

## INTERNATIONAL RULE OF LAW: CHINA-UYGHUR CRISIS

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### Abstract

In 2015, China's Standing Committee of the 12<sup>th</sup> National People's Congress adopted the Anti-Terrorism Law of the People's Republic of China. Only 15 months later, the Standing Committee of the 12<sup>th</sup> People's Congress of Xinjiang Uyghur Autonomous Region. The enforcement of these counter-terrorist policies under the Communist Party Secretary of the Xinjiang Uyghur Autonomous Region, Chen Quanguo, is rather questionable. Quanguo has conducted large-scale vocation education and training centers holding Uyghurs, Kazakhs, and other Muslims and dramatically increased the police presence in Xinjiang as a means to combat potential terrorist threats. China's counter-terrorism practices raise red flags when considering United Nations Rule of Law and relevant documents. China's treatment toward the Uyghur population can be considered a violation of the Rule of Law, especially when understanding its connection to human rights.

In 2015, China's Standing Committee of the 12<sup>th</sup> National People's Congress adopted the Anti-Terrorism Law of the People's Republic of China. Only 15 months later the Standing Committee of the 12<sup>th</sup> People's Congress of Xinjiang Uyghur Autonomous Region adopted the Regulations on the Radicalization of Xinjiang Uyghur Autonomous Region. The enforcement of these counter-terrorism policies under the Communist Party Secretary of the Xinjiang Uyghur Autonomous Region, Chen Quanguo, is rather questionable. Quanguo has conducted large-scale *vocation education and training centers* holding Uyghurs, Kazakhs, and other Muslims and dramatically increased police presence in Xinjiang as a means to combat potential terrorist threats. China's counter-terrorism practices raise red flags when considering United Nations Rule of Law and relevant documents. China's treatment toward the Uyghur population can be considered a violation of the Rule of Law especially when understanding its connection to human rights.

For years, the Uyghur people and the Chinese government have been battling over the Xinjiang Uyghur Autonomous Region (XUAR). Xinjiang, covering an area of 1.66 million square kilometers and containing about 22.98 million people by the end of 2014, is the largest provincial-unit in the People's Republic of China.<sup>1</sup> The Uyghur people are Turkic-speaking Muslims who are the largest ethnic group in the XUAR.<sup>2</sup> When Xinjiang became a province during the Qing Dynasty in 1884, it was not initially colonized or settled.<sup>3</sup> Muslim inhabitants kept their own religious leaders who were bound by salaries and titles to the Qing state.<sup>4</sup> Those in Xinjiang were subject to no harsh policies or restrictions, for China was initially declared a multinational

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<sup>1</sup> 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 April 9, 2021.)

<sup>2</sup> *Id.*

<sup>3</sup> Elizabeth Van Wie Davis, *Uyghur Muslim Ethnic Separatism in Xinjiang, China*, 35 *Asian Affairs: An American Review* 15-30, 2008, <https://doi.org/10.3200/AAFS.35.1.15-30>, (last visited April 9, 2021.)

<sup>4</sup> *Id.* at 17.

state in 1949.<sup>5</sup> It was not until the Communist Party’s Anti-rightist Policy of 1957, which opposed ‘local nationalism’ among ethnic minorities, that China began to crackdown on religions.<sup>6</sup> This oppression of minority groups grew during the Cultural Revolution of 1966-76 when religion was suppressed, alongside “ethnic language, cultural cuisine, and garb.”<sup>7</sup> 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.”<sup>8</sup> China implemented more open policies between the late 1970s and early 1990.<sup>9</sup> Minorities used this leniency to speak out against what was seen as “discriminatory economic, religious, and political practices.”<sup>10</sup> Under the direction of the Secretary of Xinjiang, Wang Lequan, police and military crackdowns increased in 1996 in response to these claims.<sup>11</sup> Open tolerance of religious minorities further declined after bearing witness to the terrorist attacks in the United States on September 11, 2001.<sup>12</sup> 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.<sup>13</sup>

Although Uyghurs were able to gain independence in 1949, forming what they called East Turkistan,<sup>14</sup> the Chinese government showed no signs of granting independence again.<sup>15</sup> The Uyghur people have resisted since then by

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<sup>5</sup> Id. at 17.

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> Id.

<sup>11</sup> Chung *supra* note 1, at 185.

<sup>12</sup> Davis *supra* note 5, at 17.

<sup>13</sup> Amy Reger, *China Continues to Tyrannize the Uyghur Minority*, Human Rights 138, 2011.

<sup>14</sup> Angélique Forget & Antoine Védeilhé, *Surviving China’s Uighur camps*, 2019, France 24, <https://www.france24.com/en/20190510-reporters-plus-surviving-china-uyghur-camps-repression>, (last visited April 9, 2021.)

peacefully protesting and rioting.<sup>16</sup> In response to the resistance, the Chinese government pushed forth specific laws to combat terrorism and other radical behaviors.<sup>17</sup> These laws include the Anti-Terrorism Law of the People's Republic of China of 2015 and the Regulations on the radicalization of Xinjiang Uyghur Autonomous Region of 2017. These counter-terroristic measures became even more heavy-handed in the wake of China selecting Chen Quanguo to lead Xinjiang as the Communist Party Secretary of the Xinjiang Uyghur Autonomous Region in late August 2016.<sup>18</sup> Under Chen Quanguo, large-scale *vocation education and training centers* holding Uyghurs, Kazakhs, and other Muslims emerged.<sup>19</sup> The Muslim people of Xinjiang live under the daily pressures of being watched by over 150,000 cameras every day,<sup>20</sup> and live with a constant fear of being taken to a *vocation education and training center* involuntarily. These counter-terrorism practices raise concerns over the preservation of human rights and fundamental freedoms of the Uyghur population.

On December 27, 2015, the National People's Congress passed the country's first comprehensive 'Counter-terrorism Law', which took effect on January 1,

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<sup>15</sup> 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 April 9, 2021.)

<sup>16</sup> Elizabeth Van Wie Davis, *Uyghur Muslim Ethnic Separatism in Xinjiang, China*, 35 *Asian Affairs: An American Review* 15-30 (2008), <https://doi.org/10.3200/AAFS.35.1.15-30>, (last visited April 9, 2021.)

<sup>17</sup> Chung, *supra* note 1, at 188.

<sup>18</sup> 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 April 9, 2021.)

<sup>19</sup> *Id.* at 102.

<sup>20</sup> *Id.* at 106-12.

2016.<sup>21</sup> Article I of the Anti-Terrorism Law of the People's Republic of China states, “this Law is enacted in accordance with the Constitution to prevent and punish terrorist activities, strengthen anti-terrorism efforts, and safeguard national security, public safety, and people's lives and property.”<sup>22</sup> Article III defines terrorism as “the propositions and acts of creating social panic, endangering public security, violating personal property, or coercing state organs and international organizations to achieve their political, ideological and other objectives through violence, destruction, and intimidation.”<sup>23</sup> Activities that are considered terrorist in nature include:

- (I) Organizing, planning, preparing to carry out, carrying out activities that cause or are intended to cause casualties, major property damage, damage to public facilities, social disorder, and other serious social hazards;
- (II) promoting terrorism, inciting terrorist activities, or illegally possessing articles that promote terrorism, and forcing others to wear clothing or symbols that promote terrorism in public places;
- (III) organizing, leading, or participating in terrorist organizations;
- (IV) Providing information, funds, materials, services, technology, places, etc. to support, assist and facilitate terrorist organizations, personnel of terrorist activities, the implementation of terrorist activities, or the training of terrorist activities;

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<sup>21</sup> Chung, *supra* note 1, at 187.

<sup>22</sup> 授权发布：中华人民共和国反恐怖主义法-新华网, Xinhuanet.com (2015), [http://www.xinhuanet.com/politics/2015-12/27/c\\_128571798.htm](http://www.xinhuanet.com/politics/2015-12/27/c_128571798.htm), explained in the *Unofficial Translation of the Counter-Terrorism Law of the People's Republic of China*, The US-China Business Council, <https://www.uschina.org/china-hub/unofficial-translation-counter-terrorism-law-peoples-republic-china>, (last visited April 9, 2021.)

<sup>23</sup> *Id.*

(V) Other terrorist activities.<sup>24</sup>

The final point provides a place for unforeseeable conduct of terror and leaves room for interpretation as to what may be included as other terrorist activities. The most recent Communist Party Secretary of Xinjiang, Chen Quanguo's interpretations and actions were taken and has led to much debate today.

Chen Quanguo was formerly in charge of Tibet and through his work there, was dubbed the "ethnic policy innovator."<sup>25</sup> Quanguo pioneered a range of new methods for securing the Chinese Communist Party (CCP) control over potential terror threats in accordance with the Anti-Terrorism Law. Quanguo implemented a security strategy to guard against terrorism that monitors and regulates the lives of Xinjiang residents through both the use of the latest technology and old-fashioned neighborhood watch schemes.<sup>26</sup> He instructed Xinjiang authorities to increase the presence of high-definition video surveillance cameras.<sup>27</sup> These cameras were placed in public buses, bus stops, roads, alleys, markets, shopping centers, schools, and mosques.<sup>28</sup> Authorities put metal detectors in major public areas, including mosques, bazaars, malls, hotels, railway stations, and airports.<sup>29</sup> Police spot document checks are carried out on pedestrians and their mobile phones are inspected for prohibited content such as extremist videos and foreign apps.<sup>30</sup> Quanguo also initiated a reward system as a means of catching potential terrorists. Rewards for terror tip-offs are given to incentivize old-fashioned watch schemes.<sup>31</sup> Monetary rewards for the apprehension of a suspected terrorist or violent criminal can be between 50,000 yuan and 100,000 yuan, about \$7,100 to \$14,200 USD, respectively.<sup>32</sup> The Communist Party Secretary of Xinjiang has also increased

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<sup>24</sup> *Id.*

<sup>25</sup> Zenz and Leibold, *supra* note 15, at 16.

<sup>26</sup> Chung, *supra* note 1, at 191.

<sup>27</sup> Zenz and Leibold, *supra* note 15, at 22.

<sup>28</sup> Chung, *supra* note 1, at 192.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* at 189.

<sup>32</sup> *Id.*

the hiring of security jobs in the Xinjiang region. Quanguo ordered Xinjiang to advertise 90,866 security-related positions between August 2016 and July 2017.<sup>33</sup> His order was a massive increase from the 5,800 positions that were being advertised between 2003 and 2008 under the former Secretary of Xinjian, Wang Lequan.<sup>34</sup> The increase in security positions has created a massive military force in Xinjiang.

Quanguo has showcased his military might with an astonishing amount of police force as a means of following through with the counter-policies passed. On December 31, 2016, authorities in Xinjiang staged a massive show of military force with an anti-terror exercise attended by Chen Quanguo, senior party and government officials, and security forces.<sup>35</sup> The drill paraded armored vehicles, rescued fake hostages, and demonstrated how police booths that dot the streets of Xinjiang can defend themselves if they come under attack.<sup>36</sup> A rally was also done on February 18, 2017, in Urumqi, which included approximately 1,000 police officers and members of the People's Armed Police.<sup>37</sup> Urumqi holds significance because major Uyghur terrorist activities occur there. Following this rally were similar rallies in Hotan and Kashgar, both oasis towns in southern Xinjiang with predominantly Uyghur populations.<sup>38</sup> All rallies touted the slogan, “‘Showing power to intimidate, [by] lining up the forces’, we’re the biggest in recent years.”<sup>39</sup>

On March 29, 2017, lawmakers in the Xinjiang People's Congress' Standing Committee passed the first region-wide legislation to combat 'religious extremism' which took effect April 1, 2017.<sup>40</sup> Massive *vocation education and training centers* emerged after this law was passed.<sup>41</sup> Article XIII of Chapter

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<sup>33</sup> Zenz and Leibold, *supra* note 15, at 17.

<sup>34</sup> *Id.*

<sup>35</sup> Chung, *supra* note 1, at 187.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* at 188.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> Zenz, *supra* note 18, at 115.

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, [and] consciously resist radicalization.”<sup>42</sup> This “De-radicalization” program, continuing into Article XIV, is intended to enhance “education transformation” and combine “ideological education, psychological counseling, behavior correction, and skill training.”<sup>43</sup>

Chen Quanguo’s establishment of *vocation education and training centers* are done as a means of the education transformation as highlighted in this policy; they are meant to be ‘political education center[s]’ targeted to provoke “thought reform.”<sup>44</sup> People in these centers 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.<sup>45</sup> One could be put in a center by engaging in what Xinjiang authorities consider extremist religious practices.

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<sup>42</sup> *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.)

<sup>43</sup> *Id.*

<sup>44</sup> Chung, *supra* note 1, at 189.

<sup>45</sup> *Id.*



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.”<sup>46</sup> 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” just to name a few.<sup>47</sup> Engaging in any of these activities could result in involuntary placement in a re-education center.<sup>48</sup> China, much like many other nations, has created policies on terror interference and counter-terrorism. The implementation of these policies, however, may be considered a direct violation of the Rule of Law established by the United Nations.

The Rule of Law is a principle of governance in which all are accountable to laws that are “publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards.”<sup>49</sup> The rule of law focuses on the idea of the advancement of human rights.<sup>50</sup> There are three pillars of the rule of law: international peace and security, human rights and development.<sup>51</sup> It is believed that through the

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<sup>46</sup> 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>, (last visited April 9, 2021.)

<sup>47</sup> *Id.*

<sup>48</sup> *Id.* at 6.

<sup>49</sup> *What is the Rule of Law*, United Nations, and the Rule of Law, <https://www.un.org/ruleoflaw/what-is-the-rule-of-law/>, (last visited April 9, 2021.)

<sup>50</sup> *Guidance Note Of The Secretary-General: UN Approach to Rule of Law Assistance*, 1-7 (2008),

<https://www.un.org/ruleoflaw/files/RoL%20Guidance%20Note%20UN%20Approach%20FINAL.pdf>, (last visited April 9, 2021.)

<sup>51</sup> *Id.*

advancement of these principles, economic growth is sustained, sustainable development is achieved, poverty and hunger are eradicated, and all human rights and fundamental freedoms are protected.<sup>52</sup> Well-established rights under international law that embody these pillars include but are not limited to due process, free expression, and privacy.<sup>53</sup> Temporarily impeding on these human rights and fundamental freedoms in the name of combating terrorism has grown in prominence since 2001.

Since the September 11, 2001, terrorist attacks on the United States, there has been a massive increase globally in counter-terrorism practices which have and continue to violate human rights.<sup>54</sup> Many of these laws tend to restrict or violate the rights of suspects and can be used to stifle peaceful political dissent or target particular religious, ethnic, or social groups.<sup>55</sup> China's counter-terror conduct can be considered those of a nation that has chosen to violate human rights in order to control alleged "terrorist" activities. The disproportionate infringement of Uyghur rights violates the international rule of law. The arbitrary detention and restrictions on freedom of movement of Uyghurs, and other Muslim and minority communities in Xinjiang are a serious violation of the principles set forth by the United Nations rule of law.

Quanguo's methods of implementing the Anti-Terrorism Law of the People's Republic of China and the Regulations on the Radicalization of Xinjiang Uyghur Autonomous Region are discriminatory. Although claiming that their

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<sup>52</sup> *The Rule of Law in UN Intergovernmental*, United Nations and the Rule of Law, <https://www.un.org/ruleoflaw/the-rule-of-law-in-un-intergovernmental-work/>, (last visited April 9, 2021.)

<sup>53</sup> *In the Name of Security*, Human Rights Watch, 2012, <https://www.hrw.org/report/2012/06/29/name-security/counterterrorism-laws-worldwide-september-11>, (last visited April 9, 2021.)

<sup>54</sup> Fionnuala Ní Aoláin, *Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism on the human rights challenge of states of emergency in the context of countering terrorism*, United Nations Human Rights, 2021, [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/37/52](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/37/52), (last visited April 9, 2021.)

<sup>55</sup> Human Rights Watch, *supra* note 53.

purpose is to de-radicalize potential terrorists, the detention centers stifle the Uyghur identity and culture and render the Uyghurs illegitimate. Activities that are strongly associated with the average Uyghur, like growing beards, praying regularly, and wearing veils, headscarves or long clothes in Muslim style are regarded as radical enough behavior to be sent to re-education camps. Many innocent Uyghurs have been put into these re-education centers due to these extreme regulations. Those that are not in centers are still forced to endure a heavy police presence, surveillance, and occasional threatening militaristic parades that are meant to invoke fear.

The fear of terrorism in China is a legitimate one, but China's policies to combat terrorism also seem to aim to erase force Uyghurs to turn their backs on their culture, language, and religion in the name of deradicalization as if the Uyghur identity in itself is radical. These policies undermine their identity, stifle their rights, and violate the principles set by the United Nations' rule of law. The actions of China have gained international attention and certain Member States of the United Nations have joined together to sign a letter addressed to the president of the UN Human Rights Council and UN High Commissioner for Human Rights calling on China to end some of its policies in Xinjiang.<sup>56</sup> In contrast, other nations have joined China in submitting a similar letter in defense of these counter-terror policies.<sup>57</sup> Regardless of which nations are in support or against these policies, what remains evident is the violation of the international rule of law. Rule of law and human rights are two sides of the same principle as fully recognized in the Universal Declaration of Human Rights. China needs to recognize its divergence from the fundamental principles established by the UN and correct its policy implementation.

The Human Rights Council has established a Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, and the Special Rapporteur has recommended plans of

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<sup>56</sup> Catherine Putz, *Which Countries Are For or Against China's Xinjiang Policies?* The Diplomat, 2019, <https://thediplomat.com/2019/07/which-countries-are-for-or-against-chinas-xinjiang-policies/>, (last visited April 9, 2021.)

<sup>57</sup> Id.

action for nations that have potentially targeted minority groups.<sup>58</sup> Although this does not provide a comprehensive solution to this issue in China, it is certainly a good place to start.

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<sup>58</sup> *Protection of human rights and fundamental freedoms while countering terrorism*, United Nations Digital Library, 2005, <https://digitallibrary.un.org/record/547276?ln=en>, (last visited April 9, 2021.)