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OHCHR Assessment of human rights concerns in the Xinjiang Uyghur Autonomous Region, People's Republic of China

31 August 2022

Contents

I. Introduction

1. In late 2017, the Office of the UN High Commissioner for Human Rights (OHCHR) began receiving increasing allegations by various civil society groups that members of the Uyghur and other predominantly Muslim ethnic minority communities[1] were missing or had disappeared in the Xinjiang Uyghur Autonomous Region of the People's Republic of China (hereafter "XUAR" and "China"). In 2018, the UN Working Group on Enforced or Involuntary Disappearances reported a "dramatic" increase in cases from XUAR "with the introduction of "re-education" camps in the Xinjiang Uighur Autonomous Region by the Government of China".[2] Numerous research and investigative reports published since that time by a diverse range of non-governmental organizations, think-tanks and media outlets – as well as public accounts by victims – have alleged arbitrary detention on a broad scale in so-called "camps", as well as claims of torture and other ill-treatment, including sexual violence, and forced labour, among others.[3]

2. During its review of China's periodic report in August 2018, the UN Committee on the Elimination of Racial Discrimination expressed alarm over numerous reports of the detention of large numbers of ethnic Uyghurs and other Muslim minorities, under the pretext of countering religious extremism in XUAR.[4] The Government stated that "vocational training centres exist for people who had committed "minor offences."[5] In subsequent policy papers, the Government has presented such centres as part of its strategies to counter terrorism and to prevent or counter "extremism" in XUAR, while at the same time contributing to development, job creation and poverty alleviation in the region.[6]

3. In light of the breadth and gravity of the allegations, and the nature of information received, OHCHR has sought access to XUAR to verify claims since 2018.[7] In parallel, and further to its global mandate under General Assembly resolution 48/141 and within existing resources, OHCHR has continued to monitor the situation and assess the allegations, including by reviewing and critically analysing publicly available official documentation, as well as research material, satellite imagery and other open-source information, examining their origin, credibility, weight and reliability in line with standard OHCHR methodology. Throughout OHCHR's review, particular attention was given to official Government documentation and information, including laws, policies, statistical data, court decisions, and official statements and White Papers made public by the Government, as well as a number of other documents that are in the public domain and which OHCHR has assessed as highly

[1] In addition to Uyghurs, this refers to ethnic Kazakhs, Kyrgyz, Uzbeks and Huis. Further in this report the term "Uyghurs and other predominantly Muslim minorities" will be used as a shorthand. The Office is mindful, however, that there are non-Muslim members of these communities and that people from other groups may have also been affected by some of the policies discussed in this report.

[2] See Communications, cases examined, observations and other activities conducted by the Working Group on Enforced or Involuntary Disappearances, 115th session. Annex I, General Allegations, A/HRC/WGEID/115/1, 16 August 2018; Annual report to the Human Rights Council of the Working Group on Enforced and Involuntary Disappearances, 30 July 2018, A/HRC/39/46, para. 88 and annex I.

[3] For a list of articles and media pieces on the situation in XUAR, see "Bibliography of Select News Reports & Academic Works", compiled by M. Fiskesjö, available at: Bibliography - Uyghur Human Rights Project (uhrp.org); public victim accounts are available on the Xinjiang Victims Database: www.shahit.biz.

[4] Concluding Observations on the combined fourteenth to seventeenth periodic reports of China (including Hong Kong, China and Macao, China), CERD/C/CHN/CO/14-17, para, 40(a), 19 September 2018.

[5] Ibid.

[6] White Paper on "Vocational Education and Training in Xinjiang" (original document in English). The State Council, 17 August 2019.

[7] OHCHR, Opening statement and global update of human rights concerns by then UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein at 38th session of the UN Human Rights Council (18 June 2018).

likely to be authentic based on strong indicia of official character.[8] OHCHR has also closely studied information presented by the Government, including in the context of its reviews before the UN human rights treaty bodies and in response to UN Special Procedures communications,[9] and examined material submitted to it by academic and other institutions inside China.[10]

4. As part of an ongoing process of dialogue, on 17 March 2021, OHCHR formally submitted to the Permanent Mission of China to the United Nations in Geneva a request for specific sets of information, detailing various areas of particular interest, including official data, based on its review of the material up to that stage, but did not receive formal response. On 19 July 2021, OHCHR further proposed a meeting with relevant Government officials to discuss the applicable legal framework as it pertains to counter-terrorism and the prevention and countering of "extremism" in XUAR.[11]

5. By way of supplement to the extensive body of documentation, OHCHR also conducted, in accordance with its standard practice and methodology, 40 in-depth interviews with individuals with direct and first-hand knowledge of the situation in XUAR (24 women and 16 men; 23 Uyghur, 16 ethnic Kazakh, 1 ethnic Kyrgyz). Twenty-six of the interviewees stated they had been either detained or had worked in various facilities across XUAR since 2016. In each case, OHCHR assessed the reliability and credibility of these persons, the veracity of the information conveyed, and its coherence with information obtained from other sources.[12] Securing interviews posed significant challenges. Most of the interviews were conducted remotely for COVID-related and/or security reasons. Further to the "do no harm"

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[8] The latter pertains in particular to a range of documents that form part of the so-called "China Cables", the "Xinjiang Papers", the "Karakax List", the "Urumqi Police database" and, most recently, the "Xinjiang Police Files", which in whole or in part have been made public by various media outlets and researchers or have been made available to OHCHR. For a number of these documents, OHCHR was able to take steps to verify their authenticity, resulting in assessment that they are highly likely to be authentic and therefore could be credibly relied upon in support of other information. For others, such verification was not possible, even if OHCHR has no counter-indication that these documents would be inauthentic. OHCHR has not relied on any of these documents as a sole source to make any findings. In this assessment, reference to such documents is included where its content comports with that from other sources of information.

[9] See Government's reply of 16 December 2019 to the Joint Other Letter by a group of Special Procedures of the Human rights Council, JOL CHN 18/2019; Comments on the effect and application of the Counter-Terrorism Law of the People's Republic of China (Counter-Terrorism Law) promulgated on 27 December 2015 effective as of 1 January 2016 and its Regional Implementing Measures, the 2016 Xinjiang Uyghur Autonomous Region Implementing Measures of the Counter-Terrorism Law of the People's Republic of China, sent on 1 November 2019; Government reply of 8 December 2019 to the Joint Urgent Appeal by a group of Special Procedures of the Human Rights Council JUA CHN 21/2019, concerning the situation of Mr. Tashpolat Tiyip, 2 October 2019; Government reply of 23 November 2020 to the Joint Allegation Letter JAL CHN 14/2020, concerns about allegations of use of surveillance to monitor, track, and ultimately detain persons who belong to Muslim minorities in China, 7 July 2020; Government reply of 13 October 2021 to Joint Allegation Letter JAL CHN 18/2020, concerns about allegations of forced labour in the context of Vocational Education Training Centres, 12 March 2021 and Government reply of 23 May 2021 to the Joint Allegation Letter JAL CHN 21/2020, concerns about allegations of arbitrary detention, ill-treatment as well as of gender-based violence against Ms. Gulbakhar Jalilova, 10 February 2020.

[10] This includes a list submitted on 27 July 2021 of thirteen press conferences held by Chinese officials on the situation in XUAR, explaining different sets of measures and achievements relating to security, development, poverty alleviation, family planning, birth rates, labour and employment, as well as five documentaries providing additional perspectives. OHCHR further received numerous submissions, including from research institutes and organizations based in XUAR and attended numerous side events organised by the Permanent Mission of the People's Republic of China in Geneva.

[11] A follow-up note was sent on 3 September 2021, indicating in detail areas for clarification.

[12] Over one third of the 40 interviewees had either not been interviewed by others, or had been interviewed in the past by researchers, civil society or journalists, but opted not to publicly share their experience prior to speaking to OHCHR. Where the assessment quotes directly from an account of an interviewee, OHCHR has accepted the statement as assessed and described to be truthful and relevant, unless stated otherwise. Direct references to specific statements in the report should not be taken as an indication that it was the sole basis of judgment in relation to the issues under analysis. These direct references and citations were included to provide an example or illustration.

principle, additional measures were taken in accordance with standard OHCHR practice to enhance protection of persons providing information.

6. The assessment contained in this document is based on China's obligations under international human rights law, contained principally in the human rights treaties to which China is a State Party, in particular the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC), the International Covenant on Economic, Social and Cultural Rights (CESCR) and the Convention on the Rights of Persons with Disabilities (CRPD). China has also signed, though not yet ratified, the International Covenant on Civil and Political Rights (ICCPR). As a result, it is obliged as a matter of law to refrain from any acts that would defeat the object and purpose of this treaty.[13] Additionally, China is bound by human rights norms accepted as constituting customary international law, notably with respect to the right to life, the prohibition of discrimination based on race, religion or sex, and the right to freedom of religion.[14] Moreover, some human rights norms are also considered to constitute *jus cogens* or peremptory norms of international law, accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted under any circumstances. These include the prohibitions of arbitrary deprivation of life, torture, slavery, arbitrary detention, racial discrimination, and the commission of international crimes including crimes against humanity.[15] Finally, OHCHR considered standards contained in United Nations instruments on counter-terrorism and the prevention and countering of violent extremism, as well as the International Labour Organization's labour rights conventions.[16]

7. The assessment was shared with the Government for factual comments, as per standard OHCHR practice. The Government's response, further to its request, is annexed to this report.

8. Separately, the Government extended an invitation to the High Commissioner to visit China in September 2018. Owing to the COVID-19 pandemic and the need to discuss the parameters of such a visit, agreement for the visit was only reached in March 2022. As part of her visit, it was agreed with the Government of China that the High Commissioner would also visit XUAR, following deployment of an advance team to prepare for her visit, which took place in April and May 2022.

II. Background

9. XUAR is China's largest region, covering one-sixth of its total territory, with a population of 25.85 million. It is rich in resources such as coal, gas, oil, lithium, zinc and lead, as well as being a major source of agricultural production, such as of cotton. As it shares external borders with Afghanistan, India, Kazakhstan, Kyrgyzstan, Mongolia, Pakistan,

[13] Article 18, Vienna Convention on the Law of Treaties (1969).

[14] See, e.g., UN Human Rights Committee, General Comment No. 24: Issues Relating to Reservations Made upon Ratification or Accession to the Covenant or the Optional Protocols thereto, or in Relation to Declarations under Article 41 of the Covenant (CCPR/C/21/Rev.1/Add.6), para. 8.

[15] See General Assembly - Report of the International Law Commission [Seventy-first session (29 April–7 June and 8 July–9 August 2019)], A/74/10, para. 56, regarding crimes against humanity, racial discrimination, slavery and torture; UN Human Rights Committee, General Comment No. 36 – Right to Life, CCPR/C/GC/36 (3 September 2019), para. 68, regarding the arbitrary deprivation of life; Human Rights Council, Report of the Working Group on Arbitrary Detention, A/HRC/22/44 (24 December 2012), para. 79 regarding arbitrary detention.

[16] Note, in particular, the UN Global Counter-Terrorism Strategy (A/RES/60/288) and the UN Plan of Action on the Prevention of Violent Extremism (A/70/674). The framework also includes Security Council resolutions, including S/RES/1373 (2001), S/RES/1566 (2004), S/RES/1624 (2005), S/RES/2178 (2014), and S/RES/2396 (2017); ILO Conventions on Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and Employment Policy Convention, 1964 (No. 122). Ratifications of ILO Conventions 29 (Forced Labour) and 105 (Abolition of forced labour) are in progress.

Russian Federation and Tajikistan, the region also provides important routes and access to Central Asian markets and beyond.

10. Demographically, XUAR has been one of the fastest growing regions in China and its ethnic composition has gradually shifted since 1949.[17] In 1953, at the time of the first census, over 75 per cent of the total population in the region was constituted by Uyghurs, who are predominantly Sunni Muslim, with ethnic Han Chinese accounting for seven per cent. Other predominantly Muslim ethnic groups living in the region include, in alphabetical sequence, Hui, Kazakh, Kyrgyz, Mongol, and Tajik peoples. According to the latest census and the Government's White Paper on "*Xinjiang Population Dynamics and Data*", while the overall population of both Han and Uyghur ethnic groups has grown, the Uyghur population now constitutes about 45 per cent of the region's total and Han Chinese about 42 per cent.[18] These shifts appear to be largely the consequence of ethnic Han migration into the western regions, including as a result of incentives provided by Government policies.[19]

11. Historically, the population of XUAR is one of the poorest in China. It has been the focus of numerous development and poverty alleviation policies by the central authorities.[20] According to State media, 2.3 million people in XUAR emerged from poverty between 2014 and 2018, of which 1.9 million were from southern Xinjiang, which has the highest population of ethnic groups.[21] According to official Government information, in 2021, Xinjiang registered seven per cent growth in gross domestic product (GDP) and an increase of per capita disposable income for urban and rural residents of eight per cent and 10.8 per cent.[22] Moreover, 1.69 million rural houses and 1.56 million government-subsidized housing projects in cities and towns have reportedly been constructed.[23] UN human rights mechanisms have raised concerns, however, about discrimination in economic, social and cultural spheres in ethnic regions, including XUAR, over many years.[24]

12. In July 2009, riots broke out in the regional capital Urumqi. The then United Nations High Commissioner for Human Rights called for an investigation into the causes of the violence.[25]The Government reported that "from 1990 to the end of 2016, separatist, terrorist and extremist forces launched thousands of terrorist attacks in Xinjiang, killing large numbers of innocent people and hundreds of police officers, and causing immeasurable damage to property".[26] There were also a series of violent incidents in different Chinese cities outside XUAR, killing scores of people, and which the Government, for its part, has consistently

[17] See China Daily, "Xinjiang's population sees stable increase over past decade", 15 June 2021. According to the 2020 census, XUAR's population grew by 18.5 per cent in a decade making it one of the fastest growing regions in China, see: china2020-census-table (newgeography.com), which has been largely attributed to migration from other parts of the country.

[18] See Xinjiang Population Dynamics and Data, State Council Information Office of the People's Republic of China, September 2021; National Bureau of Statistics of China, "Main data of the seventh population census, news release", 11 May 2021.

[19] See, e.g., China Daily, "Xinjiang's population sees stable increase over past decade", 15 June 2021.

[20] See for example the Great Western Development Strategy launched in the 1990s. See Ministry of Ecology and Environment, the People's Republic of China, "Introduction to the Implementation of the Great Western Development Strategy in China," 2 November 2000.

[21] Xinhua, "Xinjiang makes headway in poverty alleviation", 11 October 2019.

[22] See "Xinjiang registers robust economic growth in 2021", State Council Information Office of the People's Republic of China, 30 January 2022.

[23] See "The Achievements of Stability and Development in Xinjiang", Consulate-General of the People's Republic of China in Auckland, New Zealand, 28 December 2020.

[24] See, e.g., Concluding Observations of the UN Committee on the Elimination of Racial Discrimination on the People's Republic of China, CERD/C/304/Add.15,27 September 1996 paras. 14 (citing concerns with respect to, inter alia, "Muslim parts of Xinjiang") and 18 (expressing concerns in more general terms with respect to "ethnic minority regions far removed from the Capital"), and Concluding Observations of the UN Committee on Economic, Social and Cultural Rights.

[25] See OHCHR, "UN human rights chief alarmed by high loss of life in China's Xinjiang region", 7 July 2009.

[26] See State Council Information Office of the People's Republic of China, "The Fight against Terrorism and Extremism and Human Rights Protection in Xinjiang", March 2019.

characterised as terrorist in character.[27] At the same time, the involvement of numbers of Uyghurs as fighters in armed groups, including in Afghanistan and Syria, subject to UN counter-terrorism sanctions, continued to be reported and remained a cause for concern for both the Chinese authorities and more widely in the international community.[28]

13. In May 2014, in the wake of these developments, the Government launched what it termed a "Strike Hard" campaign" to combat terrorist threats, which it linked to religious "extremism" and separatism in XUAR.[29] In a 2019 White Paper, the Government stated that "since 2014, Xinjiang has destroyed 1,588 violent and terrorist gangs, arrested 12,995 terrorists, seized 2,052 explosive devices, punished 30,645 people for 4,858 illegal religious activities, and confiscated 345,229 copies of illegal religious materials".[30] The Government has asserted the success of its approach, reporting that there have been no terrorist incidents in XUAR since 2016.[31]

III. China's legal and policy framework on countering terrorism and "extremism"

14. In official statements, the Government has emphasized that "Xinjiang-related issues are in essence about countering violent terrorism and separatism" and that it is doing so "in accordance with law".[32] In its March 2019 White Paper on "The Fight Against Terrorism and Extremism and Human Rights Protection in Xinjiang", the Government asserted that China's laws are "powerful legal instruments to contain and combat terrorism and extremism" and that it is upholding "the principles of protecting lawful activities, curbing illegal actions, containing extremism, resisting infiltration, and preventing and punishing crimes". It also underscored that the local government in XUAR "fully respects and safeguards civil rights including freedom of religious belief".

15. In line with international law, United Nations resolutions and other instruments consistently stress that States' measures to combat terrorism and violent extremism must be firmly grounded in respect for human rights and the rule of law.[33] They recognize that effective counter-terrorism and counter-violent extremism measures on the one hand, and the protection of human rights on the other, are not conflicting goals, but complementary and mutually reinforcing. Ensuring a counter-terrorism response compliant with human rights standards requires ensuring that relevant legislation and applicable policies provide a framework that duly considers and addresses human rights risks and impacts, excludes arbitrary and discriminatory application, and incorporates appropriate safeguards and remedies against violations. The UN High Commissioner and the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering

[27] See Global Times, "Terrorists held for fatal crash", 31 October 2013; Global Times "Police identify Tiananmen car crash as terrorist attack", 30 October 2013; China Daily, "Railway attack orchestrated by terrorists", 2 March 2014; The Guardian, "Chinese police hunt for two Xinjiang men after deadly Tiananmen car crash", 29 October 2013; BBC, "Four sentenced in China over Kunming station attack", 12 September 2014.

[28] E.g., Reuters, "Syria says up to 5,000 Chinese Uighurs fighting in militant groups", 8 May 2017.

[29] See State Council Information Office of the People's Republic of China, White Paper on "The Fight against Terrorism and Extremism and Human Rights Protection in Xinjiang", March 2019, stating that "separatism is the hotbed in which terrorism and extremism take root in Xinjiang".

[30] See State Council Information Office of the People's Republic of China, White Paper on "The Fight against Terrorism and Extremism and Human Rights Protection in Xinjiang", March 2019.

[31] State Council Information Office of the People's Republic of China, White Paper on "Respecting and Protecting the Rights of All Ethnic Groups in Xinjiang", July 2021.

[32] E.g., Remarks "A People-centered Approach for Global Human Rights Progress", by H.E. Wang Yi, State Councillor and Foreign Minister of the People's Republic of China, at the High-level Segment of the 46th Session of UN Human Rights Council,22 February 2021.

[33] E.g., UN Global Counter-Terrorism Strategy (A/RES/60/288) and the UN Plan of Action on the Prevention of Violent Extremism (A/70/674).

terrorism, among others, have highlighted how this remains a challenge in many legal systems.[34]

16. China has developed what it describes as an "anti-terrorism law system"[35] composed of specific national security and counter-terrorism legislation,[36] general criminal law and criminal procedure law,[37] as well as formal regulations pertaining to religion and "de-extremification".[38] Most of these laws and regulations, at both national and XUAR level, have been adopted or revised between 2014 and 2018, in the context of the "Strike Hard" campaign. These evolutions have been accompanied by numerous official policy statements and explanatory positions.[39]

A. Clarity, breadth and scope of concepts of "terrorism" and "extremism"

17. Both the PRC Counterterrorism Law ("CTL") and the Xinjiang Implementing Measures for the PRC Counterterrorism Law ("XIM") define terrorism as:

> "propositions and actions that create social panic, endanger public safety, attack persons or property, or coerce national organs or international organizations, through methods such as violence, destruction intimidation, so as to achieve their political, ideological, or other objectives".[40]

18. Elements of the definition are broadly worded. Notions such as "propositions", "social panic" and "other objectives" are not clearly defined and might potentially encompass a wide range of acts that are substantially removed from a sufficient threshold of seriousness and demonstrable intent to engage in terrorist conduct.[41] In both the CTL and the XIM, the definition of terrorism is further accompanied by a list of acts that constitute "terrorist activities" that provide some clarity to the definition:

> "For the purpose of this Law, "terrorist activities" means the following conduct of the terrorist nature: (1) Organizing, planning, preparing for, or conducting the activities which cause or attempt to cause casualties, grave property loss, damage to public facilities, disruption of social order and other serious social harm; (2) Advocating terrorism, instigating terrorist activities, or illegally holding articles advocating terrorism, or forcing other persons to wear costume or symbols advocating terrorism in public places; (3) Organizing, leading or participating in terrorist organizations; (4) Providing information, funds, materials, labor services, technologies, places and other

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[34] See, e.g., Report of the UN High Commissioner for Human Rights on "best practices and lessons learned on how protecting and promoting human rights contribute to preventing and countering violent extremism" (A/HRC/33/29), 21 July 2016 and "Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism" (A/HRC/43/46), 21 February 2020. See also comments of the UN Special Rapporteur on legislation and policies of various States across the globe: https://www.ohchr.org/en/special-procedures/sr-terrorism/comments-legislation-and-policy.

[35] White Paper on "The Fight Against Terrorism and Extremism and Human Rights Protection in Xinjiang", March 2019.

[36] National Security Law of 2015; Counterterrorism Law of 2015; XUAR Implementing Measures for the PRC Counterterrorism Law of 2016 (amended in 2018).

[37] Criminal Law of China (and its various amendments); Criminal Procedure Law of China (and its various amendments); Opinions on Certain Issues Concerning the Application of Law in Handling Criminal Cases Involving Terrorism and Extremism (jointly issued by the Supreme People's Court, the Supreme People's Procuratorate, Ministry of Public Security and Ministry of Justice in March 2018).

[38] Religious Affairs Regulation (as amended in 2017); XUAR Religious Affairs Regulation (as amended in 2014); XUAR Regulation on De-extremification of 2017 (amended in 2018).

[39] E.g., the Government's 11 White Papers on the situation in XUAR: http://english.www.gov.cn/archive/whitepaper/page_1.html.

[40] Article 3, CTL; Article 3, XIM.

[41] See "Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism: Ten areas of best practices in countering terrorism" (A/HRC/16/51), 22 December 2010, para. 28, for an overview of conditions for a human rights-compliant definition of terrorism and proposing a model definition of terrorism as best practice. The Special Rapporteur's model definition is also in line with Security Council resolution 1566 (2004).

> support, assistance and convenience to terrorist organizations, terrorists, the implementation of terrorist activities or training on terrorist activities; (5) Other terrorist activities" (unofficial translation).[42]

19. The listed activities generally correspond to the conduct that is criminalized in the Criminal Law.[43] However, again, a number of the activities listed remain stated in vague and/or subjective terms without further clarification as to the content of what these may encompass, e.g., "disruption of social order and other serious social harm".[44]

20. Further clarification on the interpretation of the relevant provisions was provided in the March 2018 "Opinions on Certain Issues Concerning the Application of Law in Handling Criminal Cases Involving Terrorism and Extremism" issued jointly by the Supreme People's Court, the Supreme People's Procuratorate, Ministry of Public Security and Ministry of Justice. In the Opinion, some guidance is provided on the interpretation and application of certain terms of article 120 of the Criminal Law pertaining to the formation, leading or active participation in a terrorist organization. While helpful in further defining certain activities considered terrorist, the Opinion does not address all concerns, including for example the scope of the term "extremism" in the description of various terrorist offences as discussed below.

21. As such, there are concerns that the scope of the definitions leaves the potential that acts of legitimate protest, dissent and other human rights activities, or of genuine religious activity, can fall within the ambit of "terrorism" or "terrorist activities", and consequently for the imposition of coercive legal restrictions on legitimate activity protected under international human rights law.[45] Such provisions are vulnerable to being used – deliberately or inadvertently – in a discriminatory or otherwise arbitrary manner against individuals or communities.

22. In relation to "extremism", the Xinjiang Religious Affairs Regulation ("XRAR") sets out a definition of "religious extremism" referring to

> "the distortion of religious teachings and the promotion of extremism, as well as other extremes of thought, speech and behavior such as the promotion of violence, social hatred and anti-humanity".[46]

As such, the XRAR prohibits "extremist… ideas", "thought", "activities", "clothing", "symbols", "signs" and "content", but provides little clarity on what constitutes these elements such as to render them "extremist".

23. The XUAR Regulation on De-extremification ("XRD") defines "extremism" as "propositions and conduct using distortion of religious teachings or other means to incite hatred or discrimination and advocate violence", and "extremification" as "speech and actions under the influence of extremism, that spread radical religious ideology, and reject and interfere with normal production and livelihood".[47] This regulation also contains an open-ended list of "primary expressions of extremification", all of which are to be prohibited, including "interfering with normal cultural and recreational activities, rejecting or refusing public goods and services such as radio and television", "spreading religious fanaticism through irregular beards or name selection", and "deliberately interfering with or undermining the implementation of family planning policies".[48] In this regard, it is notable that Chinese law and policy consistently refer to "extremism" generally, without the critical qualifying adjective "violent", as UN instruments approach the issue.[49]

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42 Article 3, CTL. See also Article 6, XIM.
43 Art. 120 and following, CL.
44 See also article 6, XIM, which is stated in similar terms.
45 Letter by a group of Special Procedures of the United Nations Human Rights Council addressed to China, OL CHN 18/2019, p. 4-5, 1 November 2019.
46 Article 65, XRAR (unofficial translation).
47 Article 3, XRD (unofficial translation).
48 Article 9 (5, 8, 14), XRD (unofficial translation).
49 E.g., UN Plan of Action on the Prevention of Violent Extremism (A/70/674).

24. As such, the legal texts appear to conflate what might otherwise be construed as matters of personal choice in relation to religious practice with "extremism"[50], and "extremism" with the phenomenon of terrorism,[51] significantly broadening the range of conduct that can be targeted under a counter-terrorism objective or pretext. Such conflation through the application of broadly stated or vague definitions pose particular problems in relation to criminalization under Chinese criminal law, for example, of the "promotion of terrorism and extremism through books, audio and video materials"[52] or the "possession of books, audio and video materials or other things despite being aware that they produce, distribute and preach terrorism or extremism".[53] Owing to the highly subjective notions of what defines or constitutes "extremism", the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has argued that

> "the term … has no purchase in binding international legal standards and, when operative as a criminal legal category, is irreconcilable with the principle of legal certainty; it is therefore per se incompatible with the exercise of certain fundamental human rights."[54]

B. Methodologies applied to identify suspects and persons "at risk" of "extremism"

25. As mentioned, the 2017 XUAR Regulation on De-extremification ("XRD") includes a list of 15 "primary expressions of extremification", described as "words and actions under the influence of extremism", to be prohibited.[55] This list may have been an attempt at standardizing and codifying a number of such lists that had emerged in various localities in XUAR, most notably a list of 75 signs of religious extremism that local authorities and police departments had reportedly started distributing in December 2014.[56] These lists of "signs" and "primary expressions" of religious extremism include conduct that falls well within the exercise of fundamental freedoms and which are not, *per se*, linked with violence or potential violent action. Examples include "rejecting or refusing radio and television";[57] being "young and middle-aged men with a big beard"[58]; "suddenly quit[ing] drinking and smoking, and not interacting with others who do drink and smoke"[59]; and "resisting normal cultural and sports activities such as football and singing competitions";[60] among others.

26. Various forms of conduct associated with the expression of different opinions, stated in broad terms, are also considered a sign of "extremism". These include, for instance, "resisting current policies and regulations";[61] "using mobile phone text messages and WeChat and other social chat software to exchange learning experience, read illegal religious propaganda materials";[62] "carrying illegal political and religious books and audio-visual products or checking them at the residence";[63] or "using satellite receivers, Internet, radio

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[50] Apparent, for example, in article 4 of the XRD, which states that the aim of "de-extremification" is to "make religion more Chinese" and "guide religions to become compatible with socialist society" (unofficial translation).

[51] Apparent, for example, in article 4 of the CTL, describing "extremism" as the ideological basis of terrorism. See also White Paper on "The Fight Against Terrorism and Extremism and Human Rights Protection in Xinjiang", March 2019.

[52] Article 120c, CL (unofficial translation).

[53] Article 120f, CL (unofficial translation).

[54] "Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism" (A/HRC/43/46), 21 February 2020, para. 14.

[55] Article 9, XRD (unofficial translation).

[56] For example, Sina news, "Xinjiang local authorities organise people to identify 75 religious extremes" (unofficial translation), 24 December 2014, available at http://news.sina.com.cn/c/2014-12-24/093231321497.shtml.

[57] Article 9.5, XRD (unofficial translation).

[58] Sign 9 on list of 75 signs of religious extremism (unofficial translation). See also article 9.8, XRD, referring to "irregular beards".

[59] Sign 10 on list of 75 signs of religious extremism (unofficial translation).

[60] Sign 15 on list of 75 signs of religious extremism (unofficial translation).

[61] Sign 2 on list of 75 signs of religious extremism (unofficial translation).

[62] Sign 39 on list of 75 signs of religious extremism (unofficial translation).

[63] Sign 40 on list of 75 signs of religious extremism (unofficial translation).

and other equipment to illegally listen to, watch, and spread overseas religious radio and television programs",[64] "resisting government propaganda" and "refusing to watch normal movies and TV networks"[65].

27. Furthermore, the lists include violations of other laws and policies, for example family planning policies[66]. This means that a person breaching such other law or policy is not only exposed to the sanctions provided under that law or policy for its own breach, but may also fall within the ambit of what is considered as "extremist" with additional consequences on that basis, such as criminal punishment and/or "re-education", as discussed below.

28. These lists of indicators for identifying persons "at risk" of "extremism" or terrorism appear to be based on elements that do not necessarily serve as actual and substantive indicators that an individual has engaged, or is at risk of engaging in, violent extremist or terrorist conduct. Rather, they appear based on a simplistic association of these indicators with "terrorism" or "extremism", whereas many of these indicators, taken individually (and even collectively) may merely be manifestations of nothing more or less than personal choice in the practice of Islamic religious beliefs and/or legitimate expression of opinion. The use of methodologies based on such subjective or superficial "risk factors" and which overemphasize elements of what might otherwise be considered as legitimate religious practice, cultural preference, or a matter of personal choice, risks casting a wide net to subject individuals (who have no connection with violent extremism or terrorism) to these laws and policies, unpredictable outcomes and potentially arbitrary application of law and policy.[67] The imposition of coercive sanctions on the basis of indicators that encompass conduct that may amount to the legitimate exercise of rights to freedom of religion, carries serious risk of discriminatory application and use as profiling tools on individuals primarily on grounds of their ethno-religious identity and individual expressions thereof.

C. Scope and nature of responses to alleged "terrorist" or "extremist" conduct

29. In its August 2019 White Paper on "Vocational Education and Training in Xinjiang", the Government explained that its system sought to balance harsh punishment for serious acts, with compassion, leniency, education and rehabilitation for minor cases. Under that system, judgment and punishment is meted out by criminal courts for serious acts, whereas an administrative track deals with more "minor" cases. This administrative track involves so-called "Vocational Education and Training Centres" (VETC facilities),[68] which are facilities where individuals can be placed for "deradicalization" and "re-education". The significant distinction between what constitutes "serious" and "minor" acts of terrorism and/or "extremist" acts is unclear, with the same types of conduct often included under both legal categories. This creates a further level of uncertainty for the population at large as to which cases must (or can be) decided in formal court proceedings, and which will (or may) be handled administratively. Moreover, the differentiation between the categories of cases according to an assessment of "gravity" is itself based on undefined criteria (such as "circumstances are minor",[69] a person "poses a real danger but has not yet caused actual consequences",[70] a person's "subjective malice is not deep and they can sincerely repent",[71]

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64 Sign 41 on list of 75 signs of religious extremism (unofficial translation).

65 Sign 43 on list of 75 signs of religious extremism (unofficial translation).

66 Article 9.14, XRD.

67 The UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has highlighted the pitfalls of risk models that are tainted by prejudice or ignorance, generate unpredictability in the monitored communities, open up administrative arbitrariness, and lack judicial supervision. See "Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism" (A/HRC/43/46), 21 February 2020, para. 17.

68 OHCHR is cognizant of the research that has been conducted with regard to the various forms of facilities in XUAR. For purposes of this assessment, however, it has opted to refer to VETC facilities generically as facilities providing "de-radicalisation" education and training, as per the Government's White Paper of August 2019 on "Vocational Education and Training in Xinjiang".

69 Article 38, XIM (after 2018 amendment) (unofficial translation).

70 Article 39, XIM (after 2018 amendment) (unofficial translation).

71 Article 39, XIM (after 2018 amendment) (unofficial translation).

or a person "still [is] a threat to society"[72]). These broadly worded requirements create significant scope for arbitrary, inconsistent and subjective application of the law. As such, the same act could readily lead to quite different and unpredictable legal consequences.

30. Furthermore, under the law, each intervening authority at every stage of the process (be it police, prosecutor, judge, or enforcement official), whether in the criminal or administrative track, can make the determination that "education" is deemed warranted and can direct the transfer of an individual to a VETC facility. A placement in such facility thus becomes an available consequence of having committed any type of act that can be construed as "terrorism" or "extremism", regardless of whether the person is also criminally prosecuted. There are further concerns that the law fails to provide sufficient legal certainty on core elements of the "education and transformation" system itself, such as the permissible duration for such residential programmes in VETC facilities or the criteria or procedure according to which individuals are or can be deemed appropriately "educated" and thereby liable for release.

D. Breadth of preventive, investigative and coercive powers, and degree of oversight and redress

31. Under applicable law, public security organs, and the executive more broadly, are given far-reaching powers to prevent, investigate and respond to terrorist and "extremist" acts.[73] The Counterterrorism Law ("CTL") and Xinjiang Implementing Measures ("XIM"), for example, authorize public security organs to employ "technological investigative measures" and to collect and retain data regarding numerous aspects of individuals' lives, including personal data and biometric data.[74] The Criminal Procedure Law ("CPL") allows these authorities to use special investigative techniques, including electronic surveillance,[75] while the CTL authorizes imposition of a range of restrictive measures on suspects, including orders not to leave the city, not to use public transport, not to communicate with certain persons, to hand over passports, or to periodically report to the authorities.[76] Under the law, other entities also have a role and must cooperate with the authorities. For example, telecommunications and internet providers must put information content monitoring systems in place and provide public security officials with decryption and other technical support,[77] and local governments are required to use technology, alongside other measures, to prevent the spread of terrorism and "extremism"[78] and to ensure that "public areas of the city as needed" are equipped with "public security video image information systems".[79]

32. These specific counter-terrorism powers come in addition to the general powers of the public security organs to take suspects into custody and pre-trial detention for lengthy periods without independent review, contrary to international human rights law and standards. For example, under the CPL, a person can be in detention for up to 37 days before any formal review and decision that an arrest is warranted.[80]

33. With respect to the exercise of powers under the CTL, article 94 punishes the abuse of power by personnel of counter-terrorism institutions and "other conduct violating laws or

[72] Article 42, XIM (after 2018 amendment) (unofficial translation).
[73] E.g., articles 17-67, CTL; articles 16-37, XIM.
[74] E.g., articles 45, 50, CTL; article 31, XIM (after 2018 amendment).
[75] Article 150, CPL (and following).
[76] Article 53, CTL.
[77] Articles 18-19, CTL.
[78] Article 16, XIM (after 2018 amendment).
[79] Article 27, CTL.
[80] See articles 80, 82, 91, CPL. Following its visit to China in 2004, the UN Working Group on Arbitrary Detention noted that the holding of a person in police custody for more than four to five days was problematic under the international requirement of promptness. It also found that the requirement that the arrest be approved by the procurator fails to meet international standards, because it does not bring the person before a judicial organ and because the procurator is insufficiently independent to be considered exercising judicial power (as required by art. 9.3, ICCPR). See Report of the Working Group on Arbitrary Detention: Mission to China, E/CN.4/2005/6/Add.4, 29 December 2004, para. 32.

discipline".[81] Article 62 of the XIM,[82] in turn, provides that staff of counter-terrorism institutions and relevant departments who "fail to perform their duties in counter-terrorism work" may be reprimanded and educated, given administrative sanctions where the circumstances are serious and held criminally responsible where a crime was committed.[83] Article 96 of the CTL also provides that where "relevant units or individuals" are unsatisfied with a decision under the CTL to impose administrative punishment or administrative compulsory measures, they may apply for administrative reconsideration or raise an administrative lawsuit.[84]

34. OHCHR does not have information on the degree to which these remedies are implemented, either in absolute terms or as a proportion of relevant cases, or, where they are implemented, their effectiveness in ending a breach of rights and providing effective remedy. For their part, the applicable legal texts themselves suggest there is only limited, if any, independent judicial oversight of the authorities exercising the powers conferred to them under the counter-terrorism and counter-"extremism" laws and policies, increasing the risk of discriminatory or arbitrary application. The broad and far-reaching legal powers given to the authorities under Chinese legislation require comprehensive and transparent regulation, in line with the principles of legality, necessity, proportionality and accountability,[85] in order to remain consistent with human rights and fundamental freedoms, notably to protect rights to privacy and to freedom of movement, expression and religion.

35. In summary, the Chinese "anti-terrorism law system"[86] is based on vague and broad concepts that grant significant discretion to diverse officials as to their interpretation and application. Methods set out under the framework to identify and assess problematic conduct are simplistic and prone to subjectivity, and do not appear to be based in empirically obtained evidence that establishes the links between the indicators of conduct relied on and terrorism or violent extremism. Furthermore, the legal consequences attached to such conduct are unpredictable and insufficiently regulated. Authorities are granted broad investigative, preventive and coercive powers with limited safeguards and independent judicial oversight. Individually and cumulatively, these factors present significant concerns as to the system's compliance with international human rights law, establishing a framework that is vulnerable to arbitrary and discriminatory application, unjustifiably limits the exercise of legitimate rights, potentially subjects individuals to arbitrary detention, and fails to provide adequate safeguards to protect against abuse. In the context in which this system is implemented and by associating "extremism" with certain religious and cultural practices, it also carries inherent risk of unnecessary, disproportionate, and discriminatory application to the ethnic and religious communities concerned.

IV. Imprisonment and other forms of deprivation of liberty

36. As indicated above, the Government has explained that its counter-terrorism and counter-"extremism" system is based on a distinction between "serious" acts that merit punishment through the criminal justice system and "minor" cases that require leniency, education and rehabilitation. Under the latter, administrative track, individuals of concern would generally be placed in a so-called "Vocational Education and Training Centre" (VETC).[87] The Government has maintained that the VETC facilities have been closed since 2019.[88]

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[81] Unofficial translation.
[82] Version after 2018 amendment.
[83] Unofficial translation.
[84] The Implementing Measures for XUAR (XIM) do not appear to include a similar provision.
[85] See also Other Letter by a group of Special Procedures of the Human Rights Council addressed to China, 1 November 2019, OL CHN 18/2019, p. 11, 16-17.
[86] State Council Information Office of the People's Republic of China, White Paper on "The Fight Against Terrorism and Extremism and Human Rights Protection in Xinjiang", March 2019.
[87] August 2019 White Paper on "Vocational Education and Training in Xinjiang".
[88] The August 2019 White Paper on "Vocational Education and Training in Xinjiang" stated that "as

A. Referrals to "Vocational Education and Training Centres"

37. In October 2018, shortly after the Government first stated the existence of "vocational training centres", the Xinjiang Implementing Measures for the P.R.C. Counter-Terrorism Law ("XIM") and the XUAR Regulation on De-extremification ("XRD") were both revised to explicitly introduce provisions permitting the establishment of such centres.[89] In mid-2019, in a follow-up response to the CERD Committee, the Government reported that it had established "vocational education and training centres, in accordance with the law, to eradicate the breeding ground and conditions for the spread of terrorism and religious extremism"".[90]

38. According to the Government's 2019 White Paper on "Vocational Education and Training in Xinjiang" and relevant legal provisions, three categories of individuals can be held in such centres. The first category includes individuals who have been convicted for terrorist or "extremist" crimes and who are, upon completion of their sentence "assessed as still posing a potential threat to society".[91] Such people are, according to the law, sent to VETC facilities by a court decision.[92] The second category includes "people who were incited, coerced or induced into participating in terrorist or extremist activities, or people who participated in terrorist or extremist activities in circumstances that were not serious enough to constitute a crime".[93] Those people can be referred to VETC facilities upon a decision of the police.[94] The third category consists of "people who were incited, coerced or induced into participating in terrorist or extremist activities, or people who participated in terrorist or extremist activities that posed a real danger but did not cause actual harm".[95] In these cases the procuratorate can decide to waive a sentence on the condition that the offender's "subjective malice is not deep and they can sincerely repent and voluntarily accept education and assistance".[96]

39. In the same 2019 White Paper, the Government stated that "education and training [in VETC facilities] is not a measure to limit or circumscribe the freedom of the person", while in its response to the CERD Committee it stated that VETC facilities are "*schools by nature*".[97] Under international human rights law, however, a deprivation of liberty occurs when a person "is being held without his or her free consent",[98] involving a "more severe restriction of motion within a narrower space than mere interference with liberty of

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education and training has played its role, most trainees have reached the required standards and graduated" and that "many of the trainees" have gone on to find employment in factories or enterprises". In December 2019, Shohrat Zakir, chairman of the regional Government of XUAR, speaking at a press conference in Beijing, stated that trainees at VETCs in XUAR "have all graduated", see Xinhua, "Trainees in Xinjiang education, training program have all graduated: official", 9 December 2019.

89 Articles 38-39, 44, XIM (after 2018 amendment); Article 17, XRD (after 2018 amendment).

90 UN Committee on the Elimination of Racial Discrimination, Information received from China on follow-up to the concluding observations on its combined fourteenth to seventeenth periodic reports, 9 October 2019, CERD/C/CHN/FCO/14-17, p.2.

91 Quote from the 2019 White Paper on "Vocational Education and Training in Xinjiang" (original document in English).

92 Article 30, CTL; article 42, XIM (after 2018 amendment).

93 Quote from the 2019 White Paper on "Vocational Education and Training in Xinjiang" (original document in English).

94 Article 38, XIM (after 2018 amendment).

95 Quote from the 2019 White Paper on "Vocational Education and Training in Xinjiang" (original document in English).

96 Article 39, XIM (after 2018 amendment) (unofficial translation). The White Paper refers in English to individuals "whose subjective culpability was not deep, who acknowledged their offences and were contrite about their past actions and thus do not need to be sentenced to or can be exempted from punishment, and who have demonstrated the willingness to receive training".

97 UN Committee on the Elimination of Racial Discrimination, Information received from China on follow-up to the concluding observations on its combined fourteenth to seventeenth periodic reports, 9 October 2019, CERD/C/CHN/FCO/14-17, p. 3-4.

98 Report of the UN Working Group on Arbitrary Detention, para. 51, 19 July 2017, A/HRC/36/37.

movement".[99] A deprivation of liberty, within the meaning of international human rights law, can occur in any type of location and does not need to be officially labelled as such.

40. The 2019 White Paper on "Vocational Education and Training in Xinjiang" states that the centres are "residential", and that referral follows a decision by the court or public security officials, rather than being voluntary. This is the case even for referrals by the procuratorate, where the concerned individual is given a "choice" between referral to a VETC facility and a prison sentence, implying that placement in a VETC is a form of alternative sanction to a prison sentence.

41. Individuals interviewed by OHCHR who had been placed in VETC facilities described being taken to such facilities, usually by public security officials. The majority of the interviewees who were apprehended between 2017 and 2019 were held at a police station before referral to a VETC facility.[100] They said that they were told that they had to go to a VETC facility and were not given an alternative option. None of the interviewees felt they could challenge the referral process, and none had access to a lawyer prior to being sent to the VETC facility nor at any point during the time they were present there. Several underwent long interrogations in police stations before their eventual placement.

42. Not a single interviewee said they were able to exit the facility or go home for a visit. At the VETC facilities, all interviewees observed significant security presence and guards armed with guns and/or batons (including electric ones), and mostly wearing police uniforms.[101] Lengths of stays in the VETC facilities varied, but generally interviewees spent between two months and 18 months in the facilities. None of them were informed of the length of their stays when they were taken to the facility. About half of the interviewees reported that they were allowed occasional visits by or phone calls with a relative, although only under close surveillance.[102] The other half had no contact with their family and often their families did not know where they were.[103]

43. Chinese Government-affiliated media has regularly disseminated promotional videos about VETC facilities. Those interviewed in such videos either welcomed their stays or said that it had helped them from being drawn to terrorism or "extremism".[104] Those interviewed by OHCHR, in contrast, said they were explicitly told by guards to be positive about their experience in the facility when outsiders or family members would visit.[105] One interviewee, for example, reported that ahead of a visit by a foreign delegation they were told to say that "everything was fine", that they could return home every night, that they were studying and that the food was acceptable.[106] Moreover, some interviewees reported being explicitly prohibited to disclose any information about the facility once released, with some having to sign a document to this effect.[107]

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99 UN Human Rights Committee, General Comment no. 35, para. 5, 16 December 2014, CCPR/C/GC/35.

100 OHCHR interviews. Interviewees often used the term "camps" to describe the facilities. While OHCHR is confident that most of these facilities as described by interviewees were in fact VETCs, it is possible that some were in fact pre-trial detention facilities.

101 OHCHR interviews. See also the "Xinjiang Police Files" which contain various images of armed guards in VETC facilities. See, "Xinjiang Police Files", Victims of Communism Memorial Foundation, May 2022 (Hereafter, the "Xinjiang Police Files").

102 OHCHR interviews.

103 OHCHR interviews.

104 See, for example, "What do trainees do in Xinjiang's vocational education and training centers?"; and "Only Westerners hate changes from the opening of vocational education & training centers in Xinjiang" (available on YouTube).

105 OHCHR interviews.

106 OHCHR interview.

107 OHCHR interviews. This further comports with the "Telegram", which also calls on staff working in the VETC facilities to exercise "strict secrecy". See "The China Cables": "The Telegram", para. 25, as released by the International Consortium of Investigative Journalists, 24 November 2019 (hereafter "China Cables").

44. The Government has claimed that "attendees are free to join or quit programs at any time".[108] Consistent accounts obtained by OHCHR, however, indicate a lack of free and informed consent to being placed in the centres; that it is impossible for an individual detained in such a heavily guarded centre to leave of their own free will; and that a stay in a VETC facility is, from the concerned individual's perspective, of indefinite nature, the end of which is only determined by meeting undefined criteria as evaluated by the authorities. As such, given that placement in the VETC facilities is not voluntary and the individuals placed in such centres appear to have had no choice, placements in VETC facilities amount to a form of deprivation of liberty.[109]

45. International human rights law requires deprivations of liberty not to be arbitrary. The prohibition of arbitrary detention, enshrined in articles 9 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, is both a norm of customary international law and peremptory norm of international law.[110] As the UN Human Rights Committee, monitoring the implementation of the International Covenant on Civil and Political Rights, has explained in authoritative guidance, the notion of "arbitrariness" is not to be equated with "against the law": an arrest or detention may be authorized by domestic law and nonetheless be arbitrary, when there are elements of inappropriateness, injustice, lack of predictability and due process of law, as well as lack of elements of reasonableness, necessity and proportionality.[111] In the same vein, the UN Working Group on Arbitrary Detention that assesses complaints of arbitrary detention from individual complainants in member states, for its part, considers a deprivation of liberty arbitrary when it is clearly impossible to invoke any legal basis justifying the deprivation of liberty, including cases of deprivation of liberty in the absence of any legislative provision, as well as in cases of grave non-observance of the international norms relating to the right to a fair trial.[112] Such protections include the right to be informed of one's rights and the reasons for arrest, and to have sufficient access to lawyers and family members.[113] Under international human rights law, a detention is also arbitrary when used in response to the legitimate exercise of human rights, such as the exercise of the rights to freedom of opinion or expression, freedom to leave one's own country, freedom of religion, and the right of minorities to enjoy their own culture, profess their own religion or use their own language.[114]

46. Several key features of the VETC system raise concern from this perspective. Firstly, deprivations of liberty in residential facilities appear to have been without any apparent legal basis for a considerable period. The Xinjiang Implementing Measures for the P.R.C. Counter-Terrorism Law ("XIM") and the XUAR Regulation on De-extremification ("XRD") were amended in October 2018 to authorize the establishment of the VETCs and the referral of individuals for residential programmes,[115] although the wave of referrals to VETCs had

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[108] Xinhua news, "Trainees in Xinjiang, education, training program have all graduated: official", 9 December 2019.

[109] See also recent opinion by the UN Working Group on Arbitrary Detention, A/HRC/WGAD/2022/6, 23 May 2022, paras. 28 and 29 in which it recalls its position that "re-education centres" are places of deprivation of liberty. This also comports to some extent with the "Telegram", from the China Cables, which describes the functioning of the VETC facilities and sets out that "it is strictly forbidden for police to enter the student zone with guns, and they must never allow escapes". See also, the "Xinjiang Police Files", internal directives, "Incident response plan in case of escapes during outdoor activities", which reportedly allows for "shoot to kill" instructions in the case of escapes.

[110] Report of the UN Working Group on Arbitrary Detention, A/HRC/22/44 (24 December 2012), para. 79.

[111] UN Human Rights Committee, General Comment No. 35 - Article 9 (Liberty and security of person), CCPR/C/GC/35 (16 December 2014), para. 12.

[112] UN Working Group on Arbitrary Detention, Revised Fact Sheet No. 26, 8 February 2019, p. 5-7.

[113] See articles 10-11, UDHR; articles 9 and 14, ICCPR; UN Human Rights Committee, General Comment No. 32 - Article 14: Right to equality before courts and tribunals and to a fair trial, CCPR/C/GC/32, 23 August 2007; and Report of the UN Working Group on Arbitrary Detention - United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, A/HRC/30/37, 6 July 2015.

[114] UN Working Group on Arbitrary Detention, Revised Fact Sheet No. 26, 8 February 2019, p. 5-7.

[115] Except for the category of convicted criminals who are considered too dangerous for release, for which such programme was authorized before (see article 30, CTL). The residential nature of the

already commenced well prior, from April 2017.[116] Further, as discussed above, the XIM and XRD are vague in scope, vulnerable to overly broad interpretations, and therefore arbitrary and discriminatory application.

47. Secondly, as described above, the grounds on which individuals can be referred to and placed in VETCs encompass conduct that is *prima facie* lawful, including as an expression or manifestation of the exercise of fundamental rights and freedoms. Various innocuous reasons for referral to a VETC are described in the so-called "Karakax list", a document which is in the public domain appearing to be a Government document possibly from 2019 and highly likely to be authentic. This list, consisting of a spreadsheet with information about Uyghur "trainees" in VETC facilities in one specific district in XUAR, includes 311 individuals and the reasons for their referral. These reasons include having too many children, being an "unsafe person," being born in certain years, being an ex-convict, wearing a veil or beard, having applied for a passport and not having left the country, and so on.[117] Similar reasons for referral were reported to OHCHR by former detainees, who described referral to VETC facilities for travelling or for having foreign connections, attempting to cancel their Chinese citizenship, possessing dual registration in a neighbouring country, or for having downloaded WhatsApp. Others were simply told that they were on a list or that a quota had to be fulfilled. Due to the subjective means by which assessments appear to be conducted, the risk of arbitrary detention of persons in VETC facilities is acute.

48. Thirdly, placements in VETCs appear to lack the process due in any context of detention, effectively depriving concerned individuals of the safeguards and protections that must accompany detentions as a matter of international law. Detainees do not appear to have access to lawyers or to be informed of the duration for their placement or the criteria for release, which are not spelled out in the law. Persons with which OHCHR spoke described some form of process, often shortly before their release, at which they were "informed" of their wrongdoing, of the authorities' leniency in their case and of their sentencing to a prison term that subsequently seemed to have been waived (as evidenced by their release). These accounts comport and align with other indications that, around October 2018, there was an attempt to retroactively "regularize" the status of people in the VETC facilities. As explained above, on 9 October 2018, XUAR laws were amended to explicitly authorize their establishment and use.[118] In a video published on 16 October 2018,[119] the Government also referred to "twice inform and once announce" sessions, a quasi-legal process in which the authorities inform the person and their family about the nature of their involvement in terrorist activities, further inform them about the nature of their involvement in "extremist" activities, and thereupon announce the Government's policy of showing leniency in accordance with the law.[120] One interviewee described his experience as follows: "I was not

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programmes is apparent, for example, in article 45 of the XIM (2018 version), in which relevant departments are instructed to carry out educational activities "so as to create conditions for persons receiving education and training to re-enter society and return to their families" (unofficial translation).

116 Some experts have also argued that the legal basis created in October 2018 is inadequate under Chinese law itself, asserting that under applicable Chinese law, the power to deprive an individual of their liberty must be authorized by laws passed by the National People's Committee or its Standing Committee (Article 7, Legislation Law), and that the 2018 revisions were undertaken in laws that do not fulfil this domestic requirement of legality. See, for example, J. Daum, Explainer on Xinjiang Regulations, 11 October 2018 (https://www.chinalawtranslate.com/en/explainer-on-xinjiang-regulations/).

117 See the "Karakax List", published by various media outlets, February 2020. Another such list is contained in the "Xinjiang Police Files", which also refers to similar reasons for detention.

118 Articles 38-39, 44, XIM (after 2018 amendment); Article 17, XRD (after 2018 amendment).

119 Focus interview, at 3.27 minutes, at http://tv.cctv.com/2018/10/16/VIDEVvr9aq34SsDMrB6IRGnh181016.shtml.

120 Such sessions may be a reflection of the policy introduced with the October 2018 revision of the law, where the Procuratorate can decide to show leniency and waive criminal punishment in return for confession, repentance and an agreement to go to a VETC (Articles 38-46, XIM after 2018 amendment). It also coincides with an October 2018 amendment to the Chinese Criminal Procedure Law that formalized a plea bargain system, whereby the accused can confess, repent and accept a sentence (Article 15, CPL).

told what I was there for and how long I would be there. I was asked to confess a crime, but I did not know what I was supposed to confess to."[121]

49. A number of interviewees described being "sentenced" in the VETC facility,[122] and some described being brought to the "court" in groups.[123] No lawyers were present at these sessions and persons interviewed reported being required to "choose" their offences from a list of some 75 or 72 "crimes".[124] Such proceedings – in many cases taking place after months of detention – suggest that the criminal and administrative tracks to address allegations of "extremism" and "terrorism" offences have in practice often been intertwined, with criminal proceedings apparently being used to pressure people into accepting a referral to a VETC facility, to retroactively justify such referrals, or to curtail and control people post-release through a provisional release order that can be revoked. In essence, the combination of these processes provides officials with effective power of extraordinary breadth to subject individuals to deprivation of liberty and to return them thereto after release.

50. Fourthly, the nature and functional purpose of the educational programmes in VETC facilities also pose concern given their orientation towards political re-education. The XIM states that the purpose of the VETCs is to both educate and rehabilitate people who have been influenced by "extremism", including in "occupational skills education and training centres and other education and transformation establishments".[125] The Government's White Paper on "Vocational Education and Training in Xinjiang" states that the VETCs "deliver a curriculum that includes standard spoken and written Chinese, understanding of the law, vocational skills, and deradicalization." In its examination of China under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Employment Policy Convention, 1964 (No. 122), the ILO Committee of Experts on the Enforcement and Application of Standards expressed concern that the vocational training policy was "at least in part carried out in high-security and high surveillance settings"[126] and requested the Government to re-orient the mandate of vocational training and education centres "from political re-education based on administrative detention towards the broader purposes of the Convention", namely full, productive and freely chosen employment.[127] OHCHR requested but did not receive from the Government information on the curriculum and skills recognition system in the centres. First-hand accounts to OHCHR, however, revealed a strong emphasis on "political teachings" and rehabilitation based on self-criticism.[128] Such coercive administrative measures[129] are considered "inherently arbitrary" by the UN Working Group on Arbitrary Detention.[130]

51. Finally, considering that the criteria for referral to VETC facilities are in large measure based on forms of ethnic, religious and cultural identity and expression, there is a significant concern that deprivations of liberty in VETC facilities are applied discriminatorily, which compounds the arbitrary character of detention in the centres.[131]

52. The Government has not released official data about the number of individuals who have undergone re-education in VETCs. In 2018, the UN Committee on the Elimination of Racial Discrimination noted that "estimates of the number of people detained range from tens of thousands to over a million", and called on the Government to provide statistics for the

[121] OHCHR interview.
[122] OHCHR interviews.
[123] OHCHR interviews.
[124] OHCHR interviews.
[125] Articles 38 and 39, XIM (after 2018 amendment) (unofficial translation).
[126] Application of International Labour Standards 2022 Report III (Part A) Report of the Committee of Experts on the Application of Conventions and Recommendations International Labour Conference 110th Session, 2022, p. 689.
[127] Ibid, p. 520.
[128] OHCHR interviews.
[129] See explanations in para. 29 (referrals to VETCs are administrative measures) and para. 42 (referrals are involuntary).
[130] Report of the Working Group on Arbitrary Detention, Question of the human rights of all persons subjected to any form of detention or imprisonment (E/CN.4/1993/24), 12 January 1993, p. 20.
[131] See Report of the UN Working Group on Arbitrary Detention, A/HRC/36/37, 19 July 2017, para. 48.

past five years.[132] In response, the Government asserted that it was not possible to state the number of those taking part in education and training, because it "is dynamic, as people are continuously coming and going,"[133] a position it has maintained since.

53. Various official Government documents and statements, however, give indication as to the scale of the programme. The 2019 White Paper on "Vocational Training and Education in Xinjiang" suggests that it was intended not just for isolated cases, but for "many people".[134] Moreover, some Government documents and statements, predating 2017, provide insight into the authorities' perception of the "extremist" threat in XUAR and corresponding needs for "education", which further suggest the potential of impacting significant proportions of the relevant population in XUAR.[135] Additionally, Government documents that are in the public domain and appear credible refer not only to the existence of VETC facilities across the geographic span of XUAR, but indicate a large-scale bureaucracy and methodology is in place for their operation and implementation.[136] Available satellite imagery from public sources similarly provide indications of many structures with security features such as high walls, watch towers, and barbed-wired external and internal fencing, which appear to have been established or expanded across XUAR, since 2016, concurrent with the "Strike Hard" campaign.[137]

54. Individuals with direct knowledge and personal experience of detention in VETC facilities told OHCHR that they had been held alongside many others and that they personally knew numerous other relatives and friends placed in VETC facilities. As one person described it, "every neighbour had someone in the camps or 'taken to study', as they call it."[138] Individuals interviewed by OHCHR were held in VETC facilities in at least eight different geographic locations spread across XUAR.

55. In the absence of officially available data, other researchers have drawn on a combination of sources and data points to assess and estimate the extent of the affected population. These include documents that appear to be official, tender notices, and satellite imagery, shedding light on the scale of detention in VETC facilities.[139] Some analysis is also based on documents that appear to provide information about the detention status of residents from various prefectures and counties in XUAR. Based on the methodology employed, it has been estimated that around 10-20 per cent of the adult "ethnic population" in these counties and townships were subjected to some form of detention between 2017 and 2018.[140]

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132 Concluding Observations of the UN Committee on the Elimination of Racial Discrimination on the combined fourteenth to seventeenth periodic reports of China (including Hong Kong, China and Macao, China), CERD/C/CHN/CO/14-17, para. 40(a), 42 (h), 19 Sept. 2018.

133 Information received from China on follow-up to the concluding observations on its combined fourteenth to seventeenth periodic reports, 9 October 2019, CERD/C/CHN/FCO/14-17, p.3.

134 The relevant extract of the White Paper states that in XUAR "*many* people have engaged in – or have been instigated, coerced or enticed to engage in – terrorist and extremist activities, but they have not committed serious crimes or inflicted actual harm" (emphasis added).

135 See, for example, in early 2015, the party secretary of the XUAR Justice Department, Zhang Yun, telling Chinese news outlet Phoenix News that in a typical village in XUAR, 30 per cent of individuals affected by religious extremism require "re-education".

136 See, for example, the "Xinjiang papers", the "China cables" and the "Xinjiang Police Files".

137 See Australian Strategic Policy Institute (ASPI) "The Xinjiang Data Project"; see also, "China recently built a vast new infrastructure to imprison Muslims", Buzzfeed news, M. Rajagopalan, A. Killings, C. Bushek, 27 August 2020. See also "Facilities report", The Xinjiang Victims Database. The Government has disputed the authenticity of the images by ASPI, see Global Times, "Anti-China Australian think tank's malicious lies cannot escape justice: Chinese FM", 15 October 2020. See also Global Times "Xinjiang offers real-site photos to debunk satellite images 'evidence' of 'detention centres'", 27 November 2020, and responses by ASPI, see South China Morning Post, "Australian researcher hits back at Chinese tabloid over Xinjiang report", 30 November 2020, and N. Ruser on Twitter.

138 OHCHR interview.

139 See for example, research by S. Zhang, https://medium.com/@shawnwzhang and "Detention Facilities in the Xinjiang Uyghur Autonomous Region", Xinjiang Victims Database.

140 See "Thoroughly Reforming them Toward a Healthy Heart Attitude" - China's Political Re-Education Campaign in Xinjiang, A. Zenz, 15 May 2018. See "Wash Brains, Cleanse Hearts": Evidence from

56. On the basis of the information currently before it, OHCHR is not in a position to confirm estimates of total numbers of individuals affected by the VETC system. Cumulatively, however, these different sources of information support a conclusion that the system of VETC facilities was intended and operated on a wide scale spanning the geographic entirety of the region. In the absence of plausible information indicating the contrary, and while a specific number of detainees in VETC facilities cannot be confirmed, reasonable conclusion can be drawn from the available information that the number of individuals in the VETCs, at least between 2017 and 2019, was very significant, comprising a substantial proportion of the Uyghur and other predominantly Muslim minority populations.

57. In summary, based on the information reviewed, it is reasonable to conclude that a pattern of large-scale arbitrary detention occurred in VETC facilities, at least during 2017 to 2019, affecting a significant proportion of the Uyghur and other predominantly Muslim ethnic minority community in XUAR. The Government has indicated that VETC facilities are now closed and that all "trainees have graduated",[141] thereby suggesting that these facilities may no longer be in use. OHCHR is not in a position to confirm this, which is primarily due to the lack of relevant official or other information since the end of 2019 and access for on-the-ground verification. Regardless, considerable concerns remain, most notably due to the fact that the legal and policy framework that underpins the operation of the VETC system remains in place and, to the extent not currently employed, could be re-engaged at any point.

B. Detention through the criminal justice system

58. Alongside the mass referral of individuals to VETC facilities, there appears to have been a marked increase in criminal arrests, convictions, and imposition of lengthy prison sentences in XUAR.

59. Government information indicates an increase in criminal cases in 2018, amounting to a 25.1 per cent increase over the average amount in the preceding five years. Similarly, in 2019, the figure was 19.2 per cent higher than the average of the preceding five years.[142] OHCHR notes that China has in general a 99.9 per cent conviction rate in criminal cases.[143] The Government has stated that in many counties the proportion of defendants of ethnic minorities in criminal convictions is lower than the proportion of ethnic minorities in the total population of that region, without providing disaggregated data for the proportion of ethnic minorities convicted for terrorism or state security related crimes.

Chinese Government Documents about the Nature and Extent of Xinjiang's Extrajudicial Internment Campaign, A. Zenz, Journal of Political Risk, Vol. 7, No. 11, November 2019, 24 November 2019. See also, "More than 890,000 inmates in Uyghur concentration camps", Newsweek Japan, 13 March 2018. According to the "Xinjiang Police Files", internal spreadsheets from Konasheher show the personal information of approx. 286,000 individuals (almost the entire county population in 2018), indicating that approx. 12.3 to 12.7 per cent of the county's ethnic adults were allegedly in some form of detention in 2018.

[141] Supra, footnote 88.

[142] According to Government information, in 2018, Xinjiang's courts accepted 74,300 cases, an increase of 25.1 per cent over the average amount in the previous five years. In 2019, the courts accepted 70,800 cases, an increase of 19.2 per cent over the average amount in the previous five years. These figures differ from those contained in the Xinjiang Procuratorate reports, which places the number of prosecutions at 135,546 for 2018. The Government has stated that some regions in XUAR saw various fluctuations in criminal cases. For example, in the Aksu region, local courts of the two levels in the region reportedly accepted 3,202 cases in 2014 and 5,081 cases in 2015, an increase of 58.7 per cent. In 2016, the number of cases reportedly decreased by 134.8 per cent to 2,164 cases. In 2017, the number of cases increased 100.3 per cent to 4,335. In 2018, the courts accepted 5,644 cases, an increase of 30.6 per cent from the previous year.

[143] In 2020, the acquittal rate was 0,0681 per cent, see Report on the Work of the Supreme People's Court, Fourth Session of the 13th National People's Congress on March 8, 2021, https://www.court.gov.cn/zixun-xiangqing-290831.html. In 2019, the acquittal rate was 0,0836 per cent, see Report on the work of the Supreme People's Court, at the 13th National People's Congress at the third session of the Congress, 25 May 2020, https://www.court.gov.cn/zixun-xiangqing-231301.html.

60. The Government has stated that between 2013 and 2017, the XUAR courts completed 297,000 criminal cases.[144] Based on official statistics, it would appear that the bulk of these cases were completed in 2017.[145] According to the Government's information, the number of detainees in public security agencies in XUAR increased by 35 per cent in 2017 and by about eight per cent in 2018 year on year.

61. Another change in 2017 was the increase in the number of people given sentences of five years or longer. Prior to 2017, approximately 10.8 per cent of the total number of people sentenced in XUAR received sentences of over five years. In 2017, that figure rose to 87 per cent of the sentences. According to official Government statistics, during 2017 alone, XUAR courts sentenced 86,655 defendants, or 10 times more than in the previous year, to prison terms of five years or longer,[146] although again it is not possible to disaggregate the number charged and convicted for terrorism or "extremism"-related offences.

62. Data remains incomplete and similar data for 2020 and beyond has not been made available.[147] This makes it difficult to consider these statistics in the context of a longer timeframe, determining whether it may have been a spike or part of a larger trend, and whether increased convictions disproportionally affect specific groups of the population. However, even if the spike in 2017-2018 was short term, it necessarily implies a significantly increased prison population in Xinjiang persisting today as sentences continue to be served. In a statement of April 2021, the Government confirmed that almost one-third of 10,708 entries in the "Xinjiang Data Project", "Xinjiang Victims Database" and "Uyghur Transitional Justice Database", civil society-run platforms used primarily by family members seeking information on the whereabouts of loved ones in XUAR, pertain to criminal convicts serving sentences "for crimes of violent terrorism and criminal offences".[148]

63. Furthermore, the new construction or expansion of buildings, with high security features, especially after 2019, visible through public source satellite imagery (Google Earth), appears to suggest an increase in detention facilities being established likely to accommodate corresponding increases in detainees, both pre-trial and following conviction. At the same time, existing prisons have been expanded in numerous locations. By way of illustrative example, the Urumqi No.3 Detention Centre in Dabancheng has increased considerably in size from 2018 to 2020, with the number of buildings on the compound increased from 40 in 2018 to 68 in 2019 and 92 in 2020.[149]

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[144] This figure differs from data contained in the Report on the Work of the People's Procuratorate of the People's Republic of China, 13th session of the Xinjiang Uygur Autonomous Region, 23 January 2018, which places the figure at 330,918 people arrested and 362,872 prosecuted for various criminal offences from 2013 to 2017.

[145] See annual Procuratorate reports of the Xinjiang Uyghur Autonomous Region.

[146] In 2016, 8,136 persons were sentenced to more than five years of imprisonment, life imprisonment and the death penalty. 22,459 persons were sentenced to imprisonment for less than five years. Total is 30,595. In 2017, 86,655 persons were sentenced to more than five years' imprisonment, life imprisonment and death penalty, 12,671 persons were sentenced to less than five years. Total is 99,326. Sources are on file with OHCHR (Procuratorate reports for XUAR).

[147] This information was requested from the Government of China in March 2021, which has not responded to date.

[148] The seventh press conference by Xinjiang Uyghur Autonomous Region on Xinjiang-related issues in Beijing, 9 April 2021. See transcript on the website of the Chinese Embassy in the United States: https://www.mfa.gov.cn/ce/ceus//eng/zt/wonderfulxj/xinjiangpressconference/7thpress/t1894724.htm.

[149] This aligns with other information that appears to be of an official nature, namely the speech of Minister for Public Security, Zhao Kezhi, of June 2018, in which he reportedly stated that "Last year, the Ministry of Justice selected 1,500 police officers from across the country in two batches to support Xinjiang's prisons. This year, the third batch of 1,000 officers has entered Xinjiang, in order to alleviate the serious problem of excess detentions (relative to capacity) in the prisons of the Autonomous Region..." "In terms of expanding investment, the National Development and Reform Commission supports 27 projects for expanding (existing) prisons and one new prison construction project in the Autonomous Region, with a total investment of 2.27 billion yuan. After all projects are completed by the end of this year, the prisons capacity of the Autonomous Region and the Corps will increase by 57,300 people……" See the "Xinjiang Police Files" (unofficial translation).

22 April 2018 (image available on Google Earth)

19 March 2020 (image available on Google Earth)

64. OHCHR examined a cross-sample of available judicial decisions in cases alleging terrorism or "extremism" with respect to defendants from ethnic communities in XUAR in the period 2014-2019. The number of publicly available and relevant court decisions is limited and may not necessarily be representative of the totality of judicial practice, but those that are available provide important insights into the way the judiciary has interpreted acts of religious "extremism".[150] These include relatively minor infractions apparently punished severely; judgments referring to conduct being "extremist" despite none of the formal charges being related to terrorism or "extremism"; courts labelling acts as "extremist" without explaining how they fulfilled the applicable legal definition(s); the apparent targeting of underlying religious behaviour rather than the actual act for which the person is being prosecuted; and indications of an approach that considers any type of violation of law committed by a Muslim person as presumptively "extremist".

65. OHCHR also reviewed numerous reporting and data documenting the arrest and imprisonment, often on lengthy custodial sentences, of prominent scholars, artists and intellectuals from the Uyghur community, including during the "Strike Hard" period. Several such cases have been taken up by UN human rights mechanisms.[151] Beyond the general

[150] On 9 March 2021, OHCHR requested information from the Government on jurisprudence from Chinese courts and decisions of administrative bodies implementing anti-terrorism and anti-"extremism" policies. No response was received. The samples of publicly available decisions and jurisprudence are further complemented by documents that appear to be of an official nature and that indicate similarly that religious behaviour, such as reading scriptures to others, or growing a beard, can attract long criminal sentences, often under article 293 of China's Penal Code (picking quarrels), see, e.g., the "Xinjiang Police Files".

[151] See, e.g., Special Procedures' joint press release: https://www.ohchr.org/en/press-releases/2019/12/china-urged-disclose-location-uyghur-academic-tashpolat-tiyip, 26 December 2019; and Special Procedures joint communication, AL CHN 4/2021, 28 April 2021. See also Opinion of the Working Group on Arbitrary Detention A/HRC/WGAD/2014/3, 21 July 2014.

human rights concerns already identified, criminal prosecution and detention of such individuals has a broader deleterious effect on the life of their community.

66. This information is complemented by first-hand accounts gathered by OHCHR from overseas family members of Uyghurs and Kazakhs who are serving lengthy custodial sentences for alleged terrorism and "extremism" related offences. Their accounts provide further insight into how religious behaviour and/or perceived "terrorist" activities, such as travelling abroad or sending funds overseas, have been heavily criminalised and punished in XUAR.[152]

67. While a specific determination of the extent to which the dramatic increase in incarceration rates over recent years has resulted in arbitrary detention is not possible based on the information available at this stage, the information reviewed by OHCHR raises wider concerns. This is in the context of how a criminal justice system, marked by overly broad and vague definitions of crimes,[153] limits on due process rights and lack of judicial independence, may be leading to broader patterns of arbitrary deprivation of liberty in the context of the criminal justice system.[154]

68. In summary, the trend of increased number and length of imprisonments through the criminal justice system in XUAR strongly suggests there has been a shift towards formal incarcerations as the principal means for large-scale imprisonment and deprivation of liberty. This is of particular concern given the vague and capacious definitions of terrorism, "extremism" and public security related offences under domestic criminal law, that may lead to criminal prosecutions and the imposition of lengthy custodial sentences, including for minor offences or for engaging in conduct protected by international human rights law.

V. Conditions and treatment in "Vocational Education and Training Centres"

69. Repeated claims raised of adverse conditions and harsh treatment of detainees by the authorities in the VETC facilities have been raised. The Government has denied such allegations, asserting in its 2019 White Paper on "Vocational Training and Education in Xinjiang" that the rights of "trainees" are fully respected.

70. Former detainees interviewed by OHCHR had spent periods of time, generally ranging from two months to 18 months, in facilities in eight different geographic locations across XUAR, including in Ili Kazakh Autonomous Prefecture, Aksu, Bayingol, Hotan, Karamay and Urumqi prefectures.[155] Two-thirds of the twenty-six former detainees interviewed, reported having been subjected to treatment that would amount to torture and/or other forms of ill-treatment, either in VETC facilities themselves or in the context of processes of referral to VETC facilities. These claims of mistreatment took place either

[152] OHCHR interviews.

[153] It must be recalled that in addition to the overly broad and vague terrorist and "extremist" offences discussed above, Chinese criminal law is replete with other wide-ranging and imprecise public security offences. Examples include inciting ethnic hatred or discrimination "if the circumstances are serious" (Article 249, CL, 2021 version), gathering a crowd that disturbs "social order" (Article 290, CL 2021 version), or "picking quarrels and causing trouble" (Article 293, CL, 2021 version) (unofficial translations). These can be easily used to punish minor acts or legitimate forms of dissent. See also UN Committee against Torture, 3 February 2015, CAT/C/CHN/CO/5 para. 36.

[154] UN human rights mechanisms have been critical of the independence of the judiciary in practice. See, e.g., Concluding Observations by the UN Committee on Economic, Social and Cultural Rights (CESCR) on the second periodic report of China, para. 10, 13 June 2014; and Concluding Observations by the Committee against Torture (CAT), para. 22-23d, 3 February 2015, CAT/C/CHN/CO/5.

[155] In line with its standard methodology, in cases of torture or sexual and gender-based violence, OHCHR has predominantly relied on its first-hand victim and eyewitness statements when assessed as credible and in line with other known information. Additionally, OHCHR also reviewed dozens of publicly available victim and witness accounts to understand the nature of the allegations being made and their general context. However, OHCHR findings on this matter are based on its own interviews and its contextual analysis of applicable laws, policy statements and other open-source documents.

during interrogations[156] or as a form of punishment for (alleged) wrongdoing.[157] Their accounts included being beaten with batons, including electric batons while strapped in a so-called "tiger chair";[158] being subjected to interrogation with water being poured in their faces; prolonged solitary confinement; and being forced to sit motionless on small stools for prolonged periods of time. Persons reporting beatings for confessions described being taken to interrogation rooms that were separate to the cells or dormitory spaces where people were staying. Over two-thirds of the individuals also reported that, prior to their transfer to a VETC facility, they were held in police stations, where they described similar instances of being beaten while also immobilised in a "tiger chair" in those facilities.[159]

71. Forms of harsh treatment beyond those related to interrogations and punishment were also reported. Several interviewees described being shackled during parts of their period of confinement in VETC facilities.[160] A consistent theme was description of constant hunger and, consequently, significant to severe weight loss during their periods in the facilities.[161] They also spoke about constant surveillance and the lights in the dorms/cells being switched on throughout the night, depriving them of sleep.[162] Interviewees described how people in the dorms/cells would have to take two-hour nightshifts to ensure cellmates were not praying or otherwise breaking rules at night-time.[163] Some also noted that they were not allowed to speak their own language (whether Uyghur or Kazakh) and could not practice their religion, such as pray, which they experienced as a further hardship.[164] This was further exacerbated by the "political teachings", consisting of having to learn and memorise so-called "red songs" and other official Party material. Interviewees consistently referred to this as an omnipresent aspect of their time in the VETC facilities,[165] with one interviewee describing their experience as follows: "We were forced to sing patriotic song after patriotic song every day, as loud as possible and until it hurts, until our faces become red and our veins appeared on our face."[166]

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156 OHCHR interviews.

157 OHCHR interviews.

158 "Tiger chairs" are generally devices whereby an individual is strapped to a chair by their hands and feet. This is often accompanied by beatings or other forms of torture. See UN Committee against Torture concerns on the use of the "interrogation chairs" in Concluding Observations on China, 3 February 2016, CAT/C/CHN/CO/5, para. 26: *"In this regard, the Committee expresses concern at the State party's explanation that the use of the so-called "interrogation chair" is justified "as a protective measure to prevent suspects from escaping, committing self-injury or attacking personnel", which is highly improbable during an interrogation."* The use of "tiger chairs" in VETCs was further detailed by the "Xinjiang Police Files", including a number of internal instructions for the VETCs referring to: (i) police guards being armed; (ii) corrective measures and punishment of those responsible for attempting to escape, including shoot to kill orders (iii) Individuals seeking medical treatment are to be made to wear restraining equipment [i.e. cuffs, shackles] (iv) handcuffs, shackles and hoods to be worn by trainees during transfers; (v) all trainees are interrogated upon registration and undergo a medical examination. These police protocols are further accompanied by photographs that show the internal workings of the centres, where detainees are seen wearing shackles and hoods alongside armed police guards.

159 OHCHR interviews. OHCHR also received certain allegations of suspicious deaths occurring in custody in the context of VETCs as well as other detention facilities. However, these have not been possible to verify to the requisite standard. OHCHR recalls that the UN treaty bodies have also expressed concerns with respect to reports of torture, ill-treatment and deaths in custody of certain ethnic minorities, including Uyghurs. See UN Committee on the Elimination of Racial Discrimination, Concluding Observations on China, CERD/C/CHN/CO/14-17, 19 September 2018, paras. 38 and 39.

160 OHCHR interviews.

161 OHCHR interviews.

162 OHCHR interviews.

163 OHCHR interviews.

164 The 2019 White Paper on Vocational Education and Training in Xinjiang explicitly states that "The centers practice separation of education and religion in management, which means trainees should not organize or take part in religious activities there, but they can decide on their own whether to do so on a legal basis when they get home."

165 OHCHR interviews.

166 OHCHR interview.

72. Almost all interviewees described either injections, pills or both being administered regularly, as well as blood samples being regularly collected in the VETC facilities. Interviewees were consistent in their descriptions of how the administered medicines made them feel drowsy. One interviewee, for example, described the process as follows: "We received one tablet a day. It looked like aspirin. We were lined up and someone with gloves systematically checked our mouths to make sure we swallowed it".[167] While the frequency of these medical interventions and treatments varied according to interviewees, both injections and the administration of what were described as "white pills" occurred at the beginning of their placement and throughout their time in the VETCs. None of the interviewees were properly informed about these medical treatments, nor did they feel they were in a position to refuse them. In such circumstances informed consent cannot be inferred.

73. Some also spoke of various forms of sexual violence, including some instances of rape, affecting mainly women. These accounts included having been forced by guards to perform oral sex in the context of an interrogation and various forms of sexual humiliation, including forced nudity. The accounts similarly described the way in which rapes took place outside the dormitories, in separate rooms without cameras. In addition, several women recounted being subject to invasive gynaecological examinations, including one woman who described this taking place in a group setting which "made old women ashamed and young girls cry",[168] because they did not understand what was happening. The Government has firmly denied these claims, often through personal or gendered attacks against the women who have publicly reported these allegations.[169]

74. A number of interviewees stated that they suffered from persistent health conditions as a result of the harsh conditions and treatment they reported experiencing in the facilities.[170] Some of the interviewees also described their stay in the facilities as a "psychological torture", due to the uncertainty about the reasons for their detention, the length of their stay, their conditions, the constant atmosphere of fear and lack of contact with the outside world, especially their families, and the stress and anxiety associated with the constant surveillance. As one interviewee stated, "the worst thing was that you never knew when you would be let out".[171] Many of the interviewees reported long-term psychological consequences from their periods of confinement at VETC facilities, including feelings of trauma.

75. Consistent first-hand accounts regarding the conditions and treatment of detainees in VETCs revealed multiple serious human rights concerns. Firstly, they pointed to violations of the fundamental obligation to treat individuals deprived of their liberty humanely and with dignity[172] and of the absolute prohibition of torture and other forms of cruel, inhuman or degrading treatment or punishment.[173] Additionally, the cumulative conditions and treatments that characterized their daily life in the VETC facilities constituted violations of

167 OHCHR interview.

168 OHCHR interview.

169 See, e.g., Ministry of Foreign Affairs of the People's Republic of China, Foreign Ministry Spokesperson Wang Wenbin's Regular Press Conference on February 23, 2021; See also Global Times "So-called Xinjiang detainees lie on "victims" stories about training centers: regional Government", 3 December 2019; See also BBC "The cost of speaking up against China", J. Gunter, 31 March 2021 and Reuters "China counters Uighur criticism with explicit attacks on women witnesses", C. Cadell, 1 March 2021.

170 OHCHR interviews.

171 OHCHR interview.

172 Article 10, ICCPR. The UN Human Rights Committee has described this right as expressing "a norm of general international law not subject to derogation". See UN Human Rights Committee, General Comment No. 29 (CCPR/C/21/Rev.1/Add.11), para. 13a. See also the revised UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), as adopted by the UN General Assembly in its resolution A/RES/70/175 (17 December 2015).

173 China is a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. See also Article 5, UDHR and Article 7, ICCPR. The prohibition of torture is considered a norm of customary international law, as well as a peremptory norm of international law from which no derogations are permitted.

the basic standards for the humane treatment of detainees.[174] Such conditions, especially when experienced over extended periods or in recurring forms, may also result in physical and mental suffering that is severe enough to amount to torture or other forms of cruel, inhuman or degrading treatment or punishment.

76. There are also concerns regarding the right to health for persons deprived of liberty in VETCs. Every human being is entitled to the enjoyment of the highest attainable standard of physical and mental health,[175] including individuals who are deprived of their liberty. This includes the right to control one's health and body and the right to be free from interference, such as the right to be free from torture and non-consensual medical treatment.[176] Guaranteeing informed consent is fundamental to achieving the enjoyment of the right to health through practices, policies and research that respect individual autonomy, self-determination and human dignity.[177] The right to health also extends to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, and an adequate supply of safe food and nutrition, among others.[178]

77. Additionally, there is a serious concern regarding the Government's response to allegations of human rights violations in the context of the VETCs, and the apparent lack of redress mechanisms. Even if some laws provide in principle for sanctions of officials who abuse their power or fail to perform their duties, OHCHR is not aware of any individual instances of imposition of such sanctions. Similarly, the Government's policy framework does not refer to any independent oversight mechanism for the operation of the VETC facilities that might conduct inspections or through which concerned individuals could appeal the decision to compel them to attend the VETC programme or to investigate complaints of alleged human rights violations throughout the process.[179] While a small number of first-hand accounts made reference to some form of outside visits by officials that took place at times in VETC facilities, their descriptions do not indicate that these were organized in a manner that were conducive for individuals to report abuses.[180] These circumstances, in sum, raise serious doubt as to the availability, in practice, of effective remedies against violations of detainees' rights, and the concerns expressed in 2016 by the UN Committee against Torture urging China to "establish an independent oversight mechanism to ensure prompt, impartial and effective investigation into all allegations of torture and ill-treatment" remain valid.[181]

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174 Examples include overcrowded cells or dorms, unsanitary conditions, deprivation of sleep, lack of privacy, sexual intimidation or humiliation, insufficient food, inadequate health care, prolonged stress positions, inability to communicate with family, inability to use native language and practice one's religion, uncertainty about release date, non-consensual medical treatment, political re-education, and living under constant threat of violence.

175 Article 12, ICESCR.

176 UN Committee on Economic, Social and Cultural Rights, General Comment No. 14 (E/C.12/2000/4), para. 8. Moreover, the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has argued that "medical treatments of an intrusive and irreversible nature, when lacking a therapeutic purpose, may constitute torture or ill-treatment when enforced or administered without the free and informed consent of the person concerned", see Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/HRC/22/53, para. 32.

177 See report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, A/64/272.

178 UN Committee on Economic, Social and Cultural Rights, General Comment No. 14, E/C.12/2000/4, para. 11.

179 Article 62 of the XIM (version after 2018 amendment), for example, provides that staff of counter-terrorism institutions and relevant departments who "fail to perform their duties in counter-terrorism work" may be reprimanded and educated, given administrative sanctions where the circumstances are serious, and held criminally responsible where a crime was committed (unofficial translation). Article 94 of the CTL, in turn, sanctions the abuse of power of personnel of counter-terrorism institutions and "other conduct violating laws or discipline", providing that "all units and individuals have the right to report it or make an accusation to the competent department" (unofficial translation).

180 OHCHR interviews.

181 UN Committee against Torture, Concluding Observations on the 5th periodic report by China, 3 February 2016, CAT/C/CHN/CO/5, para. 23.

78. In conclusion, descriptions of detentions in the VETCs in the period between 2017 and 2019 gathered by OHCHR were marked by patterns of torture or other forms of cruel, inhuman or degrading treatment or punishment, other violations of the right of persons deprived of their liberty to be treated humanely and with dignity, as well as violations of the right to health. Allegations were also made of instances of sexual and gender-based violence (SGBV) in VETC facilities, including of rape, which also appear credible and would in themselves amount to acts of torture or other forms of ill-treatment. Based on currently available information, it is not possible to draw wider conclusions as to the extent to which there may have been broader patterns of SGBV in VETC facilities. The Government's blanket denials of all allegations, as well as its gendered and humiliating attacks on those who have come forward to share their experiences, and have added to the indignity and suffering of survivors.

VI. Other human rights concerns

79. Additional allegations of broader negative impacts of the "Strike Hard" campaign and associated policies in XUAR on the human rights of persons belonging to ethnic communities have arisen, beyond the aspects of large-scale deprivation of liberty of certain categories of individuals already described in this assessment. Claims have been made, specifically in terms of undue restrictions on cultural, linguistic, and religious identity and expression; rights to privacy and movement; reproductive rights; as well as with respect to employment and labour rights. Many of these reflect broader trends in ethnic minority regions that have been highlighted by UN human rights mechanisms over many years. These are discussed in turn below.

A. Religious, cultural and linguistic identity and expression

80. The right of members belonging to minorities to be protected from discrimination is enshrined in China's Constitution and in the Regional Ethnic Autonomy Law,[182] and has been reiterated in numerous official policy documents featuring equality, unity, regional ethnic autonomy, and common prosperity for all ethnic groups.[183] The Government has consistently denied allegations of any discrimination against the Uyghur and other predominantly Muslim minorities in XUAR, and highlights the representation of ethnic minorities in regional government and the National People's Congress. Numerous UN human rights mechanisms, however, have expressed concerns about restrictions on cultural rights and the rights to freedom of religion and expression in ethnic minority regions, including XUAR, over past years.[184]

81. In the context of implementation of the Government's purported counter-terrorism and counter-"extremism" strategies, these concerns have assumed sharper focus through progressively tighter regulation of religious practice.

82. Freedom of religion and "normal religious activities" are protected in China's Constitution,[185] and the Government cites that more than 20 million people follow Islam in provinces and regions throughout China. However, laws and other legal texts applicable in China generally and in XUAR specifically regulate religion in a detailed, intrusive and particularly controlling manner. Religious activities are allowed only in Government-

[182] Article 4, Constitution of the People's Republic of China; Article 9 of the Regional Ethnic Autonomy Law.

[183] See, e.g., White Paper "Respecting and Protecting the Rights of All Ethnic Groups in Xinjiang" issued on 14 July 2021 by China's State Council Information Office.

[184] See, e.g., Concluding Observations by the Committee on Economic, Social and Cultural Rights, E/C.12/CHN/CO/2, 13 June 2014, para. 36; Concluding Observations by the Committee on the Elimination of All Forms of Discrimination against Women, CEDAW/C/CHN/CO/7-8, 14 November 2014, paras. 35(b), 47; Concluding Observations on the combined fourteenth to seventeenth periodic reports of China (including Hong Kong, China and Macao, China), CERD/C/CHN/CO/14-17, paras, 40(b), 40(c), 41(e), 41(f) , 19 September 2018. See also various communications by the Special Rapporteur on minority issues, Special Rapporteur on freedom of religion and belief, and other special procedures: CHN 1/2018; CHN 21/2018; CHN 18/2019.

[185] Article 36, Constitution of the People's Republic of China.

approved locations, conducted by Government-accredited personnel, and on the basis of Government-approved teachings and publications.[186] Religious activity is strictly prohibited in "state institutions, schools of national education, public institutions and other places".[187] Children are not allowed to participate in religious activities. [188]The Government, however, indicated that it advocates a form of "Islam with Chinese characteristics" which adheres to core beliefs but is better adapted to Chinese society and can play a positive role in China's economic and social development.

83. The "Strike Hard" campaign has led to the adoption or amendment of various legal instruments to further tighten the regulation of religion, that resulted in the regulation of religion, including the obligation of "any organization or individual [to] consciously resist religious extremism and illegal religious activities".[189] As highlighted above, "extremism" is defined broadly, while the legal instruments include a list of "primary expressions of extremism"[190] that have in practice been accompanied by lists of "signs" [191] of "religious extremism" to assist officials and the general public in identifying "extremist" behaviour in the community.[192] These "expressions" and "signs" include conduct that may in the circumstances be of legitimate concern, such as "inciting 'Jihad', advocating and carrying out violent terrorist activities",[193] but range far more widely, encompassing an exceptionally broad range of acts that in themselves constitute exercise of protected fundamental freedoms connected to the enjoyment of cultural and religious life by these communities. These include wearing hijabs and "abnormal" beards; expanding the scope of "Halal"; closing restaurants during Ramadan; participating in cross-county religious activities "without valid reason"; using Virtual Private Networks (VPNs), social media and Internet to teach scriptures and preach; and giving one's child a Muslim name.[194] They also include various forms of dissent and breaches of other laws and policies, including those relating to family planning, as signs of "extremism".

84. Such exceptionally broad interpretations of "extremism", often explicitly targeting standard tenets of Islamic religion and practice, in effect renders virtually all such conduct in potential breach of the regulation of religion and of broader Government policies within the ambit of "counter-extremism" policies, with attendant risks of either criminal sanction and/or re-education. An environment is thus created in which religious or cultural practice or expression is conflated with "extremism" and can lead to serious consequences for persons so identified.[195]

85. Alongside the increasing restrictions on expressions of Muslim religious practice are recurring reports of the destruction of Islamic religious sites, such as mosques, shrines and cemeteries, especially during the "Strike Hard" campaign period. According to the Government, 20,000 of the 35,000 mosques in the entire country are located in XUAR.[196]

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[186] See Xinjiang Religious Affairs Regulation (XRAR), amended in 2014; and the Religious Affairs Regulation (RAR), amended in 2017. See also State Council of the People's Republic of China, White Paper on "Freedom of Religious Belief in Xinjiang", June 2016.

[187] Article 31, XRAR (unofficial translation).

[188] Article 37, XRAR (unofficial translation).

[189] Article 5.3, XRAR (unofficial translation).

[190] Article 9, XRD (unofficial translation).

[191] See Nanchang Public Security Bureau, "75 Religious Extremes", 8 September 2015.

[192] Global Times "Xinjiang counties identify 75 forms of religious extremism", 25 December 2014.

[193] Sign 4 on list of 75 signs of religious extremism (unofficial translation).

[194] Article 9.8, XRD ("irregular name selection" as a prohibited sign of "extremism"). See also media reports with examples of names reportedly considered overly Islamic, such as Hajj, Jihadi, Mecca and Mohamed: Associated Press, "China bans list of Islamic names in restive Xinjiang region", G. Shih, 27 April 2017. OHCHR is not in a position to confirm these examples and the extent to which such policy is applied and enforced throughout XUAR.

[195] Several of those interviewed by OHCHR spoke credibly of such tightening restrictions on freedom of religion in XUAR since 2015, including restrictions imposed on prayer, the keeping of Qurans and accessing of mosques.

[196] However, there is no official data available with respect to the locations of these sites, which has made it more difficult to verify alleged patterns of destruction. See Global Times, "Xinjiang's mosques have grown ten-fold" 3 March 2015. This figure was reiterated by the President of the China

Nevertheless, several researchers, predominantly based on detailed analysis of publicly available satellite imagery, consider that a large number of mosques have been destroyed in XUAR over the last years.[197] This trend has also been reported by investigative journalists who have visited the region and compared satellite images with the current physical conditions of the geographic sites in question.[198] The Government, for its part, has consistently denied allegations of improper removal or destruction of religious sites, suggesting instead that mosques are in disrepair and being reconstructed for safety reasons and that basic burials and funeral customs are protected, while cemetery facilities have been improving.[199] The Government has also stated that "people of different ethnic groups in some places have relocated graveyards of their own free will".[200]

86. Analysis of satellite imagery in the public domain indicates that many religious sites appear to have been removed or changed in their characteristic identifying features, such as the removal of minarets. An illustrative example is the transformation of the Imam Asim Shrine, located in southern Xinjiang, north of the city of Hotan (see images below). This was formerly a pilgrimage site for Uyghurs and other Muslim communities that included the tomb of the Imam, a mosque, and several related tombs. Satellite imagery sourced from Google Earth, between December 2017 and June 2020 shows the shrine demolished and the grave marker, which used to be surrounded by pilgrims' flags, erased.

Imam Asim Shrine:[201]
Location: 37°14'28"N 80°3'6"E
March 2012: Buildings visible at shrine site

Islamic Association: see Global Times, "Adapting Islam to local conditions best course for development in Chinese society: head of Islamic association", 8 February 2021.

197 See, e.g., Australian Strategic Policy Institute, "Cultural erasure, Tracing the destruction of Islamic spaces in Xinjiang", 2020; "Are Historic Mosques in Xinjiang being Destroyed?" Bellingcat published research, 5 April 2019; "Demolishing Faith: the Destruction and Desecration of Uyghur Mosques and Shrines", Uyghur Human Rights Project, 28 October 2019.

198 See, e.g., Reuters, "Mosques disappear as China strives to 'build a beautiful Xinjiang'", 23 May 2021 and New York Times, "China is erasing mosques and precious shrines in Xinjiang", 25 September 2020.

199 According to the Government, "…venues that have fallen into disrepair, the government departments concerned, complying with the Law on Urban and Rural Planning and respecting the wishes of religious believers, have resolved potential safety hazards through reconstruction, relocation or expansion, thus ensuring the safe and orderly practice of religion" See White Paper, "Respecting and protecting the rights of all ethnic groups in Xinjiang", State Council Information Office, 14 July 2021. See also, Xinhua, "Fact Check: Lies on Xinjiang-related issues versus the truth", 5 February 2021.

200 Xinhua, "Fact Check: Lies on Xinjiang-related issues versus the truth", 5 February 2021.
See also Global Times, "Xinjiang govt denies foreign media reports of 'tearing down mosques,' says it is reconstructing them for safety of Muslims", 19 April 2021.

201 Evolution of site. All imagery copyright Maxar Technologies via Google Earth.

December 2017: Buildings have been demolished before this date

June 2020: Remnants of buildings are no longer visible

87. While OHCHR is not able to reach firm conclusions at this stage regarding the extent of the destruction of religious sites, in the absence of meaningful access to sites and fuller information from the Government, these reports remain deeply concerning.

88. Concerns have also been raised by UN human rights mechanisms regarding the respect for linguistic rights of ethnic minorities, which are in principle protected under Chinese law.[202] For example, in 2014, in its periodic review of China, the UN Committee on Economic, Social and Cultural Rights expressed concern that ethnic minorities continue to face severe restrictions in the realization of their right to take part in cultural life, including the right to use and teach minority languages, history and culture, as well as to practise their religion freely.[203]

89. Several Special Procedures mandate-holders, as well as the UN Committee on the Elimination of Racial Discrimination in 2017 and 2018 respectively, raised concerns about a 2017 directive from primarily Uyghur-populated Hotan county,[204] which requested the

[202] See Article 4, Constitution of the People's Republic of China: "All ethnic groups shall have the freedom to use and develop their own spoken and written languages and to preserve or reform their own traditions and customs", and Article 121, which states that government institutions in China's autonomous regions "employ the spoken and written language or languages in common use in the locality." The Regional Ethnic Autonomy Law also includes guarantees for the freedom of ethnic groups to use and develop their own language. See for example, Article 37, which states that "schools (classes) and other educational organizations recruiting mostly ethnic minority students should, whenever possible, use textbooks in their own languages and use these languages as the media of instruction."

[203] See CERD Concluding observations on the second periodic report of China, including Hong Kong, China, and Macao, China, E/C.12/CHN/CO/2, 13 June 2014, para. 36.

[204] See Communication by the Special Rapporteurs, 12 January 2018, OL CHN1/2018 and CERD, Concluding observations, CERD/C/CHN/CO/14-17, 19 September 2018, para. 40 (e).

authorities to firmly implement teaching in the national common language (Mandarin Chinese) in the three years of pre-school and the first years of elementary and middle school, with a view to achieving full coverage by 2020. In addition, the directive prohibits the use in the educational system of texts, slogans and pictures in the Uyghur language, as well as the use of the Uyghur language for collective activities, public activities and management work. In its responses, the Government reaffirmed its commitment to bilingual education in XUAR, but did not question the authenticity of the directive nor clarify whether it remained in force.[205] Persons interviewed by OHCHR also recounted that, at least since 2014, there were closures of schools providing instruction in Uyghur and/or Kazakh language, and that teachers were being progressively removed from their bilingual duties.[206]

90. According to the Government, all primary and secondary schools have incorporated into their curriculum spoken and written languages of ethnic minority groups, on top of courses in standard spoken and written Chinese language. Courses in ethnic minority languages are mandatory (locally) from 1st to 8th grades, and optional in senior high schools. Textbooks are available in four ethnic minority languages. An increasing number of students are studying ethnic languages, including Uyghur and Kazakh, at the undergraduate and postgraduate level.

91. The restrictions described in this section pose significant concerns from an international human rights law perspective. International law specifically protects the right to freedom of religion or belief, a right exercised individually and collectively,[207] in its complementary components of having a religion of one's choice and in manifesting it. The manifestation of religion includes worship, whether in forms of religious prayer and preaching, display of symbols, or building of places of worship, as well as observance and practice, including customs such as observance of religious holidays marking important points in the religious calendar and dietary regulations, the wearing of distinctive clothing or use of a particular language, and teaching, encompassing freedoms to choose one's own religious leaders, establish religious schools and prepare and distribute religious texts or publications.[208] International standards are clear that the right to freedom of religion cannot be derogated from, even in times of emergency.[209] The right to choose one's religion or belief, as well as the right to profess one's religion privately, can also not be limited. Only the public manifestation of religion or belief may be subject to certain limitations, where they are prescribed by law and necessary and proportional to achieve a legitimate aim, such as to protect public safety, order, health and morals, or to protect fundamental rights and freedoms of others.[210]

92. The restrictions imposed on the exercise of freedom of religion with respect to Islamic religious practice in XUAR fall short of these standards. In terms of the legality requirement, while some restrictions are legally prescribed, others are a consequence of certain types of conduct being considered a "sign of extremism" in practice, even if the conduct as such may in fact not be unlawful, such as having a long beard or declining to use a television. Further, an aim to combat and extinguish "religious extremism", given its breadth and vagueness, cannot of itself be a legitimate aim under international human rights law. Finally, generalized restrictions on a wide range of manifestations of accepted religious tenets cannot be characterised as necessary or proportional to such an aim.

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205 See Response by the Government on 15 March 2018 to the Special Rapporteurs Other Letter OL CHN 1/2018 of 12 January 2018. See also Information received from China on follow-up to the concluding observations on its combined fourteenth to seventeenth periodic reports, 5 February 2020, CERD/C/CHN/FCO/14-17.

206 OHCHR interviews.

207 Article 18, UDHR; Article 5, CERD; Article 14, CRC; Article 18, ICCPR. See also the United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, as well as the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

208 UN Human Rights Committee, General Comment No. 22, CCPR/C/21/Rev.1/Add.4, paras. 4 and 8.

209 UN Human Rights Committee, General Comment No. 22, CCPR/C/21/Rev.1/Add.4, para. 5.

210 Article 18(3), ICCPR.

93. International law prohibits discrimination, including that based on religious or ethnic identity,[211] and protects minorities in the enjoyment of their culture, the professing of their religion and the use of their language.[212] In as much as the Government's laws and policies, including in the context of the "Strike Hard" campaign, specifically restrict and suppress practices that are part of the identity and cultural life of persons belonging to Uyghur and other predominantly Muslim minorities, they also raise concerns of discrimination against such minorities on prohibited grounds.

B. Rights to privacy and freedom of movement

94. The enforcement of the Government's counterterrorism and "extremism" policies are accompanied by allegations of extensive forms of intensive surveillance and control.

95. As highlighted above, public security organs are given sweeping powers to prevent, investigate and respond to terrorist and "extremist" acts,[213] including to employ "technological investigative measures" and to collect and retain data regarding several aspects of life, including personal biometric data.[214] The Criminal Procedure Law allows public security officials to use special investigative techniques, including electronic surveillance,[215] while the Counter-Terrorism Law allows them to impose a range of restrictive measures on suspects.[216]

96. These broad legal powers provide legal underpinning for what has been alleged to be a sophisticated, large-scale and systematized surveillance system in practice, implemented across the entire region both online and offline. Available descriptions suggest that this system has been developed in partnership with private security and technology companies which supply the requisite technology, including for in-person and electronic monitoring in the form of biometric data collection, including iris scans and facial imagery. Such monitoring has reportedly been driven by an ever-present network of surveillance cameras, including deploying facial recognition capabilities; a vast network of "convenience police stations" and other checkpoints; and broad access to people's personal communication devices and financial histories, coupled with analytical use of big data technologies.[217]

97. Documents now in the public domain appear to detail (i) a police database containing hundreds of thousands of police files, many of which indicate widespread surveillance of the "ethnic language population";[218] (ii) documents that appear to be of an official nature in the form of so-called "bulletins" from a police platform that serves to store data on individuals that can be flagged for potential detention, called the "Integrated Joint Operations Platform" (IJOP);[219] and (iii) a police application used to communicate with the IJOP system aggregating diverse data about people it deems potentially threatening based on specific kind of behaviours and indicators.[220]

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211 E.g., Article 2(2), ICESCR; UN Committee on Economic, Social and Cultural Rights, General Comment No. 3, E/1991/23, para. 1; General Comment No. 16, E/C.12/2005/4, paras. 16, 32 and 40.

212 Article 27, ICCPR; Articles 3 and 15(1)(a), ICESCR; United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

213 E.g., Articles 17-67, CTL; Articles 16-37, XIM (after 2018 amendment).

214 E.g., Articles 45, 50, CTL; Article 31, XIM (after 2018 amendment).

215 Article 150, CPL (and following).

216 Article 53, CTL.

217 See numerous documents that appear to be of an official nature, referring to the surveillance apparatus, such the "China Cables" and the Integrated Joint Operations Platform (IJOP) bulletins, released by the International Consortium of Investigative Journalists (ICIJ) in November 2019; the "Xinjiang Papers", New York Times: 'Absolutely No Mercy': Leaked Files Expose How China Organized Mass Detentions of Muslims, A. Ramzy and C. Buckley, 19 November 2019; "The Urumqi Police Database", released by the Intercept, Y. Grauer, 29 January 2021; the "Xinjiang Police Files", speech by Minister for Public Security Zhao Kezhi, 15 June 2018; see also Human Rights Watch, "China's Algorithms of Repression", 1 May 2019; Amnesty International, "Like we were enemies in a war", 10 June 2021, p. 35-36.

218 The Intercept, "Revealed, Massive Chinese Database", Y. Grauer, 29 January 2021.

219 International Consortium of Investigative Journalists, "China Cables | China's Operating Manuals for Mass Internment", 24 November 2019.

220 Human Rights Watch, "China's Algorithms of Repression", 1 May 2019.

98. Taken together, these suggest key elements of a consistent pattern of invasive electronic surveillance that can be, and are, directed at the Uyghur and other predominantly Muslim populations, whereby certain behaviours, such as downloading of Islamic religious materials or communicating with people abroad, can be automatically monitored and flagged to law enforcement as possible signs of "extremism" requiring police follow-up, including potential referral to a VETC facility or other detention facilities. Available materials also detail how police utilise community informants to collect information, as well as how Chinese nationals who have acquired foreign citizenship and requested visas to return home can be closely monitored.[221]

99. In addition to online surveillance, from at least 2016 onwards, XUAR also saw a significant expansion of physical checkpoints guarded by heavily armed police units on main roads, in villages and neighbourhoods, as well as other forms of monitoring of people's movement. A proliferation of so-called "convenience police stations" and security checkpoints throughout the region was described to OHCHR.[222] In the words of one interviewee, "a road that would have taken 2.5 hours now took 9 hours".[223] Interviewees also described that permission from local authorities was apparently needed to leave one's home and travel even to the next village.[224] There are reports that such restrictions to free movement were applied in a targeted and discriminatory manner, whereby ethnic community members were systematically checked at roadblocks and checkpoints, including at airports, while others could pass through so-called "green channels".[225] Available information also strongly suggests that Government officials began confiscating passports of Uyghurs and other predominantly Muslim minorities around 2014, and that this practice increased from the end of 2016 onwards.[226] Some reported that when traveling from abroad to China, the mention in one's passport of "Xinjiang" as their place of residence (*hukou*) was enough to be singled out for specific questioning.[227]

100. Furthermore, in 2014 the Government began the *Fanghuiju* programme, a three-year campaign in XUAR to "*Visit the People, Benefit the People, and Get Together the Hearts of the People*", by which it sent 200,000 cadres to regularly visit people in their homes and undertake community level development.[228] In 2016, the authorities then started the "Becoming Family" campaign, under which cadres and civil workers of all ethnic groups are paired with each other through regular visits. In December 2017, the programme was significantly expanded as authorities sent over 1 million cadres to spend a week living in mainly rural homes. In early 2018, this "home stay" programme was again extended, with cadres spending at least five days every two months in families' homes. According to the Government, since 2016, under these "ethnic unity" campaigns, some 1.1 million officials have "paired up and made friends" with 1.6 million local people, "treating each other like family members" and "forged deep bonds through close interactions".[229]

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221 The Intercept, "Revealed, Massive Chinese Database", Y. Grauer, 29 January 2021.

222 OHCHR interviews. This is also referred to in the speech of Minister for Public Security, Zhao Zekhi, in which he refers to 7,629 convenience police stations in XUAR, see "Xinjiang Police Files".

223 OHCHR interview.

224 OHCHR interviews.

225 OHCHR meeting note with media representative. See also Wall Street Journal, "Twelve days in Xinjiang: How China's surveillance state overwhelms daily life", Josh Chin, 19 December 2017.

226 This trend was also reported to OHCHR by a number of interviewees. The confiscation of passports was raised by the UN Committee on the Elimination of Racial Discrimination in 2018. The Government responded noting that passports are issued according to the relevant provisions of China's Passport Law and Exit and Entry Administration Law, see CERD, Concluding Observations on the combined fourteenth to seventeenth periodic reports of China (including Hong Kong, China and Macao, China), 19 September 2018, para. 40 (c) and 41 (f); and subsequent reply by Government of China, CERD/C/CHN/FCO/14-17, para. 4, 5 February 2020. Moreover, article 53(6) of the 2015 Counterterrorism Law of China allows for confiscations of passports in the course of an investigation into suspected terrorist activities "based on the extent of the threat" (unofficial translation).

227 OHCHR interviews.

228 See for example State-affiliated media "People" reporting: "访民情 惠民生 聚民心"新疆20万机关干部下基层住万村--新疆频道--人民网 (people.com.cn).

229 Ministry of Foreign Affairs of the People's Republic of China, "What's False and What's True on China-related Human Rights Matters", 2 July 2020.

101. Such homestay programmes[230] are presented by the Government as promoting social cohesion and community development. They appear to be involuntary in nature[231] and have obvious and significant implications on the privacy of family life. For example, those with first-hand experience with such programmes explained how they were not allowed to pray or speak their own language when the "relatives" were visiting.[232] The "Becoming Family" programme has also had a clear gendered impact. Several women who experienced the programme[233] spoke of sexual harassment and other forms of intrusive discomfort caused by visiting (male) cadres. One interviewee whose husband was detained in a VETC facility while she was subject to the homestay programme recounted her experience as follows: "They ate with us. I prepared food for them. They were there all the time, even when I was doing homework with my kids. The children had to be educated against their father, because they said he had 'bad ideas'. There was surveillance all day long."[234]

102. The laws, policies, programmes and practices described in this section pose several human rights concerns. Everyone has the right to protection against unlawful or arbitrary interference with privacy, family, home or correspondence,[235] with privacy encompassing information about one's physical and social identity and private life, at all times, online and off-line. Any interference with this right must be lawful and not arbitrary, that is necessary to achieve the protection of an essential interest of society, proportionate, and accompanied by sufficient safeguards against abuse.[236] The broad powers given to public officials in XUAR generally, with limited independent oversight and procedural safeguards against abuse, are already of considerable concern, and are exacerbated by the far-reaching and highly invasive methods of surveillance. The heightened focus on Uyghurs and other predominantly Muslim minorities through the lens of "extremism" is also likely to be discriminatory in intent and/or effect.

103. International human rights law also enshrines the right to freedom of movement, which includes the right to liberty of movement and residence within a country's borders as well at the right to leave a country, including one's own.[237] That right is only subject to restrictions that are provided by law and are strictly necessary for national security, public safety, or public order, and are consistent with other human rights. Such restrictions may not have a discriminatory intent or effect. The various policies and practices in XUAR, as described above, raise concerns in this regard.

C. Reproductive rights

104. Further allegations have been advanced with regard to violations of reproductive rights in XUAR. These allegations should be located in the context of broader human rights concerns with respect to sexual and reproductive rights in China. In its 2014 concluding observations, the UN Committee on Economic, Social and Cultural Rights, while welcoming the Government's decision to revise the "one-child policy", remained concerned that there continued to be restrictions on the opportunity for persons to freely decide on the number of children they have. The Committee noted information provided by the Government that the

[230] See "Becoming family" handbooks made available by the University of British Columbia, Xinjiang Documentation Center (unofficial translations).

[231] OHCHR interviewees with first-hand experience with the homestay programmes informed OHCHR that they could not refuse a "relative".

[232] OHCHR interviews.

[233] OHCHR interviews.

[234] OHCHR interviews.

[235] Article 12, UDHR; Article 14, ICCPR.

[236] See also report of the Office of the United Nations High Commissioner for Human Rights, The right to privacy in the digital age, A/HRC/27/37 paras. 21 and 28 ("The State must ensure that any interference with the right to privacy, family, home or correspondence is authorized by laws that (a) are publicly accessible; (b) contain provisions that ensure that collection of, access to and use of communications data are tailored to specific legitimate aims; (c) are sufficiently precise, specifying in detail the precise circumstances in which any such interference may be permitted, the procedures for authorizing, the categories of persons who may be placed under surveillance, the limits on the duration of surveillance, and procedures for the use and storage of the data collected; and (d) provide for effective safeguards against abuse.").

[237] Article 13, UDHR; Article 12, ICCPR.

Population and Family Planning Law prohibits the use of coercive measures to implement the birth quota but remained "seriously concerned about reported instances of the use of coercive measures, including forced abortion and forced sterilization, with a view to limiting births".[238] The UN Committee on the Elimination Discrimination against Women has also urged China to consider removing sanctions on women who violate the family planning policy.[239]

105. Prior to 2017, ethnic minorities such as the Uyghurs were allowed to have one more child than Han Chinese, meaning that urban Uyghur couples could have two children and rural Uyghur couples could have three children, while urban Han were allowed one child and rural Han were allowed two children respectively. Overall, the Government reports that the population of XUAR grew from 12.98 million in the 2010 census to 14.93 million in the 2020 census, and that the Uyghur population grew from 10 million in the 2010 census to 11.6 million in the 2020 census, an annual average of 1.52 per cent.

106. In 2017, XUAR amended its regional family planning policy to permit people of all ethnic groups to have two children in urban areas and three in rural, thus equalizing the policy and allowing Han Chinese couples to have equal numbers of children as ethnic minorities.[240] The amendments also enhanced enforcement, including through a threefold increase in the "social maintenance payment" payable by persons who violate the policy.[241] In June 2021, in line with the new national policy, XUAR introduced the three-child policy for all ethnic groups.

107. Official population figures indicate a sharp decline in birth rates in XUAR from 2017.[242] Data from the 2020 Chinese Statistical *Yearbook,* covering 2019, shows that in the space of two years the birth rate in Xinjiang dropped approximately 48.7 per cent, from 15.88 per thousand in 2017 to 8.14 per thousand in 2019. The average for all of China is 10.48 per thousand.[243]

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238 See UN Committee on Economic, Social and Cultural Rights, Concluding Observations on the second periodic report of China, including Hong Kong, China, and Macao, China, E/C.12/CHN/CO/2, 13 June 2014, paras. 25-26.

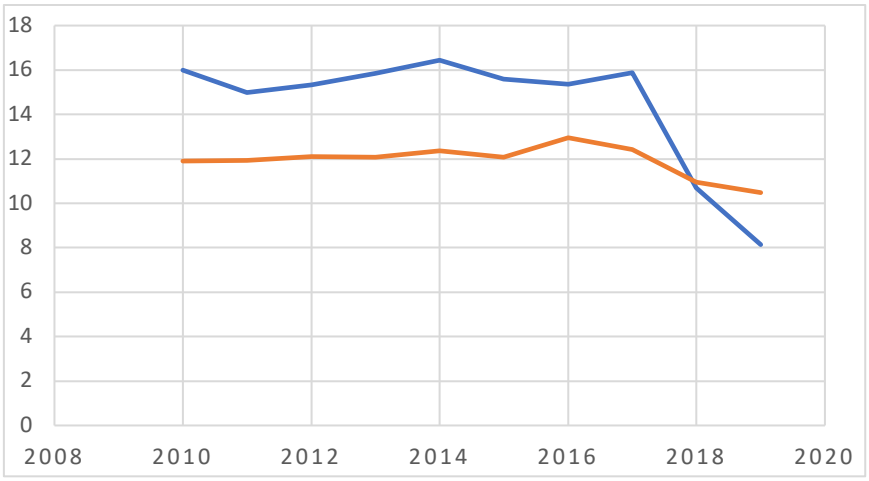
239 See also Concluding Observations of the UN Committee on the Elimination of Discrimination against Women, CEDAW/C/CHN/CO/7-8, 14 November 2014, para. 39(b).

240 White Paper on "Xinjiang Population Dynamics and Data", State Council Information Office, September 2021.See article 5 of the Regulations of Xinjiang Uyghur Autonomous Region on Population and Family Planning, 28 July 2017. This policy change followed the national policy changes of 2015, allowing for two children per couple.

241 Article 42, Amendments to the regulations on family planning in Xinjiang (See announcement of the Standing Committee of the 12 People's Congress of Xinjiang Uyghur Autonomous Region, 31 July 2017.

242 These figures are to be located within the context of XUAR's overall population growth of 18,5 per cent between 2010 and 2020 period and the Government's statistics indicating a 1,52 Uyghur population growth during that period. See CGTN, "Chart of the Day: Xinjiang's population rises by 18,5 per cent from 2010 to 2020", 15 June 2021. See also White Paper, "Xinjiang Population Dynamics and Data", State Council of Information, September 2021. Moreover, the effects of the "three-child policy" of 2021 remain to be seen in XUAR and particularly as affecting the reproductive rights of Uyghur and other Muslim ethnic minorities, see: CGTN, "China releases decision on three-child policy, supporting measures, 20 July 2021.

243 See the Chinese Statistical Yearbooks at: http://www.stats.gov.cn/.



The blue line represents % of births per 10,000 in XUAR. The red line represents % of births per 10,000 in the whole of China.[244]

108. Uyghur-majority areas represented the bulk of this decline, with two of the largest Uyghur prefectures especially affected by it. In Hotan, which is 96 per cent Uyghur,[245] birth rates went from 20.94 per cent in 2016[246] to 8.58 per cent per thousand births in 2018.[247] Similarly, the birth rate in Kashgar, which is approximately 92.6 per cent Uyghur,[248] dropped from 18.19 per cent in 2016[249] to 7.94 per cent per thousand births in 2018.[250] Even taking into account the overall decline in birth rates in China,[251] these figures remain unusual and stark. The same applies to the figures regarding sterilisations and IUD placements in XUAR, with official data indicating an unusually sharp rise in both forms of procedures in the region during 2017 and 2018, in comparison with the rest of China.[252] For example, in 2018, sterilisations in XUAR stood at 243 per 100,000 inhabitants, whereas the overall figure for China was a fraction thereof at only 32.1 per 100,000 inhabitants.[253]

109. While the high birth rates among Uyghurs and other Muslim ethnic minorities prior to 2017 can partially be attributed to less strict implementation of family planning policies before that time,[254] a number of other factors credibly contribute to this significant and rapid drop in birth rates. The Government states that it conforms with broader global trends, as urbanization and modernization lower birth and death rates. At the same time, various Government documents indicate that frequency in childbirth among the ethnic population in XUAR is associated with "extremism", eliciting punitive responses under XUAR's counter-terrorism and counter-"extremism" framework. For example, in its September 2021 White Paper on "*Xinjiang Population Dynamics and Data",* the Government makes a clear link between frequency in child births and religious "extremism", noting that *"*in the past, under the prolonged, pervasive and toxic influence of religious "extremism", the life of a large

244 See National Bureau of Statistics of China, 2011-2020: http://www.stats.gov.cn/.
245 See 2016 Xinjiang Statistical Yearbook.
246 Xinjiang Government, 2016 bulletin on national economic and social development statistics in the Hotan region (unofficial translation), 24 April 2014.
247 See 2018 and Hotan District National Economic and Social Development Statistics Bulletin, Hotan Regional Bureau of Statistics, 28 March 2019.
248 See 2016 Xinjiang Statistical Yearbook.
249 See Kashgar region, 2016 National Economic Social Development Statistics Bulletin.
250 See Kashgar region, 2018 National Economic Development Statistics Bulletin.
251 See World Bank, Birth rate, crude (per 1,000 people) - East Asia & Pacific, China | Data (worldbank.org).
252 See China Health and Hygiene Yearbooks 2018 and 2019.
253 See China Health and Hygiene Yearbooks 2019.
254 See, e.g., State media citing a 10.5% figure in relation to "unplanned pregnancies" in Kashgar prefecture between 1989 and 2014, China Daily, "An Analysis Report on Population Change in Xinjiang" 1 July 2017.

number of people in Xinjiang and particularly in the southern part of the region was subject to severe interference, early marriage and childbearing, and frequent pregnancy and childbirth were commonplace among ethnic minorities".[255] The XUAR Religious Affairs Regulations (XRAR) prohibit "the use of religion to obstruct […] family planning",[256] and the XUAR Regulation on De-extremification (XRD) of 2017 included "deliberately interfering with or undermining the implementation of family planning policies" as one of the 15 "primary expressions" of religious extremism.[257]

110. This association between child-bearing, family planning and "extremism" is further reflected in a number of official XUAR county-level regulations, which indicate that those found to be in violation of the family planning policy would be referred to "vocational skills education and training" and that "long-term birth control measures should be adopted".[258] In addition, official documents in the public domain that are likely to be authentic, notably the "Karakax List", have indicated that family planning violations were among the most common reasons for referral to a VETC facility.

111. Several women interviewed by OHCHR raised allegations of forced birth control, in particular forced IUD placements and possible forced sterilisations with respect to Uyghur and ethnic Kazakh women. Some women spoke of the risk of harsh punishments including "internment" or "imprisonment" for violations of the family planning policy. Among these, OHCHR interviewed some women who said they were forced to have abortions or forced to have IUDs inserted, after having reached the permitted number of children under the family planning policy.[259] These first-hand accounts, although limited in number, are considered credible.

112. The right to the highest attainable standard of health comprises sexual and reproductive freedom, which includes the right of individuals and couples "to decide freely and responsibly the number, spacing and timing of their children".[260] Any restrictions of reproductive freedoms, for example in the context of population control policies imposed by States in the asserted wider interests of common welfare, must be in conformity with international law and standards: they must be proportional to the legitimate aim pursued and must never be discriminatory.[261] International standards further require that family planning policies should not be compulsory or based on coercion.[262]

113. The available information, however, suggests that coercive measures are likely to have accompanied the strict enforcement of family planning policies post-2017, including in the context of the Government's purported counter-terrorism and counter-"extremism" policies, and to have been a cause for the significant decreases in the birth rates in Xinjiang generally, and especially in predominantly Uyghur-populated areas. The increase in IUD placements and sterilisation procedures during this period also occurs in the context of coercive family planning policies enforced by strict measures, such as fines, referrals and threats of referral to VETC or other detention facilities, in breach of the reproductive rights during the period 2017-2019. Although the policies in XUAR have appeared nominally

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255 White Paper on "Xinjiang Population Dynamics and Data*",* 26 September 2021.

256 Article 5.3, XRAR (unofficial translation).

257 Article 9.14, XRD (unofficial translation).

258 See Notice on the issuance of the Implementation Plan for the Special Governance of Illegal Births in the Quiemo County in 2018, article 17(2); see also article 31 of the Notice on the issuance of the Measures for the Administration of Two-Way Family Planning Services for the Mobile Population in Nillek County, November 2019.

259 OHCHR interviews.

260 International Conference on Population and Development Programme of Action, A/CONF.171/13, Principle 8 and Chapter VII, Section A on Reproductive Rights, para. 7.3; UN Committee on the Elimination of Discrimination against Women, General Recommendation 19, paras. 22 and 24(m); Beijing Declaration and Platform for Action, para. 96.

261 UN Human Rights Committee, General Comment No. 19, para. 5.

262 UN Human Rights Committee, General Comment No. 19, para. 5; see also International Conference on Population and Development Programme of Action, A/CONF.171/13, Principle 8, Chapter VII, Section A on Reproductive Rights, para. 7.3, and Chapter VII, Section B on Family Planning, para. 7.12.

consistent with the Government's broader approach to population planning,[263] it appears they are linked to an expansive notion of religious "extremism", raising further concerns about discriminatory enforcement of these policies against Uyghur and other predominantly Muslim minorities.

114. In summary, there are credible indications of violations of reproductive rights through the coercive enforcement of family planning policies since 2017.The lack of available Government data, including post-2019, makes it difficult to draw conclusions on the full extent of current enforcement of these policies and associated violations of reproductive rights.

D. Employment and labour issues

115. On 20 April 2022, the National People's Congress of China approved ratification of the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105). Previously China had already ratified other relevant ILO conventions including the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Employment Policy Convention, 1964 (No. 122), which provide for equality of opportunity and treatment without discrimination based on race and religion in employment and education, and for free choice of employment. The Government has undertaken a number of important labour law reforms, which should strengthen safeguards against forced labour. Article 96 of the Labour Law prohibits forced labour, and the Labour Contracts Law and Employment Promotion Law provide additional protections. Forced labour is penalised in Article 244 of the Criminal Law, and victims can also bring claims under the Civil Code. In 2013, China formally abolished its "re-education through labour" system, a form of administrative detention imposed by law enforcement authorities and has since rolled back custodial re-education schemes that existed for sex workers[264] and drug addicts throughout the country.[265] China's Action Plan against Human trafficking (2021-2030) also recognises trafficking for forced labour.[266]

116. Employment schemes have been an important component of China's poverty alleviation programmes, including in Xinjiang. According to the Government's September 2020 White Paper "Employment and Labour Rights in Xinjiang", from 2014 to 2019, the total number of people employed in Xinjiang rose from 11.35 million to 13.3 million, an increase of 17.2 per cent. The White Paper also states that the average annual increase in urban employment was more than 471,200 people (148,000 in southern Xinjiang, accounting for 31.4 per cent); and the average annual relocation of "surplus rural labour" was more than 2.76 million people, of whom nearly 1.68 million, or over 60 per cent, were in southern

[263] These policies have been documented by various UN human rights mechanisms, including the UN Working Group on the issue of discrimination against women in law and in practice, in its report on its mission to China of December 2013, in which it noted that the one-child policy, "although targeted at parents in general and not exclusively at mothers, has resulted in some serious violations of women's reproductive health and physical integrity". The Working Group stated that violence against women is "evident in the use of forced sterilization and abortion in furtherance of the one-child policy" and while "appreciating the recent condemnation by the Government of such practices by local officials, strongly emphasizes that effective preventative measures need to be taken at the national level, to prevent any recurrence of such crimes". See Report of the Working Group on the issue of discrimination against women in law and in practice, Mission to the People's Republic of China, A/HRC/26/39/Add.2, para. 10 and 92, respectively. In its 2014 concluding observations, the UN Committee on the Elimination of Discrimination against Women expressed concern that "the illegal practices of forced abortions and sterilizations persisted in China", despite "remarkable efforts by the State Party to curb" such practice, and that "women who violated family planning policy were subjected to fines, deprived of paid maternity leave, and experienced difficulty in registering their children." See Concluding Observations of the UN Committee on the Elimination of Discrimination against Women, CEDAW/C/CHN/CO/7-8, para. 38.

[264] Decision to Repeal the Relevant Legal Provisions on and System of Custody and Education, Standing Committee of NPC, 28 December 2019.

[265] Narcotics Control Law 2007.

[266] China's Action Plan against Human Trafficking (2021-2030), General Office of the State Council, 9 April 2021.

Xinjiang. The focus of these schemes has been on southern Xinjiang, which has lagged behind traditional indicators of development.

117. The Government closely links its poverty alleviation schemes to the prevention and countering of religious "extremism". The White Paper alludes to the perceived nexus between religious "extremism" and poverty in XUAR, noting that in the four areas that constitute southern Xinjiang and that are identified as areas of extreme poverty, "terrorists, separatists and extremists […] incite the public to resist learning the standard spoken and written Chinese language, reject modern science, and refuse to improve their vocational skills, economic conditions, and the ability to better their own lives", and that, as a result, people have fallen into long-term poverty.

118. It is against this backdrop that reports have emerged, since at least 2018, of practices of forced or compulsory labour[267] with respect to Uyghur and other predominantly Muslim minorities inside and outside XUAR. These allegations relate to two main contexts: (i) placements in VETC facilities and upon "graduation"; [268] (ii) labour placements in XUAR and in other parts of China, known as "surplus labour" and "labour transfer" schemes.[269]

119. International standards emphasize strong linkages between skills development, employment creation and poverty alleviation programmes, [270] encouraging their use for the advancement of disadvantaged groups such as ethnic minorities, subject to the key conditions of voluntariness and application on a non-discriminatory basis. Article 6 of the ICESCR provides for the right to work, which includes the right of every human being to decide freely to accept or choose work and an obligation on the part of States to abolish, forbid and counter all forms of forced labour.[271] Article 8 of the ICCPR also prohibits forced labour, outside for present purposes of specific sentence to such punishment by a competent court, or work or service normally required of a person who is under detention (or during conditional release therefrom) in consequence of a lawful order of a court. ILO standards define forced labour more specifically as "all work or service which is exacted from any person under the menace of any penalty," and for which the person has not offered themselves voluntarily.[272] The "menace of penalty" can refer to criminal sanctions as well as various forms of coercion such as withholding identity and travel documents, threats, violence, imposing financial penalties, confinement, delaying or halting wage payments, or the loss of rights or other privileges.[273] The various labour schemes need to be evaluated against these standards.

120. With respect to the allegations of forced labour in the context of placements in VETC facilities, it should firstly be noted that the Government's White Papers and other public statements show a clear link between VETC facilities and employment schemes. For example, the 2019 White Paper on "Vocational Education and Training in Xinjiang" states

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267 Hereafter "forced labour".

268 See, e.g., Financial Times, "Forced labour being used in China's "re-education camps", E. Feng, 15 December 2018.

269 See, e.g., BBC, "If the others go I'll go": Inside China's scheme to transfer Uighurs into work, J. Sudworth, 2 March 2021. The article includes footage from a report from China's state broadcaster illustrating how the policy works in practice.

270 While not ratified by China, see, e.g., ILO Human Resources Development Convention, 1975 (No. 142) for the adoption and development of "comprehensive and co-ordinated policies and programmes of vocational guidance and vocational training, closely linked with employment, in particular through public employment services" (article 1). Noting also, however, that "The policies and programmes shall encourage and enable all persons, on an equal basis and without any discrimination whatsoever, to develop and use their capabilities for work in their own best interests and in accordance with their own aspirations, account being taken of the needs of society."

271 UN Committee on Economic, Social and Cultural Rights, General Comment No. 18 ("The Right to Work"), E/C.12/GC/18, 6 February 2006, para. 4.

272 ILO Convention concerning Forced and Compulsory Labour, 1930 (no. 29), article 2(1).

273 See ILO, *Combating forced labour – A handbook for employers and businesses*, Geneva 2008, part IV, pp. 8-9. See also Communication No. 1036/2001 Faure v. Australia, Views adopted by the UN Human Rights Committee on 31 October 2005, para. 7.5 ("In the Committee's view, the term "forced or compulsory labour" covers a range of conduct extending from, on the one hand, labour imposed on an individual by way of criminal sanction, notably in particularly coercive, exploitative or otherwise egregious conditions, through, on the other hand, to lesser forms of labour in circumstances where punishment as a comparable sanction is threatened if the labour directed is not performed.").

that "many of the trainees who have completed their studies in education and training centers have gone on to find employment in factories or enterprises". Official statements refer to a "seamless connection" between the VETCs and employment.[274] It also appears that companies in XUAR have been incentivised to hire ethnic minorities, [275] including former vocational education "trainees". For example, an official "notice" from the Kashgar Public Information Office in 2018 stated that it had plans to transfer 100,000 individuals from vocational training to employment, while offering substantial subsidies to enterprises willing to hire "students".[276]

121. The Government states that such employment is based on voluntary labour contracts in accordance with the law. However, the close link between the labour schemes and the counter-"extremism" framework, including the VETC system, raises concerns in terms of the extent to which such programmes can be considered fully voluntary in such contexts. As explained above, the VETC system amounts to large-scale arbitrary deprivation of liberty through involuntary placements in residential facilities and compulsory "training",. Individuals in the system are, as a result, under a constant "menace of penalty". For example, detainees in the VETC facilities told OHCHR they had to work within the VETC facilities as part of the "graduation process", with no possibility of refusal for fear of being kept longer at the facilities.[277] Moreover, provisions in the XUAR Regulation on De-extremification, and other laws, regulations and policies, impose deradicalization duties on enterprises and trade unions, based on the law's own expansive criteria of religious "extremism".[278]

122. With respect to the allegations of forced labour in XUAR that are not necessarily connected to VETC facilities, some publicly available information on "surplus labour" schemes suggests that various coercive methods may be used in securing "surplus labourers".[279] The 13th Five-year Plan on Poverty Alleviation in the Xinjiang Uyghur Autonomous Region, adopted in May 2017, makes reference to "insufficient willingness of the poor people to gain employment making it difficult to transfer employment and increase income".[280] Another official document indicates that "surplus labourers" are managed by a point system and that points are deducted if "any person is found to be reluctant to participate in the training despite having the conditions to attend, not actively employed despite being able to go out for employment, or having old-fashioned and stubborn ideas." The same document contains an acknowledgement that "surplus rural labour force" "are unwilling to go out of their homes, to receive training and to be steadily employed" and that management

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274 See, e.g., Xinhua news, "the Chairman of Xinjiang Uygur Autonomous Region answered questions on the stability of anti-terrorism in Xinjiang and the development of vocational skills education and training" 16 October 2018 (unofficial translation).

275 See, e.g., Tianshan, "Xinjiang: Head of enterprises absorbing ethnic minority labor to meet standards will be rewarded" (unofficial translation), 28 June 2014.

276 See Department of Public Information, Kashgar, Notice on the Issuance of the Implementation Plan for Employment Training for the Difficult Groups in Kashgar, 7 August 2018. It is unclear if this figure relates to VETCs directly, but the terminology used appears to include this target group.

277 OHCHR interviews.

278 See, e.g., the XUAR Regulation on De-extremification, as revised in October 2018, which lays down de-radicalization responsibilities for enterprises (article 46) and trade unions (article 34). Enterprises failing to perform their de-radicalization duties are subject to "criticism and education" by the unit they are located at and may be subject to penalties (article 50, unofficial translation). These duties serve in practice to sharply limit the ability of enterprises and trade unions from playing respective roles in promoting equality of opportunity and treatment in employment and occupation without discrimination. See conclusions by the ILO, Committee on the Application of Standards, 2 June 2022, CAN/PV.5.

279 See, e.g., BBC, "'If the others go I'll go': Inside China's scheme to transfer Uighurs into work", J. Sudworth, 2 March 2021. The article includes footage from a report from China's state broadcaster illustrating how the policy works in practice, which raises serious concerns about coercive methods.

280 See 13th Five-Year Poverty Alleviation Plan from June 2017. The 14th Five-Year Poverty Alleviation Plan adopted in 2021, aims to consolidate and expand poverty alleviation programmes (unofficial translation).

of the system should "reward those who do a good job, and criticise and educate or even punish those who do a bad job."[281]

123. The focus of the schemes appears particularly targeted at rural labourers, to "transform them from farmers to industrial workers".[282] These tend to be in poorer areas, which are also perceived as "backward" and at risk of religious "extremism", such as southern and western Xinjiang. While such targeting may be focussed on poverty alleviation, absent the necessary voluntariness, it could also amount to a form of discrimination on religious and ethnic grounds, particularly in the broader context described in this assessment in which these schemes are implemented. Discrimination on religious and ethnic grounds can itself also be a contributory factor making people vulnerable to forced labour.[283]

124. In its annual report issued on 9 February 2022, the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) examined allegations made by the International Trade Union Confederation in respect of the application of ILO Conventions No. 111 and 122 by China and responses from the Government.[284] With respect to Convention No. 111, the Committee expressed its "deep concern in respect of the policy directions expressed in numerous national and regional policy and regulatory documents" and "concern in respect of the methods applied, the impact of their stated objectives and their (direct or indirect) discriminatory effect on the employment opportunities and treatment of ethnic and religious minorities in China".[285]

125. With respect to Convention No. 122, the Committee observed that "the employment situation of Uyghurs and other Muslim minorities in China provides numerous indications of coercive measures many of which arise from regulatory and policy documents."[286] The Committee noted various indicators suggesting measures severely restricting the free choice of employment: "These include government-led mobilization of rural households with local townships organizing transfers in accordance with labour export quotas; the relocation or transfer of workers under security escort; onsite management and retention of workers under strict surveillance; the threat of internment in vocational education and training centres if workers do not accept "government administration"; and the inability of placed workers to freely change employers."[287]

126. Following up on the referral by CEACR of its comment in respect of Convention No. 111, in June 2022 the International Labour Conference's Committee on the Application of Standards "deplored the use of all repressive measures against the Uyghur people, which has a discriminatory effect on their employment opportunities and treatment as a religious and ethnic minority in China, in addition to other violations of their fundamental rights." The Committee urged the Government *inter alia* to "immediately cease any discriminatory practices against the Uyghur population and any other ethnic minority groups, including internment or imprisonment on ethnic and religious grounds for deradicalization purposes"; and "amend national and regional regulatory provisions with a view to reorienting the mandate of vocational training and education centres from political re-education based on administrative detention."[288]

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281 County Human Resources and Social Security Bureau, Implementation plan on the good service to transfer employment of surplus urban and rural labour in Chabchal County, 22 March 2018 (unofficial translation).

282 County Human Resources and Social Security Bureau, Implementation plan on the good service to transfer employment of surplus urban and rural labour in Chabchal County, 22 March 2018.

283 See ILO Indicators of Forced Labour - Special Action Programme to Combat Forced Labour, 1 October 2012.

284 Application of International Labour Standards 2022 Report III (Part A) Report of the Committee of Experts on the Application of Conventions and Recommendations International Labour Conference 110th Session, 2022.

285 Ibid, p. 518 and 520.

286 Ibid, p. 688.

287 Ibid, p. 689.

288 Committee on Application of Standards, 110th International Labour Conference, 2 June 2022, CAN/China/PV.5.

127. OHCHR shares, from the human rights perspective, the concerns laid out by the ILO supervisory bodies. Although more information is needed on the methods used in the recruitment, placement and the conditions of work in the context of the VETC system, "surplus" and labour transfer schemes, the information available and assessed by OHCHR in relation to these schemes in XUAR shows that there is an urgent need for further clarification by the Government in line with China's obligations under international law and to provide follow-up to the ILO's recommendations.

128. In summary, there are indications that labour and employment schemes, including those linked to the VETC system, appear to be discriminatory in nature or effect and to involve elements of coercion, requiring transparent clarification by the Government.

VII. Family separation and reprisals

129. The implementation of the purported counter-terrorism and "extremism" policies in XUAR has also had deep impacts on families. The widespread arbitrary deprivation of liberty of Uyghurs and other predominantly Muslim communities in XUAR, often shrouded in secrecy, has led to many families being separated and unaware of the whereabouts of their loved ones. This has been particularly so for the diaspora community where there have additionally been allegations of reprisals and intimidations against those seeking information about their family members or expressing concern publicly.

A. Family separations and enforced disappearances

130. Claims of family separations and enforced disappearances were among the first indicators of concern about the situation in XUAR, with large numbers of people alleged to be "forcibly disappeared" or "missing".[289] Approximately two-thirds of the 152 outstanding cases on China of the UN Working Group on Enforced or Involuntary Disappearances pertain to XUAR over the period 2017-2022.[290]

131. The Convention for the Protection of All Persons from Enforced Disappearances (CPED) defines such disappearance as "the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law".[291] Although China is not a party to the Convention on Enforced Disappearances, it is bound by the prohibition of enforced disappearance that is encompassed by other human rights treaties to which it is party, such as the Convention against Torture,[292] and to the extent the norm has crystallized in customary law. Moreover, the denial of the right to know the truth about the whereabouts of a victim of enforced disappearance can itself constitute a form of cruel and inhuman treatment for the immediate family.[293]

132. In some cases, when persons were taken to a VETC facility, family members are not informed about their whereabouts, the reasons for their "referral" to the centres, or the length

[289] See introduction.
[290] As at 31 May 2022.
[291] The Convention for the Protection of All Persons from Enforced Disappearances (CPED), article 2.
[292] The UN Committee against Torture has addressed the issue of enforced disappearance in various concluding observations. See, e.g., UN Committee against Torture, Concluding Observations on Spain, 9 December 2009, CAT/C/ESP/CO/5, para. 21, in which the Committee stated that "acts of torture […] also include enforced disappearances". See also Communication No. 456/2011, Larez vs. Bolivarian Republic of Venezuela, 26 June 2015, para. 6.4 "The Committee further recalls that enforced disappearance entails multiple human rights violations and a failure by the State party concerned to comply with the obligations contained in the Convention, and that this constitutes in itself, in relation to the disappeared person, or may constitute, in relation to the person's relatives, a form of torture or inhuman treatment contrary to the Convention".
[293] See, e.g., General Comment on the right to the truth in relation to enforced disappearance, as contained in the Report of the Working Group on Enforced or Involuntary Disappearances, 26 January 2011, A/HRC/16/48, p. 15 (para. 4).

for which they may be retained. First-hand accounts suggest that informing family was not undertaken as a matter of policy, but rather on an *ad hoc* basis following persistent attempts by family members to seek information about their whereabouts.[294] While some interviewees seemed to know or suspect that family members had been taken to a VETC facility or another form of detention, most remained unsure of the situation and, despite attempts at clarifying the whereabouts with the authorities, their fate remained unknown. This lack of knowledge and any contact has been particularly painful for families living at geographical distance abroad and requires immediate clarification by the authorities. In the same vein, former detainees said they had no contact with family during their time at VETC facilities, and that they did not know if their families knew where they were.[295] Without it being clear as to the variation in approach, some detainees were allowed to have occasional family visits or phone calls under supervision and surveillance.[296]

133. The Xinjiang Victims Database, a platform used by exiled family members seeking the whereabouts of their loved ones in XUAR, currently has hundreds of entries of alleged "missing persons".[297] OHCHR has reviewed dozens of interviews of family members who have posted on the Xinjiang Victims Database and other sites in the hope of locating their loved ones. It has also reviewed audio recordings taken by family members who have attempted to contact local authorities in XUAR to seek clarification. It has further reviewed available Government responses to some of these cases, which consistently assert that those allegedly missing are "living normal lives" in XUAR, often without any further supporting information.

134. For example, on 9 April 2021, in a press conference in Beijing, authorities acknowledged that out of 12,050 people in the Xinjiang Victims Database, they had confirmed the existence of 10,708 people. 1,342 accounts reportedly pertained to individuals who were "fabricated." Out of the 10,708 people, 6,962 were "living a normal life"; 3,244 had reportedly been convicted and sentenced for terrorist acts and other criminal offences; 238 had reportedly died of "diseases and other causes" and 264 were living overseas.[298] The authorities did not release the names of those individuals, or the court decisions upon which those serving prison terms have been convicted, prolonging the uncertainty for families.

135. Family separations result from a number of factors and not all necessarily amount to enforced or involuntary disappearances. Issues of family separations also arise between families whose members are split between XUAR and abroad. The risk of reprisals against family members in XUAR on account of contact from abroad is an important reason, repeatedly raised in interviews with OHCHR, why contacts are often severed by families themselves. OHCHR has also had accounts of Uyghur parents living abroad, who continue to be unable to contact their children left behind with relatives in XUAR.[299] As noted, contact with persons abroad is one of the reasons for referral to a VETC facility. In one instance, an individual described having lost contact with his wife and children, as well as more than 30 other relatives in XUAR, all of whom he said had either changed their phone numbers or simply refused to accept his phone calls, due to fear of reprisals.[300] In the words of another

294 OHCHR interviews. See also, the "Xinjiang papers", which include a classified directive that instructs authorities with a script how to handle questions about detained family members from students who return home at the end of the academic semester. This guide instructed officials to tell students that their relatives are in "a training school set up by the government," which they cannot leave.

295 OHCHR interviews.

296 OHCHR interviews.

297 It is difficult to quantify the exact number of "missing persons" from the Xinjiang Victims Database (https://shahit.biz/eng/), as the information may not be fully up to date. Since 2017/2018 there have been over 1,700 individuals who have reported cases, including of missing relatives or friends.

298 The seventh press conference by Xinjiang Uyghur Autonomous Region on Xinjiang-related issues in Beijing, 9 April 2021. See a transcript on the website of the Chinese Embassy in the United States: https://www.mfa.gov.cn/ce/ceus//eng/zt/wonderfulxj/xinjiangpressconference/7thpress/t1894724.htm.

299 See also, e.g., Amnesty International "Hearts and Lives Broken: The nightmare of Uyghur families separated by repression", 19 March 2021.

300 OHCHR interview.

interviewee: "I haven't talked to my family because I was told not to contact them or else they would be sent to re-education."[301]

B. Intimidations, threats and reprisals

136. The Chinese authorities continue to openly criticise victims and their relatives now living abroad for speaking about their experiences in XUAR, discrediting stories that are made public.[302]

137. Intimidations and threats were also reported by former detainees, some of whom were forced to sign a document ahead of their release, pledging not to speak about their experience in the VETCs.[303] In the words of one interviewee: "We had to sign a document to remain silent about the camp. Otherwise, we would be kept for longer and there would be punishment for the whole family."[304]

138. Patterns of intimidations, threats and reprisals were consistently highlighted by interviewees. Two-thirds of the interviewees with whom OHCHR spoke asserted having been victims of some form of intimidation or reprisal, in particular threatening phone calls or messages, mostly by Chinese, but also from neighbouring States, to fellow exiled Uyghurs or Kazakhs, or by family members, possibly acting at the behest of the authorities, following statements or advocacy in relation to XUAR. Some also claimed that family members in XUAR had been intimidated or suffered direct reprisals as a result of public engagement overseas, including being taken to a VETC or other facility.

139. Over the past few years, credible information has been received about members of the Uyghur community living abroad in several countries, having been forcibly returned, or being placed at risk of forcible return to China, in breach of the prohibition under international law of *refoulement*. The UN human rights mechanisms, including the UN Committee on the Elimination of Racial Discrimination as well as the Special Procedures, have expressed concerns about reports of forcible return of Uyghurs to China, and have recalled the human rights and refugee law obligations of both China and third countries in such circumstances.[305] In this context, OHCHR is also aware of dozens of Uyghurs living in third countries whose passports have expired and who have experienced difficulties in renewing their documents, including due to fear of reprisals, or fear of being forcibly returned to China.

140. Moreover, there are claimed threats of reprisals against staff employed by, or conducting activities on behalf of, foreign enterprises with links to XUAR through their value chains, while attempting to conduct due diligence and requesting transparency in line with the United Nations Guiding Principles on Business and Human Rights.

141. These patterns of intimidations, threats and reprisals are generally credible and are likely to have caused, and continue to cause, a serious chilling effect on these communities' rights to freedom of expression, privacy, physical integrity and family life, and in consequence inhibit the flow of information on the situation inside XUAR.

142. In conclusion, the patterns of family separations among Uyghurs and members of other predominantly Muslim minorities, which in some cases may amount to enforced disappearances, are a direct consequence of the means by which the detention programme has been operated and are therefore likely to have impacts on similar scales. They have been

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301 OHCHR interview.

302 See, e.g., Ministry of Foreign Affairs of the People's Republic of China, Foreign Ministry Spokesperson Wang Wenbin's Regular Press Conference on 23 February 2021: https://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/2511_665403/202102/t20210224_9721163.html.

303 OHCHR interviews.

304 OHCHR interview.

305 See, e.g., UN Committee on the Elimination of Racial Discrimination, Concluding Observations on the combined fourteenth to seventeenth periodic reports of China (including Hong Kong, China and Macao, China), CERD/C/CHN/CO/14-17, para. 40(d) and 42(g), 19 September 2018. see also: https://news.un.org/en/story/2009/12/325022-forcible-return-uighurs-cambodia-sparks-un-experts-concern.

exacerbated by a pattern of intimidations and threats of reprisals against victims and their relatives inside and outside XUAR. The onus remains on the Government to urgently clarify the fate and whereabouts of missing family members and to facilitate safe contacts and reunification. At the same time, and in light of the overall assessment of the human rights situation in XUAR, countries hosting Uyghurs and other Muslim minorities from XUAR should refrain from forcibly returning them, in any circumstance of real risks of breach of the principle of non-refoulement.

VIII. Overall assessment and recommendations

143. Serious human rights violations have been committed in XUAR in the context of the Government's application of counter-terrorism and counter-"extremism" strategies. The implementation of these strategies, and associated policies in XUAR has led to interlocking patterns of severe and undue restrictions on a wide range of human rights. These patterns of restrictions are characterized by a discriminatory component, as the underlying acts often directly or indirectly affect Uyghur and other predominantly Muslim communities.

144. These human rights violations, as documented in this assessment, flow from a domestic "anti-terrorism law system" that is deeply problematic from the perspective of international human rights norms and standards. It contains vague, broad and open-ended concepts that leave wide discretion to officials to interpret and apply broad investigative, preventive and coercive powers, in a context of limited safeguards and scant independent oversight. This framework, which is vulnerable to discriminatory application, has in practice led to the large-scale arbitrary deprivation of liberty of members of Uyghur and other predominantly Muslim communities in XUAR in so-called VETC and other facilities, at least between 2017 and 2019. Even if the VETC system has since been reduced in scope or wound up, as the Government has claimed, the laws and policies that underpin it remain in place. There appears to be a parallel trend of an increased number and length of imprisonments occurring through criminal justice processes, suggesting that the focus of deprivation of liberty detentions has shifted towards imprisonment, on purported grounds of counter-terrorism and counter-"extremism".

145. The treatment of persons held in the system of so-called VETC facilities is of equal concern. Allegations of patterns of torture or ill-treatment, including forced medical treatment and adverse conditions of detention, are credible, as are allegations of individual incidents of sexual and gender-based violence. While the available information at this stage does not allow OHCHR to draw firm conclusions regarding the exact extent of such abuses, it is clear that the highly securitised and discriminatory nature of the VETC facilities, coupled with limited access to effective remedies or oversight by the authorities, provide fertile ground for such violations to take place on a broad scale.

146. The systems of arbitrary detention and related patterns of abuse in VETC and other detention facilities come against the backdrop of broader discrimination against members of Uyghur and other predominantly Muslim minorities based on perceived security threats emanating from individual members of these groups. This has included far-reaching, arbitrary and discriminatory restrictions on human rights and fundamental freedoms, in violation of international norms and standards. These have included undue restrictions on religious identity and expression, as well as the rights to privacy and movement. There are serious indications of violations of reproductive rights through the coercive and discriminatory enforcement of family planning and birth control policies. Similarly, there are indications that labour and employment schemes for purported purposes of poverty alleviation and prevention of "extremism", including those linked to the VETC system, may involve elements of coercion and discrimination on religious and ethnic grounds.

147. The described policies and practices in XUAR have transcended borders, separating families and severing human contacts, while causing particular suffering to affected Uyghur, Kazakh and other predominantly Muslim minority families, exacerbated by patterns of intimidations and threats against members of the diaspora community speaking publicly about experiences in XUAR.

148. The information currently available to OHCHR on implementation of the Government's stated drive against terrorism and "extremism" in XUAR in the period 2017-2019 and potentially thereafter, also raises concerns from the perspective of international criminal law. The extent of arbitrary and discriminatory detention of members of Uyghur and other predominantly Muslim groups, pursuant to law and policy, in context of restrictions and deprivation more generally of fundamental rights enjoyed individually and collectively, may constitute international crimes, in particular crimes against humanity.

149. The Government holds the primary duty to ensure that all laws and policies are brought into compliance with international human rights law and to promptly investigate any allegations of human rights violations, to ensure accountability for perpetrators and to provide redress to victims. Individuals who are arbitrarily deprived of their liberty should be immediately released. As the conditions remain in place for serious violations to continue and recur, these must also be addressed promptly and effectively. The human rights situation in XUAR also requires urgent attention by the Government, the United Nations intergovernmental bodies and human rights system, as well as the international community more broadly.

150. OHCHR is grateful to the Government and other institutions for sharing with it information about aspects of the situation in XUAR. This assessment was also facilitated by the vast amount of research that has been completed by non-governmental organizations, researchers, journalists and academics over the last years (and independently assessed by OHCHR). OHCHR is deeply grateful to the victims and witnesses who were willing to share their experiences with OHCHR, despite the potential risks to themselves and their loved ones.

Recommendations

151. OHCHR recommends to the Government of China that it:

(i) Takes prompt steps to release all individuals arbitrarily deprived of their liberty in XUAR, whether in VETCs, prisons or other detention facilities;

(ii) Urgently clarifies the whereabouts of individuals whose families have been seeking information about their loved ones in XUAR, including by providing details of their exact locations and establishing safe channels of communication and travel enabling families to reunite;

(iii) Undertakes a full review of the legal framework governing national security, counter-terrorism and minority rights in XUAR to ensure their compliance with binding international human rights law, and urgently repeal all discriminatory laws, policies and practices against Uyghur and other predominantly Muslim minorities in XUAR, in particular those that have led to the serious human rights violations as detailed in this assessment;

(iv) Promptly investigates allegations of human rights violations in VETCs and other detention facilities, including allegations of torture, sexual violence, ill-treatment, forced medical treatment, as well as forced labour and reports of deaths in custody;

(v) Implements, as a matter of priority, the Concluding Observations from the UN Committee against Torture and the UN Committee on the Elimination of Racial Discrimination, including establishment of an independent oversight mechanism to ensure prompt, impartial and effective investigation into all allegations of torture and ill-treatment;

(vi) Ensures that surveillance both on and offline comply with strict tests of legality, necessity and proportionality, including for matters of national security, and does not infringe on fundamental rights and freedoms of individuals;

(vii) Cooperates with the ILO and social partners in the implementation of the recommendations made by the ILO Committee of Experts on Conventions No. 111 and 122, including by allowing a technical advisory mission, and in the implementation of Conventions No. 29 and 105 on forced labour, and the 2014 Protocol;[306]

[306] Committee on Application of Standards, 110th International Labour Conference, 2 June 2022, CAN/China/PV.5.

(viii) Provides adequate remedy and reparation to victims of human rights violations;

(ix) Clarifies the reports of destruction of mosques, shrines and cemeteries by providing data and information and suspend all such activities in the meantime;

(x) Ceases immediately all intimidation and reprisals against Uyghur and other predominantly Muslim minorities abroad in connection with their advocacy, and their family members in XUAR; and ensure that all citizens including of Uyghur and other predominantly Muslim minorities can hold a valid passport and travel to and from China without fear of reprisals;

(xi) Ratifies the International Covenant on Civil and Political Rights; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Optional Protocols to the Convention against Torture, to the Convention on the Elimination of All Forms of Racial Discrimination and to the Convention on the Elimination of All Forms of Discrimination against Women;

(xii) Invites as a matter of priority the Working Group on Enforced and Involuntary Disappearances, the Working Group on Arbitrary Detention, the Special Rapporteur on Torture, the Special Rapporteur on the Rights of Minorities, the Special Rapporteur on Freedom of Religion and Belief, the Special Rapporteur on Cultural Rights and the Working Group on Business and Human Rights to conduct unrestricted country visits to China, including to XUAR; and

(xiii) Continues engagement with OHCHR to enable further assessment of the situation; and facilitates further visits by OHCHR and technical exchanges on human rights issues in XUAR, in follow up to the High Commissioner's visit.

OHCHR remains available to support and advise in the implementation of these recommendations.

152. OHCHR recommends to the business community that it:

(i) Takes all possible measures to meet the responsibility to respect human rights across activities and business relationships as set out the UN Guiding Principles on Business and Human Rights, including through enhanced human rights due diligence, and report on this transparently; and

(ii) Strengthens human rights risk assessment by companies involved in the surveillance and security sector, including whether products and services could lead to or contribute to adverse human rights impacts, including on the rights to privacy, freedom of movement, and the respect of non-discrimination.

153. OHCHR recommends to the international community that it supports efforts to strengthen the protection and promotion of human rights in the XUAR region in follow-up to these recommendations. States should further refrain from returning members of Uyghur and other predominantly Muslim minorities to China who are at risk of *refoulement* and provide humanitarian assistance, including medical and psycho-social support, to victims in the States in which they are located.

Appendix

Note Verbale of the Permanent Mission of the People's Republic of China to the United Nations in Geneva, dated 31 August 2022, and annex

Available at: https://www.ohchr.org/en/documents/country-reports/ohchr-assessment-human-rights-concerns-xinjiang-uyghur-autonomous-region

* Redactions applied by OHCHR further to policy to protect individual rights and interests as required.