the imposition of sanctions against them by individual States under, for example the Magnitsky sanctions regime in the UK and other jurisdictions.

413. The Essex Court Chambers Opinion recognised the value of witness testimony, which has historically been the chief form of evidence in both domestic and international criminal trials. First-hand accounts by survivors and other witnesses, it said, are likely to be considered a key form of evidence in establishing the facts as to events occurring in XUAR. The Opinion also relied on satellite imagery and leaked government papers.
414. On law, the Essex Court Chambers Opinion dealt with:
  - a. *‘Widespread or systematic attack’ required for an event to be crimes against humanity* observing that a qualifying attack need not be a military attack and each of the individual acts constituting the attack need not be crimes when viewed in isolation from each other. Any state policy underpinning the attack adopted either by the State or by some other organised group does not have to be a formal programme, and its existence can be inferred from the totality of the circumstances, including events, political platforms, public statements, propaganda programmes, and the creation of political or administrative structures. However, the

policy must contemplate the general type of *actus reus* of which the individual perpetrator is accused. and its existence can be inferred from the totality of the circumstances, including events, political platforms, public statements, propaganda programmes, and the creation of political or administrative structures.

- b. The attack must be either widespread or systematic it need not be both. The former refers to the scale of the attack and/or the number of victims, while the latter refers to the organised nature of the acts and the improbability of their having occurred randomly.
- c. There appears to be sufficient evidence to conclude the existence of an attack on the Uyghur population of XUAR, that is both widespread and systematic. As outlined in the second section of this Opinion, there is evidence of a government policy to arrest and detain without charge members of the Uyghur population, to commit various acts of violence and torture upon them in detention, to put them to work in factories, to commit acts of sexual violence against them (including forced sterilisations), to forcibly remove their children and to destroy their cultural property. It is reasonably clear that the various types of *actus reus* considered in Section 2 of this Opinion, above, were committed pursuant to that State policy, such that they could cumulatively be described as a campaign against the Uyghur population. The number of victims, as well as the spread of the campaign over the entire XUAR qualified the attack as widespread.
- d. ....the campaign by the Chinese state is clearly targeted against a civilian population, being the Uyghur population of XUAR, there being no suggestion that the Uyghur population generally is taking active part in armed hostilities.
- e. ....the material elements [for torture] are satisfied on the present facts. In particular, the use of electric Tiger Chairs, Sexual violence and violations of reproductive rights suffered by Uyghurs are by their very nature acts of torture. The administration of psychoactive drugs as reported by former detainees can also amount to torture. For example, where drugs known to cause extreme bleeding have been forcibly administered to women, there is a strong case that the severity threshold is met. The instances of torture recounted in the evidence considered in Section 2 of this Opinion have taken in place in detention facilities where the victims have been in custody, and under control, of armed prison guards.

415. At paragraph 93, the Essex Court Chambers Opinion *inferred* from available material that the guards took advantage of a coercive environment to commit

acts of rape. However, it did not deal in detail with whether it had considered the possibility of ‘rogue’ activity and why it was safe to assume rape *could* not be rogue activity. The Opinion continued:

- a. There is accordingly no need to prove a lack of consent, and the *actus reus* elements of this crime are supported by the available evidence. We also consider that intent to engage in the conduct of rape and knowledge (at the very least) that the acts were committed by taking advantage of a coercive environment can be inferred from the evidence and the mental element of this crime is also made out.
- b. [on enforced sterilisation at paragraph 97]: To constitute the crime of enforced sterilisation, the material elements are that (1) the perpetrator deprived one or more persons of biological reproductive capacity; and (2) the conduct was neither justified by the medical or hospital treatment of the person or persons concerned, nor carried out with their genuine consent. As to the first element, the Elements of Crimes make it clear that the deprivation referred to is not intended to include birth-control measures which have a non-permanent effect in practice. This means that sterilisations, as well as any other measures which permanently deprive an individual of biological reproductive capacity, can qualify. *Prima facie*, the fitting of IUDs does not qualify as enforced sterilisation under Art. 7, as IUDs are not permanent and can be removed. However, the question is whether there is ‘a non-permanent effect in practice’. IUDs can have a permanent effect in practice - for example, for women who are unable to get an IUD removed, or who may find after removal that they are no longer naturally able to bear children, either due to their age or to the harm they have suffered in detention centres. In those instances, and pursuant to art. 30 of the Rome Statute, where the perpetrators mean to cause this consequence, or are aware that this will occur in the ordinary course of events, criminal responsibility can attach for the crime against humanity of enforced sterilisation. As to the second material element, we consider it to be clear that these operations are carried out without the genuine consent of the persons involved. The Zenz report refers to detainees testifying that they were given injections and that they were forcibly fitted with IUDs prior to internment or subjected to sterilisation surgeries. In some cases, the women were taken to hospitals for these purposes by armed police guards, evidencing a lack of genuine consent. The evidence we have seen also does not suggest that non-consensual sterilisations carried out on Uyghur women are justified by any medical



or hospital treatment of the persons concerned. The scale at which they have reportedly been carried out points in the other direction. The UN Interagency Statement on eliminating forced, coercive and otherwise involuntary sterilisation considers that “sterilisation for prevention of future pregnancy cannot be justified on grounds of medical emergency, which would permit departure from the general principle of informed consent

416. The Essex Court Chambers Opinion asserted that there have been acts of persecution against the Uyghur population:

in particular, deprivation of liberty, torture, rape and other forms of sexual violence, and enslavement. There is clear evidence that these acts were committed on the basis of the individual victims’ membership of the Uyghur population and/or their Muslim religion. The latter is particularly clearly demonstrated by the evidence that people are targeted for detention in detention facilities on the basis of their performing acts of religious worship or living in a religious way.

417. For genocide, it noted that:

... the Elements of Crimes stipulates, in respect of each form of genocidal act, that the conduct in question must have taken place in the context of a manifest pattern of similar conduct directed against that group or was conduct that could itself effect such destruction.

418. On the subject of imposing measures intended to prevent births within the group (Art. 6(d)), it noted that:

- a. Sterilisation and forced birth control are among the conduct that can fall within Art. 6(d) of the Rome Statute. Rape can also be encompassed within the provision if it meets the general requirements of the crime of genocide (including in particular the intent to destroy the protected group in whole or in part), which may be the case if a particular instance of rape is intended to cause such trauma that the victim decides not to reproduce or their ability to procreate is otherwise compromised.
- b. There is prolific credible evidence (see paragraphs 37 to 40 above) of Uyghur women being subject to measures that prevent them from reproducing, either temporarily or permanently (such as by having IUDs

non-consensually implanted or through forced removal of their wombs), as well as forced abortions. Such acts would, in our view, clearly constitute a form of genocidal conduct under Art. 6(d).

- c. There is also evidence of Uyghur women being raped in detention. If it could be established that ‘the circumstances of the commission of such acts, and their consequences’ are such that women are physically or mentally prevented from procreating as they otherwise would, this may also qualify as conduct falling with Art. 6(d). and the crime of genocide, are being committed against the Uyghur population of XUAR, China. Serious international crimes are of concern to all States, and, in line with the authors of other reports, we consider there to be a strong imperative for national governments to take urgent action to prevent the ongoing atrocities committed against the Uyghur population of XUAR.

419. The Essex Court Chambers Opinion concluded:

At the very least, national governments should render official statements recognising the atrocities being committed and stating their view that there is evidence of the commission of crimes against humanity and/or genocide. They may also consider whether it is possible for them to exercise criminal jurisdiction over any individuals suspected of the crime and/or to impose Magnitsky sanctions in line with their domestic legislation. They should also initiate and engage in diplomatic efforts to demand a full and transparent investigation into the facts on the ground, the trial and punishment of those found to be responsible for any international crimes, and the cessation of further atrocities against the Uyghur population.

420. The principal author of the Essex Court Chambers Opinion was invited to give evidence to the Tribunal but explained that ‘The legal Opinion which I and my colleagues drafted was not based on any independent factual investigations, but rather, as we set out in the Opinion, a range of publicly available evidence which we were not able to independently verify. Accordingly, the extent of the conclusions which we felt able to reach are set out in the Opinion itself, and we would not be able to add anything additional in testimony at the hearing. However, we would be pleased if you would make use of the written Opinion in any manner which would be of assistance to your investigation.’

421. Later, the Essex Court Chambers Opinion was ‘taken down’ from the Chambers’ website once ‘sanctions’ had been imposed by the PRC Government

on the authors' chambers and other individuals and organisations (including the Uyghur Tribunal and its Chairman).

422. The Tribunal expresses considerable surprise that individuals, collectives or other bodies willing to assert under the liberty of freedom of speech that another country, by its president, has committed genocide and crimes against humanity would not take the opportunity of advancing those assertions in a proper public setting when invited. The Tribunal has relied on all matters in the Essex Street Chambers Report that need to be considered if in any way favourable to the PRC or CCP but takes no notice of the opinions expressed on culpability for genocide, crimes against humanity or torture.
423. In March 2021, the Newlines Institute for Strategy and Policy published a report titled 'The Uyghur Genocide: An Examinations of China's Breaches of the 1948 Genocide Convention'. At the Tribunal's September 2021 evidence hearings, two authors presented the Newlines Report. The Tribunal was much assisted by their doing so.<sup>149</sup>
424. The format of the Newlines Report is unusual in having multiple authors—many well-known but some anonymous. Parts of the report were written by different people and the identities of authors of particular parts are not identified.
425. The Newlines Report relied on evidence, all or nearly all of which has been available to the Tribunal from other sources. The Report's principal aim seems to have been to show that state genocide had indeed been committed by the PRC Government against the Uyghurs.
426. Two of the author witnesses who appeared before the Tribunal as experts (Packer and Diamond) were clearly in support of the contents of the Newlines Report and very clearly enthusiasts for its conclusions:

Paragraph 1: The PRC bears State responsibility for committing genocide against the Uyghurs in breach of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention) based on an extensive review of the available evidence and application of international

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<sup>149</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211217-John-Packer-and-Yonah-Diamond.pdf>

law to the evidence of the facts on the ground. With the relevant intent established (paragraph 3) Intent can be inferred from a collection of objective facts that are attributable to the State, including official statements, a general plan, State policy and law, a pattern of conduct, and repeated destructive acts, which have a logical sequence and result destruction of the group as such, in whole or in substantial part. It went to embrace all five categories of acts necessary to establish genocide by staying – paragraph 7 Acts of Genocide. While commission of any one of the Genocide Convention’s enumerated acts with the requisite intent can sustain a finding of genocide, the evidence presented in this report supports a finding of genocide against the Uyghurs in breach of each and every act prohibited in Article II (a) through (e).

427. In the main body of the Newlines Report, further clarity of conclusion emerges:

The intent to destroy the Uyghurs as a group is derived from objective proof, consisting of comprehensive State policy and practice, which President Xi Jinping, the highest authority in China, set in motion.

428. The Newlines Report has a very clear purpose and objective where it notes:

State responsibility for breaches of the Genocide Convention is not a matter of individual criminal liability. Notably, the State may not be prosecuted or found culpable, and heightened criminal law standards therefore do not apply. State responsibility for breaches of international law follows from wrongful acts attributed to the State. The standard of proof for breaches of International Law is the preponderance of the evidence which applies generally to obligations arising from a treaty. However, given the serious nature of the breaches in question (notably the acts prohibited in Article II, as addressed below), this report applies a clear and convincing standard of proof.

429. The Newlines Report contained no field work evidence of its own and relied on evidence, all—or nearly all—of which has been considered by the Tribunal directly or through the reporting of others as witnesses.

430. On 19 April 2021, HRW published a report titled, ‘Break Their Lineage Break Their Roots.’<sup>150</sup>

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<sup>150</sup> [www.hrw.org/sites/default/files/media\\_2021/04/china0421\\_web\\_2.pdf](http://www.hrw.org/sites/default/files/media_2021/04/china0421_web_2.pdf)

431. The HRW Report concluded that research by Stanford Law School’s Human Rights & Conflict Resolution Clinic and HRW, along with reports by human rights organisations, the media, activist groups and others, and internal CCP documents, show that the PRC Government has committed—and continues to commit—crimes against humanity against the Turkic Muslim population.
432. HRW declined to provide a witness to present this report, although a HRW witness giving evidence on another issue, Ma Wang, answered a few general questions about the functioning of NGOs like HRW, to the effect that HRW and Amnesty International are important components of the modern world order and find themselves criticised for being either political or subject to political pressure. In reporting, both those organisations rarely name witnesses; more often, they maintain the confidentiality and anonymity of witnesses in footnotes where a witness is referred to in some way without being identified. This anonymity has been a long-standing practice for HRW work about Xinjiang due to the repercussions that would follow if there was not anonymity. By relying on anonymised witnesses, large human rights organisations such as HRW and Amnesty International rely on the public reposing trust in the organisations to be honest and accurate in their reporting, although much reporting about Xinjiang is also dependant on documentation from the PRC’s IJOP. The hearing of evidence in public with witnesses almost all appearing with name and image publicly available, as at the Uyghur Tribunal, is the best way to hear evidence where this is possible.
433. The specific crimes against humanity documented in the HRW Report include imprisonment or other deprivation of liberty in violation of international law; persecution of an identifiable ethnic or religious group; enforced disappearance; torture; murder; and alleged inhumane acts intentionally causing great suffering or serious injury to mental or physical health, notably forced labour and sexual violence.
434. On genocide, HRW said that:
- it had not documented the existence of the necessary genocidal intent at this time. Nonetheless, noting that nothing in the report precludes such a finding and, if such evidence were to emerge, the acts being committed against Turkic Muslims in Xinjiang—a group protected by the 1948 Genocide Convention—could also support a finding of genocide.

435. The witness May Wang confirmed this position was unchanged.
436. The HRW Report suggested that forced labour of Turkic Muslim detainees may also constitute enslavement as contemplated by the Rome Statute. Although the Rome Statute itself defines the crime narrowly, the ‘Elements of Crimes’ interpret enslavement to encompass ‘exacting forced labour or otherwise reducing a person to a servile status’. Even if Turkic Muslim labourers are well treated, the Nuremberg Tribunal has held that even in the absence of torture or ill-treatment, slavery can exist where labourers are ‘without lawful process ... deprived of their freedom by forceful restraint’.
437. The PRC Government’s targeting of and the repressive measures used against the Turkic Muslim ethnic group meet the requirements for the crime against humanity of persecution. Persecution is ‘the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity’.
438. In June 2021, Amnesty International published a report titled, “‘Like we were Enemies in a War’”: China’s Mass Internment, Torture and Persecution of Muslims in Xinjiang.<sup>151</sup> Amnesty International was invited to provide a witness to give evidence to the Tribunal about the report but felt unable to assist. This was unfortunate. The report is cautious in reaching conclusions but comprehensive both as to factual evidence and possible remedies that might be sought under other legal instruments and processes. Its witnesses, as with the HRW Report, are all effectively anonymous, and this makes it harder for this Tribunal to assess the value of the evidence those witnesses gave.
439. However, Amnesty International is a major NGO with a very considerable reputation. Its reasons for anonymising witnesses are understandable, and the Tribunal sees no reason not to accept the factual evidence set out in the report.
440. Amnesty International interviewed 55 people who had been detained in internment camps and later released. The Amnesty International Report’s findings and conclusions were based on first-hand testimonies that Amnesty

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<sup>151</sup> <https://www.amnesty.org/en/documents/asa17/4137/2021/en/>

International gathered from former detainees of the internment camps and other people who were present in Xinjiang after 2017, as well as from an analysis of satellite imagery and data. The Report also drew on testimonial evidence and confidential government documents gathered and analysed by journalists, scholars and other human rights organisations. For the report, 128 people were interviewed: 55 former detainees of internment camps in Xinjiang (39 men and 16 women), 15 other witnesses who lived in or visited Xinjiang since 2017 and 68 family members of people from Xinjiang who are currently missing or detained. The majority of the interviewees were Kazakh, a minority were Uyghurs, and a small number were Kyrgyz or Han Chinese. Forty-four of the 55 former detainees interviewed for the report had never shared any part of their stories publicly before, and several others had never shared significant portions of their stories. According to the Xinjiang Victims Database—a website run by human rights researchers and activists that aggregates and synthesises all publicly available testimony related to Xinjiang internment camps—excluding the former detainees interviewed publicly for the first time in this report, fewer than 40 former detainees have ever spoken publicly.

441. Amnesty International concluded that:

Evidence collected by Amnesty International provides a factual basis for the conclusion that the government of China has committed crimes against humanity in Xinjiang, including the crimes against humanity of imprisonment, torture, and persecution. This evidence also demonstrates that the government has committed other serious violations of human rights, including the rights to liberty and security of person; to privacy; to freedom of movement; to opinion and expression; to thought, conscience, religion and belief; to participate in cultural life; and to equality and non-discrimination. These crimes have been perpetrated against members of the region's predominantly Muslim ethnic minority groups, including ethnic Uyghurs, Kazakhs, Hui, Kyrgyz and Uzbeks.

442. Amnesty International also observed:

It has been four years since the internment camps opened in Xinjiang and the international community has done little to help the affected population. The UN has failed to fulfil its responsibilities to the people of Xinjiang. There are a number of avenues by which 'the UN' could take steps to

hold China to account. UN member states could take concrete action to address the situation – to convene special sessions and launch robust investigations – through the Security Council, the General Assembly or the Human Rights Council. Not only have they failed to do so, but a significant number of states continue to use their platform at these forums to defend China’s human rights record in Xinjiang and beyond. The UN Secretariat – led by the Secretary-General, including the Office of the High Commissioner for Human Rights – could also take action independently of decisions by UN member states, to conduct remote monitoring and publish the details of its findings to set the record straight, as it has done in other situations. So far, its public statements have been muted and it has done no public reporting. The failure of the UN to take decisive action to address these egregious and well-documented human rights violations, and to hold China to account for its actions, is a stain on the institution’s reputation and a failure on many counts to fulfil clear mandates to address human rights situations of concern on their merits. By turning a blind eye to the suffering of millions of people in Xinjiang, the UN has effectively contributed to China’s efforts to discredit the survivors and activists who have spoken out at significant personal risk, and to dehumanize the affected population. The UN and its member states must urgently remedy this situation.

443. On the subject of possible genocide, Amnesty International confined itself to noting that (p. 142):

Evidence collected by Amnesty International provides a factual basis for the conclusion that the government of China has committed crimes against humanity in Xinjiang, including the crimes against humanity of imprisonment, torture, and persecution.

444. And, by a footnote, referenced:

Human Rights Watch, “‘Break Their Lineage, Break Their Roots,’: China’s Crimes against Humanity Targeting Uyghurs and Other Turkic Muslims,” 19 April 2021, Alison Macdonald, Jackie McArthur, Naomi Hart, and Lorraine Aboagye, Essex Court Chambers, “International Criminal Responsibility for Crimes Against Humanity and Genocide Against the Uyghur Population in the Xinjiang Uyghur Autonomous Region,” 26 January 2021, Economist article saying “‘Genocide’ is the



wrong word for the horrors of Xinjiang: To confront evil, the first step is to describe it accurately,”

445. It may be reasonable to infer from this footnote that the author(s) of the Amnesty International Report did not consider genocide to be the right word to describe what their own research revealed.
446. There is no reason to doubt the integrity of a report coming from Amnesty International and the fact that it was able to conduct field work that the Tribunal has not been able to do adds to the value of its conclusions especially where witnesses were PRC Government officials.

## APPENDIX 15

# Factual Evidence from Various Reports

447. In July 2020, the Bar Human Rights Committee of England and Wales published a briefing paper titled, ‘Responsibility of States under International Law to Uyghurs and other Turkic Muslims in Xinjiang, China’ (the Bar Human Rights Report; [https://www.barhumanrights.org.uk/wp-content/uploads/2020/07/2020-Responsibility-of-States-to-Uyghurs\\_Final.pdf](https://www.barhumanrights.org.uk/wp-content/uploads/2020/07/2020-Responsibility-of-States-to-Uyghurs_Final.pdf)); it contained no additional factual evidence.
448. The 2021 Essex Court Chambers Opinion contained some limited additional factual evidence, for example:
- a. widespread reports of detainees being forced to say prayers to the Communist party (including before each meal), sing Communist songs and attend daily flag-raising ceremonies (para. 44)
  - b. Human rights organisations report that, recently, new cotton factories and textile hubs have been built physically connected with detention facilities officially designated as such (para. 48).
  - c. In addition to the family dismemberment that is incidental to other programmes, there are reports of distinct, systematic efforts to break up Uyghur families as an end in itself. In November 2016, Chen Quanguo (Party Secretary of XUAR) issued an order that all ‘orphans should be placed in state institutions’ (para. 56).
449. Leaked police files provided material for a report dated 29 January 2021 for *Intercept* by Grauer; by oversight, she was not invited to present her report to the Tribunal. That material under her examination revealed how:

- a. Someone recorded by police as ‘has good behaviour and we do not have any suspicion’ was nevertheless monitored.
- b. A database of information was created by use of ‘anti-terrorism sword’ phone inspection tools at checkpoints where people had to plug their phones into these devices, capturing everything on their phones.
- c. Convenience stations purporting to bring the community and police closer together in reality acted as hubs for surveillance, monitoring phone calls between detainees and their family members back home. (see <https://www.wsj.com/articles/chinas-hard-edge-the-leader-of-beijings-muslim-crackdown-gains-influence-11554655886>)
- d. Under the ‘Two Inform, One Advocate’ system, relatives and cadre members typically meet with the person in re-education and a judge who issues a ‘pre-judgment’ and ‘pre-sentence’, usually of two to four years, sometimes with requirements such as acquiring Chinese language skills. An October 2018 report stated that ‘some relatives of three-category people are very happy after they learned about “Two Inform, One Advocate” work; because of this, at least they know how long it would take for their relatives to come out, and they can arrange many business-related things beforehand’.
- e. One of the database’s major components is an extensive collection of minutes from ‘community stability’ meetings, in which *de facto* police auxiliaries, or citizen-staffed neighbourhood police, discuss what took place the previous week across their area including information on investigations of tips about suspicious people.
- f. A 2018 report from a neighbourhood just northeast of the centre of Ürümqi mentions authorities conducting searches on 1,860 people with an anti-terrorism sword in just one week in March. In the same report, detailing a single week in April, 2,057 people in the area had their phones checked. (see <https://beta.documentcloud.org/documents/20466322-document-14>)
- g. Citizens who fail to submit biometric and biographical information are reported to police, face fines and are sometimes made to formally renounce their behaviour. Some documents about the programme focus on migrants or the ‘ethnic language people’.
- h. Many detainees and former detainees are referred to as ‘three category people.’ The label, applied very liberally, refers to purported extremists and terrorists of three levels of severity, ranked according to the government’s perception of their mindset and potential to cause harm. Relatives of detainees and former detainees are also labelled, ranked and tracked by police. Another system categorises people as trustworthy,

normal or untrustworthy. (see <https://undocs.org/CERD/C/CHN/FCO/14-17>)

- i. The authorities also monitor phone calls between detainees and their family members back home. One document detailed such a call that lasted four minutes and 20 seconds, describing the contents of the conversation and how grateful the relatives were that the government allowed it. Byler, cited by Grauer, explained this kind of reaction: ‘It’s an inflection point documenting how people are receiving the re-education’; ‘If they cry or act angry that their relative can’t be released, that’s a sign that the re-education hasn’t been received. (see <https://theintercept.com/2021/01/29/china-uyghur-muslim-surveillance-police/> <https://beta.documentcloud.org/documents/20466279-document-4> <https://beta.documentcloud.org/documents/20466278-document-5>)
  - j. In many cases, relatives were asked to record their call and share it with the police, or they were interviewed immediately after to see how they were doing after the call.
  - k. The sentences appear to be assigned to people after they have been incarcerated for an extended period. They come, documents show, through a programme called ‘Two Inform, One Advocate’, with ‘inform’ apparently referring to information about extremism (as provided in re-education) and ‘advocate’ referring to advocacy of a policy to provide sentences.
450. The 2021 HRW Report contained a great deal of relevant and useful factual material.
451. Of particular significance had been its own earlier 2005 report that documented systematic repression of religion in Xinjiang as a matter of considered state policy, at a ‘level of punitive control seemingly designed to entirely refashion Uighur religious identity to the state’s purposes’.
452. The 2021 HRW Report suggested that detention of Turkic Muslims in extra-legal detention centres has been documented since at least 2016, well before the start of the wave of detentions that began in spring 2017. Its own 2018 report documented that in Xinjiang, police detention facility staff beat detainees, hung them from ceilings and walls, forcibly deprived them of sleep and subjected them to prolonged shackling. Some former detainees reported having been strapped to metal chairs, known as ‘tiger chairs’ during police interrogations.

453. The emergence of the #MeTooUyghur<sup>152</sup> social media campaign, in which individuals demand proof from Chinese authorities that those detained by the state are still alive, allowed relatives of detainees and activists to compile accounts of disappearances, recording over 11,500 testimonies as of December 2020.
454. Its sources revealed how in leaked speeches by Xi Jinping, the CCP leader instructed Xinjiang police forces to ‘show absolutely no mercy’ and unleash the ‘organs of dictatorship’ against ‘radical Islam’, contending that religious extremism had already captured broad swaths of the Xinjiang population.
455. The HRW Report suggested that the treatment of Wang Yongzhi, a CCP official, was informative: he initially followed the leadership’s orders to detain Turkic Muslims *en masse* in his region of Yark. Worried that this hard-line approach would provoke backlash, exacerbate ethnic tensions and hurt the region’s economy, he then ordered the release of over 7,000 political education camp inmates in September 2017. For this act of defiance, the CCP detained him, stripped him of all power, prosecuted him and—by publicising his forced confession—made an example of him for ‘gravely disobeying the party central leadership’s strategy for governing Xinjiang’.
456. In 2017, the Party opened 12,000 investigations into other Party cadres for similar infractions in Xinjiang and purged, or otherwise punished, thousands of Xinjiang officials who resisted or failed to implement the mass detention campaign.
457. Other details from this report included:
- a. The earlier 2005 HRW Report documented the arrest, torture and execution of peaceful activists for alleged involvement in ‘separatist activity’, severe restrictions on religious practice, chronic and daily harassment, and restrictions on travel.
  - b. The 2020 HRW Report revealed how the US State Department estimated that, in total, as many as two million people passed through the political education camps alone between April 2017 and December 2018; a leaked internal memo by Chinese authorities states that 15,683 ‘suspicious

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<sup>152</sup> <https://globalvoices.org/2019/02/13/metoouyghur-campaign-asks-chinese-government-to-prove-that-xinjiang-detainees-are-still-alive/>

persons' were taken into custody in a single week in June 2017. In 2017, Xinjiang Party Secretary Chen Quanguo encouraged officials to 'round up everyone who should be rounded up'.

- c. A confidential internal document approved by Zhu Hailun—Xinjiang's deputy party secretary, Chen Quanguo's right-hand man and the region's top security chief—states that, based on an initial screening, detainees are placed in either general management, strict or very strict zones, which vary in 'education and training methods'. Some are managed according to a scoring system that measures their behaviour.
- d. In Dehuai, a Hui Muslim was ordered to serve life imprisonment for 'splittism', namely for organising trips abroad to study the Quran, for inviting religious figures from other countries to Xinjiang and for holding religious meetings in the region between 2006 and 2014.
- e. Nebijan Ghoja Emet, a Uyghur, convicted of 'inciting ethnic hatred and discrimination' for telling others 'what is haram and halal', was sentenced to 10 years in prison
- f. Asqar Azatbek, an ethnic Kazakh, convicted of 'spying and fraud' for showing a visiting official from Kazakhstan around hydraulic projects near the Kazakh-Chinese border, was sentenced to 20 years in prison.
- g. Nurlan Pioner, a Kazakh, was convicted of 'disturbing public order and extremism' for educating over 70 people in religion and sentenced to 17 years in prison.
- h. Nie Shigang, a Hui, was originally convicted of 'assisting in terrorist activities' and 'money laundering' for helping over 100 Turkic Muslims transfer money to their relatives in Egypt—funds authorities said were used for terrorist activities—and was sentenced to 15 years in prison. Upon appeal, however, the court ruled that Nie was not guilty of 'assisting in terrorist activities' and reduced his sentence to five years for 'money laundering'.
- i. Serikzhan Adilhan, a Kazakh, was convicted of running an 'illegal business' for selling cigarettes worth CNY 174,600 (USD 27,000) without a licence and sentenced to 3.5 years. The verdict against Serikzhan Adilhan is the only one of the seven available verdicts that is posted on the PRC Government's official database of court verdicts.
- j. Huang Shike, a Hui, was convicted of 'illegal use of the internet' for explaining the Quran to others in two WeChat groups and sentenced to two years.
- k. Numerous deaths in detention or shortly after release from custody have been reported since 2018. The Xinjiang Victims Database has reported

177 deaths of detainees in various parts of Xinjiang, most of them while in custody and some after release as a result of complications from injuries suffered in custody or from illnesses, including mental disabilities, that developed in these facilities or were not appropriately treated. RFA reported 150 deaths in one camp in Aksu Prefecture during the latter half of 2018 and four other deaths in separate political education camps in 2018. The Chinese authorities have rarely acknowledged these deaths.

- l. In a 2018 report, HRW documented that in Xinjiang, police detention facility staff beat detainees, hung them from ceilings and walls, forcibly deprived them of sleep and subjected them to prolonged shackling. Some former detainees reported having been strapped to metal chairs, known as ‘tiger chairs’, during police interrogations.
- m. Multiple government platforms state that the purpose of the camps is to ‘wash brains’ and ‘cleanse hearts’.
- n. In early 2015, Chinese authorities forced Turkic Muslim imams to dance in the street while chanting state propaganda and to take an oath swearing not to teach religion to children.
- o. As of September 2018, the CCP had budgeted over USD 30 million to build or expand at least 45 ‘rescue, care, and protection centers’ since the beginning of 2017, creating enough beds to house 5,000 children. Children are taught Chinese, some are punished for speaking their native languages, and they are taught to sing and dance to propagandistic songs.
- p. In early 2017, the PRC Government demanded the return of Turkic Muslim students living abroad, accusing the community of ‘separatism’ and ‘religious extremism’. Following this demand, there were reports of Chinese authorities detaining family members of these students to coerce them into returning to China. The PRC Government has also pressed other governments to cooperate in the return of Turkic Muslims abroad.
- q. Labour transfer programs predated the Strike Hard Campaign. They started in 2006 but dipped around 2014, following the Kunming train station attack. The programs saw a revival around 2017 and 2018 as part of the PRC Government’s nationwide ‘poverty alleviation’ efforts.
- r. Satellite images also show the recent emergence of new factories, connected to or near the camps, where inmates allegedly provide low-cost or unpaid labour. In at least one instance, such a factory purportedly became an extension of a political education camp; labourers live in dormitories, may be prohibited from returning home on a regular basis and receive no pay for their work until they ‘complete their training’.
- s. Throughout China, for decades, women have been subjected to violations

of their reproductive rights, with most Han couples limited to strict, and brutally enforced, birth quotas of one child per couple: a policy changed, as of 1 January 2016, to two children per couple.

- t. There are indications that these national birth control policies have been implemented more strictly than before in Xinjiang during the Strike Hard Campaign, out of a stated concern that resistance to family planning policy is the result of an adherence to religious extremism as an ‘ideological virus’ that the government has determined needs to be eradicated.
- u. In 2017, a phrase began to crop up in government documents related to family planning in Xinjiang: ‘severely attack behaviours that violate family planning’. That same year, local governments in the region launched a ‘Special Campaign to Control Birth Control Violations’, seeking to unearth and punish birth policy violations dating as far back as the 1990s, with especially harsh punishments proposed for violations committed after 28 July 2017, when Xinjiang reformed its family planning policy to eliminate ethnic distinctions in birth policies. A regionwide directive issued in 2018 ordered the continuation and expansion of this campaign, and countywide implementation schemes were issued in April and May of that year.
- v. While the number of sterilisation procedures in the rest of China plummeted following the 2016 abolition of the country’s longstanding one-child policy, sterilisations surged in Xinjiang in 2017 and 2018, despite Turkic Muslim communities’ traditional reticence towards such procedures. Turkic Muslim women have also reported threats of internment for refusal to undergo these free medical services.
- w. In leaked speeches by Xi Jinping, the CCP leader instructed Xinjiang police forces to ‘show absolutely no mercy’ and unleash the ‘organs of dictatorship’ against ‘radical Islam’, contending that religious extremism had already captured broad swaths of the Xinjiang population, first publicised in a NYT article (see paragraph 63 above).
- x. Leaked CCP directives warned officials that the ‘work policy of the vocational skills education and training centers are ... highly sensitiv[e]’, directed officials to ‘strengthen [their] staff’s awareness of staying secret’ and instructed them to exercise ‘serious political discipline’ and ‘secrecy discipline’ in the camps, including the prohibition of any video equipment in the camps.

457b. The 2021 Amnesty International Report contained additional factual evidence.



458. Its factual evidence, not presented to the Tribunal or in the Tribunal's database, included much evidence of physical violence against detainees in camps.

459. It included an interesting account of a former government official:

I was there ... The police would take people out of their houses ... with hands handcuffed behind them, including women ... and they put black hoods on them ... Nobody could resist. Imagine if all of a sudden, a group [of police] enters [your home], cuffs you and puts [a black hood] over your head ... It was very sad ... [Afterwards] I cried ... That night we made 60 arrests ... That was just in one district [of many where people were being detained] Every day they arrested more people.

This and other accounts in the evidence overall demonstrate that sensibility calculated by the PRC Government was not always in line with the sensibilities of some of its officials—something reflected, perhaps, in the leaking of documents to the Western world.

460. A witness named Madi told Amnesty International that he:

- a. witnessed the torture of a cellmate who he later learned, died from the effects of the torture. Madi said the man was made to sit in a tiger chair in the middle of their cell. The cellmates were made to watch him sit there, restrained and immobilized, for three days, and were expressly forbidden to help him. '[The man] was in our room for more than two months ... he was made to sit in a tiger chair. [I think the man was being punished for pushing a guard.] ... They brought the chair into our room ... They told us that if we helped him then we would sit in the chair ... It was an iron chair ... his arms were cuffed and chained. Legs were chained as well. His body was tied to the back of the chair ... Two [cuffs] were locked around his wrists and legs ... A rubber thing attached to the ribs to make the person [sit] up straight ... at some point we could see his testicles. He would [urinate and defecate] in the chair. He was in the chair for three nights ... He died after he [was taken out of the cell].' He also gave other examples of inmates being forced to observe torture, as this can properly be described, perhaps in order to compel their obedience in addition to what outcome was intended for the person in the tiger chair.
- b. Regular medical examinations, Madi explained, were top secret: '[The staff] had to draw their blood to make sure they were healthy. The targets

were young graduates. [At the time, at the hospital I worked at it was] mainly Huis who studied [abroad].’

461. Nearly all former detainees told Amnesty International that, in addition to undergoing medical exams, they were required to allow government officials to collect their biometric data. This almost always included multiple photographs, fingerprints, an iris scan, a voice recording and a writing sample. Biometric data was often collected at police stations. Former detainees said blood samples were taken: ‘Then we went to a police station for what I think was a DNA [sample] ... They took our blood, spread it on something, and put it in a plastic wrap; ‘The precise purpose of these medical examinations could be explained easily enough first by informing the people tested and then the outside world. Neither thing happens.’
  
462. Much of the evidence in the report was similar to that already before the Tribunal, but the following are among passages not covered by other evidence, including:
  - a. Mansur, a farmer, described to Amnesty how he was tortured multiple times in two camps during his time in detention—both during an interrogation and during multiple punishment sessions. He described his interrogation session: ‘Two guards took me from the cell and dropped me off [at the room where I was interrogated]. Two men were inside ... [They asked what I did in Kazakhstan] “Did you pray there? What do your parents do?” I said I only stayed with family, that I took care of livestock, and that I didn’t do anything illegal ... they asked me about mosque and praying ... If I told them I had been praying, I had heard that I would get sentenced for 20 or 25 years. So I told them I never prayed. Then they became upset. They said, “All that time with livestock, you became an animal too!” Then they hit me with a chair until it broke ... I fell to the floor. I almost fainted ... Then they put me on the chair again. They said, “This guy hasn’t changed yet, he needs to stay [in the camp] longer”.’
  - b. In 2019, leaked PRC Government documents were published by the ICIJ, NYT and other media outlets and scholars. These leaks appear to have triggered attempts to put even tighter controls on information coming out of Xinjiang, including through the physical destruction of documents related to the internment camp system. Amnesty International received several accounts of PRC Government cadres being made to burn files related to the internment camp system in the aftermath of the

leaks. One former detainee—a former government cadre—told Amnesty International that he participated in burning files: ‘I attended the burning. It was in ... 2019, after I was released ... I was helping to carry the files ... It was not only the [detainees’] files. It is any re-education–related materials. For example, all notes from meetings ... It took five or six days to burn everything [in the office].’

- c. Someone named Bolat told Amnesty International he was detained twice for travelling even though he had received permission from the appropriate authorities both times: ‘[After I was detained the second time] I asked the village chief [why I was detained]. He said, “We are doing what we are told. We don’t know why. All people who are travelling abroad go to the camp. You have no right to ask questions. If you ask why, it will be seen as resistance. It will not be good for you. You will get answers in the camp.”’
- d. The reasons for detention that former detainees provided to Amnesty International are consistent with testimonial and documentary evidence gathered by journalists and other human rights investigators. Most significantly, these stated reasons are broadly consistent with the official reasons given in the Karakax list and the Aksu list for detention and internment of individuals.
- e. Meryemgul, who also worked for the government during a period in which large numbers of detentions were made, also described the experience to Amnesty: ‘In many families, only women were left. In some houses, the door was locked because both parents are gone, and the children are taken to boarding school.’
- f. Ilyas, who worked for the government, was present on numerous calls with officials from all over Xinjiang in 2017. During these calls, officials were routinely asked to report the number of people from their areas who had been sent to camps. Ilyas told Amnesty that thousands of people were reported as having been sent to camps during most calls.
- g. Bakyt, a former detainee who worked at a hospital where some people were examined before they were sent to the camps, witnessed large numbers of detainees being brought to the hospital, as well as part of the medical examination process: ‘In [the city I lived in] there were four hospitals – infection, military, traditional, and regular. In 2017 they all started being used for people sent to re-education camps ... At first it was Uyghurs and Hui. They were everyday people, but police treated them as serious criminals. There were six guards per person [brought for a medical examination]. Their eyes were covered, [their

heads] hooded, and their hands were cuffed [when they arrived at the hospital]. The whole medical examination was top secret ... [The staff at the hospital] had to make sure they were healthy. [The staff] had to draw their blood to make sure they were healthy ... They were all young. I was there helping with [redacted] ... The targets were young graduates. [At the time, at the hospital I worked at it was] mainly Huis who studied [abroad].’

463. At the September 2021 evidence hearings, the 2021 Newlines Report was presented by its two authors.
464. As was explained in the previous Appendix, the format of the Newlines Report is unusual in having multiple authors—many well-known but some anonymous. Parts of the report were written by different people, and the identities of authors of particular parts are not identified.
465. The Newlines Report relied on evidence, all or nearly all of which has been available to the Tribunal from other sources and the Report’s principal aim was to show that state genocide had indeed been committed by the PRC Government against the Uyghurs.
466. The two author witnesses were clear in support of the contents of the report and very clearly enthusiasts for its conclusions.
467. The Newlines Report wasted no time expressing its essential conclusion, stated in paragraph 1:

The PRC bears State responsibility for committing genocide against the Uyghurs in breach of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention) based on an extensive review of the available evidence and application of international law to the evidence of the facts on the ground. With the relevant intent established (paragraph 7). Intent can be inferred from a collection of objective facts that are attributable to the State, including official statements, a general plan, State policy and law, a pattern of conduct, and repeated destructive acts, which have a logical sequence and result destruction of the group as such, in whole or in substantial part. It went to embrace all five categories of acts necessary to establish genocide by staying – paragraph 7 Acts of Genocide. While commission of any one

of the Genocide Convention's enumerated acts with the requisite intent can sustain a finding of genocide, the evidence presented in this report supports a finding of genocide against the Uyghurs in breach of each and every act prohibited in Article II (a) through (e).

468. In the main body of the Newlines Report, further clarity of conclusion emerges with: 'The intent to destroy the Uyghurs as a group is derived from objective proof, consisting of comprehensive State policy and practice, which President Xi Jinping, the highest authority in China, set in motion'.
469. The Newlines Report has a very clear purpose and objective where it notes: 'State responsibility for breaches of the Genocide Convention is not a matter of individual criminal liability. Notably, the State may not be prosecuted or found culpable, and heightened criminal law standards therefore do not apply. State responsibility for breaches of international law follows from wrongful acts attributed to the State. The standard of proof for breaches of International Law is the preponderance of the evidence which applies generally to obligations arising from a treaty. However, given the serious nature of the breaches in question (notably the acts prohibited in Article II, as addressed below), this report applies a clear and convincing standard of proof.'
470. Although the Newlines Report referenced no field work evidence of its own and relied on evidence, all or nearly all of which has been considered by the Tribunal directly or through the reporting of others as witnesses, the following may be additional:

According to a 2019 local government work report: 'For every batch [of workers] that is trained, a batch of employment will be arranged and a batch will be transferred. Those employed need to receive thorough ideological education and remain in their jobs. The Karakax List corroborates the system of "releasing" detainees into forced labour.'

471. On 19 October 2021, ASPI's International Cyber Policy Centre published 'The Architecture of Repression: Unpacking Xinjiang's Governance' (the ASPI Report) by Vicky Xiuzhong Xu, Leibold and Daria Impiombato.<sup>153</sup>

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<sup>153</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/07/UT-210912-Nathan-Ruser.pdf>

This significant Report may have been built in part on the same leaked police documents as the Yael Grauer Intercept Report.

472. Detail extracted from many sources in the ASPI Report is of considerable interest, focusing on, among other things, the party–state’s reflexive compulsion to have campaigns and *campaign-style governance*:
- a. During the crackdown against the Uyghurs, authorities implemented five key policies including the ‘*Trinity*’ mechanism.
  - b. The report explains how Xinjiang’s community-based control mechanisms are part of a national push to enhance *grassroots governance*, which seeks to mobilise the masses to help stamp out dissent and instability and to increase the party’s domination in the lowest reaches of society.
  - c. As long ago as April 2014, Xi Jinping argued that Islamic extremism had infected a large swathe of Uyghur society and called on party officials to chase ‘violent terrorists’ like rats: ‘strike early, strike small, strike fast and use an iron fist to destroy [them]’.
  - d. Later, the 2017 campaign had a distinct five-year plan to radically alter Xinjiang society: to stabilise the situation during 2017; to consolidate during 2018; to normalise during 2019; and to achieve ‘comprehensive stability’ (全面穩定) by the end of 2021. The 2017 campaign also expanded to include mass coerced labour assignments, mandatory birth control measures and more intense indoctrination.
  - e. Show trials, previously condemned, returned in Xinjiang, one in the northern city of Ghulja (伊宁市) in May 2014, where truckloads of alleged ‘separatists’ and ‘terrorists’, mostly Uyghurs, were driven into a sports stadium and sentenced before a crowd of 7,000, their heads pushed down by police officers.
  - f. On 28 May 2014, a major Xinjiang work conference was held in Beijing four days after the launch of the Counterterrorism Campaign. During the conference, Xi Jinping instructed that to achieve stability and party control in Xinjiang, a key measure was to ‘vigorously promote cadres who are loyal to the party, who dare to speak up and brandish the sword in critical moments’. At this point, ‘brandishing the sword’ seems to be a metaphor for firmly expressing one’s loyalty to the party and being in a combative position to defend it.
  - g. An account in the seized papers of the sentencing of Anayet Abliz and of how the local community checked on and supervised his parents shows how different the understanding of mass incarceration in Xinjiang—captured

in a couple of images by Western media—may be from reality, and how a family’s emotions are controlled along with control of the liberty of one of its members—or two members because the mother was also taken to ‘re-education’.

- h. Campaigns, says the report, can be viewed as a tool for the party–state to correct the perceived failings of its vast bureaucratic machine.
- i. Xi Jinping, whose immediate family experienced imprisonment, re-education, death and torture during the Cultural Revolution, has previously criticised campaigns as costly and burdensome, reportedly asking at one point, ‘Hasn’t our country suffered enough in this regard?’ Yet the campaigns in Xinjiang bear Xi’s imprimatur.
- j. In at least three separate speeches between 2014 and 2020, Xi proclaimed that ‘the party’s Xinjiang governance methods and strategies are completely correct’ and that ‘[we] must adhere to them in the long term’. Xi Jinping has sought to exert more direct party control at the grassroots level by emulating Mao’s mass mobilisation techniques. Xi took inspiration from the 1963 ‘Fengqiao Experience’ (枫桥经验), in which work units and commune brigades mobilised the masses in targeting and transforming the ‘enemies’ hiding among the people.

473. On the subject of the Fanghuiju program, the Newlines Report suggests that the innovator throughout Xinjiang’s two campaigns was the regional second-in-command, who had been deputy Party Secretary Shohrat Zakir (雪克来提·扎克尔).

474. The Fanghuiju program, the Newlines Report explains, is organised by a Fanghuiju Office (访惠聚办公室) that exists at various administrative levels under the Organisation Department. In 2015, Xinjiang’s Organisation Department published several Fanghuiju handbooks, which clarified how to deal with potential issues that participants might encounter, such as what to do when a family refuses to let officials inside their home or how to interact with the family members of detainees. In addition to increasing the short-term visibility of the party–state in Xinjiang, the Fanghuiju programme also seeks to cement long-term party control at the grassroots by restructuring the local political landscape.

## APPENDIX 16

# Expert Evidence

475. The Tribunal received evidence orally and in written form, all of which was accepted except where qualified below, from the following expert witnesses, as cited or quoted in the Judgment including:
476. **Muetter Iliquid** is a project assistant at the UTJD. The Tribunal Chair, Vice Chair and Counsel to the Tribunal were in direct contact with UTJD since 2020 for purposes of identifying witnesses of fact to be called to give evidence and to help with translation issues. UTJD is, of course, an organisation devoted to Uyghur causes and interests. The Chair and Vice-Chair found UTJD to be entirely professional and detached in all their dealings and in their approach to evidence. The UTJD database is an extremely large and developing source of material having, in June 2021, details of 232 detainees in camps, 257 in prisons and a total of 5,567 recorded as missing (3,000 saved offline; 2,567 online). Iliquid was invited by the Tribunal to provide a report based on that database, despite it being known to be incomplete and a work in progress.
477. In the June Hearings, she presented the findings of UTJD's 2021 Annual Report, which covered a wide range of topics including marginalisation of the Uyghur language; how (by then) 365 intellectuals were missing, detained or sentenced; and how there had been a significant rise in the pace of construction of internment camps from 2018. She gave details of the physical nature of the camps both from external appearance and internally, with accounts of overcrowding in the camps and the systematic nature of torture, rape and other sexual violence.
478. Iliquid explained how the large number of Uyghurs who may be incarcerated had an effect on most families in Southern Xingjiang; indeed, a significant proportion of that population is interned or in prison.



479. She also dealt with what she described as an attack on Uyghur religiosity, along with forced separation of families, including forcible transfer of children into state orphanages and boarding schools largely staffed by Han.
480. She was also able to account for forced labour transfers within the region and into ‘mainland’ China and forced birth control by means of sterilisation and unwanted abortions.
481. Her evidence came in part from other academics—including Zenz and Millward—and in part from primary sources by interviewing dozens of witnesses who had either directly had experience of the camps or are missing relatives, all of which is recorded on the database.
482. She explained that satellite imagery had been verified for accuracy by a colleague and explained, from observations, how people in red and orange uniforms—even according to China state media—are prisoners who working as forced labour.
483. She suggested that the difference between re-education and prison facilities is that the former do not go through a judicial process. For prison, there *is* usually a judicial process, happening in secret but so as to produce a document detailing the sentence.
484. There are inevitable variances in some of the granular detail from other providers of similar evidence, but the Tribunal accepts the evidence as providing a credible and comprehensive mosaic of the interlinked issues.
485. **David Tobin, Laura Murphy, Rian Thum, Rachel Harris and Professor Joanne Smith Finley** made a joint presentation supported by their individual witness statements/reports on ‘State Violence in Xinjiang’. Tobin concluded that state violence targeting Turkic Muslim peoples in Xinjiang is of significant humanitarian, economic and security interest for policymakers, businesses and the public across the world. The report has shown how China’s party–state organises and coordinates systematic practices of ethnically targeted violence in Xinjiang, which prevent intergenerational transmission of cultural, linguistic and religious practices—the foundations of the targeted groups. The officially stated intent of these interconnected practices of mass extra-legal detention, forced labour, child and family separation, sexual violence, repression of religion and cultural destruction is to ‘break their

roots'. Murphy provided expansive evidence of the pervasive and widespread use of forced labour in the region, information on internment camps and the forcible transfer of significant numbers of Uyghurs. Thum described the impact of child separation and coercive birth control policies. Rachel Harris gave accounts of witness evidence of torture, rape and sexual violence in the camps. Smith Finley described, from first-hand experience, the destruction of Uyghur religious heritage and practice. The Tribunal found the evidence of Tobin and his colleagues—the final conclusion that China's party-state organises and coordinates systematic practices of ethnically targeted violence in Xinjiang and prevents intergenerational transmission of cultural, linguistic and religious practices (the very foundations of the targeted groups)—to be entirely convincing.

486. **Nathan Ruser** is a researcher with the Australian Research Institute. His report published in 2018 sets out the findings from time-compared satellite images of 28 camps—a small proportion of those in existence at that time—which concludes that there has been an increase in floor area of those camps by approximately 465%, resulting in up to 2.7 m<sup>2</sup> of space provision. A report published by Ruser in 2020 estimates the destruction of 8,500 mosques with a further 7,500 damaged, totalling approximately 16,000 or 65% of the mosques in the XUAR, all evidenced by satellite imagery. Ruser also published a report in September 2020 that recorded satellite evidence of the construction of 380 detention centres between 2017 and 2020, 61 of which were built in the year following July 2019. Ruser explained that an increased number of the detention centres had the appearance of high security facilities with barbed wire and watch towers. He further explained that a recent report identifies reduced birth rates across XUAR and very marked reductions in birth rates in XUAR counties, principally in the southern region, which were minority Han. The Tribunal is satisfied that the satellite imagery used is authentic and the methodology deployed in analysing the same is appropriate and forms important and credible evidence.
487. **Dr Adrian Zenz** is an anthropologist and senior lecturer at the Victims of Communism Memorial Foundation. His first report sets out the overarching population control government strategy in Xinjiang with 'population security' at its centre, contoured in part by 'carrying capacity' of the region or what the authorities perceive as the sustainable size of the population. The strategy deployed, Zenz argues, is to increase the Han population by in-migration and decrease the Uyghur population by out-transfer and reduce ethnic minority

birth rates. The implementation of this strategy has been most acutely felt in Han-minority counties with Uyghur population growth rates in four prefectures falling 73.5% between 2015 and 2018, declining further in 2019. Zenz estimates that the adjusted population estimates for 2040 as a result of present policy indicate a significant reduction compared with the population that there would have been without state intervention. The differential may be as high as 32%, or on a more conservative basis, 14%—even that represents 1.6 million births that will not occur. The Tribunal accepts Zenz’s report(s) as being researched in detail, often directly from government sources. Mathematical extrapolation is often inexact, and the Tribunal recognises it to be so in this example; however, the Tribunal accepts the range of outcomes as being credible. He gave evidence at both in-person public hearings and was also the principal expert relied on for examination of the top secret (and other) papers ‘leaked’ direct to the Tribunal and the subject of the third online evidence hearing.

488. Given Zenz’s affiliation with a committed anti-Communist organisation, it was necessary for the Tribunal to be alert to any sign of possible bias affecting, or having affected in the past, his research and scholarship; none of any kind was detected. When material came direct to the Tribunal in the course of the second evidence hearing that had the Tribunal urgently seeking further assistance from Zenz, the Chair and Vice-Chair had an opportunity to consider closely his approach (including his turning to peer review of new research). The integrity of his work on this new material was impressive to them both, and the Tribunal as a whole was entirely satisfied as to his fairness and the lack of bias of his approach to his work.
489. **Darren Byler** is an Assistant Professor in the School for International Studies at Simon Fraser University in Vancouver. His first submission provided evidence of an incentive and punitive-based system for the reduction of ‘illegal behaviours’, which includes policies for state mandated abortions and for systemised monitoring of birth control measures among women of the minority population, by specifically checking that IUDs inserted by the state are not removed. He estimates that 90–150,000 people have been detained in the camp system for family planning violations and that, partly as a result of this, as many as 500,000 Uyghur and Kazakh children have become wards of the state, removing them from the care of their parents and their ethnic milieu. Byler calculated that there has been a Uyghur birth rate reduction of 50–80% in Uyghur majority areas and that there is evidence

of coerced marriages between Uyghur women and Han men and, further, effectively forced divorces, in both cases for fear of punishment including imprisonment. The entire policy programme, Byler asserted, has been made possible by pervasive electronic surveillance reinforced by a marked increase in personnel. Byler's second submission evidenced Uyghur educational and language elimination through indoctrination and replacement of Uyghur teachers with Han in residential schools.

490. **Associate Professor Sean Roberts** is the author of 'The War on Uyghurs', which charts the evolution of policy and practice exercised by the Chinese state in its dealing with the Uyghur region over approximately the last 250 years. Until the CCP came to power in 1949, there had been ebbs and flows of settler colonialism, including under the Qing Empire and the Chinese Republican Government, but with limited success. In 1949, only 10% of Xinjiang's population were Han. Through the 1950s and 60s, the PRC energised the resettling of Han who principally located into the northern part of the region. In the 1980s, the CCP became aware that it needed to integrate the region better, resulting in a period of relative liberalisation. However, responsive in part to the events of Tiananmen Square and the fall of the Soviet Union, the CCP embarked on an arguably more repressive and aggressive policy of containment, characterised by the 'Strike Hard' campaigns. Awareness also grew of Xinjiang's economic potential and, by the late 1990s, a more concerted effort of integration was launched. The events of 9/11 in 2001 provided the CCP with an opportunity or pretext to characterise any dissent as a terrorist threat. There was a backlash culminating in Uyghur violence, most notably in Ürümqi in 2009, which led to a massive crackdown and a cycle of violence. In 2014, the state began the 'People's War on Terror', which was significantly accelerated in 2017, catalysing the multiple systems of repression evident today.
491. **Laura Murphy** is a Professor of Human Rights and Contemporary Slavery with whom **Nyrola Elimä** regularly collaborates at Sheffield Hallam University where Murphy is based. She/they explained how a 2020 PRC Government report documents the 'placement' of 2.6 million minoritised citizens in agricultural and factory jobs within the Uyghur region where labour transfers are undergirded by coercion and the constant threat of internment. The XPCC or the Bingtuan is a state-operated paramilitary group that has vast commercial and land holdings across the region and is deeply involved in these forced labour programmes.

492. There is satellite and other evidence of the co-location of internment camps and factories. The production of solar panels is dominated by China, and 45% of the world's solar-grade polysilicon is manufactured in the XUAR by, in some cases, companies deeply implicated in forced or even slave labour. Their in-depth report 'In Broad Daylight' set out the dynamics of the solar panel industry in China, which dominates the world market, rendering it very challenging to verify that the manufacture of solar panels is not free of forced labour.
493. **Rukiye Turdush** authored the report 'Genocide in East Turkistan'. The report sets out some of the history of the region and its relationship with the state, providing examples of the mistreatment of the Uyghur population, including false imprisonment, torture, forced abortions and forced sterilisation. The report seeks to make the case for genocide. In her second submission, she evidenced state action for enforcement of abortions of 'illegal births' and the elaborate strategies Uyghur women engage in to avoid detection. Evidence was given of the use of derogatory language together with case studies of children being removed from their parents, sometimes to whereabouts unknown. The Tribunal accepts the factual evidence but has not relied on the report except in regard to the facts for its decision on whether genocide or any other crimes have been committed.
494. **Abdulhakim Idris** is general inspector of the World Uyghur Congress and author of the report 'Buying Silence', which sets out the soft power, diplomatic, propaganda and hard power strategies deployed by the PRC Government. Of note is the vaccine diplomacy used during the Covid-19 pandemic. It contextualises the Belt and Road Initiative (BRI) with its vast and global ambitions encompassing 139 countries and the PRC's ambitions to create, as a minimum, a regional hegemony. Idris explained how economic and other incentives have resulted in the silence and sometimes complicity of countries throughout the world. Particularly of note is the large number of Muslim nations supporting the PRC—something, it is argued, that reflects pressure exerted on countries to repress Uyghurs who they are hosting, in some cases returning them to China. The Tribunal is unable to verify much of the empirical data contained in the report but accepts the overarching propositions.
495. **Bahram Sintash** provided a report to the Tribunal entitled 'Elimination of Uyghur Identity', which provides evidence of the desecration and sometimes

destruction of mosques in the region, the demolition of Uyghur neighbourhoods and homes and the relocation of people, sometimes significant distances from their erstwhile homes. He also spoke of the disappearance, imprisonment and sometimes death of Uyghur intellectuals and leaders, including his father.

496. **Julie Millsap** is Director of Public Affairs and Advocacy at Campaign for Uyghurs and explained how the CCP has sought future adherence and loyalty to it by creating a generation of Uyghurs indoctrinated through education with the ultimate goal of a homogenised state achieved in part by the removal of children from their family milieu into state-controlled schools. She explained how the state has officially promoted a bilingual language system, in theory teaching Chinese while preserving the Uyghur and other minority languages—but the practice has been the eradication of the Uyghur language. Part of the CCP’s assault on traditional minority education and on the language itself has been by the targeting of teachers and other custodians of Uyghur education.
497. **Conor Healy** is Government Director of IPVM, an organisation specialising in surveillance technologies, and was able to explain how the PRC Government has created an extensive surveillance system including Uyghur Face Detection technology. He reviewed the development of this technology, explaining how it would necessarily involve the creation of large datasets containing thousands of Uyghur faces. He said that a significant number of Chinese companies have been involved in the procurement process, including well known technology companies. Healey described IJOP, which scorecards Uyghurs for a wide range of perceived infringements.
498. **Christian Tyler** is the author of ‘Wild West China: The Taming of Xinjiang’, having worked for the *Financial Times* for 30 years. He sets out the history of the region, highlighting previous attempts to assimilate the Turkic minorities notably in 1884 and the ratcheting up of repression in the region from 1949 with the Cultural Revolution, the impact of Tiananmen Square in 1989 and 9/11, followed by extreme measures commencing in 2014 and more so from 2017 to the present. He explained the CCP’s fight against terrorism, extremism and splittism and its justification for what has been done lying in historic racism or Han chauvinism and deep insecurity caused by the threat, as perceived, of theistic belief and economic imperatives. He argues that the repression of ethnic minorities is not just a reaction to protest and violence but also the cause.

499. **Laura Harth** is Campaign Director at Safeguard Defenders; in a report, she sets out how the PRC Government seeks to alter narratives when confronted or challenged on its actions, sometimes by outright denial and, on occasion, by recasting, fabricating or altering events. It has used press conferences where those testifying have self-incriminated or slandered organisations, including the Uyghur Tribunal and individuals, often being coerced into false confessions. Use has been made of video and other material that, in substance, is propaganda.
500. **Teng Biao** is Pozen Visiting Professor at the University of Chicago; in his report, he highlights China's poor human rights record, as rated by Freedom House. Biao explains how the CCP controls its population by totalitarian mechanisms including pervasive surveillance, extrajudicial detention and systemic torture, all without any or proper independent judicial oversight. He provided details of his own experience as a human rights lawyer, scholar and dissident, resulting in multiple arrests, detentions, solitary confinement, torture and eventually exile without his wife and child who were denied an exit from China.
501. **Charles Parton** spent 37 years as a diplomat, 22 of which were in China. His report seeks to establish the hierarchy of responsibility for policy in the XUAR. This encompasses a number of state and party decision-making groups attended by the most senior cadres in the political system. He credits Xi Jinping with the overarching policy for the region and considers it inconceivable that a policy in regard to the Uyghur minority of this importance could have been signed off without the authority of Xi Jinping.
502. **Dr Elise Anderson** is the Senior Program officer for Research and Advocacy at the UHRP. Her report provides an analysis of the 'Qaraqash List' leaked at some point in 2019, which reveals linkages between IJOP and the information gathered and stored about individual Uyghurs at the subdistrict and neighbourhood levels of geopolitical administration in the Uyghur Region. Linkages can be seen between this information and other government policies and tools, including the 'Becoming Family' programme and the programme of forced labour. Anderson assesses the scope and intent of data-gathering and the direct relationships between that data and various forms of repression playing out in the Uyghur Region today. She also deals with the role of guilt-by-association in Chinese Party-state repression of Uyghurs and suggests that the evidence shows that the Party-state has effectively criminalised everyday life as it restructures Uyghur society from the ground up.

503. **Jessica Batke** is a Senior Editor at *China File*. Her report addresses what are the pillars of power, the role of the CCP in decision-making and what bodies make policy and decisions in the XUAR. She explains how the seven-man CCP Standing Committee is the most powerful entity in the PRC and that it is inconceivable that major policy initiatives and decisions could be made without the authority of this Committee and the PRC President. She explains how all government entities at central, regional and local level Party have oversight, often with one person holding commensurately senior positions in both. The XPCC or Bingtuan, Batke suggests, is effectively a state within a state and is overseen by both the Party and the state.
504. **James Millward** is a Professor of History at Georgetown University. His report sets out PRC Government ethnic policy from 1949 and the turn to assimilation aimed at promotion of a homogenous unitary Chinese identity. He included in his report an extract from his book 'Eurasian Crossroad'. He references the work of Ilham Tohti, subsequently imprisoned and accused of splittism. Millward asks if the PRC is acting as if engaged in regional development or colonialism. He sets out the violence between Uyghurs and the state and characterises it as being more akin to race riots than terrorism in response to injustices inflicted by the state. The policy response following 2009 violence, and intensifying in 2014 and again in 2017, included religious, language and educational restrictions that may be described as an 'ethnocide'. Millward also deals with forced labour, intensive surveillance, mass internment, forcible displacement of children into Han-run boarding schools and systematic intensification of state-directed birth restrictions backed by threat of internment. Millward also gave evidence at the third online evidence hearing as a peer reviewer of work done by Zenz on the leaked top-secret 'Xinjiang Papers'.
505. **Geoffrey Cain**, an investigative journalist and author of 'The Perfect Police State', explained how the PRC Government has engaged in what he describes as a systematic repression of Uyghurs, deploying crude as well as sophisticated methods in the detention camps by psychological torture through minute monitoring of every action, creating uncertainties through deliberate and arbitrary confusion of what was permissible and by physical torture as a reinforcing component of psychological torture. Outside the camps, he argued, the deployment of extreme technological surveillance serves as a mode of psychological torture.



506. **Peter Irwin** is Senior Program Officer for Advocacy and Communications at UHRP. He provided a report containing a dataset of Uyghur intellectuals, scholars, textbook publishers, doctors, artists and religious figures who, in the years up to 2017, had been targeted for what they said or wrote. He explained how, since 2017, there has been a dramatic shift and they are being targeted for what they know, who they are, what they represent and for what they might have said years earlier. He argued that this strategy is aimed at the elimination of the collective memory and cultural identity of Uyghurs.
507. **Maya Mitalipova** is director of the Human Stem Cell Facility at Whitehead Institute for Biomedical Research at Massachusetts Institute of Technology. She gave evidence that the ‘entire’ population of Uyghurs have been forcibly health-checked and blood-tested for the purpose of DNA sequencing. She made the case that that there is a significant link between DNA sequencing and organ transplantation outcomes.
508. **Dr David Tran** is a practising child and adolescent psychiatrist based in the US. He detailed evidence of how the Chinese authorities have sought to stem the flow of Uyghurs and others wishing to leave the PRC. Vietnam has been a preferred exit route. This led to Chinese police colluding with Vietnamese border guards to apprehend people and prevent migration. In one instance, 16 Uyghurs were surrounded while in a building on the Vietnamese side of the border, and all the men in the group were killed.

## APPENDIX 17

# Chronology / History

### INTRODUCTION

509. The Tribunal produced a brief chronology/history of XUAR, covering the modern era since the fall of the Qing dynasty in 1911, focusing particularly on the period since the establishment of the PRC in 1949. The Tribunal did not delegate this function to anyone in the Tribunal or rely on histories provided by others. It recognised the risk of preconception or even of prejudice entering into even the most matter-of-fact chronology and preferred that any shortcoming—it hopes there are none—should be levelled at the Tribunal itself rather than at any of its staff who might otherwise have prepared this document or one of the expert witnesses, who inevitably might easily be criticised for alleged bias. This Appendix includes a note on the absence of a concept of individual human rights in the political or social culture of modern China.

### The XUAR

510. The XUAR is a major region on the north-western border of the PRC. It has frontiers with seven countries—Mongolia, Russia, Kazakhstan, Kyrgyzstan, Tajikistan, Afghanistan, India and Pakistan. The region first became known as Xinjiang in 1884. Some Turkic Muslims refer to the region as ‘East Turkestan’.

511. The XUAR is an autonomous region that is directly supervised by the State Council (the highest level of central government). Notwithstanding its name, the region is not autonomous in the usual sense of the word. Mao Zedong and Zhou Enlai originally promised a right of self-determination to every ethnic group in the PRC (56 recognised groups, including Han), but, after taking power, they took the view that ‘self-determination’ was reactionary and regional autonomy would maintain control of the non-Han regions.

512. The population of the XUAR is in the region of 24 million people. A little under 50% of the population is Han Chinese, having been less than 10% in 1949. The Han Chinese are located mainly in the more economically developed north of the region, with the balance of the population made up of other ethnic groups, principally Uyghurs. It is part of ‘a diverse, ethnically mixed population in the PRC that does not necessarily accept the dominance of the Han or the CCP narrative’.<sup>154</sup> In the PRC as a whole, ethnic minorities (including the Uyghurs) make up about 10% of the population but occupy 60% of the land mass, most of them—like the XUAR—in strategic areas. The XUAR is the only region in China with a majority Muslim population.
513. The Uyghurs (as well as Kazakhs, Kyrgyz and other non-Han groups) are ethnically Turkic and have their own language. Their religion is predominantly Muslim—although the opportunities to practise their religion are severely constrained.
514. The region is a major industrial area for the PRC—with significant industries including cotton, solar grade polysilicon (solar panels), petrochemicals, minerals, tomatoes, hops, lavender, shoes and finished textiles. China produces 22% of the world’s cotton—over 80% of it is grown in the XUAR region.
515. The XUAR is also a major element of the BRI, with five of the six main economic BRI corridors passing through the region.

516. **A timeline**

517. This is an outline of the main events of the period since 1911 affecting the XUAR. First, the period until 2000:

**1911**

*Republic established following the fall of the Qing dynasty.*

Han Chinese governors run the region as personal fiefdoms with growing Russian influence and little oversight from the central state apparatus.

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<sup>154</sup> Saich, T. (2021). *From rebel to ruler: One hundred years of the Chinese Communist Party*. The Belknap Press of Harvard University Press.

### **1931**

Rebellion following the abolition of the Kumul Khanate. The (Chinese Muslim) rebellion starts in Gansu province and spreads across Xinjiang.

### **1933**

Foundation of the first Eastern Turkestan Republic—Turkish-Islamic Republic of East Turkestan (TIRET)—by emirs in Hotan, ruling most of southern Xinjiang.

### **1934**

TIRET collapses after defeat by the Dongan army (led by the warlord, Ma Zhongying). Xinjiang is ruled by the Han warlord Sheng Shicai with military and other support from the Soviet Union.

### **1944**

Ili rebellion (led by Kazakhs but including Uyghurs) results, with Russian support, in the establishment of the second independent East Turkestan Republic (ETR). An attempt by the Guomindang army to regain control is heavily defeated.

### **1945**

Peace treaty (ending World War II) gives self-rule to the ETR (in exchange for an agreement not to secede). ETR has freedom of religion, publication, assembly and speech and the right to elect its own officials. The ETR is supported by the CCP (which is engaged in a civil war with the Guomindang).

### **1949**

#### ***CCP takes control of Beijing.***

Communist troops reach Xinjiang, and the ETR is dissolved (after the surrender of the Guomindang). The region is initially governed by the Xinjiang Military Commission.

#### **PRC established.**

80,000 former People's Liberation Army and Guomindang soldiers settle in the XUAR—in due course, under the aegis of the Xinjiang Production and Construction Corps (XPCC or Bingtuan).

**National Law on Regional Autonomy passed**, stating that the function of the autonomy system is to ensure that ethnic minorities can never be separated.

## **Genocide Convention adopted by the United Nations (the PRC ratifies the Convention in 1983).**

### **Early 1950s**

Selective execution and dispossession of prominent Turki families. Cooperative farms established.

### **1954**

First Constitution of the PRC declared (following the adoption of an interim constitution—the Common Programme—in 1949). Ethnic identity at the core of the structure (Art. 4), with religious freedom, language, culture and education of each ethnic group supported (and ‘Great Han Chauvinism’ denounced).

XPCC established. It owns one-third of XUAR arable land and is responsible for 2.8 million staff. It has its own schools, prisons and courts and operates as a state-owned enterprise and a paramilitary organisation with extensive economic interests. It is under the official jurisdiction of the CCP and administered by senior party members.

### **1955**

The XUAR established (replacing Xinjiang Province).

### **1956**

*Hundred Flowers campaign* encouraging free speech. After Uyghur complaints of Han presence and lack of autonomy, there is a purge and publicity campaign against ‘pan-Turkism’.

### **1957**

Speech by Zhou Enlai stating that Uyghurs and other minorities should be treated with respect and as equals with the Han (the speech is suppressed until the introduction of economic liberalisation by Deng Xiaoping in 1979).

### **1958**

*Great Leap Forward (ended 1961)*. Establishment of giant collective farms that seek to merge XUAR ethnic populations.

### **1959**

Nationwide famine. Introduction of ‘re-education through labour’ camps to supplement ‘labour reform’ camps. Influx of starving refugees from Gansu.

**1961**

Ethnic controls relaxed after end of Great Leap Forward.

**1962**

Major exodus of Kazakhs, Uyghurs and some Han to Russia

**1966**

***Great Proletarian Cultural Revolution (ended 1976).*** Ethnic minorities suffer particularly harsh treatment. Mosques are closed, and Mullahs are tortured. Widespread food shortages in Xinjiang.

**1975**

The XUAR limits Han families to two children.

**1976**

***Death of Mao (and election of Deng Xiaoping in 1978)***

XUAR cultural and economic liberalisation reforms (greater use of Uyghur language, education and mosques). There is a Uyghur cultural renaissance and Islamic revival ('the Golden Period'). Turki origins are recognised for the first time since the 18th century. Wei Yaobang (party secretary) calls for Uyghur autonomy and removal of Han cadres.

**1979**

***PRC ratifies the UN Convention Against Torture  
Introduction of the One Child policy in the PRC***

**1980**

Vienna Convention on the Law of Treaties comes into force (PRC a party), providing the primary rules on the interpretation of the Genocide Convention.

**1983**

The XUAR seeks to limit urban ethnic minorities to two children, rural minority families to three children and four children in remote areas. As a result of demonstrations against the limits (1985), Muslim families are permitted up to four children.

**1989**

***Tiananmen Square protests in Beijing***

## **1990**

Major disturbance in Baren following closure of a mosque and armed police breaking up a public prayer meeting (number killed is not known.)

## **1991**

**Dissolution of the Soviet Union.** This dissolution and the Tiananmen Square massacre are followed by the ending of the more liberal approach in Xinjiang—with Strike Hard campaigns focused on ‘separatism’ and Islamic religious practice.

Borders (including XUAR) opened to Central Asia.

## **1991–1995**

Security campaign in XUAR (including restrictions on religion and greater surveillance).

## **1992**

Two buses blown up in Ürümqi (3 dead, 26 injured).

Introduction of the Coordinated Development Strategy and ‘Big Development of the North-West’ Plan (with balancing of the Eastern and Western regions of the PRC economy and economic incentives to Han Chinese to settle in the XUAR).

## **1993**

Ministry building bombed (Kashgar).

## **1997**

Major disturbance in Ghulja following a protest march protesting against the closure of a religious youth club (at least 3 dead).

Three bombs in Ürümqi (9 dead, 28 seriously injured).

Intense region-wide crackdown (5,000 arrested, 1,600 people missing).

## **1997–2000**

38 violent incidents in XUAR (mainly attacks on police/security services).

## **1998**

Military bases attacked.

## **1999**

Police motorcade attacked (Changji).

## 2000

*Launch of ‘Open Up the West’ campaign* (state investment focused on infrastructure including extensive gas and oil pipelines to Central Asia).

Increased Han in-migration into the XUAR.

Launch of the ‘Xinjiang Class’ (political indoctrination in special schools).

Launch of work programmes transferring Uyghurs into Inner China.

Explosion of a lorry carrying explosives (Ürümqi) (60 killed, 300 wounded)—the cause of the explosion is not clear.

## 2001

**Twin Towers terrorist attack in New York (followed by the establishment of the Global War on Terrorism [GWOt]).**

*The Shanghai Cooperation Organisation (SCO) (originally formed in 1996)—China, Russia, Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan—adopts the Shanghai Convention on Combatting Terrorism, Separatism and Extremism (‘the three evils’).*

The GWOt is linked by the PRC Government to Uyghur ‘terrorism’, leading to greater suppression of Uyghur dissent. China issues ‘Terrorist Activities Perpetrated by “East Turkestan” Organisations and their Ties with Osama bin Laden and the Taliban’, claiming an extensive network of Uyghur terrorists that poses serious security threats to China and the world.

## 2002

Eastern Turkestan Islamic Movement (ETIM) designated as a terrorist movement by the UN (and USA)—the designation is removed in 2020.

**Rome Statute of the ICC (including crimes against humanity) effective (PRC is not a party).**

## 2003

Programme of transfers of Uyghur workers to factories in Eastern China (nearly 100,000 workers sent by 2010).



## **2004**

Mandatory instruction in Mandarin at all educational levels.

## **2008**

### ***Beijing Olympics***

PRC foils alleged terror attacks including violence in Kashgar (16 soldiers killed) and Kucha (8 attackers killed).

## **2009**

Peaceful demonstrations in Ürümqi following the murder of possibly up to 18 Uyghur workers in Shaoguan, broken up by police leading to riots over a two-week period. Casualties not certain but a significant number of deaths (at least 200 Uyghurs killed). Violence by police and Han civilians—heavy response, including a massive crackdown, especially in south XUAR, and retaliatory Uyghur violence.

## **2010**

First Central Xinjiang Work Forum (attended by all members of the Politburo and Politburo Standing Committee) with a strategy of economic and cultural development and integration including the Pairing Assistance Programme (partnering economically successful regions with the XUAR) and goal of all Uyghur children speaking Mandarin by 2020.

Enhanced security and surveillance systems introduced (including travel prohibitions, checkpoints and ethnically profiled random searching). 40,000 high-definition cameras installed in the region as part of this new crackdown.

## **2010–2016**

Regular but isolated incidence of violence involving police and security forces (including Aksu, 2010; Kashgar/Hotan, 2011; Karghilik, 2012; Korla/Karghilik/Hotan/Lukqun/Maralbeshi, 2013).

## 518. **2012**

*President Xi was elected as General Secretary of the CCP and Chairman of the CCP CMC (and elected as President of the PRC in 2013).* A police substation is embedded in every neighbourhood and village in the XUAR (more than 9,000 substations by 2018). The grid management system is

introduced in the XUAR (dividing local communities into small geographical and administrative cells).

519. **2013**

There was an attack in Tiananmen Square by a Uyghur family (5 dead, 38 injured). Document no. 11 (internal document) was issued with further restriction of religious activities. Project Beauty—compulsory adoption of non-religious clothing styles. Party cadres start home inspections in the XUAR. ***‘Silk Road Economic Belt’ plan (part of the BRI) announced by President Xi—with the XUAR in a position of ‘special strategic significance’ requiring stability and security in the region.***

520. **2014**

Uyghur group attack on Kunming train station (Yunnan) (31 dead), explosion in Ürümqi station, unrest in Aksu and attack on Ürümqi market (43 dead).

Increased violence mainly in south XUAR, mainly provoked by inspections and raids with attacks on police and government buildings. The main violence was in Elishqu following an attack on a police station/suppression of a religious gathering (officially, 96 killed, including 59 attackers, but there are other reports of up to 2,000 Uyghurs killed).

Major speeches (top secret but disclosed in the Xinjiang Papers) laying out the foundations for policies in the XUAR on key areas, including security, religion, education, education, labour and population.

‘Strike Hard Campaign against Violent Terrorism’ announced by President Xi (stop terrorists before they act). President Xi calls on party officials to chase ‘violent terrorists’ like rats; ‘strike early, strike small, strike fast and use an iron fist to destroy them’. It marks a return to mass political campaigns (not seen since the Mao era): ‘absolutely no mercy should be shown’ (*President Xi*).

‘People’s War on Terror’ (Counter-Terrorism Campaign) announced by Zhang Chunxian (Secretary of the CCP in the XUAR) around the Second Central Xinjiang Work Forum (attended by all members of the Politburo and Politburo Standing Committee) marking a change from a focus on development to a security/stability ideology-based approach combating violent and terrorist activities and involving the dismantling of Uyghur identity and promotion of

‘intermingling’ of ethnic groups (‘tightly bound together like the seeds of a pomegranate’). The main focus is on south XUAR.

Programme to ‘sinicise’ religion—destruction of domes and minarets, removal of religious symbols, erasing Arabic script and restriction of ‘halal’.

People’s Convenience Card (*bianminka*) introduced—a passbook which effectively restricted Uyghurs (but not Han) from travelling and living outside their place of registration.

Trinity mechanism introduced (with each neighbourhood and village co-managed by neighbourhood/village officials, police officers and external Han home visitors).

Ilham Tohti (Uyghur economics professor) sentenced to life imprisonment for promoting ‘separatism’.

Number of arrests in the XUAR double from previous year.

China Electronic Technology Group reported as being in the process of creating a mass Uyghur database.

Introduction of ‘transformation through re-education’ programmes in the XUAR.

Mandatory programme—‘Becoming Family’—introduced, pairing Han cadres with Uyghur families (1.12 million cadres and civilians sent into Uyghur households for a 5-day stay every 2 months).

Booklet published—‘The Basics to Identifying Religious Extremist Activities’—including details of 75 different signs of religious extremism.

Start of procuring for IJOP to profile every indigenous resident of XUAR.

XPCC ordered to accelerate the in-migration of Han Chinese into the XUAR.

## 521. 2015

New Counterterrorism law passed (codifying anti-Islamic and assimilationist policies).

New 'Religious Affairs Regulations' introduced in the XUAR, including prohibitions on 'extremist' activities (e.g., clothing and symbols and prevention of ethnic group inter-marriage).

Attack on Han coal miners near Aksu (50 killed and 28 Uyghurs killed by police on the spot).

Mass biometric data gathering introduced (initially using passport application system).

522. **2016**

*Chen Quanguo (former party secretary in Tibet) appointed as CCP Party Secretary in the XUAR with a stability/security (eradicate the 'three evils' policy) agenda.*

Truck bomb attack in Karakash (1 killed).

*Massive expansion in security staff recruitment (over 100,000 posts advertised in 2016–2017), establishment of 7,300 convenience police stations and mass systematic collection of biometric data, including face scans, retinal scans, voice prints, fingerprints, DNA and blood type (focused on Uyghur people in the XUAR).*

New internet regulations introduced in XUAR permitting extensive monitoring of content and criminalising the possession of VPNs.

Implementation of IJOP, collecting and integrating an unparalleled amount of data from video cameras, wifi networks, security checkpoints, smartphone checks and other personal records, with sophisticated algorithms analysing 'extremist' behaviours.

Local police start to implement regulations to confiscate passports of XUAR residents.

Accelerated programme of demolition of mosques, graveyards and other religious sites and symbols and Uyghur architecture together with the large-scale demolition of Uyghur neighbourhoods and mass relocation of Uyghur people.

***One Child policy is amended so as to permit two children.***

523. **2017**

Last recorded instance of a ‘terrorist’ attack in the XUAR (attack on government officials in Guma—5 killed).

‘Open letter’ campaign initiated (including public declarations of loyalty to the PRC).

‘De-extremification’ regulations introduced in the XUAR (amended in 2018)—setting out 15 types of ‘extremist’ behaviour, criminalising virtually all religious behaviour and culture not approved by the state and establishing the basis for a mass internment ‘re-education’ system.

Expansion of ‘re-education’/detention camps.

‘Three News’ campaign launched (new lifestyle, new atmosphere and new order).

Re-education’ campaign (continuation of the 2014 Counter-terrorism Campaign) with a five-year plan to radically restructure Uyghur society.

94 ‘re-education’/detention camps constructed holding an estimated one million Uyghurs (11.5% of the Uyghur/Kazakh population aged 20–79).

Major expansion of the forced labour programme sending Uyghurs to work in inner China (involving at least 80,000 Uyghur young people). Policy goal announced of placing at least one million workers in textile and garment industries by 2023 (650,000 from the south of the XUAR).

Strike Hard campaigns against ‘illegal’ births enforcing an official policy of same childbirth rate for each ethnic group. XUAR directive on reducing fertility rates by at least four per mille.

New construction programme for schools and orphanages (including boarding schools for children of detainees)—1.4 million children by the end of 2017.

Statement of policy intention—‘break their lineage, break their roots, break their connections and break their origins’ (*Maisumujiang Maimuer, Chinese religious affairs official*).

Arrests in the XUAR represent 21% of all arrests in the PRC (although the XUAR is only 1.5% of the PRC population).

XPCC mandated to increase the Han population of south Xinjiang by 300,000 by 2022. Documents emerge referring to the need to ‘optimise’ the population resources in the XUAR (i.e., reduce the ethnic minority proportion of the region’s population)

Following the early stages of the establishment of the mass surveillance system, state workers conduct assessments of the population to determine the level of trustworthiness (using 53,000 markers of suspicious activity).

***19th Party Congress—confirmed the ‘fusion’ approach to ethnic policy.***  
China now ‘fused into a single family’, transcending plurality.

524. **2018**

There was a vast expansion of the party cadre home inspection programme (2013) including living with Uyghur families (involving one million party workers). Speech by Chen Quanguo—‘do the round-up-all-who-should-be-rounded-up work well’.

525. **2019**

Factory areas added to numerous ‘re-education’ camps.

Closing of some lower security re-education camps and expansion of high security prisons.

China Cables (including a manual for the operation of internment camps and information about the mass data gathering and surveillance programmes including the IJOP) obtained by the ICIJ and the Xinjiang Papers (information on the policies and enforcement of repression) obtained by the NYT.

Aksu List and Karakax Lists leaked (with government records on people arrested and sent to internment camps, including reasons for detention—mainly religious but include ‘born after 1980s’ and ‘acting generally suspiciously’). The Karakax documents give detailed information about the familial, social and religious circles of detainees in Hotan.

PRC White Papers—‘The Fight against Terrorism and Extremism and Human Rights Protections in Xinjiang’ and ‘Vocational Education and Training in Xinjiang’—justifying the use of re-education centres to end extremism and terrorism in Xinjiang in accordance with the law.

77% increase in children placed in Chinese language environment boarding schools in 2017–2019 (880,000 children).

526. **2020**

Third Central Xinjiang Work Forum (attended by all members of the Politburo and Politburo Standing Committee except five heads of municipalities outside the region).

Adoption of the XUAR ‘Fourteenth Five Year Plan and Outline of Long-Term Goals’ for 2035 (with the general goals of social stability and long-term stability and efforts to build unity).

PRC Government report documents the ‘placement’ of 2.6 ethnic minority citizens in farms and factories in the XUAR.

527. **2021**

*The One Child policy was further amended so as to permit three children.*

## **The XUAR as part of China**

528. In the view of the PRC, the XUAR has been a constituent part of China since the time of the Han Dynasty (202 BCE to 220 AD). While it is the case that the region has had interactions with empires based in China, it has a similarly long history of connections with various empires from Central Asia as well as being the centre of its own empires. The PRC Government claims that the Uyghur people have no indigenous claim to Xinjiang but were migrants to a territory which belonged to China (White Paper 2003, quoted by Julie Millsap; <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211217-Julie-Millsap.pdf>). The government also now claims that the Uyghurs are Chinese and not a Turkic people—a view that is undermined by their treatment as second-class citizens (Christian Tyler; <https://uyghurtribunal.com/wp-content/uploads/2022/07/UT-210911-Christian-Tyler.pdf>)—and that Islam is not their ‘natural’ religion (White Paper issued by the State Council Information Office, 2019, quoted by Darren Byler,

para. 647(i) below), notwithstanding the fact that Islam arrived in the region around 1,000 years ago.

529. It is generally accepted—outside of the PRC—that the XUAR only really became a constituent part of a Chinese empire when it was conquered by the Qing dynasty in the mid-18th century and was only integrated into China when the Qing empire made it a province in the 1880s under the name ‘Xinjiang’. Before this time, occupations by the Chinese resembled the old-fashioned colonialism practiced by the Europeans in Africa, South America and India where local people were not removed but put to work for the colonists.
530. Despite this new structure, the region remained a frontier colony that was only tenuously connected to the empire rather than a settler colony that could readily be absorbed into a future Chinese nation state: ‘The local population generally continued to live their lives as they had previously before the region became a province. They mostly practiced their [*Muslim*] religion unfettered, spoke their native languages, had their own informal means of self-governance, practiced agriculture and traded ’(Sean Roberts; <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211110-Sean-Roberts.pdf>). Their (religious-based) education systems also continued alongside the imperial education systems.

## **Assimilation into the PRC**

531. The assimilation of the XUAR into the PRC during the CCP period has occurred in a number of phases.
532. In the period after the establishment of the PRC in 1949, the central government encouraged former soldiers of the People’s Liberation Army to settle on military state farms in the region (primarily in the northern part), ultimately under the aegis of the XPCC or Bingtuan.
533. As a result of this in-migration, the ethnic balance of the population changed so that, by 1990, the proportion of the population that was Han Chinese was substantially higher (having been less than 10% in 1949).
534. In the period up to the first decade or so of the 21st century, the PRC Government operated an incentive-based ‘ethnic assimilation’ policy, based on the view that a combination of Han settlement and economic development



would gradually erode Uyghur ethnic distinctiveness. In essence, there was a long-held belief that economic investment and growth would develop the Uyghur ‘problem’ away.

535. After 2009, the previous approach was replaced by a programme of cultural elimination based on identification with the Chinese nation and a Chinese ethnicity—an identity ‘dominated by Han norms and Chinese language’. It was a move from a system where ethnic differences were recognised and permitted to an enforced programme of integration that denied the autonomy of ‘local interests’ (<https://thechinaproject.com/2021/07/07/ethnic-extinction-in-northwest-china/>).
536. Under the new approach (justified by the PRC Government on grounds of security and Uyghur ‘terrorist’ attacks), the PRC Government would push vigorously to integrate the minorities in the XUAR into a single (Han) race with the elimination of religious belief as support of a foreign construct and the major campaign of re-education introduced in 2018. The key was to ensure that there is no alternative narrative of identity to the party–state.<sup>155</sup> The approach assumes that assimilation, repression and eradication of local culture will lead to peaceful control and unity.
537. This change in approach led to changes in the educational system (including the language of education) and re-education/detention camps, as well as other cultural destruction policies. From September 2017, primary schools began to change from an (official) ‘bilingual’ curriculum to a Mandarin-only programme.
538. Although Han control has always been a central element of the PRC, the push for Han dominance has become more explicit under President Xi. In contrast, Mao warned against Han ethno-centrism (Han chauvinism), believing that minorities should be recognised and supported. A National Ethnic Affairs Commission was established in 1953 (and, in 2019, it was led for the first time by a Han Chinese).
539. The new approach is based on very strict laws (in particular, the Counter-Terrorism Laws [2015], Religious Affairs Regulations [2015], internet

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<sup>155</sup> Saich, T. (2021). *From rebel to ruler: One hundred years of the Chinese Communist Party*. The Belknap Press of Harvard University Press.

regulations [2016] and de-extremification regulations [2017/2018]). These laws have created a base on which to build an extraordinarily extensive regime involving very wide-ranging restrictions on the Uyghur population and an intense system of ethnically profiled surveillance—based on IJOP—which is regarded as more extensive and sophisticated than any other in the world.

540. The period since the appointment of Chen Quanguo has been characterised by a high level of detention—mainly outside any judicial process and mainly in ‘re-education/detention camps—which has, on a conservative basis, led to the detention of more than one million Uyghurs (out of a total population of around 12.5 million). Since 2017, 380 detention centres have been constructed or significantly expanded. There has also, since 2017, been increasing evidence of the development of Uyghur face detection technology (including patents and RFD standards) based on public-private partnerships with companies such as Huawei, Alibaba, Tiandy, Hikvision and Dahua (<https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211217-Conor-Healy.pdf>).

The recent—much more extensive—approach with its objective of removing any independent Uyghur identity once and for all<sup>156</sup> is driven by two factors. First, the XUAR is a crucial artery for the corridor of the BRI through Central Asia. Second, there is a fear that independence activity in the XUAR may link up with radical Islamic groups across the border.

541. In essence, in the last 10 years, there has been a move back to the imperial (and Sun Yatsen) concept of a melting pot and away from the concept of a multi-ethnic nation state, which had predominated for much of the previous Communist era. The focus is now on an overarching state/race based in Han Chinese culture and the idea of the ‘melting pot’ fusing all people into this overarching ethnic/racial identity.<sup>157</sup>

## Religion

542. After a period of humiliation in the Cultural Revolution, there was a period of relative openness for religious practice in the 1980s. This changed in the 1990s with the authorities strengthening control over religion and religious practice

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<sup>156</sup> Saich, T. (2021). *From rebel to ruler: One hundred years of the Chinese Communist Party*. The Belknap Press of Harvard University Press.

<sup>157</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211220-Rian-Thum.pdf>

including the teaching of Imams.<sup>158</sup> Mandatory courses were introduced for Imams in the 2000s ‘so that everything supports Chinese socialism’.

543. Control over religious figures steadily increased into the 2010s. The Amended Regulations on Religious Affairs (2005) increased state oversight and, by 2010, almost all sermons were written by the Islamic Association of China. The ‘second-generation nationalities policies’ (from 2014) ended any autonomy for Imams to lead their communities and the amendments to the Regulations on Religious Affairs (2017) prohibited the teaching of religion in regular schools and restricted religious practice to state-approved venues.<sup>159</sup> With many aspects of religion and religious practice being identified as ‘extremist’ in recent years, the practice of the Uyghurs’ Muslim religion has become close to impossible—notwithstanding the protections for religion in the PRC Constitution.
544. The attacks on religion have also had a physical aspect with the widespread destruction of religious buildings and sites. It is estimated that, since 2017, one-third of mosques have been destroyed and a further one-third have been significantly damaged or ‘renovated’ to remove Islamic architecture (i.e., a total of 8,000 mosques demolished and 7,500 de-Islamified), while other mosques have been converted to non-religious use.
545. In addition, substantial amounts of traditional Uyghur housing have been destroyed principally through programmes of urban ‘renewal’ resulting in the loss of key household features at the centre of Uyghur life—the supa and the mehrab. In effect, ‘large swathes of crucial cultural heritage’ have been systematically destroyed.<sup>160</sup>

## **Ethnic policy**

546. Ethnic policy in XUAR has been erratic since 1949. It has swung from harsh repression to tolerance and back again. Periods of relaxation have, however, been few and short. Before he took power in 1949, Mao promised independence to the Turkics, but this was rescinded after he took power (and the record of the promise removed from his collected works).

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<sup>158</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/07/UT-210913-Peter-Irwin.pdf>

<sup>159</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/07/UT-210913-Peter-Irwin.pdf>

<sup>160</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211214-Nathan-Ruser.pdf>

547. Ethnic identity was originally at the core of the PRC structure with language, culture and education of each ethnic group supported (and ‘Great Han Chauvinism’ denounced). Each group was protected from discrimination and cultural erasure and was represented within the government and party. This was reversed in the Great Leap Forward and Cultural Revolution with terrible consequences (with the XUAR suffering disproportionately) but restored in the 1980s (the golden age of diversity policies). It was then completely reversed in 2013.<sup>161</sup>
548. Concessions under the national birth control policy (allowing Uyghur families to have more than one child) were ignored by local officials. Rights granted under the Constitution (e.g., religious freedom) have also been ignored in practice.
549. Apart from intermittent easings, the norm has been severe restriction of the Turkic peoples in the XUAR. The CCP under Mao Zedong and his successors acknowledged the Turkic peoples as a different ‘nationality’ while still citizens of China. Mao’s theory was that, under Communism, the concepts of race and nationality would gradually be subsumed into an issue of class so that the terms such as Uyghur and Han would disappear.
550. Under President Xi’s rule, this process has been accelerated and intensified so that all who live within China must become Han Chinese—a doctrine once denounced (e.g., by Mao Zedong) as ‘Great Han Chauvinism’.
551. Since 2018 (Third Central Xinjiang Work Forum), there has been increased emphasis on racial unity of the Han and Uyghurs with claims that the Uyghur language is linguistically Chinese (not Turkic) and that they are descended from Zhonghua people (whose characteristics are indistinguishable from Han) and not Central Asian Turkic people.
552. The current PRC assimilationism seeks to submerge Xinjiang non-Han peoples into an invented identity, mandating that distinctive ethnic features be scrubbed away through (inaccurate) historical narratives, cultural and language erasure, rhetoric about shared bloodlines and coerced education—while,

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<sup>161</sup> <https://uyghurtribunal.com/wp-content/uploads/2021/11/27-Nov-Millward-Statement-converted.pdf>

<https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211220-James-Millward.pdf>

at the same time. Implementing birth suppression measures for non-Hans and incentivising Han in-migration to re-engineer demographic ratios in Xinjiang.<sup>162</sup> A complete change from the previous 65 years of the PRC.

## Population

553. On the establishment of the XUAR (replacing Xinjiang Province), the region had a population of 5.1 million (of which 73% was Uyghur).
554. On the basis of recent evidence, the population of the XUAR is about 24 million, of which 46% is Uyghur (and 7% Kazakh). The Han population is mainly concentrated in the northern part of the region and cities, and the vast majority of the ethnic minorities are concentrated in four states and villages in southern XUAR (where around 90% of the population is non-Han).
555. In 1975, the region limited the Han to two children. In 1983, the region sought to limit urban ethnic minorities to two children, rural minority families to three children and four children in remote areas. As a result of demonstrations against the limits (in 1985), Muslim families were permitted to have up to four children. In 2017, Han were permitted to have the same number of children as ethnic minorities.
556. Since 2015 (and particularly since 2017), there has been a precipitate decline in the birth rate of the Uyghur population as a result of the policies introduced on Uyghur (but not Han) birth control ('optimisation of population resources'), including forced sterilisation, contraception and birth control, as well as the division of families through the detention and forced labour programmes. For example, it is estimated that between 2015 and 2018, the birth rate in the four prefectures of south Xinjiang declined by 73%. (It is also estimated that, on the basis of this recent decline, the population loss to south Xinjiang by 2040 would be 2.6–4.5 million people.)<sup>163</sup>

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<sup>162</sup> <https://uyghurtribunal.com/wp-content/uploads/2021/11/27-Nov-Millward-Statement-converted.pdf>

<https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211220-James-Millward.pdf>

<sup>163</sup> <https://uyghurtribunal.com/wp-content/uploads/2021/11/The-Xinjiang-Papers-An-Introduction-1.pdf>

<https://uyghurtribunal.com/wp-content/uploads/2022/07/UT-210913-Adrian-Zenz.pdf>

## Security

557. The collapse of the Soviet Union in 1991 created a strong fear of instability in the Beijing Government. As a result, the government introduced the Big Development of the North-West Plan, which provided incentives to Han Chinese to in-migrate to the region. The plan led to the settlement of large numbers of Han immigrants.
558. This migration—with the effects on Uyghur culture, language and traditions—led to tensions in the region with peaceful protests appearing to be converted into violence, in many cases as a result of the response of the security forces. The violence—about 200 ‘terrorist’ incidents in 1990–2001 (with around 160 deaths)—included two bomb incidents in Ürümqi (1992 and 1997) and a major disturbance in Ghulja (1997). In 1997–2001, 38 violent incidents were recorded, mainly involving attacks on the police and security services.
559. The migration (and violence) was accompanied by increased security and restrictions in the region, including restrictions on religion and greater surveillance, particularly after 1997. These restrictions increased after 9/11 and the Declaration of the GWoT—with the Beijing Government seeking to link Uyghur opposition to the GWoT and the object of combating ‘the three evils’—terrorism, separatism and extremism. This repression focused particularly on restrictions on the Islamic religion with severe limitations on religious practice.
560. In contrast to the 1990s, 2000–2008 saw almost no violent incidents.
561. Following the riots in Ürümqi in 2009, the government enhanced security and surveillance systems (including travel prohibitions, checkpoints, and ethnically profiled random searching). In 2009–2016, in response to the increasing crackdown and forced assimilation, the violence continued on a regular but isolated basis involving police and security forces (including Aksu, 2010; Kashgar/Hotan, 2011; Karghilik, 2012; Korla/Karghilik/Hotan/Lukqun/Maralbeshi, 2013). In 2013–2014, there were at least 98 violent incidents involving Uyghurs (656–715 deaths).
562. In effect, what was created was a continuing self-perpetuating cycle of repression–violence–repression (Sean Roberts; <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211110-Sean-Roberts.pdf>).

563. Since 2017, there have been no recorded violent incidents in the XUAR.
564. The election of President Xi has seen a step change in the levels of repression of the Uyghur population and the assimilation of the XUAR into the PRC—in particular, after the appointment of Chen Quanguo as CCP Party Secretary in Xinjiang in 2016. This change has been driven by the People’s War on Terror (2014) as the government has sought to identify Muslim religion, language and culture with the three evils. This has been centred on mass campaigns (of a kind not seen since the period of Mao)—the Strike Hard and Counter-Terrorism campaigns (launched in 2014) and the Re-Education campaign (launched in 2017).
565. Despite the instances of violence after Tiananmen Square, there is little evidence of terrorism (conventionally defined) inside the XUAR with the violence appearing to be largely caused by protests or retribution for attacks on religious institutions, sexual offences against Uyghur women and injustice as well as disputes over land and water.
566. It is, of course, the case that the PRC Government has used a different definition of terrorism and extremism, which includes a wide range of behaviours ranging from the possession of apps to wearing a beard or refusing to drink or smoke. (Reasons for detention include visiting abroad, applying for a passport and not travelling, overseas communication, religious knowledge of relative, beard, wearing a veil, birth policy violations, being a post-1980s person, illegal media access and being a relative of a prisoner.)<sup>164</sup>
567. Notwithstanding this, the PRC Government has attributed most of the violence in the province to terrorism or extremism. However, while there are armed groups outside China (e.g., ETIM in Afghanistan and Turkistan Islamic Party [TIP] in Syria), there is no evidence connecting them to acts of violence inside China or that they have the capability of causing this kind of violence. These groups are, in the main, disorganised and small. Notwithstanding this, the US Government approved the listing of ETIM as a terrorist organisation for 18 years after 2002 (probably driven by the need to obtain Chinese support in the GWoT).

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<sup>164</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211216-Elise-Anderson.pdf>

568. The CCP treats protests as entirely politically or religiously motivated (frequently as a result of the Three Evils). It will not admit that they are usually ‘the consequence of its own erratic, inconsistent and often violent treatment of the indigenous people’. The Turkic have been excluded from playing any part in the development of the province; they feel they are second-class citizens in China and strangers in their own land’.<sup>165</sup>
569. *(Note: it is difficult to obtain detailed information on the violence in the XUAR both in relation to the circumstances and causes and the casualties involved. Notwithstanding this, it appears that the overwhelming majority of incidents did not involve attacks on civilians or constitute premeditated political motivations.)*

## **Individual human rights in China**

570. Although the PRC is a signatory to various UN Conventions relating to human rights (e.g., the Genocide Convention), it does not recognise the concept of individual rights in the same way as is the case with values in the West (derived from Christian theology).
571. China subscribes to ‘Asian values’ where, broadly, the individual is subordinate to the collective.
572. ‘The basic ethical concept of Chinese social political relations is the fulfilment of the duty to one’s neighbour rather than the claiming of rights. The idea of mutual obligations is regarded as the fundamental teaching of Confucianism’ (Lo Chung-Shu, ‘Human Rights in the Chinese Tradition’, sent on 1 June 1947,<sup>166</sup> in response to UNESCO’s 1947–1948 survey on the philosophical foundations of human rights: <https://unesdoc.unesco.org/ark:/48223/pf0000020342>).
573. Under Confucianism, social harmony is achieved through patriarchy, respect for authority and worship of ancestors. The philosophy has now been reinstated in the PRC after a period under Mao Zedong when it was condemned as anti-socialist and out of date.

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<sup>165</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/07/UT-210911-Christian-Tyler.pdf>

<sup>166</sup> <https://en.unesco.org/courier/2018-4/confucian-approach-human-rights>



574. The effects of this philosophy on an ethnic minority population are enhanced by the weakness of the judiciary in the PRC where a nominal adherence to the rule of law disguises a system where the courts play no effective role in upholding the law and many ‘judicial’ (criminal) activities take place outside the judicial system. This has allowed the practice of torture in institutions and the (dynastic) practice of punishing whole families for the crimes of one member.<sup>167</sup>
575. Other narratives of the history appear in the reports of the experts who assisted the Tribunal. This short extract from Tobin is included for its particular slant—not critical in any way for the Judgment reached but nevertheless interesting. He argued<sup>168</sup> that this is about history—before 1949, Uyghurs were simply described, generally, as barbarians. Chinese narratives described *hua* ( 华 ) the Chinese civilisation and the outside world as barbarians. It was only after 1949, when Mao Zedong comes to power, that Uyghurs are reframed as internal ethnic minorities ‘*shaoshu minzu*’ ( 少数民族 ), and the construction of the regional autonomy system—if we look at the regional autonomy law—is explicit that the autonomy system is to hold China together and to modernise Xinjiang. The phrase ‘*minzu wenti*’ ( 民族问题 ) frames this discussion—‘ethnic problem’. So, Uyghurs in the region have been described as an ethnic problem since 1949. Fast forward to 2017, in the spirit of the 19th Congress ... the term ‘*shaoshu minzu*’ ( 少数民族 ) disappears. It’s used twice in Xi Jinping’s speech, only to refer to minority cadre recruitment. And now we have an official policy called ‘fusion’—that all former 56 *minzu* ( 民族 ) ethnic groups should be fused into one ‘*zhonghua minzu*’ ( 中华民族 ).

<sup>167</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/07/UT-210911-Christian-Tyler.pdf>

<sup>168</sup> [https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-220118-David-Tobin-et.al\\_.pdf](https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-220118-David-Tobin-et.al_.pdf) (lines 1372–1382, p. 6);

<https://uyghurtribunal.com/wp-content/uploads/2022/07/UT-210910-David-Tobin.pdf>

## APPENDIX 18

# ASPI Report

576. As explained in the Judgment at paragraphs 36, 39, 53 and 54 and Appendix 18, paragraphs 581–644, the ASPI Report<sup>169</sup> contained much helpful material but was published too late for the authors to be asked to give formal evidence or for its content to be discussed with other witnesses. Had they been able to attend in person, there is little doubt that their evidence would have been relied on—perhaps extensively—by the Tribunal. Nothing in the detail of the report is contradictory of the live evidence heard by the Tribunal or with the other factual material contained in other expert reports and on which the Tribunal has relied. Thus, the contents of the report may be considered as confirmatory of evidence heard, and of conclusions reached, by the Tribunal on evidence presented at the evidence hearings. The following material from the report was considered of value, although any reader interested in detail may find reading the full report a worthwhile exercise:
577. The authors had located and scrutinised thousands of Chinese-language sources including leaked police records and government budget documents never before published. They observed from these records how the PRC party–state’s reflexive compulsion for campaigns, and *campaign-style governance*, which is an intrinsic feature of the Chinese political system, is often overlooked in the current English-language literature.
578. ASPI researchers gained rare and in-depth insights into Xinjiang’s local governance by analysing thousands of pages of leaked police files. One section of the report focuses on the case of one Uyghur family in Ürümqi. Like at least 1.8 million other Uyghurs, Anayit Abliz, then 18, was caught using a file-sharing app in 2017. He was interned in a re-education camp

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<sup>169</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211214-Nathan-Ruser.pdf>

and eventually ‘sentenced’ by his Neighbourhood Committee—a nominally service-oriented voluntary organisation responsible for local party control. While he was detained, officials from the Neighbourhood Committee visited his family members six times in a single week, scrutinising the family’s behaviours and observing whether they were emotionally stable.

579. Draconian control measures are typical of mass political campaigns, including those in Xinjiang.
580. During the crackdown against the Uyghurs, authorities implemented five key policies, including the ‘Trinity’ mechanism. Xinjiang’s community-based control mechanisms are part of a national push to enhance *grassroots governance*, which seeks to mobilise the masses to help stamp out dissent and instability and to increase the party’s domination in the lowest reaches of society.
581. Law enforcement in Xinjiang is hasty, harsh and frequently arbitrary. Senior officials have promulgated new laws and regulations that contradict existing ones to accomplish the goals and targets of the campaigns; on the ground, local officers openly boast about acting outside normal legal processes, and their voices are sometimes amplified by state media. ASPI has found evidence that some neighbourhood officials in Ürümqi threatened to detain whole families in an attempt to forcefully evict them from the area.
582. Efforts to weaponise the law in Xinjiang mirror wider legal reforms under Xi Jinping where previous ideals about procedural accountability and judicial independence have been cast aside and the law is now openly used to tighten the party’s grip over society and eliminate social opposition.
583. County party secretaries are the most senior officials at the local level in China, and their role is crucial to the regime’s survival, according to Xi Jinping. In Xinjiang, they oversee the day-to-day operations of the two campaigns. The vast majority of these ‘frontline commanders’ are Han. At the time of writing (September 2021), not a single county party secretary in Xinjiang is Uyghur, which speaks to the erasure of once-promised ethnic self-rule, and to deeply entrenched racism at the heart of the Han-dominated party–state system.
584. The report deals with three individuals who demonstrate the realities of the CCCP’s power. First, Yao Ning, a darling of the Chinese media for his elite

academic background at Tsinghua and Harvard universities, claimed absolute loyalty to the party–state from a young age. Yao now sits at the top of a chain of command over nine newly built or expanded detention facilities in Maralbeshi County. He has struggled with mounting pressure and the death of a close colleague due to exhaustion but finds solace in quotes by both Mao and Xi.

585. Second, Yang Fasen, who pioneered new governance tools during the campaigns, was recently promoted to vice governor of Xinjiang. His innovative propaganda templates—that the authorities dubbed the ‘Bay County Experience’—were copied by other counties in Xinjiang during the Counterterrorism Campaign.
586. During a 2015 speech in front of Xi Jinping in Beijing, Yang claimed that subjecting undereducated Uyghur youth to labour reform (a practice that became commonplace later in the Re-education Campaign) can improve social stability.
587. The third profile is of Obulqasim Mettursun, a Uyghur official, who like most Uyghurs serves in a deputy position under a Han overseer. He went viral after penning an open letter pleading with fellow Uyghurs to ‘wake up’ and actively participate in the party–state’s stability maintenance efforts. He represents an ideologically captured and dependent class of Uyghur officials committed to serving the party in largely ceremonial roles.
588. International experts agree that Uyghur militants exist in Syria and Pakistan in small numbers but argue that they pose little direct security threat to China. That view is widely rejected inside China, where a mix of racial discrimination, settler-colonialism and an irrational fear of instability has driven Xinjiang policy in recent times.
589. In April 2014, Xi Jinping argued that Islamic extremism had infected a large swathe of Uyghur society and called on party officials to chase ‘violent terrorists’ like rats: ‘strike early, strike small, strike fast and use an iron fist to destroy [them]’.
590. On 23 May 2014, the Xinjiang Party Committee launched a year-long Counterterrorism Strike Hard Campaign in Xinjiang following decisions from the Central Communist Party Committee (中央党委) and the National

Counterterrorism Leading Small Group (国家反恐怖工作领导小组), which is an interagency taskforce led by senior security and army officials. Xinjiang, the ‘main battlefield’ of a national campaign against terror, would employ mass mobilisation (全民动员), tough measures and extraordinary methods, the *People’s Daily* reported.

591. Chen Quanguo instructed the centres, commonly known as ‘re-education camps’ in English, to ‘teach like a school, be managed like the military, and be defended like a prison’. Detainees are held without legal recourse for matters as innocuous as using a file-sharing app to download music and are subjected to indoctrination as well as physical and mental torture.
592. The 2017 campaign had a distinct five-year plan to radically alter Xinjiang society: to stabilise the situation during 2017; to consolidate during 2018; to normalise during 2019; and to achieve ‘comprehensive stability’ (全面稳定) by the end of 2021. The 2017 campaign also expanded to include mass coerced labour assignments, mandatory birth control measures and more intense indoctrination.
593. As the 2014 Counterterrorism and 2017 Re-education Campaigns differ greatly in scope and intensity, the report’s authors discuss them separately where possible. Together, they conclude, the two campaigns constitute what some experts assert are crimes against humanity or genocide.
594. There is some evidence that lower security facilities have been decommissioned, with detainees transferred to mandatory job assignments or ‘community management and control’ (社区管控), which is similar to house arrest. Official statistics also suggest that, since 2019, long and unjustified prison sentences have surged in Xinjiang, coinciding with satellite imagery evidence that shows high-security prisons expanding. Many individuals in the Uyghur diaspora report having multiple family members sentenced, some for up to 10–20 years in prison.
595. Officials in Xinjiang have been punished for not being able to recite quotes from Xinjiang Party Secretary Chen Quanguo, and residents are required to chant their loyalty to the party and wish President Xi Jinping good health. Xi Jinping personally ordered officials to bring back neighbourhood informants in Xinjiang, another Mao-era technique. Authorities have popularised public denunciation sessions (揭批) and public loyalty pledges known as ‘speak up

and brandish the sword’ (发声亮剑). Mass ‘show trials’ (公判大会) have also returned.

596. Campaigns can be viewed as a tool for the party–state to correct the perceived failings of its vast bureaucratic machine. Zhou asserts that many bureaucratic structures have adapted during the party’s 70-year rule to meet the needs of campaigns, and some campaign practices have become normalised.
597. Xi Jinping, whose immediate family experienced imprisonment, re-education, death and torture during the Cultural Revolution, has previously criticised campaigns as costly and burdensome, reportedly asking at one point, ‘Hasn’t our country suffered enough in this regard?’ The campaigns in Xinjiang bear Xi’s imprimatur. In at least three separate speeches between 2014 and 2020, Xi proclaimed that ‘the party’s Xinjiang governance methods and strategies are completely correct’ and that ‘[we] must adhere to them in the long term’.
598. Seven years on, the party’s war against the Uyghurs has not run out of steam, as many other campaigns have in the past. Consistent with Zhou Xueguang’s theory that campaign-style governance can transition into new norms, authorities have sought to permanently remould Xinjiang society and reach a perfect state of ‘comprehensive stability’ by the end of 2021.
599. One family’s story, summarised in the report, is said to be a microcosm of Xinjiang’s grassroots mobilisation, where the Neighbourhood Committee (社区居委会), a nominally service-oriented voluntary organisation, has morphed into a powerful policing organ. Its new functions now include issuing travel permits for Uyghur residents, monitoring residents’ actions and emotions in their homes, committing individuals to re-education camps and subjecting relatives of those detained to ‘management and control’ orders that are akin to house arrest.
600. The Tribunal found the records of this family of interest:

Headed:

***No other abnormalities were found***

the report on the family recorded:

*On 11 November 2018, at around 10:30am, staff members from the Neighbourhood Committee of Ürümqi’s Xinmin West Street escorted two residents to attend Anayit Abliz’s (阿纳依提·阿布力孜) sentencing*

*hearing at a 'vocational education and training centre'[also known as a re-education camp].*

*According to a police memo, the two men, aged 52 and 24, were the father and older brother of Abliz, who was 19 years old at the time.*

*An hour later at the hearing, Abliz and his family sat at a long table across from four Neighbourhood Committee staff members. Four representatives from the local procuratorate (检察院), China's equivalent to a public prosecutor, were present up on a stage.*

*The hearing, termed 'Two Announcements, One Lecture' (两告知一宣讲), was intended to 'inform students of how they participated in terrorist and extremist activities and lecture [them] about the party and government's policy of lenient treatment according to law.'*

*Abliz was informed that he would be sentenced to three years in prison for using a file-sharing app called Zopya (快牙) and a virtual private network (VPN) back in 2017.*

*Abliz admitted to having used Zopya but said there was no evidence of him ever using a VPN.*

*'He was dissatisfied with the verdict and disagrees,' the memo says.*

*However, 'under the persuasion of his family members, he eventually signed the statement.'*

*In the next paragraph, the memo goes on to say, Abliz's father and older brother were 'emotionally stable' on hearing the verdict, and 'did not disclose to Abliz the fact that his mother had been detained for re-education 收教).'*

The memo concluded:

***No other abnormalities were found***

601. While his predecessor, Hu Jintao, pushed for the committees to more effectively self-govern through competitive local elections, Xi Jinping

has sought to exert more direct party control at the grassroots level by emulating Mao's mass mobilisation techniques. Xi took inspiration from the 1963 'Fengqiao Experience' (枫桥经验), in which work units and commune brigades mobilised the masses in targeting and transforming the 'enemies' hiding among the people. The meaning of home, neighbours and the Neighbourhood Committee have all fundamentally altered in Xinjiang. During the two campaigns, many neighbourhood officials reportedly wear military fatigues, and cadres and civilian residents alike are mobilised to perform intelligence and policing tasks. This redistribution of law enforcement power to civilians and civil society groups blurs the line between civilians and cadres, victims and perpetrators. Uyghur poet Tahir Hamut Izgil, who lived in Ürümqi in the early months of the Re-education Campaign, wrote: 'People eventually felt as though they were part of the police, with a taste for watching and reporting on one another. They remained constantly ready to confront enemies, and at the same time often felt that they themselves were the enemy. I began to sense this indistinctly in the people around me, and even in myself.' Further detail in the report included:

602. A 2012 policy embedded a police substation (警务室) in every neighbourhood or village in Xinjiang, assigning at least one police officer to live in the substation around the clock, and three auxiliary officers in assistant roles. By 2018, Xinjiang had more than 9,000 police substations, of which 7,400 were located in rural villages, and 2,100 were attached to urban communities—in total staffed by around 10,700 police officers, 30,870 auxiliary police officers and 48,010 militia guards (民兵). In addition, thousands of new police checkpoints, known as 'convenience police stations' (便民警务站), were constructed since late 2016. In each cell, a grid manager and other staff collect information and report any potential problems to the neighbourhood or village committee and the police. The grid's political purpose is twofold: extending the party's reach at the grassroots level and securitising residential communities.
603. The Fanghuiju (访惠聚) programme is a state-sanctioned campaign in which officials and sometimes civilians (mostly belonging to the Han ethnic majority) are mobilised to visit or occupy the homes of Uyghurs and other indigenous families. The officials undertake programmes of indoctrination and surveillance, while calling themselves fictional family members of the men and women they might then decide to consign to the camps.



604. First reported in the report in English, the ‘Trinity’ mechanism (‘三位一体’工作机制) was introduced at the start of the Counterterrorism Campaign and later implemented throughout Xinjiang. It ensures that every neighbourhood and village is co-managed by neighbourhood or village committee officials, police officers and external Fanghuiju work teams (‘访惠聚’工作队). During Xi Jinping’s 2014 inspection tour of Xinjiang, he reportedly gave high praise to the mechanism. The Trinity mechanism mirrors the ‘Revolutionary Neighbourhood Committee’ (革命居民委员会) established around 1968, when a different trinity consisted of party cadres, military officers and residents’ representatives. The 1968 trinity formed the *de facto* lowest rung of state power and controlled residents’ movements, the interior decorations of their homes and the outfits that they wore. The Revolutionary Neighbourhood Committee damaged the relationship between residents so much that one academic called it ‘morbid’. In Xinjiang, the neighbourhood or village committee is the principal arbitrator of the re-education processes. During the Re-education Campaign, the Trinity mechanism holds at least two daily meetings: a ‘morning dispatch’ (早派工) to assign home visits and ‘investigations’, and an ‘evening evaluation’ (晚研判) to decide what actions to take in response to those ‘investigations’, including whether any individuals should be sent away for re-education.
605. By late 2018, Xinjiang reportedly had more than 60,000 joint households. A ‘joint household manager’ (联户长), also known as a ‘ten households’ manager’ (十户长), receives official training in collecting intelligence, handling potential re-education camp detainees, delivering propaganda lectures, directing daily anti-terror drills and arranging labour assignments. They are financially rewarded based on their performance.
606. Within the police and intelligence network at the grassroots, there are also informants (信息员). While one Ürümqi Party School journal article claims the informants report to the joint-household manager, police reports indicate that the neighbourhood informants, who are referred to as a series of letters and numbers (e.g., DX18-2-80), answer directly to the secret police—formally known as the Domestic Security Bureau (国保)—who serve in the local police station.
607. A Fanghuiju manual used in Kashgar Prefecture (喀什地区) asked its work teams to show warmth to their Uyghur ‘relatives’ and give kids candy. It also provided a checklist that includes questions such as: ‘When entering the

household, do family members appear flustered and use evasive language? Do they not watch TV programs at home, and instead only watch VCD discs? Are there any religious items still hanging on the walls of the house?’ The two Fanghuiju officials that visited Abliz’s family on 9 February 2018 found them at home watching television and chatting. One official asked about Abliz’s brother’s health, showing warmth as the manual instructed. His mother and sister did not go out that day. ‘Thoughts are stable, and everything is normal,’ the cadres reported. On 4 January 2019, days before Abliz’s 20th birthday and three months after his sentencing hearing, a re-education camp official phoned the Neighbourhood Committee to say that Abliz’s hand had been injured *again*. It was injured from a fall earlier and ‘relapsed’, the report says. The neighbourhood official told Abliz’s father about the injury and observed that, upon hearing the news: ‘His father was emotionally stable; his tone of voice was normal; there was no abnormal behaviour.’

608. In February 2019, under the jurisdiction of the Shuimogou District Police Station, a total of 552 households had family members detained. Relatives of the detainees were ‘getting emotional and constantly went to their neighbourhood committees to ask questions,’ according to an 11 February police memo. In response, the police station decided to dispatch officers to visit whoever asked questions in their homes more frequently to ‘calm their thoughts’. The same police report mentions a teenage Uyghur girl who had dropped out of school and whose father was detained for re-education, stating: ‘[Her] mood has been down lately. She sometimes posted texts on [her] WeChat Moment about finding life hopeless. The neighbourhood police officer has worked on her thinking. The Neighbourhood Committee will pay more attention to this person’s movements and report [to the police station] in a timely manner.’
609. Individuals often become suspects after being flagged by the PLAC (政法委员会). Ürümqi’s police records reveal that the PLAC sends push notifications of ‘micro clues’ (微线索) via the predictive policing system IJOP to the Neighbourhood Committee and police when irregularities are detected: someone having an unexpected visitor at home, driving a car that does not belong to them, receiving an overseas phone call or using file sharing apps such as Zopya. In police reports, these often innocuous acts are described as ‘enemy movements’ (敌情) or ‘important intelligence’ (重要情报). The PLAC is a powerful party organ that oversees what Chinese officials call the ‘political and legal affairs system’ (政法系统), which includes the police, the

procuratorate, the court, the justice department and other security organs. At various administrative levels, those agencies fall under the government, but are ultimately answerable to the party via the PLAC. Referencing Mao yet again, Xi Jinping has dubbed the political and legal affairs system the party's 'knife handle' (刀把子) and insisted that the handle be firmly in the hands of the party and the masses.

610. Between July 2016 and June 2017, its IJOP flagged 1,869,310 Uyghurs for having used Zapya. This possibly included Anayt Abliz, who was first detained in 2017 for using the app.
611. The PLAC operates the IJOP via a powerful new body called the Counterterrorism and Stability Maintenance Command. The regional Stability Maintenance Command was established under the PLAC in September 2016. It has sweeping powers to coordinate security work among the party, the government, the army, the police, the militia and the masses. Local stability maintenance commands were subsequently established at the subregional level.
612. Following a stint as the head of the Xinjiang PLAC between 2006 and 2009, Zhu was appointed the Ürümqi Party Secretary in the wake of the 2009 riots and the sacking of the previous secretary Li Zhi (栗智). In an effort to restore order, Zhu came up with the idea of 'the big PLAC', a model aimed at revolutionising stability maintenance work by improving intelligence gathering, coordination between various security organs and grassroots mobilisation to meet the expedient needs of the campaigns.
613. On the ground, local officers openly boast about acting outside legal precedes—with the endorsement of senior leaders and state media. At all levels, officers are compelled to swear loyalty oaths to the party and stay 'politically firm'.
614. In 2014, a few days into the Counterterrorism Campaign, in an account that was later amplified by state media and a well-known think tank, senior Xinjiang police officer Ma Fei (马飞) wrote: '[We] must do everything possible to send the most untrustworthy, extreme religious [people] in our jurisdiction to the most reassuring place—the detention centre. Please don't talk to me about what constitutes a crime. When a case is established, it's time to sever heads. With the crackdown on religious extremism, we'd rather

be excessive than lenient.’ That same year, the Xinjiang High People’s Court (自治区高级人民法院) announced plans to conduct mass show trials and denunciation sessions, a form of political theatre that has been outlawed and widely criticised in contemporary China.

615. One of the most high-profile show trials in Xinjiang took place in the northern city of Ghulja (伊宁市) in May 2014, where truckloads of alleged ‘separatists’ and ‘terrorists’, mostly Uyghurs, were driven into a sports stadium and sentenced before a crowd of 7,000, their heads pushed down by police officers. In 2014, the Xinjiang High Court also explicitly ordered an increase in trial speed—a tactic similar to the 1983 Strike Hard Campaign, when some 1.7 million people were sentenced in a period of four years. Setting aside normal criminal law procedures, judicial organs jointly processed cases to reach unprecedented trial speeds during the 1983 crackdown, leading to a large number of unjust, false and wrongful verdicts, and death sentences. In Xinjiang, detainees’ fates are also decided by so-called ‘political and legal joint conferences’ (政法联席会议). Similar to Xinjiang’s crackdown, over a six-month period, the 1983 campaign had 563,000 individuals interned in labour reform and re-education facilities.
616. On 14 September 2017, a log from Ürümqi’s convenience police station SY-150 described how neighbourhood officials had tried to force relatives of detainees to move away from the Minghua Street Area in the Tianshan District, which was set to be demolished and reconstructed. The neighbourhood officials reportedly told some residents: ‘You have family members who have been detained and investigated by the public security organs, so you can no longer purchase properties or live here. If you don’t move away promptly, your entire family will be detained.’ The PLAC has acted like a barometer of political mobilisation and upheaval. First established in 1958 at the height of the Great Leap Forward, the PLAC wielded unrestrained power, which was considered a contributing factor in the Cultural Revolution. After the upheavals in the 1950s and 1960s, the PLAC took a back seat and was dissolved in 1988, only to be reinstalled in 1990 following the Tiananmen Square protests. For many scholars, its very existence proves that there is no meaningful divide between the CCP and the government.
617. Uyghur woman Güzelay Memetislam (古孜力阿依·买买提司拉木) was detained by the Xingfu Road Police Station (幸福路派出所) on 3 October 2017. She was sent to a re-education camp for being labelled an

‘untrustworthy individual who is dissatisfied with society’. Similarly, an Ürümqi Neighbourhood Committee sent Ekper Tursun (艾可帕尔·吐尔逊), a Uyghur divorcee who travelled frequently for business, to re-education on 8 March 2018 because he ‘doesn’t have a fixed address or fixed income’, a report says, continuing: ‘He is difficult for [neighbourhood] management and control’.

618. The phrase ‘governing the nation in accordance with law’ used to be associated with social justice and fairness and was enshrined in the Chinese Constitution in 1999. Under Xi Jinping, it now refers to law in a Marxist-Leninist sense, in which the law is an expression of the party’s will, and follows China’s ancient legalist tradition, in which harsh punishment is viewed as essential for good governance. ‘We must never copy the models and practices of other countries and must not follow the path of Western “constitutionalism”, “separation of powers” or “judicial independence”,’ Xi Jinping said in a 2018 speech.
619. Between 2014 and 2017, the Central Party School and the Central Organisation Department (中央组织部, akin to the party’s human resources division) gave every single county party secretary from across the country two months of in-residence training in Beijing. Xi personally taught some classes and published a book in 2015 setting standards for county party secretaries, demanding that they demonstrate absolute loyalty to the party and be ‘smart on politics’ (做政治的明白人).
620. Statistics suggest a systematic distrust of Uyghurs and other ethnic officials, as well as the underlying racial discrimination within the Han-dominated party–state system. They demonstrate how the party’s initial promise of ethnic self-rule (民族自治), as codified in the Chinese Constitution, is now a fig leaf held by a dependent class of Uyghur officials serving the party in chiefly ceremonial roles.
621. Yao Ning (see above) personifies Xi Jinping’s ideal cadre: young, loyal and capable. After spending his early years in Shanxi Province, Yao studied engineering at Tsinghua University. As an undergraduate, he actively participated in student politics, heading the Communist Youth League and the party branch for his cohort, and was elected president of the student association. As early as a student election held in 2008, Yao demonstrated exceptional patriotism and political ambition, saying he hoped to work in China’s frontier regions and serve the country. ‘[I’d like to] go to the place

where the motherland needs [me] the most. Get up on the big stage and have a big career,' he said. Later that year, he was selected by the university to be an 'Outstanding Undergraduate Communist Party Member' (本科生优秀党员). Between 2010 and 2011, Yao was an Asia Fellow at Harvard University's Ash Center for Democratic Governance and Innovation. The fellowship was part of his PhD programme in public policy at Tsinghua University. Upon completing his studies in late 2014, Yao began working in Xinjiang's Kashgar Prefecture, first in predominantly Uyghur Yengisheher County (疏勒县), and then in Maralbeshi County. In a 2018 Tsinghua alumni interview, Yao sounded grateful for the opportunity to serve the state in Xinjiang, reportedly saying that nowhere in central or eastern China could he obtain equivalent work experience on counterterrorism, stability maintenance and poverty alleviation. His revolutionary idealism, Yao said, stems from the education at his alma mater, Tsinghua.

622. Throughout Xinjiang's two campaigns, the regional second-in-command had been deputy Party Secretary Shohrat Zakir (雪克来提·扎克尔), a Uyghur official who, until 30 September 2021, had concurrently been Xinjiang's governor, the head of the Xinjiang Government. Under Zakir, there were 11 vice-governors. Among them, the highest-ranking and most powerful was Erken Tuniyaz (艾尔肯·吐尼亚孜), a Uyghur official who also spent four months in 2012 at the Harvard's Ash Center as a New World Fellow. Tuniyaz is currently serving as the acting Xinjiang governor at the time of the report being written. The lowest ranking and most recently promoted vice-governor is the 50-year-old Han official Yang Fasen (杨发森). A recipient of the 2015 'Outstanding County Party Secretary' title, Yang is now the youngest ministerial-level official (省部级领导) in Xinjiang.

623. Well before the Re-education Campaign, when many Uyghurs were detained for being labelled 'untrustworthy individuals born after the 1980s and 1990s'

(80后、90后不放心人员), Yang asserted in front of Xi Jinping that subjecting young, uneducated Uyghurs to labour reform can bring about stability: 'Because more than 80% of detainees were born in the 80s or 90s and 99% of them had an education level below high school, we have swiftly implemented a plan to "train and educate ten thousand youth in order to promote employment and ensure stability". We have trained 30,000 people for free so the idle youths can have a skill, have something to do, earn some money and have things to look forward to. [This policy] can reduce

[stability] risks to the greatest extent possible. Through unremitting efforts, the religious atmosphere of the county has faded, the people of all ethnic groups have significantly improved their ability to distinguish right from wrong and the positive energy of counterterrorism and stability is forming.’ Following his ‘Outstanding County Party Secretary’ award, Yang experienced an astronomical rise in the ranks. In December 2016, he was promoted to Deputy Party Secretary and PLAC Secretary of the Hotan Prefecture (和田地区), one of the frontline regions in the two campaigns where ASPI researchers have identified 52 detention facilities newly built or expanded. In February 2018, Yang became Hotan’s principal Party Secretary and by March 2021, the youngest ministerial-level official in Xinjiang.

624. Since 2017, almost every ethnic minority deputy party secretary in Xinjiang has published at least one written pledge to ‘speak up and brandish the sword’. In stark, jingoistic and highly repetitive language, they promise to ‘be grateful to the party, listen to the party, and follow the party’ and to ‘forever remember the generosity of the party’. They swear to ‘ferret out’ the party’s enemies—the ‘two-faced people’ who are ‘inferior to beasts’, to ‘root out’ and ‘smash’ the two-faced people and the ‘three evil forces’, to fight ‘bloody battles’ with them ‘till death’.
625. Some Uyghur officials now claim that their people are not descendants of Turks and that Uyghurs have been a part of the Chinese nation-race (中华民族) since ancient times. One official disavowed the Uyghur language, saying that speaking it makes one unpatriotic and, thus, a ‘two-faced person’.
626. One section of the report offers an overview of the main aspects of the two campaigns and points out the administrative bodies that are involved. The five aspects discussed here are propaganda, the re-education camps, the Fanghuiju program, coercive labour assignments and population control.
627. (Readers of the full report can also view an interactive chart, where the authors have mapped out more than 170 administrative bodies that are directly or indirectly connected to Xinjiang’s human rights crisis.)
628. On 28 May 2014, a major Xinjiang work conference was held in Beijing four days after the launch of the Counterterrorism Campaign. During the conference, Xi Jinping instructed that to achieve stability and party control in Xinjiang, a key measure was to ‘vigorously promote cadres who are loyal to

the party, who dare to speak up and brandish the sword in critical moments.’ At this point, ‘brandishing the sword’ seems to be a metaphor for firmly expressing one’s loyalty to the party and being in a combative position to defend it. The metaphor soon evolved into acts of political ritual unique to Xinjiang. Nine days after the conference in Beijing, some 10,000 individuals in Cherchen County (且末县) took a public pledge to ‘brandish the sword’ against ‘terror and violence’. In July 2014, following a violent clash between a group of Uyghurs and Chinese security forces, officials in Yarkant County (莎车县) reportedly shouted with raised arms, ‘Resolutely safeguard national unity!’ and ‘Resolutely safeguard the dignity of the law!’ in the yard of a local Village Committee. Some 130 village-level officials jointly signed a pledge to denounce the violent attack. Since then, officials, civilians, religious leaders, entrepreneurs, arts workers and people with disabilities have all signed similar pledges to ‘brandish their swords’.

629. Public pledge ceremonies called ‘speak up and brandish the sword’ soon became commonplace, where participants put a fist next to their face while standing up, vocally condemn ‘religious extremism’ and praise the party and its policies. Participants are also asked to sign their names on massive propaganda banners and ‘solemnly promise to be grateful to the party, listen to the party, and follow the party’. Some officials claim that these events can cure the disease of ‘extremism’ and improve the psychological health of the masses.
630. During the Re-education Campaign, the Justice Department played a leading role in mobilising and organising propaganda lecture groups, primarily through its ‘Propaganda Lecture Office to Promote Harmony and Prevent Crimes’ (促进和谐预防犯罪宣讲办公室). In April 2017, the Xinjiang United Front Work Department (自治区统战部) held a series of ‘three loves, three oppositions’ (三爱、三反) seminars in Ürümqi that lasted more than 10 days, with nearly a thousand representatives from all sectors of Xinjiang society in attendance. ‘Three loves, three oppositions’ is a slogan shortened from a Xi Jinping quote: ‘Love the Communist Party of China, love the motherland, love the big family of the Chinese nation-race; oppose separatism, oppose extremism, oppose violence.’ The ‘three loves, three oppositions’ was swiftly adopted as a theme of propaganda lectures and public pledges around Xinjiang and expanded to become ‘three loves, three oppositions, three gratitudes, three wishes’ (三爱、三反、三感恩、三祝愿). The added ‘three gratitudes’ and ‘three wishes’ are recited during group



loyalty oaths as: ‘Grateful to the great motherland, grateful to the Communist Party of China, grateful to General Secretary Xi Jinping; wish the great motherland prosperity, wish General Secretary Xi Jinping good health, and wish the people of all ethnic groups unity and harmony’.

631. Flag-raising ceremonies, propaganda lectures and public pledges are often carried out in combination and later published in state media, which frequently describe audience members becoming emotional and melting into tears during these events. During the two campaigns in Xinjiang, the authorities also popularised struggle sessions termed ‘big denounce, expose and criticise’ (大声讨、大揭批). These sessions entail public condemnation of individuals accused of being ‘two-faced’ and calls for the public to inform on such people living in their community. At the local level, smaller scale propaganda lectures have been organised by Fanghuiju work teams, village-based mosque management committees (驻村管寺管委会) and neighbourhood or village committees. Between 2015 and 2020, 12,000 Fanghuiju work teams and 1.1 million officials reportedly went into people’s homes in southern Xinjiang to deliver ‘de-extremification’ propaganda lectures. Local public pledge ceremonies have been organised by government offices (e.g., the procuratorate or the court), neighbourhood and village officials, local chapters of the All-China Women’s Federation (全国妇女联合会) and private businesses.
632. Researchers have identified a broad set of justifications used during the Re-education Campaign to detain Uyghurs and other ethnic minorities, including religious expressions (fasting, prayer, wearing a headscarf or having a beard), foreign links (past overseas travel, contact with someone abroad or applying for a passport), consumption of unapproved information (use of Zappya or WhatsApp) or having too many children. At times, there is no justification at all, as discussed in Section 4 of this report.
633. A number of party and government organs in Xinjiang began drafting a set of ‘de-extremification’ regulations in 2015, including the PLAC, the Public Security Department (公安厅), the Justice Department (司法厅) and others. Following central approvals, the Xinjiang De-extremification Regulations were enacted on 29 March 2017, only to be amended in October 2018 to retrospectively justify the network of re-education detention facilities.
634. As stated in Section 3 of this report, the Trinity mechanism is immediately responsible for handing Uyghurs over to the camps. Since 2018, re-education

camps have been formally managed by re-education bureaus across Xinjiang at the county and prefecture level. The bureau is overseen by a taskforce called the Vocational and Education Training Leading Small Group (职业技能教育培训领导小组). The taskforce is headed by the local party secretary and includes bureaucrats from the Public Security Bureau, Justice Bureau (司法局), Education Bureau (教育局) and Health Commission (卫生健康委员会) at the local level.

635. In Kashgar City, ASPI researchers have identified at least five re-education camps that were constructed or expanded after 2017. Until the creation of the Re-education Bureau, the Forestry Bureau managed Kashgar City's budget for the new detention facilities, which came to CNY 9.75 million (USD 3 million) in 2017.
636. Detainees are required to take classes and pass tests on a variety of subjects, including political ideology and the Chinese language. The local Education Bureau draws up test papers and records detainees' scores. A detainee's test scores are in theory one of the main criteria for their release. According to an official document from Karamay City (克拉玛依市), the local Human Resources and Social Security Bureau (人力资源和社会保障局) handles the paperwork when detainees are released from re-education camps. In at least one location, Pichan County (鄯善县) in southern Xinjiang, the Justice Bureau pays for the detainees' food and living expenses.
637. The Fanghuiju programme is organised by a Fanghuiju Office (访惠聚办公室) that exists at various administrative levels under the Organisation Department. In 2015, Xinjiang's Organisation Department published several Fanghuiju handbooks, which clarified how to deal with potential issues that participants might encounter, such as what to do when a family refuses to let officials inside their home or how to interact with the family members of detainees. In addition to increasing the short-term visibility of the party-state in Xinjiang, the Fanghuiju programme also seeks to cement long-term party control at the grassroots by restructuring the local political landscape.
638. As of 2016, Xinjiang's Fanghuiju Office was led by the head of the Organisation Department, Ma Xuejun, and included officials from the United Front Work Department, Propaganda department, Party School, Women's Federation, Xinjiang's PLAC and others.

639. Following Chen Quanguo's arrival in October 2016, the Xinjiang Party Committee launched the 'Becoming Family' initiative, which asked all of Xinjiang's party cadres, government officials and managers at state-owned companies to integrate themselves into the lives of Uyghur or other minority families, creating bonds as fictitious close relatives. In December 2017, the Xinjiang Party Committee launched a second round of 'Becoming Family', sending more than 1.12 million cadres and civilians into indigenous households for a five-day stay every two months. In practice, the 'Becoming Family' initiative is an extension of and has merged with the Fanghuiju program, although the 'Becoming Family' taskforce and office fall under the United Front Work Department and not the Organisation Department. Since 2017, Chen Quanguo has personally headed the regional Fanghuiju taskforce (which sits atop the Fanghuiju Office). The same year, Xinjiang's Development and Reform Commission (发展和改革委员会) developed an information management system to improve the efficiency of Fanghuiju visits. Almost every department and office in Xinjiang sends cadres to participate in the Fanghuiju program, including those that normally have nothing to do with surveillance or ethnic policy, such as the Department of Housing and Urban-Rural Development (住房和城乡建设厅) and the Agricultural Machinery Bureau (农牧业机械管理局).

## APPENDIX 19

# Holocaust Memorial Museum Report

640. A November 2021 report by the United States Holocaust Memorial Museum titled ‘To Make Us Slowly Disappear’<sup>170</sup> relied in part on evidence presented to this Tribunal; however, it also contained interesting additional evidence and raised matters for consideration starting with this telling quotation:
641. In the ‘transformation-through-education’ camps, life and death do not mean the same thing as they do elsewhere. A hundred times over I thought, when the footfalls of guards woke us in the night, that our time had come to be executed. When a hand viciously pushed clippers across my skull, and other hands snatched away the tufts of hair that fell on my shoulders, I shut my eyes, blurred with tears, thinking my end was near, that I was being readied for the scaffold, the electric chair, drowning. Death lurked in every corner. When the nurses grabbed my arm to ‘vaccinate’ me, I thought they were poisoning me. In reality, they were sterilising us. That was when I understood the method of the camps, the strategy being implemented: not to kill us in cold blood, but to make us slowly disappear. So slowly that no one would notice.<sup>171</sup>
642. This report explains how:
- a. As early as in the late 1980s. Uyghurs voiced discontent about the state’s preferential treatment of the Han Chinese community, the majority

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<sup>170</sup> <https://www.ushmm.org/genocide-prevention/reports-and-resources/the-chinese-governments-assault-on-the-uyghurs>

<sup>171</sup> Gulbahar Haitiwaji describes what she endured in detention from 2017 to 2019: <https://www.theguardian.com/world/2021/jan/12/uighur-xinjiang-re-education-camp-china-gulbahar-haitiwaji>

- ethnicity in China. The preferential treatment given to the Han Chinese led to socio-economic inequalities between the communities. In 1990, rebellion in the town of Baren in Xinjiang's Kashgar prefecture against restrictions on the practice of Islam imposed by the PRC Government led the state to respond with force, killing an estimated 1,600 Uyghurs.
- b. In 1997, in Ghulja county in Ili prefecture, northern Xinjiang, a similar protest was met with a violent crackdown by authorities, including arbitrary arrest, torture and summary executions of Uyghur demonstrators. Since at least the 1960s, tens of thousands of Uyghurs have sought refuge from the repression, fleeing China and crossing [into bordering countries] ...
  - c. In 1998, a small group of Uyghurs, numbering in the hundreds, came together in Taliban-controlled Afghanistan, with the intent of launching a religiously inspired insurgency against Chinese rule. The group was referred to by the PRC Government as the ETIM but does not appear to have used that name itself. It reportedly had a strained relationship with both Al Qaeda and the Taliban, the latter maintaining a diplomatic relationship with the PRC Government during the time that it governed Afghanistan. By December 2001, most of the Uyghurs associated with the group had fled Afghanistan or been killed, resulting in the group's effective dismantling. In 2002, 22 Uyghurs were captured by bounty hunters and sold to the US military. They were then transferred to Guantánamo, where they were held for years before being exonerated and released.
  - d. Despite there being few violent events in Xinjiang between 1997 and 2008, the PRC Government increasingly profiled the Uyghurs as terrorists or potential terrorists and marginalised them.
  - e. In the 2009 incident, nearly 200 people were reportedly killed, and hundreds injured, with the vast majority of the officially recorded casualties being identified by authorities as Han Chinese. Uyghur organisations claimed a massive undercounting of Uyghur casualties. Deepening restrictions on the entire Uyghur community in Xinjiang followed with roadblocks and checkpoints. Uyghurs who lived in Xinjiang's main towns were required to return to their towns and villages of origin to receive passbooks, called 'people's convenience cards', which severely restricted their freedom of movement.
  - f. By 2016, Uyghurs with passbooks could no longer leave their hometowns.
  - g. Authorities demand that residents install surveillance software on their phones and that drivers install a Chinese-made satellite navigation system in their vehicles.

- h. The reports cited ‘China: Voice Biometric Collection Threatens Privacy’. In this report, HRW stated that official tender documents revealed how, in 2016, voice pattern collection systems were purchased by the police bureaus in Xinjiang, following the ‘Notice to Fully Carry Out the Construction of Three-Dimensional Portraits, Voice Pattern, and DNA Fingerprint Biometrics Collection System’.
  - i. In a white paper published in July 2019 by China’s State Council Information Office, the government denied the Uyghurs’ Turkic ancestry, stating that ‘Islam is neither an indigenous nor sole belief system of the Uyghurs’ but was imposed by the expansion of the Arab Empire, and that ‘theocracy’ and ‘religious supremacism’ were a betrayal that needed to be opposed.
  - j. One Kazakh female detainee described detainees having to go to the bathroom in pairs ‘so one woman could keep an eye on the other, in part to prevent forbidden religious expression, including ablution’.
  - k. President Xi has referred to the need to eradicate ‘viruses of the mind’ through ‘a period of painful, interventionary treatment’.
  - l. In November 2019, over 400 leaked internal PRC Government documents revealed that, when faced with questions about whether detained relatives had committed a crime, officials were instructed to say that they had not: ‘It is just that their thinking has been infected by unhealthy thoughts’.
  - m. In the same year, the Xinjiang provincial government planned to either sterilise or place IUDs in at least 80 per cent of women of child-bearing age in four prefectures where the Uyghur population is most concentrated.
  - n. Three Kazakh women, also members of Xinjiang’s Turkic Muslim community, described being forced to terminate their pregnancies by the authorities in Xinjiang. Survivors who were pregnant at the time of detention also reported being kicked in the stomach and forced to abort their pregnancies.
643. Although the Tribunal had no opportunity to hear from authors of this report and despite it not agreeing with the report’s fulsome conclusions on genocide (see paragraph 59 of the Judgment, above), the factual parts of the report were helpful in a way similar to the way in which the ASPI Report—see previous Appendix—was helpful.

## APPENDIX 20

# Ethan Gutmann

644. Gutmann is a writer, journalist and Senior Research Fellow in China Studies at the Victims of Communist Memorial Foundation. He has conducted a multi-year investigation into forced organ harvesting in China and provided evidence to the China Tribunal.

645. Gutmann set out in evidence his belief that forced organ harvesting had been and was occurring in China on a large scale, perpetrated until recently principally on Falun Gong practitioners but, increasingly and more recently, he argues, on Uyghurs, demonstrated by a confluence or triangulation of evidence, namely by:

- Universal blood testing of the Uyghur but significantly not the Han population.
- The construction of large-scale network of internment camps and prisons incarcerating one million Uyghurs or more.
- The building of nine new crematoria.

646. He added the following details:

The co-location of one hospital with transplant capability, a crematorium *and* a camp interning an estimated 33,000 in Aksu, a 20-minute drive to the local airport, could be indicative of the accuracy of his theory.

The appearance of ‘green channels’ labelled ‘Special Passengers—Human organ exportation lane’ at Kashgar and Ürümqi airports is consistent with his theory and otherwise inexplicable.

From interviews conducted in Kazakhstan with Xinjiang camp refugees, there was significant evidence that inmates of average age 28 disappear, with estimates that up to 25,000 people disappear annually from the camps—or 68 per day.

647. Gutmann also spoke of sporadic mass executions, a mass killing overwhelming a crematorium facility, a directive in 2017 to construct nine new crematoriums across East Turkestan with 50 security guard positions.
648. In 2020, a camp refugee in Norway took a virtual tour of a camp he recognised in Aksu prefecture as the Aksu Infection Hospital. At that hospital, two camps and a crematorium exist within a single square kilometre.
649. Gutmann gave an account of his methodology of interviewing witnesses secretly in Kazakhstan, none of whom came from the same camp but some of whom have recollections of indications of forced organ harvesting, of a Chinese teacher seeing pink check marks against names of those tested by blood who would disappear within a week, and of several people relating personally to Gutmann accounts of corpses seen stripped of organs. Of importance, there were consistent accounts of detainees between 25 and 29 years old—mostly 27 or 28—being the ones who ‘disappeared’ from camps: all healthy, all disappearing in the night.
650. Gutmann spoke of a video of a hospital that does transplant operations and of an interview with an Arabic-speaking man about how great the care is there. The video shows that the hospital has a Muslim prayer room for foreign Muslims. He spoke of the biggest hospital in China for transplants, [Tianjin] Central Hospital, being filmed by a South Korean filmmaker, establishing that a lot of the foreign organ tourists there were clearly from the Gulf states or appeared to be from the Gulf states or were speaking languages from the Gulf states.
651. He calculates that between USD 500,000 and 750,000 can be made by harvesting the maximum number of organs from a single cadaver: lung approximately USD 150,000 or 200,000; kidneys approximately USD 50,000; liver USD 100,000 to 150,000. Corneas—which are worth about USD 15,000 or 10,000 each—are not really organs but are tissues that can be transplanted.
652. He spoke of the ECMO mobile machine for extending the viable life of extracted organs and of the explosion of demand beyond identifiable *legitimate* need for these machines.
653. Asked to explain how he could reconcile Zenz’s finding that there are measures to prevent births—stemming population—with a need for valuable



organs, Gutmann suggested two things are at work. He didn't believe the Uyghurs were viewed as the population providing organs for infinity (and that it might be possible in the future to grow them rather than harvest them) and said he thought there was a race war:

I think it's that simple: an attempt to destroy a race. Organ harvesting is one element in that. It's a very profitable element. What Adrian [Zenz] has identified, and I think proven, is clearly part of the same structure.

654. Gutmann's overall *theory*—that he does not himself consider yet properly triangulated but nevertheless worth considering—is that, at a minimum, 25,000 Uyghurs, average age 28, are taken from the camps to be harvested every year. That's about 68 people a day. The higher range of his witness statements doubles that number to 50,000 per year. That's 126 a day. The party's strategy, in his opinion, is:

a troika of forced labour, lowered Uyghur fertility, and organ harvesting ... a crematorium that can support 50 guards can process 126 bodies a day without breaking a sweat. And it is that excess capacity of nine industrial scale crematoriums that should make us all wonder if the party's true intention are actually closer to this statement: 'We will assimilate Uyghurs if we must, we will kill them if we can'.

655. The Tribunal accepts that Gutmann has a long-term commitment to the issue of forced organ harvesting. Some academics and commentators may find his approach insufficiently academic, but it should be borne in mind that 'smoking gun' evidence on this issue is unlikely to emerge as long as the PRC is in power and as powerful as it is. The Tribunal finds nothing *unreliable* in Gutmann's evidence and notes how he unlike, some witnesses appearing at the Tribunal, has done field work at some risk and under cover. The Tribunal cautiously accepts his *factual* findings—that is, the accounts given to him by interlocutors at present unidentified. The Tribunal understands the confluence and triangulated touch points of evidence that *could* but *do not yet* lead to Gutmann's conclusions being accurate. He is expressly diffident himself about asking for them to be accepted in full. Absent further supporting evidence, the Tribunal cannot act on his evidence in any way; however, it does note that the underlying theory should be considered seriously by all who may have the power to prove or disprove it. If true, it might demand the strongest possible international action.

## APPENDIX 21

# Leaked Documents

656. The Uyghur Tribunal has received, or had the opportunity to consider, material leaked to the public in various ways. Material has come available and from different sources, including collections known as: the Karakax List, the Aksu List; and the leak of police reports to Grauer and ASPI (see previous Appendices). In most cases, the material has been reviewed and assessed by others—such as experts and media etc—before coming to the Tribunal. In all cases, the PRC Government has asserted the documents to be forgeries. In no case has the PRC Government pointed to any feature of any document showing it to be a forgery. In its Judgment (para. 61–64), the Tribunal sets out at a first reference to one of these leaked documents what is known of their source and how and why the Tribunal assesses the documents as it does.

657. The leaked documents used by the Tribunal include:

Qaraqash List (or Karakax) <i>(List of detainees)</i>	Asiye Abdulahad ( <i>or Abdulaheb</i> ) – provided by a government employee in the Uyghur region. Adrian Zenz – report published in <i>Journal of Political Risk</i> , 8(2), February 2020.	Open-source reports	Adrian Zenz Asiye Abdulahad
China Cables <i>(Internal documents: operations manual for camps, mass surveillance, and IJOP)</i>	Asiye Abdulahad – provided by a government employee in the Uyghur region. Adrian Zenz – report published by ICIJ on 24 November 2019	Open-source reports	Adrian Zenz Asiye Abdulahad

Aksu List ( <i>List of detainees</i> )	HRW – provided by RFA’s Uyghur Service. Report published 9 December 2020	Open-source reports	
Xinjiang Papers ( <i>Internal documents: internal speeches, directives and reports on surveillance and control of Uyghurs, etc.</i> )	NYT – provided by a source in CCP. Report published 16 November 2019	Open-source reports	Adrian Zenz

658. Asiye Abdulahad (<https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211206-Asiye-Abdulahad.pdf>) explains the 2019 route to public access via the ICIJ of China Cables and of Karakax List (p. 8). She assesses that the documents came in part from central PRC Government and in part from the government of the XUAR. She gave an account of PRC Government efforts to limit what she did by threats to her and her husband, including a text message in Uyghur, the Arabic script, saying, ‘if you don’t stop what you are doing, we will kill you, and your dead body will be found in the black trash bin at your door’ (p. 6).
659. When asked about fear for what she had done, she answered: ‘It would be wrong if I said I am not afraid. I am concerned by all this, and it is frightening. But when I think of the millions of people in my homeland, I believe it is worth it to not be afraid to stand up.’
660. The Tribunal observes that the PRC Government’s efforts to threaten and stop publication are not exactly consistent with the document being forgeries about which they had, in any event, had no reason for concern. Abduwali Ejup had worked for Zhu Hailan whose signature was on the China Cables: ‘He had translated his documents for ... so I always translated his orders and documents, so I am familiar with his signature’.
661. Other evidence validating leaked documents came for Abduwali Ejup who explained: ‘The Karakax List is authentic because the list is from China, from Urumqi, from government officials. This is as much as I can tell you. I cannot tell you more. From Urumqi through Facebook messenger from government officials. I verified it and I found 29 Uyghurs are in Istanbul. Their names are mentioned in the list, and I found them in Istanbul. I talked to them and most of them are afraid to talk. But there is a lady she talked to the media and

confirmed her family members are on the list. Her name is Rozinisa Mettohti. I received the Aksu List from Human Rights Watch. It lists people from Awat County of Aksu Prefecture. We hid the county because Human Rights felt that if we say the County, it would be dangerous to the people on the list because the PRC Government would have been able to identify the people. I verified it by asking members of the Uyghur diaspora who are from Awat if they recognised anyone. We verified over a hundred names on it. There are more than 2,000 Uyghur detainee names on it. We have some details like a lady who was arrested for calling her younger sister in Turkey for 58 seconds. It is written in that document. Some people were even arrested for staying in the same hotel as former detainees.’

662. Details of the provision of top-secret documents direct to the Tribunal at its second evidence hearing in September 2021 are set out in the Judgment.

## APPENDIX 22

# Correspondence with the USA, Japan, Australia, UK Government and Embassy of the PRC

### TABLE OF FOREIGN CORRESPONDENCE

663. Between September 2020 and January 2022, the Chair and Counsel to the Tribunal sent several postal and telecommunications to the PRC and UK governments, foreign governments, the United Nations, the BBC and religious institutions on behalf of the Tribunal.

664. Tabulated here are communications grouped according to the recipient and in chronological order (YYYY-MM-DD), together with replies if received by the time of publication of this Appendix. Where a reply is available, it follows the initial communication in the compilation of communications below.

Recipient <sup>172</sup>	Date sent	To: / Subject	Reply
PRC	2020-09-28	Liu Ziaoming / Invitation to Participate	
	2021-02-01	Zheng Zeguang / Invitation to Participate	
	2021-03-24	Zheng Zeguang / Invitation to Participate	
	2021-05-13	Zheng Zeguang / Invitation to Participate	

<sup>172</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/09/Foreign-Correspondence-Appendix-Updated-10-August.pdf>

<b>Recipient<sup>172</sup></b>	<b>Date sent</b>	<b>To: / Subject</b>	<b>Reply</b>
	2021-06-17	Zheng Zeguang / Invitation to Participate	
	2021-08-11	Zheng Zeguang / Invitation to Participate	
	2021-11-22	Zheng Zeguang / Invitation to Participate & Questions	
<b>UK</b>	2021-01-06	Dominic Raab MP, Nigel Adams MP / Request for Evidence Disclosure	
	2021-04-23	Nigel Adams MP; Dominic Raab MP / Request for Evidence Disclosure	Nigel Adams MP / Evidence Disclosure (2021-05-19)
	2021-05-06	Priti Patel MP / Request for Pre-Approval of Witness Visas	Nigel Adams MP / Pre-Approval Visas (2021-05-19)
	2021-05-27	Priti Patel MP / Request for Evidence Disclosure	
	2021-06-28	Nigel Adams MP / Reply Evidence Disclosure	Nigel Adams MP /classified information and Tribunal engagement (2021-07-28)
	2021-08-20	FCDO; Henry Wells / Freedom of Information Request	
	2021-08-31	FCDO / Freedom of Information Request	FCDO / Freedom of Information Request (2021-09-28) FCDO / Freedom of Information Request (2022-03-22)
	2022-01-24	Liz Truss MP / Tribunal Judgment	Amanda Milling MP / Response (2022-03-23)
<b>Australia</b>	2021-05-21	Ian Ross Esq/ Request for Evidence Disclosure	
<b>Japan</b>	2021-02-15	Koji Tsuruoka / Request for Evidence Disclosure	
<b>USA</b>	2021-02-15	Antony Blinken; Richard Visek / Request for Evidence Disclosure	
	2021-03-17	Yael Lempert / Request for Evidence Disclosure	U.S. Embassy, The Hague (2021-03-26)
	2021-08-12	Kelley E. Currie / Request for Evidence	

<b>Recipient<sup>172</sup></b>	<b>Date sent</b>	<b>To: / Subject</b>	<b>Reply</b>
<b>UN HCHR</b>	2021-09-23	Michele Bachelet Jaria / Offer of Assistance	
<b>BBC</b>	2021-09-07	Tim Davie & Fran Unsworth / Request for Evidence Disclosure	Kate McAndrew / Evidence Disclosure (2021-09-07) Fran Unsworth / Evidence Disclosure (2021-09-09)
<b>Office of the Chief Rabbi</b>	2021-03-09	Judith Wilson at Office of the Chief Rabbi / Request for Testimony	

## APPENDIX 23

# Standard of Proof

665. The Tribunal adopts the approach of the China Tribunal Judgment (para. 84–85):

84. In daily affairs humans regularly use different terms to express the strength of any conclusion they make. From ‘I think that’ to ‘I am absolutely certain that’. In legal processes judges and juries have to apply standard tests to the strength of their conclusions. In criminal trials of individuals there is a commonly used test of ‘beyond reasonable doubt’. The Judgment of the Women’s International War Crimes Tribunal on the Trial of Japan’s Military Sexual Slavery (‘Comfort Women’ Tribunal, December 2000) deals with this issue (in the context of assessing culpability of individuals) as follows:

*‘25.... We note that under international law, the standard of proof is not specified in international legal instruments, with the exception of Article 66(3) of the Rome Statute of the International Criminal Court which provides: ‘in order to convict the accused, the Court must be convinced of the guilt of the accused beyond reasonable doubt.’ While the post-war Tribunals did not often articulate the standard applied, we note that the Nuremberg Tribunal did so on occasion. For example, it found the defendant Schacht not guilty as charged because the evidence provided by the prosecution was not sufficient to establish his guilt ‘beyond reasonable doubt’ ...*

*26. The Human Rights Committee has subsequently affirmed, in General Comment 13, that, ‘by reason of the presumption of innocence, the burden of proof of the charge is on the prosecution and the accused has the benefit of the doubt. No guilt can be presumed until the charge has been proved beyond reasonable doubt.’*



*Accordingly, this Tribunal adopts the position that, to find an accused guilty, it is necessary for the Prosecutors to prove 'beyond reasonable doubt' that the accused committed the necessary actus reus and possessed the necessary mens rea of the crimes alleged.'*

85. Recognising that the China Tribunal is not specifically concerned with potential criminality of *individuals*, and has had no prosecutor presenting evidence and argument but has proceeded on a more inquisitorial basis, it will nevertheless only make conclusions of certainty about the commission of (act of committing) crimes, whether by individuals or by the PRC itself, by applying this same test: 'proof beyond reasonable doubt' both to the thing done (*actus reus*) and mental state of the person or body doing it (*mens rea*). For any lesser degree of strength of conclusions, it will use non-legal terms.

666. The following extract from the abstract of 'The International Court of Justice and Standards of Proof' (edited by Bannelier, Christakis and Heathcote) may confirm the choice of a 'beyond reasonable doubt' standard of proof:<sup>173</sup>

The very existence of the notion of a standard of proof, or a degree of satisfaction with proof, implies that a court can never be 'absolutely certain' .... of establishing on the basis of the facts before it, what occurred. This point was made by Sir Frank Soskice (United Kingdom) during the oral pleadings in the Court's first contentious case, and the catalyst of this edited collection, the Corfu Channel case. Sir Frank observed that 'in the nature of things, absolute certainty can never be attained in human affairs. Human beings must order their lives upon the basis of convincing probability.'

A standard of proof or a degree of satisfaction of proof marks a point somewhere along the line between two extremes: a mere conjecture at one end, and absolute certainty at the other. Proof furnished in support of a particular proposition must meet or surpass this point for a judicial finding in favour of the proposition to be made. In practice, this may either constitute a very explicit exercise of applying an objective standard of proof, as occurs in some domestic legal traditions, or it may be simply that the judge is persuaded

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<sup>173</sup> Bannelier, K., Cristakis, T. & Heathcote, S (eds.). (2011). *The ICJ and the evolution of international law*. Routledge. [www.taylorfrancis.com/books/edit/10.4324/9780203610688/icj-evolution-international-law-sarah-heathcote-karine-bannelier-theodore-christakis?refId=10fb5698-9479-4be7-b028-95d7ff351888&context=ubx](http://www.taylorfrancis.com/books/edit/10.4324/9780203610688/icj-evolution-international-law-sarah-heathcote-karine-bannelier-theodore-christakis?refId=10fb5698-9479-4be7-b028-95d7ff351888&context=ubx)

to make a finding in favour of a particular proposition, based on a number of unarticulated factors concerning the evidence that has been furnished. ... A reading of the [ICJ] Court's case law quickly confirms that the Court does not apply one standard of proof across the board, but rather varying standards. Indeed, beginning with the Corfu Channel case, the Court has on a number of occasions articulated different standards of proof, sometimes within the same case. In the Corfu Channel case the Court employs no less than three expressions to refer to a particular standard of proof: 'a degree of certainty', 'no room for reasonable doubt', and proof that does not 'fall ... short of conclusive evidence'. In subsequent cases, the Court has used *inter alia* the following formulations: 'on the basis of a balance of evidence', 'on a balance of probabilities', 'in all probability', 'consistent with the probabilities', proof 'to the Court's satisfaction', 'with a high degree of probability', 'beyond any reasonable doubt', 'beyond possibility of reasonable doubt', 'no reasonable sufficient certainty', ... 'with the necessary degree of precision and certainty', 'conclusive' evidence, and 'evidence that is fully conclusive.

667. It is highly probable that lawyers given free rein would find reasons to argue that several different standards of proof might be appropriate, even that different standards might apply for consideration of possible genocides in different courts. Such discussions might not only be pleasing to lawyers—although likely of little interest to the non-expert citizen—but encouraging to those who would wish to see the test for genocide, in particular, softened or expanded.
668. The Tribunal, however, is satisfied that if the world's highest court has sometimes used the 'beyond reasonable doubt' test and given that other people's tribunals have also done so, this is the test to be applied in fairness to the PRC that, although no party to litigation in any formal sense, is subject of the most serious allegations of crime.

## APPENDIX 24

# Organogram

670. Under the supervision of Dr Nevenka Tromp, who gave evidence on 11 September 2021, this internal work product was prepared from open-source documents that detail the structure of the PRC and CCP. It was prepared in-house for reasons not dissimilar from those that led to Appendix 17 being prepared in the way it was.

In the event, evidence on this general topic was given by an independent witness, Batke, as well as by Dr Tromp. Their evidence was different in detail but similar in overview.

671. Dr Tromp's summary of the significance of the organogram was to the following effect:

### STRUCTURE OF THE STATE, GOVERNMENT AND THE COMMUNIST PARTY OF CHINA

672. An in-depth study of the state, government and Party structures show the presence of collusive links between the three organs to perpetuate the Uyghur genocide (term 'genocide' used without prior reference to the Tribunal and not adopted save to the extent genocide was found at paragraphs 190–191 of the Judgment).

673. The Chinese model has an interlocking structure. At every administrative level, there is a state organ and a corresponding party organ that provides leadership over the state organ. In reality, the leadership level of the state organ and its parallel party organ are staffed by the same people in the same office. It's a nomenklatura system, which means that the Party's organisational department appoints both the party leadership and the state leadership at each administrative tier. Thus, our aim should be to criminalise the top officers

of the most relevant party organs (again, this sentence not discussed with Tribunal prior to use. ‘Criminalise’ appropriate in light of overall Tribunal function but not to suggest Tribunal seeking to achieve judicial outcomes).

674. Traditionally, the post of the President of the PRC Government, Secretary General of the CCP and the head of the National Military Commission is occupied by the same person, currently Xi Jinping, who is unarguably the most powerful person in China.
675. The top positions in the PRC Government Council are occupied by members of the Political Bureau of the CCP, which are essentially parallel organs.
676. The National People’s Congress consists of Chinese national parliamentarians (mostly CCP members) who are responsible for law-making. In effect, they are controlled by Politburo influences. In 2013, the NPC had 83 Billionaires; by 2017, the number had increased to 100.
677. In principle, autonomous regions in China are declared to be independent; however, in Xinjiang, there is a significant presence of control from the central government, exercised through central government ministries and also through the XPCC, a unique state-owned economic and paramilitary organisation present in Xinjiang.
678. XPCC is administered by both the central government of China as well as the government of XUAR. Its internal affairs, including the administration of its cities and reclaimed land, is separate from that of the Autonomous Region. The XPCC is essentially a parallel government in Xinjiang, and it lies under direct control of the central communist party leadership and is responsible for much of the genocide.
679. The XPCC was sanctioned by the USA in 2020, citing alleged human rights abuses. Its chief, Chen Quanguo, has been sanctioned by the EU as well. The entity has been held responsible for laying down the concentration camp machinery, settling Han migrants in Xinjiang and enabling the forced labour programmes. Both XPCC and Chen Quanguo have also been named in the Xinjiang papers.<sup>174</sup>

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<sup>174</sup> [https://uyghurtribunal.com/wp-content/uploads/2022/09/Explanatory-documents-version\\_12.06.2021.pdf](https://uyghurtribunal.com/wp-content/uploads/2022/09/Explanatory-documents-version_12.06.2021.pdf)

## APPENDIX 25

# **Torture, Insanitary Conditions, Overcrowding, Malnutrition, Withholding of Medical Care, Brainwashing and Surveillance in Prisons and Detention Centres**

### SUMMARY

680. Overwhelming evidence of purposeful inhumane conditions of detention imposed on all those detained and for many apparent purposes.

### COMMENT

681. The PRC Government has raised no detailed—and few unspecified *ad hominin*—criticisms of the witnesses who gave evidence to the Tribunal on these issues or about those cited in the various reports giving accounts of torture etc. This is hardly surprising. The accounts that follow have similarities while each is unique. The presumption that people giving accounts of such things are telling the truth—why would they otherwise give such distressing narratives?—is borne out by reading through this Appendix. We may wonder at how men and women could do such things to fellow human beings. But these things did happen, as told, just as similar things have happened in other dread times and places. The Tribunal considered the witnesses singly and collectively and applied the strict test of proof beyond reasonable doubt to find the horrors described in this Appendix proved.

## EVIDENCE

682. Quelbinur Sidik told of what she saw at the women’s prison at which she taught: ‘The prisoners lied on the cement floor, the cell was dark, and the window was sealed by tin. I was able to peek through the window and saw there were around 10 thin blankets.’<sup>175</sup> ‘Detainees there could not take a shower. There is no place to shower. The men’s camp had only one public toilet on each floor. The bathrooms could be used three times a day. I asked the girls there, how is this, how is that what kind of food they had. I noted that detainees have only one minute to wash their faces and hands. They were allowed to use the toilet only three times a day and one minute each time. They didn’t even give toilet papers to them. “What do they do if they don’t have the toilet paper?” I asked. “We don’t know. There are not enough toilet papers” they told me. I was speechless.’<sup>176</sup>
683. Sidik continued: ‘The janitors were all Chinese male, and they had their masks on all the time. The reason is the entire building smelled so badly that one normal person will be able to stand horrible smell of urine and faeces. The cells in each floor were different from the male camp. ... and there’s a bucket for all their urine and bowl movements.’<sup>177</sup> I asked Qadir when we were alone if he could show me the monitoring room. He said I shouldn’t be curious about this. I insisted saying that I’ve never seen it before, and he agreed to bring me in. We got into the monitoring room when armed police were out for lunch. “Ok, take a look” he said. There was only one Uyghur guy in the room. I saw there were huge monitor screens hung on three walls. One can easily see all the cells and people in them. I noticed there were around 30–50 people in each cell, depending on the size. The detainees sat silent, motionless. The watcher lights up the room if he sees anyone talking or moving around. When the light turns on, you could zoom in on the TV and see very clearly what’s happening inside the room. He showed me everything and demonstrated how it works. “How do they sleep at night?” I asked. He said they take turns every three hours.’<sup>178</sup>

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<sup>175</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211029-Quelbinur-Sidik.pdf>

<sup>176</sup> Ibid.

<sup>177</sup> Ibid (para. 38).

<sup>178</sup> Ibid para. 17).

684. Omer Bekali was detained in March 2017 and suffered extreme torture: ‘They interrogated me for four days and nights with extreme torture methods. They made me sit on the “tiger” chair. They hung me from the ceiling. They chained me to the wall and beat me with plastic, wooden, electric batons and metal wire whip. They pierced needles under my nails. I could take nap of ten or fifteen minutes only when I was seated on “tiger” chair.’<sup>179</sup>
685. Bekali explained: ‘We were 45 to 50 people in a 22-square-foot cell that could hold 14 to 16 people. I constantly asked them to either give me a trial, or shoot me, or release me. I was punished many times. The first was that after the policemen were tired of beating, they put me up against the wall for 24 hours. The second was, after the beating, locked me on the “tiger” chair for 24 hours. The third punishment was a 24-hour hunger in a solitary confinement. The fourth type, in the harsh winter, was to stay outside only with shorts. The fifth type was not used for me, and it was the harshest. One was kept from neck down in the water prison. I heard that many died there. When I was in solitary confinement, they did not give me a meal for a day, and finally gave me five or six spoons of rice given by the other cellmates. My cellmates later told me they actually filled the plate with their food. I found out that the police had dumped most of the food that was sent to me.’<sup>180</sup>
686. Patigul Talip told of the experience of her husband Muhemmetimin: ‘Today he cannot really speak on this because of the trauma he endured, it affected his memory too. During his imprisonment, Muhemmetimin was taken to forced labour and had to spend sixteen hours a day doing hard physical work. He has frequently faced hunger and was beaten by the police for no reason. He had to carry heavy stones and break these stones into pieces, and when he could not lift stones anymore, he would be clubbed by the guards. In the evening, he had to face interrogations for reasons like “not working hard” or “not admitting guilt.” During interrogation, they would take off his nails with pliers and use the pliers to pinch his leg tendons. They would also hit him on the head, so much that he was bleeding from his head several times, and these injuries ultimately caused memory loss.’<sup>181</sup>

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<sup>179</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211108-Omer-Bekali.pdf> (para. 5)

<sup>180</sup> Ibid.

<sup>181</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211108-Patigul-Talip.pdf> (para. 3)

687. Sayragul Sauytbay was arrested in November 2017: ‘My memories of the camp are that it was chilling, worse than a prison. Detainees were subjected to extreme mental torture under various malevolent schemes of pressure and horror. All the detainees were handcuffed and shackled, both men and women’s heads were shaved, there were cameras installed everywhere, their movements were surveyed for 24 hours. Detainees were from all ages. The youngest was a 13-year-old boy and the oldest an 84-year-old man. The majority were men and women aged 60 to 70 years old.’<sup>182</sup>
688. Sauytbay explained how she was coerced into teaching in the detention centre: ‘The things (i.e., indoctrination) we were told to “teach” to the detainees are the propaganda of the communist party including party guidelines, policies, ideology, etc. It also included the speeches of Xi Jinping, official statements from the 19th congress of the CCP and so on. In addition, we were asked to teach the Chinese culture/tradition such as the things Chinese people say and do during the funerals and wedding ceremonies and other tradition in everyday life of the Chinese people. Other than that, we were also told to “teach” the history of China and more specifically the history of Xinjiang. That was the so called “History of Xinjiang in Three Parts” which falsely stated that “Xinjiang” known as East Turkistan) has always been part of China.’<sup>183</sup>
689. Sauytbay continued: ‘I soon found that, according to the camp rules, each detainee was only allowed to occupy one square metre space. Therefore, based on that rule, in 16- or 17-square metre cells, there were 16, 17, or even 20 inmates were crammed inside. They were all handcuffed and shackled. There were 5 cameras installed in the 4 corners with one in the centre of the ceiling. Detainees’ every movement was watched 24 hours. To sleep, each person had to lay down cramped within one square meter space until sunrise. No movement was allowed, and you would be punished if you moved.’<sup>184</sup>
690. ‘A plastic bucket was placed in every cell to be used as a toilet. All the detainees in the cell had to use that bucket for both bodily functions. Once the bucket was full, a lid was placed over it. However, it would only be

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<sup>182</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211109-Sayragul-Sauytbay.pdf> (para. 6)

<sup>183</sup> Ibid (para. 9).

<sup>184</sup> Ibid (para. 14).



emptied the next morning. Therefore, when the bucket got full, no matter how desperately you were, you had to withhold your bodily functions until it was emptied the next morning. Only after it was emptied the next morning, then people could use it. I witnessed that detainees suffered from bowel problems due to forcibly retaining water and excrement, as a result developed kidney problems and infections. They also suffered from severe haemorrhoids, so various health issues became common.’<sup>185</sup>

691. ‘Now, let me explain what we did in 24 hours. This does not mean that we do these routines every 24 hours. Sometimes it changed a bit depending on orders from higher level officials. Usually, we woke up at 6 am, and 6 am to 7 am was breakfast time. 7 am to 9 am, I taught classes. 9 am to 11 am, I repeated teaching of the same contents once more. 11 am to 12 pm, there were slogans, which detainees had to raise over their heads, and they had to repeat thousands of times. A detainee who had repeated the most was considered a good performer in the camp. For example, the propaganda content, such as “I am a Chinese, I am from China”, “I am proud to be a Chinese”, “I love China”, “My loyalty to the Chinese Communist Party”, “The Communist Party gave me my life and my soul”, “There is no power except the Communist Party” etc. We repeated those words written on a paper and raise over our head for an hour. Then, 12 pm to 2 pm were lunch break. After then, 2 pm to 4 pm, we sang songs to praise the Communist Party, which are commonly called “red songs”. Starting with the Chinese national anthem, other songs included “We Are Family”, “No New China Without the Communist Party”, “Unity is the Power” etc. Most songs praised the CCP, Chairman Xi and the Han Chinese culture. From 4 pm to 6 pm, detainees were told to self-criticise themselves, meaning that they had to make up faults and crimes they “had committed”. Of course, detainees inside the camps were innocent. Despite committing no crimes, however, they were forced to find some crimes or mistakes for themselves. From 6 pm to 8 pm was the dinner time. After 8 pm until 10 pm, everyone had to put their hands up against the cold wall to re-think about their crimes and repent. Compared to the previous two hours (4 pm to 6 pm), this time they had to think deeper into their thoughts about their crimes. From 10 pm to 12 am, the camp detainees had to write down their self-criticising problems onto a paper and hands them in next morning.’

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<sup>185</sup> Ibid (para. 16).

692. ‘From 12 am to 1 am, we (the camp teachers) walked around to monitor the detainees. From 1 am to 6 am was sleeping time—only 5 hours. We get up at 6 am. Usually, two armed police came together with us (each teacher) to the classroom. We walked in the front and the police followed us. They stayed inside the “classroom”. During the teaching session, some other armed police may enter the classroom without knocking. They dragged the detainees that they were going to penalise. They took them to separate isolated rooms, commonly known as the “Black Room (or the Dark Room)”.<sup>186</sup> We always hear terrified sounds of people crying, screaming, and begging for help saying “help/save me!”. I should say those kinds of sounds of screaming almost does not stop 24/7. We constantly heard the painful screams and cries for help coming from the Black Room, they would bring back some of the detainees by dragging them after inflicting on them severe injuries, also some of them disappeared after being taken there. I suspect that they might have died during the torture. Those who were brought back were covered in blood, their injuries were so severe. Some had some of their fingernails pulled off. There were chairs with nails pointing up from the seat, they forcibly pushed the victims to sit on them in order to torment them, we could see the blood dripping from their bodies.’<sup>187</sup>
693. ‘On that day, when I saw the Black Room with my own eyes, if someone had told me about the tools used for torture, I wouldn’t have believed them that in the 21st century such torture tools still existed. I saw those tools with my own eyes. So many different types of torture instruments laid out on the table, an electric chair, iron rod, electric stick, so many different tools, including a tool like a sword with a sharp end. When you are taken inside the Black Room, on seeing those torture tools, you would be completely finished psychologically; it was such a scary place!’
694. ‘They placed me in the electric chair and electrocuted me, they repeatedly interrogated me asking what did she say to you? What did you say to her? They repeated one question again and again. During the time when I was tortured, one minute I was conscious and the next I was unconscious. I thought I was going to die, and I won’t be able to see my children again, and I would be killed in this camp without having committed any crime. I was placed on the electric chair and was electrocuted, beaten, and tortured

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<sup>186</sup> Ibid (para. 18–22).

<sup>187</sup> Ibid (para. 24).

severely, and I was taken back several hours later by being dragged, and they insisted that I must get up on time the next morning to continue my teaching work.’<sup>188</sup>

695. Sauytbay explained: ‘I also saw girls and women subjected to sexual violence, and rape. At nights, the police/ guards would pick prettiest girls and take them. Let me tell you of one event which was absolutely horrific, I will never forget it as it hurt me so deeply. I don’t think there is any other suffering could be worse than that. It was so tragic! One day they assembled many people in a large hall. There were approximately 100 people, in this hall. Then they brought a young girl, 20 or 21 years old. She was forced to confess a bogus crime in front of everyone. She pleaded guilty to the made-up crime in flood of tears in her speech in which she was forced to confess. After that, in front of so many people the police raped her in turns. It was their way of testing those detainees whether they have transformed, in other words, whether they have given up their humanity, while hearing the girl’s painful pleas: “rescue me please, help me please!” I felt I died; I was dead. It was absolutely horrendous; I don’t believe there is any other suffering that surpasses this!’<sup>189</sup>
696. ‘During the rape of the girl in the hall, people carried out the order, I believe they had planned it in advance. Because they brought the girl in and ordered her to speak. She spoke about the things that she has never done and made a confession crying. Once she finished, they started the thing (rape). A policeman who wore a mask started it. We all spoke Chinese inside there, because they all wore masks, we could not see their faces, we only heard what they said. Also, those policemen who carried out that thing (rape) all wore masks. Roughly 5 or 6 men participated in the rape of this girl.’<sup>190</sup>
697. Abduweli Ayup was detained in 2014 in the Yanbulaq detention centre. He explained: ‘In that interrogation room there was a Tiger Chair, it is special chair for political prisoners in Kashgar. He asked me to sit in the Tiger Chair. There were two SWAT, and the interrogators were three. They interrogated me from 3 o’clock PM until maybe 9 o’clock PM in the evening. During that time, first of all they threatened me. At first, they threatened me to life

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<sup>188</sup> Ibid (para. 28–30).

<sup>189</sup> Ibid (para. 33–34).

<sup>190</sup> Ibid.

imprisonment. And then they used an electric stick. They shocked my right arm and once in the armpit.’<sup>191</sup>

698. ‘Three police received me and asked me to sign the papers and then they asked me to strip off my clothes. Then there were about ten, or more than ten guys, they were common criminals wearing white stripe with grey uniform. They were about ten, at that time it felt like many because they surrounded me. I was inside surrounded, and they asked me to take off my whole clothes and they asked me to bow. Just like a dog, dog style. Then the sexual abuse happened.’<sup>192</sup>
699. ‘The police interrogation started on the Friday the 22nd of August. I arrived there on Wednesday, 20th August. I think the interrogation started the 22nd of August. In the interrogation room there is a cage, iron cage. Inside the cage there is a tiger chair. The interrogation centre is in the same building as the cell, but I think it is a different place in the building because it is a big building. It felt like I had to walk for a long time away from the cell because I was chained. They put a chain on my feet, so it is very hard to walk. It has two rings and then the chain is connected to the two rings and those two rings are on your ankle. When you walk the ring hurts on the side of your ankle.’<sup>193</sup>
700. In his third detention centre, Ayup explained: ‘The same thing happened as at the second detention centre. It is interrogation and beating. But this time something was added. They stripped me off and put water, because in September it is very cold, so they flush cold water on your body. It is very cold.’<sup>194</sup>
701. ‘In that detention centre I got a skin disease because it was really crowded. It was many people; I stayed with twenty-three. The lights were turned on twenty-four hours a day in all detention centres.’<sup>195</sup>
702. In his 4th detention centre, Ayup explained: ‘That was the worse one because in Tian Shan District detention centre or the Urumqi Detention Centre Number

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<sup>191</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211109-Abduweli-Ayup.pdf> (para. 3–4)

<sup>192</sup> Ibid (para. 8).

<sup>193</sup> Ibid (para. 27).

<sup>194</sup> Ibid (para. 33).

<sup>195</sup> Ibid (para. 35).

Three we had a place for fresh air. But in the fourth place there was no chance to have fresh air. You had to stay in the 20 square metre cell without fresh air; toilet and eating, everything inside. The toilet was not a flushing toilet; it was a hole actually. It was very dirty. I stayed there.’<sup>196</sup>

703. Tursanay Ziyawudun was detained in April 2017: ‘Then the food was also particularly bad. I was not able to eat. I was in a constant state of vomiting. A month later I fainted, and they took me to the hospital. The doctor said I had severe food poisoning, and I was hospitalized, but I was watched by someone.’<sup>197</sup>
704. Ziyawudun was detained for a second time in March 2108: ‘If I had known that the situation inside had reached a state of insane cruelty, I would have killed myself, and I would not have agreed to go in. I would have killed myself for sure. I would rather kill myself than suffer what I had to endure.’<sup>198</sup>
705. Ziyawudun explained: ‘The door was not open, it was half open, so we had to squeeze through the door, and if someone couldn’t get in, they were kicked in. Our cell was particularly crowded, with more than twenty people. It was especially dark inside. Some of us slept on the floor, and some on the boards. We were all very frightened and afraid. We could only go to the toilet once a day and there was a bucket inside the cell. There was a small window in our cell where we could see outside. From it, I saw people entering the camp. Every day for four or five days, thousands and thousands of people were brought in.’<sup>199</sup>
706. ‘We only had three minutes to go to the bathroom. Once a woman was in the bathroom and the policeman told her to come out quickly, she said she had an upset stomach, and the policeman went in and beat her severely. We were so scared. The small bucket inside our cell was also used to go to the toilet, without a lid. The cell was small and there was no ventilation. The environment was so bad, you can’t even imagine. I once told a policeman

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<sup>196</sup> Ibid (para. 50).

<sup>197</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211111-Tursunay-Ziyawudun.pdf> Paragraph 6

<sup>198</sup> Ibid (para. 9).

<sup>199</sup> Ibid (para. 12).

that this bucket was toxic when left without a lid. He replied that I should be glad that they did not let us drink that.’<sup>200</sup>

707. ‘I was in a state of mental breakdown, so I pulled the policeman and told him this, and then a Han policeman came and kicked me directly in the head, and I fell down, and he kept kicking me in the stomach and head, and I felt that my stomach was split open. He cursed me and kicked me, he said all these Uyghur are like this, they should be treated like this, and then he kept kicking me, and then I passed out. I woke up and found myself in my own cell. I felt like I was going to die, and I felt like my whole insides were splitting open. My roommates took me to the bathroom, and I saw that I was bleeding constantly. My roommates ran to the police and told them that I was bleeding constantly, and the police didn’t care, saying that it was normal. After that my stomach kept hurting. This pain lasted for a month or two.’<sup>201</sup>
708. She said further: ‘Then I was interrogated all the time, just asking me if I confessed, what I had done, and so on, and in the middle of that some police officers said I was still in a bleeding state, and they didn’t care, and they took me to the next room. I didn’t even think they would torture me like that, or that they would use a taser at all. After I was brought in, there were three police officers, and they did that to me, and once they did it together, and I have no words to describe the inhuman cruelty of the violence, they didn’t just beat me, and they didn’t just satisfy their sexual desires, I remember clearly, they did that to me three times, and once they used those iron bars, electric shock wands. They raped me by inserting iron bars, electric batons, and other equipment into my genitals. I have no way to explain to you exactly what kind of equipment, anyway—it is the same as to pull out your intestines, internal organs. For my own sexual assault, once by them with these electric rods, iron bars and other devices, and three times by them artificial rape. The first time, I was raped by all three of them together.’<sup>202</sup>
709. Zumret Dawut was detained on 31 March 2018 for receiving a phone call from Pakistan: ‘The chains began to hurt. I cried a lot and told the officers that I needed to go to the toilet. In the cell, there was a small toilet, and the

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<sup>200</sup> Ibid (para. 13).

<sup>201</sup> Ibid (para. 22).

<sup>202</sup> Ibid.

two male officers asked me to do my business there in front of them. I felt like an animal and very ashamed.<sup>203</sup>

710. 'I was then taken into cell number 28. The size of the cell is about 25 m<sup>2</sup>. There was a very strong smell – like a strong toilet smell- coming from this cell. In this cell, there were more than thirty women. Half of them were lying down in bed and half of them were standing. The lights had been turned off. The conditions in the cell were very cramped and not everyone could fit in the beds available in the cell. I soon realised that the women were taking it in turns: half were lying, and half were standing, and they changed every three hours.'<sup>204</sup>

711. She explained: 'I was feeling very weak as I had not eaten or drunk anything since the interrogation. I was also very worried thinking about my children, since I had heard of many people who had died in such camps. At that stage, I was so tired, I fell asleep. The next thing I remember was that next morning, I was woken up and we had one minute to wash our faces. The food quality was very bad, but as I was starving, I ate the food. Then it was time for the medicine. Every woman had to take this medicine by swallowing it. The camp guards then wore a glove on their hands and put their fingers in my mouth to check that I had swallowed it. I noticed some women had very bad skin conditions because of the unsanitary conditions at the camp. They told us that they would disinfect us. Two guards in Hazmat suits came into the room and sprayed disinfectant directly onto the women. We were completely wet. Many women were screaming because the disinfectant was causing them pain. When the disinfectant covered my skin, I felt a strong burning sensation. This process lasted one hour. There was an old woman who had diabetes, and I shared some of my bread with her. However, soon after, two camp guards came who saw that through the cameras and beat me hard. They told me that I was not allowed to share my food with others. As they beat me, I accidentally mentioned the name of Allah, and they beat me harder. This caused my ankles to become dislocated.'<sup>205</sup>

712. Gulbahar Jelilova was detained in a national security office on 22 May 2107: 'The interrogation lasted from 8am until 3pm. Then after I was taken to the

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<sup>203</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211111-Zumret-Dawut.pdf> (para. 7)

<sup>204</sup> Ibid (para. 12).

<sup>205</sup> Ibid.

basement and there were a lot of interrogation rooms. I was taken to an iron chair, and I was made to sit on this chair. After this my hands and feet were tied, and they began the interrogation.’<sup>206</sup>

713. ‘They took a bar and beat me and told me that this is we ask questions not you, so you have to answer questions and don’t ask anything back.’
714. ‘To enter the room, you have to lower the head so as not to hit it on the iron chain. Before I can enter the police pushed me into the room. When I was in the room it was long and narrow with more than 20 ladies. They were lying on the ground on top of each other as there was not enough space for everyone to fit. The conditions of all three detention centres were overcrowded and dirty, there were girls as young as 14 and women as old as 80 in my cell. There were over 30 inmates cramped in a 14 square metre cell, we took turns to sleep every night because there wasn’t enough space for everyone to lie down. A dozen or more women stood while others slept in shifts throughout the night. If we want to go to the toilet, we have to do it when we are standing.’<sup>207</sup>
715. She explained: ‘The room was 7 x 3 x 6 m. There is a wooden plank on the ground and there is a 10 cm wide metal piece on the wood every 50 cm along the wood so we cannot sleep down very freely, so we had to lie on our sides to sleep. The metal stuck out of the wood and caused pain throughout the night so we would be in pain. There were four cameras on the ceiling, and we were always watched. In all detention centres, there are no areas free from the surveillance of closed-circuit cameras.’<sup>208</sup>
716. ‘At 9 am there is a breakfast. And the food was nothing that a human beings should eat, the bread as hard as stone and soup made of water and corn flour. It was often mouldy on the inside of the bread. We would get a thin porridge. There is a bowl of porridge which is pushed through the hole in the door and porridge poured into it. Half of it lands in the bowl and half on the ground. There are about 3 to 3.5 kg for 40 people so each person gets about 100 g

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<sup>206</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-Gulbahar-Jelilova.pdf> (para. 4)

<sup>207</sup> Ibid (para. 12–13).

<sup>208</sup> Ibid (para. 15).



of porridge. The porridge is not eatable as it was not cooked enough but we have to eat it anyway as we were hungry.’<sup>209</sup>

717. Jelilova said further: ‘Then at 12pm a person came to the door I had to put my feet through the door, and they put about 5 kg chains onto my feet, so I lived my whole time in the camp with that chain on my feet. In the room there were young ladies whose hands were chained to their feet so they could not stand up straight, so they had to bend when they walk. There was no water in the room. When we went to the toilet there is nothing to clean with, so we had to clean ourselves with our hands. What made the circumstances much more intolerable was that we were not allowed to wash regularly. We could only have a shower once a week in which we all had to finish within 40 minutes. They gave us just one bar of soap. Each time, two people showered together. It was not really possible to wash properly in such short period of time and with such a limited amount of soap. Because of the lack of hygiene filthiness, we developed body sores. Because no one could take a shower everyone’s body was full of lice.’<sup>210</sup>
718. ‘It was hard enough to survive on. I also forgot how food tastes as I had no sense of taste after the amount of time. We were given three tiny meals a day: One small, steamed bun and watery cornmeal soup for breakfast, one small, steamed bun and watery cabbage soup for lunch, and one small, steamed bun and watery cabbage soup for dinner. After some time, I did not know if I was hungry or full. I was in a dreamlike state due to the trauma as I got used to the situation it was as if I had always lived in this room. On one occasion we were given uncooked steamed buns, it just stuck in our mouths. We buzzed the prison guard on the intercom and informed them we can’t eat the steamed buns. They replied saying, “this is a detention centre not your home. Don’t you know where you are? In your home you can pick and choose but here you eat what is given. Perhaps you’re too full that is why you’re being fussy.”’<sup>211</sup>
719. Jelilova said: ‘There was another lady from the south (East Turkestan), she was 36 years old. Her fingernails had been removed. It was unbearable to see

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<sup>209</sup> Ibid (para. 17).

<sup>210</sup> Ibid (para. 18–19).

<sup>211</sup> Ibid (para. 22–23).

that. There were a lot of young ladies whose fingernails had been removed during interrogation. Because of this I was crying all the time.’<sup>212</sup>

720. ‘The room conditions were very bad, and the air was polluted due to the toilets. One day a lady lost consciousness and they called the doctor to help but the next half an hour no one came. A lady tried to assist her. After half an hour two policeman and a doctor arrived and looked at the door and asked why the lady was comforting her. They took that lady away. She came back after a week and was no longer talking for several days. I asked her where she went for a week. She said she was in the ‘dark room’. This was the first time I heard the word ‘dark room’. Later I learnt this was a dark place. It is a 1 x 1 m cage made with iron bars where you cannot stand, and you have to sit all the time. There was water flowing beneath this cage. She stayed all week in this cage. She had to go to the toilet directly through the holes in the cage. She got steamed bread and some water through the cage bar. There were a lot of mice around and if she was not careful, they would come and bite her. She would try to sleep but the mice would come and bite her, so she had to defend herself. There was barely any sunlight in the dark room.’<sup>213</sup>

721. Omer Rozi was arrested in 1993 following a Haj pilgrimage and imprisoned in Ürümqi Number 1 Prison: ‘I was transferred to Urumqi Number 1 Prison (also known as Bajiahu Prison), where I was tortured. Someone hit my feet with iron. During my interrogation they asked me what secret I shared. I did not know what was in the envelope. I just denied every accusation. They continued my torture by removing my nails. They took to me to water-prison twice, both times for 3 days.’<sup>214</sup>

722. ‘I was returned to the normal prison where there were 3–4 Uyghur and 2 Han prisoners in my cell. Every 2 weeks, prison guards would come to my cell and beat the Uyghur prisoner. My Uyghur cellmate, called Obulkasim, had a piece of metal underneath his shoe which he sharpened using the bricks in the cell. Obulkasim wanted to stab the prison guards with this. He tried to do this but failed. As a result, he was shot so many times in front of us that his

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<sup>212</sup> Ibid (para. 27).

<sup>213</sup> Ibid.

<sup>214</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211111-Omer-Rozi.pdf> (para. 5)

flesh was all over the cell. I was forced using 2 trash bags to pick up his flesh after this.’<sup>215</sup>

723. Witness UT-ANY-008 (008), a correspondent, provided evidence on camera in relation to the conditions in the internment camps following interviews with officials including police officers, conducted by phone. While the Tribunal has been given access to the Transcripts of part of these interviews, for reasons of confidentiality and anonymity of the witness, the Tribunal is unable to publish these transcripts in full. Limited excerpts of these interviews are set out in the following paragraphs.
724. 008 interviewed prison officials in one of the camps: The interviewee: ‘There is a room (in the camp) for monitoring the camera for all five levels of building. We (the prison officers) can watch every single room and corners at that office using the monitor.
725. 008 as interviewer: ““Are there cameras installed in the bathrooms?” Interviewee: “Yes, they can see the restroom?” Interviewer: “Can they see in or watch to the people inside of the bathroom?” Interviewee: “Yes, we can pretty much see everything in the bathroom”.
726. 008: ‘Interviewer: “Until morning, each of them has to take at least one turn to watch others for an hour, right?” Interviewee: “Correct. During the eight hours from 10:00 pm to 6:00 am, every two of them watch the others sleep for an hour or sometimes one and a half hours.” Interviewer: “So, two of them keep awake watching the other eight for an hour. Then another two from the sleeping eight will take their turn, and so on, right?” Interviewee: “Right.” Interviewer: “If someone doesn’t sleep, then is he or she going to replace one of the two that are on duty or join them as the third one?” Interviewee: “The one not sleeping will be asked to stand.” Interviewer: “That means, there will be three in total that are not sleeping at that moment.” Interviewee: “Correct. Three in total.” Interviewer: “How do you react to sleep talking or other unexpected interruptions?” Interviewee: “Those on duty have to report it to us.” Interviewer: “Is it required that those on duty record such activities? For example, do they need to write down the content of the sleep talking?” Interviewee: “Yes, it is required.” Interviewer: “Like how?” Interviewee: “If

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<sup>215</sup> Ibid (para. 9).

sleep talking happens, they have to immediately record it and inform us, since we monitor them 24 hours a day”. Interviewer: “Is the sleep talking audio recorded as well?” Interviewee: “If it is clear enough, it will be recorded by those on duty. Otherwise, they will immediately report it to us and then we will wake up and educate that sleep talker”. Interviewer: “Were there any crimes or wrong doings by themselves or others disclosed through sleep talking?” Interviewee: “Yes, it happened before.”

727. Tevekkül was detained in his hometown, Number 13 Village, Toguchi District, Kargilik County: ‘They beat me up. The level of torture I will never forget. I was put on the tiger-chair, and they whipped my feet with iron wire. There is a bolt directly above the tiger chair and the heat from that bolt is unbearable. After the police bureau they took me to Kagilik County Jail. They locked us in a dark room with seven others. The room was so small there was not enough space to move around so we had to sit. If you sat for too long, you would be paralysed. So, we had to take turns walking for two hours. During this time, we were not allowed to talk or say anything because there were two cameras. One was in the bedroom and one in the toilet. This was to prevent us from praying. They locked us up for one month and then they took me for interrogation. During that interrogation they said, “we saw your bottom has been beaten and has dark spots. Why don’t you answer our question? Where is your brother? Where did your brother get his religious education? Why did your brother become religious? Where did your brother get money from? When did you send money to your brother?” The most unbearable torture was when they beat the bottom of your feet. That is the torture you can’t bear. I can bear when they beat my bum but not my feet. After that interrogation another thirty days passed. They called me in again and gave me a piece of paper and asked me to sign it. On the paper it said the Local Police Bureau was extending my detention. I refused to sign so they came around and started beating me again. They beat me around the face so badly I couldn’t eat for two days. For my first month we were given two meals a day plus tea. And then after one month Ramadan started and they increased our meals to three so that they could break our fasting. When they give you a meal they will sit there and watch you eating. If you don’t eat and start fasting, they will beat you up. They will not only beat you up but even those who were not fasting would get beaten.’<sup>216</sup>

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<sup>216</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211119-Mehmut-Tevekkul.pdf> (para. 12–15)

728. Tevekkül explained: ‘The food in the jail was terrible so my father sent money to the jail every two weeks. I did not receive the money but a voucher. The food was very expensive. A plate of noodle is 5 Yuan [CNY 5] outside but 20 Yuan [CNY 20] inside. A plate of rice without meat outside is 6 Yuan [CNY 6] and inside 30 Yuan [CNY 30]. The normal food is dirty. You cannot even look at it. But you have no choice but to eat it. There was a daily inspection. The system inside the cell was like a military dormitory. Your blanket had to be very tidy. If you failed to do that you got beaten. If someone stopped moving and went into a certain position for a while it meant they were praying. A speaker would say “attention”. If they did it twice the guards would come without warning and beat everyone. All the cells were designed in the same way. There was an alleyway in the middle. The toilet and shower are in open space, so you have no privacy. So, when you have a shower, you have to use a blanket to cover yourself. But that doesn’t cover you from the security cameras on the ceiling. The corridor was long. There were rooms on both sides. There were armed police in the corridor. Whenever you heard the sound of footsteps you stayed silent and sat straight and paid attention. The beatings depended on our behaviour. We were not allowed to talk. If anybody made a sound, they were beaten up. They don’t beat individual offenders, they beat everyone. So, we developed a system where we slept in turns. At any time two people stayed awake watching and the rest slept. When the guards changed, which was every 2 hours, we could hear it and see it. We would change when the guards changed. I never witnessed any sexual abuse, but I heard a case about a religious woman. The prison couldn’t break her because she kept praying. Even the beating didn’t stop her praying to Allah. Since she was doing that, all the women in the same cell got punished. The other women started beating that woman saying why should we be beaten for your stubbornness. Since she couldn’t be broken the authorities took her into another single cell and tied her up and sexually assaulted her. The other prisoners next to that single cell heard her being assaulted. They heard her screaming and told me. There was one song we had to sing before our morning meal. We had to sing it as perfectly as possible otherwise we were refused a meal. Or worse case we were punished. I learnt to sing it very well, but I have now forgotten how to sing it. There were roughly ten to eleven people per cell. We heard that there were more than forty cells in the prison. 100% of the people in my cell and the rest of the prison were Uyghurs.’<sup>217</sup>

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<sup>217</sup> Ibid (para. 20).

729. Mihrigul Tursun was detained on her return to China from Egypt on 13 May 2015: ‘Upon arriving to border control at Urumqi airport, I was taken to a room for questioning and my babies were taken away from me. The authorities repeatedly asked me who I met and talked to in Egypt. They then handcuffed me, scotch taped my mouth, placed a black hood over my head. As they pushed me when I was getting on the police car, my nose broke, and I lost a lot of blood.’<sup>218</sup>
730. ‘They said that this was China, and they could do whatever they wanted according to the local law. They interrogated me for three days and nights. Then they put me in a completely dark room for seven days. After that, they took me to the cell upstairs. There were about thirty women. We ate steamed bun and boiled rice. We had to sing red songs and read Chinese books. Some women were there just for having more children than allowed or having their ID cards expired.’<sup>219</sup>
731. Tursun was detained a second time in 2017: ‘because I had been overseas and speak a few foreign languages, they tried to label me as a spy. My mouth and nose would bleed from their beatings. They slapped me so hard that I lost hearing of my right ear.’<sup>220</sup>
732. ‘They showed me the other rooms, where they were threatening two completely naked women with police dog.’<sup>221</sup> ‘After that, they took me to an underground cell with no windows. There was an iron gate and the door opened electronically through a computerised lock system. There was only a small hole in the ceiling for ventilation, and we were never taken outside for fresh air. When the police opened the door, they would cover their noses. There was a toilet bowl in the corner, out in the open and without toilet paper. There were cameras on all sides so the agents could see every corner of the room, including the toilet area. There was one light which was always on. There were around forty people kept in a forty square metre cell so, at night, ten to fifteen women would stand up while the rest would sleep on our side so that we could fit. Then we would rotate every two hours. There were people

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<sup>218</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211116-Mihrigul-Tursun.pdf> (para. 2)

<sup>219</sup> Ibid.

<sup>220</sup> Ibid (para. 4).

<sup>221</sup> Ibid.

there who had not taken a shower for over a year. The first night was very difficult. As I was crammed on the floor with all these women, with chains on my wrists and ankles.’<sup>222</sup>

733. Tursun explained: ‘Each morning, we would be woken up at 5 am with loud alarms. We had to fold the six blankets we were sharing. If the blankets were not folded neatly and not looking symmetrical, the whole cell would be punished: they would take away the blankets and we would have to sleep on the cement floor. Before we ate our breakfast, which was water with very little rice, we had to sing songs hailing the Chinese Communist Party and repeat these lines in Chinese: “Long live Xi Jinping,” and “Leniency for those who repent and punishment for those who resist.” We had seven days to memorise the rules of the camp and fourteen days to memorise all the lines in a book on Communist ideology. The women whose voice were weak, or who could not sing the songs in Chinese, or remember the specific rules of the camp were denied food or beaten up. We should say “state language” instead of “Han language”, otherwise, we would be slapped and denied food. In theory, we were supposed to receive three meals a day. The lunch was a steam bun, but sometimes there was no food at all. For supper, we would have either another steamed bun or cooked rice. The steamed buns were getting smaller and smaller as the number of people detained kept increasing. They were not freshly cooked, rather expired, and hard. The guards would throw them on the ground instead of giving them in our hands. We were never given any fruit or vegetable.’<sup>223</sup>

734. ‘We were also forced to take unknown pills and drink some kind of white liquid. The pill would cause us to lose consciousness and would reduce our cognition level. The white liquid seemed to stop women’s periods, though for some it caused extreme bleeding, and even death. Since we were never given water, we quenched our thirst when we took these medicines, caring less if we would die or not by taking them.’<sup>224</sup>

735. Tursun continued: ‘In the camp, once every week or ten days, they took us for interrogation. The last time, I was taken to a special room with an electric chair, known as the “tiger chair.” It had only one light and one chair. There

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<sup>222</sup> Ibid (para. 6).

<sup>223</sup> Ibid (para. 7).

<sup>224</sup> Ibid (para. 8).

where belts and whips hanging on the wall. I was placed in the chair, with my arms and legs locked in place and tightened by the pressing of a button. A helmet-like thing was put on my head. Each time I was electrocuted, my whole body would shake violently, and I could feel the pain in my veins. I thought I would rather die than go through any more of this and I begged them to kill me.’<sup>225</sup>

736. Mehray Mezensof is an ethnic Uyghur but an Australian citizen. In April 2016, shortly before travelling to Melbourne, her husband, a Uyghur Chinese citizen was arrested.<sup>226</sup>
737. She explained: ‘My husband was interrogated at the police station for 3 days. During these 3 days he was forced to sit in a tiger chair throughout the interrogation and he was deprived of sleep’.
738. ‘He said that when he was first taken to the concentration camp he was forced to eat and sleep near the toilet. The detainees were allowed a cold shower for only a couple of minutes every few weeks and they were not given any soap. He said he had to use laundry detergent to clean himself. He spoke about how they weren’t allowed to leave their cells and were only allowed to leave when they had classes. He said that no one was allowed to go outside and the only physical exercise they could do was to walk around in their cell. Everyone was expected to speak in Mandarin and the Uyghur language was strictly prohibited from being spoken. My husband told me that one time he accidentally spoke to a police officer in Uyghur he was punished by being handcuffed and strung up to the door for a whole day and was refused food and water.’
739. Mezensof, continuing her husband’s narrative, said: ‘He said that most of the abuse that took place was mainly psychological. He spoke about how the detainees were constantly told that they would never go home, they would never see their loved ones again and the only way they would get out was in a body bag. He said that he struggled a lot with hygiene as they weren’t given soap, shampoo, or any other products to help maintain their cleanliness. He said that everyone had their meals in their cells and there was an opening in

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<sup>225</sup> Ibid (para. 13).

<sup>226</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211122-Mehray-Mezensof.pdf> (para. 9)



the door where the food tray would be passed. He said in order to get the food he would have to kneel and sing a song and only then would the officers give the food. Anyone who couldn't or wouldn't sing the song was left to starve.'

740. 'That's another thing he spoke about. He said that if anyone in the cell misbehaved or disobeyed any orders then they were all punished by having their food privileges taken away. He said that even when they were given food half the time, he didn't know what he was eating, and the food had no nutritional value at all. He said it was barely enough to just keep them alive. He said that most of the food was soft or was in liquid-form like a soup, so he said that after months of eating the same thing he felt his teeth start to loosen. He said that although the food was limited, they were usually given lots of steam buns. He said that in order to regain strength in his teeth he would set the steam bun on the windowsill and leave it there to harden. Once it was hard enough, he said that him and the other detainees would use it to bite into frequently to help sharpen their teeth.'<sup>227</sup>

741. In September 2104, Abdulusam Muhammad turned himself into the police authorities following the issuance of an arrest warrant and he described his treatment thereafter.

742. Muhammad: 'On November 25, 2014, I underwent a health check-up there, my head was shaved, I was ordered to take off my clothes, and then they took me to the detention centre. In detention, I spent about 5–6 months there. I had witnessed many tragic scenarios and tortures; I have seen many people that were carried away in a state close to death. The situation was horrible and so was the food, the soup was very salty and had insect sand worms in it. We were given green leaves most of the time. Some people passed out because of malnutrition. We were taken to the washroom once every 48 hours (about 2 days), but our legs were shackled, the legs of the women were tied together, and the time given to 16 to 20 people was 10 minutes. There was a bucket in one corner of our cell in case we needed to urinate in those 48 hours.'

743. Muhammad: 'After entering the detention centre, all our clothes were stripped off we were half-naked and taken to a cell that was very small and very cold. We were freezing since we did not have any clothes on. There was no heating,

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<sup>227</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211122-Mehray-Mezensof.pdf> (para. 35–37)

and there was only one iron stick around an arm's length, and from that iron, heat passed through all the other cells so that no one would die, but we were freezing in it. The cell was 2.5 meters wide and 2.5 meters long and we were 16 people. There was not enough room to sleep freely so we had lined up eight by eight, two of us (legs were shackled together) in one blanket, and the other two had to lie down the opposite way (their feet toward our heads). We could not move, if we did, we would freeze from the cold. Our feet were so cold, most of the night we had to stay awake. There was no cover for the bucket which we used as a toilet. We had to smell from the bucket day and night, so we had runny noses or nasal infections. We were forced to memorize Chinese poetry every day, and those poems were so long that they were 2–3 sheets or sometimes 4–5 double-sided pages. If we could not memorize the poems, we were punished heavily. We must always sit upright on the ground if we move a little bit to relax, and they saw us on camera, they took us to the torture room where we were lied on our backs and beaten severely. If we moved our lips just a bit, the police thought we were reciting the Quran, so we were tortured very badly. I witnessed 40-50 inmates being brutally tortured, they could not stand up. I heard with my ears, "I wish I was the one who was punished and died." In addition, every 48 hours, when we were in line for the wash room, the Han police stood where there was no camera and, they kicked us forcefully at our backs with hatred, we were not allowed to look back, we had to lower our heads; it was worse than the Nazi camps. We had seen Nazi camps in the movies before, they could talk to each other. We were not allowed to talk or whisper to each other or look at one another.'

744. Muhammad was moved to a re-education camp: 'After eating, I re-registered my name, and they also asked me why I had been arrested and how long I had stayed. Then, I was assigned a room. The room was small and inside the room, cameras were installed so that they watch us day and night. The room is divided into three areas, with a separate door and a corridor with an iron door on the outside. A whistle blows to wake up in the morning; as soon as the whistle blows, we must clean up our beds and get ready for the washroom. The situation there was a bit better than in the camp, but the police officers monitored us every single moment. We were restricted from praying or taking wudu (washing for prayer), any kinds of worship were forbidden. We were only allowed to wash our hands and faces.'<sup>228</sup>

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<sup>228</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211201-Abdusalam-Muhammad.pdf> (para. 6)

745. In November 2017, Baqitali Nur was arrested and tortured: ‘With that they tortured me during the interrogation. They beat me and fastened my hands and feet to the tiger chair. They questioned me day and night.’<sup>229</sup>
746. ‘Nearby there was a teaching building and they forced us to sit for 10 to 15 hours a day without allowing us to move our bodies. They forced us to sing Chinese songs. Except for singing red songs we did not do anything there. We were ordered to sing red songs. We learned nothing else. There were only singing songs and torture. Due to long hours of sitting, our feet swelled up quite frequently. We walked the same way and crawled back again to our cell. Inside the cell, there were children’s chairs and we eight people sat in two rows. We were not allowed to look around but had to look at the ceiling only. At nine O’clock we were ordered to sleep. We were not allowed to sleep on the side, but only on the back with absolutely no movement. They would call us immediately if they saw through the camera any movements during the sleep. I don’t know how many hours I slept when I was there. At night they would order two of us to guard. Thus, we monitored each other. I slept for two hours and the other one would monitor for two hours so on and so forth, until the next morning. It is not possible to count all the sufferings there. They beat me every day. Every evening, they took me to the interrogation room, and beat me by asking “What have you done in Kazakhstan?”. They asked me to tell the truth. They questioned me three times per day, and I defended myself by answering “I didn’t do anything, I just went and came back”.’<sup>230</sup>
747. Nur continued: ‘They dragged out one of the guys who were detained with me in the same cell around mid-night. We could not do anything but watching. It was forbidden to make any sound or movement. Exactly four days later, he was brought back to the cell. His Name was Ablimit, his father’s name was Eli Bay. Eli Bay was a bus driver in Qaynaq village, that’s why I knew him well. I didn’t know Ablimit, because he was a kid at that time. After four days of questioning, when they brought him back, he couldn’t use his hands, which were severely paralyzed. They placed him next to me. “Baqitali, you bring him to the toilet, help him eat food, help him lie down and get up.” they

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<sup>229</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211130-Baqitali-Nur.pdf> (para. 3)

<sup>230</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211130-Baqitali-Nur.pdf> (para. 4)

said. I agreed. I took care of him for around 10 or 15 days. In the toilet we managed to talk to each other. The only camera free area was where the toilet was. I had to help him taking off and putting on his pants. During that, I asked him “what happened to you? What did they do to you? What happened to your hands?”. They tied his hands and hanged him for four consecutive days without his feet touching on the ground. He was beaten with a stun baton and other batons. He showed some of the beaten parts on his body. All over his body were burned with stun batons. His back, abdomen and everywhere, it was very difficult to look at his body. He broke into tears and said: “Why don’t they just kill me, instead of torturing me so brutally. I couldn’t bear it brother” he said. I said by consoling him: “We have no choice brother, what can we do about it? We will go out one day.” But then he said “no brother, they won’t let me out from here. They tortured me by beating and asked me to tell them my crimes.” His tendons were stretched so badly that he became a paralyzed person. Getting hung like that for four days finishes a person. They knew that he would die if he didn’t eat anything, of course. While he was being hung, they pushed bread into his mouth, then poured water, just to prevent him from dying.’<sup>231</sup>

748. Erbakit Otarbay was arrested on 17 July 2017: ‘After I was taken to my jail room handcuffed and shackled. I spent a total 98 days in that place before being taken to a different one. My weight was 98 kilograms when I was put in that place, and it dropped to 71 kilograms before they moved me to a different place. There was only one meal a day. If you complained about not getting enough food, you would be beaten. It was on October 14 or 15, 2017 that I had an argument with the guards. I was beaten so much that I passed out. When I opened my eyes, I saw I was at a hospital called Tarbaghatay People’s Hospital. It was Tahirjan, the deputy warden of this detention center, who took me there. The police officer on shift that night who beat me and knocked me out was a Kyrgyz man named Makay. Tahirjan was sitting right next to me after I recovered. There were 3–4 bottles of fluids being infused to my vein. I learned that I needed an energy supplement due to my unconsciousness.’<sup>232</sup>

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<sup>231</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211130-Baqitali-Nur.pdf> (para. 8)

<sup>232</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211130-Erbakit-Otarbay.pdf> (para. 5)

749. Otarbay was transferred to a camp on 23 November 2017: ‘There were 42 people in a prison cell where only seven people could sleep at a time. There were about 10 people on each shift for two hours of sleep. Otherwise, there was no place to sleep.’<sup>233</sup>
750. Otarbay: ‘I was punished several times during my stay in the camps and prisons. Since I did not know what I did wrong, I got into a lot of arguments, and got beaten up several times with an electric baton. I have scars on my head, face, and hands. They often beat me with a stick or electric baton. They do not give you food or drink when you are punished. Sometimes they give you very little food, such as half of a steamed bread. Sometimes we had to drink the water in the toilet urinal because we had to survive. I was taken to the hospital when I was beaten and passed out.’<sup>234</sup>
751. Gulzire Awulqanqizi said of her camp: ‘In the camp, we were living together in a long hall, like a sort of shed. Each hall housed thirty-three women. We had to make our beds every morning without a wrinkle and in under three minutes, as if we were in the army. If the inspector did not like how I made my bed, he would take my bedsheets over to the toilet in the corner and throw them in. Each night, we had to take two-hour shifts to watch each other. Even if you wanted to kill yourself, you could not because you were being monitored everywhere. We could not cry because if they saw us crying, they would say we had evil thoughts in our minds. We also had to go the toilets in pairs, so one could keep an eye on the other. This was particularly to prevent forbidden religious expression like ablutions. Once, I accompanied an older lady to the toilet and she accidentally splashed urine on her feet. The guards noticed that she had rinsed herself clean and they saw it as ritual washing, so they punished me, who was watching her, by handcuffing my hands behind my back for twenty-four hours. We had to keep trips to the toilets very short as we only had two minutes, and if we took more time we would receive electric shocks by stun guns. I was beaten five or six times because I was slow.’<sup>235</sup>

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<sup>233</sup> Ibid (para. 6).

<sup>234</sup> Ibid (para. 13).

<sup>235</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211206-Gulzire-Aulhan.pdf>

752. Awulqanzini continued: ‘They fed us rice and plain, empty steamed buns. We never felt full. Once, for a Chinese holiday, they made us eat pork. They actually forced us to eat pork: if you refused, as I did once or twice, they would put you in cuffs and lock you up, saying your ideology is wrong and you must become friends with the Chinese people. They would handcuff you to a “tiger chair” and ask, “Why are you refusing to eat this food provided by the Communist Party?” and they would reprimand you. If you kept refusing, they would take you to another, harsher facility, so eventually I stopped refusing this food.’<sup>236</sup>
753. Orynbek Koksebek: ‘At one point They took me to a different room. It was December and cold. There was a hole in the ground. It was taller than a man. “If you don’t understand,” they said, “we’ll make you understand.” I was put in the well for 7 days. I lost my mind as the well was very dark and I could not understand why I was put in jail. They brought a bucket of cold water and poured it on me. They had cuffed my hands and now told me to raise my hands over my head. But it was a narrow hole, and I couldn’t move inside. I couldn’t raise my hands. Somehow, I lost consciousness.’<sup>237</sup>
754. Koksebek said: ‘We could hear people being beaten, when people were screaming. We could hear it too loud in the dining room. I was in the black room 5–6 times. It was terrible, the room was too dark with no light. The floor was cement with nowhere to sleep. I was there perhaps 125 days or more. I was not given salt. When you are not given salt, your bones become weak.’<sup>238</sup>
755. Koksebek; ‘In the second jail I was in a chain all the time with black material on my head. I was beaten all the time. The people who did not listen to guards always had chains on them and were taken to the ‘dark room’. The bathroom was in the same room where we slept. The floor was very cold, and we had to sleep on the cement floor. We also had to eat in this room.’<sup>239</sup>

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<sup>236</sup> Ibid.

<sup>237</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211201-Orynbek-Koksebek.pdf>

<sup>238</sup> Ibid.

<sup>239</sup> Ibid.

## POSTSCRIPT TO THIS APPENDIX

756. It is clear from this Appendix, and from elsewhere, that deaths in custody occur as a result of action by the PRC Government against those for whom it owes duties of care. Given that organs and agents of the PRC will have known that deaths were happening to those detained, tortured, under-fed etc. as a result of state policies, it can reasonably be said that there is clear evidence of state-sponsored or state-permitted killings; and many of them. But it must be remembered that *mass* killings are *not* evidenced. Despite the state clearly having the power of life and death, as victims were made to fear, deaths that happen in torture or simply by grotesque maltreatment in custody are *not* to be likened to the killings in the Holocaust or in the ‘killing fields’ of Cambodia when there was clear state intention to kill masses of people.
757. Indeed, discerning the *precise* intentions of the PRC Government that have led to so many citizens being detained for no good reason and to the many killings of those in custody may not—or at least not yet—be possible, either as against the state let alone against those performing the state’s wishes.
758. For example, where confessions are forced from those about to be released, neither the enforcer nor the confessor believes in the truth of what is forced from the confessor, and maybe neither really knows why the state wants the confessions, unless as some mechanism of terror and control.
759. When torturers are trained to do what is grossly inhumane—inhumanity everyone in the torturers’ chain of command must appreciate—they are reflecting the need of the state to enforce something through terror and pain and sometimes death that it cannot achieve through reason; but is the state’s true intention understood?
760. And even when the chain of command is on public show, as when three levels of decision-makers were needed to detain and then to release the wholly blameless witness Smith Finley, uncertainty of reasoning and purpose for the degree of control was obvious.
761. What happens to those abused by this state must be absolutely terrifying to those fearful of their state—terrifying beyond conception of the bystander or observer or reader of the material in these appendices. But maybe the fear

most apparent is not on the face of the victims but on the face of the PRC, a state fully on notice from internal and external sources about its actions and their contravention of universal rights. A state of such size and population that needs its citizens to perform acts of barbarity on fellow citizens, as described throughout these appendices, and especially in this Appendix, is a state that has no understanding of humanity or of the human right to freedom of thought and action from birth and until death. It is a state fearful of its citizens who, but for crude, barbaric practices, might assert their entitlement to the freedom to breathe the fresh air and think free thoughts.



## APPENDIX 26

# Rape and Sexual Violence

### SUMMARY

762. Multiple accounts of sexual violence, mostly against women, for control, gratification and humiliation.

### EVIDENCE

763. Quelbinur Sidik was a teacher assigned to teach in a number of detention centres and witnessed first-hand the treatment of Uyghurs detainees: ‘Male police officers really like working in female camps, as most of them volunteer to be in these camps. They brag about whom and how they raped during their inner circles after getting drunk, and that’s how the news got out at the first place. That’s why my friend was sent to investigate such reports. When I met her this morning, she was asking questions from the inmates about police raping. “This is just an act. No one really cares” I said. She agreed and said yes. “I’m very surprised, what’s the point of asking questions inside the cell or the hallway as they can all be monitored through a live camera? If you really want to know, you should take them into private rooms.” I asked. She said “we asked if they’ve been tortured during the investigations, inmates said yes, because they force us to confess for the crimes we never committed. Then we asked if they have been raped, most of them started crying. I told them it’s okay to talk to us, we would take notes and they would need to sign”. “It’s like signing their death sentence, this is such a ridiculous investigation” I said. “I know, it’s just an act to show it upper-level officers” she replied. “How do they rape? I guess you guys know a lot more than I do” I asked. “You really don’t want to know” she replied. “I do actually, I’ve been hearing a lot lately, and really want to confirm it with you to see if everything they’ve been saying is true or not. I asked. “What’s not to believe these rumours? There is a reason male police officers would beg to come to this camp since

there're more pretty girls here. They take girls into the investigation rooms where there's no camera, and 4-5 police officers' rape one girl one after another. After raping, they take electric rods and stick it into their vagina and rectum to torture, and rape again after" she said. "I really shouldn't have asked. And you shouldn't have told me!" I said with disbelief. "What do you say to the more vicious abuses than this? Some girls bleed a lot during the rape, and they still order them to clean up the room after. Some other girls even bleed through their ears and mouth. You can imagine what else going on in here."<sup>240</sup>

764. Sidik told of a car journey with a law teacher and a police officer and quotes the former: 'I looked at the food that they're given. It's just water and just one small bun. No wonder they're losing weight day by day and look sicker and sicker. It's one thing that they don't feed them enough, leave them in cold rooms without proper clothes, but they also beat them, rape and torture them, make them confess to the crimes they didn't commit. Do you know anything more inhumane than this?' I was not sure if they were just tempting and testing to engage in this conversation, so I kept quiet. "Do you know they rape them one after another? Such cruelty, don't you think? How do you feel normal after seeing and knowing all this?" He kept talking to the driver. These are the things that I witnessed with my own ears and eyes.<sup>241</sup>
765. Tursanay Ziyawudun was sent to camps twice in 2017 and 2018: 'One woman was taken for interrogation, and she came back after three days. When she came back, she could only lie down, and she couldn't stand up or sit up at all. The rules there were to sit straight every day, there was no way we would be allowed to lie down. It turned out that day those police officers said she could lie down and rest for an hour. We all wondered what had happened. The next day I went to ask her what had happened, and she ended up hugging me and crying, she couldn't say anything, just crying, I thought she must have been beaten, must have been beaten too much. But when she went to take a shower, I saw her body and I realized what had happened to her, because it didn't take long for the same thing to happen to me.'<sup>242</sup>

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<sup>240</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211029-Quelbinur-Sidik.pdf> (para. 43)

<sup>241</sup> Ibid (para. 50).

<sup>242</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211111-Tursunay-Ziyawudun.pdf> (para. 21)

766. Ziyawudun explained further that: ‘So, at night, unknown people came in the suits and with mouth masks, although there was no Corona pandemic yet. They always appeared in the corridors accompanied by police officers or security personnel of the camp. At first, I thought it was some security check or something. I couldn’t imagine that these people were singling out women for gang rape. But you could see at night that they were coming and going with a couple of captured women through the corridors. There was among the men who raped me one with the suit. I came to this conclusion because almost every day such visits of masked men in suits took place only at night. They take us to the interview room, because only in these rooms there are no cameras, and there their animal pleasures happen.’<sup>243</sup>

767. Zumret Dawut was arrested and detained in March 2018: ‘I also saw, in my cell, that on certain nights, the camp guards came to the cell to select young, pretty girls to take them away. When the girls returned, they were crying, and I could see bruises on them. But we could not even ask what had happened, because of the surveillance cameras. However, on one occasion, I was able to ask one sister a little older than me what had happened. She told me that they had undressed her, made her naked, beat here and the police officers urinated on her.’<sup>244</sup>

768. Gulbahar Jelilova: ‘One lady, 25 years old, was in the prison because when her sister was in Egypt giving birth, she stayed in Egypt to help her sister for two months. They interrogated her very often and asked whether she met anyone. They beat her during the interrogation. They beat her on the head. Two policemen brought her in the room in the corner and they told us not to touch her as she couldn’t stand. Someone tried to comfort her and touched her head, and she asked them to stop. She realised her head was like rotten meat, it was completely full of wounds. After 3 days she lost consciousness, and she was taken away.’<sup>245</sup>

769. Jelilova explained further: ‘A lady was transferred from another prison to my room, she described the condition in the other prison. This lady was

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<sup>243</sup> Ibid (para. 28).

<sup>244</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211111-Zumret-Dawut.pdf> (para. 18)

<sup>245</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-Gulbahar-Jelilova.pdf> (para. 26)

interrogated very often there. Usually, the interrogation room is the second floor. During the interrogation, her feet and hands were chained to the bed, and she was beaten with an iron chain until she lost consciousness then she was unconscious for a few days, unable to eat and drink. Once she was better after a week, the same procedure was repeated again and again. I was told explicitly that she was raped during the interrogation. Gang rape was regular practice during interrogation according to the other ladies.’<sup>246</sup>

770. Jelilova was arrested and detained in May 2017 and explained further: ‘I was in the hospital four times after each time I was raped, for 40 days overall in the hospital. The hospital conditions were like the prison. There were iron gates and rooms are blocked with iron bars. In the hospital there were a lot of young people inside. Most people had their heads shaved off and they were chained for screening and ultrasound check.’<sup>247</sup>
771. Gulzire Awulqanqizi was arrested on 17 July 2017 and detained in four different camps: ‘Again, I was lodged with mostly Uyghur women. In this camp, conjugal visits were apparently allowed. My husband was in Kazakhstan but for those who had their husbands close, they could meet them once a month for two hours at the camp. A room was provided, they were left alone, and the husbands were told to bring bedsheets. Before seeing the husbands, the women were given a pill. They were forcing every woman who had a husband to meet with him. Even an old woman had to lie for two hours with her husband. From what other women told me, the husbands had a procedure conducted on them before the marital visits, and sperm was taken from them with a syringe, such that they were in pain and unable to pass water. Sometimes, the single, divorced, or widowed women were taken too, at night. These were tied to the bed and raped violently. Sometimes they did not return. I know because from New Year of 2018, I started working as a cleaner in the camp until June 2018. I used to clean the meeting room where husband and wife meet. Only then I found out about the rapes. My duty was to sit next to the curtain, then when staff comes in with a woman, she writes her name in Chinese and I take her fingerprints, I help her take her clothes off, but not the clothing below the waist. I also had to restrain her hands with chains. Then a man enters the room, and I go sit silently next to the door. When the man leaves the room, I take the woman for a shower. There was

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<sup>246</sup> Ibid (para. 32).

<sup>247</sup> Ibid (para. 35).

nothing I could do, I was forced. If I refused to do this, they said they would send me to another, worse location. The only thing that saved me from being raped was my marriage certificate. Although the women who were taken to that room did not speak to me, I knew they were either divorced or widowed because my cellmates who were divorced or widowed were going through the same thing. I would go on to do this task for six months. Once, I was in that room, mopping the floor, and there was a man there. I asked him to move his feet so I could clean the floor, but he replied: “I paid to come here, it is up to me if I want to move my feet or not.” All those who went to that room were Han Chinese men. They were very frank and open about what was going on there: they would tell those women that they had nobody who could help or rescue them. Many young women disappeared: they were taken away from the cell and they never returned, different women were simply brought to take their place. We were often assembled in a hall when leaders or officials visited the camp, so we would recognise one another and we would know if someone disappeared, as we would never see them again.’<sup>248</sup>

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<sup>248</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211206-Gulzire-Aulhan.pdf> (para. 10)

## APPENDIX 27

# Mosques and Other Religious and Cultural Property and Urban Settlement

### SUMMARY

772. 65% of mosques in Xinjiang destroyed or damaged.

Ancient mosques converted to museums or for other functions.

Important sites destroyed.

Muslim cemeteries bulldozed.

Houses and settlements destroyed—occupants compelled to move without rights to challenge.

### EVIDENCE

773. Smith Finley: ‘Kashgar’s ancient Heytgah Mosque, the most important religious venue in the region, had been converted into a museum and the Arabic calligraphy once adorning the entrance had been ripped away’.<sup>249</sup>

774. An ASPI report authored by Ruser and others said: ‘Using satellite imagery, we estimate that approximately 16,000 mosques in Xinjiang (65% of the total) have been destroyed or damaged as a result of government policies, mostly since 2017. An estimated 8,500 have been demolished outright, and, for the most part, the land on which those razed mosques once sat remains vacant. A further 30% of important Islamic sacred sites (shrines, cemeteries

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<sup>249</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/08/State-Violence-in-Xinjiang-A-Comprehensive-Assessment.pdf> (p. 46)

and pilgrimage routes, including many protected under Chinese law) have been demolished across Xinjiang, mostly since 2017, and an additional 28% have been damaged or altered in some way.<sup>250</sup>

775. ‘This towering architectural monument’, describing the Keriya mosque, dating back to 1237, had undergone extensive renovations during the 1980s and 1990s, and was photographed on an Islamic festival day in 2016 with thousands of worshippers spilling out. On 14 November 2017, the building was visible on satellite images; by 11 April 2018, it had been razed to the ground.<sup>251</sup>
776. In September 2019, Agence France-Presse visited 13 destroyed cemeteries across four cities and found exposed bones remaining in four of them. Examining satellite images, they concluded that the grave destruction campaign had been ongoing for over a decade.<sup>252</sup>
777. In July 2018, Smith Finley explained: ‘I took countless photographs of restaurant signs in which the halal symbols had been blacked out, covered over with wooden planks, or scraped and torn off, as well as new signs that did not carry the label “halal”’.<sup>253</sup>
778. In his report ‘Elimination of Uyghur Identity’, Baram Sintash estimated that, by October 2019, Chinese authorities have demolished between 10–15,000 mosques. On the website for Uyghur Cultural Preservation ([www.uyghurism.com](http://www.uyghurism.com)), he shows before and after imagery of sites on which were located mosques and now are demolished. These include the Kiraya Idkah Mosque in Hotan, the Kagilik Grand Mosque in Kashgar and the Usu Grand Mosque in Usu, to name but a few. Sintash explained: ‘The deputy police chief of Mush in Toqzuaq County told Radio Free Asia (RFA) in 2016 that 46 of the 65 mosques in the town had been demolished. The head of the Ethnic and Religious Affairs Committee in Kashgartold RFA in 2016 [said] that 70% of the mosques in the city had been demolished “because there were more than enough mosques and some were unnecessary,” contradicting the official line

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<sup>250</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/07/UT-210912-Nathan-Ruser.pdf>

<sup>251</sup> Ibid.

<sup>252</sup> Ibid.

<sup>253</sup> Ibid.

that the demolition campaign was motivated by issues of structural safety.’<sup>254</sup> Sintash also included evidence of the destruction of Uyghur neighbourhoods and described by the Chinese Authorities as eradicating or alleviating ‘absolute poverty’. According to the Xinjiang Daily news on 12 July, ‘authorities have begun demolishing 1,526 Uyghur neighbourhoods in the Uyghur Autonomous Region this year’. According to the *Xinjiang Daily*: ‘this year’s plan to demolish the Uyghur neighbourhoods will cover 210,430 households, of which 92.6 percent have already started construction’. Many of these people have been relocated a significant distance from their communities. According to a *Tianshan Net* video news story, ‘Yusuf has Moved and Started a New life’, Yusuf Hoshur, a resident of the fifth village of Kachung village in Yarkant, has been relocated with his family to the relocation site in Yungan District, which was built 50 km from Yarkant County, Kashgarin 2017. Sintash explained: ‘According to my 2019 investigation, the total size of the demolished Uyghur neighbourhoods in downtown of Kucha (Kuqa) County is around 3,820,614 m (41,124,746.83 square feet), equalling about 750 American football fields. About 40,000–60,000 people can live in these demolished neighbourhoods. Analysing the satellite images, I found out that this mass destruction of the Uyghur neighbourhood in Kucha was completed in less than 3 months. Thousands of homes were demolished at the same time, and neighbourhoods were bulldozed one by one.’<sup>255</sup>

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<sup>254</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211217-Bahram-Sintash.pdf> (p. 6)

<sup>255</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211217-Bahram-Sintash.pdf>



## APPENDIX 28

# Forcible Drinking of Alcohol, Smoking, Beards, Headscarves and Other Clothing

### SUMMARY

779. Forcible drinking of alcohol and eating of pork and prohibition on wearing of headscarves.

### EVIDENCE

780. Tursunay Ziyawudun was forced to drink alcohol in Ramadan by the cadres sent to live with her following her second release, which was then filmed and posted on WeChat.<sup>256</sup>

781. In his statement, Abdusalam Muhammad said: ‘My wife had left home a little bit earlier than me, the police arrested her on the street where the bus station was. The main reason for arresting her was that she wore a scarf and tied it under her chin which was not permitted. So many women (30, 40, 50 or even 60 years old) were beaten and dragged into police cars and brought to the camps for the same reason (wearing scarves under their chin). And some other women were arrested for wearing longer skirts. Before arresting the ladies, the police officers brutally beat the ladies saying “Don’t you know that it’s forbidden to wear a long skirt or dress or wearing a scarf?” I told my wife that we had to be incredibly careful, for her to try to not wear long outfits

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<sup>256</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211111-Tursunay-Ziyawudun.pdf> (para. 34)

or cover her face too much.’<sup>257</sup> In her statement, Rahima Nuri said she was expelled from Xinjiang University for wearing a hijab.<sup>258</sup>

782. Turdush provided the Tribunal with the following: ‘Insulting Islamic religious beliefs are widely practiced by forcing Uyghurs to eat non halal foods. For example, the Hoten municipal government set up 24 pork direct sales outlets and planned to supply each outlet with 6 tons of pork each day on the 2019 Chinese new year. Uyghur Islamic funeral ceremonies were banned, and bodies were cremated.’ Ayzima, 36, who was recently living in Turkey told the Uyghur research institute that her uncle was killed in the concentration camp and his body was cremated. The following words are exactly what her mother told her over the phone in July 2017: ‘You can’t see your uncle anymore ... we couldn’t see his body even. We had been told his body was cremated. It is happening to many people.’<sup>259</sup>

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<sup>257</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211201-Abdusalam-Muhammad.pdf> (para. 13)

<sup>258</sup> Ibid.

<sup>259</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211220-Rukiye-Turdush.pdf> (p. 15)

## APPENDIX 29

# People Reported Disappeared in Prison

### SUMMARY

783. Significant evidence of people reported as disappeared. Although some produced at a press conference after the first evidence hearing in June 2021, many remain unaccounted for.

### EVIDENCE

784. Omer Bekali: ‘Similarly, young men between the ages of 16 and 40 disappeared frequently. Among them were businessmen, cadres and employees. For example, Tahir was a teacher of 2nd High School and Atawullah was a lawyer. All of us were innocent. The pretexts were that one had an extremist ideology, or wanted to commit terrorism, or had visited one of the countries on the list, or had a passport. There were people between the ages from 16 to 60/70.’<sup>260</sup>

785. Tursunay Ziyawudun: ‘Every night, girls would disappear. One of the girls in our cell was taken away at night and never came back. In the cell across from us, one morning a girl went crazy, she kept pulling her hair and slapping herself, and then someone came and gave her a sedative. She started hitting herself again after a while. They took her away, and they said they took her to the psychiatric hospital.’<sup>261</sup>

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<sup>260</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211108-Omer-Bekali.pdf> (para. 10)

<sup>261</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211111-Tursunay-Ziyawudun.pdf> (para. 17)

786. Gulbahar Jelilova: ‘I witnessed younger ladies screaming, and hitting their heads against the wall, smearing faeces on the wall, and refusing commands. Those ladies were taken away and disappeared. Some of them did not come back.’<sup>262</sup>
787. Mehray Mezensof told how she had lost all contact with her husband: ‘Since September 2020 I have lost all contact with my husband. I haven’t seen him or spoken to him since then. I found out through my contacts in Urumqi that on the 1st of April this year my husband got sentenced to 25 years in prison and basically, they said that my husband was involved in separatist activities when he was in Turkey.’<sup>263</sup>

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<sup>262</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-Gulbahar-Jelilova.pdf> (para. 26)

<sup>263</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211122-Mehray-Mezensof.pdf>

## APPENDIX 30

# People Detained and Disappeared

### SUMMARY

There was plentiful evidence of individuals ‘disappearing’ into the prison system without explanation or any form of due process.

### EVIDENCE

788. THE DISAPPEARED: although allegations of genocide have been made about the PRC Government in respect of the Uyghurs, there is no evidence of *mass* killing of them or any other Turkic group. There is evidence of killings that may be attributed to state officials. The numbers of killings is not necessarily insubstantial—but no *mass* killings. However, there is significant evidence of what, in a fairly modern term, are known as ‘the disappeared’, properly defined as people ‘who have been arrested secretly or abducted and presumably imprisoned or killed’, but in common parlance—with everything except ‘killed’ elided—now thought of as people who have been killed by a government or army, usually for political reasons, and whose bodies have not been found.<sup>264</sup> The original use should not be forgotten.

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<sup>264</sup> An early use of the term was recorded by the *Sunday Times* in 2007: ‘Thousands of citizens were abducted and a sinister new term, desaparecidos (“the disappeared”), entered political discourse’.

See: <https://www.thetimes.co.uk/article/the-ministry-of-special-cases-6p9d3gbq3rf>

Three years later, on 21 December 2010, by its resolution 65/209, the UN General Assembly expressed its deep concern about the increase in enforced or involuntary disappearances in various regions of the world, including arrest, detention and abduction, when these are part of or amount to enforced disappearances, and by the growing number of reports concerning harassment, ill-treatment and intimidation of witnesses of disappearances or relatives of persons who have disappeared. By the same resolution, the Assembly welcomed the adoption of the International Convention for the Protection of All Persons from Enforced Disappearance, and decided to declare 30 August the International Day of the Victims of Enforced Disappearances,

789. Muetter Lliquid, researcher of the UTJD, provided the Tribunal, at the Tribunal's request, at the June hearings, with some statistics from UTJD's database and spoke of some 5,567 who might be termed 'disappeared' in the proper sense of the word. She returned for the September hearings when the cautious use of the term was shown to be justified. Other witnesses had spoken of relations who had 'disappeared'; no doubt, they feared for their lives. Some, however, appeared only a few days after the conclusion of the June hearings at a press conference organised by the PRC Government to show that they were alive and, indeed, *apparently* supporters of President Xi and of the CCP.
790. Patigul Talip told of how many of her relatives have been imprisoned, and their whereabouts are unknown: 'The last time we were able to talk to anyone in our family was in 2015. We have had no news since then. In particular, I have had no contact with my eldest son Salahaddin since 2014. I do not know if they have killed or imprisoned him. Many of my relatives were imprisoned. The reason for all these imprisonments is that they had contacts with us, who were also close to Kerem Abdulwali, my husband's brother who was a target for the authorities. We learnt that Kerem himself had died in prison sometime in 2014 or 2015. He was detained since 1991 and every three years or so he would go to court and the authorities would offer to release him if he stopped talking about Uyghur freedom, which he would always refuse. He had become very weak because of years of deprivation. We were told this by people who used to be his cellmates in prison. In 2014, authorities imprisoned two of my husband's younger brothers, Abdurahman and Ibrahim Abduwali. Abdurahman was sentenced to 15 years in prison, Ibrahim was sentenced to 17 years. Ibrahim's wife was also sentenced to 10 years. The same year, they also imprisoned two of my younger brothers, Satta and Imam Micit. I also know my sister Aigul Abduhilal (born in 1982) and her husband Abduhilal Hassanare were detained. Many more people were put in detention: my cousin's son Memet Nurla; one of my brothers-in-law Mehmud Mulavut; one of my nephews Ali Rozi; and another of my brothers-in-law, Abdulkhelil Husen, who is also my husband's nephew, etc.'<sup>265</sup>

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to be observed beginning in 2011. Of note, the word 'killing' is not mentioned in the Convention, although actions to be taken in respect of deaths of 'disappeared' in custody are.

<sup>265</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211108-Patigul-Talip.pdf> (para. 6)

791. Dolkun Isa told of the imprisonment of members of his family: ‘I did not hear anything from my elder brother himself. He was a mathematics Professor at Aksu Education Institute and I heard he was jailed for 17 years. Also, my younger brother has disappeared and I do not know his whereabouts. I applied for the UN Working Group on Enforced or Involuntary Disappearances to investigate my brother’s case. Two requests have been sent by the UN to communicate with China, but so far, no answer has been received.’<sup>266</sup>
792. Melikzat Habibul moved to Turkey on 6 November with her husband, following which her family held a reunion in Turkey. In May 2017, she received calls from her father asking her to return to China which she did not do.<sup>267</sup>
793. Habibul explained: ‘I did not really believe, then, that they would put all my relatives in jail if I did not come back.’<sup>268</sup> ... 9th June 2017 was the last time that I was able to contact my family. I believe that on the next day, my mother and sister were taken to a concentration camp. I tried to find information about their whereabouts, but no one was able to help me. I do know that something happened: my sister was always very responsive on the phone, she would always answer text messages right away, and she had never failed to answer, especially since we were in business together. My older brother Memet was detained from 30th April 2017. He is 48 years old; he has two children and he used to work in insurance. I know this because my sister was still responding to me at the time, and she told me. He was called to a meeting with police and did not come back. I found out that he was sentenced to three years in prison for going to Turkey. Three years have passed, but he is not free. I got this information in September 2020 from a client of mine, who enquired about my family. That same client who gave me this information also told me that her own sister had been sentenced to twenty years and that she has had to look after her child because no one else can. Also, in September 2018 I was able to communicate with my uncle’s daughter who told me that everyone in my family had been taken to a camp, except for one person, the daughter of my uncle. the daughter of my uncle. I mentioned my sister Bahargul earlier, the

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<sup>266</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211109-Dolkun-Isa.pdf> (para. 32)

<sup>267</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211117-Melikzat-Habibul.pdf> (para. 3)

<sup>268</sup> Ibid.

one I was doing business with. She was born 30th April 1983 and graduated as an accountant. She was taken to the camp with my brother on 10th June 2017. Her husband lost his job after she was detained, and he was sent to a village to work forcibly as construction worker. However, her husband got his original job back after I started to testify for my family on social media. I heard there was a judicial process against her in May 2019, but I had no news following that, until November 2019 when I learnt she had been sentenced to five years in jail. I do not know what the specific reason for her imprisonment is. This information came from one of my clients in China.’

794. Melikzat Habibul continued: ‘My mother, Mariam Tursun, was born on 10th January 1947 in Turpan city. She used to work in a post office. She is now 74 years old. From what I know, on 10th June 2017, she was detained in a re-education camp and released in January 2019. She has had heart problems in the past, but now I have no idea how she is faring, how her health is. My father, Habibul Abdul, was born on 15th January 1941 and he was a policeman in Turpan for thirty years. He was detained in the same period as my mom, also most probably because of the trips to Egypt and Turkey. He was detained sometime in 2017 but also released in January 2019. In April 2020 he was arrested again and sent to a camp. He was supposed to be released in October 2020, but as far as I am aware, he was not released then. My sister Aigul Habibul, a mother of two, was taken to a camp in October 2017, and also released in January 2019. She used to have regular work, she worked as a teacher for 25 years, but right now it is really difficult for the people who have faced detention to be hired anymore so I believe that she is unemployed. My second brother, Alim Habibul (born on 9th April 1975) had been working as a prison guard in Turpan since 1997. He has a wife and two children. He was also taken to a camp in October 2017 and was then sentenced to three years in jail in November 2019, according to my friend from Shanghai. He should have been released in October 2020, but I still have no information on whether he came out or not. I have two other brothers who also did time in jail, but I know nothing about what happened to them, if they were released or if they are alive and well. Another of my sisters, Mihray Habibul (born 3rd June 1976 in Turpan) is 46 years old, and she was working as a policewoman for twenty years until she was detained in a camp in October 2018. In November 2019 she was sentenced to jail without due process. I also obtained some of this information from one of my Han Chinese friends from Shanghai, whom I had asked to call my family to enquire about them. This friend of mine finally travelled to East Turkestan



in May 2020. He had problems for that: he was taken to the police, and they questioned him for two days because he had contacts with Uyghurs, and it was very difficult for him to travel back to Shanghai. If he had resided in Xinjiang, he would probably have had a lot more problems. As I learnt all this, I started becoming active particularly on social media, to share the situation and testify. In April 2020, my brother contacted me through a friend to ask me to send receipts for all the transactions that my sister Bahargul and I made for our business, to help my sister's case. He said he needed it within a week. I sent the receipts through internet to a friend in Urumqi. This friend gave it to the court. I called the court in China to enquire about these receipts and follow-up on my sister's case. But every time I mention my sister's name, they cut the call. I wanted to tell them that I sent the receipt and that they should release her, but it never happened. I do not even know how she is doing if she is healthy and well. From what I know, the court has refused to release her. I have reported all of this to Radio Free Asia. My husband's older brother, Abdurehim Abdukader (born in 1969) was sent to a camp in May 2015 because he sent money to his brother, my husband, in Turkey. In August 2016 he was apparently released, but he was detained again in April 2017.<sup>269</sup>

795. Habbibula Achad fled China in 1995, following which his parents were detained for 15 days in 2000 and other members of his family have been arrested. He explained: 'I learned in late 2016 / early 2017 from a contact in China that two of my family members had been sent to a concentration camp. I have had no contact direct, or indirect, with my family since then. Achad; This intermediary in Urumqi brought me messages about my family. The first, my sister's husband, was "taken to the hospital"—I didn't understand what this meant at the time, but later on I found out that meant "taken to the concentration camp". The second, my nieces' husband "became disabled"—I didn't understand what this meant at the time, but later on I found out that meant he was "given a life sentence". Since I didn't understand what "hospital" and "handicap" meant, I asked the intermediary on a second call and then she told me on that call that they used those terms to avoid censorship and clarified what she meant by them both. On that last phone call she said he shouldn't

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<sup>269</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211117-Melikzat-Habibul.pdf> (para. 4–7)

call anymore and that was the last he heard from her. This was the last contact with China.’<sup>270</sup>

796. Achad gave the following detail: ‘Except for me, all relatives are in China. I have 6 siblings, 2 older brothers, 2 older sisters, 1 younger brother, 1 younger sister. I know nothing as to their status. My families are religious brothers with beard, sisters with hijab. Also, my siblings have a lot of children, all with four. All these are considered significant factors that contribute to getting people into camps or imprisoned. Therefore, I shall testify for my 36 relatives in total.’<sup>271</sup>
797. Omer Rozi said: ‘My brother’s name is Mohammedeli Rozi (62 years old—he was a tailor and, later, a businessman). Everyone in his family has disappeared (total eight people). My sister’s name is Risalet Rozi (54 years old—previously a businesswoman). My sister has disappeared too. My other brother Ehmetjan Rozi has a mental disorder—he also disappeared. My other brother Osmanjan Rozi (previously businessman) has also disappeared. My other brother Yasinjan Rozi had 4 children. He had to hide his twins for two years. After revealing the kids, he had to pay a 50,000 RMB fine. Shortly after this, his entire family disappeared. My brother-in-law Album Kasim is in prison in Sanji for 15 years for receiving money from me. My cousin Abliz Abdullah, who studied in an Islamic Institute, was sentenced to 7 years in prison, and Abliz Adullah’s brother was sentenced to 4 years in prison. My cousin Muhammed Ghopur was sentenced to 15 years in prison for memorizing the Quran. I have heard all this news through a person in Kazakhstan, who I have paid to give me information. This person has a Kazakhstani passport and went to the town where my family lived and asked around and found out this information for me. I also learned from this person that my family home had been demolished and made into a park. The address of my house, the address of the demolished house is, Tohsi county, Tohsi Bazaar, House Nr.30 on the People’s street.’<sup>272</sup>

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<sup>270</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211115-Habibulla-Achad.pdf> (para. 9)

<sup>271</sup> Ibid (para. 11).

<sup>272</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211111-Omer-Rozi.pdf> (para. 16)

798. Rushan Abbas left China in 1989, and her family have subsequently been targeted. She explained: 'I am testifying for my sister, Dr. Gulshan Abbas, a retired medical doctor who disappeared on September 10, 2018, and for the entire family of my husband, Mr. Abdulkhikim Idris. He is serving as the General Inspector of the World Uyghur Congress and has also been diligently advocating for Uyghur human rights for decades. He studied at Al-Azhar University in Egypt, and co-founded the World Uyghur Youth Congress as well as helping to found the World Uyghur Congress ... My father-in-law and mother-in-law, Abdulkarim Zikrulla Idris and Habibehan Idris, are 69 and 71, and they are a farmer and a housewife, respectively. My three younger sisters-in-law, Turannisahan Idris (aged 47), Buayshehan Idris (aged 42) and Buhedichehan Idris (aged 32) are all housewives raising kids at home. Their so-called "excessive religious activities" by the CCP were wearing a headscarf and regularly praying at home. Their three husbands are also law-abiding ordinary people living ordinary lives, and were also taken to the camps. My brother-in-law Abdurehim Idris (aged 44 yrs.) was sentenced to 21 years in jail for fasting during Ramadan and for obeying the traditional dietary restrictions of Islam. His wife Amina is also missing. The last time my husband spoke to his family was on April 25th, 2017. When my husband called his mother that day, she told him not to call them anymore. My husband knew there were Chinese people living inside his parents' house at that time and that is the last communication he ever had with his entire family. When he tried to call again after several weeks, the house phone and their mobile phones were all disconnected.'

799. She continued: 'He and I have not been able to find out the whereabouts of my in-laws, or any of the family, since then. We have no idea where my husband's 14 nieces and nephews are today. They range in age between 5 to 22 years old. The thought of children separated from their parents is heart breaking for us. A total of 24 people are missing from my husband's family ... On September 5th, 2018, I took part in a panel at the Hudson Institute in Washington D.C. where I spoke about the conditions of the camps, and the atrocities Uyghur people are facing, while also outlining the fate of my in-laws. Six days later, my sister, Dr. Gulshan Abbas, born on June 12, 1962, and my aunt Mayinur Abliz, born in 1955, disappeared. I learned that my aunt, a housewife in Artush, about 1,400 kms away from Urumqi, had disappeared exactly the same day as my sister after speaking with relatives in the region.'<sup>273</sup>

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<sup>273</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211116-Rushan-Abbas.pdf> (para. 5-9)

800. In 2013, Elimā moved to Sweden. Her cousin Mayila Yakufu was arrested for making a cash transfer to her mother in Australia.
801. She explained: ‘On March 2nd, 2018, however, my cousin Mayila Yakufu was arrested, without explanation, and brought to a concentration camp in Yining City—one of China’s so-called “vocational training centers.” She was detained for nearly ten months and released on December 24, 2018. She was hospitalized once she was released from the concentration camp. My relative also confirmed that Mayila got liver damage in the camp and her liver condition was diagnosed in Bingtuan Sishi Hospital. She did not receive surgery. She has not fully recovered. She lost lots of weight. Yet, on the morning of April 9, 2019, she was taken by the local Public Security Bureau to another detention facility, the Yining City Detention Center; this time she was told she was being detained for “financing terrorist activities” in 2013 for the transfer she sent to her mother. Police interrogated Mayila, and she was taken into custody without regard to due process. She was not provided an arrest warrant; the police did not provide evidence that she had committed any recognizable criminal offense; she was not given access to legal counsel. None of my relatives were allowed to visit her either. She was released after seventeen months in the camp, on 4 September 2020. We were thrilled to hear that she had returned home. But then she was arrested again the next day. Again, we had no explanation for her arrest. On 12 December 2020 she was sentenced for 6 years and 6 months. No court, no lawyer, no documentation of the verdict.’<sup>274</sup>
802. Witness UT-ANY-008 was a correspondent for a radio station. He told of how members of his family had been detained: ‘In August 2014, my elder and youngest brothers were charged with leaking state secrets and were subsequently detained. Before this, they shared with me the verdict imposed upon my third brother. On December 2015, after 18 months of detention, the two were released as a result of the US government’s intervention in the case. However, they were arrested and detained again in October 2017, just after my report exposing the No. 4 Camp located in Ghulja County. After their arrest, their wives and two children, my sister and her husband, and even my 78-year-old mother were all taken to the training camps. According to my mother, one week before her arrest and detention, all my other relatives

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<sup>274</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211116-Nyrola-Elima.pdf>

were already detained because of my report. Recently, I received information about my mother’s case—she was imposed with an eight-year jail term and has begun serving her term. I am currently trying to confirm this information by calling officials in the region.’<sup>275</sup>

803. Mehmud Tevekkül told of how, in February 2009, he returned to his home to find his brother Achmed had been detained.<sup>276</sup> He and his youngest brother Ablet were also detained: ‘in the police station because they wanted to know where my brother was. They took my youngest brother Abletas as well because they wanted to find our other brother Achmed. They tortured Ablet, and he couldn’t take it, so he made a false confession that he saw my other brother with me last week. When my brother said that, I told him to tell the truth. Then they started beating me and torturing me telling me to shut up. They tied me to a Tiger Chair and tortured me for two hours.’<sup>277</sup>

804. Nursiman Abdureshid told of how her family were missing: ‘My family members have been forcibly disappeared and unlawfully imprisoned. I have lost contact with my family in Kashgar, China, since 18th of June 2017. On 22nd of June 2017, I learned from my aunt’s husband via a short telephone call that my father and my younger brother were taken by officials to study. My aunt’s husband asked me not to call them again. My aunt’s husband knew because my aunt visited my mum. My mother called my aunt, and my aunt visited my mother to check on her after my brother and my father arrested. In 2018, via my WeChat contact, I learned that there is no one in my home anymore. This contact is in China. They said that my mother was also arrested, but I am not sure when she was arrested. On 15th of June 2020, after too many attempts by me to obtain information, the Chinese embassy in Ankara, Turkey informed me that my parents and my brother are in prison. According to the embassy, my father Abdureshid Tohti was sentenced to 16 years and 11 months for the so-called crime of disturbing the social order and preparing to commit terrorist activities. My mother Tajigul Kadir was sentenced to 13 years for the so-called crime of preparing to commit terrorist activities. My younger brother Muhammadali was sentenced to 15 years and

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<sup>275</sup> See paragraph 366 above regarding anonymity of this witness.

<sup>276</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211119-Mehmud-Tevekkul.pdf> (para. 9)

<sup>277</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211119-Mehmud-Tevekkul.pdf>

11 months in prison for the so-called crime of preparing to commit terrorist activities. When I was on the phone to the embassy, I kept asking them if there was any proof of their accusations. I kept asking them if my family did anything or if they think they might have some kind of intention. The embassy said according to the paper we received from the Xinjiang government it is written that they might have had the intention to commit the crime.<sup>278</sup>

805. Abdureshid explained: ‘That means there is no crime, and my family didn’t do anything. Because the Chinese government think they might have had the intention that’s why they arrested them. The Chinese government assign people as high or low risk based on whether they have family abroad, a passport etc. Because I live in Turkey, I think the government put them in a high-risk group. That is why they were arrested and why they think they might commit a terrorist act. I have the record of the phone conversation, if needed I would like to share with the Uyghur Tribunal. In the recording they discussed all the information on the time and reasons for my families’ detention. The charge on my phone at that time was not very good so I only have a very short recording of the whole phone call. The Chinese embassy refused to give any evidence or court paper about their accusation against my family members and did not tell me in which prison they are detained in right now. Via my WeChat contact I got an information paper that informed me that my father was taken to prison on 1st of February 2019. I am suspicious that my father was unlawfully detained for nearly two years in a concentration camp and transferred to prison with wrong accusations. The same process was maybe used in my mother and brother’s case. The Chinese embassy said my family members were arrested in 2017 and taken to the court and sent to the prison. They said they followed the process according to their law. But they don’t know I have a paper that clearly states my father was sent to the prison in 2019. So that’s why I am suspicious.’<sup>279</sup>

806. Abdureshid provided a transcript of the phone recorded conversation with the Chinese Embassy in Turkey.<sup>280</sup>

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<sup>278</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211117-Nursiman-Abdureshid.pdf> (para. 16–22)

<sup>279</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211117-Nursiman-Abdureshid.pdf>

<sup>280</sup> Ibid (p. 7).

807. Khalmat Roza moved to Japan in April 2015 and in July 2018 lost contact with some of his family: ‘I had a younger brother who got cancer and we intended to bring him to Japan for treatment, but we could not obtain passport for him. Later, we managed to obtain a passport for him with additional efforts, but his passport was seized by the authorities when he travelled to Cho’chak from Aksu to visit my mother. I was planning to bring him to Japan that time. We lost communication in August 2018. My last contact with my brother was in July 2018 and he mentioned to me that he would have left 3–4 months’ time.’<sup>281</sup>
808. In 2020, Roza had a call with his older brother and a younger sister when he was told of the death of his younger brother. He was subsequently able to speak to his mother, younger sister and two older brothers.
809. On 10 May 2020, he had a video call with his brother when it became apparent that there were security agents present with his brother, which was followed by a further call on 7 June.<sup>282</sup> A transcript of the first conversation was submitted to the Tribunal.
810. The UTJD report presented by Muetter Iliquid included two tables of internees annexed at (pp. 60–63 of the report). Of the 2,476 in the first table, 21.8% are female and 78.1% are male; they represent a range of professional backgrounds.<sup>283</sup>
811. Further material is to be found in the expert evidence of Biao,<sup>284</sup> Aksu/Qarakash papers and the HRW and Amnesty International Reports referred to above.

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<sup>281</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211123-Helmet-Rozahun.pdf> (para. 1)

<sup>282</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211123-Helmet-Rozahun.pdf>

<sup>283</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/07/UT-210912-Muetter-Iliquid.pdf> (p. 60–63)

<sup>284</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/07/UT-210910-Teng-Biao.pdf>

## APPENDIX 31

# Population Control, Family Planning, Birth Rates, Forced Abortions and Forced Sterilisation

### SUMMARY

812. Extensive evidence of practices throughout Xinjiang of measures to control and reduce births by forced abortions and enforced ‘permanent’ control through irremovable IUDs.

### EVIDENCE

#### 813. EXPERT WITNESSES

814. Zenz presented his paper, “‘End the Dominance of the Uyghur Ethnic Group’: An Analysis of Beijing’s Population Optimization Strategy in Southern Xinjiang’ dated June 2021.<sup>285</sup> He argued that the PRC Government is engaged in a draconian policy ‘of optimising the (ethnic) population structure’. A number of academic and administrative papers together with statements have reflected this policy and anchored it to central government directives.

815. The Zenz paper (p. 4) details an otherwise unremarkable PRC Government report about an August 2017 health and family planning work promotion

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<sup>285</sup> [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3862512](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3862512) (unless otherwise specified, all page number citations to paragraph 838 refer to this source).



meeting held by Kizilsu's Health and Family Planning Commission references an unpublished family planning document (Kizilsu Prefecture Government, 2018; Wuqia County Government, 2018). Issued in 2017 by Xinjiang's New Population Planning Office (zizhiqu xin tongchou renkouban), its title is: 'Minutes of the Work Meeting on Earnestly and Thoroughly Implementing the Spirit of General Secretary Xi Jinping's Important Instructions [on] Researching and Advancing the Optimization of the Ethnic Population Structure in Southern Xinjiang'.

816. As detailed in the Zenz report, the sentiment behind these instructions was bluntly expressed by Liao Zhaoyu, Dean of the Institute of Frontier History and Geography at Tarim University, at a 2015 academic event. When discussing 'methods to solve Xinjiang's problems', Liao said that in southern Xinjiang, the state must 'change the population structure and layout, [and] end the dominance of the Uyghur ethnic group'. In a 2016 academic publication, Liao argued that the 'underlying reason' for Xinjiang's unrest and terrorism is the high concentration of Uyghur populations in southern Xinjiang. Due to a recent exodus of Han, 'the imbalance of the ethnic minority and Han population composition in southern Xinjiang has reached an unbelievably serious degree'.<sup>286</sup>
817. At a 2017 academic event, Liao noted that southern Xinjiang's 'current population structure and distribution is not conducive to Xinjiang's stability' (ibid, p. 5).
818. Liao's sentiments are echoed by Xu Jianying, a senior research fellow at the Chinese Academy of Social Sciences and high-profile Xinjiang academic whose work and opinions have featured prominently in state media articles, such as *China Daily* (ibid, p. 5). In 2014, Xu argued in an interview with the *Global Times* that to counter the 'East Turkistan' terror threat, the state must 'change southern Xinjiang's population structure' (ibid, p. 5).
819. In 2014, Xu Zhongcheng, Vice Dean of Shandong Police College and Fan Wangdon of the same: 'From the standpoint of long-term counter-terrorism strategy, one must adopt intervening measures to effectively adjust the population in a specific area. For example, in areas where ethnic [minorities] reside ...

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<sup>286</sup> Ibid (p. 5).

improve the quality of ethnic minority populations. Intensify the recruitment of talents, adopt preferential policies to retain the Han population and talented Han, and increase the proportion of the Han population' (ibid, p. 5).

820. Xinjiang's most high-profile and authoritative voice on this sensitive subject is probably Liu Yilei, deputy secretary-general of the party committee of XPCC, and dean of Xinjiang University's Western China Economic Development and Reform Research Institute. At a July 2020 symposium with 300 experts and scholars from all over China, Liu noted that despite all progress, 'the root of Xinjiang's social stability problems has not been resolved'. To quote: 'The problem in southern Xinjiang is mainly the imbalanced population structure. Population proportion and population security are important foundations for long term stability. The proportion of the Han population in southern Xinjiang is too low, less than 15%. The problem of demographic imbalance is southern Xinjiang's central issue' (ibid, p. 6).
821. In a 2017 research paper, Li Xiaoxia, director of the Institute of Sociology at the Xinjiang Academy of Social Sciences observed: 'the population gap between ethnic minorities and the Han continues to widen, which has made the concentration of a single ethnic group in certain regions more obvious. The lack of communication between different ethnic groups and cultures has caused the three factors of ethnicity, religion and land area to overlap, strengthening the viewpoint that one ethnic group owns a [particular] land area, [thereby] weakening national identity and identification with the Chinese Nation-Race, [adversely] impacting long-term rule and stability. Consequently, controlling the growth rate of the ethnic minority population and adjusting the regional ethnic population structure are considered to be important ways to achieve long-term stability in Xinjiang' (ibid, p. 7). Regarding southern Xinjiang's 'population problem', Li further states that: '[T]here is a huge difference in the number of Uyghur and Han populations, which can create even greater political risks. Mainly as a result of the rapid growth and large number of the Uyghur population, the singular character of southern Xinjiang's ethnic and religious [structure] became more pronounced. The overlap of ... land area, ethnicity, religion, and even poverty will strengthen ethnic self-identification and regional identification, diluting identification with the country and the central government' (ibid, p. 7).
822. Zenz condenses the related concerns, as perceived by the state, to four themes as follows:

- 1) Excessive ethnic minority population growth creates a growing rural surplus workforce that suffers from poverty and underemployment. This creates significant risks to social stability. The ‘severely excessive’ number of Uyghur surplus labourers constitutes a ‘latent threat to the current regime’ (ibid, p. 9).
- 2) High ethnic minority population density combined with low mobility reduces opportunities for ethnic interaction and breeds a ‘hardened’ society with a ‘dense religious atmosphere’, creating a breeding ground for religious extremism and terrorism (ibid, p. 9).
- 3) High ethnic minority population concentrations create a dangerous sense of identification with their homeland, weakening identification with the Chinese nation–race and the central government (ibid, p. 9).
- 4) Generally, high ethnic minority population ratios and resulting low Han population shares are a national security risk for sensitive border regions (which includes southern Xinjiang) (ibid, p. 9).

823. Zenz explained how, in May 2014, at the 2nd Xinjiang Work Meeting, Xi Jinping demanded that Xinjiang must ‘strengthen ethnic interaction, exchanges and blending, promote the establishment of a social structure and environment in which all ethnic groups (are) mutually embedded’. The Central Government Ethnic Work Conference elevated Xi’s call for ‘ethnic embedding’ to a ‘national strategy’ (ibid, pp. 9–10).

824. A 2017 research paper by Gao Cueing and Li Ming of the Xinjiang Police Academy: ‘In order to completely eradicate terrorist crimes in Xinjiang it is necessary to completely eradicate the soil, the growth conditions and the environment in which terrorist mobs produce crimes. [To do so] ..., it is necessary to make the population structure more rational, optimize the quality of the population, accelerate economic development, integrate ethnic, cultures, and strengthen the legal foundation, etc’ (ibid, p. 10).

825. Zenz cited a number of public policy statements and research papers which articulated the desirability of establishing ‘embedded’ communities by the careful balancing of ‘desirable’ and ‘less desirable’ population segments through a dilution of the former and the insertion of the latter.

826. ‘Therefore, optimising the proportions of the population and improving the quality of the population—which is to solve the human problem—is the foundation of solving Xinjiang’s counterterrorism (and other) problems.

Embedding the population is one of the simplest and most direct ways to solve the human problem' (ibid, p. 11).

827. 'The Uyghur population is concentrated, with strong traditional cultural characteristics and weak modern cultural influence. The population has low [levels of] education [and of] Chinese language, has difficulties to obtain high level employment, [suffers from] low-income levels, resulting in low social status, insufficient social development, and many social problems' (ibid, p. 11).
828. To turn this policy into practice, Zenz broadly explains the government's intent as follows; to optimise southern Xinjiang's population structure by increasing the ratio of the Han population in relation to the ethnic minority populations, through in-migration of Han, out-transfers of ethnic minorities, and reducing ethnic minority birth rates, to boost interethnic embedding, while simultaneously ensuring that the resulting total population does not drastically exceed the overall combined economic and ecological carrying capacity. Much of the focus of these policies has centred on Southern Xinjiang where there is a majority Uyghur population.
829. There has been significant debate among academics and officials in regard to the 'carrying capacity' of Xinjiang. In June 2016, a Hotan government report noted that 85 per cent of the region's population lived from agriculture, placing considerable pressure on the arable land. The report stated that per capita, the available ecological resources were severely limited and that 'the contradiction between population, economy and ecological carrying capacity is very prominent' (p. 14).
830. A 2016 study of Hotan's carrying capacity was funded by a national research project on establishing an 'Early Warning System for Population Security in Typical Minority Areas in Southern Xinjiang under an Adjusted Fertility Policy'. Compiled by Ma Xiaoyu and two other academics at Xinjiang University, the study found that Hotan entered a state of 'red alert' in 2008, when the population exceeded 1.9 million and, hence, surpassed the region's resource-based carrying capacity (ibid, p. 14). By 2014, Hotan's population had increased to 2.26 million, while its combined carrying capacity—calculated based on arable land, water resources and economic resources—had decreased to 1.59 million. The authors estimated Hotan's 'overpopulation' in 2014 at 668,812 persons and recommended stringent birth control measures to keep the population within the limits of the carrying capacity (ibid, p. 14).

831. So far, Xinjiang has primarily relied on the XPCC to promote Han immigration into Xinjiang and to increase southern Xinjiang's Han population share. In 2017, the central government mandated the XPCC to increase its settler population in southern Xinjiang by 300,000 by 2022, a strategy that largely relies on attracting Han from other parts of China through promises of free land, housing, education and government jobs (ibid, p. 13). Attracting Han to become long-term residents in southern Xinjiang has long been a daunting challenge. Between 2000 and 2015, the region's Han population (including the XPCC) increased by a mere 123,900, compared to a 2.5 million increase of the ethnic minority population (ibid, pp. 13–14). Between 2016 and 2018, only 16,900 of the 340,000 increase of the entire XPCC population (not just in southern Xinjiang) stemmed from natural population growth, with the other 95 per cent coming from in-migration from other provinces (ibid, p. 14). Recent data indicates that the new policy is having an impact. Between 2018 and 2019, the XPCC's population in southern Xinjiang had increased by 69,900 persons (ibid, p. 14).
832. The rate of natural ethnic population out-migration combined with state-induced labour and other population transfers is more complex to estimate. Between 2017 and 2019, an estimated 79,000 Uyghurs and others were transferred from Xinjiang to other parts of China, most of them from southern Xinjiang (ibid, p. 19). It is unclear whether these transfers imply a permanent relocation, and it is unlikely that the state would permanently relocate substantial numbers of Uyghurs through this mechanism.
833. Between 2015 and 2018, combined natural population growth rates in the four prefectures of southern Xinjiang (Hotan, Kashgar, Aksu, Kizilsu) declined by 73.5 per cent. In 2019, rates continued to decline.<sup>287</sup> In several counties, they fell to just above or below zero.
834. The 2020 Xinjiang Statistical Yearbook, which published data for 2019, ceased to publish all breakdowns of total populations and population growth by region or ethnicity (ibid, p. 3). Similarly, Hotan and Kashgar published neither birth nor natural population growth rates for 2019, breaking with a decade-long practice. However, data from their counties indicate further declines. In Kashgar, Bachu County's 2019 birth rate stood at 4.15 *per mille*;

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<sup>287</sup> Ibid (pp. 2–3; table on p. 3).

given an expected death rate of between 5 and 7 *per mille*; its 2019 growth would likely have ranged between  $-1.00$  and  $-2.50$  *per mille*. For 2021, Aksu's Xinhe County planned for a birth rate of 6 *per mille* or less, which, at the county's current death rate of 6.62, would result in negative population growth, possibly between  $-0.50$  and  $-1.00$  *per mille*.

835. Han immigration into Xinjiang and Uyghur transfer out have a materially lesser impact on the respective proportions of Han and Uyghur populations, and the policy objectives promulgated or considered would fail to be achieved if only these two levers were available. Far more significant is population control and limiting of the Uyghur minority group.
836. In his paper, Zenz set out a comparator of the likely trajectory of the 'natural' Uyghur population growth rate absent government intervention and that as a result of interference. He considered a number of studies including a peer-reviewed paper by the Chinese Academy of Social Sciences and a postgraduate project supervised by Xinjiang's University's Ma Xiaoyu. After making adjustments to ensure a conservative analysis, the two papers concluded population growth in Southern Xinjiang of between 32.1 and 38.8% by 2040, assuming no government interference. Zenz allowed for a 'conservative' estimate of 45,000 annual Han immigrants into Southern Xinjiang, an estimate of Han natural population growth of 1.5 *per mille* and 50,000 labour transfers, out of which 35,000 to other parts of Xinjiang and 15,000 to the rest of China.
837. Zenz then considered the impact of a range of birth suppression policies, assuming a death rate of 6.37 *per mille*, based on the outturn for 2018 (*ibid*, p. 20, footnote 43). He estimated that predicated on a range of  $-5.0$  to  $+5.0$  *per mille* ethnic minority natural growth rates, this would result in a reduction of the relevant population of between 2.66 million and 4.56 million by 2040.
838. Zenz concluded: 'In the author's opinion, a natural population growth rate between  $-2.5$  and  $+2.5$  *per mille* represents the most likely range, enabling concealment from international scrutiny, and a functional education system and society while achieving the desired Han population share within a generation and limiting the total population within reasonable limits. This means that the resulting ethnic minority population loss would range between 3.1 and 4.1 million of 13.14 million (24–31 per cent). Within the  $-2.5$  to  $+2.5$  *per mille* range, the 2018 graduate research at Xinjiang University that used

total fertility rates from the 2010 census without accounting for subsequent population changes or unreported births arrives at lower but still substantial ethnic minority population loss figures of 1.6 to 2.5 million out of a total of projected ethnic minority population of 11.6 million (14–22 per cent).<sup>288</sup>

839. A paper authored by Ruser and Leibold (ASPI) in 2021 stated the following:

840. ‘The crackdown has led to an unprecedented and precipitous drop in official birth-rates in Xinjiang since 2017. The birth-rate across the region fell by nearly half (48.74 percent) in the two years between 2017 and 2019. In those counties that are over 90 percent indigenous, the birth-rate fell at an even greater rate, showing a 66.3 percent decrease in 2019–2020. For example, 99 percent of the population in Hotan County in southern Xinjiang is Uyghur. Hotan experienced a drop in birth-rate from 25.41 per thousand people in 2012 to 7.41 per thousand in 2018, or a decrease of 70.8 percent.’

841. In 1979, Deng Xiaoping launched the ‘one child policy’. Minority populations including the Uyghurs were, however, permitted to have two children in urban areas and even three in the countryside resulting, from 1990 in a higher birth rate than in the rest of China until more recent policy changes. In 2016, the general policy changed to allow two children and, more recently, in 2021, that has been further amended to allow and indeed encourage families to have three children. However, this policy encouragement has not been extended to Uyghurs and other minorities—indeed, quite the opposite.

842. ‘Despite the relatively stable birth-rate ratio between Xinjiang and the rest of China, policymakers in Beijing and Urumqi saw high birth-rates in southern Xinjiang as an increasingly urgent problem and source of perceived instability, literally a breeding ground for the “three evil forces” of extremism, terrorism, and splittism. Take, for example, Xu Jianying, a professor at the Chinese Social Science Academy in Beijing, who called for “long term strategic thinking” in 2014 in order to “alter the population structure of southern Xinjiang” and confront the scourge of religious extremism. The policy of restricting birth in the Uyghur community had become government policy emerging over a period of time but had been hampered by a lack

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<sup>288</sup> <https://uyghurtribunal.com/wp-content/uploads/2021/11/The-Xinjiang-Papers-An-Introduction-1.pdf>

<https://uyghurtribunal.com/wp-content/uploads/2022/07/UT-210913-Adrian-Zenz.pdf>

of direction, people and resource. That changed with the arrival of the new Party-secretary, Chen Quanguo, in October 2016. As a part of his “clenched fist” approach to eliminating all sources of instability in the region, Chen initiated a “strike-hard campaign” against “illegal births”.’

843. A forcible and coercive set of policies were implemented including fines, harassment and detention in ‘re-education facilities’. Violations of family-planning regulations and the failure to pay related fines is the most frequently cited reason for the detention of people in re-education facilities, according to a leaked government document from Karakash County (98 per cent indigenous Uyghurs). One implementation document from Cherchen County (73 per cent indigenous) explicitly instructs local officials to dispatch women who have given birth to more than two children to re-education camps: ‘In addition to collecting the social compensation fee, send them off to undergo vocational and technical training’. In addition, penalties including dismissal and imprisonment sanctions have been introduced for officials tasked with implementing these policies should they fall short of expectations.
844. The crude birth rate statistics show significant demographic shifts across Xinjiang. There are now hundreds of thousands fewer births in parts of Xinjiang compared with what would have been expected prior to the crackdown, but the missing children are disproportionately in indigenous-majority areas. Based on complete data from 2018, Han-majority counties had, on average, a very slight increase in the birth rate compared to pre-crackdown levels: around 1,000 more children were born in 2018 than would have been if the birth rate had stayed static at the pre-2017 baseline. This shows that in Han-majority counties, the birth-rate has remained essentially stable. In comparison, almost all indigenous-majority counties had decreases in the number of children born, totalling 162,700 fewer children in 2018 than would have been expected before the crackdown. In 2019, at least 186,400 fewer children were born in Xinjiang compared to what would have been expected if birth rates had remained static at the pre-2017 baseline. Although complete county-level data for 2019 has not been released, based on the information that has been published, roughly 95 per cent of Xinjiang’s missing births in 2019 appear to be in indigenous-majority counties.<sup>289</sup>

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<sup>289</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211214-Nathan-Ruser.pdf> (pp. 4–19)



845. UTJD drew attention to the differential treatment of Uyghurs who risk internment if caught for having too many children. Extracted from a report by Zenz (2020), they said that in Qaraqash County, 149 of 484 internments were for this reason, whereas Han women would suffer a fine at worst:<sup>290</sup> ‘In 2014, the number of women who had undergone IUD insertion in East Turkistan was over 200,000; however, this number spiked to 330,000 (i.e. around 65 percent increase) in 2018, in sheer contrast to elsewhere in China as more and more women started removing the IUDs’. By 2019, more than 80% of women of childbearing age in four minority prefectures in southern East Turkistan were to be subjected to involuntary long-acting contraception.<sup>291</sup> In their 2021 report, UTJD quoted Hasiyet Abdulla, who worked as an obstetrician in multiple hospitals in East Turkistan over a 15-year span. She said that between births there must be a waiting period of at least three years, meaning that Uyghur women must wait at least three years to have another baby after giving birth to their first child. The strict enforcement of this birth control policy has led to many abortions, including late-term abortions and, in some cases, infanticides—the killings of full-term newborns—where those in the maternity wards were simply following orders. ‘They wouldn’t give the baby to the parents—they kill the babies when they’re born’, Abdulla said.<sup>292</sup>

846. Byler adds to the accounts of the controlling and pervasive nature of the ‘targeted negative eugenics’ aimed at Uyghur and other minority women. In a 12 April 2019 notice, a municipal-level government committee in Aksu City in Southern Xinjiang made the following announcement: ‘The People’s government has decided to implement a real-name system of rewards for reporting illegal childbirth behaviours, violations of laws and regulations in family planning work, while at the same time urging those who violated laws and regulations to take the initiative to self-report and strive to be dealt with lightly.’<sup>293</sup> The announcement then announces to citizens throughout the municipality of roughly 700,000 people that, ‘If the following behaviours are reported, and the relevant departments have not yet discovered and dealt with them, after verification, the citizen who reports their neighbours

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<sup>290</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/07/UT-210912-Muetter-Iliqud.pdf> (p. 50)

<sup>291</sup> Ibid (p. 51).

<sup>292</sup> Ibid (p. 52).

<sup>293</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211214-Darren-Byler.pdf> (p. 22)

will be given a onetime reward of 5,000 yuan [CNY 5,000]’ (GBP 550).<sup>294</sup> Included in the listing of rewarded information are ‘violations of having more children than permitted’, violations concerning falsifying documents to receive ‘special permission’ to have more children, ‘adopting children in violation of regulations’ and ‘illegal procedures undertaken to give birth to children again’. Although not specified, the mention of illegal procedures likely refers to the removal of IUDs (or rings) that are mentioned in other reports as subjected to ‘regular inspection’.<sup>295</sup>

847. In addition, Byler describes surprise visits for gynaecological inspections for the purposes of monitoring unwanted (by the state) pregnancies and, in addition, unregistered children. To ‘close the net’, Byler says, it became illegal to adopt children for those families who had met their quota of children. The result of these policies, he suggests, is that the state’s objective of ‘zero illegal births’ had resulted in a dramatic decrease in Uyghur births in Uyghur majority areas (over what time scale unspecified).<sup>296</sup>
848. Thum located five subregional administrative centres with predominantly minority populations. Where the state did provide 2019 data, it showed very steep declines in natural population increases approaching zero, in contrast to a Han county, which saw an increase, albeit modest. Thum reports that no data were available for 2020 and cited the Qaraqash list, where the largest segment given for imprisonment was for giving birth to too many children.<sup>297</sup>
849. Thum concluded that a crash in birth rates in the region had occurred, particularly in the Southern prefectures, falling from a range of 9 to 16 *per mille* to 0 to 0.4% by 2019. Hotan prefecture, which is 98% minority, was experiencing a natural increase of below zero. He referred to an article by Li Wei-chao and Wang Li-Juan entitled ‘Research on Giving Full Play to the Bingtuan’s Special Role in Optimizing Population Resources’. Its opening paragraph cites Xi Jinping and describes this aspect of policy—Han-ethnic composition—as mainly referring to the proportion, regional distribution and residential concentration of the population of different ethnic groups.

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<sup>294</sup> Ibid (p. 4).

<sup>295</sup> Ibid.

<sup>296</sup> Ibid (p. 6).

<sup>297</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/08/State-Violence-in-Xinjiang-A-Comprehensive-Assessment.pdf> (p. 33)

Affected by factors such as ethnic habits, religious beliefs and family planning policies, the birth rate of minority populations is far higher than that of the Han ethnic group, resulting in a continuous decline in the proportion of the Han ethnicity in the total population. At the same time, the article explains, ethnic minorities are characterised by a high degree of concentrated residence. Highly concentrated areas of ethnic minorities are likely to become targets of extremist ideological infiltration and erosion, and ‘we must attach great importance to them’.<sup>298</sup>

850. Thum stated that the work undertaken by him corroborated the work by Zenz.

851. Anderson and the Human Rights Project made a detailed analysis of the Qaraqash papers and observed (in common with other researchers) how family-planning policy violations are the single most common reason for internment in the Qaraqash Document. The document lists the number of excess births each individual is responsible for, also making note when a single birth resulted in more than one child. Uyghurs in the document are sent away for one or more extra births; in one case, simply disobeying the birth spacing policy, requiring three years between births, is listed as a reason. Another, lists obtaining a ‘false abortion certificate’ as a reason in addition to extra births. Some individuals are described as ‘maliciously’ violating birth policies (恶意超生) if they have a large number of children. However, it is not clear that the consequences for one extra birth are any lighter than the consequences for more than one extra birth.<sup>299</sup>

852. She explained how men constituted the majority of those who were interned for violating birth policies. In most of these cases, the description in the ‘three circles’ section seems to suggest that the men’s wives were not interned for the same reason. She comments that for family-planning policy violations to constitute the primary reason for internment in the Qaraqash Document is intriguing. It might simply be the case that officials looking to meet internment quotas were searching for any legal or other violation among the Uyghur population in Qaraqash, where anecdotal evidence suggests that Uyghur birth rates have long been high. However, it is also possible that these internments are consistent with state anxieties about the demographic make-up of the

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<sup>298</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211220-Rian-Thum.pdf>

<sup>299</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211216-Elise-Anderson.pdf>  
(p. 10)

Uyghur region. The internment campaign has been preventing the formation of new Uyghur families through physical separation of married couples and removal of people of child-bearing age into camps since 2017. The Qaraqash Document demonstrates for the first time that the campaign is also punishing those with large families.<sup>300</sup>

853. Mehmet Tevekkül described the difficulties and dangers of having ‘illegal’ children: ‘I have four children they are illegal, but we managed to bring them up by hiding them from the authorities. If we went to the market or city, we would cover them under stuff or we would take a donkey cart and sit them in the middle. The punishment for illegal birth is 300,000 to 500,000 Yuan [CNY 300,000–500,000]. Somehow the local authorities found out in 2003 so I sent them to my parents in law to hide. They forced my wife to have an IUD. They did that for six years. My wife was sick for six years because she had a reaction to the IUD, she couldn’t cope with any daily work. So, in around August 2008 I realised I had to save my wife, the mother of my children. So, we ran away. I took my whole family, my kids and wife, and we just ran without a plan. We went to Aksu, Turpan and Urumqi. If we hadn’t run away, I am sure my wife would have died. Because we ran away the authorities came to my parent’s house and told them to find me. The pressure was too high, my father was crying, so I had no choice but to come home. I came back on around the 15th October 2008. While we were running away my wife got pregnant, by the time we came back my wife was four months pregnant. It was illegal, so to save the baby we decided to get divorced. She gave birth in October. We divorced to save the baby. The first-born, the second-born and the third-born stayed with me. And my wife had the fourth child at her parent’s house.’<sup>301</sup>

854. Mehmet Tevekkül stated: ‘In our county, there is one birth control office in every village. Every woman has to be checked every three months to see if they have a coil. By that time government policy allowed peasants to have two kids. State officers and servants were only allowed one. Despite this they were still forcibly sterilising and aborting many women. Some eight-month-old babies they would just kill straight away. There was one female from our neighbourhood who was pregnant, and she tried to avoid the check-up.

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<sup>300</sup> Ibid.

<sup>301</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211119-Mehmut-Tevekkul.pdf> (para. 7)

She was discovered after 9 months. The authorities said either you pay a 50,000 Yuan [CNY 50,000] penalty or you agree to an abortion. Since they were quite poor, they had no choice, and the abortion was done. That mother couldn't cope with this and died soon after.'<sup>302</sup>

855. Nursiman Abdureshid described the treatment of her mother and others in her village: 'My mother is the victim of China's birth control policy. From time to time, the village officials ask all the women to participate in pregnancy checks and determine if the women have IUDs or not. Normally in our village in Kashgar we barely saw the Chinese at that time, all the villagers were Uyghur. As far as I know the same policy was launched in all cities in China. But in our village, it is mainly Uyghur, so it is mainly targeted against Uyghur women. I remember the nurse who worked in our village, she distributed some medicine to the younger women. She gave this medicine to my cousin's wife.'<sup>303</sup> 'My sister-in-law she has two children, and she can't have any more according to the government. She was pregnant with twins. Then they had to decide whether they save the twins or go to the hospital to abort them. She went to the hospital, by herself, and had an abortion because she was scared of the punishment. She was so sad.'<sup>304</sup>

856. Rahima Nuri worked in a hospital in Hotan between mid-1999 and the end of 2000: 'About 100 women came to the hospital for abortions every day. Some of these women came on their own accord but the majority were referred there by the Family Planning Office. The foetuses were disposed of in a garbage basket, which was then handled by the hospital. Many of the women who came to do the abortion operation were forced to undertake such abortions by this Office. Each woman was accompanied by a Family Planning Officer, and they could not refuse to do it. Some women however undertook these abortions operations voluntarily, to avoid having to pay hefty fines for any children above the allowed limits. However, another department, where I worked, dealt with women who are pregnant for four months and above. In this case, it was clear that the women were forced to undertake the abortions. I thought abortions at this late stage were unethical and they also posed risks

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<sup>302</sup> Ibid.

<sup>303</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211117-Nursiman-Abdureshid.pdf> (para. 2–3)

<sup>304</sup> Ibid (para. 4).

to the mothers. This was part of the reason why I decided to resign.’<sup>305</sup> Rahima Nuri also stated in her evidence: ‘Women were also given three different kinds of medicines. One medicine (Misoprostol (米索前列醇)) was given to women in their seven to nine months of their pregnancy. This medicine was white, round and looked like aspirin. This medicine was divided into four, consecutive doses. It was used to relax and open the cervix. This was the first step in the performance of the abortion operation. Another medicine was an injection given to women, together with (Misoprostol (米索前列)). This injection served to induce contractions.’<sup>306</sup> She further stated: ‘we opened a pharmacy where, amongst others, we helped women remove their IUDs. In China, private clinics and pharmacies do not have the right to remove IUDs, so these IUD removals were conducted in secret. Between 2002 and 2007, we helped approximately 70 women a month to remove IUDs. All of them were Uyghurs. This was because, when Han Chinese women wished to remove IUDs, they could go to a government hospital. But when Uyghur women wanted to remove IUDs, it was not possible to go to a government hospital. So, Uyghur women had to remove their IUDs in secret. I know that our pharmacy was not the only one undertaking such secret IUD removal. I have heard of several other clinics.’<sup>307</sup>

857. Gulzire Awulqanqizi said she had been forced to have multiple injections while in prison. She was told: ‘You do not know it yet, but after a year and a half, the injection will show its results’. She has not been able to have children since.<sup>308</sup>

858. In her second statement to the Tribunal, Turdush described the subterfuge that was necessary to prevent the authorities from knowing of ‘illegal’ pregnancies by constantly moving from place to place. Some family planning workers could be bribed but most were loyal to the PRC Government despite knowing what would happen to the pregnant women.<sup>309</sup>

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<sup>305</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211201-Rahima-Nuri.pdf> (para. 5)

<sup>306</sup> Ibid (para. 7).

<sup>307</sup> Ibid (para. 10).

<sup>308</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211206-Gulzire-Aulhan.pdf> (para. 3)

<sup>309</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211214-Rukiye-Turdush.pdf>

859. Shemsinur Abdigafhur worked as a nurse in a number of hospitals between February 1994 and when she left China on 10 September 2010. In Laksuy Hospital, she witnessed three to five abortions a day; in Xinjiang Medical University, numerous abortions daily; and in Yilqi, ‘lots’ of abortions and sterilisations. In addition, she says, in Yilqi babies were born alive, and all were given an injection resulting in their death before they got home. She described four cases:

- 1) In September 2002, a family friend fell pregnant with her third child, which would have exceeded the two-child policy. The expectant mother was taken to Hotan City Hospital where Uyghur doctors were persuaded to deliver the baby without the knowledge of the authorities. Another mother’s baby had died (Shemsinur thinks killed by injection) and this dead baby was shown to the law enforcement people purporting to be the baby of the family friend. The family friends’ baby was born prematurely at seven months; because it was unable to be admitted to the special care unit, it died.
- 2) In January or February, a woman was hidden by Shemsinur because she was pregnant with her third child. The authorities became aware and forced her to have an injection causing her twins to die and abort.
- 3) In the Spring of 2005, the authorities carried out a spot check on the hospital where Shemsinur worked. They injected a woman with Rivanol by means of a long needle directly into the womb, causing the death of the baby.
- 4) Shemsinur Abdighafur said that in May 2013, her sister-in-law went to Karakax Hospital to give birth to her baby, hoping that the fact that it was her third child would not be discovered. However, it was, and she was given an injection causing the death of both her and the baby. Shemsinur herself was admitted to hospital suspecting she had a tumour of the womb and was diagnosed as having one and advised that it could migrate to cancer. Her womb was removed, following which she discovered that it would have been possible to remove the tumour and not the entire womb. When challenged, the Uyghur doctor said ‘each doctor has to remove around two thousand wombs a year. That is our job, we have to do it’.<sup>310</sup>

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<sup>310</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211115-Shemsinur-Abdighafur.pdf>

## APPENDIX 32

# Treatment of Children, Forced Separation, Details of Orphanages and Details of Boarding Schools

### SUMMARY

860. Plentiful evidence of children separated from parents and put into forms of state care with apparent purpose of conversion to non-Uyghur way of living and beliefs.

### EVIDENCE

### EXPERT WITNESSES

861. Murphy indicated that family separation and so called ‘left behind’ children has been exacerbated by the incarceration of one or more parents in detention centres.<sup>311</sup>

862. Thum explained how, since 2017, the Chinese state has carried out an unprecedented transfer of Uyghur children from their families to state care. According to PRC Government figures, between 2017 and 2019, an additional 382,700 primary and middle school children in Xinjiang were placed in boarding schools, bringing the total number of primary and middle school children in boarding schools to 880,400. The Xinjiang Education Department explicitly announced that the push for boarding schools was intended to isolate students from the influences of their families. Uyghurs have little room to resist

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<sup>311</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/08/State-Violence-in-Xinjiang-A-Comprehensive-Assessment.pdf> (p. 23)



the placement of their children in residential schools, and numerous individual cases show that involuntary separation is widespread.<sup>312</sup>

863. He explained how the rapid escalation in internment of Uyghur adults has resulted in overcrowding in orphanages. An orphanage worker spoke to RFA saying that the conditions were ‘terrible’, and ‘because there are so many children they are locked up like animals in a shed.’<sup>313</sup>
864. It is reasonable to conclude, said Thum, that the majority of indigenous middle school students are now in residential schools.
865. As with the boarding schools themselves, the expansion of Chinese language education has been extremely fast, with coverage rising from 38.7% to 82.8% between 2016 and 2017 alone. Enforcement of Chinese language use can be extremely strict, and officials have gone as far as stating that individuals who are unsatisfied with the governments Chinese-language mandates are enemies of the people.<sup>314</sup>
866. Since 2017, the Chinese state has carried out an unprecedented transfer of Uyghur children from their families to state care. According to PRC Government figures, between 2017 and 2019, an additional 382,700 primary and middle school children in Xinjiang were placed in boarding schools, bringing the total number of primary and middle school children in boarding schools to 880,400.<sup>315</sup>
867. Thum referred to the Xinjiang Education Department’s explicit announcement that the push for boarding schools was intended to isolate students from their families and that Uyghur families have little room to resist.<sup>316</sup>
868. Accordingly, to meet the demand for housing of children ‘orphaned’ by the

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<sup>312</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/08/State-Violence-in-Xinjiang-A-Comprehensive-Assessment.pdf> (p. 25)

<sup>313</sup> Ibid (p. 30).

<sup>314</sup> Ibid(p. 28).

<sup>315</sup> Ibid (p. 25).

<sup>316</sup> Ibid.

internment of the million or more adults, a construction boom of boarding schools, special residential schools and nurseries was generated.<sup>317</sup>

869. The boarding school population increased by 382,700 in the two years after 2017, surpassing the 2010 national average of 22%—this despite the Xinjiang boarding rate in 2010 being significantly lower than the national average.<sup>318</sup>
870. A 2017 report by the Xinjiang Education Department read as follows: ‘to promote the teaching of the national standard language [Mandarin Chinese] and to create a stable and peaceful learning environment for students, blocking the influence of the family’s religious atmosphere on the children to the greatest extent and reducing the occurrence of “teaching science in school, listening to the scriptures at home, with thinking and ideas suffering the shocks of moving back and forth”’.<sup>319</sup>
871. Between 2016 and 2017 alone, the expansion of Chinese language education has been extremely fast, with coverage rising from 38.7% to 82.8%.<sup>320</sup>
872. Smith Finley wrote: ‘For the past few years, Uyghur children in Xinjiang have had no choice but to attend Chinese-medium schools, where they are immersed in Mandarin Chinese for all but three hours per week. During three hours of Uyghur language tuition, pupils learn Uyghur as if it were a second language. According to my current PhD student, who conducted field research in Xinjiang in 2019, in some areas, Uyghur language education appears to have ceased altogether from 2017.’<sup>321</sup> *Bitter Winter* magazine reported in 2019 that Uyghur pupils in ‘national education’ boarding schools were being psychologically ‘tortured’, describing their extreme caution when trying to write in Chinese ‘as if they were skating on thin ice’. Although fluent in their mother tongue, they were forbidden to use it in the classroom and forced to speak awkwardly in Mandarin. As a result, the reporters wrote, some stopped talking at all.<sup>322</sup>

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<sup>317</sup> Ibid.

<sup>318</sup> Ibid (p 26).

<sup>319</sup> Ibid (p. 27).

<sup>320</sup> Ibid (p. 28).

<sup>321</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/08/State-Violence-in-Xinjiang-A-Comprehensive-Assessment.pdf> (p. 56)

<sup>322</sup> Ibid (p. 57).

873. Smith Finley also explained how, on 7 July 2018, a Uyghur bookseller in Ürümqi showed her a set of Uyghur-medium primary textbooks titled ‘Til-Ädäbiyat’ (Language and Literature), stating that they had been originally published in 2015 but revised in 2018. She lamented that during the revision, their contents had been ‘changed’ and that references to Uyghur culture and history were replaced with Han Chinese cultural references.<sup>323</sup>
874. Byler said in his paper ‘Negative Eugenics’: ‘As other research has shown in some Uyghur majority areas as many as 70 percent of all children aged 0–5 have been assigned to a range of schools ranging from week-long “full care” schools to “day care” schools. In both cases, it is clear that as many as 500,000 Uyghur and Kazakh children are being raised in a non-Muslim environment. In 2019, a state spokesperson announced that they had recruited nearly 90,000 politically loyal teachers in the region. Since these new teachers are primarily Han and functioning as parental figures to children who have been removed from their homes, in some sense they are enacting a forcible transfer of the children of one ethnicity to another.’<sup>324</sup>
875. In their 2021 report, UTJD cited a local government document from Kashgar saying: ‘children who attend the 4th grade and above with parent(s) taken to the internment camps must go to boarding schools at the first opportunity, including the scenario in which one parent is still at home’. UTJD quote Professor Tim Grose speaking to the *Associated Press* (AP): ‘The educational goals are secondary the political goals. They aim to dissolve loyalties to ethnic identity ... toward a national identity’.<sup>325</sup>
876. UTJD further quoted Zenz: “‘This is almost certainly not coincidental, but a deliberate part of ‘breaking roots’ and changing Turkic minority societies through coercive social re-engineering”, which as its long-term objective, the Chinese regime is on course to carry out “a targeted cultural genocide”.’ UTJD said that tens of thousands of children are held in these state-run

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<sup>323</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/08/State-Violence-in-Xinjiang-A-Comprehensive-Assessment.pdf> (p. 61)

<sup>324</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211214-Darren-Byler.pdf> (p. 6)

<sup>325</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/07/UT-210912-Muetter-Iliquid.pdf> (p. 41)

boarding schools even after their parents have been released from prison or the camps.<sup>326</sup>

877. In a report dated 15 September 2019, HRW identified a number of Uyghur parents who had lost all contact with their children:

- 1) Abdurahman Tohti, a Uyghur living in Turkey, has been unable to contact his son, now four, and daughter, three, since authorities detained his wife in August 2016. In January, he spotted his son in a video posted online that showed him in a school answering questions in Chinese. ‘I miss my children, my wife’, said Tohti. ‘I want them back very much. I fear if I ever meet my children again in my lifetime, they wouldn’t know who I am, and they would’ve been assimilated as Chinese and think that I’m their enemy.’
- 2) Abdul Aziz, a Turkey-based Uyghur from Hotan, has been unable to make any contact with his four children—now aged 13, six, five and two—since July 2017, after authorities detained his wife in a political education camp. Aziz learned that his eldest is living with his mother-in-law in Xinjiang, but he does not know the whereabouts of his other three children. Aziz’s father has died, and his mother lives in Istanbul. He has two brothers in Xinjiang but does not know their whereabouts. He has tried various ways to locate his children and brothers, but to no avail.
- 3) Memetrasul Khasan, a Kyrgyzstan-based ethnic Kyrgyz from Kashgar, has been unable to make any contact with his twin sons, now 14 years old, since March 2017, after authorities detained his wife in a political education camp. Khasan has not been able to make any contact with his relatives in Xinjiang to inquire about his children: ‘I miss my children very much. I don’t know where they are. All my relatives are detained. No one could look for my sons. I’ve written 50 letters to the Chinese government. I took them to the Chinese embassy in Bishkek. I want the Chinese government to release my children, my sisters’ children, and allow them to come to Kyrgyzstan, to live in their motherland.’<sup>327</sup>

878. In the section entitled ‘Education under the CCP’, Millsap cited a BBC report: ‘Back in Xinjiang, the research shows that all children now find themselves

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<sup>326</sup> Ibid (p. 42).

<sup>327</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/09/Human-Rights-Watch-China-Xinjiang-Children-Separated-from-Families-15-September-2019.pdf>

in schools that are secured with “hard isolation and closed management measures.” Many of the schools bristle with full-coverage surveillance systems, perimeter alarms and 10,000 Volt electric fences, with some school security spending surpassing that of the camps.<sup>328</sup>

879. She explained how these bilingual educational policies, in the past enforced in middle and high schools and universities, have now expanded to the youngest Uyghurs. In August of 2021, the PRC Government issued the ‘Notice of the General Office of the Ministry of Education on the Implementation of the “Children’s Homophony”’. It stated: ‘Starting from the fall semester of 2021, all kindergartens in ethnic minority areas and rural areas that have not used the national standard language for childcare activities will use the national standard language for childcare activities to create a good Mandarin education environment for children’.<sup>329</sup>
880. In his paper, ‘State Discourses and effects of Ethnic Extinction’, Byler explained how, in high school and vocational college textbooks, the Xinjiang Education Bureau called for the ‘transcendent ethnicity’ of the Han to fuse with the ‘backward’ Uyghur identity, pulling it into the ‘highest stage’ of its development: ‘extinction’ and replacing it with a new ‘higher level’ identification with the Chinese nation and a Chinese ethnicity. In fact, ‘they were calling for an identity that was dominated by Han norms and Chinese language’.<sup>330</sup>
881. He noted how—in an influential article (dated 2012) by Hu and Hu: ‘the bedrock of the Chinese Dream is the integration of the peoples of China into a single nation-race’. In addition, an influential Chinese scholar, Ma Rong, advocated that minorities should be stripped of formal political recognition and that schools should be monolingual.<sup>331</sup>
882. Byler explained: ‘First, nearly all schools above eighth grade became residential schools, where students are held behind walls except on weekend

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<sup>328</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211217-Julie-Millsap.pdf> (p. 16).

<sup>329</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211217-Julie-Millsap.pdf> (p. 18)

<sup>330</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211217-Darren-Byler.pdf> (p. 3)

<sup>331</sup> *Ibid* (pp. 3–4).

home visits. Then, beginning in 2017, many elementary schools and nurseries also became residential schools. In this way, Uyghur children of all ages were increasingly separated from their parents ... A group of nearly 90,000 newly hired avowedly non-Muslim educators pushed existing state employed Uyghur educators to the side. In a 2020 conversation, a Uyghur woman now living in North America told me she asked her mother, a former schoolteacher, about the conditions of the elementary school in her home community ... She told me, “None of our people are teachers anymore. Those that are older, like me, have retired. The younger ones now work as cleaners in the school.” In order to remain in teaching positions, Uyghurs had to prove they could speak and teach Chinese language with near-native fluency and have spotless family backgrounds. For most Uyghur educators, this was simply impossible.’<sup>332</sup>

883. Turdush quoted Elyar, 24 years old: “A month after my parents were arrested, I had a chance to talk to my 14-year-old brother through video we-chat. He said he must go to a Chinese Residential School. It is mandatory and he doesn’t know what to do with our two other siblings; one is 8 years old and the other one is three-year-old. I told him to send them to my mother’s sister, she is just our neighbour. He said, “no one is allowed” I said: “why?” he didn’t answer and turned off the phone. That was my last conversation with my brother.’<sup>333</sup>

884. The following is a transcript of the evidence given by Turdush on 12 September at the Tribunal’s second hearings.

*COUNSEL – Tell the tribunal briefly how the pregnant women in Xinjiang get round the family planning of the central government?*

*RUKIYE TURDUSH – The family planning policy in East Turkestan I would like to say – against Uyghur women should not be part of the national family planning as East Turkestan was colonised and there is no need to control it. Also, they relaxed the policy for Han Chinese but made it stricter for Uyghurs. I interviewed 8 women about the family planning policy. I have not interviewed family planning workers. I*

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<sup>332</sup> Ibid (p. 4).

<sup>333</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211220-Rukiye-Turdush.pdf> (p. 35)

*only did two of these workers. Based on their conversation I found out how the family planning workers work there. The family planning policy were strictly implemented as the policy comes from the party top. If these workers do not implement them [interrupted to ask her to slow down] The family planning workers do not have some power which comes from responsibility given by the CCP, if they do not, they may end up in prison. It is listed in policy documents. These family planning workers – the system gave no loopholes. At every county level, and prefecture, family planning workers work in villages – every three months officers can come to check on them. If they find any 19 woman was hiding or pregnancy village family planning workers are responsible. I interviewed 8 women how they hide their children. 7 tried to move to other city, or other areas to hide illegal children. They escaped. Only 1 hid in own basement, did not go outside for 1 year until deliver baby and gave bribe to village family planning worker. The family planning workers cannot even if pay the bribe they cannot hide these women. Only these women moving to other places as they do not have Huco in other cities. In other cities, family planning workers based on residential papers, call Huco. They find women come from other cities and will call the old home-town and force her to go back. But if they give them a lot of money maybe they will want to help. The person woman gave her a lot of money, maybe she wanted to help she doesn't notify to her boss. It is very difficult as family planning workers are very loyal to CCP, many know the genocidal outcome of the FP policy and impact on Uyghur life. They know it is harmful for the baby but don't know genocidal effect. These conclusions I go not directly interview from the FP workers only 2 family planning workers. Those 8 women I interviewed constantly interrupted the family planning workers and had conversation with them. I found out from the conversations they were very loyal and although recognised genocidal policy they still wanted to implement them and were worried they would lose their jobs ...*

*COUNSEL – This question relates to the third part of your report. You have given 62 pictures and children taken away as you requested this will not be published. Can you please tell me whether there have been studies on the psychological effects on these children? Has there been any such studies to find out what happens to these children after separation?*

*RT – The mental effect on children is severe. I interviewed a woman whose children were released recently 2021, her 4 children were taken. When they were returned after she told me they do not want to talk to her. They were afraid of their own mum. They feel shock they do not want to speak in Uyghur. Her eldest is 14: taken when 11, she fully spoke Uyghur, within three years she no longer did. Maybe she was too afraid, or she really forgot it. She was so afraid. The youngest one forgot the Uyghur language. Her mother said they are changed. She cannot talk much as she is from East Turkestan – we speak in coded language, so it is not easy to communicate. There is another case that those kids - I did not directly interview them – a kid was brought to Turkey as had a Turkish passport. He refused to speak Uyghur or answer to anybody. The kids become like this. I had a video I have collected the girls where I asked what if the Chinese teacher asks to say something in Uyghur, they said they do not want to say it. They asked, ‘What if you hit me, teacher hit me if I say it?’. She was afraid. Ok, we will not do anything. She said her brother’s name and thought it was so weird. They are teaching Uyghur language as weird. Another videos of kids not – one of the teachers tried to speak to her – she just looked shocked and doesn’t move her eyes. Other videos posted by Chinese workers where kids were crying all the time waiting for mummy to come back.*

*COUNSEL – Briefly if one was to construct ‘weeds’ and ‘tumour’ would you say that is terms relating to reformation or assimilation, or is it relating to destruction?*

*RT – Related to destruction. If humans are weeds you can easily destroy them. Uyghur become weeds the intention is for destruction.*

*PANEL – Relating to family planning and workers and women you have interviewed; you have given us some information. I would like to ask whether these 8 interviews reveal anything about how these women managed to continue to hide and educate their children as they grow up?*

*RT – They could not send children to school as they were considered illegal. The fine as a result is based on income and could be 5–10%. Even if they pay the heavy fine the children cannot go to school. In 2015 the Chinese gave Huco. Then in 2015 everywhere in China start to give*



*allowing them to register so they could go to school, people started to register their kids. In 2017 they started to take the kids. In a family of 4 kids, 1 was illegal so they took all the kids.*<sup>334</sup>

885. In his October 2020 paper ‘Parent-Child Separation in Yarkand County Kashgar’, Zenz presented official data from one county in Southern XUAR showing that, between 2017 and 2019, the number of students who lived in boarding facilities grew by 76% from 500,000 to 880,000.
886. Government data showed 10,000 mostly Uyghur children in ‘hardship’ due to one or more parent being detained, of which approximately 1,000 have both parents incarcerated. Local government spreadsheets corroborate the internment status of entire households and, correspondingly, the ‘children in hardship’.
887. A government directive from Kashgar Prefecture from August 2018 states that the region is ‘striving to complete the 2020 goal of completing the construction of dormitory-based schools’. The directive further states that for grades 4 and higher, boarding is mandatory (应寄尽寄), while boarding for younger students is dependent on the wishes and circumstances of parents and guardians. Importantly, boarding facilities are to play a key role in the retention of ‘students from families with hardships’.
888. Between 2016 and 2019, the number of primary and middle schools in Xinjiang decreased while their total floor space areas grew significantly, reflecting a centralisation of educational facilities in larger boarding school complexes. During these years, the average floor space per primary school rose by 44.8 per cent, from 3,742 sqm to 5,420 sqm, and for middle schools by 43.4 per cent, from 12,393 sqm to 17,766 sqm.
889. Zenz further explained how Xinjiang’s weaponised boarding education system represents a powerful tool of assimilation. A June 2018 notice issued by the Xinjiang Education Department proclaimed that by the end of that year, the region’s 2.94 million students in mandatory education (grades 1–9) were expected to have a fully Chinese-medium language education.

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<sup>334</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211220-Rukiye-Turdush.pdf> (transcript, lines 1–109)

890. A young graduate from Zhejiang who volunteered to teach Chinese in a rural primary school in a December 2018 reported details regarding how in the middle of winter, with temperatures as low as -20 degrees Celsius, many children were still wearing thin clothes. These clothes also had not been changed or washed in a long time so that the entire classroom stank. The young teacher learned that the pupils' parents were away picking cotton or 'studying at the VTIC' (vocational training internment camps; 在jp中心学习). With both parents away, the 'students were in an extremely pitiful state' (学生非常可).
891. Schools must employ security guards with 'firm political views', feature multi-tiered defensive intrusion prevention systems that rival those installed in internment camps or prisons and install full-coverage video surveillance systems; some boast electric fences and computerised security patrol management systems equipped with one-button alarms. One Xinjiang middle school published a procurement bid for a 2.1 million RMB campus video surveillance system, which is more than what some re-education camps have spent on such systems. Between 2018 and 2020, boarding facilities specified the addition of 818,426 sqm of floor space at a cost of 900.7 million RMB (<https://adrianzenz.medium.com/story-45d07b25bcad>). The very significant increase in school boarding facilities coincides with the commensurate significant increase in the number of Uyghur parents interned.
892. Millsap suggested: 'By targeting the youth of the Uyghur minority population, the CCP is essentially educating the next generation of Uyghurs in a way that eradicates their culture and remoulds Uyghur children to the Han-Chinese way of life. Furthermore, through the carefully planned targeting of the young-adult Uyghurs, who may have formed their own cultural identity by their stage in life, the use of fear tactics coerces their silence, compliance and loyalty to the CCP. The Uyghur youth are most vulnerable to the effects of cultural genocide and thus, their specific targeting by the Chinese State, evidences its clear intentions with respect to this minority population.'<sup>335</sup> The 'bilingual' system in the CCP's pursued model of education is described generally as one that seeks to teach traditional Chinese while preserving the mother tongue. The importance of language to the cultural identity of China

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<sup>335</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211217-Julie-Millsap.pdf> (p. 6)

is modelled after the Soviet Union, which prized a universal language as integral to the formation of a homogenised Communist state. In contrast with the stated purpose of a bilingual education, the use of the Uyghur language is largely regarded as unnecessary by the state, and often classified as outright threatening.<sup>336</sup>

## PRESS WITNESS

893. The AP reports that, while effectively exiled in Turkey, Meripet's four children aged three to eight had been placed in *de facto* state orphanages: 'It's like my kids are in jail'. For Meripet, the loss is agony; it is the absence of her children and the knowledge they are in state custody. A year and a half after leaving home, the 29-year-old mother looked at a photo of a brightly painted building surrounded by barbed wire where her children are believed to be held. She fell silent. And then she wept: 'When I finally see them again, will they even recognize me?', she asked. 'Will I recognize them?'<sup>337</sup>

## FACT WITNESSES

894. At her second detention on 8 March 2018, Tursanay Ziyawudun said that she witnessed children being forcibly removed and taken to a bus to be sent somewhere else.<sup>338</sup>

895. Zumret Dawut said that her children were forced to attend Chinese flag raising ceremonies and wear traditional Chinese clothes and only speak Chinese, including at school.<sup>339</sup>

896. Gulbahar Jelilova testified: 'Sometimes they would bring ladies who just had a baby, directly to the prison. Where their breasts were still dripping with

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<sup>336</sup> Ibid (p. 13).

<sup>337</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/08/State-Violence-in-Xinjiang-A-Comprehensive-Assessment.pdf>; also see:

<https://apnews.com/article/international-news-crime-china-clamps-down-china-ap-top-news-903a97b7c62a47b98553b6f422827dd7>

<sup>338</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211111-Tursunay-Ziyawudun.pdf> (para. 10)

<sup>339</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211111-Zumret-Dawut.pdf> (para. 29)

milk, so I knew they had a baby recently. Once I asked one of them where her child was? I was told that she gave birth the day before and now she does not know where her child is. She was then given medicine, so she stopped producing milk. After they take the medicine, they always have negative side effects.’<sup>340</sup>

897. Rushan Abbas said that 24 of her husband’s family are missing, including children: ‘We have no idea where my husband’s 14 nieces and nephews are today. They range in age between 5 to 22 years old. The thought of children separated from their parents is heart breaking for us.’<sup>341</sup>
898. Elimā told of her concern that the three children of her cousin Mayila Yakufu will be taken away from Nyrola’s mother, who looks after them, into boarding schools: ‘We now fear that the Chinese government will use my cousin’s imprisonment as justification for sending her three kids to highly securitized boarding schools, where we know that children live lives completely disconnected from their own family, traditions, and cultures’.<sup>342</sup>
899. Mihrigul Tursun told of a woman, Patemhan, who had left two children in her backyard at the time of her arrest. She spent a year and three months incarcerated without knowing the whereabouts of her children.<sup>343</sup>
900. In 2018, Adil Abdurehim learned from some of his contacts that his wife was sent to forced labour, his father was arrested ‘for concentration camps’ and his children was taken to orphanage camps. It is not clear where his children are. He verified this information from the contacts in 2020. His children are: Meryem Adil, was born on 29 February 2009; Muhemmed Adil, born on 18 November 2011; Omer Adil, born on 3 July 2013.<sup>344</sup>

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<sup>340</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-Gulbahar-Jelilova.pdf> (para. 30)

<sup>341</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211116-Rushan-Abbas.pdf> (para. 7)

<sup>342</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211116-Nyrola-Elima.pdf> (para. 16)

<sup>343</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211116-Mihrigul-Tursun.pdf> (para. 12)

<sup>344</sup> <https://www.utjd.org/>

901. Enwer Ghoji, from Aksu Bay county, Batur village, Bujga town, moved to Guanzhou to hide from family planning workers. He is currently living in Turkey. His wife was arrested along with children in 2015 in Guangzhou. The whereabouts of their children are unclear: Hormetgul Enwer, born in 2002; Eqide Enwer, born in 2005; Medine Enwer, born in 2008.

## APPENDIX 33

# Forced Labour and Forcible Transfer within the Region and to ‘Mainland’ China

902. Murphy cited an AP investigation published on 19 December 2018, identifying in Hotan a massive compound enclosed with barbed wire and watchtowers guarded by Doberman dogs and armed officers. In the compound were warehouses and workshops. The AP reported that a dozen people who had worked in such camps stated that they were given no choice but to work in them. They quoted a former reporter for *Xinjiang TV*, who had been detained in a camp, that the ‘camp didn’t pay any money, not a single cent’.<sup>345</sup>
903. The AP report above included reporting of Hetian Taida Apparel, a Chinese supplier of sports apparel to Badger Sport (a US distributor). The Workers’ Rights Consortium released a report on 24 June 2019, which, following their investigation, concluded that: ‘Forced labour was used by Hetian Taida’. Badger Sports subsequently paid USD 300,000 to human rights organisations and stopped sourcing goods from Hetian Taida.<sup>346</sup>
904. In April 2018, Kashgar regional government reported plans to transfer 100,000 detainees from the camps to employment (at a pay rate of GBP 34 a month) into industrial parks.<sup>347</sup>

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<sup>345</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/08/State-Violence-in-Xinjiang-A-Comprehensive-Assessment.pdf> (p. 16); see also: <https://apnews.com/article/99016849cddb4b99a048b863b52c28cb>

<sup>346</sup> Ibid.

<sup>347</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/08/State-Violence-in-Xinjiang-A-Comprehensive-Assessment.pdf> (p. 17); see also:

905. On 28 December 2020 (updated 4 January 2021), *Buzzfeed* reported (and provided satellite imagery) on the existence of at least 135 compounds (in the region) extending to (in their estimation) 21 million sq. ft., which held factory buildings. They interviewed Dina Nurdybai, who said: ‘I felt like I was in hell’. In response, the Chinese Consulate in New York quoted a worker (unnamed in the report) from Karakax County who had called the allegations of forced labour in the region ‘slander’.<sup>348</sup>
906. Murphy cited government programmes requiring local authorities to identify all ‘surplus labourers’ and compel them to take jobs in factories. In addition, professional people including *inter alia* university graduates, film makers, dentists and nurses (unlikely to be in need of employment) are forced to work in ‘labour intensive industries’.<sup>349</sup>
907. In Aksu, 58,000 farmers were forced to give up their land and transfer to ‘labour intensive industries’.<sup>350</sup>
908. A CCTV broadcast related the story of several distraught young women harassed into leaving their homes to travel thousands of miles.<sup>351</sup>
909. There are very large numbers of people being forced into labour transfer programmes, according to state media reports: 611,500 from Hotan in 2018 alone; between January and September 2017, 300,000 from Nilka County and 156,000 from Aksu; and, in 2019, 64,000 from Megaiti County.
910. In a paper dated 17 February 2020, titled ‘The Karakax List Dissecting the Anatomy of Beijing’s Internment Drive in Xingjiang’, Zenz provides satellite imagery of a massive and highly securitised single floor workshop estimated to be 325,000 sqm, surrounded by razor wire fences and watch towers. He

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<https://web.archive.org/web/20181204024839/http://kashi.gov.cn/Government/PublicInfoShow.aspx?ID=2963>

<sup>348</sup> Ibid; see also:

[https://www.buzzfeednews.com/article/alison\\_killing/xinjiang-camps-china-factories-forced-labor](https://www.buzzfeednews.com/article/alison_killing/xinjiang-camps-china-factories-forced-labor)

<sup>349</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/08/State-Violence-in-Xinjiang-A-Comprehensive-Assessment.pdf> (p. 19)

<sup>350</sup> Ibid (p. 20)

<sup>351</sup> Ibid.

provides further evidence of detention centres being constructed between 2011 and 2018: the Bostan Park Detention Center and the Moy County Detention Center.<sup>352</sup>

911. Murphy cited an ‘Art of Life’ paper authored by Byler that described the experience of Erzhan Qurban who was forced in 2018 into labour in a glove factory, the Yili Zhuowan Clothing Manufacturing Company: ‘I worked on a production line for 53 days, earning 300 yuan [CNY 300; USD 40] in total’. Gulzira Auelkhan also worked at the same glove factory. When she arrived, she was told that, as a trainee, she would be paid 600 yuan [CNY 600; a little more than USD 80] per month, less than half the minimum wage, for the first three months. She would also be paid a small amount, less than one yuan [CNY 1; USD 0.014] per pair of gloves, according to her ‘efficiency ... The most skilled worker could sew 60 pairs a day’, she said. ‘I tried my best, but I could only sew 13 pairs’.<sup>353</sup>
912. Advertisements for shipments of hundreds of XUAR workers are being promulgated via Twitter.<sup>354</sup>
913. The CCP holds communities to quotas and goals for their ambition of employing a million surplus workers and provide significant incentives to corporations in that endeavour.<sup>355</sup>
914. Murphy states that there is evidence that suggests ‘an enormous state-engineered profit motive for companies to engage in “poverty alleviation”’. It appears that Han-run businesses profit from the forced labour programme.

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<sup>352</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/08/State-Violence-in-Xinjiang-A-Comprehensive-Assessment.pdf> (p. 21); see also:  
<https://archive.ph/vxb4o>

<sup>353</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/08/State-Violence-in-Xinjiang-A-Comprehensive-Assessment.pdf> (p. 21); see also:  
<https://livingotherwise.com/2019/10/11/how-companies-profit-from-forced-labor-in-xinjiang/>

<sup>354</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/08/State-Violence-in-Xinjiang-A-Comprehensive-Assessment.pdf> (p. 22); see also:  
<https://twitter.com/GroseTimothy/status/1309945447134437378>

<sup>355</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/08/State-Violence-in-Xinjiang-A-Comprehensive-Assessment.pdf> (p. 22)



These programmes are facilitated by labour transfer agencies that can receive rewards of up to CNY 100 per person transferred.<sup>356</sup>

915. Nursiman Abdureshid stated in the evidence that she visited a factory to visit a friend's father who was a member of a working group tasked with managing the Uyghur workforce. She described how girls as young as 17 worked against their will in very poor conditions, sometimes at night, and how they on occasion sustained injury. They were paid 25–35 RMB a day and were charged board and lodging, resulting in some of them incurring debts to the factory of up to 800 RMB. Nursiman Abdureshid further said: 'Everyone felt like they were forced, and they were unwilling to work. They told me I don't want to work, and some girls said they had to ask parents to send money so they could pay the factory. Some girls escaped and when they got to the train station the police brought them back. Some of the girls were afraid that they would be trafficked by other people who saw them at the train station because they would know they were Uyghur. So, the girls cooperated with the police in returning themselves.'<sup>357</sup>

916. UTJD quoted Zenz: 'Many previously interned had been released from the internment camps, only to find themselves held captive and trapped in various forms of forced labour.' In 2018, the NYT reported that inmates of the mass internment camps assigned to factories 'may have to stay for years'. Zenz further identified three major routes to forced labour through indoctrination (political indoctrination and thought reform on religiosity) by which the Chinese regime subjects a large swath of the Uyghur adult population, as well as other Muslim minorities, to forced labour with varying degrees of coercion:

- 1) With the highest coercion level, internees are released from internment camps and sent to forced labour in camp-adjacent factories or close-by industrial parks and, subsequently, may be sent to their home regions' forced labour factories.
- 2) Targeting mainly the general rural population, adults of working age who are able to work are first sent to centralised training programmes, which

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<sup>356</sup> Ibid (p. 23).

<sup>357</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211117-Nursiman-Abdureshid.pdf> (para. 10–13)

include thought reform and ideological indoctrination, and then to forced labour thereafter.

- 3) ‘With arguably the most intrusive social reengineering aim in mind, having the most detrimental impact on Uyghur society, accompanied by a form of involuntary labour with relatively weaker direct evidence of coercion than the two above mentioned, Communist Party work teams in villages “encourage” people (especially women) to take full-time factory jobs in various ways, while their children are placed in state-run childcare facilities’.<sup>358</sup>

917. Byler observed: ‘The goal of the internment factories is to turn Kazakhs and Uyghurs into a docile yet productive lumpen class—one without the social welfare afforded the rights-bearing working class’.<sup>359</sup>

918. In 2020, ASPI reported (cited by UTJD) that up to 80,000 Uyghurs had transferred out of the region to ‘mainland’ China, identifying 27 factories across nine provinces manufacturing for 83 global brands, including Apple, Nike21, Gap and Sony.<sup>360</sup>

919. Testimony by Amy K Lehr, Director of the Human Rights Initiative at the Center for Strategic and International Studies before the Congressional-Executive Committee on China in October 2019: ‘Forced labour is not typically a centralized, masterminded effort, where the state acts as the organizer as part of a broader effort to cut minorities off from their culture and religion at any cost. In Xinjiang’s case, the Chinese state is playing this role.’<sup>361</sup>

920. In 2021, the BBC (John Sudworth) released a report that said: ‘This overarching goal of assimilating Uighurs into China’s majority Han culture is made clear by an in-depth Chinese study of Xinjiang’s job-transfer scheme,

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<sup>358</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/07/UT-210912-Muetter-Iliquid.pdf> (p. 45)

<sup>359</sup> Ibid (p. 46)

<sup>360</sup> Ibid (p. 47).

<sup>361</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211116-Nyrola-Elima.pdf> (p. 52, endnote 3); see also:

<https://www.csis.org/analysis/connecting-dots-xinjiang-forced-labor-forced-assimilation-and-western-supply-chains>

circulated to senior Chinese officials and seen by the BBC'. Written by a group of academics from Nankai University in the Chinese city of Tianjin, it concludes that the mass labour transfers are 'an important method to influence, meld and assimilate Uighur minorities' and bring about a 'transformation of their thinking'. 'Uprooting them and relocating them elsewhere in the region or in other Chinese provinces', it says, 'reduces Uighur population density'.<sup>362</sup>

921. The BBC report includes footage of a clearly coerced young woman who is what can only be described as bullied, rendered tearful and distraught by local officials into leaving her home with other members of her village to work in a factory.
922. Zenz, in his report 'Coercive Labour and Forced Displacement in Xinjiang's Cross-Regional Labour Transfer Program', referred to the 'Nankai Report'. First, it bluntly states that the state took the 'drastic short-term measure' of placing many Uyghurs into 'Education and Training Centers' (a euphemism for re-education camps). Second, it notes that labour transfers represent a long-term measure to promote 'assimilation' and 'reduce Uyghur population density'. The report recommends that this programme should be 'initiated quietly' with 'no need to overly publicize this internationally'. Zenz differentiates between Vocational Training and Education Centers where previously incarcerated people are sent for de-extremification or transformation through education and rural surplus labourers who are transferred into labour for the officially stated purpose of 'poverty alleviation'. However, the Nankai report reveals what appear to be the real motivations—at least in part—of the government: 'eastern and central regions should have mandatory annual quotas of arranged Xinjiang labourers, which greatly helps to alleviate the shortage of labourers in [these regions] and appropriately reduces labour costs'. Further, 'severely excessive number of Uyghur rural surplus labourers was caused by lax family planning policies that created an "excess population" representing a "latent threat to the current regime"'.
923. Zenz describes, from government papers, the 'low willingness' of labourers to work at great distances from home: 'Transfer destinations outside the same

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<sup>362</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211116-Nyrola-Elima.pdf> (p. 53, endnote 17); see also: <https://www.bbc.com/news/world-asia-china-56250915>

township or county typically require the full relocation of adults or entire families, who subsequently end up living in dormitories on securitized factory compounds or industrial parks. Their children or elderly may then be placed in government-mandated centralized care.’ This, together with poor working conditions, long hours and low or no pay, is understandably a disincentive.

924. The result is a coercive system, as described by Zenz: ‘New evidence from the Nankai Report, other Chinese academic publications and publicly available government documents provides strong proof of the systemically coercive nature of Xinjiang’s labour transfer programs and underscores a process-oriented approach towards designating such programs to be forced labour. These sources also show that the primary aims of labour transfers are not economic, but political and demographic. Government documents state that labour transfers are part of “raising population quality”.’<sup>363</sup>
925. The Tribunal was provided with an in-depth study of the Uyghur forced labour and global solar supply chains entitled ‘In Broad Daylight’, authored by Murphy and Elimä.
926. The study explained how the PRC Government has placed millions of indigenous Uyghur and Kazakh citizens from XUAR into what the government calls ‘surplus labour’ (富余劳动力) and ‘labour transfer’ (劳动力转移) programmes. An official PRC Government report published in November 2020 documents the ‘placement’ of 2.6 million minoritised citizens in jobs in farms and factories within the Uyghur Region and across the country through these state-sponsored ‘surplus labour’ and ‘labour transfer’ initiatives. The government claims that these programmes are in accordance with PRC law and that workers are engaged voluntarily, in a concerted government-supported effort to alleviate poverty. However, significant evidence—largely drawn from government and corporate sources—reveals that labour transfers are deployed in the Uyghur Region within an environment of unprecedented coercion, undergirded by the constant threat of re-education and internment. Many indigenous workers are unable to refuse or walk away from these jobs;

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<sup>363</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211116-Nyrola-Elima.pdf> (p. 52, endnote 3); see also:

<https://jamestown.org/wp-content/uploads/2021/03/Coercive-Labor-and-Forced-Displacement-in-Xinjiangs-Cross-Regional-Labor-Transfers-A-Process-Oriented-Evaluation.pdf?x20357>

thus, the programmes are tantamount to forcible transfer of populations and enslavement.<sup>364</sup>

927. Ninety-five per cent of solar modules rely on solar-grade polysilicon, and the XUAR manufactures 45% of the world's supply. The concentration of this industry base has been encouraged and incentivised through a cocktail of subsidies, incentives and the provision of land and other resources, including cheap or free labour. The solar industry is not alone in its rapid expansion into the XUAR. The CCP has set ambitious targets for the growth of its industries, and they have determined that the Uyghur Region will be a strategic centre for development of their exports to the West, as well as for their national security, stability, and 'unity of the motherland'. This increase in industrial capacity has required a large expansion of the supply of labour, which has been met through what the government has labelled 'poverty alleviation'. Some who have escaped his regime have described it as 'slavery'. Many of the factories employing supposedly free XUAR citizens are surrounded by razor-wire fences, iron gates and security cameras and are monitored by police or additional security, while Han workers' mobility is unrestricted in the workplace and in the ability to return home.
928. This forced labour regime is directed by a combination of local authorities and XPCC or Bingtuan who, while not directly owning silicon manufacturing companies, do own many of the industrial parks on which the manufacturers are located.
929. The manufacturing of solar panels is a complex, highly integrated industry with numerous overlaps and interconnectedness between state, state-owned entities and private enterprises.
930. The primary raw material used to produce photovoltaic cells is quartz, which is mined, then crushed and heated to produce metallurgical-grade silicon.
931. The world's largest and most dominant company in the field is the Xinjiang Hoshine Silicon Industry Co. Ltd. Hoshine has, on a large scale, participated in labour transfer schemes; it has actively recruited and employed 'transferred surplus labour' from rural villages around Turpan to its Shanshan facility. As

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<sup>364</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211116-Nyrola-Elima.pdf> (p. 7)

one of a number of examples—one effort early in Hoshine’s development in the Uyghur Region suggests the potential scale of that collaboration. In 2017, the Turpan Bureau of Human Resources assured the media that the agency had adjusted its training of 9,800 surplus rural labourers to provide them with skills required by Hoshine and would be able to ‘fully meet [Hoshine’s] employment needs’ for 5,000 trained labourers. State-sponsored recruitment efforts on Xinjiang Hoshine’s behalf depend on coercive strategies that suggest non-voluntary labour. For instance, one media report depicts a married couple from rural Dikan Township who were targeted for ‘poverty alleviation’: ‘They were provided a government-determined “income-increasing package,” which began with the assignment of a cadre who instructed them in Chinese language skills “to pave the way for them to leave their hometown to work.” The regional work team then assigned the couple to vocational skills training to learn to be welders in the farming off-season. The couple followed the directives of the cadre, while the regional work team still provided “encouragement and help” for them to do “pre-employment training for the surplus rural labour force,” after which they were transferred to work at Xinjiang Hoshine. Though the couple owned seven acres of grape fields that would need tending, the government “relieved the two of their worries,” by transferring their land use rights(流转) to the state. The couple was transferred to Xinjiang Hoshine, more than 50 kilometres away from home, to work as a mechanic and a product inspector in the Shanshan County Hoshine Silicon Industry.’

932. Once quartz has been processed into metallurgical-grade silicon, it is ground up and purified even further. The purification process requires extraordinarily high temperatures, which consumes significant electricity, making the Uyghur Region’s coalfields an ideal location for polysilicon producers. The Uyghur Region’s coal reserves account for 40% of the PRC’s reserves and is one of the largest untapped reserves in the world. The mono-grade or multi-grade polysilicon that results from this purification process is a major export of the XUAR region.
933. Hoshine, in turn, supplies 33% of the raw materials necessary for further processing by a company called Daqo New Energy Corp whose XUAR subsidiary is located in the XPCC 8th Division City of Shihezi (Daqo is a publicly traded company listed on the New York Stock Exchange). There are suggestions including in its Initial Public Offering (IPO) prospectus that it had received subsidies for ‘labour placements’. In any event, its supply chain

is likely to be deeply compromised by its downstream status from Hoshine. In response to accusations that the company had employed forced labour in its factories or within its supply chain, Daqo CEO Zhang Longgen reported in April 2021 that only 18 of Xinjiang Daqo's 1,934 employees are from communities designated as minorities in the PRC. The Tribunal is not aware that this statement has been verified.

934. Daqo, in turn, supplies material to JinkoSolar Company, which is one of the largest manufacturers of photovoltaic material. JinkoSolar predominantly distributes its products through its own distributors; therefore, it is necessary to examine their corporate disclosures alone to ascertain which companies might be sourcing modules from JinkoSolar. In JinkoSolar's 2019 and 2020 annual reports, the company indicated that the following international companies were their most significant customers: Vivint Solar (US), CIMIC Group (Australia), Consolidated Edison (US), Consolidated Electrical Distributors (US), Copenhagen Infrastructure Partners K/S (Denmark), Decmil Group (Australia), Elecnor SA (Spain), Enel SpA (Italy), Engie SA (France), Fuji Electric Co (Japan), Green Light Contractors (Australia), Henan Senyuan Electric Co (China), Hengtong Optic-electric Co (China), Innotech Corp (Japan), Jiawei Renewable Energy Co (China), Kenya Electricity Generating Co PLC (Kenya), Maoneng Group (Australia), Metka-Egn (UK), MVV Energie AG (Germany), NextEra Energy (US), Sungrow Power Supply Co (China), Swinerton Builders (US) and Sustainable Power Group (US).
935. In the spring of 2020, Xinjiang JinkoSolar accepted 78 'registered unemployed personnel' from the Kunas County (Chinese: Xinyuan, □) government on one-year or longer contracts. Their names and educational levels, ranging from junior high to undergraduate, were publicly listed, suggesting that the company's employee requirements are not limited to highly skilled or educated technicians. According to a Kunas County government press release on the transfer, the recruits were given CNY 1,000 state subsidies to work at JinkoSolar.<sup>233</sup> In July 2020, Xinjiang JinkoSolar was awarded further subsidies for "accepting forty poor labourers from southern Xinjiang." 2020 may not have been the earliest Xinjiang JinkoSolar received labour transfers; the relatively small Xinyuan Industrial Park in which JinkoSolar located brought in rural surplus labourers starting at least as early as 2018. According to media reports, 54% of JinkoSolar's employees at its Kunas plant are ethnic minorities from the local area, including former farmers and herdsmen. It is unclear how many of the workers are recruited through state-sponsored

labour programmes, but it is clear from the above that at least some of its workers are. This is also interesting in light of claims that only highly skilled and highly educated workers are capable of working in polysilicon plants.

936. Co-Location with Detention Centre and Prison: another potential issue for JinkoSolar is the fact that the company invested CNY three billion in the Xinyuan Industrial Park, which houses the JinkoSolar factory complex as well as a high-security prison (identified by industrial park documents) and an internment camp (identified by ASPI). This facility was by far the largest the company owned in the world, at over 165,000 sqms, until they built the Leshan, Sichuaningot production facility in 2019. Historical satellite imagery from Google Earth reveals that at the same time as JinkoSolar’s silicon ingot facilities were being built, the prison and detention centre were being built in the same industrial park, merely one and a half miles away. According to the early plans for the park, there are also local craft, textiles, agricultural and food factories across the street from the detention centre. In 2015, the Kunas government invested CNY 400 million in building the high-security prison and CNY three million for a fund to reward citizens and employees who inform on others who undermine social ‘stability’. The prison appears to have opened in late 2017 using personnel from Ürümqi. There is no conclusive evidence that either the internment camp or prison provide labour for JinkoSolar; however, because some companies co-located in industrial parks with camps have utilised forced labour of detainees, JinkoSolar’s co-location represents a heightened risk.
937. The companies identified in this section are exemplars, and Murphy and Elimä provide a significant number of additional companies enmeshed in the silicon supply chain, many of whom may be or are likely to be engaged in forced and coercive labour, including Changji New Buildings, Xinjiang China Silicon Technology and Yili Jinjing Silicon Industry, to name but a few.<sup>365</sup>
938. Erbakit Otarbay heard that four factories had been built next to the jail he had been sent to on 17 March 2018; he was forced to work in a garment factory sewing school uniforms, repairman clothing and factory workers uniforms.<sup>366</sup>

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<sup>365</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211116-Nyrola-Elima.pdf> (p. 6–47)

<sup>366</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211130-Erbakit-Otarbay.pdf> (para. 9)



939. Gulzire Awulqanqizi told of how she was forced to work in a factory: ‘and told us that from now on we would be working in a factory. Thus, I started making gloves in a factory. We were told the products were being exported abroad and sold to foreigners. Although we were making some money, refusing to work resulted in being sent back to the camp, so we had no choice anyway. They told me to sign a contract where I agreed to work at this factory for a year. I ended up working there for a month and a half. I earned very little: in total I made more than two thousand gloves and earned 220 Yuan [CNY 220; about GBP 24].’<sup>367</sup>

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<sup>367</sup> <https://uyghurtribunal.com/wp-content/uploads/2022/01/UT-211206-Gulzire-Aulhan.pdf> (para. 12)

## APPENDIX 34

# Law

### IS THE LAW CLEAR? IF NOT WHY?

940. Those with the greatest interest in *clarity* of international criminal law are victims of alleged international—war and other—crimes.<sup>368</sup> Those with greatest interest in *complexity* of the law are often nations and their governments who are at war or engaged in other internationally controlled crimes against their own people. Political or military leaders in those countries may themselves be implicated in crimes and will have no interest in the law being too clear.
941. Unhappily, in addition, governments of those nations with *duties* to act once international crimes are committed by *other* countries can justify doing nothing as long as the law itself can be said to be complicated and unclear.
942. To these sombre realities should be articulated one focused on the crime of genocide. Although several parliaments and one state have ventured to make determinations or statements about genocide happening in Xinjiang,<sup>369</sup> the very

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<sup>368</sup> Counterintuitively, victims may count for less in international (and national) courts than might be expected by the non-specialist. Only in 2001, in the UK, were victim impact statements first allowed (foreshadowed by a 1996 scheme to have victim impact considered by judges if not by a specific victim statement). In 2002, the ICC was the first global international court to allow any victim participation; the 1993/1994 ICTR and ICTY did not.

<sup>369</sup> See footnote 22 above, copied here for convenience:

The Canadian House of Commons approved a motion to recognise China as committing genocide against Muslim minorities on 22 February 2021 referencing detention camps and measures intended to prevent births pertaining to Uyghurs and other Turkic Muslims.

On 25 February 2021, the Netherlands Parliament passed a non-binding resolution designating China's actions against the Uyghurs a genocide: 'China is engaged in acts covered by United Nations Resolution 260, including holding penal camps and implementing measures designed to prevent births within a specific group'.

nation–states that created international criminal law, tribunals, courts and the Genocide Convention itself have no intention of subjecting *themselves* to the imperative to act under Article I of the Convention. That imperative (as explained at paragraph 8, footnote 3 above) is in force immediately a state recognises that genocide is or may be happening in another state. No state, it seems, likes to be required by circumstances outside its control to act in the interest of those subject to genocide (or even to crimes against humanity) as examples can show.<sup>370</sup>

943. Despite the obvious need of victims for clarity of the law, judges, lawyers, academics and NGOs often serve *state* interests—not *victim* interests—by how they comment on or deal with international crimes such as genocide or

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On 22 April 2021, the UK House of Commons passed a non-binding motion declaring human rights abuses in Xinjiang as a genocide: ‘Uyghurs and Other Ethnic and Religious Minorities in the Xinjiang Uyghur Autonomous Region are Suffering Crimes Against Humanity and Genocide’.

In May 2021, the Lithuanian Parliament voted a resolution to recognise that Chinese abuses against the Uyghurs constitute genocide, based—inter alia—on the UN Charter and Universal Declaration of Human Rights of 1948, the Convention against Torture, the International Covenant on Civil and Political rights (ICCPR) and the Genocide Convention.

The Senate of the Czech Republic unanimously passed a motion in June 2021 to condemn the treatment of Uyghurs as both genocide and crimes against humanity: ‘there are massive violations of human rights and freedoms, genocide and crimes against humanity, ethnic discrimination, and the suppression of cultural, religious and political identity in the PRC, in particular in the Autonomous Regions of Tibet and Xinjiang’.

In Belgium, the Parliament’s foreign relations committee passed a motion in June 2021 to condemn China’s treatment of Uyghurs as crimes against humanity and stated there was a ‘serious risk of genocide’ in Xinjiang.

<sup>370</sup> By way of example: UK governments have never recognised that Article I of the Genocide Convention has been triggered by knowledge of genocide happening or likely to happen. The Foreign Secretary Douglas Hurd demanded that the term never be used in respect of the massacres known to be happening in Rwanda; the UN itself, and all western forces seeking to protect part of the former Yugoslavia, refused to accept that genocide was in process from 1993 onwards—despite voices saying it was. The arguably consequential failure to act with military force may have allowed or encouraged the genocide much later found to have happened in July 1995. More recently, in 2020 and 2021, the UK Government exerted extreme pressure in parliament to reject an amendment to a trade bill that would have made it unlawful for the UK to forge a trade agreement with a genocidal state. The proposed amendment achieved a very large majority in the UK’s upper chamber but failed to pass, by the narrowest of margins, in the lower chamber. Government time and effort with, apparently, every pressure government whips could apply to defeat the amendment, just succeeded while the general public and parliaments around the world were calling for action in respect of possible genocide of the Uyghurs.

crimes against humanity. By accepting that the laws may be complex, arguing over their detail, seeking to expand or contract the meaning of terms already understood, they play right into the hand of any government that prefers to say genocide or crimes against humanity are not sufficiently established for any state duty to be triggered or for any state action to follow.<sup>371</sup>

943. In fact, the law is not unclear or complex so far as the Tribunal's task is concerned, save in respects dealt with below—easily enough—by taking a cautious approach and assuming that those who made the laws wanted the non-lawyer citizen to be able to understand them. In addition to determining whether crimes were committed, the Tribunal was also able, *on evidence*, to ascribe individual criminal responsibility and there was, thus, no need for it to remain silent on this subject.<sup>372</sup>

#### APPLICABLE LAW

945. The applicable law in this case is the law relevant to the international crimes of genocide, crimes against humanity and torture, and to the proof of the commission of such crimes by individuals or the PRC Government.
946. The Tribunal initially sought independent legal advice from very senior lawyers in the UK and from one other country to fulfil its mandate to

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<sup>371</sup> There are, of course, times when the law must be dissected word for word; for example, when an individual is to be charged on limited evidence and it is necessary to allege existence of a 'joint criminal enterprise' (something like a conspiracy in national laws) and then to prove the individual's participation in it. However, the Tribunal's task is far more straightforward and may have no need for intricate dissection of the law. Its mandate is to investigate possible 'genocide, crimes against humanity, torture and other crimes against Uyghur, Kazakh and other Turkic Muslim Populations' and, as explained above, to leave responsibility to act with those with responsibility to discharge duties once the Tribunal's Judgment is available to them.

<sup>372</sup> It is worth noting that an earlier tribunal, the Iran Tribunal, was a people's tribunal concerned with gross violations of human rights and commission of crimes against humanity by the Islamic republic of Iran in the 1980s. It operated in a way similar to the Uyghur Tribunal. Its Judgment, delivered on 5 February 2013, identified culpable individuals. In 2019, one of those individuals—Hamid Noury—was detained in Sweden in part on the basis of that Tribunal's 'Truth Commission' Report and the Tribunal's Judgment. He was arrested, tried for grave crimes by a Swedish law that had universal jurisdiction, was convicted and is now serving life imprisonment. In his trial in Stockholm, the Judgment of the Tribunal was cited as evidence against the accused. The Truth Commission Report was the only evidence with the name of the accused to have been published years before the accused was arrested. Many of the witnesses at the Stockholm trial had testified before the Iran Tribunal's Truth Commission.

investigate ‘ongoing atrocities and possible Genocide against the Uyghurs, Kazakhs, and other Turkic Muslim Populations’. It was intended that the Tribunal would ask those lawyers to give legal advice, the equivalent of directions to a jury. The Tribunal would have indicated privately to those lawyers ‘possible factual findings to be made by the Tribunal’ to limit the advice/directions the lawyers were to give to what was necessary for the Tribunal’s work. Lawyers willing to assist were of great seniority whose advice would have been followed by the Tribunal but would also have been likely to attract general scholarly and other legal professionals’ approval.

947. In March 2021, the PRC Government imposed ‘sanctions’ on lawyers who had by then spoken out about alleged human rights abuses in the PRC and also on the Uyghur Tribunal Chairman—well ahead of any Judgment critical of or adverse to the PRC being even formed let alone delivered by the Tribunal—and on more than one of those intended at the time to be Tribunal witnesses.
948. All the senior lawyers willing to help, for reasons that the Tribunal completely understood, then felt unable to do as originally planned.
949. The Tribunal considered approaching other UK senior lawyers (one was approached immediately but declined) but then reflected on two factors: inviting a lawyer fresh into a ‘sanctioned’ environment could place that lawyer in a very difficult position; and, if the lawyer accepted, might that indicate some *willingness or enthusiasm* to confront the PRC that could be indicative of lack of neutrality?
950. The decision was made not to turn further to UK lawyers and to manage with nothing but guidance from the Tribunal’s own counsel about relevant legal law and legal authorities and for the Tribunal to work out the law for itself on the basis of that guidance.<sup>373</sup>
951. It became clear that the requirement for legal advice/direction could be fairly confined but that some independent assistance would be helpful. The Chair and the Vice Chair of the Tribunal knew Andrew Khoo of the Malaysia Bar as a Member of the China Tribunal and were able to advise the Tribunal that,

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<sup>373</sup> It had been decided at the outset that the Tribunal’s Counsel and his team, although lawyers, should not perform the function planned for the senior (independent) lawyers so as to avoid attack, however unwarranted, on the impartiality of the Tribunal as a whole.

if willing, he could certainly provide the independent advice this Tribunal needed. He was approached and consented to act. He had not been in contact with the Chair and the Vice Chair of the Tribunal over the Uyghur Tribunal and proved invaluable in providing independent advice.

952. Various written documents were received from Andrew Khoo and the Tribunal’s counsel team which is available on the Tribunal’s website (<https://uyghurtribunal.com/wp-content/uploads/2022/09/UT-Legal-Directions-Applicable-Law-AA-04.10.2021-Final.pdf>, para. 38).
953. In deliberation, the Tribunal found the following points from these documents of particular value:
- a. A *Jus cogens* or peremptory norm is a norm accepted and recognised by the international community of States as a whole, from which no derogation is permitted. (Art 53, 64 VCLT 1969). Certain crimes under international law (including genocide, crimes against humanity, torture, slavery, apartheid, and racial discrimination) are such that States must ensure they are not committed; States generally owe the duties and obligations to the international community of states to prohibit such crimes and protect individuals from them. According to the International Law Commission (ILC), ‘Those peremptory norms that are clearly accepted and recognized include the prohibitions of aggression, genocide, slavery, racial discrimination, crimes against humanity and torture, and the right to self-determination’.<sup>374</sup>
  - b. For the crime of genocide: the material elements of one of the five required acts—measures to prevent births within the group—may be evidenced, *inter alia*, by ‘sexual mutilation, the practice of sterilization, forced birth control, separation of the sexes and prohibition of marriages’.
  - c. The term ‘destroy’, in respect of the intent requirement, is limited to the *physical* or *biological* destruction of all or part of the group.
  - d. Where there is physical or biological destruction there are often simultaneous attacks on the cultural and religious property and symbols of the targeted group as well, attacks which may legitimately be considered as evidence of an intent to physically destroy the group.
  - e. When assessing specific intent, consideration ought to be given to all of the evidence collectively. The circumstances of the case may include:

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<sup>374</sup> ILC, ‘Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries’, November 2001, Supplement No. 10 (A/56/10) (chp.IV.E.1., pp. 112-113.).

‘(a) the general context of the perpetration of other culpable acts systematically directed against that same group, whether these acts were committed by the same offender or by others, (b) the scale of atrocities committed, (c) their general nature, (d) their execution in a region or a country, (e) the fact that the victims were deliberately and systematically chosen on account of their membership of a particular group, (f) the exclusion, in this regard, of members of other groups, (g) the political doctrine which gave rise to the acts referred to, (h) proof of the mental state with respect to the commission of the underlying prohibited acts, (i) the repetition of destructive and discriminatory acts, (j) the existence of a plan or policy, and (k) the perpetration of acts which violate the very foundation of the group or considered as such by their perpetrators’. Ordinarily, ‘other culpable acts’ do not constitute prohibited acts, but they may be considered as evidence pointing towards the specific intent of a perpetrator to destroy the group.

- f. *Motive* generally is irrelevant. Intent (i.e. a psychological state of mind) must attach to the commission of crimes. Policies or motives *may*, however, be achieved through the commission of crimes.
- g. Courts and tribunals have consistently accepted that a perpetrator must ‘clearly seek[s] to produce the act charged’ or, in other words, have ‘the clear intent to cause the offence’.
- h. Where only part of a protected group is targeted, that part must constitute a substantial part of that group such that it is significant enough to have an impact on the group, as a whole. In determining substantiality, non-exhaustive considerations may include as a starting point, the numerical size of the targeted part.
- i. In respect of State attribution, a state—absent a person (organ, agent or official)—cannot commit a crime as the ILC and the ICJ have rejected the notion of state crimes and there is no consistent state practice or significant jurisprudence relating to the same.
- j. Certain crimes (or prohibited acts) when committed as part of a widespread or systematic attack directed against a civilian population, constitute crimes against humanity
- k. An ‘attack’ is not limited to the use of force but encompasses any mistreatment of the civilian population. An attack is composed of acts of violence, or of prohibited acts.
- l. ‘Widespread’ refers to the large-scale nature of the attack and the number of targeted persons. ‘Systematic’ refers to the ‘organized nature of the acts of violence’. The existence of a plan or policy can be indicative of the systematic character of the attack, but it is not a distinct legal element.

- m. A perpetrator must know that there is a widespread or systematic attack against a civilian population and that his or her acts are part of that attack but need not have detailed knowledge of the attack or share the purpose of it.
- n. Forcible transfer involves displacement of persons within national boundaries.
- o. Forcible displacement means that people are moved against their will or without a genuine choice. Fear of violence, duress, detention, psychological oppression, and other such circumstances may create an environment where there is no choice but to leave, thus amounting to the forcible displacement of people. The perpetrator of deportation or forcible transfer must intend to forcibly displace the persons; however, the intent need not be to displace on a permanent basis.
- p. Persecution requires proof that an act or omission: (a) discriminates in fact and denies a fundamental human right laid down in international law; and (b) is carried out with the intention to discriminate on political, racial, ethnic or religious grounds.
- q. Torture is ‘any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person ... for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity ... the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions.’ The perpetrator must intentionally act in such a way which, in the normal course of events, would cause severe pain or suffering, whether physical or mental, to the victim(s), in pursuance of one of the purposes prohibited by the definition of the crime of torture as stated above. There is no requirement, under the Rome Statute (as opposed to UNCAT), that the perpetrator acted in an official capacity as a state official or other person in authority.
- r. Other acts of sexual violence encompass acts which may fall short of rape, Sexual violence is found when (i) the perpetrator commits an act of a sexual nature on another or requires the victim to perform such an act.
- s. Other inhuman treatment. The category of ‘other inhumane acts’ is a residual category of CAH which includes serious criminal acts that are not exhaustively enumerated in statutes
- t. Imprisonment. The term imprisonment is understood as arbitrary imprisonment, that is deprivation of liberty of an individual without due



- process of law. If there is a legal basis for the deprivation of liberty, it must apply throughout the period of imprisonment, for the deprivation of liberty will be rendered arbitrary as soon as its legal basis ceases to exist.
- u. ‘Slavery’ is defined as ‘the status or condition of a person over whom any or all powers attaching to the right of ownership are exercised’. (Art 1, Slavery Convention). The act of ‘enslavement’ as a crime against humanity is defined in similar terms: “‘enslavement’ means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children’. Indicia of contemporary forms of slavery and ‘enslavement’ include ‘control of someone’s movement, control of physical environment, psychological control, measures taken to prevent or deter escape, force, threat of force, coercion, duration, assertion of exclusivity, subjection to cruel treatment and abuse, control of sexuality and forced labour’. Slavery requires proof of: the exercise of any or all of the powers attaching to the right of ownership over a person with intentional exercise of such powers.
  - v. Enforced disappearances. The crime is defined as ‘the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, 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 the law for a prolonged period of time’ (Art 7(2)(i), Rome Statute).

The Tribunal also took note of the first two drafts of the Genocide Convention:

**Convention on the Prevention and Punishment of the Crime of  
Genocide**  
**the Secretariat and Ad Hoc Committee Drafts**  
**Secretariat Draft**

First Draft of the Genocide Convention,  
Prepared by the UN Secretariat, [May] 1947 [UN Doc. E/447]

Article I: Definitions

In this Convention, the word ‘genocide’ means a criminal act directed against any one of the aforesaid groups of human beings, with the purpose of destroying it in whole or in part or of preventing its preservation or development.

Such acts consist of:

[Physical genocide] Causing the death of members of a group or injuring their health or physical integrity by:

group massacres or individual executions; or

(b) subjection to conditions of life which, by lack of proper housing, clothing, food, hygiene and medical care, or excessive work or physical exertion are likely to result in the debilitation or death of the individuals; or

(c) mutilations and biological experiments imposed for other than curative purposes; or

(d) deprivation of all means of livelihood, by confiscation of property, looting, curtailment of work, denial of housing and of supplies otherwise available to the other inhabitants of the territory concerned.

[Biological genocide] Restricting births by:

sterilization and/or compulsory abortion; or

(b) segregation of the sexes; or

(c) obstacles to marriage.

[Cultural genocide] Destroying the specific characteristics of the group by:

forcible transfer of children to another human group; or

(b) forced and systematic exile of individuals representing the culture of a group; or

(c) prohibition of the use of the national language even in private intercourse; or

(d) systematic destruction of books printed in the national language or of religious works or prohibition of new publications; or

(e) systematic destruction of historical or religious monuments or their diversion to alien uses, destruction or dispersion of documents and objects of historical, artistic, or religious value and of objects used in religious worship.

### **Ad Hoc Committee Draft**

Second Draft Genocide Convention

Prepared by the Ad Hoc Committee of the Economic and Social  
Council (ECOSOC),

meeting between April 5, 1948 and May 10, 1948 [UN Doc. E/  
AC.25/SR.1 to 28 ]

Article II: ['Physical and biological' genocide]

In this Convention genocide means any of the following deliberate acts committed with the intent to destroy a national, racial, religious or political group, on grounds of the national or racial origin, religious belief, or political opinion of its members:

Killing members of the group;

2. Impairing the physical integrity of members of the group;

3. Inflicting on members of the group measures or conditions of life aimed at causing their deaths;

4. Imposing measures intended to prevent births within the group.

Article III ['Cultural' genocide]

In this Convention genocide also means any deliberate act committed with the intent to destroy the language, religion, or culture of a national, racial or religious group on grounds of the national or racial origin or the religious belief of its members such as:

Prohibiting the use of the language of the group in daily intercourse or in schools, or the printing and circulation of publications in the language of the group;

Destroying or preventing the use of libraries, museums, schools, historical monuments, places of worship or other cultural institutions and objects of the group.

954. Although 'destruction' in the Genocide Convention has been accepted authoritatively as meaning 'physical and biological destruction', there is no authoritative statement by any court on what 'biological destruction' means.

955. The Tribunal will only act on what is absolutely clear and settled law.

956. Given that the Convention reads:

**‘.....Article I**

The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

## Article II

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

Killing members of the group;

(b) Causing serious bodily or mental harm to members of the group;

Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

Imposing measures intended to prevent births within the group;

Forcibly transferring children of the group to another group.

that cultural genocide was specifically excluded from later iterations of the Convention; that while ‘forcible transfer of children to another human group’ appeared in the very first draft as part of then-‘cultural’ genocide’ but became ‘forcibly transferring children of the group to another group’ in the Convention itself, but as part of what is accepted to be [the physical or biological destruction] of ‘destroy’ in Article I, then caution by the Tribunal in understanding (or interpreting) the law is *essential*.

957. As explained at paragraph 24(v) above the start, there is no evidence of mass killings by the PRC Government of Uyghurs. For reasons given below, any genocide established by evidence could not be under Article II (a) (killing) but only under one or more of Article II (b) to (e).
958. When the ‘biological’ part of ‘physical or biological’ destruction is considered, and in the absence of clarity on the issue from national or international courts or tribunals, the Tribunal worked on the basis that for ‘biological destruction’, there must be ‘imposing measures intended to prevent births within the group’.
959. In understanding the law, the Tribunal occasionally made its own references—to exclude any possibility of error in its understanding—to *Archbold International Criminal Courts* (5th ed.) by Karim Khan QC and Rodney Dixon QC, which was found to be of considerable assistance. The above line of reasoning allowed the Tribunal—as a matter of fact and law—to reach the decision on genocide that it set out at paragraphs 182–190 above.
960. Its route to findings about torture and crimes against humanity, based on all legal advice received, can be found at paragraphs 166–171 above.

# Photographs

Photographs by Lily Vetch Studio

## Uyghur Tribunal Members



Sir Geoffrey Nice (Chair)



Nick Vetch (Vice Chair)



Tim Clark



Professor Raminder Kaur



Professor (Dame) Parveen Kumar



Professor David Linch

## Uyghur Tribunal Members



Professor Ambreena Manji



Professor Audrey Osler



Catherine Roe



Hamid Sabi (Counsel)



Uyghur Tribunal, Day of Judgment



Charlie Parton OBE, expert witness



Dr David Tobin, Professor Laura Murphy, Dr Rian Thum, expert witnesses (from left)



Dolkun Isa, Chair of World Uyghur Congress (which commissioned the Tribunal), fact witness



Qelbinur Sidik, fact witness





Patigul Talip, fact witness



Abduweli Ayup, fact witness



Gulbahar Jelilova, fact witness, with Rahima Mahmut, interpreter



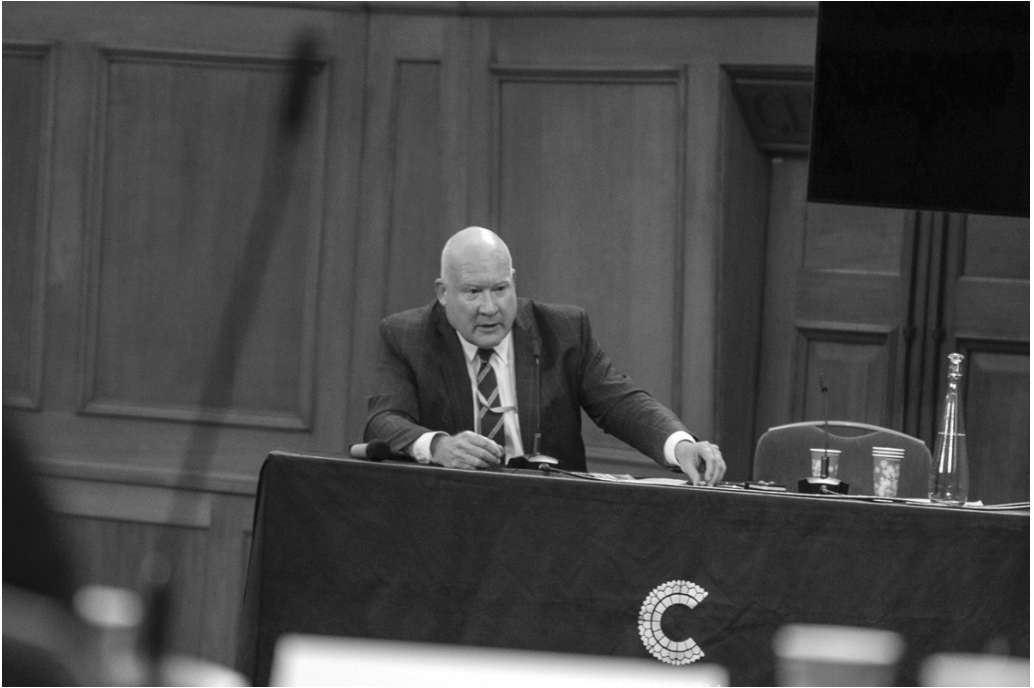
Habibulla Achad, fact witness



(Professor John Packer) and Yonah Diamond, expert witness



Geoffrey Cain, expert witness



Ethan Gutmann, expert witness



Dr Elise Anderson, expert witness



Muetter Iliq, expert witness and Project Analyst of the Uyghur Transitional Justice Database (which gave access to several fact witnesses)



Conor Healy, expert witness



Orynbek Koksebek, fact witness



Peter Irwin, expert witness



Dr Maya Mitalipova, expert witness



Dr Adrian Zenz, expert witness





Andrew Khoo, expert witness on the law



Hamid Sabi, Aldo Zammit-Borda, Aarif Abraham (from left), Counsel Team



Aldo Zammit-Borda, Counsel Team Member





Professor John Packer, expert witness



Erbakit Otarbay, fact witness



Abdul salam Mohammad, fact witness (left), and Arslan Hidayat, interpreter (right)



Professor Raminder Kaur, Catherine Rowe and Sir Geoffrey Nice, Tribunal Members (from left)



Uyghur Tribunal Hearings, 9th December, 2021 – Day of Judgment