

THE UYGHUR GENOCIDE:

An Examination of China's Breaches
of the 1948 Genocide Convention

MARCH 2021

Foreword

This report is the first independent expert application of the 1948 Genocide Convention to the ongoing treatment of the Uyghurs in China. It was undertaken by the Newlines Institute for Strategy and Policy, in cooperation with the Raoul Wallenberg Centre for Human Rights, in response to emerging accounts of serious and systematic atrocities in the Xinjiang Uyghur Autonomous Region, particularly directed against the Uyghurs, an ethnic minority, to ascertain whether the People's Republic of China is in breach of the Genocide Convention under international law.

For this purpose, dozens of experts in international law, genocide studies, Chinese ethnic policies, and the region were invited to examine pro-bono all available evidence that could be collected and verified from public Chinese State communications, leaked Chinese State communications, eye-witness testimony, and open-source research methods such as public satellite-image analysis, analysis of information circulating on the Chinese internet, and any other available source.

The resulting report is a presentation of the facts that could be established together with careful analysis of whether China bears State responsibility for breaches of the Genocide Convention. We believe the conclusions are clear and convincing. We do not make any recommendations for action, but we do stand prepared to share our information and analysis with relevant institutions or actors interested in these findings.

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Executive Summary


1. This report concludes that the People's Republic of China (China) bears State responsibility for committing genocide against the Uyghurs in breach of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention) based on an extensive review of the available evidence and application of international law to the evidence of the facts on the ground.
2. The examination was conducted by recognized independent experts on international law, genocide, China's ethnic policies, and the Xinjiang Uyghur Autonomous Region (XUAR).
3. **Intent to Destroy.** Under Article II of the Genocide Convention, the commission of genocide requires the "intent to destroy, in whole or in part, [a protected group], as such." The "intent to destroy" does not require explicit statements. Intent can be inferred from a collection of objective facts that are attributable to the State, including official statements, a general plan, State policy and law, a pattern of conduct, and repeated destructive acts, which have a logical sequence and result — destruction of the group as such, in whole or in substantial part.
4. **High-level statements of intent and general plan.** In 2014, China's Head of State, President Xi Jinping, launched the "People's War on Terror" in XUAR, making the areas where Uyghurs constitute nearly 90 percent of the population the front line. High-level officials followed up with orders to "round up everyone who should be rounded up," "wipe them out completely ... destroy them root and branch," and "break their lineage, break their roots, break their connections, and break their origins." Officials described Uyghurs with dehumanizing terms and repeatedly likened the mass internment of Uyghurs to "eradicating tumors."
5. **Comprehensive State policy, pattern of conduct and repeated destructive acts.**
 - a. **Government-Mandated Homestays.** Since 2014, the Government of China (Government) has deployed Han cadres to reside in Uyghur homes as monitors, resulting in the rupturing of family bonds. County governments further coerce, incentivize, and actively promote Han-Uyghur marriages.
 - b. **Mass Internment.** In 2017, the XUAR legislature formally legalized the mass internment of Uyghurs under "De-Extremification" regulations. The top security official and entities dispatched a manual and set of documents across the region with orders to police Uyghurs, "speed up the construction" and expansion of the mass internment camps, "increase the discipline and punishment" within the camps and maintain "strict secrecy" over all information, which is not to "be disseminated," nor "open to the public." The manual outlines the complex hierarchy

of officials, entities, and the centralized digital surveillance system overseeing the entire campaign.

- c. **Mass Birth-Prevention Strategy.** China has simultaneously pursued a dual systematic strategy of forcibly sterilizing Uyghur women of childbearing age and interning Uyghur men of child-bearing years, preventing the regenerative capacity of the group and evincing an intent to biologically destroy the group as such. According to Government statistics and directives, including to “carry out family planning sterilization,” “lower fertility levels,” and “leave no blind spots,” China is carrying out a well-documented, State-funded birth-prevention campaign targeting women of childbearing age in Uyghur-concentrated areas with mass forced sterilization, abortions, and IUD placements. China explicitly admits the purpose of these campaigns is to ensure that Uyghur women are “no longer baby-making machines.”
 - d. **Forcible Transfer of Uyghur Children to State-run Facilities.** Pursuant to new Government policy in 2017, China began building a vast network of massive State-run, highly securitized boarding schools and orphanages to confine Uyghur children, including infants, full time. XUAR counties receive specific quotas from higher authorities to institutionalize such “orphans,” who often lose both parents to internment or forced labor.
 - e. **Eradication of Uyghur identity, community, and domestic life.** Pursuant to Government campaigns, local authorities have eliminated Uyghur education, destroyed Uyghur architecture and household features, and damaged, altered, or completely demolished the majority of mosques and sacred sites in the region, while closing off other sites or converting them into commercial spaces.
 - f. **Selective Targeting of Intellectuals and Community Leaders.** The intent to destroy the Uyghurs as a group is further demonstrated by the Government’s deliberate targeting of the guardians and transmitters of Uyghur identity for prolonged detention or death, including household heads, intellectuals, and cultural leaders, regardless of Party affiliation or educational status.
The deliberate targeting of Uyghur leaders and sacred sites evinces an intent to destroy the essential elements of Uyghur identity and communal bonds, which define the group as such.
6. China’s policies and practices targeting Uyghurs in the region must be viewed in their totality, which amounts to an intent to destroy the Uyghurs as a group, in whole or in substantial part, as such.
7. **Acts of Genocide.** While commission of any one of the Genocide Convention’s enumerated acts with the requisite intent can sustain a finding of genocide, the

evidence presented in this report supports a finding of genocide against the Uyghurs in breach of each and every act prohibited in Article II (a) through (e).

8. **“(a) Killing members of the group.”** There are reports of mass death and deaths of prominent Uyghur leaders selectively sentenced to death by execution or, for elders in particular, by long-term imprisonment.
9. **“(b) Causing serious bodily or mental harm to members of the group.”** Uyghurs are suffering serious bodily and mental harm from systematic torture and cruel treatment, including rape, sexual abuse, exploitation, and public humiliation, at the hands of camp officials and Han cadres assigned to Uyghur homes under Government-mandated programs. Internment camps contain designated “interrogation rooms,” where Uyghur detainees are subjected to consistent and brutal torture methods, including beatings with metal prods, electric shocks, and whips. The mass internment and related Government programs are designed to indoctrinate and “wash clean” brains, driving Uyghurs to commit or attempt suicide from the threat of internment or the daily extreme forms of physical and psychological torture within the camps, including mock executions, public “self-criticisms,” and solitary confinement.
10. **“(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.”** The authorities systematically target Uyghurs of childbearing years, household heads, and community leaders for detention in unliveable conditions, impose birth-prevention measures on Uyghur women, separate Uyghur children from their parents, and transfer Uyghurs on a mass scale into forced hard labor schemes in a manner that parallels the mass internment. In sum, China is deliberately inflicting collective conditions calculated to terminate the survival of the Uyghurs as a group.
11. **“(d) Imposing measures intended to prevent births within the group.”** The systematic birth prevention campaign in Uyghur-concentrated areas is reinforced by the mass internment drive. In the camps, Uyghur women are subjected to forced IUD insertions, abortions, and injections or medication halting their menstrual cycles, while Uyghur men of childbearing age are targeted for internment, depriving the Uyghur population of the ability to reproduce. As a result of these interconnected policies, growth rates in Uyghur-concentrated areas are increasingly approaching zero.
12. **“(e) Forcibly transferring children of the group to another group.”** Where detentions and forced labor schemes are leaving Uyghur children bereft of both parents, they are being sent to State-run orphanages and raised in Chinese-language environments with standard Han child-rearing methods.
13. **China’s Responsibility for Genocide under the Genocide Convention.** China is a highly centralized State in full control of its territory and population, including XUAR, and is a State party to the Genocide Convention. The persons and entities perpetrating the above-indicated acts of genocide are all State agents or organs — acting under the effective control of the State — manifesting an intent to destroy the Uyghurs as a group



within the meaning of Article II of the Genocide Convention. This report therefore concludes that China bears State responsibility for an ongoing genocide against the Uyghurs, in breach of the Genocide Convention.

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I. Introduction

This report concludes that the People's Republic of China (hereinafter China) is committing an ongoing genocide against the Uyghur ethnic group, in violation of the Convention on the Prevention and Punishment of the Crime of Genocide (hereinafter the Genocide Convention). The report examines key pertinent developments in the Xinjiang Uyghur Autonomous Region (hereinafter XUAR) from May 2013, when the XUAR Government released the earliest known document laying the groundwork for the mass internment campaign, to the present. These events follow a long history of persecution against the Uyghurs in China. The report specifically considers the question of State responsibility under international law for breaches of the Genocide Convention, not the individual criminal liability of particular leaders or perpetrators.

Under Article II of the Genocide Convention, the crime of genocide occurs when at least one of the enumerated prohibited acts is "committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such." This report does not consider other possible breaches of the Convention, notably in respect of Article III (stipulating punishment for genocide or related conspiracy, incitement, attempt or complicity), Article V (the duty to enact legislation to give effect to the Convention in domestic law, including penalties), or of the fundamental duty to prevent genocide—duties shared by, and with implications for, all State parties to the Convention.

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

In fact, as recently as September 2020, President Xi praised the "success" of the strategy, practice, and policies of the Communist Party of China (often referred to in English as the Chinese Communist Party, hereinafter CCP) in XUAR, which he deemed "completely correct" and vowed to continue for years to come.¹

The stated purposes or motives behind acts of genocide are legally irrelevant to the question of intent under the Genocide Convention, although such motives might demonstrate that officials are factually aware of certain practices and their outcomes. Thus, China's attempts to justify its policies in XUAR as a war against extremism, terrorism, or separatism do not absolve the State of responsibility for genocide. These policies primarily target Southern XUAR, where Uyghurs constitute approximately 90 percent of the population, according to the latest data from the Xinjiang Statistical

¹ Wong, Chun Han, "Xi Says China Will Continue Efforts to Assimilate Muslims in Xinjiang," *The Wall Street Journal*, <https://www.wsj.com/articles/xi-says-china-will-continue-efforts-to-assimilate-muslims-in-xinjiang-11601133450?mod=searchresults&page=1&pos=1>; Buckley, Chris. "Brushing Off Criticism, China's Xi Calls Policies in Xinjiang 'Totally Correct.'" *The New York Times*, 26 Sept. 2020, <https://www.nytimes.com/2020/09/26/world/asia/xi-jinping-china-xinjiang.html>.

Bureau.² The repeated explicit Government orders (described below) to “eradicate tumors,” “wipe them out completely ... destroy them root and branch,” “round up everyone,” “show absolutely no mercy,” “break their roots,” and eliminate “risks within risks, hidden dangers in hidden dangers,” combined with corresponding State practice, belie the purported security goals by targeting any and all members of the Uyghur population.

The ongoing genocide against the Uyghurs is a logical result of a series of sequential and cumulative acts, evolving from the collection of biometric data of Uyghur residents, to the assignment of party cadre teams to monitor Uyghur families, to the destruction of Uyghur cultural and religious sites, language, literature, and poetry—all the foundations of Uyghur life and identity—to the criminalization of Uyghur religious practices, the construction and expansion of internment camps and detention facilities across every populated area of the region, the cycles of mass Uyghur internment and forced labor, to systematic forced abortions and the sterilization of Uyghur women of childbearing age, widespread rape and sexual abuse, and the forcible separation of Uyghur children from their disappeared parents.

The highest levels of State—the President of China and the XUAR CCP Secretary and CCP Deputy Secretary—directly orchestrate these coordinated policies and practices, which are relentlessly implemented by a bureaucratic line of entities and officials all the way down to the internment camp guards. The nature of these interconnected and composite acts inescapably demonstrate the clear, effective, and firm control of the State over the ongoing genocide that cannot reasonably be attributed to others beyond the effective control of the State, or to accident or chance. Simply put, China's long-established, publicly and repeatedly declared, specifically targeted, systematically implemented, and fully resourced policy and practice toward the Uyghur group is inseparable from “the intent to destroy or whole or in part” the Uyghur group as such.

The evidence contained in this report derives from a comprehensive survey of the available primary and secondary sources, including eyewitness testimony, internal Chinese Government statements, documents, statistics, white papers and reports, and various expert analyses and scholarly works. China continues to deny meaningful independent access to XUAR and seeks to maintain secrecy over its policies vis-à-vis ethnic minorities in the region.

² The following numbers on the Southern four prefectures of Kashgar, Hotan, Aksu, and Kizilsu are from the Xinjiang Statistical Bureau's Xinjiang Statistical Yearbook 2019, *available at* <http://tjj.xinjiang.gov.cn/tjj/rkjy/202006/3b1eef1049114b0c9cf9e81bf18433ef.shtml>.

Uyghurs/Total Population

Kashgar: 4,289,151 / 4,633,781

Hotan: 2,453,618 / 2,530,562

Aksu: 2,051,412 / 2,561,674

Kizilsu: 413,655 / 624,496

Total: 9207836 / 10350513.

Countless survivors understandably remain silent to protect family members in XUAR from the danger of being sent into the vast network of detention centers, internment camps,³ prisons, or forced labor factories in retaliation. Many have lost all contact with friends and relatives in XUAR, who may have deleted their contacts abroad to protect themselves from internment or worse.⁴ Increasingly, witnesses have only agreed to speak out after the detention of all remaining family members back home. The names of first-hand accounts will not be disclosed in this report out of necessary caution and safety concerns.⁵

II. Applicable Law

1. The Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention)

The prohibition of genocide is a well-established peremptory norm (*jus cogens*), admitting of no derogation,⁶ and enshrined in the Genocide Convention, which China signed and ratified in 1949 and 1983, respectively.⁷ China's obligations under the Genocide Convention to prevent, punish, and not commit genocide are *erga omnes*, or owed to the international community as a whole.⁸ China has explicitly lodged a reservation to the Genocide Convention that "does not consider itself bound by article IX of the said Convention,"⁹ and therefore does not recognize the jurisdiction of the International Court of Justice (ICJ) over interpretation, application or fulfillment of the Convention.¹⁰ China similarly does not recognize the jurisdiction of the International Criminal Court as it is not

³ This report avoids use of the term "concentration camp" because it is an imprecise term with various historical associations and not a legal one that is relevant to the question of breaches of the Genocide Convention.

⁴ Gene A. Bunin, "How the 'Happiest Muslims in the World' are Coping with Their Happiness," July 31, 2018, The Art of Life in Chinese Central Asia, <https://livingtogether.com/2018/07/31/happiest-muslims-world-coping-happiness/>.

⁵ All first-hand victim accounts in this report are cited as Victim #__ and are available at the *Xinjiang Victims Database*, <https://shahit.biz/eng/>.

⁶ *Democratic Republic of Congo v. Rwanda*, ICJ, Judgment of 3 February 2006, para. 64.

⁷ *The Convention on the Prevention and Punishment of the Crime of Genocide* (Genocide Convention) was adopted by unanimous vote, UN General Assembly resolution 260 (III) of 9 December 1948, https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.1_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf. There are currently 152 States parties, "Status of Treaties: Convention on the Prevention and Punishment of the Crime of Genocide," *United Nations Treaty Collection* https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-1&chapter=4&clang=_en#33.

⁸ *Bosnia and Herzegovina v. Yugoslavia*, ICJ Judgment, 11 July 1996, para. 31; see also Report of the International Law Commission on the work of its 53rd session (2001) at 112-113, https://legal.un.org/ilc/documentation/english/reports/a_56_10.pdf.

⁹ For China's reservation and objection to ICJ jurisdiction over and interpretation of the Genocide Convention, see UN Treaty Collection, *supra* note 7, citing China's reservation to the Genocide Convention and objection to the only ICJ Advisory Opinion on the Genocide Convention, *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide*, Advisory Opinion, I.C.J. Reports 1951, <https://www.icj-cij.org/public/files/case-related/12/012-19510528-ADV-01-00-EN.pdf>.

¹⁰ Article IX reads in full: "Disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute."

a Party to the Rome Statute.¹¹ China is, however, a State party to the Vienna Convention on the Law of Treaties (VCLT) with a similar reservation to the jurisdiction of the ICJ over interpretation or application of the treaty. This report does not contemplate individual criminal liability and only examines the question of whether China bears State responsibility for breaches of the Genocide Convention, a legally binding agreement between its 152 State parties. The report therefore strictly applies the Genocide Convention as the primary source of law and the VCLT as the primary means of interpretation. The report also makes reference to the work of the International Law Commission, established pursuant to Article 13(1)(a) of the Charter of the United Nations, and considers ICJ and international criminal law jurisprudence to be secondary means of interpretation.

State responsibility for breaches of the Genocide Convention is not a matter of individual criminal liability. Notably, the State may not be prosecuted or found culpable, and heightened criminal law standards therefore do not apply. State responsibility for breaches of international law follows from wrongful acts attributed to the State. The standard of proof for breaches of International Law is the preponderance of the evidence which applies generally to obligations arising from a treaty. However, given the serious nature of the breaches in question (notably the acts prohibited in Article II, as addressed below), this report applies a clear and convincing standard of proof.¹²

Article II of the Genocide Convention defines genocide as follows:

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

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

Under Article II, there are three constituent elements: (1) the commission of a genocidal act or acts committed against (2) the protected group and (3) with the intent to destroy the group in whole or in part. This report is structured around these three elements and the conditions that facilitate genocide.

¹¹ “The States Party to the Rome Statute,” *International Criminal Court*, https://asp.icc-cpi.int/en_menus/asp/states%20parties/pages/the%20states%20parties%20to%20the%20rome%20statute.aspx

¹² On the standard of proof in respect of the Genocide Convention, see, amongst others: Stephen Wilkinson, “Standards of Proof in International Humanitarian and Human Rights Fact-Finding and Inquiry Missions”, the Geneva Academy of International Humanitarian Law and Human Rights, at 20, <https://www.geneva-academy.ch/joomlatools-files/docman-files/Standards%20of%20Proof%20in%20Fact-Finding.pdf>.

Breaches of the Genocide Convention are determined by the rules of general international law on treaty interpretation and the responsibility of States for internationally wrongful acts.¹³

2. The Vienna Convention and Interpretation of the Genocide Convention

The VCLT, to which China is a State party, sets the parameters for treaty interpretation. Article 31 provides:

A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.¹⁴

Under established international law, the terms of the Genocide Convention must be applied according to their plain meaning in their context.¹⁵ Under Article II, genocide is defined as “any of the following acts committed with intent to destroy, in whole or in part, a ... group as such.” According to the ordinary meaning of the definition, any of enumerated acts alone may amount to genocide, including those that do not require physical destruction, namely Article II (b) through (e).

The context for interpreting a treaty also includes the preamble and “any agreement relating to the treaty which was made between all the parties in connection with the conclusion of the treaty.”¹⁶ Thus, in interpreting the Genocide Convention, reference must also be made to the UN General Assembly Resolution mentioned in the Convention’s preamble, which mandated its drafting and affirmed the crime of genocide under international law as:

A denial of the *right of existence* of entire human groups ... [which] results in great losses to humanity in the form of cultural and other contributions represented by these human groups and is contrary to moral law and to the spirit and aims of the United Nations.¹⁷

¹³ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment of 26 February 2007, at para. 149.

¹⁴ Vienna Convention on the Law of Treaties, 23 May 1969, (VCLT), https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf.

¹⁵ See Raphael Lemkin’s *Axis Rule in Occupied Europe*, for the origin of the term “genocide” and precursor to the Genocide Convention. Lemkin defined genocide to “not necessarily mean the immediate destruction of a nation ... rather to signify a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves. The objective of such a plan would be disintegration of the political and social institutions of culture, language, national feelings, religion, and the economic existence of national groups and the destruction of the personal security, liberty, health, dignity and even the lives of the individuals belonging to such groups.” Raphael Lemkin, *Axis Rule in Occupied Europe* (Washington, D.C., 1944), at 79.

¹⁶ VCLT, *supra* note 14, at Art. 31 (2)(a).

¹⁷ UN General Assembly, *The Crime of Genocide*, 11 December 1946, A/RES/96, <https://www.refworld.org/docid/3b00f09753.html>.

The terms must also be interpreted in light of their “object and purpose.” According to Article I of the Convention on the *Prevention and Punishment of the Crime of Genocide*:

The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake *to prevent and to punish*.¹⁸

The object and purpose of the treaty are expressly stated in both the Convention’s title and Article I: to bind the Contracting Parties to *prevent* and punish genocide. According to the ICJ, the object of the Convention “is to safeguard the very existence of certain human groups.”¹⁹ This ideal provides “the foundation and measure of all its provisions.”²⁰ The terms of the definition of genocide must be read in light of the Convention’s primary purpose: the prevention and safeguarding of the existence of a group *before*, and distinct from, its possible physical destruction. To conclude otherwise would deprive the express terms of any meaning and yield a result that could only be contrary to the object and purpose of the treaty.

Under Article 31(3) of the VCLT, treaty terms are to be further interpreted in light of subsequent (a) agreements and (b) practice regarding interpretation and application of the treaty and “(c) any relevant rules of international law applicable in the relations between the parties.”²¹

3. State Responsibility

The International Law Commission’s (ILC) 2001 report entitled *Responsibility of States for Internationally Wrongful Acts* provides the rules of general international law on State responsibility for breaches of the Genocide Convention.²² This report considers whether the persons or entities perpetrating one or more of the enumerated acts of genocide under Article II against the Uyghurs are necessarily attributable to China.²³ Pursuant to the law of State responsibility, acts of genocide will be attributed to the State when they are perpetrated by persons or entities: (1) with the status of State organs under State

¹⁸ Genocide Convention, *supra* note 7, Art. 1.

¹⁹ ICJ Advisory Opinion, *supra* note 9, at 12,

²⁰ *Ibid.*

²¹ VCLT, *supra* note 14, at Art. 31(2-3). Moreover, Article 31(4) provides: “[A] special meaning shall be given to a term if it is established that the parties so intended.” Under Article 32, supplementary means of interpretation, including the “preparatory work of the treaty,” may be used to confirm the meaning of treaty terms or “to determine the meaning when the interpretation according to article 31 [either]: (a) leaves the meaning ambiguous or obscure or (b) leads to a result which is manifestly absurd or unreasonable.”

²² The ILC was established by the United Nations General Assembly (UNGA) in 1947 to undertake its mandate under Article 13(1)(a) of the Charter of the United Nations to “initiate studies and make recommendations for the purpose of [...] encouraging the progressive development of international law and its codification”; accordingly, its views, as adopted by the UNGA, are authoritative. *See also Bosnia v. Serbia*, *supra* note 13, at para. 149.

²³ For a similar analysis, see *Bosnia v. Serbia*, *supra* note 13, at paras. 384-415.

law;²⁴ (2) empowered by State law to exercise elements of governmental authority;²⁵ or (3) acting on the instructions, or under direction or effective control of State organs.²⁶ The acts of State organs or those empowered to exercise governmental authority are even attributable to the State when they exceed their authority or instructions.²⁷

III. Protected Group: national, ethnical, racial, or religious group

The Uyghurs fit squarely within the ordinary meaning of an ethnical (or ethnic) group, having a shared culture, language, and largely the same religion.²⁸ In fact, China formally recognizes the Uyghurs as an “ethnic minority” amongst its exhaustive list of 56 ethnic groups comprising its population.²⁹ A protected group is also defined by its positive characteristics.³⁰ The Uyghurs undoubtedly share the uniquely positive attributes of language, culture, history, philosophy, tradition, music, literature, religion, and a connection with the land (or homeland). Thus, the Uyghurs are a protected ethnic group according to China’s own standards of law, policy, and practice.

History of Persecution

The indigenous inhabitants of what is now called Xinjiang have experienced alternating periods of tightening and loosening control since the Qing Empire conquered the region in 1759.³¹ During that time, indigenous peoples have sometimes resisted Chinese rule and occasionally rebelled, establishing independent States in 1865-1877, 1933-4, and 1944-9.

²⁴ *Responsibility of States for Internationally Wrongful Acts*, 2001, Article 4, *Conduct of organs of a State*, provides:

“1. The conduct of any State organ shall be considered an act of that State under international law, whether the organ exercises legislative, executive, judicial or any other functions, whatever position it holds in the organization of the State, and whatever its character as an organ of the central Government or of a territorial unit of the State.

2. An organ includes any person or entity which has that status in accordance with the internal law of the State.”

https://legal.un.org/ilc/texts/instruments/english/draft_articles/9_6_2001.pdf.

²⁵ *Ibid.* Article 5, *Conduct of persons or entities exercising elements of governmental authority*, provides:

“The conduct of a person or entity which is not an organ of the State under article 4 but which is empowered by the law of that State to exercise elements of the governmental authority shall be considered an act of the State under international law, provided the person or entity is acting in that capacity in the particular instance.”

²⁶ *Ibid.* Article 8: “The conduct of a person or group of persons shall be considered an act of a State under international law if the person or group of persons is in fact acting on the instructions of, or under the direction or control of that State in carrying out the conduct.”

²⁷ *Ibid.* Article 7 provides: “The conduct of an organ of a State or of a person or entity empowered to exercise elements of the governmental authority shall be considered an act of the State under international law if the organ, person, or entity acts in that capacity, even if it exceeds its authority or contravenes instructions.”

²⁸ International tribunals have adopted the definition of ethnical group as “a group whose members share a common language or culture”; see, e.g., *The Prosecutor v. Jean-Paul Akayesu (Trial Judgement)*, ICTR-96-4-T, para. 513, International Criminal Tribunal for Rwanda (ICTR), 2 September 1998.

²⁹ *Minzu* is generally translated as “nation” or “nationality,” although the Chinese term straddles the English-language ideas of ethnicity and nation. The Chinese term *guojia* translates as “state,” where China officially says that the *guojia*, wherein sovereignty lies, is made up of multiple *minzu*, each of which has the right to “autonomy” but not its own *guojia*. More recently, authorities began using “ethnic minority” for the English translation of *shaoshu minzu*, replacing the previous translation, which was “minority nationality.”

³⁰ *Bosnia v. Serbia*, *supra* note 13, at paras. 193-194.

³¹ Millward, *Eurasian Crossroads: A History of Xinjiang* (New York, NY: Columbia University Press, 2009).

The CCP took control of the region in 1949, and in the ensuing three decades oversaw the transfer of millions of ethnic Han Chinese settlers into the region, increasing the percentage of Han residents from 6.1 percent in 1953 to 40.4 percent by 1982.³²

After a decade of loosening Chinese State restrictions in the 1980s, Beijing began to express concern about both ethno-nationalism and religious revival among Uyghurs, banning some nationalist books and restricting religious education.³³ Similar restrictions multiplied in the early 2000s, during which time Chinese authorities began referring to Uyghur dissent more frequently as “terrorism,” despite an almost complete absence of terrorist attacks.³⁴ Uyghur discontent with discriminatory policies and early forms of forced migration to inland China that resulted in the deaths of Uyghurs in Shaoguan, Guangdong,³⁵ led to protests in the regional capital of Urumqi in 2009, which turned violent as security forces intervened. In the immediate aftermath, security forces detained more than one thousand and disappeared hundreds of Uyghurs.³⁶ The State deployed People’s Armed Police throughout Xinjiang, parading military vehicles through towns, and establishing checkpoints on roads, practices that remained in place through at least 2019.³⁷

Chinese authorities dramatically expanded restrictions on Uyghur movement and cultural practices in the period following the Urumqi riots. Uyghurs in many rural areas were required to obtain special “Convenience Contact Cards” for travel between towns;³⁸ traditional festivals and pilgrimage sites were closed;³⁹ private education in Uyghur

³² Stanley W. Toops, “The Demography of Xinjiang,” in *Xinjiang: China’s Muslim Borderland* (Armonk, NY: M. E. Sharpe, 2004), 246.

³³ Bovingdon, *The Uyghurs: Strangers in Their Own Land* (New York, NY: Columbia University Press, 2010).

³⁴ Sean Roberts, *The War on the Uyghurs: China’s Internal Campaign against a Muslim Minority* (Princeton, NJ: Princeton University Press, 2020); Pablo A. Rodríguez-Merino, “Old ‘counter-revolution’, new ‘terrorism’: historicizing the framing of violence in Xinjiang by the Chinese state,” *Central Asian Survey*, Vol. 38, No. 1 (2019), 27-45.

³⁵ Jonathan Watts, “Old suspicions magnified mistrust into ethnic riots in Urumqi: Job creation and integration went violently wrong in Guangdong,” *The Guardian*, 10 Jul 2009, <https://www.theguardian.com/world/2009/jul/10/china-riots-uyghurs-han-urumqi>.

³⁶ “Amnesty Challenges China on Xinjiang Riot Accounts,” *BBC News*, 2 Jul 2010. www.bbc.com, <https://www.bbc.com/news/10491758>; “Urumqi Riots Three Years on - Crackdown on Uighurs Grows Bolder,” *Amnesty International*, 4 July 2012, <https://www.amnesty.org/en/press-releases/2012/07/urumqi-riots-three-years-crackdown-uyghurs-grows-bolder/>; “We Are Afraid to Even Look for Them,” *Human Rights Watch*, 20 Oct. 2009, <https://www.hrw.org/report/2009/10/20/we-are-afraid-even-look-them/enforced-disappearances-wake-xinjiangs-protests>.

³⁷ Thum, Rian, “The Ethnicization of Discontent in Xinjiang” *The China Beat*, 2 Oct. 2009, 574. <http://digitalcommons.unl.edu/chinabeatarchive/574>.

³⁸ 新疆综治办详解“便民联系卡”：出差、旅游无需办卡_政策解读_新疆维吾尔自治区人民政府网, *Xinjiang zongzhiban xiangjie "bianmin lianxika": chuchai, lüyou wuxu ban ka—Zhengce jiedu—Xinjiang Weiwu'er zizhiqu renmin zhengfu wang*, <https://www.xinjiang.gov.cn/xinjiang/zcjd/201408/87753da8ec23404e8e32bf23692ac6a3.shtml>.

³⁹ Thum, Rian, “The Spatial Cleansing of Xinjiang: Mazar Desecration in Context,” *Made in China Journal*, 24 Aug. 2020, <https://madeinchinajournal.com/2020/08/24/the-spatial-cleansing-of-xinjiang-mazar-desecration-in-context/>.

language and religion was criminalized;⁴⁰ police raided homes in search of forbidden books; and the State banned children's names that it deemed too Islamic, such as Fatima, Husayn, and Muhammad.⁴¹

1. Dehumanization

Chinese officials consistently label the Uyghur population, without distinction, as “backwards,” disloyal to the State, “untrustworthy,”⁴² or terrorists.⁴³ In 2017, the XUAR Communist Youth League published a report with visuals on Uyghur “backwardness.”⁴⁴ Markers of Uyghur identity are deemed “anti-human, anti-society, and anti-civilization,”⁴⁵ reflecting a mindset labelled “outdated.”⁴⁶ The Government's forced labor schemes in the region are described in propaganda reports as intended to transform the “deep-rooted, lazy thinking” of rural villagers, terms mirroring the Government's views of Uyghur lifestyle and customs.⁴⁷ In internment camps, Uyghurs are indoctrinated on the “backwardness” of their identity and forced to confess to their “backwardness.”⁴⁸ According to first-hand testimony, camp guards have told detainees “you are not humans,”⁴⁹ “there is no such ethnic group as the Uyghurs,”⁵⁰ “being an Uyghur is a crime,”⁵¹ and, in one instance, “you don't look like a human” after the detainee was raped

⁴⁰ Andrew Jacobs, “A Devotion to Language Proves Risky,” *The New York Times*, May 11, 2014;

<https://www.rfa.org/english/news/uyghur/demolition-04012015151727.html>

⁴¹ “Chinese Authorities Ban Muslim Names Among Uyghurs in Hotan.” *Radio Free Asia*,

<https://www.rfa.org/english/news/uyghur/chinese-authorities-ban-muslim-names-among-uyghurs-in-hotan-09242015120656.html>.

⁴² Zenz, Adrian, “The Karakax List: Dissecting the Anatomy of Beijing's Internment Drive in Xinjiang,” *Journal of Political Risk*. <https://www.jpolrisk.com/karakax/>.

⁴³ Roberts, *supra* note 34, at 209; Joanne Smith Finley (2019) “Securitization, insecurity and conflict in contemporary Xinjiang: has PRC counter-terrorism evolved into state terror?” *Central Asian Survey*, 38:1, 1-26, DOI:

[10.1080/02634937.2019.1586348](https://doi.org/10.1080/02634937.2019.1586348). See “‘Our souls are dead’: how I survived a Chinese ‘re-education’ camp for Uighurs,” *The Guardian*, 12 Jan. 2021, <https://www.theguardian.com/world/2021/jan/12/uighur-xinjiang-re-education-camp-china-gulbahar-haitiwaji> (former Uyghur detainee testifying to the big lie that all authorities, from police officers to camp guards, deployed: “that Uighurs are terrorists.”)

⁴⁴ *Xinjiang Gongqing Tuan* [Communist Youth League of Xinjiang] 2017. “亲情：就在一张炕桌、一盏台灯，Qinqing: jiu zai yi zhang kangzhuo, yi zhan taideng!” [Kindness/familial love is in a table and a lamp!]. Dec. 17, 2017. <https://mp.weixin.qq.com/s/FSjScHZ9c1LuZThGkG3cag>; see also Timothy A. Grose, “If you don't know how, just learn: Chinese housing and the transformation of Uyghur domestic space,” *Ethnic and Racial Studies*, 06 Jul 2020.

⁴⁵ Byler, Darren. “‘Only When You, Your Children, and Your Grandchildren Become Chinese’: Life after Xinjiang Detainment.” *SupChina*, 6 Jan. 2021, <https://supchina.com/2021/01/06/life-after-xinjiang-detainment/>.

⁴⁶ Sudworth, John. “China's ‘Tainted’ Cotton.” *BBC News*, Dec. 2020, www.bbc.co.uk/news/extra/nz0g306v8c/china-tainted-cotton.

⁴⁷ *Ibid.*

⁴⁸ One former detainee summed up the single message of every session: “The greatness of the Chinese Communist Party, the backwardness of Uighur culture and the advanced nature of Chinese culture,” Chris Buckley, “China Is Detaining Muslims in Vast Numbers. The Goal: ‘Transformation,’” *The New York Times*, 8 Sept. 2018, <https://www.nytimes.com/2018/09/08/world/asia/china-uighur-muslim-detention-camp.html>; see also <https://apnews.com/6e151296fb194f85ba69a8babd972e4b/China%E2%80%99s-massindoctrinationcamps-evoke-Cultural-Revolution>

⁴⁹ Victim # 120.

⁵⁰ Victim # 5524.

⁵¹ Victim # 2110.

and struck by an electroshock prod.⁵² On September 17, 2020, China's State Council issued a white paper describing the "backwardness" of the people of the region.⁵³

2. Advanced System of Mass Surveillance

a) Video Surveillance

In May 2014, the Chinese Government announced a "Strike Hard Campaign against Violent Terrorism" and a "People's War on Terror" in XUAR.⁵⁴ President Xi Jinping ordered XUAR authorities to deploy "walls made of copper and steel" and "nets spread from the earth to the sky."⁵⁵ That same year, XUAR authorities in Uyghur-majority prefectures began building these physical walls and surveillance nets en masse, installing thousands of high-definition cameras, connected to centralized high-tech command locations, throughout villages, mosques, and key intersections.⁵⁶ Between 2016 and 2018, individual cities spent as much as \$46 million on these surveillance systems, with one county installing facial recognition cameras in each of its nearly one thousand mosques.⁵⁷

b) Party Cadre "Work Teams"

In 2014, President Xi and other CCP leaders ordered the Xinjiang Production and Construction Corps (XPCC), or *Bingtuan*, a secretive paramilitary organization, to accelerate bringing Han settlers to Southern XUAR.⁵⁸ The XPCC, XUAR's primary colonial institution and largest producer of cotton, operates prisons, internment camps, and labor camps in the region, and answers directly to the CCP.⁵⁹ The Government began deploying

⁵² Westcott, Ben, et al., "Women in Xinjiang Shine a Light on a Campaign of Abuse and Control by Beijing," *CNN*, 31 July 2021, <https://www.cnn.com/2020/07/30/asia/xinjiang-sterilization-women-human-rights-intl-hnk/index.html>.

⁵³ Yang, William. "China Published New Xinjiang White Paper in an Attempt to Push Back against Forced Labor..." *Medium*, 18 Sept. 2020, <https://williamyang-35700.medium.com/china-published-new-xinjiang-white-paper-in-an-attempt-to-push-back-against-forced-labor-3e77becdb125>.

⁵⁴ "Xinjiang's Party Chief Wages 'people's War' against Terrorism" *Chinadaily.Com.Cn*. 26 May 2014, http://www.chinadaily.com.cn/china/2014-05/26/content_17541318.htm; 2014: 中国掀起“反恐人民战争” (2014: *Zhongguo xianqi "fankong renmin zhanzheng"*), "2014: China launches the People's War on Terror." <http://politics.people.com.cn/n/2014/1231/c1001-26309191.html>.

⁵⁵ James Leibold and Adrian Zenz, "Xinjiang's Rapidly Evolving Security State." *Jamestown, China Brief Volume: 17 Issue: 4*, <https://jamestown.org/program/xinjiangs-rapidly-evolving-security-state/>.

⁵⁶ James Leibold (2020), "Surveillance in China's Xinjiang Region: Ethnic Sorting, Coercion, and Inducement", *Journal of Contemporary China*, 29:121, at 50-51.

⁵⁷ *Ibid.* at 51; Joanne Smith Finley, "'Now We Don't Talk Anymore' Inside the 'Cleansing' of Xinjiang," *China File*, <https://www.chinafile.com/reporting-opinion/viewpoint/now-we-dont-talk-anymore>.

⁵⁸ Ramzy, Austin, and Chris Buckley. "Absolutely No Mercy": Leaked Files Expose How China Organized Mass Detentions of Muslims." *The New York Times*, 16 Nov. 2019, www.nytimes.com/interactive/2019/11/16/world/asia/china-xinjiang-documents.html.

⁵⁹ James Millward and Dahlia Peterson, "China's System of Oppression in Xinjiang: How It Developed and How to Curb It," *Global China: Assessing China's Growing Role in the World*, *The Brookings Institution*, Sept. 2020, at 2, www.brookings.edu/wp-content/uploads/2020/09/FP_20200914_china_oppression_xinjiang_millward_peterson.pdf; Amy Lehr, "Addressing Forced Labor in the Xinjiang Uyghur Autonomous Region Toward a Shared Agenda," *CSIS Briefs*, at 5 <https://www.csis.org/analysis/addressing-forced-labor-xinjiang-uyghur-autonomous-region-toward-shared-agenda>; Lianchao Han "Cotton: The Full Fabric of Lies: A Report on Forced and Prison Labor in Xinjiang, China, and the nexus to global supply chains," *The Citizen Power Institute*, Aug. 2019, at 16-17.

hundreds of thousands of CCP cadres in “work teams” to visit residents in their homes to collect data,⁶⁰ as often as every day.⁶¹ The work teams followed local manuals to perform these government homestays and looked for grounds for internment such as signs of religious observance.⁶² The manuals specifically encourage the targeting and interrogation of children in the home, ensuring they receive education that minimizes their Uyghur identity, thereby undermining the authority of Uyghur parents and severing their relationships with their children.⁶³ In October 2016, a related mandatory program for cadres,⁶⁴ known as “Becoming Family,”⁶⁵ paired Han cadres with Uyghur families (primarily families of detainees) to promote “inter-ethnic mingling” and “ethnic harmony.”⁶⁶ These cadres are required to visit their “unsophisticated relatives,” at least every two months for five days at a time,⁶⁷ sometimes for years,⁶⁸ document their activities with the families, including involvement in the most intimate aspects of domestic, “peasant life,”⁶⁹ and “rectify” any “problems,” including uncleanness and religious beliefs.⁷⁰ It is reportedly common for cadres to sleep in the same bed, or sleeping platform, as members of Uyghur households.⁷¹ According to a first-hand account, sexual abuse and rape of Uyghur women has also become commonplace under the program.⁷² Moreover, XUAR County Governments coerce, incentivize, and actively promote Han-Uyghur marriages, a policy originating in a 2014 high-level CCP meeting with President

⁶⁰ The dispatch of work teams to Uyghur homes is known in Chinese as *fanghuiju* (访惠聚), an acronym that stands for “Visit the People, Benefit the People, and Gather Together the Hearts of the People” (访民情、惠民生、聚民心 *fang minqing, bianminsheng, juminxin*).

⁶¹ Wang, Maya. “China: Big Data Fuels Crackdown in Minority Region.” *Human Rights Watch*, 28 Oct. 2020, www.hrw.org/news/2018/02/26/china-big-data-fuels-crackdown-minority-region; Daren Byler, “China’s Government Has Ordered a Million Citizens to Occupy Uighur Homes. Here’s What They Think They’re Doing,” *ChinaFile*, 24 Oct. 2018, <https://www.chinafile.com/reporting-opinion/postcard/million-citizens-occupy-uighur-homes-xinjiang>.

⁶² Grose, Timothy A. “Hosting the Hostage: Looking beneath China’s Policy to Infiltrate Uyghur Homes.” *SupChina*, 24 July 2020, <https://supchina.com/2020/07/24/hosting-the-hostage-looking-beneath-chinas-policy-to-infiltrate-uyghur-homes/>.

⁶³ Byler, *supra* note 61. Moreover, among the reasons for internment, the Karakax List specifies, “Reading scripture to a child aged under 16.” Shepherd, Christian and Laura Pitel, “The Karakax List: How China Targets Uighurs in Xinjiang,” *Financial Times*, 17 Feb. 2020, <https://www.ft.com/content/e0224416-4e77-11ea-95a0-43d18ec715f5>.

⁶⁴ “China’s Uighurs Told to Share Beds, Meals with Party Members.” *Associated Press*, 30 Nov. 2018, <https://apnews.com/article/9ca1c29fc9554c1697a8729bba4dd93b>.

⁶⁵ The programme is called 结对认亲 (*jiedui renqin*) in Chinese, also translated as “finding a partner and becoming kin” or “Pair Up and Become Family” (“Eradicating Ideological Viruses.” *Human Rights Watch*, 9 Sept. 2018, <https://www.hrw.org/report/2018/09/09/eradicating-ideological-viruses/chinas-campaign-repression-against-xinjiangs>.) and “United as One Family” (Byler, *supra* note 61.)

⁶⁶ Leibold, *supra* note 56.

⁶⁷ *China’s Uighurs Told to Share Beds*, *supra* note 64.

⁶⁸ “Xinjiang ‘Pair Up’ Campaign Highlights Power Imbalance Between Chinese ‘Relatives,’ Uyghur Hosts.” *Radio Free Asia*, <https://www.rfa.org/english/news/uyghur/campaign-11192019152349.html>.

⁶⁹ Leibold, *supra* note 56, at 55; *Xinjiang ‘Pair Up’ Campaign*, *supra* note 68.

⁷⁰ “China: Visiting Officials Occupy Homes in Muslim Region,” *Human Rights Watch*, 13 May 2018, <https://www.hrw.org/news/2018/05/13/china-visiting-officials-occupy-homes-muslim-region>.

⁷¹ According to a CCP cadre overseeing a township in Kashgar prefecture, “it is now considered normal for females to sleep on the same platform with their paired male ‘relatives.’” “Male Chinese ‘Relatives’ Assigned to Uyghur Homes Co-Sleep With Female ‘Hosts.’” *Radio Free Asia*, 31 Oct. 2019, <https://www.rfa.org/english/news/uyghur/cosleeping-10312019160528.html>; *China’s Uighurs Told to Share Beds*, *supra* note 64. *Visiting Officials Occupy Homes*, *supra* note 70.

⁷² Ingram, Ruth, “Sexual Abuse of Uyghur Women by CCP Cadres in Xinjiang: A Victim Speaks Out,” *Bitter Winter*, 19 Sept. 2020, <https://bitterwinter.org/sexual-abuse-of-uyghur-women-by-ccp-cadres-in-xinjiang/>.

Xi.⁷³ Regional authorities offer Han-Uyghur spouses an annual stipend following the registration of their marriage licenses,⁷⁴ and advantages in education and career advancement.⁷⁵ The authorities also coerce Uyghur women into marrying Han men under threat of internment or internment of family members.⁷⁶

c) Expansion of Police State Under Party Secretary Chen Quanguo

In 2016, Chen Quanguo was appointed Party Secretary of XUAR and First Political Commissar of the XPCC. In September 2016, he gave a speech outlining his policy agenda for the region. He ordered security officials to implement a proactive and systematic approach to combating the “three evil forces”—terrorism, extremism, and splittism.⁷⁷ He immediately launched an unprecedented expansion of security forces in the region, advertising 100,680 security-related positions in his first year, a 13-fold increase from the average number for the six years prior.⁷⁸ He divided the region into communities of a few thousand overseen by officials charged with enforcing “social stability.”⁷⁹ He established thousands of “convenience police stations” in towns, villages, and major intersections across the region, located every 300 to 500 meters in urban centers—a strategy taken from his time as Party Secretary of the Tibetan Autonomous Region in 2011.⁸⁰ He ramped up the system of mass surveillance and tracking of Uyghurs in the region by collecting biodata through mandatory medical examinations.⁸¹ High-level authorities reportedly issued directives to meet internment quotas for nearly half the residents in largely Uyghur areas with officials failing to satisfy these quotas facing internment themselves.⁸² Chen purged and made examples of officials who fell out of line, including a southern county leader, Wang Yongzhi, who was imprisoned for releasing detained Uyghurs.⁸³ Wang’s

⁷³ Wong, Edward. “To Temper Unrest in Western China, Officials Offer Money for Inter-marriage,” *The New York Times*, 2 Sept. 2014, <https://www.nytimes.com/2014/09/03/world/asia/to-temper-unrest-china-pushes-interethnic-marriage-between-han-and-minorities.html>; Xiaocuo, Yi. “‘Saved’ by State Terror: Gendered Violence and Propaganda in Xinjiang,” *SupChina*, 14 May 2019, <https://supchina.com/2019/05/14/saved-by-state-terror-gendered-violence-and-propaganda-in-xinjiang/>.

⁷⁴ Joanne Smith Finley and Ondřej Klimeš, “China’s Neo-Totalitarian Turn and Genocide in Xinjiang,” *Society and Space*, <https://www.societyandspace.org/articles/chinas-neo-totalitarian-turn-and-genocide-in-xinjiang>.

⁷⁵ Byler, Darren. “Uyghur Love in a Time of Interethnic Marriage,” *SupChina*, 7 Aug. 2019, <https://supchina.com/2019/08/07/uyghur-love-in-a-time-of-interethnic-marriage/>.

⁷⁶ *Ibid.*; See also *China’s Uyghurs Told to Share Beds*, *supra* note 64.

⁷⁷ James Leibold and Adrian Zenz, “Securitizing Xinjiang: Police Recruitment, Informal Policing and Ethnic Minority Co-optation,” *The China Quarterly* Vol. 242, at 333. In an article, a professor at the Xinjiang Communist Party school describes the Uyghur mother tongue movement as “the fourth evil force;” see Shepherd, Christian, “Fear and Oppression in Xinjiang: China’s War on Uyghur Culture,” *Financial Times*, 12 Sept. 2019, www.ft.com/content/48508182-d426-11e9-8367-807ebd53ab77.

⁷⁸ Leibold and Zenz, *supra* note 77, at 334.

⁷⁹ Shepherd and Pitel, *supra* note 63.

⁸⁰ *Ibid.*; Wong, Chun Han. “China’s Hard Edge: The Leader of Beijing’s Muslim Crackdown Gains Influence,” *Wall Street Journal*, 7 Apr. 2019, <https://www.wsj.com/articles/chinas-hard-edge-the-leader-of-beijings-muslim-crackdown-gains-influence-11554655886>.

⁸¹ Millward and Peterson *supra* note 59, at 5.

⁸² “Nearly Half of Residents of Uyghur-Majority Village in Xinjiang Held in Internment Camps,” *Radio Free Asia*, 23 Oct. 2019, www.rfa.org/english/news/uyghur/half-10232019144954.html; “Nearly Half of Uyghurs in Xinjiang’s Hotan Targeted For Re-Education Camps,” *Radio Free Asia*, 09 Oct. 2017, <https://www.rfa.org/english/news/uyghur/camps-10092017164000.html>.

⁸³ *Absolutely No Mercy*, *supra* note 58.

confession and a detailed report were distributed across XUAR as a warning to officials, thousands of whom were punished for similar conduct.⁸⁴

d) Collection of Biometric Data and Digitized Policing

In 2016, the Public Security Bureau began systematically gathering biometric data from XUAR residents, including face-scans, retinal scans, voiceprints, gait print, fingerprints, DNA, and blood type,⁸⁵ to be fed into a policing system known as the Integrated Joint Operations Platform (IJOP). From 2016 to 2017, the Government already collected biometric data on 36 million occasions in XUAR, which then had a population of approximately 24.5 million⁸⁶ (i.e., an incidence of data collection amounting to 150 percent of the population, in effect assuring total collection).

IJOP is the main big data system that registers the personal information of XUAR residents from video cameras, wifi networks, security checkpoints, smartphone checks, and other personal records, and uses algorithms to generate lists of “suspects” for detention.⁸⁷ Police and other officials are required to communicate with the IJOP system through a mobile app.⁸⁸ In a seven-day period in June 2017, security officials sent 15,683 residents of Kashgar, Hotan, Kizilsu, and Aksu prefectures to internment camps, arrested 706 residents and placed 2,096 under “preventive surveillance”—all solely based on identification by the IJOP.⁸⁹

In June 2017, the XUAR “Party Committee Command for Cracking Down and Assaulting on the Front Lines,” under the command of Zhu Hailun, then XUAR Deputy Secretary and top security official, quickly dispatched across the region a set of documents or bulletins on how to work in tandem with IJOP and local forces to target the Uyghur population.⁹⁰ The documents cite IJOP-collected data singling out nearly two million Uyghur users of a software app designed for Muslim communities and ordering localities to investigate them “one by one,” including thousands of “unauthorized imams,” and “crack down” accordingly.⁹¹ The documents detail the duties of officials to rely on IJOP data and update

⁸⁴ *Ibid.*

⁸⁵ Leibold *supra* note 56, at 51; Millward & Peterson *supra* note 59, at 5.

⁸⁶ Wee, Sui-lee. “China Uses DNA to Track Its People, With the Help of American Expertise.” *The New York Times*, 21 Feb. 2019, www.nytimes.com/2019/02/21/business/china-xinjiang-uyghur-dna-thermo-fisher.html.

⁸⁷ Wang, *supra* note 61; see also Wang, Maya. “China’s Algorithms of Repression: Reverse Engineering a Xinjiang Police Mass Surveillance App.” *Human Rights Watch*, 1 May 2019, www.hrw.org/report/2019/05/02/chinas-algorithms-repression/reverse-engineering-xinjiang-police-mass.

⁸⁸ Dholakia, Nazish, and Maya Wang. “Interview: China’s ‘Big Brother’ App: Unprecedented View into Mass Surveillance of Xinjiang’s Muslims.” *Human Rights Watch*, 1 May 2019, www.hrw.org/news/2019/05/01/interview-chinas-big-brother-app.

⁸⁹ Millward and Peterson *supra* note 59; Allen-Ebrahimian, Bethany. “Exposed: China’s Operating Manuals for Mass Internment and Arrest by Algorithm.” *International Consortium of Investigative Journalists (ICIJ)*, 24 Nov. 2019, www.icij.org/investigations/china-cables/exposed-chinas-operating-manuals-for-mass-internment-and-arrest-by-algorithm/.

⁹⁰ Alecci, Scilla. “How China Targets Uighurs ‘One by One’ for Using a Mobile App.” *ICIJ*, 24 Nov. 2019, www.icij.org/investigations/china-cables/how-china-targets-uyghurs-one-by-one-for-using-a-mobile-app/.

⁹¹ “‘Integrated Joint Operation Platform’ Daily Essentials Bulletin, No. 20,” (IJOP Bulletin No. 20) as published by the ICIJ, *China Cables*, <http://www.documentcloud.org/documents/6558508-China-Cables-IJOP-Daily-Bulletin-20-English.html>.

the system with missing data and lists of individuals to strengthen “the five senses system ... to prevent problems before they happen.”⁹² All cities and prefectures are warned to be vigilant for those missing identities as “risks within risks, hidden dangers in hidden dangers,”⁹³ demonstrating how far-reaching and encompassing the mass internment drive has been and remains.

3. Persecution and Mass Extrajudicial Internment Enshrined in Law

In October 2016, local police departments began implementing regulations to confiscate passports of XUAR residents.⁹⁴ The XUAR Justice Department ordered the construction of detention centers or internment camps, euphemistically called “concentrated transformation-through-education” centers.⁹⁵ Following the implementation of the new overbroad Counterterrorism Law in 2016,⁹⁶ the People’s Congress of XUAR adopted new “de-extremification” regulations in April and May 2017, which criminalized virtually all Islamic matters, including the distribution of religious advice or material, the use of specific names, “irregular” beards, and certain types of clothing, and called for the eradication of these practices in all areas of life.⁹⁷ Article 14 of these regulations orders the establishment of “educational transformation” involving “behavioural corrections” among other vague forms of “training,” officially sanctioning the construction and repression of the vast network of internment camps.⁹⁸

There is a distinction between internment camps and pre-existing prisons that are part of the formal criminal justice system.⁹⁹ However, according to officials, the internment camps often serve as gateways to the formal prison system.¹⁰⁰ Authorities have targeted Uyghurs for detention in both systems. In 2018, XUAR authorities began building a vast and more permanent infrastructure of detention compounds, including new facilities designed to be cavernous to prevent natural light and surrounded by concrete walls,

⁹² “‘Integrated Joint Operation Platform’ Daily Essentials Bulletin, No. 14,” as published by the *ICIJ, China Cables*, <http://www.documentcloud.org/documents/6558506-China-Cables-IJOP-Daily-Bulletin-14-English.html>.

⁹³ *Ibid.*

⁹⁴ Wong, Edward. “Police Confiscate Passports in Parts of Xinjiang, in Western China.” *The New York Times*, 1 Dec. 2016, www.nytimes.com/2016/12/01/world/asia/passports-confiscated-xinjiang-china-uyghur.html.

⁹⁵ Terms associated with internment. Sheena Chestnut Greitens, Myunghee Lee and Emir Yazici. “Counterterrorism and Preventive Repression: China’s Changing Strategy in Xinjiang.” *International Security*, Vol. 44, Issue 3, Winter 2019/20, at 15. The term in Chinese for “concentrated transformation-through-education centres” is 集中教育转化中心 *jizhong jiaoyu zhuanhua zhongxin*. Some scholars note that the Chinese word *jizhong* (“concentrated”) is the same word used in the Chinese-language term for “concentration camp” (*jizhong ying*), see Zenz, Adrian. “‘Wash Brains, Cleanse Hearts’: Evidence from Chinese Government Documents about the Nature and Extent of Xinjiang’s Extrajudicial Internment Campaign.” *Journal of Political Risk*, 24 Nov. 2019, www.jpolrisk.com/wash-brains-cleanse-hearts/.

⁹⁶ “China: Disclose Details of Terrorism Convictions Overbroad Counterterrorism Legal Framework Opens Door to Abuses,” *Human Rights Watch*, Mar. 16, 2017, <https://www.hrw.org/news/2017/03/16/china-disclose-details-terrorism-convictions>.

⁹⁷ Roberts, *supra* note 34, at 209-210.

⁹⁸ Roberts, *supra* note 34, at 211.

⁹⁹ Though the CCP and eyewitnesses use various terms to describe the camps, this report considers these two general categories of detention sites.

¹⁰⁰ Thum, Rian. “China’s Mass Internment Camps Have No Clear End in Sight.” *Foreign Policy*, 22 Aug. 2018, <https://foreignpolicy.com/2018/08/22/chinas-mass-internment-camps-have-no-clear-end-in-sight>.

guard towers, and heavy barbed wire.¹⁰¹ Researchers have verified over 380 detention sites across XUAR that were either newly built or significantly expanded since 2017.¹⁰² Of these camps, 273 are highly fortified with high barbed-wire fencing, perimeter walls and watchtowers, and capacities of up to 30,000 internees, without accounting for overcrowding.¹⁰³ Experts in prison design estimate the outer limit of the detention site in the small town of Dabancheng to be 130,000.¹⁰⁴ Sixty-one detention sites have been newly constructed or expanded since July 2019, the majority of which are higher security, including at least 14 sites still under construction.¹⁰⁵ One study, based on Government documents, estimates that XUAR has between 1,300 and 1,400 extrajudicial internment facilities, excluding prisons.¹⁰⁶

In 2018, CCP cadres were ordered to “detain those who should be detained to the greatest extent possible.”¹⁰⁷ Local authorities were further ordered to ensure that at least one member of every household received “vocational education,” a euphemism for extrajudicial confinement, for at least one to three months.¹⁰⁸ In early 2018, XUAR’s agriculture department reportedly issued the following statement: “All that’s left in some homes are the elderly, weak women and children.”¹⁰⁹ In addition to mass internment, the number of formal prosecutions and convictions skyrocketed in 2017 and 2018 as 350,000 people were prosecuted in XUAR courts.¹¹⁰ In contrast, less than 30,000 people were prosecuted annually in prior years.¹¹¹ The estimates of detainees in the newly constructed or expanded camps range from 1 to 2 million, a number which generally omits those formally sentenced under the broader mass internment drive.¹¹²

¹⁰¹ Rajagopalan, Megha, et al. “China Secretly Built A Vast New Infrastructure To Imprison Muslims.” *BuzzFeed News*, 27 Aug. 2020, www.buzzfeednews.com/article/meghara/china-new-internment-camps-xinjiang-ughurs-muslims; Local officials describe camp grounds as requiring “bomb-proof surfaces,” Thum, *supra* note 100.

¹⁰² Ruser, Nathan. “Exploring Xinjiang’s Detention System.” *The Xinjiang Data Project*, September 2020, <https://xjdp.aspi.org.au/explainers/exploring-xinjiangs-detention-facilities/>.

¹⁰³ *Ibid.* Rajagopalan, et al., *supra* note 101; Simon, Scott. “Satellite Images Show China’s Expansion Of Muslim Detention Camps.” *NPR*, 29 Aug. 2020, www.npr.org/2020/08/29/907384509/satellite-images-show-chinas-expansion-of-muslim-detention-camps; an eyewitness has testified to four facilities each holding 5,000 people in Mongolkure County alone (Victim # 67); Rajagopalan, Megha, and Allison Killing. “Inside A Xinjiang Detention Camp.” *BuzzFeed News*, 3 Dec. 2020, www.buzzfeednews.com/article/meghara/inside-xinjiang-detention-camp; Victims # 120, 124, and 1358 testified to camp populations ranging from 5,000 to 15,000, with multiple such camps in a single region.

¹⁰⁴ Sudworth, John. “China’s Hidden Camps: What’s Happened to the Vanished Uighurs of Xinjiang?” *BBC News*, 24 Oct. 2018, www.bbc.co.uk/news/resources/1dt-sh/China_hidden_camps.

¹⁰⁵ Ruser, *supra* note 102.

¹⁰⁶ Zenz, *supra* note 95.

¹⁰⁷ Dooley, Ben. “Inside China’s Internment Camps: Tear Gas, Tasers and Textbooks.” *AFP*, 30 Jan. 2019, <https://www.afp.com/en/inside-chinas-internment-camps-tear-gas-tasers-and-textbooks>.

¹⁰⁸ *Ibid.*

¹⁰⁹ Dooley, Ben, “‘Eradicate the Tumours’: Chinese Civilians Drive Xinjiang Crackdown.” *AFP*, 30 Jan. 2019, <https://www.afp.com/en/eradicate-tumours-chinese-civilians-drive-xinjiang-crackdown>.

¹¹⁰ Where the conviction rate is 99 percent in Chinese courts. See Millward & Peterson *supra* note 59, at 17.

¹¹¹ *Ibid.* at 5; Gene A. Bunin, “From Camps to Prisons: Xinjiang’s Next Great Human Rights Catastrophe.” *Living Otherwise*, 5 October 2019, <https://livingotherwise.com/2019/10/05/from-camps-to-prisons-xinjiangs-next-great-human-rights-catastrophe-by-gene-a-bunin/>.

¹¹² Millward & Peterson *supra* note 59, at 17.

Two leaked Government documents, known as the Aksu and Karakax Lists,¹¹³ provide the most granular and comprehensive accounts of the mechanics behind the endless cycles of detention and forced labor in XUAR. The lists contain the personal details of thousands of Uyghurs, including whether a person engages in prayer, attends mosque, fasts, or engages in other basic religious practices. The leading grounds for detention include vague, catch-all categories like being young, as in “born after 1980s,” being generally untrustworthy, “generally acting suspiciously,” “having complex social ties,” “having improper [sexual] relations,” or “birth policy violations.”¹¹⁴ Continued internment verdicts are frequently issued, extending detentions for arbitrary reasons like the religious practices of one's children or even for allegedly “holding a grudge” because relatives have been tortured in the camps.¹¹⁵

While the Government claims the new compounds are designed for “vocational education,” satellite imagery and analysis, government documents, and first-hand accounts clearly demonstrate that they are managed as prisons with varying levels of security.¹¹⁶ The camp management bureaus are headed by officials with experience running prisons to ensure “absolute security” in the facilities.¹¹⁷ Government documents refer to trainees and detainees interchangeably, and often explicitly as “detained trainees,”¹¹⁸ or “persons detained in re-education.”¹¹⁹ According to Government documents, all camps must be designed to prevent any escape, in addition to four other “preventative measures,” which are “demanded by [XUAR Party Secretary] Chen Quanguo.”¹²⁰

According to Government documents from as early as 2017 and 2018, including procurement requests related to the camps,¹²¹ local governments obtained lists of weapons and prison supplies to maintain strict control over detainees.¹²² The lists included: electric cattle prods, electric batons, Tasers, spiked clubs known as “wolf’s teeth,” spears, stun guns, net guns, tear gas, pepper spray, police uniforms, and handcuffs.¹²³ Upon admission to the camps, detainees are reportedly subjected to full-body examinations, including genitals, and transferred in shackles with sacks over their

¹¹³ Named after areas where Uyghurs constitute 80 percent and more than 90 percent of the population, respectively. “China: Big Data Program Targets Xinjiang’s Muslims.” *Human Rights Watch*, 9 Dec. 2020, www.hrw.org/news/2020/12/09/china-big-data-program-targets-xinjiangs-muslims; Zenz, *supra* note 42; see also Shepherd and Pitel, *supra* note 63.

¹¹⁴ *China: Big Data Program*, *supra* note 113; “‘Ideological Transformation:’ Records of Mass Detention From Qaraqash [also spelled Karakax], Hotan.” *Uyghur Human Rights Project*, Feb. 2020, https://docs.uhrp.org/pdf/UHRP_QaraqashDocument.pdf.

¹¹⁵ In one case, to the point of paralysis, Zenz, *supra* note 42.

¹¹⁶ Dooley, *supra* note 107.

¹¹⁷ *Ibid.*

¹¹⁸ 收押培训人员 *shouya peixun ren yuan* or 收押受教人员 *shouya shoujiao ren yuan*. Zenz, *supra* note 95.

¹¹⁹ *Ibid.* 被收缴人员 *bei shou jiao ren yuan* or 收押转化人员 *shouya zhuanhua ren yuan* or 被收押教育转化人员 *bei shouya jiaoyu zhuanhua ren yuan*.

¹²⁰ *Ibid.*

¹²¹ As an example, in Hotan prefecture, the government department in charge of these facilities purchased 2,768 police batons, 550 electric cattle prods, 1,367 pairs of handcuffs, and 2,792 cans of pepper spray. Dooley, *supra* note 107.

¹²² *Ibid.*

¹²³ *Ibid.*

heads to the camps where they are forced to undress in front of guards and have their heads shaved.¹²⁴ Those detainees tasked with “teaching” duties are reportedly forced to sign documents stipulating that failure to obey the rules will result in punishment.¹²⁵ Guards monitor detainees’ every move through cameras covering the entirety of each cell and punish the slightest deviation from the military-style drills and indoctrination.¹²⁶

4. Forced Uyghur Labor

The Government has also established a system of institutionalized long-term forced Uyghur labor within and outside the internment camps.¹²⁷ Uyghur detainees are systematically transferred to cotton fields and factories adjacent to the camps or located hundreds of kilometers away in XUAR or in Eastern China.¹²⁸ These forced labor programs can also be connected to internment, as satellite imagery has identified masses of people wearing identical uniforms transferred between the two sites.¹²⁹ Forced labor factories have been verified on at least 135 of the XUAR detention sites.¹³⁰ The construction of factories in XUAR parallels the rapid expansion of internment camps. An investigative report identified more than 21 million square feet of factory facilities within camp compounds as of December 2020.¹³¹ In 2018, the Government further transferred more than half a million persons from three Uyghur regions through the Government’s coercive labor schemes into cotton-picking operations.¹³² According to a 2019 local government work report: “For every batch [of workers] that is trained, a batch of employment will be arranged and a batch will be transferred. Those employed need to receive thorough ideological education and remain in their jobs.”¹³³ The Karakax List corroborates the system of “releasing” detainees into forced labor.¹³⁴ In the “final entries” section of the Karakax List, the term used to describe when a detainee is “employed” is the same term

¹²⁴ Victims #46, 1540, 2947, 3101, 3456.

¹²⁵ Stavrou, David. “A Million People Are Jailed at China’s Gulags. I Escaped. Here’s What Really Goes on Inside.” *Haaretz.com*, 17 Oct. 2019, www.haaretz.com/world-news/.premium.MAGAZINE-a-million-people-are-jailed-at-china-s-gulags-i-escaped-here-s-what-goes-on-inside-1.7994216?ts=1611703044441.

(“[The document] said there that if I did not fulfill my task, or if I did not obey the rules, I would get the death penalty. The document stated that it was forbidden to speak with the prisoners, forbidden to laugh, forbidden to cry and forbidden to answer questions from anyone. I signed because I had no choice.”)

¹²⁶ Victims # 120, 124, 300, 1723, 2110, 3101, 3418, 3623, 4981, 5524, 6507, 6817, and 7075.

¹²⁷ The International Labour Organization’s Forced Labour Convention, 1930 (No. 29), defines forced or compulsory labour as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily,”

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C029:NO

¹²⁸ Zenz, Adrian. “Beyond the Camps: Beijing’s Long-Term Scheme of Coercive Labor, Poverty Alleviation and Social Control in Xinjiang.” *Journal of Political Risk*, 10 Dec. 2019, www.jpolrisk.com/beyond-the-camps-beijings-long-term-scheme-of-coercive-labor-poverty-alleviation-and-social-control-in-xinjiang.

¹²⁹ Sudworth, *supra* note 46.

¹³⁰ Killing, Alison, and Megha Rajagopalan. “The Factories in the Camps.” *BuzzFeed News*, 28 Dec. 2020, www.buzzfeednews.com/article/alison_killing/xinjiang-camps-china-factories-forced-labor

¹³¹ *Ibid.*

¹³² Zenz, Adrian. “Coercive Labor in Xinjiang: Labor Transfer and the Mobilization of Ethnic Minorities to Pick Cotton.” *Newlines Institute for Strategy and Policy*, 14 Dec. 2020, <http://newlinesinstitute.org/wp-content/uploads/2020/12/20201214-PB-China-Zenz-1-3.pdf>; see also Xiuzhong Xu, Vicky, et al. “Uyghurs for Sale.” *Australian Strategy Policy Institute*, 1 Mar. 2020, www.aspi.org.au/report/uyghurs-sale.

¹³³ *Ibid.*

¹³⁴ Zenz, *supra* note 42, FN 100-107.

used extensively in forced labor schemes implemented by XUAR authorities since mid-2018.¹³⁵

IV. Underlying Acts

a) Killing Members of the Group

Large numbers of Uyghur detainees have died or been killed under police or camp custody,¹³⁶ and people who report such deaths can receive lengthy sentences.¹³⁷ There is at least one confirmed report of mass deaths within an internment camp,¹³⁸ and newly built crematoria in the region indicate that authorities may be concealing the overall number of deaths and torture within the camps.¹³⁹ Elderly and prominent Uyghur religious figures, or detainees who succumb to the military-style routines, are particularly vulnerable to death or disappearance in detention,¹⁴⁰ with a number of religious scholars dying shortly after taken into custody.¹⁴¹ The elderly also tend to be more susceptible than younger detainees to torture for failing to learn Chinese or requesting to use the toilet outside of designated times, while prominent Uyghurs have been selectively

¹³⁵ 就业jiuye, *Ideological Transformation*, *supra* note 114.

¹³⁶ For a list of documented deaths within the camps, see *Xinjiang Victims Database*, <https://shahit.biz/eng/#lists>. Victim # 124 (“So many people died from the beatings and torture”); Byler, *supra* note 45 (“These innocent people are still there [in the camps] without committing any crime ... Some of them are dying, some of them are being sentenced to 20 years in prison.”); another former Uyghur detainee (Victim # 2110) testified to the deaths of nine women in one cell alone, while another Uyghur detainee testified to three detainee deaths, including one death after three days in the camp (Victim # 6507); *see also* Joanne Smith Finley, “Why Scholars and Activists Increasingly Fear a Uyghur Genocide in Xinjiang”, *Journal of Genocide Research*, available at <https://www.tandfonline.com/doi/full/10.1080/14623528.2020.1848109>; “‘I Wish I Could Wipe my Heart And Mind Clean’: Uyghur Former Camp Instructor.” *Radio Free Asia*, 5 Oct. 2020, <https://www.rfa.org/english/news/uyghur/instructor-10052020130813.html>; A former so-called “teacher” detainee testified that the numbers in her classes decreased daily with two detainees dying within her first 3 weeks—one mysteriously disappeared and allegedly died of a “brain hemorrhage;” the other died of an untreated infection, Ingram, Ruth. “Confessions of a Xinjiang Camp Teacher.” *The Diplomat*, 17 Aug. 2020, <https://thediplomat.com/2020/08/confessions-of-a-xinjiang-camp-teacher/>.

¹³⁷ At 70 years old, Victim #167 was forcibly disappeared and then sentenced to 20 years for reporting the death by torture of a camp victim, Victim # 164.

¹³⁸ An officer confirmed that over the course of six months (June–December 2018) at the No. 1 Internment Camp in the Yengisher district of Aksu prefecture’s Kuchar county, 150 detainees died. “At Least 150 Detainees Have Died in One Xinjiang Internment Camp: Police Officer,” *Radio Free Asia*, 29 October 2019, <https://www.rfa.org/english/news/uyghur/deaths-10292019181322.html>.

¹³⁹ “Internment Camps in Xinjiang’s Aksu Separated by Crematorium.” *Radio Free Asia*, 13 Nov. 2020, www.rfa.org/english/news/uyghur/crematorium-11132020144027.html (identifying a crematorium within one kilometer of two internment camps outside of Aksu city); “Xinjiang Rapidly Building Crematoria to Extinguish Uyghur Funeral Traditions.” *Radio Free Asia*, 26 June 2018, www.rfa.org/english/news/uyghur/crematoriums-06262018151126.html. See also testimony of Victim # 453; while screaming from pain during an appendectomy, a guard approached him to say “You won’t die, and, even if you die, no one will know about it.” Mauk, Ben. “Inside Xinjiang’s Prison State.” *The New Yorker*, 26 Feb. 2021, <https://www.newyorker.com/news/a-reporter-at-large/china-xinjiang-prison-state-uyghur-detention-camps-prisoner-testimony>.

¹⁴⁰ See *Our Souls are Dead*, *supra* note 43 (“Sometimes, one or another of us would faint. If she didn’t come round, a guard would yank her to her feet and slap her awake. If she collapsed again, he would drag her out of the room, and we’d never see her again. Ever.”) According to a first-hand account, elderly detainees as old as 80 years of age were the main targets of torture and inhumane treatment within the detention center, where Imams are never released from handcuffs and shackles, and could be sentenced to more than 20 years, Victim # 67.

¹⁴¹ “Demolishing Faith: The Destruction and Desecration of Uyghur Mosques and Shrines,” *Uyghur Human Rights Project*, Oct. 2019, at 4, https://docs.uhrp.org/pdf/UHRP_report_Demolishing_Faith.pdf.

targeted in the mass detention drive, both in scope and scale of punishment, generally receiving 15 years to life in prison or being sentenced to death.¹⁴²

b) Causing serious bodily or mental harm to members of the group¹⁴³

Uyghur detainees within the detention sites are systematically tortured, subjected to sexual violence, including rape, and cruel, inhuman, and degrading treatment or punishment, deprived of their basic human needs, and severely humiliated.

i) Physical Torture

According to eyewitnesses, detainees can be tortured for failing to comply with strict military-style orders and rules or for simple everyday behavior, including speaking or whispering with each other, turning off the bright cell lights that remain permanently lit, or even smiling, crying, yawning, closing their eyes, eating too slowly, or exceeding the minimal time allotted for bathroom breaks. Former detainees have testified to designated “interrogation rooms” within the camps and detention centers, where there are no cameras and consistent brutal methods of torture are inflicted,¹⁴⁴ sometimes lasting 24 hours and causing loss of consciousness.¹⁴⁵ Common forms of torture in the camps include: forcing detainees to sit on small stools, shackling them to “tiger chairs,” beds, walls, ceilings, or heavy fetters, or subjecting them to solitary confinement and food deprivation for prolonged periods of time.¹⁴⁶ Detainees are also subjected to whippings and constant beatings by metal and electric prods or bare cords.¹⁴⁷

¹⁴² Victim # 4616; “Xinjiang Authorities Sentence Uyghur Philanthropist to Death For Unsanctioned Hajj.” *Radio Free Asia*, 21 Nov. 2018, <https://www.rfa.org/english/news/uyghur/philanthropist-11212018131511.html>; “Prominent Uyghur Intellectual Given Two-Year Suspended Death Sentence For ‘Separatism.’” *Radio Free Asia*, 28 Sept. 2018, <https://www.rfa.org/english/news/uyghur/sentence-09282018145150.html>. The fact that prominent Uyghurs are selectively targeted for harsher treatment supports a finding of “intent to destroy, in whole or in part, [the] group, as such” under Article II of the Genocide Convention. *Prosecutor v. Krstic*, Case No. ICTY-IT-98-33, Judgment, at para. 12, (“In addition to the numeric size of the targeted portion, its prominence within the group can be a useful consideration. If a specific part of the group is emblematic of the overall group, or is essential to its survival, that may support a finding that the part qualifies as substantial within the meaning of Article [II]”); Shepherd, *supra* note 77.

¹⁴³ Bodily or mental harm under Article II (b) is taken to “mean acts of torture, be they bodily or mental, inhumane or degrading treatment, persecution,” *Akayesu*, *supra* note 28, at para. 504; see also *Prosecutor v. Kayishema and Ruzindana*, Case No. ICTR-95-1-A, Trial Judgment, May 21, 1999, at para. 109. More specifically, such serious bodily or mental harm can be inflicted on members of the group by “enslavement, starvation, deportation and persecution ... detention in ... transit camps and concentration camps in conditions which were designed to cause their degradation, deprivation of their rights as human beings, and to suppress them and cause them inhumane suffering and torture,” *The International Law Reports*, Vol. 36, 1968, p. 238, para. 199.

¹⁴⁴ Victims # 1540, 2110, and 3456; Shih, Gerry. “China’s Mass Indoctrination Camps Evoke Cultural Revolution.” *Associated Press*, 17 May 2018, <https://apnews.com/6e151296fb194f85ba69a8babd972e4b>.

¹⁴⁵ Steve Chao, “Exposed: China’s Surveillance of Muslim Uyghurs,” *Al Jazeera*, 1 Feb. 2019, <https://www.aljazeera.com/features/2019/2/1/exposed-chinas-surveillance-of-muslim-uyghurs>; Victim # 1725 (fell unconscious after officials forced him into a hole in the yard during the winter and poured cold water on him); see Victim # 2110 on repeated episodes of seizures and loss of consciousness arising from internment and forced ingestion of unknown pills.

¹⁴⁶ Victims # 65, 277, 2110, 3623 (testified to being chained in a crouching position with a meter of chain attaching the upper arm and ankle for five consecutive months), 5279 and 6816. Shih, *supra* note 144. Shepherd, *supra* note 77.

¹⁴⁷ Victims # 124, 453, 1723, 3418, 5282, 5419 and 7774. A former detainee testified to a loss of hearing and “scars on her body from the constant [heavy] beatings,” Victim # 2110; Chao, *supra* note 145.

Eyewitnesses have testified to seeing blood covering the floors and walls, and watching detainees emerge from the interrogation rooms, some without fingernails.¹⁴⁸ Other eyewitnesses have reported being forced to ingest blackout-causing drugs, confined to nail-covered or electrified chairs, subjected to complete strip searches, or hung on walls and beaten with electrified truncheons.¹⁴⁹

ii) Sexual Violence

Former detainees have testified to systematic mass rape and other sexual abuse in the detention facilities.¹⁵⁰ There are also accounts of gang rapes perpetrated by security officials, including references to masked men, the use of an electrified stick,¹⁵¹ “bite[s] all over your body,”¹⁵² and a designated table (where there are reportedly no cameras) for “doing things.”¹⁵³ Other accounts testify to witnessing police take young girls into a closed room to “take turns with them,” with some never to return.¹⁵⁴ Others have described female detainees forced to routinely undress, squat in the nude, and smear ground chili pepper paste on their genitals in the shower while filmed.¹⁵⁵ During the height of China’s COVID-19 outbreak, detainees were reportedly forced to strip naked on a weekly basis as guards hosed them down with “scalding” and corrosive disinfectant.¹⁵⁶

Outside of the camps, Uyghur women are similarly subjected to systematic forms of sexual violence, causing serious bodily and mental harm. Uyghur women, both detained

¹⁴⁸ Victim # 3456. Eyewitness further testified to being beaten and deprived of food for two days merely for the embrace of a fellow detainee. *See also* Chao, *supra* note 145.

¹⁴⁹ Victims # 3456, 2110, and 7774.

¹⁵⁰ Hill, Matthew, et al. “‘Their Goal Is to Destroy Everyone’: Uighur Camp Detainees Allege Systematic Rape.” *BBC News*, 2 Feb. 2021, <https://www.bbc.com/news/world-asia-china-55794071>; Victim # 6641; Ferris-Rotman, Amie. “Abortions, IUDs and Sexual Humiliation: Muslim Women Who Fled China for Kazakhstan Recount Ordeals.” *Washington Post*, 5 Oct. 2019, https://www.washingtonpost.com/world/asia_pacific/abortions-iuds-and-sexual-humiliation-muslim-women-who-fled-china-for-kazakhstan-recount-ordeals/2019/10/04/551c2658-cfd2-11e9-a620-0a91656d7db6_story.html; A male detainee also testified to being raped by officers on the day of his arrest for raising money for Uyghur schools, Chao, *supra* note 145; see also the documentary film “Uighurs: Nowhere to Call Home,” *Al Jazeera*, 21 Jan. 2019, at 4:55 and 9:32, <https://www.aljazeera.com/program/101-east/2019/1/31/uighurs-nowhere-to-call-home>; Another former detainee was informed that the official torture methods included anal rape with an electrified stick, Ingram, *supra* note 136.

¹⁵¹ *Their Goal is to Destroy Everyone*, *supra* note 150 (“They had an electric stick, I didn’t know what it was, and it was pushed inside my genital tract, torturing me with an electric shock.”)

¹⁵² “China’s Uighur camp detainees allege systematic rape,” *BBC News, YouTube*, 3 Feb. 2021, <https://www.youtube.com/watch?v=e6bPGI10Cts>, at 1:00-1:34, “they didn’t spare any part of my body, biting it to the extent that it was disgusting to look at. They didn’t just rape. They were barbaric. They had bitten all over my body.”

¹⁵³ *Their Goal is to Destroy Everyone*, *supra* note 150; *Abortions, IUDs and Sexual Humiliation*, *supra* note 150; Stavrou, *supra* note 125; Victim # 3256. One former camp employee was informed that gang rapes occurred daily, “sometimes with electric batons inserted into the vagina and anus,” Ingram, *supra* note 136; Azat, Erkin. “A Letter from A Prison Guard in the Newly Built Concentration Camp in Dawanching.” *Medium*, 17 May 2019, <https://erkinazat2018.medium.com/a-letter-from-a-prison-guard-in-the-newly-built-concentration-camp-in-dawanching-daa6050bfb9b>; See also Victim #453.

¹⁵⁴ *I Wish I Could Wipe my Heart And Mind Clean*, *supra* note 136; Victim # 3418.

¹⁵⁵ Westcott et al., *supra* 52; *Abortions, IUDs and Sexual Humiliation*, *supra* note 150. Victim #453, a male detainee, testified to having been forced to strip, drenched in water and beaten during an interrogation. *Inside Xinjiang’s Prison State*, *supra* note 139.

¹⁵⁶ According to a female Uyghur detainee, the guards would hose detainees down “like firemen,” adding: “My hands were ruined, my skin was peeling”; “In China’s Xinjiang, Forced Medication Accompanies Lockdown.” *Associated Press*, 31 Aug. 2020, <https://apnews.com/article/virus-outbreak-ap-top-news-health-asia-pacific-international-news-309c576c6026031769fd88f4d86fda89>.

and outside the camps, are subjected to sexual violence through coercive birth prevention procedures, including forced sterilization, IUD placements, abortions, and unknown injections or medication stopping menstrual cycles, as documented further under the sections below covering Article II(d) and the “Special Campaign to Control Birth Control Violations” on the systematic campaign to prevent Uyghur births.

iii) Psychological Torture

In addition to the well-documented serious bodily harm inflicted on Uyghurs, the mental harm suffered is so severe as to drive some to commit suicide,¹⁵⁷ including from the threat of internment.¹⁵⁸ Detainees are subjected to repeated daily routines of indoctrination, forced to watch CCP propaganda, chant Party slogans, set prayer mats on fire or eat pork, and are further punished by way of constant mock executions or solitary confinement.¹⁵⁹

According to Government bureau documentation and eyewitness accounts, Uyghur detainees are routinely forced to write and present “self-criticisms,” and apologize for or deny aspects of their identity and pasts, including religious history and practices, in front of groups of detainees.¹⁶⁰ Detainees also must endure the constant sounds of screaming “from morning until evening” from elsewhere in the facilities, including the “interrogation rooms.”¹⁶¹

One detainee reached a breaking point after three months, causing him to run headfirst into a wall and fall unconscious in an attempted suicide.¹⁶² Suicides have become so

¹⁵⁷ For a list of documented suicides related to internment, see the *Xinjiang Victims Database*, <https://shahit.biz/eng/#lists>.

¹⁵⁸ “Threat of Re-Education Camp Drives Uyghur Who Failed Anthem Recitation to Suicide.” *Radio Free Asia*, <https://www.rfa.org/english/news/uyghur/suicide-02052018165305.html>; “Uyghur Editor of State-Run Magazine Commits Suicide ‘Out of Fear’ of Detention.” *Radio Free Asia*, 5 Feb. 2018, <https://www.rfa.org/english/news/uyghur/suicide-09282018171559.html>; “Authorities in Xinjiang’s Kashgar Detain Uyghurs at ‘Open Political Re-Education Camps.’” *Radio Free Asia*, 9 May 2018, <https://www.rfa.org/english/news/uyghur/camps-05092018154928.html>.

¹⁵⁹ Victims # 46, 3101, 3623, 4981 and 7075. According to the description of one former Uyghur detainee, “A hundred times over I thought, when the footfalls of guards woke us in the night, that our time had come to be executed. When a hand viciously pushed clippers across my skull, and other hands snatched away the tufts of hair that fell on my shoulders, I shut my eyes, blurred with tears, thinking my end was near, that I was being readied for the scaffold, the electric chair, drowning. Death lurked in every corner. When the nurses grabbed my arm to ‘vaccinate’ me, I thought they were poisoning me. In reality, they were sterilising us. That was when I understood the method of the camps, the strategy being implemented: not to kill us in cold blood, but to make us slowly disappear. So slowly that no one would notice.” *Our Souls are Dead*, *supra* note 43. Former detainee testified to suffering in a basement cage without enough room to lie down for nearly a week (Victim # 277). Victim #453 testified to similar solitary confinement in a squalid cell in which it was too small to lie down. *Inside Xinjiang’s Prison State*, *supra* note 139.

¹⁶⁰ Shih, *supra* note 144; Dooley, *supra* note 107.

¹⁶¹ Sudworth, John. “China Uighurs: A Model’s Video Gives a Rare Glimpse inside Internment.” *BBC News*, 4 Aug. 2020, <https://www.bbc.com/news/world-asia-china-53650246>; Victim # 12952; Abou-Sabe, Kenzi, et al. “Secret Chinese Documents Reveal Inner Workings of Muslim Detention Camps.” *NBC News*, 24 Nov. 2019, <https://www.nbcnews.com/news/all/secret-chinese-documents-reveal-inner-workings-muslim-detention-camps-n1089941>; *I Wish I Could Wipe my Heart And Mind Clean*, *supra* note 136.

¹⁶² Victims #27 and 1725; see also Shih, *supra* note 144; see further testimony on the extreme nature of torture in the designated interrogation rooms: “I thought that I would rather die than go through this torture and begged them to kill

pervasive that detainees must wear “suicide safe” uniforms and are denied access to materials susceptible to causing self-harm.¹⁶³ Another detainee reported that, after approximately a year in the camp, she could barely remember her family, feeling as though she had been born there.¹⁶⁴ Many former detainees report suffering from similar memory loss, insomnia, and suicidal thoughts upon release,¹⁶⁵ which are also rampant among Uyghur exiles.¹⁶⁶

c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part¹⁶⁷

Specific examples of the methods of destruction under Article II(c) have been adjudicated to include the “deprivation of food, medical care, shelter or clothing, as well as lack of hygiene, systematic expulsion from homes, or exhaustion as a result of excessive work or physical exertion.”¹⁶⁸

Uyghurs have been expelled from their homes and sent to internment camps en masse, where they are deprived of adequate food, clothing, medical care, and shelter, and often only then “released” directly into forced labor schemes. Sleep deprivation, starvation, and unsanitary, dangerous, and overcrowded conditions are commonly reported in the camps. According to eyewitness accounts, detainees are held in overcrowded cells that generally contain one shared plastic bucket or open toilet to which detainees are confined to strict one to three-minute bathroom breaks under surveillance cameras.¹⁶⁹ Detainees are often denied food for failing to comply perfectly with the rules or deliberately given spoiled food for speaking Uyghur or failing to speak Chinese.¹⁷⁰ As a result, detainees generally experience extreme weight loss within the camps.¹⁷¹ Detainees are either denied showers altogether,¹⁷² or only permitted showers on a weekly, monthly, or bimonthly basis, without privacy.¹⁷³ Former detainees consistently testify to sleeping in two-hour shifts on the floor, on their sides or in shared beds. Witnesses also commonly describe detainees sitting on plastic chairs for 12-14 hours straight or with their hands

me,” (“Uighur woman details horrific abuse in China internment camp,” *CBS News*, 27 Nov. 2018, <https://www.cbsnews.com/news/china-uyghur-woman-abuse-chinese-internment-camp-muslim-minorities-xinjiang/>).

¹⁶³ “Uighur Re-Education Camps: Ethnic Cleansing in the 21st Century,” *Fair Observer*, 17 Dec. 2019, https://www.fairobserver.com/region/asia_pacific/xinjiang-uyghur-muslims-internment-camps-china-human-rights-news-54321/.

¹⁶⁴ “Weather Reports: Voices from Xinjiang,” *Believer Magazine*, 1 Oct. 2019, <https://believermag.com/weather-reports-voices-from-xinjiang/>.

¹⁶⁵ Former detainees consistently testify to forgetting their relatives. One former Uyghur detainee describes the camp indoctrination as designed to erase “memories and thoughts that bind us to life.” *Our Souls are Dead*, *supra* note 43.

¹⁶⁶ “Exporting Persecution: Uyghur Diaspora Haunted by Anxiety, Guilt as Family Held in Chinese Camps,” *The Globe and Mail*, 12 Aug. 2019, <https://www.theglobeandmail.com/world/article-exporting-persecution-uyghur-diaspora-haunted-by-anxiety-guilt-as/>.

¹⁶⁷ Article II (c) “should be construed as the methods of destruction by which the perpetrator does not immediately kill the members of the group, but which, ultimately, seek their physical destruction,” *Akayesu supra* note 28, at para. 505.

¹⁶⁸ *Croatia v. Serbia*, ICJ Judgment of 3 February 2015, at 161; see also *Akayesu supra* note 28, para. 506.

¹⁶⁹ Victims # 120, 124, and 1723.

¹⁷⁰ Victims # 3623 and 2209.

¹⁷¹ Victims # 453, 2209, 2947, 3623, and 5524 testified to losing between 12-40kg in short periods of time.

¹⁷² *I Wish I Could Wipe my Heart And Mind Clean*, *supra* note 136.

¹⁷³ Victims #1358 and 1577.

and feet shackled at all times, save for writing exercises, but including during sleep.¹⁷⁴ In the summer of 2020, during a COVID-19 outbreak, authorities subjected XUAR to harsher lockdown measures than elsewhere in China, and even forced residents to ingest medicine in unmarked bottles or face detention.¹⁷⁵

The authorities are targeting Uyghurs of childbearing years, household heads, and community leaders for detention in unliveable conditions, while simultaneously imposing systematic birth-prevention measures on Uyghur women (as described in the next section) and increasingly transferring Uyghurs into forced labor schemes.¹⁷⁶ In sum, the Chinese Government has deliberately created the “circumstances that would lead to a slow death.”¹⁷⁷

d) Imposing measures intended to prevent births within the group¹⁷⁸

There is significant public evidence, based on government statistics and corroborating testimony, demonstrating that China is engaged in a deliberate and systematic program of preventing Uyghur births in tandem with the mass internment drive. In 2017, the Government waged a “Special Campaign to Control Birth Control Violations” in XUAR, particularly in Uyghur-dominant areas.¹⁷⁹

i) Forced Sterilization

Government documents from 2019 demonstrate plans for a campaign of mass female sterilization in rural Uyghur regions, targeting 14 and 34 percent of all married women of childbearing age in two Uyghur counties in that year alone, with funding for these XUAR programs increasing.¹⁸⁰ These numbers correspond with a sample of Uyghur women exiles who were examined in Turkey: approximately 25 percent were found to have been sterilized, many of whom were unaware they underwent the procedure beforehand.¹⁸¹ Between 2017 and 2018, in one XUAR district, the percentage of women who were infertile increased by 124 percent. In 2018 and 2019, “Zero birth control violation incidents” became a standard target in minority regions, implemented by government

¹⁷⁴ Victims # 124, 300, 1723, 1725, 2209, 2947.

¹⁷⁵ *In China's Xinjiang, Forced Medication Accompanies Lockdown*, *supra* note 156.

¹⁷⁶ Allen-Ebrahimian, Bethany. “The Scope of China’s Use of Forced Labor in Xinjiang Is Bigger than We Knew.” *Axios*, 5 Jan. 2021, <https://www.axios.com/xinjiang-forced-labor-uyghurs-a3b58b6e-c98f-4ce4-ae52-7b4a37fa61f5.html>.

¹⁷⁷ *Prosecutor v. Stakic*, Case No. ICTY IT-97-24-T, Judgment, para. 517, 31 July 2003, <https://www.icty.org/x/cases/stakic/tjug/en/stak-tj030731e.pdf> (Article II (c) “does *not* require proof of a result.”).

¹⁷⁸ The measures under Article II (d) include “sexual mutilation, the practice of sterilization, forced birth control, separation of the sexes, and prohibition of marriages.” Moreover, in patriarchal societies, these measures also include acts intended to ensure that women “give birth to a child who will consequently not belong to its mother’s group.” These measures are not limited to physical acts either: “[M]embers of a group can be led, through threats or trauma, not to procreate.” *Akayesu*, *supra* note 28, paras. 507-508.

¹⁷⁹ Zenz, Adrian. “Sterilizations, IUDs, and Mandatory Birth Control: The CCP’s Campaign to Suppress Uyghur Birthrates in Xinjiang” *Jamestown*, June 2020, <https://jamestown.org/wp-content/uploads/2020/06/Zenz-Internment-Sterilizations-and-IUDs-UPDATED-July-21-Rev2.pdf?x53474>.

¹⁸⁰ *Ibid.* at 2.

¹⁸¹ Since 2013, an Uyghur doctor in Turkey examined 300 exiled Uyghur women from XUAR, nearly all of whom were subjected to some form of birth control and about 80 had been sterilized. Westcott, et al. *supra* note 52.

units on all levels, and with enough State funding in 2019 and 2020 to carry out hundreds of thousands of tubal ligation sterilization procedures.¹⁸²

ii) Intrauterine Device Placements

In 2018, Xinjiang had the highest net IUD placements of any region in China (calculated as placements minus removals), despite comprising 1.8 percent of China's population.¹⁸³ XUAR family planning departments reportedly summon Uyghur women for mandatory gynecological examinations, where they can be forcibly fitted with IUDs.¹⁸⁴ The IUDs procured by XUAR's Health Commission are designed so that they can only be removed by State-approved surgeries, where unauthorized procedures result in prison terms and fines.¹⁸⁵ By 2019, XUAR planned to subject at least 80 percent of women of childbearing age in Southern XUAR to sterilizations or IUD placements.¹⁸⁶

iii) Birth Prevention Measures in Detention

The forced birth prevention campaign within the internment camps is also corroborated in detail by a number of former female detainees¹⁸⁷ who have testified to being forcibly fitted with IUDs upon detention, a procedure that is reportedly required for all women at the camps,¹⁸⁸ or, if pregnant, undergoing an abortion.¹⁸⁹ Eyewitness accounts testify to the regular administration of blood tests, unknown injections, and medication, which stop menstrual cycles and cause exhaustion and loss of concentration.¹⁹⁰ Detainees have testified to being repeatedly kicked in their lower stomach during interrogations.¹⁹¹

iv) Mass Internment Intended to Halt Uyghur Births

The mass internment drive is part and parcel of the overall birth prevention campaign. According to the Karakax List, by far the two most cited reasons for detention or internment are (1) "birth policy violations" and (2) "unsafe post 80s, 90s, or 00s person"

¹⁸² In addition, XUAR's Health Commission offers reward money to incentivize "voluntary" sterilizations and IUD placements, budgeting 750.4 and 733.9 million RMB for birth prevention rewards in 2019 and 2020. Zenz, *supra* note 179, at 2, 12, 18-19.

¹⁸³ China Statistical Yearbook of Health and Hygiene (2019), available at <https://web.archive.org/web/20210527122258/http://heqishi.com/material/2019%E5%B9%B4%E4%B8%AD%E5%9B%BD%E5%8D%AB%E7%94%9F%E5%81%A5%E5%BA%B7%E7%BB%9F%E8%AE%A1%E5%B9%B4%E9%89%B4.pdf>. [Editor's note: this sentence and footnote were amended on July 6, 2021]

¹⁸⁴ As one former detainee described the violent and humiliating procedure: "I was made to lie down and spread my legs, and the device was inserted. It was terribly violent. I was crying, I felt humiliated, sexually and mentally assaulted," Ingram, *supra* note 136.

¹⁸⁵ Zenz, *supra* note 179, at 14; Ingram, *supra* note 72.

¹⁸⁶ Zenz, *supra* note 179, at 12.

¹⁸⁷ Male detainees have also testified to suffering from impotence due to detention, Victims # 65 and 4981.

¹⁸⁸ *Abortions, IUDs and Sexual Humiliation*, *supra*, note 150. Victim # 3418.

¹⁸⁹ Victim # 1723 ("As for the pill they received, I think it was a birth control pill. They didn't want any births. If you were pregnant when you came to the camp, they performed an abortion. If you refused, they took you to a stricter place, one without visits with relatives.")

¹⁹⁰ Victims # 2110, 2209, 2322, 5524, and 6507; Ingram, *supra* note 136. One former detainee testified that, at the height of the COVID-19 outbreak in China, she was forced to drink medicine causing weakness and nausea, In China's Xinjiang, *Forced Medication Accompanies Lockdown*, *supra* note 156.

¹⁹¹ *Their Goal is to Destroy Everyone*, *supra*, note 150; "China Cuts Uyghur Births with IUDs, Abortion, Sterilization." Associated Press, 29 June 2020, <https://apnews.com/article/269b3de1af34e17c1941a514f78d764c>.

(referencing years of birth).¹⁹² This second most cited reason demonstrates that persons of childbearing age, between approximately 18 and 40 years of age, are targeted for detention.¹⁹³ These two principal reasons for internment suggest that the Government's birth prevention campaign in the region is a key driver behind the camps and vice versa.

v) Impact of Birth Prevention Measures

Between 2015 and 2018, the growth rates in the two largest Uyghur prefectures decreased by 84 percent.¹⁹⁴ In 2019, only about 3 percent of married women of childbearing age in Kashgar and Hotan gave birth.¹⁹⁵ One prefecture (Kizilsu) set a target 1.05 percent birth rate for 2020, where its natural growth rate just two years prior was 19.66 percent. The latest annual reports from some of these regions have begun omitting birth rate information altogether to conceal the scale of destruction.¹⁹⁶ In September 2020, the XUAR Government sent a letter to the news agency *CNN* attributing a dramatic drop in the region's birth rate from 15.88 per 1,000 people in 2017 to 10.69 per 1,000 people in 2018 to "the comprehensive implementation of the family planning policy."¹⁹⁷ The letter added: "In 2018, the number of newborns decreased by approximately 120,000 compared with 2017, of which about 80,000 were because of better implementation of family planning policy in accordance with law, according to estimates by the health and statistics department."¹⁹⁸ The XUAR Government did not dispute the rise in sterilizations or the alarming gap between XUAR and the rest of China in the ratio of new IUDs. Chinese researchers also have not disputed that the Government aims to decrease Uyghur population growth.¹⁹⁹

The dual strategy of imposing systematic birth prevention measures on Uyghur women and interning Uyghur men and women of childbearing age en masse constitute measures intended to prevent Uyghur births.

¹⁹² *Ideological Transformation*, *supra* note 114, at 9.

¹⁹³ Zenz, *supra* note 42; These reasons are corroborated by local officials, who have interned all or nearly all Uyghurs born between 1980 and 2000, branding them an "untrustworthy generation;" see "Xinjiang Authorities Targeting Uyghurs Under 40 For Re-Education Camps," *Radio Free Asia*, 22 Mar. 2018, <https://www.rfa.org/english/news/uyghur/1980-03222018155500.html>; Thum, Rian, "China's Mass Internment Camps Have No Clear End in Sight," *Foreign Policy*, 22 Aug. 2018, <https://foreignpolicy.com/2018/08/22/chinas-mass-internment-camps-have-no-clear-end-in-sight/>.

¹⁹⁴ This data is derived from official statistical yearbooks; see Zenz, *supra* note 179.

¹⁹⁵ *Ibid.* at 19.

¹⁹⁶ *Ibid.* at 9.

¹⁹⁷ Watson Ivan, et al. "China's Xinjiang Government Confirms Huge Birth Rate Drop but Denies Forced Sterilization of Women," *CNN*, 21 Sept. 2020, <https://www.cnn.com/2020/09/21/asia/xinjiang-china-response-sterilization-intl-hnk/index.html>.

¹⁹⁸ *Ibid.*

¹⁹⁹ Wong, Edward and Chris Buckley. "U.S. Says China's Repression of Uighurs Is 'Genocide,'" *The New York Times*, 19 Jan. 2021, <https://www.nytimes.com/2021/01/19/us/politics/trump-china-xinjiang.html>.

e) Forcibly transferring children of the group to another group

In early 2017, pursuant to a new policy, the Chinese Government began building a vast network of massive,²⁰⁰ State-run, highly securitized “child welfare guidance centers,”²⁰¹ boarding schools, or de facto orphanages to confine Uyghur children full-time, including infants. These orphanages are reportedly characterized by overcrowding and inhumane conditions,²⁰² and are located as far as hundreds of miles from the children’s homes.²⁰³ A number of XUAR counties received specific quotas from higher authorities to institutionalize such “orphans,”²⁰⁴ who have often lost both parents to the internment camps or forced labor schemes. One county in Kashgar built 18 new orphanages in 2017 alone.²⁰⁵ A Ministry of Education planning document reveals that between 2017 and 2019, the number of children separated from their families and placed into state-run boarding schools in the region increased by 76.9 percent, from 497,800 to 880,500.²⁰⁶ The CCP set a 2020 goal of running one to two such boarding schools in each of XUAR’s over 800 townships.²⁰⁷ Government documents indicate that the proliferation of these State-run institutions is specifically intended for children of parents detained in internment camps or forced labour schemes.²⁰⁸ The stated purposes behind these “child welfare” facilities, where children “eat and live,” are to “liberate” and “free” minority parents to engage in “carefree study,”²⁰⁹ or full-time labor.²¹⁰ Under State custody, Uyghur children are being raised in Chinese-language environments with standard Han child-rearing methods adopted by the State.²¹¹ The State is thus forcibly transferring Uyghur children (including infants) to State-run Han group settings.

²⁰⁰ For example, in 2018, a rural county (Yumin) with a population of 50,000 built a 3,000 square-meter centre, see Feng, Emily. “Uighur Children Fall Victim to China Anti-Terror Drive.” *Financial Times*, 10 July 2018, <https://www.ft.com/content/f0d3223a-7f4d-11e8-bc55-50daf11b720d>.

²⁰¹ *Ibid*; “China: Xinjiang Children Separated from Families.” *Human Rights Watch*, 15 Sept. 2019, <https://www.hrw.org/news/2019/09/15/china-xinjiang-children-separated-families>; Zenz, Adrian, “Break Their Roots: Evidence for China’s Parent-Child Separation Campaign in Xinjiang,” *Journal of Political Risk*, <https://www.jpolrisk.com/break-their-roots-evidence-for-chinas-parent-child-separation-campaign-in-xinjiang/>.

²⁰² One worker at an orphanage in Southern XUAR reported overcrowding in his facility with children ages six months to 12 years old “locked up like farm animals in a shed”; “Dozens of Uyghur Children of Xinjiang Village Camp Detainees Sent to Live in Orphanages.” *Radio Free Asia*, <https://www.rfa.org/english/news/uyghur/orphanages-07022018143057.html>.

²⁰³ Shepherd, *supra* note 77; Qin, Amy. “In China’s Crackdown on Muslims, Children Have Not Been Spared.” *New York Times*, 28 Dec. 2019, <https://www.nytimes.com/2019/12/28/world/asia/china-xinjiang-children-boarding-schools.html>.

²⁰⁴ *Xinjiang Children Separated from Families*, *supra* note 201.

²⁰⁵ Feng, *supra* note 200.

²⁰⁶ The planning document is available at:

http://web.archive.org/web/20191216040455/http://www.moe.gov.cn/jyb_xwfb/xw_zt/moe_357/jyzt_2016nztzl/ztzl_xy_ncs/ztzl_xy_dxjy/201801/W020180109353888301306.pdf, at 232, and <http://archive.is/QZ2eM>; see also Adrian Zenz, “Parent-Child Separation in Yarkand County, Kashgar,” *Medium* 13 Oct. 2020, https://adrianzenz.medium.com/story-45d07b25bcad#_ftn7 and Qin, *supra* note 203.

²⁰⁷ *Ibid*.

²⁰⁸ Zenz, *supra* note 201.

²⁰⁹ *Ibid*.

²¹⁰ Zenz, *supra* note 128; Roberts, *supra* note 34, at 233.

²¹¹ Roberts, *supra* note 34, at 232.

The systematic forcible separation of Uyghur children from their families, coupled with the widespread prevention of Uyghur births, threatens “the group’s capacity to renew itself, and hence to ensure its long-term survival” or existence (to use the language of the ICJ interpreting the Genocide Convention).²¹²

V. Intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such

The terms of the specific intent stipulated in the Genocide Convention comprises two principal elements: (1) intent to destroy and (2) in whole or in part [the protected group] as such.

1. Intent to Destroy

When assessing State responsibility under the Genocide Convention, the intent to destroy the protected group does not require an inquiry into subjective mental states, which the State (as defined in International Law²¹³) does not possess, nor does it require an explicit statement of intent. Rather, intent is measured by objective standards: official statements; State policy; a “general plan;” a pattern of conduct;²¹⁴ repeated destructive acts; or a “strategically planned policy, manifested in actions which had a logical and coherent sequence.”²¹⁵ Moreover, a State remains under the obligations of the Genocide Convention regardless of the stated motives, purposes, and context behind its destructive policies and campaigns.²¹⁶ A security context is irrelevant to the question of breaches of the Genocide Convention, as its obligations apply in both a “time of peace” and a “time of war.”²¹⁷ The ICJ has reaffirmed this principle in the case of *The Gambia v. Myanmar*, stating that context “does not stand in the way” of assessing a violation of the Convention.²¹⁸ China’s official reasons and goals behind its policies and conduct targeting the Uyghurs in XUAR, offered to domestic and international audiences, including its “People’s War on Terror” and “preventive counter-terrorism and de-extremism work,”²¹⁹

²¹² *Croatia v. Serbia*, *supra*, note 168, at para. 136.

²¹³ For the definition of the State in International Law, see Article I of the Montevideo Convention on the Rights and Duties of States (1933), <https://treaties.un.org/doc/Publication/UNTS/LON/Volume%20165/v165.pdf>.

²¹⁴ *Bosnia v. Serbia*, *supra* note 13, at paras. 242 and 373.

²¹⁵ “Guatemala: Memory of Silence,” *Commission for Historical Clarification*, Feb. 1999, para. 120, describing the acts of genocide as “obeying a higher, strategically planned policy.” See also para. 111, “Considering the series of criminal acts and human rights violations which occurred in the regions and periods indicated and which were analysed for the purpose of determining whether they constituted the crime of genocide, the CEH concludes that the reiteration of destructive acts, directed systematically against groups of the Mayan population, within which can be mentioned the elimination of leaders and criminal acts against minors who could not possibly have been military targets, demonstrates that the only common denominator for all the victims was the fact that they belonged to a specific ethnic group and makes it evident that these acts were committed ‘with intent to destroy, in whole or in part’ these groups.”

²¹⁶ In the international criminal legal context, the motive or stated goal behind acts of genocide must be distinguished from the question of intent and have “no bearing on guilt,” *Prosecutor v. Stakić*, Case No. ICTY-IT-97-24-A, Appeal Judgment, para. 45, 22 Mar. 2006; see also *Prosecutor v. Kayishema and Ruzindana*, *supra* note 143, para. 161.

²¹⁷ Genocide Convention, Article I.

²¹⁸ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, ICJ Order of 23 January 2020, at para. 74.

²¹⁹ This line (evidently intended as an excuse) was conveyed to a group of diplomats from more than 80 countries in 2019, “China Says ‘preventive’ Work in Xinjiang Detention Camps Should Be Applauded.” *The Guardian*, 24 Feb.

have no bearing on China's obligations or corresponding responsibility for violations under the Genocide Convention. To conclude otherwise would render the Genocide Convention without effect or consequence in the event that the State would invoke some other – any other – “reason” no matter how spurious or specious. Such an interpretation, in effect permitting excuse, would also be manifestly contrary to the object and purpose of the Genocide Convention, be inconsistent with the principle of good faith, and cause offense vis-à-vis the reasonable expectations on the part of other States party for performance and reliability.

Destruction of the Group

As per the VCLT, the Genocide Convention must be interpreted “in accordance with the ordinary meaning to be given to the terms of the treaty in their context [including its preamble] and in light of its object and purpose.”²²⁰ The intent requirement must therefore be given its ordinary meaning in the context of, and in conjunction with, the enumerated acts of genocide and the treaty's preamble. Under Article II, “genocide means *any*” of the enumerated acts with the requisite intent, where Article II (b), which includes causing “mental harm to members of the group” as a stand-alone act, and Article II (e) (“forcibly transferring children of the group to another group”) do not entail physical destruction. Moreover, the term “intent to destroy” is not qualified by any term connoting physical destruction. The “intent to destroy” the group is only qualified by the phrase “in whole or in part ... as such.” The preamble provides context for understanding what constitutes the group as such, including reference to UN General Assembly Resolution 96 (I), which defines the crime of genocide as a “denial of the right of existence of entire human groups.”²²¹ It follows that the meaning of “intent to destroy” is directed at the group's existence as such, including all of the elements which define the group's existence. The intent requirement must also be read in light of the Convention's purpose to prevent genocide and safeguard the existence of human groups before their physical destruction occurs.²²² Based on the ordinary meaning of the terms of Article II in their context and in light of their object and purpose, the “intent to destroy [the protected group] ... as such” encompasses an intent to destroy the group to the point that the group no longer exists as a group and can no longer reconstitute itself as such.²²³

2019, <http://www.theguardian.com/world/2019/feb/24/china-says-preventive-work-in-xinjiang-detention-camps-should-be-applauded>.

²²⁰ VCLT, *supra* note 14, Art. 31.

²²¹ *The Crime of Genocide*, *supra* note 17.

²²² The preparatory work of the Convention confirms this meaning as demonstrated by one proposed amendment that sought to remove the term “mental” from Article II (b) if the true meaning of destruction were physical, Abtahi, Hiran and Philippa Webb, *The Genocide Convention: The Travaux Préparatoires*, Martinus Nijhoff Publishers, 2008, at A/C.6/225, 1477, A/C.6/SR.81, regarding the inclusion of acts that “were not likely to lead to the physical destruction of the group.”

²²³ It may be noted that, according to international criminal jurisprudence, destruction of the group “is not necessarily the death of the group members. While killing large numbers of a group may be the most direct means of destroying a group, other acts or series of acts, can also lead to the destruction of the group. A group is comprised of its individuals, but also of its history, traditions, the relationship between its members, the relationship with other groups, the relationship with the land. The Trial Chamber finds that the physical or biological destruction of the group is the likely outcome of a forcible transfer of the population when this transfer is conducted in such a way that the group can no longer reconstitute itself – particularly when it involves the separation of its members. In such cases the Trial Chamber

The following sections lay out China's explicit high-level orders, policies, destructive campaigns, and pattern of acts, which evince and demonstrate the intent to destroy the Uyghurs as a group as such.

A) High-Level Statements of Intent

President Xi's Offensive in XUAR

In April 2014, President Xi gave a series of speeches launching the “struggle against terrorism, infiltration, and separatism,” singling out southern XUAR, where Uyghurs make up nearly 90 percent of the population, as its front line, and arguing that extremism has taken root across Uyghur society, requiring comprehensive digital surveillance and local informants.²²⁴ President Xi gave the following orders in the context of the offensive: “The weapons of the people’s democratic dictatorship must be wielded without any hesitation or wavering;” “show absolutely no mercy;” and “even after *these people* are released, their education and transformation must continue.” [emphasis added]²²⁵

Explicit Statements of Intent to Destroy

The intent to destroy the Uyghurs as such, in whole or in part, does not depend on logical deduction nor inference. Rather, in some instances, the Government’s intent to destroy the Uyghurs as a group has been explicit. Camp guards have reportedly informed detainees that they are following the orders of a document from the Central Committee of the Communist Party of China mandating that the internment system remain in place “until the whole nation, Kazakhs, Uyghurs, and other Muslim nationalities, would disappear ... until all Muslim nationalities would be extinct.”²²⁶ In 2017, the Party Secretary for Yarkand County, where nearly all 900,000 residents are Uyghur, gave a speech at a rally in a public square as part of President Xi’s campaign in the region, urging party members to “wipe them out completely ... Destroy them root and branch.”²²⁷ Moreover, the security chief of a township in Kashgar reported the following declaration by a Chinese official in discussing State policy behind the mass internment drive: “you can’t uproot all the weeds hidden among the crops in the field one by one—you need to

finds that the forcible transfer of individuals could lead to the material destruction of the group, since the group ceases to exist as a group, or at least as the group it was. The Trial Chamber emphasises that its reasoning and conclusion are not an argument for the recognition of cultural genocide, but rather an attempt to clarify the meaning of physical or biological destruction,” *Prosecutor v. Blagojević & Jokić*, Case No. IT-02-60-T, Judgment, 17 Jan. 2005, para. 665.

²²⁴ President Xi urged China to “make the public an important resource in protecting national security.” *Absolutely No Mercy*, *supra* note 58.

²²⁵ *Ibid.*

²²⁶ Victim # 1358. Byler, *supra* note 45 (“They used to tell us that we would never get out and that we would be sentenced, sentenced to five to 30 years in prison. They said that they would keep us there until our views changed, and if our views failed to change, they would always keep us there. They said they would keep us there up to 50 years, until the whole nation, Kazakhs, Uyghurs, and other Muslim nationalities, would disappear. They said there was a document sent from above, from the administrative center, and that they were acting based on that document. They said no one can change the document since it was sent from the Central Committee. They said that the current system would not change until all Muslim nationalities would be extinct.”)

²²⁷ *Absolutely No Mercy*, *supra* note 58.

spray chemicals to *kill them all* ... re-educating these people is like spraying chemicals on the crops”²²⁸ [emphasis added].

“Round Up Everyone”

XUAR Party Secretary Chen Quanguo distributed Xi’s speeches, told thousands of police officers and soldiers to prepare for a “smashing, obliterating offensive,” and gave the repeated order to “round up everyone who should be rounded up”—a phrase that appears repeatedly in 2017 Government documents.²²⁹ A June 2017 directive issued by Zhu Hailun, then XUAR’s top security official, added “if they’re there, round them up.”²³⁰ In August 2017, at the XUAR Party Standing Committee conference, Chen emphasized the digitization of security and implementation of predictive policing in the region.²³¹ In an October 2017 speech to the XUAR leadership, Chen declared that the struggle “to safeguard stability is a protracted war and also a war of *offense*” [emphasis added].²³²

“Eradicate Tumors”

In 2014, President Xi declared that extremism would require “a period of painful, interventionary treatment.”²³³ In his 2016 policy agenda speech, Chen described religious extremist thought and behavior in XUAR as a “malignant tumor” and a “communicable plague,” requiring more radical and invasive surgery.²³⁴ In early 2017, Party officials ramped up efforts to “eradicate tumors.”²³⁵ In April 2017, an internal Party memo warned, “If religious extremist thought is not *rooted out*, violent terrorist acts will continually multiply like cancer cells” [emphasis added].²³⁶ The XUAR public security bureau directive containing a question-and-answer guide for local officials to respond to Uyghur students returning from other parts of China instructs officials to reassure students they have “absolutely no need to worry” about disappeared relatives, using the repeated language that only “treatment ... can thoroughly eradicate this ‘malignant tumor.’”²³⁷ The official response to whether the relatives of Uyghurs have committed a crime is that they have not, underscoring how the mass internment campaign is extra-legal, although: “Freedom is only possible when this ‘virus’ in their

²²⁸ “Chinese Authorities Jail Four Wealthiest Uyghurs in Xinjiang’s Kashgar in New Purge.” *Radio Free Asia*, 5 Jan. 2018, <https://www.rfa.org/english/news/uyghur/wealthiest-01052018144327.html>.

²²⁹ *Absolutely No Mercy*, *supra* note 58.

²³⁰ *Ibid.*

²³¹ Greitens, Chestnut, et al., *supra* note 95, at 41.

²³² *Ibid.*

²³³ *Absolutely No Mercy*, *supra* note 58.

²³⁴ James Leibold, “The Spectre of Insecurity: The CCP’s Mass Internment Strategy in Xinjiang,” *China Leadership Monitor*, Vol. 59 (Spring 2019), <https://www.prcleader.org/leibold>.

²³⁵ Leibold, *supra* note 56, at 57.

²³⁶ *Ibid.*, at 239.

²³⁷ “Tactics from Turpan City for answering questions asked by the children of *concentrated* education and training school students.” Source: “Document: What Chinese Officials Told Children Whose Families Were Put in Camps.” *New York Times*, 16 Nov. 2019, <https://www.nytimes.com/interactive/2019/11/16/world/asia/china-detention-directive.html>.

thinking is eradicated.”²³⁸ The “work teams” who facilitate sending XUAR residents to the camps have also adopted the language of “eradicating tumors.”²³⁹ State media describes the mass internment camps as methods to “penetrate” detainees like an “intravenous needle,”²⁴⁰ equating Uyghur detainees as malignant tumors to be destroyed. The use of metaphors of disease, cancer, or poison assimilated for Uyghurs as a group targets them as such and dehumanizes them as objects for destruction.

B) Campaigns of Destruction

The intent behind the campaigns targeting the Uyghurs is further laid bare by an XUAR Government directive to “break their lineage, break their roots, break their connections, and break their origins.”²⁴¹

Mass Internment Campaign (“Strike Hard Campaign”)

The May 2013, XUAR Government document “Autonomous Region Party Committee document no. 11” laid the earliest groundwork for the mass internment campaign throughout the region. The document makes reference to “the infected minority masses” and emphasizes that “the hand that strikes hard must be tough, [and] the hand that [provides] educational guidance must [also] be tough.”²⁴² XUAR Government statements repeatedly use the phrase “wash clean the brains” to describe the work of the detention centers.²⁴³ A 2017 XUAR county justice bureau report states that re-education must “wash brains, cleanse hearts.”²⁴⁴

The Government’s domestic and international misinformation campaign to portray the policies in the region as serving “educational and training” purposes or alleviating poverty is exposed by the systematic persecution of Uyghur intellectuals, including members of the upper-middle class who are well-integrated into Chinese society and even the CCP itself.

In early 2017, the authorities initiated the persecution of “two-faced” Uyghur officials/cadres to “clean them out,”²⁴⁵ rendering even those who were “loyal” to the

²³⁸ *Ibid.*; See also Timothy Grose ““Once Their Mental State Is Healthy, They Will Be Able to Live Happily in Society.”” *ChinaFile*, 2 Aug. 2019, <https://www.chinafile.com/reporting-opinion/viewpoint/once-their-mental-state-healthy-they-will-be-able-live-happily-society>.

²³⁹ Dooley, *supra* note 109.

²⁴⁰ Grose, *supra* note 238.

²⁴¹ Dooley, *supra* note 107; Ramzy, Austin. “China Targets Prominent Uighur Intellectuals to Erase an Ethnic Identity.” *New York Times*, 5 Jan. 2019, <https://www.nytimes.com/2019/01/05/world/asia/china-xinjiang-uyghur-intellectuals.html>.

²⁴² Zenz, *supra* note 42.

²⁴³ Zenz, *supra* note 95. “Xinjiang Political ‘Re-Education Camps’ Treat Uyghurs ‘Infected by Religious Extremism’: CCP Youth League.” *Radio Free Asia*, 8 Aug. 2018, <https://www.rfa.org/english/news/uyghur/infected-08082018173807.html>.

²⁴⁴ Zenz, *supra* note 95.

²⁴⁵ “Fellow Uighurs Should Beware of ‘two-Faced’ People in Separatism Fight, Official Says,” *Reuters*, 10 Apr. 2017, <https://www.reuters.com/article/us-china-xinjiang-security-idUSKBN17C0HJ>.

State to be criminals, including CCP members and Government officials.²⁴⁶ Some of these figures were even praised for fostering understanding and building bridges between minorities and the XUAR Government,²⁴⁷ or the Han majority.²⁴⁸ There is a growing list of nearly 450 disappeared or imprisoned Uyghur intellectuals from 2016 to the present, including Government officials, tech founders, prominent university professors, deans, medical researchers, doctors, journalists, editors, publishers, celebrated artists, poets, linguists, computer engineers, and the like.²⁴⁹ Many of these guardians of Uyghur culture and identity are subjected to formal, often harsher prisons sentences, and even death sentences,²⁵⁰ evidencing a deliberate Government policy of specifically targeting prominent Uyghur leaders.²⁵¹

The Blueprint for Mass Internment (“Telegram”)

In November 2017, XUAR’s Political and Legal Affairs Commission, in charge of security in the region, with the seal of approval by then XUAR Deputy Party Secretary and top security official, Zhu Hailun, issued an operation manual, or Telegram, containing a master plan for the mass internment system, including detailed guidelines for the expansion and operation of the camps.²⁵² The Telegram orders all prefectures to “speed up the construction and renovation of sites, and continuously improve the security facilities.”²⁵³ In terms of internal management, the Telegram calls for strict control over detainees, including 24-hour guard shifts, “full video surveillance coverage of dormitories,” where police “must never allow escapes.”²⁵⁴ The Telegram orders officials to “increase the discipline and punishment” for violations of the rules governing every aspect of daily life from “bathing once or twice a week” to the “requirements for getting up, rollcall, washing, going to the toilet, organizing and housekeeping, eating, studying, sleeping, closing the door and so forth.”²⁵⁵ Detainees with “negative attitudes or even feelings of resistance” are to be punished with “assault-style transformation through education.”²⁵⁶

²⁴⁶ Roberts, *supra* note 34, at 209.

²⁴⁷ See case of Uyghur media app owner, Ekpar Asat, who disappeared in 2016 and was reportedly sentenced to 15 years; Wong, Edward. “Sister Fights to Free Uighur Businessman Held in China After U.S. Trip.” *The New York Times*, 9 May 2020, <https://www.nytimes.com/2020/05/09/us/politics/china-uyghurs-arrest.html>.

²⁴⁸ “The Persecution of the Intellectuals in the Uyghur Region: Disappeared Forever?” *Uyghur Human Rights Project*, Oct. 2020, https://docs.uhrp.org/pdf/UHRP_Disappeared_Forever_.pdf, e.g. Abdukerim Rahman, a 77 year-old literature professor at Xinjiang University was charged as “two-faced,” despite being praised by the Chinese State for over 50 years; Ramzy, *supra* note 241.

²⁴⁹ “Detained and Disappeared: Intellectuals Under Assault in the Uyghur Homeland,” *Uyghur Human Rights Project*, Mar. 2019 at 22; “List of Uyghur intellectuals imprisoned in China from 2016 to the present.” *Xinjiang Victims Database*, last updated: 25 Oct. 2020, https://shahit.biz/supp/list_003.pdf.

²⁵⁰ Shepherd, *supra* note 77; The editor-in-chief of a State-run literature magazine committed suicide out of fear of being sent to an internment camp. “Uyghur Editor of State-Run Magazine Commits Suicide ‘Out of Fear’ of Detention.” *Radio Free Asia*, 28 Sept. 2018 <https://www.rfa.org/english/news/uyghur/suicide-09282018171559.html>.

²⁵¹ See Harris, Rachel. “Cultural Genocide in Xinjiang: China Targets Uyghur Cultural Leaders.” *The Globe Post*, 17 Jan. 2019, <https://theglobepost.com/2019/01/17/cultural-genocide-xinjiang/>.

²⁵² Allen-Ebrahimian, *supra* note 89; “China Cables | Telegram English.” *ICIJ*, 2017, <http://www.documentcloud.org/documents/6558510-China-Cables-Telegram-English.html>.

²⁵³ *Ibid.*, para. 24.

²⁵⁴ *Ibid.*

²⁵⁵ *Ibid.*, paras. 12 and 15.

²⁵⁶ *Ibid.*, para. 11; Zenz, *supra* note 95. Original: 教育转化攻坚jiaoyu zhuanhua gongjian.

The Telegram also encourages the active promotion of “repentance and confession ... for [detainees] to understand deeply the illegal, criminal and dangerous nature of their past.”²⁵⁷ Staff in the camps are also closely monitored, with an entire section of the Telegram devoted to “strict secrecy,” banning all “mobile phones and cameras” from “management areas,” and a directive to train the staff to maintain secrecy over important data and statistics that are not to “be disseminated,”²⁵⁸ and are “not open to the public.”²⁵⁹

The Telegram includes a blueprint for a comprehensive bureaucratic system of governance over the mass internment drive and the direct pipeline to forced labor schemes, or “employment assistance resettlement plans in accordance with the [mandate] of ‘completion of one batch, employment of one batch.’”²⁶⁰ The Telegram outlines a complex structural web of officials and digital surveillance overseeing the entire campaign, including the IJOP system, center evaluation teams, Party secretaries, county bureaus, “vocational skills education and training” leading groups, service bureaus, and local committees.²⁶¹

“Special Campaign to Control Birth Control Violations”

From 2016 to 2019, a number of Chinese academic publications legitimized the Government eugenic programs implementing the mass prevention of Uyghur births by identifying Uyghur growth rates as threatening to national security, diluting the “Chinese Nation-Race,” and linking these rates to “religious extremism.”²⁶² To reduce Uyghur population growth rates, in 2017, a county Party committee promoted Han-Uyghur marriages with the post: “Let ethnic unity become one’s own flesh and blood.”²⁶³

In 2018, XUAR authorities began maintaining spreadsheets entitled, “Southern Xinjiang’s Four Regions and Prefectures Family Planning – Situation of Families’ Implementation of the Sterilization Measure.”²⁶⁴ XUAR county and township directives, issued in 2018 and 2019, ordered officials to: “contain illegal births and lower fertility levels;” “leave no blind

²⁵⁷ *Telegram*, *supra* note 252.

²⁵⁸ *Ibid.* at para. 25.

²⁵⁹ Zenz, *supra* note 95; the classified Telegram adds that it is necessary to strengthen the staff’s “awareness of the need to maintain secrecy” (保密意识 *baomi yishi*) and that “no person is under [any] circumstances permitted to disseminate information about detention or re-education via telephone, smartphone, or the internet.” Officials are “strictly forbidden” to give “related media interviews,” or engage in any “unauthorized disclosure” related to the internment campaign. Former detainees are also reportedly forced to sign documents never to disclose what was experienced in the camps (Victim # 46). The tight control on information leaving the camps raises concerns about the possibility of officials covering up a devastating COVID-19 outbreak within the characteristically overcrowded and unsanitary camps.

²⁶⁰ *Telegram*, *supra* note 252, para 20.

²⁶¹ *Ibid.*, para. 18.

²⁶² Shepherd and Pitel, *supra* note 63.

(citing China’s leading demographers as characterizing Uyghur birth rates as too high); Zenz, *supra* note 179, at 7.

²⁶³ *China’s Uighurs Told to Share Beds*, *supra* note 64.

²⁶⁴ Zenz, *supra* note 179, at 18.

spots;" "test all who need to be tested"; and "detect and deal with those who violate policies early."²⁶⁵

In 2018, the Uyghur prefecture of Kizilsu issued a directive to:

Guide the masses of farmers and herdsmen to spontaneously carry out family planning sterilization surgery, implement the free policy of birth control surgery, effectively promote family planning work, and effectively control excessive population growth.²⁶⁶

The XUAR Health Commission's project provides "free birth control surgeries" to all four southern regions in XUAR, which aimed to reduce 2020 birth rates by at least 4 per mille points below the 2016 level.²⁶⁷

In 2019, the XUAR Health Commission planned to subject over 80 percent of women of childbearing age in the rural southern four minority prefectures to "birth control measures with long-term effectiveness," which refers to either IUDs or sterilizations.²⁶⁸ According to family planning documents, a number of counties similarly offer "long-term effective pregnancy prevention [drug] injections."²⁶⁹ On 8 January 2021, the Chinese Embassy in the USA made an open admission to its systematic birth prevention campaign targeting Uyghur women by publicly stating that "in the process of eradicating extremism, the minds of Uyghur women in Xinjiang were emancipated and gender equality and reproductive health were promoted, making them no longer baby-making machines."²⁷⁰ China has simultaneously pursued a dual systematic campaign of forcibly sterilizing Uyghur women of childbearing age and interning Uyghur men of child-bearing years, preventing the regenerative capacity of the group and evincing an intent to biologically destroy the group as such.

Destruction of Uyghur Families and Communal Bonds, Sacred Sites, and Identity

The Government is aggressively carrying out sophisticated campaigns of destroying Uyghur families, communal bonds, sacred sites, and the intergenerational transmission of religion, tradition, culture, and language. The extensive Government-mandated "homestays" in Uyghur households and neighborhoods, systems of mass internment and

²⁶⁵ *China Cuts Uighur Births*, *supra* note 191.

²⁶⁶ Download page: <http://archive.is/ZDatc>. 克州2018年上半年扶贫开发工作总结 暨下半年工作计划.Doc., *Kèzhōu 2018 nián shàng bànnián fúpín kāifā gōngzuò zǒngjié jì xià bànnián gōngzuò jìhuà*.Doc., "Summary of Poverty Alleviation and Development Work in Kezhou During the First Half of 2018 and Work Plan for the Second Half of 2018", *Google Docs*, https://drive.google.com/file/d/1P9fWaGeVA1l-458m5SYT2D7drmsW2UfC/view?usp=sharing&usp=embed_facebook; Zenz, *supra* note 179, at 16.

²⁶⁷ *Ibid.*, at 15-16.

²⁶⁸ *Ibid.*, at 11-12.

²⁶⁹ *Ibid.*, at 19.

²⁷⁰ Davidson, Helen, "Twitter removes China US embassy post saying Uighur women no longer 'baby-making machines,'" *Guardian*, 10 Jan. 2021, <https://www.theguardian.com/world/2021/jan/10/twitter-removes-china-us-embassy-post-saying-uighur-women-no-longer-baby-making-machines>; *Original Link*: <https://twitter.com/chineseembinus/status/1347247602094534658>.

forced labor, and institutionalization of Uyghur children in state-run facilities have broken up Uyghur families and community, rupturing the most intimate bonds of the group. According to a 2017 Government planning document, the policy of forcibly separating Uyghur children from their parents into boarding schools is intended to both indoctrinate the children and “break the impact of the religious atmosphere on children at home.”²⁷¹ An analysis of Uyghur-medium primary level textbooks further demonstrates the erasure of Uyghur culture, religion, history, literature, and poetry from primary education.²⁷² The government has completely replaced “bilingual education” with “national language education” or Chinese-medium education, depriving the next generation of the Uyghur language,²⁷³ while subjecting adult detainees in the camps to torture and inhumane treatment for speaking Uyghur or failing to speak Chinese.²⁷⁴

Moreover, in XUAR, the Government has launched systematic attacks against Uyghur cultural and religious sites, property, and symbols— attacks which the ICJ has “considered as evidence of an intent to physically destroy the group.”²⁷⁵ In late 2016, the Chinese Central Ethnic-Religious Affairs Department launched the “Mosque Rectification” campaign to demolish mosques and sacred cultural sites in the region.²⁷⁶ XUAR Party Secretary Chen Quanguo ordered the government to “improve the conditions of religious places to guide religion and socialism to adapt to each other.”²⁷⁷ It is estimated that approximately 16,000 mosques in XUAR, or 65 percent of the total, have been destroyed or damaged due to government policies, largely since 2017, with 8,500 mosques completely demolished.²⁷⁸ As early as December 2016, the head of Kashgar’s Ethnic and Religious Affairs Committee, Wang Jingfu, attested to having “demolished nearly 70 percent of mosques in the city.”²⁷⁹ A number of the XUAR mosques that remain intact and undamaged have been converted into commercial or civic spaces, including café-bars.²⁸⁰ Private religious schools have also been destroyed. In addition, an estimated 58 percent of important religious-cultural sites in the region, such as shrines, cemeteries, and pilgrimage sites, have been damaged or completely demolished,²⁸¹ including what is

²⁷¹ Qin, *supra*, note 203.

²⁷² Smith Finley and Klimeš, *supra* note 74.

²⁷³ *Ibid.*

²⁷⁴ Victims # 1414, 1540, 2209, and 3623.

²⁷⁵ *Bosnia v. Serbia*, *supra* note 13, para. 344 (citing *Prosecutor v. Krstić*, Case No. IT- R 98-33-T, Judgment, para. 580 (2 August 2001)); see also *Croatia v. Serbia*, *supra* note 168, at para. 390 (citing attacks on cultural and religious sites as evidence of intent to destroy).

²⁷⁶ “Under the Guise of Public Safety, China Demolishes Thousands of Mosques,” *Radio Free Asia*, 19 Dec. 2019, <https://www.rfa.org/english/news/uyghur/under-the-guise-of-public-safety-12192016140127.html>; “Cultural Erasure,” *Australian Strategic Policy Institute*, 24 Sept. 2020, <https://www.aspi.org.au/report/cultural-erasure>.

²⁷⁷ Kuo, Lily. “Revealed: New Evidence of China’s Mission to Raze the Mosques of Xinjiang.” *The Guardian*, 7 May 2019, <https://www.theguardian.com/world/2019/may/07/revealed-new-evidence-of-chinas-mission-to-raze-the-mosques-of-xinjiang>.

²⁷⁸ As confirmed by satellite imagery and eyewitness testimony: *Cultural Erasure*, *supra* note 276. According to another intensive investigation by *The Guardian* and *Bellingcat*, 42 percent of the mosques and shrines analyzed between 2016 and 2018 were partly or completely demolished, including the sites of mass pilgrimages, a central practice for Uyghurs. Eyewitness accounts indicate that the number is far higher; see: Kuo, *supra* note 277.

²⁷⁹ *China Demolishes Thousands of Mosques*, *supra* note 276.

²⁸⁰ Smith Finley, *supra* note 57; *Cultural Erasure*, *supra* note 276.

²⁸¹ *Ibid.*

widely considered the holiest Uyghur site, Ordam Padshah.²⁸² Many of the undamaged sites are fully enclosed by walls or security checkpoints.²⁸³

In early 2018, XUAR officials extended these destructive practices further into public, private, domestic, and communal Uyghur spaces. Officials launched the “Three News” campaign, “advocating a new lifestyle, establishing a new atmosphere, and constructing a new order,” drawing on President Xi’s “Beautiful China” initiative.²⁸⁴ A document circulated by a government employee in XUAR elaborates on the mandate of the campaign to “resolutely root out the ideologies of ... ‘religion’ is law ... [and] resolutely eliminate the problems of ... ‘wild imams’ and never allow religion to intervene in ... education or family planning.”²⁸⁵ The document further orders officials to “establish a new atmosphere in everyday existence ... change concepts toward employment – i.e. opportunities inside and outside of Xinjiang, at village ‘satellite factories,’” well-documented sites of forced labour.²⁸⁶

The Three News led to the “Beautifying Spaces” programme, intended to transform “backward” Uyghur lifestyles and erase ethnically distinct Uyghur architecture.²⁸⁷ Authorities have specifically ordered the destruction of two household features that stand at the center of Uyghur domestic and sacred life—the *supa*, an interior raised platform, and *mehrab*, an arch or niche facing the direction of Mecca for prayer.²⁸⁸ Officials have called for all *supas* to be “demolished,” which in the words of a branch party secretary, are considered contrary to a “civilized [Han] lifestyle.”²⁸⁹ One county government ordered Uyghurs to “smash up” their *supa*.²⁹⁰ Authorities have further issued directives in at least three prefectures (Ili, Kashgar, and Hotan) to remove *mehrabs* or destroy homes where *mehrabs* cannot be reshaped.²⁹¹ The practices connected to these destroyed or converted sacred sites and household features not only carry religious significance for the Uyghurs but also capture essential elements of Uyghur identity, culture, communal bonds, and connection with the land.²⁹²

²⁸² Thum, Rian. “The Spatial Cleansing of Xinjiang: Mazar Desecration in Context.” 24 Aug. 2020, *Made in China Journal*. <https://madeinchinajournal.com/2020/08/24/the-spatial-cleansing-of-xinjiang-mazar-desecration-in-context/>.

²⁸³ *Cultural Erasure*, *supra* note 276.

²⁸⁴ Grose, *supra* note 44; Zenz, *supra* note 128.

²⁸⁵ Grose, *supra* note 44; see also Smith Finley, “Uyghur Islam and Religious ‘De-Extremification’: On China’s Discourse of ‘Thought Liberation’ in Xinjiang,” *Oxford Islamic Studies Online*, 2019, <http://www.oxfordislamicstudies.com/Public/focus.html>.

²⁸⁶ Grose, *supra* note 44.

²⁸⁷ Smith Finley and Klimeš, *supra* note 74.

²⁸⁸ Grose, *supra* note 44.

²⁸⁹ *Ibid.*

²⁹⁰ *Ibid.*

²⁹¹ “Uyghurs Ordered to Destroy Muslim Architecture Deemed ‘Extremist’ by Authorities,” *Radio Free Asia*, 10 July 2019, <https://www.rfa.org/english/news/uyghur/architecture-07102019140830.html>; see also Smith Finley and Klimeš, *supra* note 74.

²⁹² The prominent Uyghur scholar, Rahile Dawut, who studied these sites and disappeared in 2017, likely due to her work preserving Uyghur native traditions, once commented: “If one were to remove these ... shrines, the Uighur people would lose contact with earth. They would no longer have a personal, cultural, and spiritual history. After a few years we would not have a memory of why we live here or where we belong.” Kuo *supra*, note 277; see also Roberts, *supra* note 34, at 228.

2. In whole or in part as such

The ILC interprets the term “as such” to mean the intent to destroy the group “as a separate and distinct entity.”²⁹³ The ILC defines “in whole or in part” as the intention to destroy a “substantial part of a particular group,” which need not “intend to achieve the complete annihilation of a group from every corner of the globe.”²⁹⁴ The ICJ has confirmed that it is “widely accepted” that the “substantial part” requirement can be met “within a geographically limited area.”²⁹⁵ For this question, “[T]he area of the perpetrator’s activity and control are to be considered.”²⁹⁶

In this case, the geographic territory in question is officially acknowledged by the Chinese Government to be the Uyghur Autonomous Region. The Government has engaged in the construction and expansion of internment camps across every populated area of XUAR, particularly in Uyghur-dominated areas. However, the campaign is not limited by geographic or administrative borders, as one of the documents from the “Party Committee for Cracking Down” instructs officials to collect the personal information of Uyghurs living abroad and categorize them by home region to identify “those still outside the country for whom suspected terrorism cannot be ruled out ... [who] should be placed into concentrated education and training” immediately upon their return to China.²⁹⁷

Early on in the mass internment drive (2017-2018), there were reportedly regional quotas in place, target numbers that would already meet the requirement of a substantial part of the group.²⁹⁸ By 2017, in some parts of southern XUAR, police were ordered to detain nearly 40 percent of the adult population.²⁹⁹ At present, as demonstrated, the policies in place have targeted millions of Uyghurs, constituting a substantial part of the group.

The ICJ has further interpreted the “substantial part” requirement to mean that “the part targeted must be significant enough to have an impact on the group as a whole.”³⁰⁰ It is therefore important to consider the significance or prominence of the part of the Uyghur population that has been targeted, and whether that “specific part of the group is emblematic of the overall group, or is essential to its survival.”³⁰¹ As revealed by

²⁹³ *Yearbook of the International Law Commission*, 1996, Vol. II, Part Two, at 45, para. 7, Commentary to Article 17.

²⁹⁴ *Ibid.* at 45, at para. 8.

²⁹⁵ *Bosnia v. Serbia*, *supra* note 13, at para. 199.

²⁹⁶ *Ibid.*

²⁹⁷ “‘Integrated Joint Operation Platform’ Daily Essentials Bulletin, No. 2, as published by the ICLJ, *China Cables*, <http://www.documentcloud.org/documents/6558502-China-Cables-IJOP-Daily-Bulletin-2-Enlgish.html>, para. I.

²⁹⁸ “‘Studies’ in Prison: Staff Member Uncovers Details of a Xinjiang Camp.” *Bitter Winter*, 27 Nov. 2018, <https://bitterwinter.org/staff-member-uncovers-details-of-a-camp/> (camp employee testifying to quotas of Uyghurs each camp must fulfil).

²⁹⁹ Allen-Ebrahimian, *supra* note 89; *see also* Roberts, *supra* note 34, at 215.

³⁰⁰ *Bosnia v. Serbia*, *supra* note 13, at para. 198.

³⁰¹ *Prosecutor v. Krstic*, *supra* note 142, at paras. 12 (“In addition to the numeric size of the targeted portion, its prominence within the group can be a useful consideration. If a specific part of the group is emblematic of the overall group, or is essential to its survival, that may support a finding that the part qualifies as substantial within the meaning of Article [II].”), and 587, citing the Final Report of the Commission of Experts Established Pursuant to Security Council Resolution 780 (1992) “that an intent to destroy a specific part of a group, such as its political, administrative, intellectual or business leaders, ‘may be a strong indication of genocide regardless of the actual numbers killed.’”

Government records, Uyghur leaders and authoritative figures have been selectively targeted for detention, both in scope and scale. Uyghur cultural leaders are dying in detention from virtual death sentences.³⁰² Imams have been singled out as a “problem” to be eliminated,³⁰³ and are given severe prison sentences.³⁰⁴ There is a systematic region-wide strategy of detaining the middle-aged population, particularly household heads.³⁰⁵ The Karakax List also demonstrates a fixation on religious figures. The most extensive column meticulously details information about those within the detainee’s family, community, and “religious inheritance” circles, the latter documenting how religious knowledge is transmitted through family members or others.³⁰⁶ According to international jurisprudence, the “selective targeting of leading figures of a community” is particularly probative of genocide and “indicative of genocidal intent.”³⁰⁷

VI. State Responsibility: Attribution of Acts

The persons and entities perpetrating the acts of genocide detailed in this report are either State organs under Chinese law acting in their legislative, judicial, executive, administrative and other capacities, or others acting on the instructions of the State. In 2014, President Xi gave a number of internal speeches laying the groundwork for the policies, laws, and practices resulting in these genocidal acts targeting Uyghurs in the region. In these speeches, President Xi launched the “People’s War on Terror,” unleashed the “weapons” of “dictatorship,” urged officials to “show absolutely no mercy,” and made Southern XUAR, where Uyghurs make up nearly 90 percent of the population, the front line of the offensive. In 2014, President Xi convened a high-level conference to chart a new policy for the region. At the conference, President Xi called for erecting “walls” and “nets spread from the earth to the sky,”³⁰⁸ and ordered the transfer of Uyghurs to Han-dominated areas and the constant “education and transformation” of “these people,”³⁰⁹ which became synonymous with the mass surveillance, internment, and forced labour of Uyghurs in XUAR today. In 2014, President Xi also presided over a high-level CCP meeting where leaders adopted the policy of promoting Han-Uyghur marriages.³¹⁰ The related

³⁰² For a list of documented deaths in detention, see *Xinjiang Victims Database*, <https://shahit.biz/eng/#lists>. See also “Prominent Uyghur Poet and Author Confirmed to Have Died While Imprisoned,” *Radio Free Asia*, 25 Jan. 2021, <https://www.rfa.org/english/news/uyghur/poet-01252021133515.html>. Moreover, according to a first-hand account, elderly detainees as old as 80 years of age were the main targets of torture and inhumane treatment at the internment camp. Imams could be sentenced to more than 20 years, and hand-cuffed and shackled at all times (Victim # 67).

³⁰³ Grose, *supra* note 44, see Section “A history of “beautifying [Uyghur] spaces;” see also IJOP Bulletin No. 20, *supra* note 91.

³⁰⁴ Confirmed by eyewitnesses and reporting from *Xinjiang Victims Database*, where Imams comprise 13 percent of victims but 29 percent of those with formal prison sentences; *Demolishing Faith*, *supra* note 141.

³⁰⁵ Detailed Government records demonstrate that the demographic group of males between the ages of 45 and 54 are overrepresented. Based on local township spreadsheets, the percentage of household heads was the highest. For example, the internment share of household heads in Azatbag Township was 50.5 percent, by far the highest share, followed by “sons” at 20 percent; Zenz, *supra* note 95.

³⁰⁶ Zenz, *supra* note 42; One grandfather is cited as having been sentenced to six years in 2017 for passing down religious knowledge to his grandson; see *Ideological Transformation*, *supra* note 114, at 16, entry 64.

³⁰⁷ *Prosecutor v. Zdravko Tolimir*, Appeals Judgment, 8 Apr. 2015, para. 263, https://www.icty.org/x/cases/tolimir/acjug/en/150408_judgement.pdf; see also *Croatia v. Serbia*, *supra* note 168, Separate Opinion of Judge Bhandari, at paras. 15-21.

³⁰⁸ Leibold and Zenz, *supra* note 55.

³⁰⁹ *Absolutely No Mercy*, *supra* note 58.

³¹⁰ Wong, *supra* note 73.

Government programs mandating Han cadre homestays with Uyghur families are derived from official training manuals, campaigns, and instructions from government agencies like the XUAR regional Party Committee and the United Front Work Department, the body responsible for ethnic and religious affairs.³¹¹ The wider campaign of mass sterilization and IUD placements in the Uyghur dominated areas is largely implemented by the XUAR Health Commission in its official capacity and pursuant to regional directives and XUAR family planning documents under the “Special Campaign to Control Birth Control Violations.”³¹²

In August 2016, Chen Quanguo was appointed XUAR Party Secretary, where he intensified the “People’s War,” vastly expanding security measures and detention sites in the region, distributing Xi’s speeches to justify the campaigns targeting Uyghurs, and ordering officials to “round up everyone who should be rounded up”—a phrase repeated in internal documents.³¹³ In 2017, the XUAR People’s Congress passed new “De-Extremism” regulations that provided the legal framework underpinning the mass internment of Uyghurs. In June 2017, Zhu Hailun, then XUAR Deputy Secretary and top security official, issued a directive building on the orders from Party Secretary Chen and President Xi: “If they’re there, round them up.”³¹⁴ In early 2018, the CCP investigated and made an example of an official who released thousands of camp detainees, for “gravely disobeying the party central leadership’s strategy for governing Xinjiang,” which an internal government report charged as his refusal to “round up everyone who should be rounded up.”³¹⁵

Zhu Hailun also issued a set of documents, or bulletins, to “quickly dispatch to Party Secretaries” across the region, through the “Party Committee Command for Cracking Down and Assaulting on the Front Lines,” on how to police and detain the Uyghur population with digital surveillance.³¹⁶ In November 2017, XUAR’s Political and Legal Affairs Commission, in charge of regional security, issued the “Telegram” signed by Mr. Zhu, or the blueprint for the expansion of mass internment camps, including guidelines for increasing the “punishment” of detainees for the slightest veering from the everyday military-style routines, sanctioning the widespread torture methods employed by camp guards. Accordingly, these guards are carrying out executive functions as State organs or agents and are empowered by State organs to exercise such authority.

At a September 2020 CCP conference, President Xi gave his unequivocal approval to the continuation of these policies, practices, and campaigns, which “must be held to for the long term: “Practice has proven that the party’s strategy for governing Xinjiang in the new era is completely correct... On the whole, Xinjiang is presenting a favorable situation of

³¹¹ *China’s Uyghurs Told to Share Beds*, *supra* note 64.

³¹² Zenz, *supra* note 179.

³¹³ *Absolutely No Mercy*, *supra* note 58.

³¹⁴ *Ibid.*

³¹⁵ *Ibid.*

³¹⁶ Alecci, Scilla. “How China Targets Uyghurs ‘One by One’ for Using a Mobile App.” *ICIJ*, 24 Nov. 2019, <https://www.icij.org/investigations/china-cables/how-china-targets-uyghurs-one-by-one-for-using-a-mobile-app/>.

social stability... The facts provide ample proof that our country is successful in its ethnic policy.”³¹⁷

In sum, the persons and entities perpetrating the enumerated acts of genocide are State organs or agents under Chinese law, exercising their legislative, executive, administrative, and other functions, empowered by State law and acting on instructions and under the direct and effective control of the highest levels of the State. The commission of these enumerated acts of genocide, as set out in Article II of the Genocide Convention, against the Uyghurs are therefore necessarily attributable to the State of China.

In addition, the breadth and number of repeated and consistent acts of genocide occurring within a strong one-party State makes clear that China is in further breach of the Genocide Convention by failing to prevent genocide.

VII. Conclusion

This report examined the legal question of whether China bears State responsibility for breaches of Article II of the Genocide Convention, in particular, whether China is committing genocide against the Uyghurs as defined by Article II of the Convention. Upon application of the said provisions of the Genocide Convention to the mass of evidence presented herein, this report concludes, based on a clear and convincing standard of proof, that China is responsible for breaches of each provision of Article II of the Convention. The definition of genocide is met under Article II when *any* of the enumerated acts are committed with the requisite “intent to destroy, in whole or in part, [the protected group] as such.” The object of this intent is the destruction of the group’s existence as an entity as such. The intent required by the Convention is measured by objective standards, including official statements, policies, a general plan, a pattern of conduct, and repeated destructive acts, which have a logical sequence. In this context, the Head of State, President Xi, launched a “People’s War on Terror” in the region and made the Uyghur-concentrated areas the front line, arguing that extremism has taken root in Uyghur society. Camp guards reportedly follow orders to uphold the system in place until “Kazakhs, Uyghurs, and other Muslim nationalities, would disappear ... until all Muslim nationalities would be extinct.” High-level officials gave orders to “round up everyone who should be rounded up,” “wipe them out completely ... destroy them root and branch,” and “break their lineage, break their roots, break their connections and break their origins.” Officials have likened the mass internment campaign to “eradicating tumors” and even uprooting weeds hidden among crops, which require spraying “chemicals to kill them all.”

China has simultaneously pursued a dual systematic campaign of forcibly sterilizing Uyghur women of childbearing age and interning Uyghur men of child-bearing years,

³¹⁷ Wong, *supra* note 1; Wong, *supra* note 73.

preventing the regenerative capacity of the group. China explicitly admits that “Uyghur women” are the targets of its birth prevention campaign in the region, which is linked to its offensive against “extremism,” as China’s Embassy in the US publicly stated: “In the process of eradicating extremism, the minds of Uyghur women in Xinjiang were emancipated ... making them no longer baby-making machines.”

The intent to destroy the Uyghurs as a group is further demonstrated by the comprehensive Government policies and programs directed at erasing all aspects of Uyghur identity, community, and domestic life, and institutionalizing Uyghur children in state-run orphanages. Pursuant to these Government campaigns, local authorities have eliminated Uyghur education, destroyed ethnically distinct Uyghur architecture and household features, and damaged or completely demolished the majority of mosques and sacred sites, while closing off other sites or converting them into commercial spaces, and destroying essential elements of Uyghur identity and communal bonds. The intent to destroy the Uyghurs as a group is still further demonstrated by the Government’s deliberate targeting of the guardians and transmitters of Uyghur identity for prolonged detention or death, including household heads, authoritative figures, traditional and professional elites, and cultural leaders, regardless of Party affiliation or educational status. China’s policies and practices in the region must be viewed in their totality, which amounts to an intent to destroy the Uyghurs as a group, in whole or in part, as such.

While commission of any one of the enumerated acts will sustain a finding of genocide, the evidence presented here supports a finding that genocide is being committed against the Uyghurs, an ethnic group with protected status, under Article II paragraphs (a) through (e).

First, under the mass internment drive, there are reports of mass death and deaths of prominent Uyghur leaders who have been selectively sentenced to death by execution or, for elders in particular, by long-term imprisonment, such as 15 to 20 years in prison. These State-sanctioned deaths under the framework of the mass internment of Uyghurs in the region amount to “killing members of the group” under Article II (a).

Second, Uyghurs are suffering from systematic torture and cruel, inhumane, and degrading treatment, including rape, sexual abuse, and public humiliation, both inside and outside the camps. Internment camps are designed with built-in interrogation rooms, where consistent forms of torture against Uyghurs are well-documented. The Government homestays, mass internment, State-run orphanages, and forced labor schemes are each designed to indoctrinate and “wash clean” brains, driving Uyghurs to commit or attempt suicide from the threat of internment or the daily extreme forms of physical and psychological torture within the camps, including mock executions, public “self-criticisms,” and solitary confinement. China is therefore responsible for “causing serious bodily or mental harm to members of the group” as per Article II (b).

Third, Chinese authorities have systematically detained Uyghurs in unliveable conditions, particularly men of childbearing years, household heads, and community leaders, imposed birth prevention measures on Uyghur women, and transferred Uyghurs into forced physical labor. In sum, China is deliberately “inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part” as per Article II (c).

Fourth, China is carrying out a well-documented, State-funded birth prevention strategy targeting all women of childbearing age in Uyghur-concentrated areas with mass sterilization, abortions, and IUD placements. In 2019 alone, the Government planned to subject at least 80 percent of women of childbearing age in Southern XUAR to sterilizations or IUD placements. In the camps, female Uyghur detainees are subjected to forced IUD insertions, abortions, and injections and medications halting their menstrual cycles. The mass internment campaign supplements the XUAR Health Commission’s campaign of reducing Uyghur births by selectively imprisoning Uyghurs of childbearing age, depriving them of the ability to reproduce. As a result of these interconnected policies, Government statistics demonstrate that growth rates in Uyghur-concentrated areas are increasingly approaching zero. China is therefore clearly responsible for “imposing measures intended to prevent births within the group” as per Article II (d).

Finally, as Uyghur parents are increasingly detained in internment camps and forced labor facilities, Uyghur children are being sent to State-run orphanages and raised in Chinese-language environments with standard Han child-rearing methods. China is thus “forcibly transferring children of the group to another group,” as per Article II (e) of the Genocide Convention.

The persons and entities perpetrating these acts of genocide are all State organs or agents under Chinese law, acting in their official capacities, or under the effective control of the State. The nature of these interconnected and composite acts inescapably demonstrates the clear, effective, and firm control of the State, which cannot reasonably be attributed to others beyond the effective control of the State, to accident, or to chance. In terms of the Genocide Convention, the long-established, publicly and repeatedly declared, specifically targeted, systematically implemented, and fully resourced policy and practice of China toward the Uyghurs is inseparable from “the intent to destroy” the Uyghurs as a group, in whole or in part, as such. Therefore, China bears State responsibility for an ongoing genocide against the Uyghurs, in breach of the Genocide Convention.

Appendix

This report has been produced with the contributions of, and upon consultation with, numerous independent experts, including the following who have agreed to be identified publicly:

Yonah Diamond

Yonah Diamond is an international human rights lawyer specializing in atrocity prevention and political prisoner advocacy at the Raoul Wallenberg Centre for Human Rights. He co-authored and served on the steering committee of the legal report, *Cameroon's Unfolding Catastrophe: Evidence of Human Rights Violations and Crimes against Humanity*. He has lectured at McGill University's Max Bell School of Public Policy and the European Parliament's Sakharov Fellowship Programme, and published widely on human rights, international justice, and peace and reconciliation. Yonah Diamond served this project as principal author.

Rayhan Asat

Rayhan Asat is an Uyghur human rights attorney based in Washington DC. A graduate of Harvard Law School and former anti-corruption attorney at a major U.S. law firm, Rayhan specializes in international human rights law. She has advised major international institutions including the World Bank Group on human rights reforms, and has been widely published in both academic journals and major media outlets on a wide range of matters relating to international law and human rights. Rayhan is currently a Senior Fellow at the Raoul Wallenberg Center for Human Rights and is also the Founder and President of the American Turkic International Lawyers Association.

Adejoké Babington-Ashaye

Adejoké Babington-Ashaye is an international law expert. She is actively engaged in the provision of technical support and advice for national prosecution and investigation of international crimes through UNODC and The Wayamo Foundation, and was an investigator at the International Criminal Court (2005- 2010). Former Senior Counsel, World Bank (2012 - 2021) and Former Associate Legal Officer, International Court of Justice (2010 - 2012).

Hon. Lloyd Axworthy

The Honourable Lloyd Axworthy is the chair of the World Refugee & Migration Council and one of Canada's leading voices on global migration and refugee protection. After a 27-year political career, where he served as Canada's Minister of Foreign Affairs and Minister of Employment and Immigration, among other postings, Dr. Axworthy has continued to work extensively on human security, global refugee protection and human rights. He was presented with the Pearson Peace Medal by the Governor General of Canada in May 2017. He is Past President and Vice-Chancellor of the University of Winnipeg and Past-President of St. Paul's University College.

Dr. Darren Byler

Dr. Darren Byler is a postdoctoral researcher in the ChinaMade project at the University of Colorado, Boulder. He has provided expert testimony on Uyghur human rights issues before the Canadian House of Commons and writes a regular column on these issues for *SupChina*.

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Dr. Michael Clarke is Associate Professor at the Crawford School of Public Policy, Australian National University, and Visiting Fellow at the Australia-China Relations Institute, University of Technology Sydney. He is an expert on the history and politics of the Xinjiang Uyghur Autonomous Region (XUAR), People's Republic of China (PRC) and Chinese foreign and security policy.

Hon Irwin Cotler

Irwin Cotler is the Chair of the Raoul Wallenberg Centre for Human Rights, an Emeritus Professor of Law at McGill University, former Minister of Justice and Attorney General of Canada and longtime Member of Parliament, and an international human rights lawyer.

Dr. Joanne Smith Finley

Dr. Joanne Smith Finley joined Newcastle University in January 2000, where she is Reader in Chinese Studies with three decades of expertise in Uyghur studies. She serves as expert witness in Uyghur asylum cases in the UK, Europe, US and Canada, and advises legal firms, refugee support organizations, government departments, non-governmental organizations and think tanks.

The Hon. Yves Fortier, PC, CC, OQ, QC, AdE, LLD - Cabinet Yves Fortier

He is a past President of the London Court of International Arbitration. From July 1988 until February 1992, he was Canada's Ambassador to the United Nations. In 1989, he was President of the UN Security Council. From 1992 until 2008, he was Chairman of Norton Rose. He practices now as an international arbitrator and mediator. From 2012 to 2015, Mr. Fortier was Chairman of the Sanctions Board of the World Bank. In 2013, Mr. Fortier was appointed to Canada's Security and Intelligence Review Committee.

Professor Rachel Harris

Rachel Harris is a Professor in Ethnomusicology at SOAS, University of London. Her research is centered on China and Central Asia, and especially on the Uyghurs. I have conducted fieldwork in Xinjiang, Kazakhstan and Kyrgyzstan over a period of twenty years. She currently co-convenes the Middle East and Central Asia Music Forum, and I am series editor for the Routledge SOAS Studies in Music Series.

Baroness Helena Kennedy QC

Baroness Helena Kennedy QC is Director to the International Bar Association's Human Rights Institute where she directs the Institute's work upholding the rule of law and human rights globally. She is the founding force behind the establishment of the Bonavero Institute of Human Rights at the University of Oxford and has conducted many prominent cases of terrorism, official secrets, and homicide. In 1997, she was elevated to the House of Lords where she is a Labour peer.

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Jennifer Kirby-McLemore serves as Legal Director for Genocide Watch. She holds a Bachelor's in Biology with a focus on Sustainable Development (Appalachian State University), a Master's in Social Sciences with a focus on Human Rights and Genocide Studies (University of Chicago), and a JD (University of Mississippi). In addition to practicing law, she conducts independent research and academic editing.

Kyle Matthews

Kyle Matthews is the Executive Director of the Montreal Institute for Genocide and Human Rights Studies (MIGS) at Concordia University which he joined in 2008. At Concordia he founded the Raoul Wallenberg Legacy of Leadership project as well as the Digital Mass Atrocity Prevention Lab, which works to counter online extremism and study how social media platforms are being used as a weapon of war. He previously worked for the United Nations High Commissioner for Refugees in Tbilisi, Kinshasa and Geneva.

Professor Martha Minow

Martha Minow is the 300th Anniversary University Professor and former Dean of Harvard Law School, where she has taught since 1981. She is an expert in human rights, international criminal justice, ethnic and religious conflict, and advocacy for minorities, women, children, and persons with disabilities. Professor Minow served on the Center for Strategic and International Studies Commission on Countering Violent Extremism and on the Independent International Commission on Kosovo. She helped launch Imagine Co-existence, a program of the U.N. High Commissioner for Refugees, to promote peaceful development in post-conflict societies.

Professor John Packer

Professor John Packer is Neuberger-Jesin Professor of International Conflict Resolution in the Faculty of Law and Director of the Human Rights Research and Education Centre at the University of Ottawa. For over 20 years he worked for inter-governmental organizations (UNHCR, ILO, OHCHR, UNDP, OSCE) including investigations of serious violations of human rights notably in Iraq, Afghanistan, and Burma/Myanmar. He is a former Senior Legal Adviser and the first Director of the Office of the High Commissioner on National Minorities of the Organisation for Security and Cooperation in Europe. Professor Packer served this project as principal advisor.

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Max Pensky is Professor of Philosophy at Binghamton University, the State University of New York, where he is founding Co-Director of the Institute for Genocide and Mass Atrocity Prevention (I-GMAP). He has held fellowships at Goethe University Frankfurt as well as Oxford and Cornell Universities.

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Emily Prey is a Senior Analyst at the Newlines Institute for Strategy and Policy. She is a gender expert specializing in genocide and transitional justice with a Master's in Gender Analysis and Human Security from The Fletcher School of Law and Diplomacy. Prey has worked for UNICEF, International Rescue Committee, and several global NGOs on child rights and protection, human trafficking, and gender-based violence.

Professor Sean Roberts

Sean Roberts is Director of the International Development Studies program at George Washington University's Elliott School of International Affairs where his research is focused on China's development of the Xinjiang Uyghur Autonomous Region. He has studied the Uyghur people for 30 years.

Ambassador Allan Rock

Allan Rock is President Emeritus and Professor of Law at the University of Ottawa. He practised for 20 years as a trial lawyer in Toronto before his election to Parliament, where he held multiple Cabinet posts including Minister of Justice and Attorney General of Canada. He later served as Canadian Ambassador to the United Nations in New York, where he led the successful Canadian effort to secure, at the 2005 World Summit, the unanimous adoption by UN member states of The Responsibility to Protect populations from genocide, ethnic cleansing and other mass atrocities.

Erin Farrell Rosenberg

Erin Farrell Rosenberg is an attorney specializing in international criminal law and reparations, having worked at the ICTY and the International Criminal Court. She is the former Senior Advisor for the Center for the Prevention of Genocide at the US Holocaust Memorial Museum, where she was the lead author for the report series, *Practical Prevention: How the Genocide Convention's Obligation to Prevent Applies to Burma*. She is a member of the Editorial Committee of the Journal of International Criminal Justice (JICJ) and the ABA Working Group on Crimes Against Humanity.

Ambassador Beth Van Schaack

Beth Van Schaack is the Leah Kaplan Visiting Professor in Human Rights at Stanford Law School where she teaches in the areas of international human rights, international criminal law, and human trafficking, among other subjects, and has been the Acting Director of the Human Rights & Conflict Resolution Clinic. Prior to returning to academia, she served as Deputy to the Ambassador-at-Large for War Crimes Issues in the Office of Global Criminal Justice of the U.S. Department of State under Secretaries Clinton and Kerry.

Ambassador David Scheffer

David Scheffer is Clinical Professor Emeritus and Director Emeritus of the Center for International Human Rights, Northwestern University Pritzker School of Law. He is the former U.S. Ambassador at Large for War Crimes Issues (1997-2001) and former U.N. Secretary-General's Special Expert on U.N. Assistance to the Khmer Rouge Trials (2012-2018).

Dr. Rainer Schulze

Dr. Rainer Schulze is Professor Emeritus of European History and former Director of the Human Rights Centre, University of Essex in the United Kingdom. Founding Editor of the journal *The Holocaust in History and Memory*, Project Leader for the Re-Development of the Memorial Site at the former concentration camp Bergen-Belsen, and Consultant for the Holocaust Exhibition at the Imperial War Museum London, Professor Schulze is a globally renowned expert in the Holocaust and Memory and Memorialisation of the Holocaust, defining Holocaust in a comprehensive and inclusive way, including not only the persecution and extermination of the Jews, but also the genocide of the Roma and Sinti, the "Euthanasia" killings of disabled people, the persecution of gay men as well as the persecution of all other groups regarded as "Other" in the attempt to create a homogeneous Volksgemeinschaft.

Djaouida Siaci

Djaouida Siaci is an international lawyer specializing in international litigation and arbitration, and cross-border criminal investigation with a focus on the Middle East and North Africa (MENA) region. As part of her pro bono work, Djaouida has been engaged in efforts to pursue international justice and accountability on behalf of victims of human rights violations and mass atrocities, including the Rohingya ethnic-minority. She is the founder and vice-president of the Rohingya Support Group (RSG).

Dr. Stephen D. Smith

Dr. Stephen D. Smith is the Finci-Viterbi Executive Director of USC Shoah Foundation, and holds the UNESCO Chair on Genocide Education. Smith founded the UK Holocaust Centre in Nottinghamshire, England and cofounded the Aegis Trust for the prevention of crimes against humanity and genocide. Smith has served as a producer on a number of film and new media projects, including *Dimensions in Testimony*, and the VR project *The Last Goodbye*.

Dr. Gregory H. Stanton

Dr. Gregory H. Stanton is Founding President of Genocide Watch, founder of the Cambodian Genocide Project, and founder of the Alliance Against Genocide. He was President (2007 - 2009) of the International Association of Genocide Scholars (IAGS). While in the US State Department, he drafted the UN Security Council Resolutions that created the International Criminal Tribunal for Rwanda.

Chief Charles Taku

Chief Taku is a certified leading International law expert of forty years professional and trial experience. He is the immediate past President of the International Criminal Court Bar Association (ICCBA) and a Trustee and member for life of the Executive Governing Council of the African Bar Association (AfBA). Over the last two decades, he represented clients at the International Criminal Tribunal for Rwanda, the Special Court for Sierra Leone, the International Criminal Court, the United Nations Human Rights Committee in Geneva and the African Court on Human and Peoples' Rights in Arusha Tanzania.

Dr. György Tatár

Dr. György Tatár is the Chair of the Board of Trustees of the Foundation for the International Prevention of Genocide and Mass Atrocities established in Budapest, Hungary, since 2011. Prior to joining the Foundation, from 2004 to 2010 he worked for the EU High Representative for Common Foreign and Security Policy in the capacity of Head of Task Force for Horizontal Security Issues and Conflict Prevention within the Policy Planning and Early Warning Unit. From 1977 to 2004, he served in the Ministry for Foreign Affairs of Hungary in various positions in Budapest and in the Embassies of Hungary in Baghdad, Prague and Vienna.

Professor Ruti Teitel

Ruti Teitel is the Ernst C. Stiefel Professor of Comparative Law at New York Law School. An internationally recognized authority on international law, international human rights, transitional justice, and comparative constitutional law, she has published several books, including her path-breaking work *Transitional Justice* (OUP 2000), as well as *Globalizing Transitional Justice* (OUP 2014) and *Humanity's Law* (OUP 2011). Currently, she is Visiting Professor at the Hebrew University School of Law, where she co-directs the Fried-Gal Transitional Justice Program.

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Dr. Stanley Toops is Associate Professor of Geography and International Studies specializes in the Xinjiang Uyghur Autonomous Region. He has published articles on tourism, population, trade, handicrafts, landscapes, politics and ecological issues in Xinjiang, as well as tourism, society, and development aspects of China's geography.

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