

# WORLD UYGHUR CONGRESS

## BRIEFING ON HUMAN RIGHTS CONDITIONS IN THE XINJIANG UYGHUR AUTONOMOUS REGION OF CHINA (2013-2016)

SUBMITTED FOR THE CONSERVATIVE PARTY HUMAN RIGHTS COMMISSION

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## I. SUMMARY:

The importance of the protection of human rights has been trending downward under China's current leader, Xi Jinping, since he took power in 2013. Since then, China's strategy has moved from mere rhetoric to passing concrete legislation that will certainly have the effect of limiting the rights of the Uyghur community in particular in Xinjiang. Recently, we have seen this in the passage of China's *National Security Law* and the *Anti-Terrorism Act* over the past year, as well as the introduction of the *Overseas NGO Management Law*, which passed its second reading in May 2015, and the *Network Security Law*, which was first introduced for public comment in July.

By now, it cannot be more clear that open dissent is not tolerated by the state. Although demonstrations and protests had been met by deadly force beginning in the 1990s in Xinjiang, collective action by Uyghurs in Xinjiang continued in the years following. Even until 2014, media reports suggested that small demonstrations continued, and were met with the same heavy resistance. It is now more clear that the consequences of any form of open resistance may be severe and result in unjustifiably long prison sentences, or in other cases, extrajudicial killing at the hands of security forces. Because police and security forces are almost never held to account over the death of civilians, they rarely exercise restraint in their use of force.

The result of these measures is a worsening climate of fear and helplessness. The Chinese Communist Party continues to abuse the entire Uyghur population of Xinjiang under the guise of "stability maintenance" or "counter-terrorism". It must be noted that although a miniscule fraction of the Uyghur population living in the region has turned to violence in response to China's heavy-handed policies, it in no way legitimizes broad and dangerous generalizations or collective punishment.

Major human rights issues permeating the Uyghur community in Xinjiang only worsened between 2013 and 2016. Increased restrictions on religious practice continued as mosque-goes were monitored, religious teachers tightly controlled by authorities and prohibitions on religious expression led to many arrests. Continued economic disparities between the Uyghur and Han populations have gone unaddressed and China's economic development plans have not yet made any explicit effort to address the underlying problem. The detention of prominent Uyghurs also continued over the past three years including Uyghur academic, Ilham Tohti, as well as family members of human rights defenders overseas.

This current briefing looks to provide a concise picture of the human rights conditions Xinjiang since Xi Jinping took power in 2013 and draws upon data from annual WUC reports since then. The report is broken into sections examining the most significant issues facing the Uyghur community in particular in the context of China.

## II. PRIMARY ISSUES OF CONCERN:

### Religious Freedom:

#### **Key summary points:**

- **Religious activity outside state-sanctioned mosques now deemed illegal**
- **Religious practice conflated with extremism – provides China with nearly unlimited powers of detention**
- **Ramadan restrictions increase markedly over the past 3 years**

Religious freedom for the Uyghur community has long been under threat from China's highly restrictive policies. The government continues to maintain firm control over all religious activities among Uyghurs, effectively limiting religious practice to those above 18 and within state-sanctioned mosques – mosques that have been dwindling in number in recent years. The mosques that remain are diligently monitored by Chinese authorities. Imams and other religious leaders are selected by the state and their own teaching and publications are tightly controlled.<sup>1</sup> The net result of these regulations has been the effective criminalization of Islam practiced outside these state-controlled mosques.

Since 2013, there has also been a steady increase in the conflation of quotidian religious practice with extremism which will provide the state with nearly unlimited powers to arbitrarily detain members of the Uyghur community. Chinese officials have been able to effectively capitalize on negative Western attitudes towards what may be seen as violence perpetrated in the name of Islam, despite tenuous links made to the motivation of that violence. Unjustified violence perpetrated by a tiny minority of the Uyghur community in Xinjiang reflects a clear dissatisfaction with the deteriorating conditions in which Uyghurs are forced to live, and certainly not a turn to religious extremism – as has been suggested by those wishing to demonize a community of millions for the actions of a few.

Specific cases illustrating this phenomenon include the detention of a Uyghur man from Kashgar, who was sentenced to six years in prison for “picking quarrels and provoking trouble” for refusing to trim his long beard. His wife was also handed a two year sentence for her alleged role.<sup>2</sup> Periodic and scattered attempts at banning Islamic dress, including headscarves for women, and crescent shaped beards worn by a group of men. The latter of which carried a punishment of between one and three years for “religious extremism” after the men had attended what the authorities called “unsanctioned Islamic sessions”.<sup>3</sup>

Chinese authorities have also reportedly ordered restaurants and supermarkets in Laskuy township to sell both cigarettes and alcohol along with “eye-catching” displays, or risk having their businesses shut down.<sup>4</sup> A total of 22 traditional Uyghur Muslim names have also been banned for children, with authorities threatening to deny their right to attend school if the policy is not followed. In one instance, a Uyghur woman was confronted by police at her home and informed that she must change the name of her daughter, *Muslime*, because it has now been officially forbidden.<sup>5</sup> The policy is linked with China’s general drive to prohibit children from engaging in religious activities as those under 18 remain unable to receive any kind of religious instruction.

Bans on the practice of Ramadan for students and government employees began back in 2011 and have intensified each year since then. Food and water has been provided in the middle of the day for students and government officials in some areas were made to swear not to fast or risk losing their jobs. Although there was no outright ban, the practice was generally discouraged among the rest of the Uyghur population with a number of restaurants having been forced to remain open during daylight hours or risk being shut down. Restaurants that remained open would also reportedly get fewer visits from food safety inspectors.<sup>6</sup>

On top of many of these already demanding restrictions, authorities in some areas have taken to crowdsourcing the collection of information about Uyghurs taking part in “illegal religious activities”. A notice posted by the Shayar country government on 14 April 2014, detailed how informants may be entitled to receive a reward for reporting on their fellow residents who exhibit one of 53 proscribed activities.

## Imprisonment of Ilham Tohti:

### **Key summary points:**

- **Ilham Tohti remains in prison, despite UN Working Group finding his detention officially arbitrary**
- **Denied access to a lawyer for six months, denied access to family**
- **International community widely condemned the arrest and subsequent sentencing**

Ilham Tohti is an ethnically Uyghur economist, writer, intellectual and was a professor at Minzu University in Beijing, China. He is one of the most prominent scholars on Uyghur issues and was the founder of the website *Uyghur Online* – a platform launched to promote conciliation between Uyghurs and Chinese. Tohti was detained by the Chinese government back on January 15, 2014, on initial charges of “inciting separatism”, tried from September 23-24 in Urumqi, and convicted of “inciting separatism” and sentenced to life in prison, where he remains in 2016.

The entire ordeal involving Mr. Tohti was marred by irregularities and the outright perversion of any fair legal process. Beginning with his questionable arrest in January, denial of family visits or access to legal counsel, denial of adequate food and water, and the total disregard for internationally accepted legal rights, the case is a textbook example of how a corrupt legal system is able bend and distort due process for state purposes.

Mr. Tohti was unable to meet with a lawyer for six months following his arrest with one of his lawyers having been forced to quit the case following political pressure. Subsequently, lawyers who represented Tohti in the past have been arrested and sentenced, including Wang Yu, who was arrested in a sweeping crackdown in July 2015 and then sentenced on charges of “subversion of state power” in January 2016.

The UN Working Group on Arbitrary Detention (WGAD), in an opinion adopted between April 22 and May 1, found that, “The deprivation of Mr. Tohti is arbitrary, being in contravention of articles 9, 10, 11, 18, 19, 20 and 21 of the Universal Declaration of Human Rights” and urged the government to “take the necessary steps to remedy the situation, which include the immediate release of Mr. Tohti and to grant him compensation for the harm he has suffered during the period of his arbitrary detention”.

The international community was outspoken about the case prior to and following the sentence. Following his trial in September, President Obama personally urged China to release Professor Tohti. Both the US and UK foreign ministries as well as the European Union also weighed in against China’s decision. A spokesperson from the UK’s foreign office stated that, “Without any transparency, it is hard to have confidence that proper judicial standards were upheld”, which was echoed in a statement made by US Secretary of State, John Kerry, stating that “this appears to be retribution for Professor Tohti’s peaceful efforts to promote human rights for China’s ethnic Uyghur citizens”.

Seven of Tohti’s students, who had been held indeterminately, were also sentenced to up to eight years in prison for their association with Tohti.

## Anti-Terror Campaign:

### **Key summary points:**

- **Passage of broad and highly restrictive *Anti-Terror Act* in 2015 will legitimize further human rights abuses**
- **Counter-terror measures used as a justification for the suppression of Uyghur rights across the board**
- **Numbers of Uyghurs arrested and sentenced on terrorism charges has grown dramatically**

The discourse of terror in China has been very much a recent development since the terrorist attacks on 11 September 2001. Although there was occasional mention of the threat of terrorism in the 1990’s, Uyghur protests in Xinjiang throughout the decade and the violence that often ensued was not framed by the state in such a way. Language that reflected responses to *crime*, *hooligans* and *gangs* was consistently present in state media reports.<sup>7</sup> A much different picture was painted just a month later, however, as the Chinese government hurriedly began drawing tenuous links between violence in the region and global terror networks.<sup>8</sup>

The government has been employing counter-terror measures as a justification for the suppression of Uyghur rights across the board. China’s ostensible campaign against the “three evil forces” (terrorism, religious extremism and separatism) has explicitly served to draw a direct line from fundamental aspects of Uyghur culture to terrorist activities. The result has been a broad criminalization of Uyghur life as the community itself becomes increasingly, and erroneously, synonymous with the international terror threat. The primary source of information drawn from the region remains Chinese state media – information that is then reproduced for Western audiences despite a clear lack of critical examination.

A notorious example has been China’s insistence of the involvement of the Xinjiang Islamic Movement (ETIM) in all violence sparked in the region. The first mention of the group came shortly following 9/11 in a White Paper released by the government that made clear links between actors in Xinjiang and international terror networks. The claims have not stood up to close scrutiny, however, as few, if any, members of the academic community were even aware of the existence of the group prior to China’s statements on the subject.<sup>9</sup> Since then, the ETIM has served as the exemplification of, and scapegoat for, the scourge of terrorism in the region.

China introduced early drafts of anti-terrorism legislation as far back as November 2014, drawing serious concern from the international community, with its final draft being passed by the National People’s Congress (NPC) on 27 December 2015 – the *People’s Republic of China Anti-Terrorism Act*.<sup>10</sup> Chief among the concerns have been the

incredibly broad and vague language of its definition of terrorism and terrorist activities, effectively reserving the power to implicate large swaths of the Uyghur community in terrorist acts.

The conflation of religious “extremism” and terrorism is also a worrying trend that has been further reinforced by the legislation.<sup>11</sup> Any religious activity that takes place outside state-sanctioned mosques is already deemed illegal in Xinjiang, compounding the risk that Uyghurs may be arraigned on terrorism charges for religious practice that falls well within legal international human rights norms. The Act also implicates those who, “forc[e] others to participate in religious activities”,<sup>12</sup> making it clear that parents wishing to provide any kind of religious instruction to their children akin to terrorists.

The legislation, however, includes a clause that ostensibly protects persecution based on religious beliefs or ethnic customs, stating that, “In counter-terrorism work, we should respect citizens’ freedom of religious belief and ethnic customs, prohibiting any work based on geographical, ethnic, religious and other grounds for discriminatory practices”.<sup>13</sup> Despite this constructive language, such passing mention of human rights merely pays lip service to international legal standards – as is the case in much of Chapter Two of the Constitution of the PRC that enumerates many of the fundamental rights expected in any democratic country, though rendered meaningless without effective enforcement mechanisms.

Article 2 states that other states should not “...provide asylum to any terrorist activities or the granting of refugee status”. The troubling aspect of this passage is its implications when coupled with the already broad and malleable language in the rest of the Act that could allow persecuted Uyghurs seeking asylum to be capriciously returned to China to face unwarranted trial. Such was the case on 8 July 2015, when 109 Uyghurs – who had been held in immigration detention facilities in Bangkok, Thailand, after fleeing Xinjiang – were returned to China in clear violation of the UN Refugee Convention.<sup>14</sup> The group included women and children and drew the ire of the international community including European Union foreign affairs chief Federica Mogherini.<sup>15</sup> The article will inevitably open the door even further for the denial of these internationally recognized rights.

## State Surveillance & Freedom of Movement:

### ***Key summary points:***

- **Broad legislation aims to monitor Uyghurs suspected of vaguely illegal activities**
- **Chinese government continues to harass and intimidate overseas activists**
- **Students are urged to spy on fellow Uyghurs in classes and dormitories**

China passed its National Security Law<sup>16</sup> on 1 July 2015, that enumerates extensive and ambiguous powers now legally available to the state. The legislation further constructs a framework in which all potential interests of the government may now be viewed within the context of national security, declaring broadly that cyberspace, outer space, the ocean depths and the polar region to be within such interests.

China’s Anti-Terrorism Act obliges telecommunications companies to provide requested information to Chinese authorities in cases involving what is broadly defined as terrorist activities.<sup>17</sup> According to the legislation, all telecommunication and internet service providers would also be obligated to store user data within its borders, potentially for future use by the government. The aforementioned legislation has also been buttressed by the more narrow scope of the draft Network Security Law<sup>18</sup> that was introduced for public comment on 6 July 2015, and will likely pass in mid-2016. A statement made in April 2015 suggested that security networks would also be set up to cover all grassroots communities as well as the use of more surveillance cameras.<sup>19</sup>

Surveillance has also increasingly been assigned to ordinary citizens, Party members and students. Uyghur students at Xinjiang University in Urumqi are now faced with the prospect of anonymous student informers who have been instructed to report to ‘political guides’ about discordant political or religious views among the Uyghur student population.<sup>20</sup> Discussions and debates that veer into political or religious territory have been meticulously recorded in classrooms, dormitories and other locations throughout the university by informers.

Informers are increasingly being drawn from the Uyghur student population as a more effective means of infiltrating the group. These students then submit compiled reports to ‘political guides’ who reportedly operate in every department of the university and are directly supervised by the Communist Party’s university branch. The informers benefit from the program as they are provided special recommendations from the Party upon their return to their home prefecture or to their potential employers.

Two brothers of Radio Free Asia reporter, Shohret Hoshur – who focuses his journalistic work specifically on Xinjiang – were detained and put on trial in August, 2014. Rexim and Shawket Hoshur were both charged with “endangering state security” and “leaking state secrets” following a telephone conversation between the two and Shohret in the US, complaining about the arrest of a fourth brother, Tudaxun Hoshur, who was detained two months earlier and remains in prison.<sup>21</sup> No verdict was issued regarding Rexim and Shawket, however, and the brothers were released unexpectedly on 30 December 2015, amid pressure from Western governments.<sup>22</sup>

A more recent phenomenon has been the rigorous inspection of the contents of smartphones held by Uyghurs. The contents of their phones have been examined thoroughly for signs of, “extremist or religious texts and videos.” It was reported that smartphone searches notably increased following the attacks in Paris on November 13, 2015, and continued into early 2016.<sup>23</sup> In addition to roadblocks and checkpoints, local police in Hotan prefecture had even set up a special group designed to check the phones once a week since May, 2015.

## Refugees and Asylum Seekers:

### **Key summary points:**

- **China presses neighboring states to return Uyghur refugees and asylum seekers**
- **109 Uyghurs forcibly returned to China from Thailand in contravention of the Refugee Convention**

The internationally recognized rights of asylum seekers have been consistently flouted by the Chinese government for decades, and Xi Jinping has only intensified this policy. Throughout 2015, there have been ongoing concerns that hundreds of Uyghurs who had fled Xinjiang to South East Asia found themselves in a very precarious position. These fears were affirmed on 8 July 2015, when 109 Uyghur refugees were returned to China from an immigration detention facility in Bangkok, Thailand, despite widespread condemnation from the international community. The UN Refugee Agency (UNHCR) had reportedly been given assurances by Thai authorities that those in detention would be safe from persecution, as the group made it plainly clear that they did not want to be deported. Although it was reported that the Thai government sent a delegation to China in order to check on the state of those returned, there has been no official report or statement concerning the state of the group or their whereabouts.<sup>24</sup>

The deportation came after months of deliberations and pressure to ensure that a number of Uyghur groups, who had fled around the same time to both Thailand and Malaysia, would not have their rights under the 1951 Refugee Convention contravened. It was reported on 13 March 2014 that a group of 62 Uyghurs were arrested by Malaysian border control personnel while attempting to cross into Thailand on the northern border. Around the same time, another 200 were found in a human smuggling camp in southern Thailand and were transported to an immigration detention facility in Bangkok. Additionally, another group of 155 Uyghurs were found crammed into two tiny apartment units in Kuala Lumpur, Malaysia, on 1 October 2014, and were subsequently transported to the Kuala Lumpur International Airport Immigration Detention Depot.<sup>25</sup>

The July deportations came on the heels of Turkey’s acceptance of 173 Uyghurs from the same facility in Bangkok, suggesting that the move may have been in direct response to that action. This approach also indicates the likely intention of the Thai government to appease both the international community and their call to observe international law on the one hand, and heavy pressure from China – a major economic partner – on the other. The ostensible justification given by the Chinese government was that the group was made up of “illegal immigrants” who should therefore be rightfully returned to China in the meantime. As of early 2016, a group of around 50 Uyghurs remain in the Thai facility waiting to have citizenships verified.

The act of forcibly repatriating individuals or groups who make it clear about their desire not to be returned to their home country is a clear infringement of well-established international law. The non-refoulement principle spelled out in the 1951 Refugee Convention – to which China is a state party – requires that states do not allow for the forcible return of refugees or asylum-seekers to territories where their “life or freedom would be threatened on account of race, religion, nationality, member of a particular social group, or political opinion”. Consequences of this kind of treatment have included arbitrary arrest and detention, abuse, and typically involves dubious criminal charges levelled against those who are returned. The Chinese government has repeatedly called such escapees criminals and all those who are to be returned will most certainly be treated in such a manner.

## Inadequate Legal Protections:

### **Key summary points:**

- **Uyghur detainees routinely denied access to *any* form of legal representation upon arrest – particularly those detained on charges of endangering state security or terrorism**
- **Once arrests have been made, it can take months for authorities to conduct and conclude investigation**

Basic legal rights, including the right to legal representation, a fair and prompt trial, and due process remain far out of reach for the vast majority of Uyghurs. Even in exceptional cases, like that of Ilham Tohti – whose detention was ruled arbitrary by the UN Working Group on Arbitrary Detention following his initial arrest<sup>26</sup> – lawyers, if Uyghurs are able to secure them, have been prohibited from meeting with clients for months. There is little evidence suggesting that the thousands of Uyghurs arrested each year on charges relating to illegal religious practice or similar crimes are provided any legal representation whatsoever, despite a superficial legal aid system.

Oftentimes, the justification for denying legal aid involves the state’s ostensible concerns that the client may leak state secrets to their lawyers during these sessions. China’s amended Criminal Procedure Law stipulates that, “Where a defense lawyer files a request during the period of criminal investigation for a meeting with a criminal suspect in custody who is suspected of compromising national security, terrorist activities, or extraordinarily significant bribery, the meeting shall be subject to the permission of the criminal investigation authority”.<sup>27</sup> This loophole effectively allows investigative authorities to deny lawyers access to their clients if they are accused of these broadly defined crimes – crimes that disproportionately affect the Uyghur community.

During the investigation process, detainees are often forced to wait long periods of time until the People’s Procuratorate merely approves of the arrest. According to the CPL, detainees can be held up to seven days before approval or disapproval by the People’s Procuratorate of an official arrest, or up to an additional 30 days under special circumstances.<sup>28</sup> Once the arrest has been officially approved, it can then take months, and even years, for authorities to conduct and conclude official investigations in preparation for trial. There are numerous channels within the CPL that allow authorities to push back deadlines and extend the amount of time that suspects remain in detention facilities awaiting their chance for trial.

## Harassment of Uyghur Activists:

### **Key summary points:**

- **Broad crackdown on lawyers in 2015 and the introduction of the Overseas NGO Management Law further limits the work of civil society and legal aid**
- **Uyghur rights defenders harassed and intimidated at the UN and in other international fora**

Crackdowns continued on lawyers and rights defenders throughout China in 2015. Nearly 250 lawyers and activists were arrested in July, 2015, with at least nine being charged with “incitement to subvert state power” and remained in prison in early 2016. Many of those arrested either had ties to, or worked directly for, the prominent Fengrui Law Firm, which has represented a number of prominent clients, including imprisoned Uyghur academic, Ilham Tohti. The campaign came on the heels of the newly introduced Overseas NGO Management Law, which passed its second

reading in May, 2015.<sup>29</sup> It is feared that the law will further degrade the capacity of civil society to work within China's borders as these groups will have to cede further control and oversight to the state.

Harassment and intimidation of Uyghur rights defenders overseas has also been well-documented over the years – beginning with WUC engagement at the UN in Geneva for over a decade. Chinese diplomats and other officials have been known to take photos or film activists on UN grounds, and have even attempted to photograph laptop screens of critics, despite a clear ban on the tactic. Members of the Chinese mission regularly pressure UN staff to deny accreditation to high-profile activists representing Uyghur or Tibetan groups and have also barred many mainland activists from travelling to conferences and other meetings to speak about human rights issues.<sup>30</sup>

### III. RECOMMENDATIONS FOR BRITISH GOVERNMENT:

- (1) Substantive steps must be taken at the next UK-China human rights Dialogue. Previous meetings have thus far seen little progress in dealing with substantive issues. We urge the UK government to raise the issue of China's Anti-Terrorism Act at this meeting to ensure that China amends that law in accordance with current international law.**
- (2) Ensure that a meaningful stipulation in trade relations incorporates human rights and the human rights conditions of Chinese citizens, particularly the Uyghur community.**
- (3) In regards to the UK's interest in the Xinjiang Uyghur Autonomous Region, and George Osborne's diplomatic trip to the region, the UK government must ensure that before any business done in this region, the British government must take appropriate steps to do its due diligence and understand the human rights situation.**
- (4) We urge the British government to take stronger measures to ensure that clear human rights abuses are understood with regards to the Uyghur population living in the Xinjiang.**

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<sup>12</sup> Ibid.

<sup>13</sup> People's Republic of China Anti-Terrorism Act 2015, Article 6(2).

<sup>14</sup> Convention and Protocol Relating to the Status of Refugees, Article 33(1), *Prohibition of Expulsion or Return*.

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