

CHINA

Alternative Report

**Submission to the United Nations
Committee Against Torture (CAT)**

**In Consideration of CAT/C/CHN/5 – 56th Session,
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**Submitted Jointly by The World Uyghur Congress (WUC)
& The Uyghur Human Rights Project (UHRP)**

WUC Headquarters:

P.O. Box 310312
80103 Munich, Germany
Tel: +49 89 5432 1999
Fax: +49 89 5434 9789
Email: contact@uyghurcongress.org
Web Address: www.uyghurcongress.org

The World Uyghur Congress (WUC) is an international organization that represents the collective interests of the Uyghur people in both East Turkestan (Xinjiang Uyghur Autonomous Region) and abroad. The principle objective of the WUC is to promote democracy, human rights and freedom for the Uyghur people and use peaceful, nonviolent and democratic means to determine their future. Acting as the sole legitimate organization of the Uyghur people in both East Turkestan and abroad, WUC endeavors to set out a course for the peaceful settlement of the East Turkestan Question through dialogue and negotiation.

The WUC supports a nonviolent and peaceful opposition movement against the Chinese Communist regime in East Turkestan and an unconditional adherence to internationally recognized human rights standards as laid down in the Universal Declaration of Human Rights. It adheres to the principles of democratic pluralism and rejects totalitarianism, religious intolerance and terrorism as an instrument of policy.

For more information, please visit our website:
www.uyghurcongress.org

UHRP Headquarters:

1420 K Street, NW. Suite 350
Washington DC, 20005
Tel: +1 (202) 478 1920
Fax: +1 (202) 478 1910
Email: info@uhrp.org
Web Address: www.uhrp.org

The Uyghur Human Rights Project (UHRP) was founded by the Uyghur American Association (UAA) in 2004 with a supporting grant from the National Endowment for Democracy (NED). UHRP's mission is to promote human rights and democracy for the Uyghur people, and to raise awareness of human rights abuses that occur in East Turkestan, referred to by the Chinese authorities since 1955 as the Xinjiang Uyghur Autonomous Region (XUAR).

UHRP is a human rights research, reporting and advocacy organization. The organization focuses on promoting human rights and democracy for Uyghurs and others living in East Turkestan.

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www.uhrp.org

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EXECUTIVE SUMMARY

This report aims to respond to China's 5th Periodic State report (CAT/C/CHN/5) to the Committee Against Torture (the Committee) and to provide additional and alternative information during the 56th session of the Committee from 09 November to 09 December, 2015, in Geneva, Switzerland.

The report outlines some of the more concerning details regarding alleged instances and threats of torture, particularly of Uyghurs living in the Xinjiang Uyghur Autonomous Region (XUAR), as well as China's implementation of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention). Of particular concern are articles 1-4 and 10-15 of the Convention.

The scope of the present report will be to address instances of torture that have taken place primarily in the XUAR against or involving members of the Uyghur ethnic group or in locations elsewhere within China's territory involving Uyghurs.

Major areas of concern to be addressed in the report:

- Definition of torture under Chinese law
- Police and security training and methods
- Torture in pre-trial detention – forced confessions and obtaining evidence through torture
- Violence and intimidation aimed at lawyers and human rights defenders
- Draft laws on terrorism and anti-extremism and their potential for abuses and torture
- Documented cases of torture of Uyghur detainees

Article 1, 4 – Definition and Criminalization of Acts of Torture:

According to numerous recommendations by the Committee, China's current definition of torture does not conform with that which is offered by the Convention. Under the Convention, torture is defined as:

Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.¹

In China's first report to the Committee in 1989 (CAT/C/7/Add.5), it is stated that, "The act of torture defined by the Convention, which also constitutes a crime under the stipulations of the Criminal Law of the People's Republic of China, is strictly prohibited in accordance with the relevant laws of the People's Republic of China."² China maintains this position in its most recent report, despite recommendations from the Committee to amend such a definition.

The Report of the Committee in 2000 recommended that China should incorporate into its domestic law a definition of torture that fully complies with the definition contained in the

¹ UN General Assembly (UNGA), *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 10 December 1984, available at <http://www.ohchr.org/Documents/ProfessionalInterest/cat.pdf>

² Committee Against Torture (CAT), *Consideration of Reports Submitted by States Parties Under Article 19 of the Convention: Initial Reports of States Parties due in 1988*, Addendum, China, CAT/C/7/Add.5, para.38.

Convention (A/55/44, Para. 123). This was reiterated more comprehensively in the Committee's Concluding Observations in 2008 (CAT/C/CHN/CO/4).³

Also recognized in the Concluding Observations was the lack of adequate protection against the infliction of mental or psychological pain, something that China was at least able to address through a judicial interpretation offered by the Supreme People's Court (SPC) in 2012. The interpretation does not, however, stipulate what kind of treatment is prohibited. As Human Rights Watch has pointed out, despite the release of an opinion document by the SPC in 2013 elaborating on the types of coercion prohibited, including "freezing, starving, shining [a spotlight on], hanging up, and fatiguing the accused," legal gaps persist.⁴ According to their report, sleep deprivation remains lawful, along with anything falling outside these expressed actions.

The Concluding Observations also detailed essential issues of scope in relation to the *perpetrators* of torture. As stated by the Committee, although article 247 of the Criminal Law and article 43 of the Criminal Procedure Law restrict judicial officers and officers of an institution of confinement from engaging in the practice, the laws, "do not cover acts by "other persons acting in an official capacity," including those acts that result from instigation, consent or acquiescence of a public official".⁵

As a result, gaps remain within the present scope of China's accepted legal definition. The problem of torture administered by those other than police or government-sanctioned officials remains officially legal in this context and as Human Rights Watch has pointed out, the use of cell bosses (detainees who organize and abuse others on behalf of detention authorities) has been well-documented and is widespread.⁶ Chinese law still does not recognize that torture can be committed by those not acting in an official state capacity.

It is also worth noting that although the word 'torture' exists in Chinese, the term is not used in domestic law and media reports when referring to the practice spelled out by the Convention.⁷ The government instead uses the term, 'coerced confession' (*xingxun bigong*), which echoes a description of acts that constitute torture, but still maintains some distance from the agreed upon definition in the Convention itself.

Likewise, the neglect of the relevance of psychological abuses cannot be overlooked in the context of the XUAR and the Uyghur people generally. Since 2009, China has stepped up measures against the Uyghur people that can be considered to fall within the ambit of the Convention. For instance, reported in early February, 2015, Uyghur imams were forced to dance in the street while chanting slogans in support of the state – both humiliating and degrading. Imams were also required to swear an oath not to teach religion to children.⁸

In the same vein, the prevalence of humiliating and degrading public trials in front of thousands of spectators has made a resurgence in the XUAR. Chinese state media reported on May 28, 2014, that 55 Uyghurs had been sentenced to crimes ranging from terrorism to separatism in front of a crowd of 7000 spectators, with three having been sentenced to death.⁹ Public trials like these have

³ Committee Against Torture (CAT), *Concluding observations of the Committee Against Torture: China*, 21 November 2008, CAT/C/CHN/CO/4, available at: <http://www2.ohchr.org/english/bodies/cat/docs/CAT.C.CHN.CO.4.pdf>

⁴ Human Rights Watch (2015). *Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China*. © 2015 by Human Rights Watch.

⁵ Ibid.

⁶ Ibid.

⁷ Ibid.

⁸ The Express Tribune, (2015, April 18). Suppressing religious freedoms: Chinese imams forced to dance in Xinjiang region, *The Express Tribune*. Retrieved from: <http://tribune.com.pk/story/871879/suppressing-religious-freedoms-chinese-imams-forced-to-dance-in-xinjiang-region>

⁹ BBC News, (2014, May 28). *China sentences 55 people in Xinjiang stadium*, BBC News. Retrieved from: <http://www.bbc.co.uk/news/world-asia-china-27600397>

been shown to lead to even more fractured ethnic communities as well as greater deterioration of the relationship between the Uyghur people and the state.

In order to fall in line with the Committee's recommendations, the Chinese government must first amend the definition it currently relies upon in its Criminal Procedure and Criminal Law so that it adequately covers all elements encompassed by Article One of the Convention. We therefore stand in accordance with the Committee's recommendations in 2008, stating that, "The State party should ensure that persons who are not judicial officers and officers of an institution of confinement, but who act in an official capacity or with the consent or acquiescence of a public official can be prosecuted for torture,"¹⁰ and that China recognizes a broader range of mental and psychological abuses that constitute torture under the Convention.

Article 2 – Measures to Prevent Torture, Non-Derogation:

Detailed in this report is the legislation that China has introduced that will likely have a *perverse* effect on the prevalence on torture. Legislation that has been adopted in relation to counter-terrorism and anti-extremism is reviewed here in this regard along with the principle of non-derogation in exceptional circumstances.

Towards the end of 2014 and into 2015, China has developed sets of legislation on both counter-terrorism and anti-extremism in response to an increase in ethnic tensions and the dubious threat allegedly posed by the practice of Islam among Uyghurs in particular. New national security legislation was also passed by the Standing Committee of the National People's Congress (NPC) on July 1st, citing the need for stricter cyber security and a more efficient crisis management system.¹¹

The first draft of the counter-terror law consisting of 106 articles in 10 chapters was published for open review on November 3, 2014.¹² During the second session of the Standing Committee of the NPC in February, a second draft was submitted with some revisions, likely due to international criticism and some domestic concerns. One such revision was the removal of 'thoughts' from the stated definition of terrorism itself – taken as a modest victory by the international community considering the incredibly broad language already adopted.

A broad anti-extremism law was also unveiled and unanimously approved back on November 28th, 2014, by the Xinjiang People's Congress, which came into effect on January 1st, 2015. The legislation added 18 additional articles to regulations passed nearly two decades ago as a means to target the alleged rise in religious extremism in the region. The law prohibits the wearing of symbols associated with religious extremism, defined in the new legislation as "...activities or comments that twist the doctrines of a religion and promote thoughts of extremism, violence and hatred."¹³ The law also prohibits the viewing or distribution of videos about jihad, terrorism or religious extremism in or outside religious venues.

Uyghurs charged with offenses relating to terrorism and religious extremism can be legally denied access to legal representation. According to China's Criminal Procedure Law (CPL), police are legally entitled to deny access to lawyers for suspects charged with terrorism and state security offenses. Defendants in such cases must be granted approval by police in order to access legal representation.¹⁴

¹⁰ Committee Against Torture (CAT), *Concluding observations of the Committee Against Torture: China*, 21 November 2008, CAT/C/CHN/CO/4, available at: <http://www2.ohchr.org/english/bodies/cat/docs/CAT.C.CHN.CO.4.pdf>

¹¹ China adopts national security law (2015, July 1), available at: http://www.npc.gov.cn/englishnpc/news/Legislation/2015-07/01/content_1940329.htm

¹² Anti-terrorism law draft text (反恐主义法(草案)全文) (2014, November 3), available at: http://www.npc.gov.cn/npc/xinwen/lfgz/flca/2014-11/03/content_1885027.htm

¹³ Jia, C. (2014, November 29). Curbs on Religious Freedom Beefed Up in Xinjiang, *China Daily*. Retrieved from: http://www.chinadaily.com.cn/china/2014-11/29/content_18996900.htm

¹⁴ Criminal Procedure Law of the People's Republic of China, art. 37 (2012).

The net result of this new legislation and its knock-on effect on the prevalence of torture and other illegal state activities is easily predictable. By broadening the definitions of terrorism, religious extremism and what constitutes 'endangering state security', China has, in effect, vastly expanded opportunities for the use of torture as a policing method and within the criminal justice system generally.

Criminal suspects charged with these offenses can also be held in secret locations, outside of official detention centres, for up to six months on the basis of state security. By allowing detainees to be taken to secret locations for detention with no oversight into police interrogation methods, the government fosters an environment where torture will likely persist.

Interrogations of prisoners are routinely more severe when they involve those who have been detained on terrorism or extremism charges. Arrests on these charges generally lead interrogators to believe that the suspect may possess information that could lead them to supposed criminal associates or a terror network. China has long charged that Uyghurs who have committed violence in the region, particularly since 9/11, have clear links to regional and international terror networks. Despite scholarly research coming to a contrary conclusion, the current approach greatly increases risk factors and opportunities for torture.¹⁵

Another risk factor is the sheer number of arrests taking place in the XUAR. According to China's Chief Prosecutor of the Xinjiang People's Procuratorate, arrests in the XUAR rose to 27,165 in 2014 – a 95 percent increase from the previous year. Such a drastic increase in arrests has been a direct result of the 'Strike Hard' policy initiated by the government beginning in May, 2014, with the program intending to bring stability to the region.

Not only have arrests drastically increased, but as the Dui Hua Foundation has pointed out in its analysis of official data, "between 2008 and 2010, Xinjiang, which accounts for less than 2 percent of China's population, accounted for 50 percent of the nation's first-instance [endangering state security] trials. Given that splittism is the focus of stability maintenance in the region, the great majority of defendants in these trials is almost certain to be Uyghur."¹⁶ Despite the unavailability of disaggregated data on the ethnic breakdown of the arrests, Uyghurs almost certainly make up the vast majority of those on trial for endangering state security and alleged separatist crimes.

The UN and its human rights mechanisms have reiterated the importance of the protection of human rights while countering terrorism, including during its third UN Global Counter-Terrorism Strategy Review in 2012, stating that, "any measures undertaken by Member States to prevent and combat terrorism must fully comply with their obligations under international law [...] and relevant international conventions and protocols, in particular human rights law, refugee law and international humanitarian law."¹⁷

Although we recognize the importance of adequate protections from legitimate threats, a clear gulf exists between Chinese policy and internationally accepted restraints according to international legal norms. We are rightly concerned that the aforementioned laws will likely facilitate and legitimize ongoing human rights abuses.

As an internationally agreed upon peremptory norm of *jus cogens*, under no circumstances is torture an acceptable or legal interrogation method and China's recent laws must be brought in line with these standards. The government must also recognize its obligation to ensure its citizens are

¹⁵ Roberts, S. (2012). Imaginary terrorism? The global war on terror and the narrative of the Uyghur terrorist threat (PONARS Eurasia Working Paper), available at: <http://www.gwu.edu/~ieresgwu/assets/docs/ponars/RobertsWP.pdf>

¹⁶ Dui Hua, (2013, February 28). China's State Security Trials Suggest Ethnic Discrimination, *Dui Hua Foundation*. Retrieved from: <http://duihua.org/wp/?p=7338>

¹⁷ General Assembly resolution 66/282, *The United Nations Global Counter-Terrorism Strategy Review*, A/RES/66/182 (29 June 2012), available at: www.undocs.org/A/RES/66/282

not subjected to torture at the hands of state officials or those sanctioned by those officials and reduce risk factors leading to abuses.

Article 3 – Extraditions and Forced Returns:

The return of Uyghur refugees and asylum seekers to China from neighbouring states has developed into a much more serious problem since China's last CAT review in 2008. Many cases of forced extraditions have been documented from Cambodia, Thailand, Malaysia, Laos, Myanmar, Nepal, Pakistan and Kyrgyzstan since 2009. Exacerbating the problem, returning states generally hold strong diplomatic and economic ties with China, increasing the pressure on weaker states to submit to China's demands.

The principle of *non-refoulement*, embedded in customary international law (CIL), asserts that no state can expel or return a victim of persecution to a territory where his or her life would be threatened on account of membership of a particular group.¹⁸ The threat of torture and other ill-treatment, including long prison sentences, remains high for Uyghurs who are returned in this way. A number of cases have been documented in which Uyghurs have been mistreated by authorities.

- In December 2009, the Cambodian government repatriated 20 Uyghurs, to China, where they had been persecuted on account of their peaceful political activities, ethnicity, and religion
- In August, 2011, five were rendered to China from Pakistan and another eleven from Malaysia
- In December, 2012, six Uyghurs were forcibly returned from Malaysia to China in what Human Rights Watch called a "grave violation of international law". The men were allegedly attempting to leave the country on false passports and during the detention, the men reportedly registered with the UN refugee agency in Kuala Lumpur and were to have their claims reviewed, but were deported before any decision could be made
- On July 8th, 2015, 109 Uyghurs were forcibly returned to China from immigration detention facilities in and around Bangkok, Thailand. The group included those who had been imprisoned since March, 2014, some of whom were accepted by Turkey as refugees

Article 10-11 – Training and Interrogation Practices:

One of the most effective stopgaps for the prevention of torture is an appropriately trained and compensated police force. Police officers in China often operate within a system that is not best suited to ensure that investigations are undertaken within the bounds of the law. Not only should individual actors be held accountable for their actions with respect to detainees, understanding institutional pressures within the Chinese criminal justice system is crucial to a more complete understanding of the underlying causes of torture to begin with. Too often it is merely the individuals committing these crimes that are sacrificed to preserve the system.

Particularly at the local and rural levels, police are often poorly trained and their offices poorly funded. Lacking the resources or training to properly investigate criminal activity, officers and officials who work at this level recognize the expediency of using torture as a means of extracting quick confessions. In certain environments, torture may seem like the easiest and even the only way to acquire such a conviction. By relying too heavily on confessions as a source of evidence, the judicial system incentivizes the use of force against suspects in the place of legal investigative

¹⁸ UN General Assembly, *Protocol Relating to the Status of Refugees*, art. 33, 31 January 1967, available at: <http://www.refworld.org/docid/3ae6b3ae4.html>

work.¹⁹ Suspects are also often interrogated without the presence of lawyers or independent monitors, increasing the likelihood that suspects will be mistreated.

Within the criminal justice system, the promotion of individual officers through the ranks also creates perverse incentives for officers to use all means necessary to gain convictions, regardless of legality of their actions.²⁰ Pressure to adhere to strict targets in relation to the number of crimes ‘solved’ compared to crimes reported to police creates an environment that promotes torture. Despite efforts in 2011 by the Ministry of Public Safety to prohibit the use of targets, or ‘clearance rates,’ it remains unclear as to whether there has been an immediate effect on the ground in reducing the practice.²¹

Furthermore, police officers and other officials are rarely, if ever, disciplined for their participation in torture. Impunity in this regard reinforces an attitude that sees torture as a justifiable means to an end – whether those ends include promotion or financial incentives. Though some cases have shown that mild disciplinary measures are taken in response to the use of torture, others still have resulted in promotions for allegedly ‘solving the case’ and withstanding ostensibly undue media pressure.²²

As suggested by a report by the Open Society Justice Initiative (OSJI), “Further training tools may need to be developed for law enforcement personnel to promote a better understanding of the interplay between respecting human rights and law enforcement.”²³ Although it may be easy to blame individual actors for their missteps, to effectively prevent detainee mistreatment, the criminal justice system as a whole must be examined to stress the importance of respecting basic and fundamental legal rights held by all citizens.

Article 12-14 – Investigation into Acts of Torture, Compensation:

No known investigations into allegations of torture against Uyghurs in detention have taken place. The 2009 uprisings in Urumqi were followed by numerous cases of enforced disappearances as well as credible allegations of torture (detailed below), though the government has made no concerted efforts to address this problem in the six years that have followed. Likewise, there has been no indication that there will be an impartial investigation into these cases.

Although the Chinese Constitution provides the legal basis for a channel by which victims of torture may seek compensation, stating that, “Citizens who have suffered losses as a result of infringement of their civic rights by any State organ or functionary have the right to compensation in accordance with the provisions of law,”²⁴ no effort has been made to investigate or determine cases where torture has taken place, leaving torture victims no true recourse. Without initial convictions for the perpetration of torture, the Constitution’s pronouncements are rendered meaningless.

Article 15 – Exclusion of Evidence through Torture:

A well-documented practice in China has been the use of torture and ill-treatment during pre-trial detention as a means to ‘soften’ prisoners prior to, or during, interrogation. Misconduct surrounding pre-trial detention remains persistent within China’s criminal justice system. Risk

¹⁹ Wu, W. & Beken, T.V. (2010). Police torture in China and its causes: A review of literature, *The Australian and New Zealand Journal of Criminology*, pp. 557-579.

²⁰ Human Rights Watch (2015). *Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China*. © 2015 by Human Rights Watch.

²¹ Ibid.

²² Ibid.

²³ Open Society Justice Initiative, *Pretrial Detention and Torture: Why Pretrial Detainees Face the Greatest Risk*, June 2011, available at: <https://www.opensocietyfoundations.org/sites/default/files/pretrial-detention-and-torture-06222011.pdf>

²⁴ Constitution of the People’s Republic of China. Article 41, Chapter 2, available at: http://www.npc.gov.cn/englishnpc/Constitution/node_2825.htm

factors for detainees in the period directly following their detention and official arrest, and before a trial takes place, are substantially elevated. According to the above-mentioned OSJI report detailing the increased risk factors inherent in pre-trial detention, pre-trial detainees are at particular risk of abuse. The report stresses that:

Pre-trial detainees are particularly at risk of being abused because the incentives and opportunities for torture are most prevalent during the investigation stage of the criminal justice process. Pretrial detainees are entirely in the power of detaining authorities, who often perceive torture and other forms of ill-treatment as the easiest and fastest way to obtain information or extract a confession.²⁵

Torture for the purpose of extracting a confession has been widely documented for decades in China, despite the CPL strictly forbidding its use, “to extort confessions by torture and to collect evidence by threat, enticement, deceit or other unlawful means.”²⁶ The immediate and perverse implications of this approach includes self-incrimination or false confessions that are often used later to indict the suspect on unwarranted or unfounded charges.

As former Special Rapporteur on Torture, Manfred Nowak, has pointed out, although China’s CPL explicitly prohibits the extraction of confessions by torture or the collection of evidence by threat, enticement, deceit or other unlawful means, “this provision has not been matched with a prohibition of using illegally obtained confessions during court proceedings.”²⁷ Nowak continues, “The Supreme Court in this regard held that confessions under torture cannot become the basis for a criminal charge or conviction, but it did not exclude their overall admissibility.”²⁸

In effect, although the court found that torture cannot be used as a *basis* for a criminal charge, it has fallen short of prohibiting the admissibility of the use of evidence obtained through illegal means during court proceedings. Under the current legal framework, there remains an incentive for police and other authorities to practice torture during interrogations as a means of forcing confessions – truthful or otherwise.

During this 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.²⁹ 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. Furthermore, those affected most by these measures tend to be those accused of committing crimes in relation to terrorism, religious extremism or endangering state security, which overwhelmingly affects the Uyghur community.

The practice of torture is also facilitated and exacerbated by a number of other systemic problems within China’s criminal justice system. These may include a lack of access to legal assistance while in pretrial detention, a criminal justice system centred on confessions and underpinned by corruption, widespread arbitrary arrests, and poorly trained and poorly paid law enforcement officials. The recommendations of the OSJI report found that, “One of the most effective ways to prevent torture

²⁵ Open Society Justice Initiative, *Pretrial Detention and Torture: Why Pretrial Detainees Face the Greatest Risk*, June 2011, available at: <https://www.opensocietyfoundations.org/sites/default/files/pretrial-detention-and-torture-06222011.pdf>

²⁶ Criminal Procedure Law of the People’s Republic of China, art. 43 (2012)

²⁷ UN Human Rights Council, *Study on the phenomena of torture, cruel, inhuman or degrading treatment or punishment in the world, including an assessment of conditions of detention*, A/HRC/13/39/Add.5, 5 February, 2010, available at: http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A.HRC.13.39.Add.5_en.pdf

²⁸ Ibid.

²⁹ Criminal Procedure Law of the People’s Republic of China, art. 69 (2012)

is through early access to legal aid, combined with a system of regular, unannounced visits to places of detention.”³⁰

As Special Rapporteur Nowak also pointed out in his final report in 2005, he was routinely denied full access to detention centres and to alleged victims as he lamented that, “...during the visit a number of alleged victims and family members, lawyers and human rights defenders were intimidated by security personnel, placed under police surveillance, instructed not to meet the Special Rapporteur, or were physically prevented from meeting with him.”³¹

DOCUMENTED CASES OF TORTURE

The following are the documented cases of Uyghurs who have been mistreated or tortured within China’s last reporting cycle from 2008, though the list is by no means exhaustive (further references are made to other prominent cases or to cases falling outside the current cycle):

Ilham Tohti:

Ilham Tohti was a noted Uyghur academic and economics professor at the Minzu University in Beijing. Professor Ilham also ran the Uighurbiz website, a forum in Mandarin Chinese to discuss economic, social and cultural issues facing the Uyghur people in China. Professor Tohti has been subjected to frequent harassment by the Chinese authorities; however, on January 15, 2014 he was arrested and was handed a life sentence on September 23, 2014 after a trial that fell far below international standards.

Prior to his sentencing, Tohti’s lawyer Li Fanping reported to the South China Morning Post that he was suddenly denied food on March 1, the day suspected Uyghur assailants attacked the Kunming railway station. According to Li, he survived on water alone for 10 days, lost 16kg. Li also discovered that Tohti had been put in shackles for 20 days.³²

Shohret Tursun:

According to a report from Radio Free Asia, Tursun was among some 40 men from Qorghas detained around the time of the July 5, 2009 unrest in Urumqi. Tursun died in police custody on September 18, 2009, and both family members and the local imam Alim Kari told RFA his body was returned to his family covered in bruises.³³ After providing details about the beating death of Shohret Tursun, Arshidin Israel, a witness to the murder, was accused of terrorism and fled to Kazakhstan on September 24, 2009, Radio Free Asia reported.³⁴

A March 2011 report submitted by Juan Méndez, U.N. special rapporteur on torture, to the U.N. Human Rights Council confirmed that Israel fled to Kazakhstan after he had provided information to Radio Free Asia’s Uyghur Service about the alleged torture to death of Shohret Tursun and the subsequent arrest of two individuals whom the Chinese authorities accused of providing

³⁰ Open Society Justice Initiative, *Pretrial Detention and Torture: Why Pretrial Detainees Face the Greatest Risk*, June 2011, available at: <https://www.opensocietyfoundations.org/sites/default/files/pretrial-detention-and-torture-06222011.pdf>

³¹ UN Commission on Human Rights, *Report on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: Mission to China*, 10 March 2006, E/CN.4/2006/6/Add.6, available at: <http://www.refworld.org/docid/45377b160.html>

³² Lu Huang, Keira. (2014, June 27). Detained Uyghur economist Ilham Tohti denied food for 10 days in custody, lawyer says, *South China Morning Post*. Retrieved from: <http://www.scmp.com/news/china/article/1541335/detained-uyghur-economist-ilham-tohti-denied-food-10-days-custody-lawyer>

³³ Radio Free Asia Uyghur Service. (2009, September 19). Standoff Over Death in Custody, *Radio Free Asia*. Retrieved from: <http://www.rfa.org/english/news/uyghur/death-incustody-09192009144227.html>

³⁴ Radio Free Asia Uyghur Service. (2011, May 31). Uyghur in Chinese Custody?, *Radio Free Asia*. Retrieved from: <http://www.rfa.org/english/news/uyghur/deportation-05312011162319.html>

information on the case to the same radio station.³⁵ Days after Mendez's report, the UNHCR reconsidered and revoked Israel's refugee status under pressure from China. He was subsequently deported to China by the Kazakh government in May 2011.³⁶

Abdukiram Abduweli:

Abdulkarim Abduweli is a religious leader from Kucha. In the late 1980s, Abduweli travelled across the XUAR preaching the Quran and advocating the spread of Islam. Abduweli was detained in November 1990, and charged in 1991 with inciting counter-revolutionary propaganda. Amnesty International outlines Abduweli's mistreatment in custody: Until his sentencing in 1993, he was subject to solitary confinement and his ability to pray was restricted. In September 2011 after his 12-year sentence was extended a fourth time, he went on hunger strike and was reportedly force-fed via an IV tube, and his family reported he was critically malnourished. On November 16, 2011, they were notified he had developed bone and joint cancer, which had advanced so severely that it caused his sight and hearing to diminish, but he was denied necessary medical attention and access to his family.³⁷

Anonymous:

In a November 2013 interview for its 2014 report on online restrictions for Uyghurs, UHRP staff interviewed a man who described a September 10, 2012 beating by police following a business trip to Turkey and Indonesia.³⁸ After returning to the XUAR, plainclothes policemen took the man in custody in a local hotel. The man told the UHRP that the police, three Uyghurs, told him they knew what he had done in Turkey, though he had done nothing but purchase materials for his furniture business, and demanded a confession. When he explained he had nothing to confess, he was told that they could use other methods to get information. At that point, another Chinese man came into the questioning and told him, I can do whatever I want to do to you. Because you are Uyghur, I can do whatever I want to do you. He was tough, severe. He beat the man with his hands, then took his passport. He was subsequently released.

Torture cases following 2009 unrest in Urumqi:

In 2010 and 2011, Uyghur interviewees provided the UHRP with accounts of the torture of Uyghurs in custody following unrest in Urumqi in July 2009.

An Urumqi resident interviewed by UHRP gave an account of the detention of 15-year-old Almas, who was detained while outside his home on or around July 10. Police officers came, covered Almas' head with a black bag, and took him away. Almas reported being tortured for 72 hours in police custody, particularly with an electric rod that was used on his genitals.³⁹

Almas was released from detention after four days, after a number of his teachers spoke with police and stated that he had been at home on July 5. Almas believes he was detained because someone previously detained had provided his name to the police while being tortured.

³⁵ Human Rights Council, *Report of the Special Rapporteur on torture and other cruel inhuman or degrading treatment or punishment, Juan E. Méndez*, 1 March 2011, A/HRC/16/52/Add.1, available at:

http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A.HRC.16.52.Add.1_EFOnly.pdf

³⁶ Fay, G. (2011, June 20). Uighur refugee extradited by Kazakhstan, held in China, Committee to Protect Journalists. Retrieved from: <https://cpj.org/blog/2011/06/uighur-refugee-extradited-by-kazakhstan-held-in-ch.php>

³⁷ Amnesty International Urgent Action, Health of Uighur Prisoner 'Critical' (2012, September 20). Retrieved from: <http://www.amnestyusa.org/sites/default/files/uaa27112.pdf>

³⁸ UHRP's internet freedom report is available here: <http://uhrp.org/press-release/trapped-virtual-cage-chinese-state-repression-uyghurs-online.html>

³⁹ UHRP (2020). *Can Anyone Hear Us? Voices From The 2009 Unrest In Urumchi*, available at: <http://uhrp.org/press-releases-uaa-and-uhrp-reports/can-anyone-hear-us-voices-2009-unrest-urumchi>

An 18-year-old Uyghur asylum seeker now living in Holland recounted being arrested on July 7, 2009. He stated that he had been present at the demonstrations on July 5. He described being taken to the Shengli Lu police station, which he said was full of Uyghurs, some of whom were tied up, and most of whom were handcuffed. He was beaten and tortured, in addition to being questioned regarding what he had been doing on July 5. He was subsequently released on July 9, but he was told that he could be arrested again at any time, and he was required to report to the police every week.⁴⁰

A RFA article dated September 4, 2012 described the disappearance and torture of Imammemet Eli. Eli's mother Patigul told RFA reporters her son has been detained in July 14, 2009 and that the last indication she had of his condition was nine months after his arrest. She learnt from Eli's fellow inmates he had been tortured and as a result of his injuries been sent to a hospital. RFA noted Patigul had been petitioning the government and police to disclose the whereabouts of her son.⁴¹

Noor-UI-Islam Sherbaz:⁴²

Uyghur teenager Noor-UI-Islam Sherbaz, who was 17 years old when detained on July 27, 2009, was convicted for 'provoking an incident' and alleged murder on the strength of evidence gathered by security cameras on July 5, 2009. Sherbaz, whose case was also reported by Amnesty International and Radio Free Asia,⁴³ was given a life sentence immediately following a trial that lasted just 30 minutes on April 13, 2010. As stated by Amnesty International, in video footage shown in court, Sherbaz was not seen beating anyone, although he was on the same street where a beating occurred. Noor-UI-Islam's father, Sherbaz Khan, who is a Pakistani national, said his son left the house on July 5 to attend the entrance examination for the third year of high school. Sherbaz Khan told Radio Free Asia reporters that his son had been tortured in pre-trial detention and forced to sign a confession. In an article dated December 6, 2011, Radio Free Asia reported Noor-UI-Islam Sherbaz had died in prison.⁴⁴

Mirzahid Amanullah Shahyari:

According to overseas media reports, 11-year-old Mirzahid Amanullah Shahyari died in police custody in the city of Korla after being detained on May 20, 2012 for studying Islamic prayer and the Koran. Two other students and their teacher were also detained. Mirzahid's mother, Rizwangul, observed clear signs of torture on his body that contradicted official Chinese claims that he had committed suicide.⁴⁵ The case draws close parallels to the case of Shohret Tursun, whose body was buried hastily following his death.

Police forbade Rizwangul from speaking to other people about his death, and ordered that he be buried immediately. Mirzahid's father, who lives abroad, had recently obtained permission for Rizwangul, Mirzahid and another son to reside in Turkey, but Chinese authorities had prevented the three from leaving China by confiscating their identity cards and forbidding them from obtaining

⁴⁰ UHRP (2011). *A city ruled by fear and silence: Urumchi, two years on*, available at:

<http://docs.uyghuramerican.org/July5-report.pdf>

⁴¹ Radio Free Asia Uyghur Service. (2012, September 4). Mom Placed under House Arrest, *Radio Free Asia*. Retrieved from: <http://www.rfa.org/english/news/uyghur/arrest-09042012194654.html>

⁴² UHRP (2013). *To Strike The Strongest Blow: Questions Remain Over Crackdown On 2009 Unrest In Urumchi*, available at: <http://docs.uyghuramerican.org/to-strike-the-strongest-blow.pdf>

⁴³ Amnesty International (2010). *Justice, justice: The July 2009 protests in Xinjiang, China*, available at: http://www.observatori.org/paises/pais_81/documentos/asa170272010en.pdf

⁴⁴ Radio Free Asia Uyghur Service (2011, December 6). Uyghur Youth Dies in Jail, *Radio Free Asia*. Retrieved from: <http://www.rfa.org/english/news/uyghur/jail-12062011110617.html/>

⁴⁵ UHRP (2013). *Sacred Right Defiled: China's Iron-fisted Repression of Uyghur Religious Freedom*, available at: <http://docs.uyghuramerican.org/Sacred-Right-Defiled-Chinas-Iron-Fisted-Repression-of-Uyghur-Religious-Freedom.pdf>

passports.⁴⁶ Confiscation of identity cards and passports continues to act as a Chinese tactic to suppress freedom of movement in the region.

Chinese police subsequently detained Urumqi resident Pamir Yasin for tweeting information on his Sina Weibo account about Mirzahid's death. Chinese authorities placed him under 15 days of administrative detention for circulating 'distorted information,' under Article 47 of China's Public Security Administration Punishment Law. The law allows authorities to detain citizens without trial for up to 15 days for "inciting ethnic hatred or ethnic discrimination or publishing ethnically discriminatory or insulting content in printed materials or online." Police also reportedly detained Mirzahid's uncle for allegedly giving information to the foreign media.⁴⁷

Other cases outside China's current reporting cycle:

Osman Imin:

Osman Imin is a Uyghur Christian who was first arrested in 2004. He was allegedly tortured severely by police, chained to a metal bed and beaten repeatedly during the period he spent in detention after this initial arrest. He was eventually released on bail in the same year.⁴⁸

Ershiddin:

"I lived with 10 other prisoners in a narrow room," he said. "Most of the Uyghurs were political prisoners from the southern part of Xinjiang. Their crimes were simple ones, such as reading a religious book published overseas, watching a religious video or film, or selling a religious propaganda poster."

"The Uyghur political prisoners were not only beaten and tortured by the prison guards, but also insulted by the Han Chinese prisoners inside the prison," he said.⁴⁹

Huseyin Celil:

The family of a Chinese-Canadian imprisoned in China on terror-related charges spoke with CTV News inside the country, despite the fear that police would arrest them for talking to the foreign press. Huseyin Celil's sister, mother and older brother met CTV's Steve Chao to speak out about his alleged mistreatment.

"He is being tortured by Chinese police," said Celil's mother. "They forced him to sign a confession, or he would be put in a hole and buried alive."

Celil himself has told a courtroom he was tortured by secret police. However, no Canadian envoys were in the courtroom Friday when Celil, a former Muslim leader from Hamilton, made the rare appearance. His sister and son attended. In response to the report, the federal government said it dispatched diplomats to Urumqi, China, with orders they remain there indefinitely, *The Globe and Mail* reports.⁵⁰

⁴⁶ Lipes, J. (2012, June 4). Death in Detention Draws Denigration, *Radio Free Asia*. Retrieved from: <http://www.rfa.org/english/news/uyghur/death-06042012180843.html>.

⁴⁷ Abdilim, M. & Mamatjan, J. (2012, June 5). Uyghur Detained Over Tweets, *Radio Free Asia*. Retrieved from: <http://www.rfa.org/english/news/uyghur/pamir-yasin-06052012181049.html>.

⁴⁸ UHRP (2013). *Sacred Right Defiled* (see footnote 42)

⁴⁹ Radio Free Asia Uyghur Service (2015, July 31). Uyghur Exile Pursues Life in Turkey After Taunts and Torture Back in China, *Radio Free Asia*. Retrieved from: <http://www.rfa.org/english/news/uyghur/exile-pursues-life-in-turkey-after-taunts-and-torture-back-in-china-07312015153931.html>

⁵⁰ CTV News (2007, February 8). Family claims Huseyin Celil tortured in China, *CTV News*. Retrieved from: <http://www.ctvnews.ca/family-claims-huseyin-celil-tortured-in-china-1.228305>

Tudahun Hoshur:

In mid-2006, Tudahun Hoshur, a 31-year old trader from Ghulja City, was suspended from a ceiling by his hands, beaten, and denied food for three days for failing to memorize in Chinese all 45 articles of the regulations at Kosheriq Detention Center in Suydung County, Yili Prefecture.⁵¹

Ismail Semed:

Ismail Semed, who was executed on February 8, 2007 for allegedly attempting to “split the motherland,” was convicted on the basis of confessions that were likely extracted from two other Uyghur prisoners through torture. Semed told his wife just before his execution that his confession was coerced through torture.⁵²

Shirali:

In late 2001 and early 2002, Nepalese authorities forcibly returned at least two Uyghur, to the Chinese authorities in the XUAR. One of these men, Shirali, who had been issued with a refugee reference number, was executed in or around October 2003. Before his execution, Shirali gave a comprehensive first hand description of torture to Radio Free Asia (RFA):

One executioner winked at the other, who then came over and pressed down the switch of the chair. As if someone was pouring me with boiling water and peeling off my skin, my entire body was in a harsh pain. I was tortured this way for about three minutes...After a short while, that executioner turned off the chair switch. He came to me and said to me using the interpreter, ‘Just like what we said, you will not get out of here alive. So you must confess.’

They tied my hands and hung me up high. Then they beat me for about half an hour with shackles. I screamed loudly because I could not stand the pain. During this time my body was covered with blood. [Then] they took me down and poured a bucket of water over me.

That heavy executioner said nothing and turned on the chair switch. As if someone was pulling out my heart and sticking a needle through my body, this time I was suffering from an unbearable burning pain. I screamed and bit my tongue... By this time I had already unconsciously had a bowel movement. My cellmates changed my clothes.

They shouted at me and broke a couple of nails on my right foot--then they pushed nails into two of the toes on my left foot. I lost consciousness [...] When I opened my eyes, I saw my cellmates sitting around me. I had been unconscious for exactly seven hours.⁵³

As reported by RFA, the torture lasted for nearly eight months in the Old Market Prison, in Guma County, with his interrogators telling him to confess to separatist activities or risk dying in the interrogation room.⁵⁴

Ababekri Rehim:

Mr. Ababekri was arrested in early August, 2014, and according to Chinese state media, confessed on state television of providing misleading information regarding the violence in Yarkant in early August, 2014, to the WUC. The WUC maintained no contact with Mr. Ababekri at any point, and it is clear that his statements were false and made under the pressure of duress or torture.

⁵¹ UHRP (2006, June 5). Details emerge of Uyghur political detainee suffering torture, abuse, *UHRP*. Retrieved from: <https://uyghuramerican.org/article/details-emerge-uyghur-political-detainee-suffering-torture-abuse.html>

⁵² UHRP (2007, February 9). *Uyghur Prisoner Executed in Urumchi*. Retrieved from: <http://uhrp.org/press-releases/uyghur-political-prisoner-executed-urumchi>

⁵³ Radio Free Asia Uyghur Service. (2003, October 23). Executed Uyghur Refugee Left Torture Testimony Behind, *Radio Free Asia*. Retrieved from: <http://www.rfa.org/english/news/118780-20031023.html>

⁵⁴ Economic and Social Council (ECOSOC), *UN Sub-Commission on the Promotion and Protection of Human Rights 56th Session, Item 4: Economic, social and cultural rights*. Statement by Marina Sikora (4 August, 2004).

SUMMARY OF RECOMMENDATIONS

➤ **A legitimate and effective complaints mechanism should be set up as a means of redress for victims of torture within China:**

Lack of an adequate complaints mechanism ensures that transparency and accountability are absent from the judicial process, particularly at the point of pre-trial detention and attempts at redress after the fact. A transparent process for complaints must be available to those who require it. The current system allows for no legitimate channel by which detainees are able to challenge their detention, rendering prisoners effectively invisible to the outside world, and drastically heightening the likelihood of torture. The current system upholds a standard of protection for those involved in torture, despite de jure recognition of the illegality of the practice.

➤ **A prompt and unrestricted visit from the current Special Rapporteur on Torture:**

China must allow for an official country visit from the Special Rapporteur on Torture, Juan Méndez, as soon as possible. The last country visit made by a Special Rapporteur to the XUAR was made by Manfred Nowak back in 2005. Nowak, however, complained that he was unable to visit detention centres unannounced, that he was physically blocked from meeting with abuse victims and their families, and that he sensed, “a palpable level of fear and self-censorship which he had not experienced in the course of his previous missions.” Ten years have passed without any kind of probe into the prevalence of torture within China’s borders, something that is necessary now more than ever.

➤ **China should provide public reports on high-risk detainee cases:**

A persistent problem has been the inability for the international community to gain adequate information regarding detainees, particularly those who have been illegally refouled from neighbouring states. Despite the Refugee Convention’s prohibition against the return of persecuted individuals and groups, China must publically guarantee the safety of those that have been returned to the country and provide evidence that those returned are not to be mistreated.

➤ **China must amend its CPL to align itself with the definition of torture outlined in the Convention:**

Without adequate amendment of its currently accepted definition, persons who are not judicial officers, but act in an official capacity or with the consent of such an official, may not be prosecuted for torture. This will not, however, solve the problem, but remains an essential step in finding common ground on the issue of torture and its legal implications. China’s persistent reluctance to accede to the Committee’s requests suggests less an aversion to the recommendation itself, but a repudiation of an internationally agreed upon legal norm.

➤ **China must recognize the importance of human rights protections within the context of counter-terror campaigns and must abide by international standards:**

Torture does not occur in a vacuum. Given this, China must recognize the implications its approach to counter-terrorism has on the prevalence of torture. China must uphold the standards set out in the United Nations Global Counter-Terrorism Strategy resolution and Plan of Action adopted by Member States in 2006.⁵⁵ The resolution states that, “terrorism cannot and should not be associated with any religion, nationality, civilization or ethnic group.” Likewise, the Committee and

⁵⁵ UN General Assembly (UNGA), The United Nations Global Counter-Terrorism Strategy, 20 September 2006, A/RES/60/288, available at: <http://www.refworld.org/docid/468364e72.html>

the international community must work to uphold a legal standard that prohibits states from vastly limiting human rights, particularly of minority groups, ostensibly in the name of security.

➤ **Police officers and other low-level officials must follow legal procedures while conducting criminal investigations:**

To prevent the use of torture as a means of expediting or doing away with proper investigative work, the Chinese government must ensure that its police officers and low-level officials are not only adequately trained, but adequately incentivized not to resort to mistreatment in an effort to extract confessions. Police and other officials must be held accountable for torture as one element of an improved system though, torture is not simply a product of individual action that can be treated through individual and isolated disciplinary action, but a symptom of a systemic problem that plagues the criminal justice system generally. It is therefore crucial that law enforcement officials of all ranks are adequately trained and adequately funded.

➤ **China must stop harassing family members of overseas Uyghur activists:**

Harassment of family members, friends and associates of Uyghurs working outside the country on human rights issues has become a significant problem. Family members of Uyghur activist Rebiya Kadeer as well as the brothers of Uyghur journalist, Shohret Hoshur, have been targeted, including threats to others who choose to speak out.

➤ **China must release Professor Ilham Tohti along with his seven students in a timely fashion:**

China must unconditionally release Ilham Tohti along with his seven students (Perhat Halmurat, Shohret Nijat, Luo Yuwei, Abduqeyum Ablimit, Atikem Rozi, Akbar Imin, and Mutellip Imin) who have been accused of baseless separatist crimes. China must recognize the injustice in imprisoning a scholar and his students working towards reconciliation and not the opposite.

➤ **China must publicly disclose the whereabouts of those Uyghurs who were disappeared following the rioting in Urumqi in early July, 2009:**

The treatment of those that have been held since then must be made public to ensure that the criminal justice system acts fairly and transparently. Torture and other forms of mistreatment are often the result of the practice of enforced disappearances because of the near total lack of oversight.

➤ **China must publicly disclose the total number of Uyghurs who have been charged with crimes relating to Endangering State Security as well as their treatment:**

Crimes relating to Endangering State Security (ESS) have been increasing steadily over the past decade, in no small part due to China's increasingly restrictive policies on the practice of religion as well as its most recent Strike Hard campaign. The disclosure of information on these cases is a necessary and crucial step towards the protection of Uyghurs charged under these laws.