

Repression of Uyghur Muslims and The Freedom of Religious Beliefs in China

Abstract

China has been accused by the international community for placing tight constraints on the religious freedom of Uyghurs in the northwest Xinjiang Uighur Autonomous Region (XUAR). It has been widely reported that China has placed in detention over a million Uyghur Muslims in order to ‘re-educate’ them to adapt to ‘Chinese culture’. It has been alleged that China is using a system of surveillance, control, and suppression of religious activity aimed particularly at Uyghurs accusing them of actively involving in separatist activity with foreign funding in order to destabilise the region. Note that, China has also brought in polices on regulation of religious affairs that makes it difficult for a religious body or a church, mosque to exist in China without prior State approval. The policy also gives unfettered power of oversight to the government over minority religious institutions and their day to day management.

In light of the above, this paper examines the issue of right to freedom of religion or belief in the backdrop of China’s treatment of Uyghur Muslims in the Xinjiang region. Further, this paper also comments upon China’s current domestic policy regulating religion and its commitment at the international level to protect and promote freedom of religion or belief of all its citizens.

Keywords: Uyghur, Xinjiang, China, Right to Religion and International Law.

Introduction

The preamble to the 2030 Agenda for Sustainable Development and its co-dependent sustainable development goals (SDGs) explicitly mention that ‘no one will be left behind’ (Transforming our world, 2015). The Agenda stresses that the dignity of a person is fundamental and that human rights, development, peace and security supplement each other. Further, the Agenda reaffirms the importance of the Universal Declaration of Human Rights (UDHR) and other international instruments relating to human rights and international law. The Agenda also emphasises upon the responsibility of all States ‘to respect, protect and promote human rights and fundamental freedoms for all, without distinction of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, disability or other status’ (Transforming our world, 2015).

According to the Special Rapporteur on freedom of religion or belief, the people who are most likely to be left behind and not allowed to be part of the transformative vision set by the 2030 Agenda are those who continue to face discrimination and exclusion based on their identity (including religion or belief) by States around the world (Interim report of the Special Rapporteur on freedom of religion or belief, 2020). The level of intimidation and harassment resulting from such discrimination and exclusion is believed to be severe in places where a person’s religion or belief is in minority when compared to the rest of the population. As seen in many parts of the world, people are oppressed and made to suffer over generations simply because their religion or belief is different from that of the dominant group (Interim report of the Special Rapporteur on freedom of religion or belief, 2020). As the Special Rapporteur (2020), further points out, such oppression is not only a hindrance in the full realisation of the fundamental freedoms but it also gives rise to structures of inequality that place further restrictions on the overall social, cultural, political and economic development of these religious or belief minorities. It has to be understood, particularly in the context of religious or belief minorities, that the discrimination and exclusion these communities face is both systemic and systematic resulting in the denial of their basic human rights such as health care, quality education, and housing.

The systemic and systematic denial of freedom of religion or belief becomes even more apparent through a study of the wide range of repressive policies of both State and non-state actors. These policies often seek to delegitimise and stigmatise religious or belief minorities

through extra-legal measures. Such measures include restrictions on ‘the establishment of places of worship and the forced closure of same; maintenance of humanitarian institutions and associations; the appointment and persecution of faith leaders; the celebration of holidays and ceremonies; teaching of religion or beliefs; and the use of materials related to the customs of a belief’ (Interim report of the Special Rapporteur on freedom of religion or belief, 2020). In addition to these measures, States also disproportionately apply ‘anti-terrorism laws’ to arbitrarily detain and ill-treat persons of religious or belief minorities. Under the pretext of countering terrorism and protecting national security, States not only harass religious or belief minorities but also label them as ‘terrorist groups’ and have them arrested, detained and tortured under ‘extremism’ or ‘illegal activity’ charges without having any valid evidence to justify such arrests (Interim report of the Special Rapporteur on freedom of religion or belief, 2018). In short, protecting national security, which heavily features as a stated objective in many government policies, are now being used as an excuse to criminalise membership of and/or activities of religious or belief minorities.

In his interim report, the Special Rapporteur on freedom of religion or belief, highlights the coercive detention of over one million Uyghurs, Turkic-speaking Muslim ethnic group (alternatively spelled as Uighurs, Uygurs) in the Xinjiang region by China in state run ‘re-education’ camps resembling high-security prisons as part of ‘de-extremism regulations’ (Nebehay, 2018). Reportedly, China has banned most Islamic religious practices in this region. Chinese authorities are said to have even forced Uyghur Muslims ‘to eat and drink during the Ramadan fast period. Uyghur Muslims are said to have been detained for public displays of Islam and Uyghur culture such as wearing beards, women wearing face veils’ (Hayes, 2019). It is said that, Chinese authorities are also forcing Muslims to learn Mandarin Chinese, sing praises of the Chinese Communist Party (CCP) and renounce their religion in the internment camps. Any resistance to learning ‘essentials of Chinese culture’ attracts violence from State actors. Authorities, reportedly, are sending Uyghur Muslims to work for minimal or no pay in tightly controlled factories. It has also been reported that, Chinese authorities are responsible for the forceful sterilisation of Uyghur women due to which births have collapsed in the region by more than 60% between 2015 and 2018 (Graham-Harrison and Kuo, 2020).

In light of the above, this paper examines the current situation of Uyghurs in the Xinjiang region, more importantly, their right to freedom of religion or belief in the backdrop of China's policies regulating religious affairs on one hand and the human right to religious freedom as understood under international law on the other. Section I of this paper, provides a brief history of the Xinjiang region. Section II of this paper examines China's policies on regulating religious beliefs. Section III deals with the international legal framework guaranteeing the right to religion or belief.

Section I. Xinjiang Uyghur Autonomous Region (XUAR): A Brief History

Located in the northwest corner of China, Xinjiang is the only Chinese province or 'autonomous' region that has a Muslim majority. More importantly, it is also the only administrative region (alongside Tibet; China claims Tibet as its integral part) in China where ethnic Chinese are a minority, however, their population in this region has been rapidly increasing (Rong, 2003). As per the data from the State Council Information Office of China, Xinjiang's population in 2014 was approximately 23.2 million. According to 2010 Census, Uyghur Muslims were 46% of the population and the Han Chinese were about 40%. The Uyghur population is said to be somewhere between nine to eleven million in Xinjiang (deHahn, 2019).

The Chinese authority over Xinjiang has always been disputed by the Uyghurs. The dispute is linked to the influx of ethnic Chinese in the region which has been objected by the non-Chinese population including the Uyghur Muslims who think that the large scale ethnic Chinese migration has adversely affected their local culture, language and traditions. They fear that as more ethnic Chinese continue to migrate to the region, they will take complete control over the social, cultural, political and economic aspects of Xinjiang (The Uyghurs and the Chinese state, 2020).

In order to better understand why the current Chinese regime in Beijing has equated the Uyghur culture and religion with 'terrorism', 'separatism', and/or 'extremism', it is vital to reflect upon the history of this region.

It is said that the ancestors of the Uyghurs were nomadic tribes who came from Mongolia and settled in the southern part of Xinjiang during the sixth century CE and between the tenth and twelfth century CE, Uyghurs began converting from their previous Buddhist beliefs to Islam (Kaltman, 2007). Note that, the region today known as Xinjiang only fell under the Chinese rule in the mid-eighteenth century when it was conquered by the Manchu Qing Empire. However, even after the Manchu conquest, the region kept seeing numerous rebellions, some of which even resulted in temporary state of independent rule. The Qing only re-conquered most of Xinjiang from Yaqub Beg in late 1870s, who had established an emirate extending from southern Xinjiang to Turpan, which lasted for twelve years (Finley, 2013). Further, it was only in the mid-1930s with the establishment of a ‘Turkish-Islamic Republic of East Turkestan’ (TIRET), that a major political shift was marked in the region. The establishment of TIRET is even cited by advocates of Uyghur independence today’ (Bellér-Hann, 2008). The TIRET was proclaimed in the city of Kashgar. However, the TIRET was short-lived and collapsed after less than three months when the city was retaken by Chinese government troops. In 1940, a new rebellion against Chinese rule started. The rebels demanded for an end to Chinese rule, equality for all nationalities, recognised use of native languages, friendly relations with the Soviet Union, and opposition to Chinese immigration into Xinjiang. In 1944, a second ‘East Turkestan Republic’ (ETR) was established in northern Xinjiang backed by the Soviet Union. However, following the outcome of the Chinese civil war, the Chinese Communist forces occupied Xinjiang in late 1949 (Talmon, 2020).

Since the early 1930s, Uyghurs and other Muslim groups in south Xinjiang have been mobilising political opposition along Turkish-Islamic lines as seen through the establishment of the TIRET. Even before the early 1930s, it was the Muslim Rebellion in 1864 in which Muslims (Hui and Uyghurs) united against a common non-Muslim enemy (Manchus and Han). As a result, the memories of a distinct political and administrative identity still remains strong in today’s Uyghur community. Inspired by a pan-Turkic ideology, the Uyghur community remains strongly rooted in secular and democratic ideals. Coming from a conventional political tradition, the Uyghurs do not support the use of violence for achieving their objectives (Mukherjee, 2019). This could be one of the many reasons why even after the Chinese occupation of the region in 1949, most demonstrations were peaceful in nature with no calls for secession despite grievances over socio-economic inequalities. As noted by Mukherjee (2019),

‘The Mao years, for instance, which were from 1949 until 1976, were the years when religious groups and ethnic minorities came under tremendous pressure. Mao’s policies towards ethnic minorities and religious groups were stringent and harsh. In this context, it is worth mentioning that Xinjiang has always been viewed unfavourably since it has a strong Islamic presence.’

It was only after 1990, that calls for independence were more overtly made, and violent protests along ethno-political lines became frequent. The call for more autonomy was the result of China’s policy to tighten control over the Uyghur community (Bovingdon, 2010). China’s policy to step up ethnic Chinese migration in Xinjiang was linked to geo-political changes during this period (such as the fall of the Soviet Union). China was fearful that the changing regional and world politics could further stir up Uyghur ethno-nationalist aspirations in Xinjiang (Taylor, 2005). As part of its new policy, China committed major resources to economic growth in the region mainly by exploiting Xinjiang’s natural resources (oil and gas). Soon, new roads, industries, cities along with an influx of ethnic Chinese ensued in the region. Chinese policy makers in Beijing believed that economic development would reduce local nationalism and further aid in the complete integration of the region with the mainland (Singh, 2010). But, these policies further intensified political tensions due to a sharp reaction by the Uyghurs against mass migration of ethnic Chinese into the region resulting in an uneven distribution of economic resources (ethnic Chinese were favoured over the Uyghurs). The tensions became evident when demonstrations were held in the city of Ghulja in 1997 to protest Chinese policies in Xinjiang, particularly, the religious and cultural restrictions. Although the protest was peaceful, Chinese security forces shot down a number of unarmed protestors which then resulted in rioting (Bovingdon, 2002). As noted by Finley (2013), during the riots,

‘Violent incidents took the form of attacks on Han cadres, police, and military, assassinations of perceived ‘collaborators’ among indigenous Uyghur cadres, and occasional bombings. The violence climaxed in 1997, when several hundred local people in Ghulja, enraged by increasingly acute restrictions on religion (including the banning of the all-male social gathering), came out in protest on the streets. Banners and slogans included calls for ‘ethnic equality’ and ‘independence’, as well as expressing religious sentiments. Protests continued for several days, resulting in the arrest of demonstrators. While anti-riot police and troops reportedly used dogs, tear gas,

fire hoses, beatings, and live ammunition on both demonstrators and bystanders, rioters are said to have torched vehicles and attacked Han police and civilians.’

The Ghulja incident was also one of the very few occasions wherein Uyghur activists have resorted to violence. Nevertheless, the disturbances created in the aftermath of this incident could not grow any further because Beijing, in the backdrop of the September 2001 attacks on the United States of America, announced that the Uyghur separatists in Xinjiang had links to the Taliban in Afghanistan (Roberts, 2018). Surprisingly, these assertions by the Chinese government came at a time when the region was said to be stable. There were no significant violent incidents in the region since 1999. Furthermore, by the early 2000s, China has had some success in encouraging young urban Uyghurs to integrate themselves in the Han-dominant society. In this context, it is argued that, the sudden claim of a Uyghur terrorist threat in the region was an attempt by China to further justify its policy of extreme crackdown on dissent and suppress Uyghur nationalism and religiosity (Roberts, 2018). In addition, in August 2002, the US embassy in Beijing also announced that it considered the ‘East Turkistan Islamic Movement (ETIM)’ as ‘a terrorist organization associated with al Qaeda’ (Millward, 2004). Note that, in November 2020, the US removed the ETIM from its list of ‘terrorist’ groups. Secretary of State, Mike Pompeo also called the mass detention ‘the stain of the century’ as US senators across party lines sought to declare China’s treatment of the Uyghurs as genocide (US removes group condemned by China from ‘terror’ list’, 2020).

Having given a brief description of the Xinjiang region, the next section focuses on highlighting China’s policy on religious freedom, post 9/11.

Section II. Regulating Religion in China

As per China’s Policies and Practices on Protecting Freedom of Religious Belief 2018, ‘the state treats all religions fairly and equally, and does not exercise administrative power to encourage or ban any religion. No religion is given preferential treatment above other religions to enjoy special legal privileges. The state manages religious affairs involving national and social public interests in accordance with the law but does not interfere in the internal affairs of religions’. But, the Chinese government’s treatment of certain groups such as unregistered

Christian churches, Tibetan Buddhists and Uyghur Muslims has raised global concerns over the government's claim of not interfering in the internal affairs of any religion (China: Religion and Chinese Law, 2018). Moreover, the document on 'China's Policies and Practices on Protecting Freedom of Religious Belief, 2018' mentions that 'under the staunch leadership of the Chinese Communist Party (CPC) Central Committee with Xi Jinping as the core', China has adopted a policy of actively guiding religions to adapt to the socialist society. A question, however, arises with respect to what specific measures will fall within the ambit of a policy on 'actively guiding religions to adapt to Chinese culture', further, whether those measures will abide by the rules of international human rights law or not. This becomes further clear by an examination of the document, which states that the State shall ban illegal religious activities, prohibit the dissemination of extremist thought and any engagement in extremist activity in the name of religion, resist the infiltration of hostile foreign forces in taking advantage of religion and fight against illegal and criminal activities operating under the guise of religion. As is evident from the Chinese treatment of Uyghurs in Xinjiang (where, as per multiple reports, China has arbitrarily detained, placed religious restrictions and forced sterilisations in an attempt to 're-educate' the Uyghur Muslims in order to counter 'extremism' in the region), the Chinese government has used its policies on regulation of religious beliefs as a political tool to clampdown on minority communities by labelling their culture and tradition as being significantly prone to extremism and terrorism.

The CCP's bureaucratic control over religion only began in the aftermath of the fall of the Soviet Union through the implementation of Document 6 (1991) (Chang, 2018). Document 6, made it compulsory to get formal government approval to carry out any of the following: 'construction of any new religious venue; provincial permission for the acceptance of large foreign donations; provincial agreement for any foreign visitation; and State Council authorisation for any major religious activities concerning foreign affairs' (Chang, 2018). From 1990 onwards, there was further increase in the bureaucratic control over managing religious affairs. This is evident from the drafting and implementation of a.) Regulation Governing Venues for Religious Activities, 1994 and b.) Religious Affairs Regulations, 2005, which was revised in 2017 under President Xi's leadership and took effect from February 2018.

As soon as Xi came to power, he advocated for the rejuvenation of the Chinese nation which according to him was only possible by vigorously following the Chinese national culture or rather his version of Chinese national culture. In other words, Xi implied that if Chinese culture has to act as an alternative model to Western ideas it has to work towards reviving ‘Chineseness’ through strict ideological control (Hau, 2012). Here, Xi’s speech at the 19th National Congress of the CCP in 2017 is relevant as it helps in understanding the current regulations on religious beliefs in China. His speech, more importantly, point towards adopting the notion of religious sinicisation, i.e., to modify religious faith and practice as per Chinese culture, as a policy measure to achieve the CCP’s objectives on protecting Chinese characteristics. In his speech, Xi states:

‘We will fully implement the Party’s basic policy on religious affairs, uphold the principle that religions in China must be Chinese in orientation and provide active guidance to religions so that they can adapt themselves to socialist society. We must rigorously protect against and take resolute measures to combat all acts of infiltration, subversion, and sabotage, as well as violent and terrorist activities, ethnic separatist activities, and religious extremist activities’ (Brodd, 2019).

The issue of sinicisation was also a response to the increasing popularity of Christianity in China which was considered detrimental to indigenous religious traditions including Confucianism, Taoism. The crackdown on Christians and the demolition of churches is the result of the belief that Christianity will dominate Chinese culture and pose a national security threat to the nation because of the foreign nature of the religion (Kuo, 2019).

The Religious Affairs Regulation, 2005 which replaced the 1994 Regulation Governing Venues for Religious Activities was the highest level government regulation of religious beliefs in China. Under the 2005 Regulations, as per article 5, the State Administration for Religious Affairs (SARA) at the county level or higher is mandated to exercise administrative control over religious affairs. Article 6 requires religious groups to mandatorily register with the government when such groups are either founded, changed or disbanded. Under article 7, religious groups are allowed to compile and print publications only if they abide by relevant state regulations. Published material that contains religious information has to comply with regulations governing publication and shall not contain, among other things, information that

propagates religious extremism. Article 19 states that religious affairs department shall supervise and inspect places of religious activity. Religious instructors can engage in religious education activities only after they have been certified to do so by their religious group and after a report has been submitted regarding the same to the department of religious affairs of the People's Government. The revision to the Religious Affairs Regulation, 2005 carried out under Xi's leadership in 2017 not only maintained the bureaucratic control over religious beliefs present in the 2005 regulations but went a step ahead and put in motion Xi's policy of religious sinicisation (Chang, 2018). This is evident, especially, through articles 3 and 4 of the 2017 regulations. Under article 3, management of religious affairs shall uphold the principles of protecting what is lawful, prohibiting what is unlawful, suppressing extremism, resisting infiltration, and fighting crime. Further, article 4 added a clause that the State actively guides religion to fit in with socialist society.

In short, the current regulatory regime on religious affairs in China in the name of uniting the masses and advancing social harmony and stability has brought in policies that not only impose State sanctioned religious beliefs on minority religions under the guise of 'guiding religion to fit in with socialist values' but also labels any minority religious activity as 'illegal' and equate minority culture and tradition with 'extremism' and 'crime'. Further, any foreign missionary work is immediately seen as an act of 'infiltration' and a plot by the West to divide China and threaten its fine traditional culture.

The next section examines China's repression of Uyghurs in light of the provisions on the right to freedom of religion under international law.

Section III. The Protection of Freedom of Religion under International Law

The Chinese government officially states under article 36(1) of the Constitution that citizens of China enjoy freedom of religious belief. Under article 36(2), 'no state organ, public organization, or individual may compel citizens to believe in, or not to believe in, any religion; nor may they discriminate against citizens who believe in, or do not believe in, any religion.' But, China's recent efforts (as mentioned in the previous section) to protect and promote its ethnic culture as a means of reigniting national identity along with the government's broad

discretion over religious practices resulting in intolerance and discrimination, especially, towards the Uyghur Muslims has diluted the mandate of religious tolerance provided in the Constitution (Besheer, 2020).

The international legal obligation towards protecting the right to religious freedom or belief emanates essentially from: 1) the Universal Declaration of Human Rights, 1948; 2) the International Covenant on Civil and Political Rights, 1966 and 3) the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, 1981.

1. The Universal Declaration of Human Rights (UDHR), 1948

The UDHR has several provisions relating to religious human rights. For instance, article 2 prohibits distinction of any kind, including on the basis of religion. Article 26 covers the right to education and refers to promoting understanding, tolerance and friendship among all racial or religious groups through education. But, the most crucial provision under the UDHR on religious rights is article 18 which states that,

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

The underlying principle behind article 18 is the peaceful co-existence of a plurality of religious beliefs within a particular State (Morsink, 2010). Further, in granting of the right to religion, the article remains neutral in its approach and does not consider majority or minority status as a relevant factor, and simply states that everyone has the right to religion. In essence, article 18 only provides a framework within which each person is free to pursue any religion in his or her own way (Morsink, 2010). Article 18 is divided into two parts, the first part guarantees the right to freedom of thought, conscience, and religion and the second enumerates the specific rights included therein. The second part, however, is not exhaustive (Robinson, 1958). Another essential aspect of article 18 is reference to the term ‘belief’. The inclusion of the term ‘belief’ in article 18, and in similar articles in other international instruments is to be strictly interpreted in connection with the term ‘religion’. Note that, the term belief refers only to beliefs associated

with religion and not those that are political, cultural, scientific or economic in nature (though, these beliefs are also to be protected under law) (Lerner, 2012). As mentioned by Lerner (2012), the term belief was also incorporated into the declaration ‘to protect nonreligious convictions, such as atheism or agnosticism.’

Although the UDHR at the time of its adoption was not a legally binding instrument, today, it is one of the primary source of global standards on human rights and has evolved to the extent that some its provisions now constitute customary international law that are binding on all States (Hannum, 1998). Its considerable practical importance, in interpreting the Charter of the United Nations, has also been recognised by the International Court of Justice (ICJ) [see, Case Concerning United States Diplomatic and Consular Staff in Tehran, ICJ Reports, 3 (1980), para. 91], the International Criminal Court (ICC) [see, Prosecutor v Omar Hassan Ahmad Al Bashir, No. ICC-02/05-01/09 (4 March 2009), para. 156], regional and domestic courts as an aid to interpretation of relevant human rights treaties [see, The European Court of Human Rights in the Golder case, ILR 57, 201], and national constitutional provisions protecting human rights [see, Attorney General v Susan Kigula and 417 Others, Constitutional Appeal No. 03 of 2006, Judgment of 21 January 2009] (Badiferin and Ssenyonjo, 2016).

2. The International Covenant on Civil and Political Rights (ICCPR), 1966

China is a signatory to the ICCPR but it has not yet ratified the Covenant, however, it is still obligated to refrain from acts which would defeat the objects and purposes of the Covenant. The most relevant provisions in the ICCPR relating to right to freedom of religion or belief are articles 18 and 27. Under article 18:

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

The Human Rights Committee in General Comment No. 22 (Article 18) states that, the right to freedom of thought, conscience and religion is 'far-reaching and profound' in its application. These rights are also fundamental in nature and cannot be derogated from even during the time of public emergency. Further, as per the Committee, the meaning of terms 'belief' and 'religion' are to be broadly construed (CCPR General Comment No. 22, 1993). Article 18(2) is of significance here especially in the context of China's recent policies on religious beliefs discussed in the previous section. As per the Committee, article 18(2) bars coercion that would prohibit an individual from freely exercising his or her right to religion or belief. The Committee also underlines the use of policies or practices employed by States that 'use threat of physical force or penal sanctions to compel believers or non-believers to adhere to their religious beliefs and congregations, to recant their religion or belief or to convert' (CCPR General Comment No. 22, 1993). Similarly, article 18(4) which gives liberty to parents or legal guardians 'to ensure the religious and moral education of their children in conformity with their own convictions' is closely associated with the guarantees under article 18(1). As per media reports, China has been forcing children (belonging to the Uyghur community) in State-run boarding schools in Xinjiang to become 'more Chinese' and be loyal to the Communist party as part of its campaign to indoctrinate Uyghur children from an early age and make them 'hate their own culture' (Qin, 2019).

With respect to article 27, the Committee notes that, even in places where a religion is recognised as a State religion or that it is established as official or traditional or that the followers of such religion constitute a majority of the population, the rights of persons belonging to ethnic, religious or linguistic minorities shall not be curtailed, especially, the rights enumerated under articles 18 and 27.

3. The Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, 1981

The Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief was proclaimed by the General Assembly of the United Nations by resolution 36/55 of November 25, 1981. Articles 1 and 5 of the Declaration generally follow the provisions of the ICCPR. Article 6 of the Declaration provides a list of freedoms of thought, religion, and belief. This list provides the rights that fall within an accepted minimum standard.

Articles 2 and 3 of the Declaration are of significance because they address intolerance and discrimination based on religion and belief. Article 2(2) mentions intolerance and discrimination as ‘any distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis.’ Further, as per article 3, discrimination on the grounds of religion or belief is an attack on the human dignity and goes against the principles of the Charter of the United Nations. Such discriminatory behaviour shall also be seen as a violation of the human rights and fundamental freedoms proclaimed in the UDHR and other international treaties and convention.

The Uyghur Muslims have been denied the fundamental freedom to right to religion or belief enshrined in the above mentioned international documents. As mentioned in section II, the Chinese government has been actively pursuing policies that are intolerant and discriminatory towards Muslims in the Xinjiang region. Note that, a joint statement on the human rights situation in Xinjiang on behalf of 39 countries not only took note of the developing situation in Xinjiang but also called on China ‘to allow immediate, meaningful and unfettered access to Xinjiang for independent observers including the Office of the High Commissioner for Human Rights, and relevant special procedure mandate holders and to urgently implement the Committee on the Elimination of Racial Discrimination eight recommendations related to Xinjiang’ (Joint Statement on the Human Rights Situation in Xinjiang, 2020).

Conclusion

The persecution of Uyghurs in Xinjiang (evident from numerous reports) is a clear violation of their basic human right to practice any religion or belief. The Chinese government's policy to suppress religion in Xinjiang, particularly the religion of Islam to protect its national security from 'extremism' and 'terrorism' goes against the mandate of the UDHR and other international instruments that recognise and protect the inherent dignity and the equal and inalienable rights of all human beings.

As noted by the Committee on the Elimination of Racial Discrimination, despite reports highlighting the detention of Uyghurs in the Xinjiang region, there is no official data available regarding the number of people who have been illegally placed in long term detention or who have been forced to spend varying periods in so-called 're-education camps' (Committee on the Elimination of Racial Discrimination, 2018). There are also reports that mention mass surveillance targeting Uyghur Muslims which raises an additional issue relating to violation of the right to privacy which is a well-recognised right under international law. The torture and ill-treatment of Uyghurs is the result of misuse of anti-terrorism laws and vague references to extremism and separatism. Unfounded allegations of breach of peace, foreign infiltration, terrorism have been used as an excuse to criminalise peaceful civic and religious expression and facilitate criminal profiling of Uyghurs in the region. What is worrying is that the existing laws, regulations, and practices in China are narrowly tailored to advance State-Party objectives that allows authorities to undertake any measure in the name of 'providing active guidance to religions so they could adapt to socialist society' (Brodd, 2019).

In order for the torture of religious minorities to stop, it is crucial that, alongside the implementation of the eight recommendations by the Committee on the Elimination of Racial Discrimination, a thorough legal reform is done of China's domestic policies regulating religious beliefs. Again, this will only be possible if the international community continues to put pressure on the Chinese government to come forward and disclose all laws and regulations applicable to religious practice in the XUAR and ensure that China fulfils its obligations to protect the right to freedom of religion or belief under international law.

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