

CHINA'S "RE-EDUCATION" CAMPS AND INTERNATIONAL CRIMINAL COURT POTENTIALITY

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Abstract

China's counter-terror policy implementation has rung alarm bells on the international scene. Many individuals, observers, and victims alike have claimed that the Xinjiang Uyghur population is experiencing a serious infringement of their basic human rights. After the appointment of Chen Quanguo as the new Communist Party Secretary of the Xinjiang Uyghur Autonomous Region in 2016, large-scale vocation education and training centers (dubbed "re-education camps") have emerged alongside the dramatic increase of police presence and surveillance. Chen Quanguo has gained a reputation as an ethnic policy innovator through his pioneering of new methods for securing Chinese Communist Party (CCP) rule over the Uyghurs, Tibetans, and other ethnic minorities in western China. These new methods have been effective in their purpose but could be put under the scrutiny of international law and body agreements, most notable the General Assembly Resolution 3/260 that adopted the Convention on the Prevention and Punishment of the Crime of Genocide. If certain allegations about the conditions of the vocation education and training centers prove to be true, then this would be considered criminal. Whether this means there is potential for Chen Quanguo to be tried in International Criminal Court, is still up for debate.

China's counter-terror policy implementation has rung alarm bells on the international scene. Many individuals, observers, and victims alike have claimed that the Xinjiang Uyghur population is experiencing a serious infringement of their basic human rights.¹ After the appointment of Chen Quanguo as the new Communist Party Secretary of the Xinjiang Uyghur Autonomous Region in 2016 large-scale *vocation education and training centers* (dubbed "re-education" camps) have emerged alongside the dramatic increase of police presence and surveillance.² Chen Quanguo has gained a reputation as an ethnic policy innovator through his pioneering of new methods for securing Chinese Communist Party (CCP) rule over the Uyghurs, Tibetans, and other ethnic minorities in western China.³ These new methods have been effective in their purpose but could be put under the scrutiny of international law and body agreements, most notably, the General Assembly Resolution 3/260 that adopted the Convention on the Prevention and Punishment of the Crime of Genocide.⁴ If certain allegations about the conditions of the vocation education and training centers prove to be true, then this would be considered criminal. Whether this means there is potential for Chen Quanguo to be tried in International Criminal Court, is still up for debate.

The Chinese government and the Uyghur people have been battling over the Xinjiang Uyghur Autonomous Region (XUAR) for years. Xinjiang covers an area of 1.66 million square kilometers and contained about 22.98 million

¹ *China's Repression of Uyghurs in Xinjiang*, Council on Foreign Relations, <https://www.cfr.org/backgroundunder/chinas-repression-uyghurs-xinjiang>, (last visited March 29, 2021.)

² Id.

³ Jing XuanTeng and Poomima Weerasekara, *Chen Quanguo: Leader of Xinjiang Crackdown Under US Scrutiny*, Barron's, <https://www.barrons.com/news/chen-quanguo-leader-of-xinjiang-crackdown-under-us-scrutiny-01594401606>, (last visited March 29, 2021.)

⁴ *Convention on the Prevention and Punishment of the Crime of Genocide*, United Nations, https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.1_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf, (last visited March 29, 2021.)

people by the end of 2014, and it is the largest provincial unit in the People's Republic of China.⁵ Xinjiang is also China's largest administrative unit, located along a fifty-six kilometers border with eight nations.⁶ The Uyghur people are Turkic-speaking Muslims who are the largest ethnic group in the XUAR.⁷ Although Uyghurs were able to gain independence in 1949, forming what they called East Turkistan,⁸ the Chinese government shows no signs of granting independence again because of Xin Jinping's future geopolitical ambitions surrounding the One Belt, One Road Initiative.⁹ The One Belt, One Road seeks to revive the ancient Silk Road by linking Central Asian and Eurasian economies into a China-centered trading network.¹⁰ XUAR is meant to be the "core region" in which all the trade happens, so gaining stability in the region is crucial to the legacy of Xin Jinping.¹¹ For a long time, XUAR has been a strategic zone of intercultural contact and conflict,¹² so the loss of Xinjiang would mean the loss of the Belt and Road Initiative and the billions of dollars the government has been spending since 1957 to assert its sovereignty and authority over this region.

⁵ Chien-peng Chung, *China's Uyghur problem after the 2009 Urumqi riot: repression, recompense, readiness, resistance*, 13 *Journal of Policing, Intelligence and Counter Terrorism* 185-201 (2018), <https://doi.org/10.1080/18335330.2018.1475746>, (last visited March 29, 2021.)

⁶ Adrian Zenz, *'Thoroughly reforming them towards a healthy heart attitude': China's political re-education campaign in Xinjiang*, 38 *Central Asian Survey* 102-128 (2018), <https://doi.org/10.1080/02634937.2018.1507997>, (last visited March 29, 2021.)

⁷ *Id.*

⁸ Angélique Forget & Antoine Védeilhé, *Surviving China's Uighur 're-education through labour' camps*, 2019, <https://www.france24.com/en/20190510-reporters-plus-surviving-china-uighur-camps-repression>, (last visited March 29, 2021.)

⁹ Adrian Zenz & James Leibold, *Chen Quanguo: The Strongman Behind Beijing's Securitization Strategy in Tibet and Xinjiang*, 17 *ChinaBrief* 16-24 (2017), The Jamestown Foundation, <https://jamestown.org/program/chen-quanguo-the-strongman-behind-beijings-securitization-strategy-in-tibet-and-xinjiang/>, (last visited March 29, 2021.)

¹⁰ Chung *supra* note 1, at 186.

¹¹ *Id.*

¹² *Id.*

Although Xinjiang became a province during the Qing Dynasty in 1884, it was not until the Communist Party’s Anti-Rightist Policy of 1957, that opposed “local nationalism among ethnic minorities”, that China began to actively oppress the region.”¹³ The oppression of minority groups grew during the Cultural Revolution of 1966-76 when religion was suppressed, alongside “ethnic language, cultural cuisine, and garb.”¹⁴ This was done to assist in the Sinification of the nation. The Uyghurs’ “religious texts and mosques [were] destroyed, their religious leaders persecuted, and individual adherents punished.”¹⁵ China implemented more open policies between the late 1970s and early 1990.¹⁶ Minorities used this leniency to speak out against what was seen as “discriminatory economic, religious, and political practices.”¹⁷ Under the direction of the Secretary of Xinjiang, Wang Lequan, police and military crackdowns increased in 1996 in response to these claims.¹⁸ Open tolerance of religious minorities further declined after bearing witness to the terrorist attacks in the United States on September 11, 2001.¹⁹ Following the aftermath of the terrorist attacks in the United States, China joined the “global war on terror” and enforced heavy-handed repression of millions of Uyghurs.²⁰

The Uyghur people resisted these stricter policies and heightened discrimination by peacefully protesting, rioting, and enacting terrorism.²¹ In

¹³ Elizabeth Van Wie Davis, *Uyghur Muslim Ethnic Separatism in Xinjiang, China*, 35 *Asian Affairs: An American Review* 15-30 (2008),

<https://www.hsdl.org/?view&did=733939>, (last visited March 29, 2021.)

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Chung *supra* note 1, at 185.

¹⁹ Davis *supra* note 5, at 17.

²⁰ Amy Reger, *China Continues to Tyrannize the Uyghur Minority*, 2011, CCBC Library, <https://library.ccbcmd.edu/record=b1210005~S4>, (last visited March 29, 2021.)

²¹ Elizabeth Van Wie Davis, *Uyghur Muslim Ethnic Separatism in Xinjiang, China*, 35 *Asian Affairs: An American Review* 15-30 (2008),

<https://www.hsdl.org/?view&did=733939>, (last visited March 29, 2021.)

2009, a mass riot took to the streets of Urumqi, Xinjiang's capital.²² At least one thousand Uyghurs gathered at Urumqi to protest about the Shaoguan incident.²³ In Shaoguan, it was reported that a former Han Chinese Xuri toy factory worker posted a false report on an internet bulletin board stating that six Uyghurs had raped two Han women workers at the factory.²⁴ In response to this post Han workers at Xuri allegedly stormed the Uyghur dorms, armed with clubs, iron bars, and machetes, and attacked the Uyghur workers.²⁵ Chinese authorities at the scene claimed that two Uyghurs were killed and 118 more people of unspecified ethnicity were wounded, but images of the fight and its aftermath circulated the internet and showed that there were more Uyghur casualties than what was stated by the officials.²⁶ The Uyghur community was outraged by this and planned to march on July 5, 2009, to Urumqi's People's Square to call for a more thorough investigation of the Shaoguan incident on June 26, 2009.²⁷ Around one thousand people gathered in Urumqi's Nanmen area and after some time, security forces moved in to surround them and began beating, detaining, and according to some accounts, shooting at them.²⁸ Demonstrators called friends and relations elsewhere in the city and relayed the news that their peaceful demonstration was violently repressed.²⁹ Uyghur people, offended by this unnecessary violent response, began to riot across the city and attack Han Chinese residents.³⁰ According to figures released later in a People's Republic of China (PRC) State Council

²² Zenz and Leibold *supra* note 5, at 17.

²³ James A. Millward, *Introduction: Does the 2009 Urumchi violence mark a turning point?*, 28 *Central Asian Survey* 347-360 (2009), <https://doi.org/10.1080/02634930903577128> (last visited March 29, 2021.)

²⁴ *Id.* at 349-50.

²⁵ *Id.* at 350.

²⁶ *Id.*

²⁷ *Id.* at 351.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

white paper, 197 people were killed, over 1,700 injured, 331 shops and 1,325 motor vehicles destroyed or burned.³¹ Although Chinese media covered the violent Uyghur attacks on the Han Chinese, there was little to no coverage on the violent repression of the security forces that led to the uproar.³² And 2009 was not the only time Urumqi was headlined as a place of great violence enacted by Uyghurs. Violence sprung in Urumqi in 2014 as well. In April 2014, a bomb went off in Urumqi, resulting in forty-three deaths and ninety injuries.³³

On March 29, 2017, lawmakers in the Xinjiang People's Congress' Standing Committee passed the first region-wide legislation to combat religious extremism.³⁴ Article XIII of Chapter III of the Regulations on the Radicalization of Xinjiang Uyghur Autonomous Region states, "De-radicalization shall be carried out with great preaching, great learning, and great discussion, with modern scientific and cultural knowledge to educate the masses to advocate science and civilization, with legal knowledge to educate the masses to learn the law in accordance with the law, with religious faith in the origin, refute the myth of evil, guide the religious masses to establish good faith, consciously resist radicalization."³⁵ This "De-radicalization," continuing into Article XIV, should do a good job of "education transformation" and combine "ideological education, psychological counseling, behavior correction, and skill training."³⁶ Chen Quanguo established vocation education and training centers as a means of the education transformation highlighted in this policy; they are meant to be 'political education center[s]' designed to

³¹ Id.

³² Id.

³³ Chung, *supra* note 1, at 194.

³⁴ Id. at 115.

³⁵ *Regulations on De-radicalization of Xinjiang Uyghur Autonomous Region*, March 29, 2017, <https://baike.baidu.com/item/新疆维吾尔自治区去极端化条例>, (translated by Google), (last visited March 29, 2021.).

³⁶ Id.

provoke “thought reform.”³⁷ People in these “re-education” camps are to learn Mandarin Chinese, recite laws and policies, watch Chinese propaganda videos, shout pro-government slogans, and rectify their political stance to one that aligns with the Chinese Communist Party.³⁸

One could be put in a center by engaging in what Xinjiang authorities consider extremist religious practices. Practices include “growing a beard, praying regularly, inviting too many people to one’s wedding, giving children names of Islamic origin, wearing veils, headscarves, or long clothes in Muslim style, reciting an Islamic verse at a funeral, and making the pilgrimage to Mecca.”³⁹ One must also be wary of “possessing sensitive digital content (especially ‘illegal’ religious content) on a mobile phone or computer, the “use of Western social media apps or websites,” “traveling or studying abroad,” “links to relatives abroad (especially ones from one of the 26 ‘sensitive’ countries),” “association with ‘outsiders’(especially foreign journalists),” “voicing open criticism,” “insufficient patriotism,” and “illiteracy or poor Chinese-language proficiency” to name a few.⁴⁰ Engaging in any of these activities could result in involuntary placement in a “re-education” camp.⁴¹

Most Uyghurs are terrified of the possibility of being put in a camp, and those who are let out never want to go back. One Kazakhstani Uyghur woman interned in Urumqi described how the thirty women in her cell could shower only once a week, using one bar of soap divided into thirty pieces, and with two women showering together for one minute.⁴² Many former internees speak of how poor the quality of the camp food is, “saying they were fed steamed buns or thin soup, and rarely given meat, and that food poisoning was

³⁷ Chung, *supra* note 1, at 189.

³⁸ *Id.*

³⁹ Joanne Smith Finley, *Securitization, insecurity and conflict in contemporary Xinjiang: has PRC counter-terrorism evolved into state terror?*, 38 *Central Asian Survey* 1-26 (2019), <https://doi.org/10.1080/02634937.2019.1586348>.

⁴⁰ *Id.*

⁴¹ *Id.* at 6.

⁴² *Id.*

common.”⁴³ Mihrigul Tursun was separated from her young triplets during internment in 2015; one subsequently died in unclear circumstances, while the others developed health problems.⁴⁴ During her second internment in 2017, she was deprived of sleep for four days, interrogated, and subjected to an intrusive medical examination.⁴⁵ The third time, Tursun spent three months in a prison cell with sixty other women.⁴⁶ They were forced to take pills that made them faint and a white liquid that caused bleeding in some women and loss of menstruation in others.⁴⁷

Many internees report the psychological and physical torture endured during their stay in a camp.⁴⁸ Some cases claim there were beaten for not learning the Chinese language and laws quickly enough or not making their beds.⁴⁹ Based on these claims, there is more happening in these camps than mere “re-education”. If these accusations hold true, then that would mean many people in these camps are subject to torture, physical abuse, emotional abuse, psychological abuse, starvation, poison, and sleep deprivation.⁵⁰ Chen Quanguo’s vocation education and training centers could be considered criminal in its means of covert ethnic cleansing and arguably genocide.

Article II of the Convention on the Prevention and Punishment of the Crime of Genocide states, “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;

⁴³ Id.

⁴⁴ Id. at 7.

⁴⁵ Id.

⁴⁶ Id.

⁴⁷ Id. at 8.

⁴⁸ Id.

⁴⁹ Id.

⁵⁰ Id.

- (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.⁵¹

This definition of genocide could provide the basis in claiming China is enacting genocide on its ethnic and religious minority population through its use of “re-education” camps. Article VI of the Convention continues to state, “Persons charged with genocide or any of the other acts enumerated in Article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.”⁵² Assuming China would not try Chen Quanguo since the CCP’s central leadership is cognizant of the program, scale, and effects of securitization and mass internment, it would be up to the international penal tribunal to try Chen Quanguo and other close parties.⁵³

These allegations could be investigated by the International Criminal Court (ICC) if the situation were to be referred to them by the United Nations Security Council in the case that they consider the actions taken by Chen Quanguo to be genocidal or/and a crime against humanity.⁵⁴ This course of action may also prove to be futile because China is one of the permanent members of the Security Council, meaning they have the power to veto any

⁵¹ UN’s General Assembly, *Convention on the Prevention and Punishment 1-4*, 1948, https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.1_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf, (last visited March 29, 2021.)

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Uphold International Law*, United Nations, <https://www.un.org/en/our-work/uphold-international-law>, (last visited March 29, 2021.)

unfavorable decisions.⁵⁵ This is problematic if there is truth to the claims of the observers and alleged victims of these “re-education” camps. Chinese authorities have long pushed back against foreign concern for human rights as an infringement on its sovereignty.⁵⁶ If the Chinese state wants to prove the legitimacy of their *vocation education and training center* and alleviate the concerns expressed by certain Member States, they may want to invite the Special Rapporteur on Terrorism to assess the conditions of their centers and publish a report on their findings. This should be no issue if the allegations made against them are false.

⁵⁵ *Voting System*, United Nations Security Council, <https://www.un.org/securitycouncil/content/voting-system>, (last visited March 29, 2021.)

⁵⁶ *China’s Global Threat to Human Rights*, Human Rights Watch, 2020, <https://www.hrw.org/world-report/2020/country-chapters/global#>, (last visited March 29, 2021.)