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# The Legality of State Department Report on China and Uyghur Tribunal

Agbakwuru Moghalu C E

The annual United States Country Reports on Human Rights Practices cover internationally recognized individual, civil, political, and worker rights, as set forth in the Universal Declaration of Human Rights and other international agreements.<sup>1</sup> The 45th Annual *Country Reports on Human Rights Practice* accused the government of People's Republic of China (PRC) of committing genocide against the Uyghur's who are predominantly Muslims, and crimes against humanity including imprisonment, torture, enforced sterilization, and persecution against Uyghur's and members of other religious and ethnic minority groups.<sup>2</sup>

An independent tribunal has been formed in London to investigate the Chinese government's alleged rights abuses against Uyghur's Muslims and decide if the allegations of abuses constitute the crime of genocide. This article gives a background on the crime of genocide. The article discusses the dictionary and convention's definitions of genocide. What abuses constitute the crime of genocide? The article gives a brief discussion on Rwandan genocide. The article further defines a tribunal and who constitutes a tribunal. The article discusses the legality of the allegations of the crime of genocide against China and determines if the Uyghur tribunal is duly constituted. The article concludes with possible recommendations on the legality of the term 'genocide' to China.

## Introduction

There are about 12 million Uyghur's, mostly Muslim, living in north-western China in the region of Xinjiang, officially known as the Xinjiang Uyghur Autonomous Region (XUAR).<sup>3</sup> The Uyghur's speak their own language, similar to Turkish, and see themselves as culturally and ethnically close to Central Asian nations.<sup>4</sup> The Uyghur's make up less than half of the Xinjiang population. Recent decades saw a mass migration of Han Chinese (China's ethnic majority) to Xinjiang, and the Uyghur's feel their culture and livelihoods are under threat. Human rights groups believe China has detained more than a million Uyghur's over the past few years in what the state defines as 're-education camps'.<sup>5</sup> The United States in its 2020 State Department Report accused China of committing genocide and crimes against humanity through its repression of the Uyghur's. The alleged genocide and crimes against humanity occurred against the predominantly Muslim Uyghur's and other ethnic and religious minority groups in Xinjiang. These crimes were continuing and include: the arbitrary imprisonment or other severe deprivation of physical liberty of more than one million civilians; forced sterilization, coerced abortions, and more restrictive application of China's birth control policies; rape; torture of a large number of those arbitrarily

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<sup>1</sup> United States of America Department of State 2020 Country Reports on Human Rights Practices: China (includes Hong Kong, Macau and Tibet) available at <https://www.state.gov/reports/2020-country-reports> (accessed 12/04/2021).

<sup>2</sup> *Ibid.*

<sup>3</sup> Who are the Uyghur's and why is China being accused of genocide? Available at <https://www.bbc.com/world-asia-china-22278037> (accessed 12/04/2021).

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*

detained; forced labor; and the imposition of draconian restrictions on freedom of religion or belief, freedom of expression, and freedom of movement.<sup>6</sup>

The significant human rights issues against China included: arbitrary or unlawful killings by the government; forced disappearances by the government; torture by the government; harsh and life-threatening prison and detention conditions; arbitrary detention by the government, including the mass detention of more than one million Uyghur's and other members of predominantly Muslim minority groups in extrajudicial internment camps and an additional two million subjected to daytime-only 're-education' training; political prisoners; politically motivated reprisal against individuals outside the country; the lack of an independent judiciary and Communist Party control over the judicial and legal system; arbitrary interference with privacy; pervasive and intrusive technical surveillance and monitoring; serious restrictions on free expression, the press, and the internet, including physical attacks on and criminal prosecution of journalists, lawyers, writers, bloggers, dissidents, petitioners, and others as well as their family members, and censorship and site blocking; interference with the rights of peaceful assembly and freedom of association, including overly restrictive laws that apply to foreign and domestic nongovernmental organizations; severe restrictions and suppression of religious freedom; substantial restrictions on freedom of movement; refoulement of asylum seekers to North Korea, where they have a well-founded fear of persecution; the inability of citizens to choose their government; restrictions on political participation; serious acts of corruption; forced sterilization and coerced abortions; forced labor and trafficking in persons; severe restrictions on labor rights, including a ban on workers organizing or joining unions of their own choosing; and child labor.<sup>7</sup> In September 2020 the Uyghur Tribunal was launched. The Tribunal, which is chaired by Sir Geoffrey Nice QC in London, is considering allegations that the People's Republic of China (PRC) is perpetrating genocide and serious crimes against the Uyghur's Muslim.<sup>8</sup> This article discusses the legality of the allegation of genocide against China and the Tribunal.

### **The background of the term 'genocide'**

The word 'genocide' was first coined by Polish lawyer Raphaël Lemkin in 1944 in his book *Axis Rule in Occupied Europe*. It consists of the Greek prefix *genos*, meaning race or tribe, and the Latin suffix *cide*, meaning killing. Lemkin developed the term partly in response to the Nazi policies of systematic murder of Jewish people during the Holocaust, but also in response to previous instances in history of targeted actions aimed at the destruction of particular groups of people. Later on, Raphaël Lemkin led the campaign to have genocide recognized and codified as an international crime.<sup>9</sup>

Genocide was first recognized as a crime under international law in 1946 by the United Nations General Assembly (A/RES/96-I). It was codified as an independent crime in the 1948

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<sup>6</sup> China 2020 Human Rights Report. 2020 Country Reports on Human Rights Practices: China (includes Hong Kong, Macau and Tibet) available at <https://www.state.gov/reports/2020-country-reports> (accessed 12/04/2021).

<sup>7</sup> *Ibid.*

<sup>8</sup> Uyghur Tribunal available at [uyghurtibunal.com](http://uyghurtibunal.com) (accessed 12/04/2021).

<sup>9</sup> United Nations Office on Genocide Prevention and the Responsibility to the Project available at <https://www.un.org/genocideprevention/genocide> (accessed 13/04/2021).

Convention on the Prevention and Punishment of the Crime of Genocide (the Genocide Convention). The Convention has been ratified by 149 States (as of January 2018). The International Court of Justice (ICJ) has repeatedly stated that the Convention embodies principles that are part of general customary international law. This means that whether or not States have ratified the Genocide Convention, they are all bound as a matter of law by the principle that genocide is a crime prohibited under international law. The ICJ has also stated that the prohibition of genocide is a preemptory norm of international law (*or ius cogens*) and consequently, no derogation from it is allowed.<sup>10</sup>

## **The definitions of term ‘genocide’**

The definition of the term ‘genocide’ has been contested since the term was coined. Definitional boundaries determine which acts are covered and excluded and thus to a great extent which cases will benefit from international attention, intervention, prosecution, and reparation.<sup>11</sup> The term ‘genocide’ has been defined by many dictionaries, conventions, statutes, academics and scholars. The definitions of the term genocide in this article will be centered on some dictionaries’ definitions, the 1948 Convention on the Prevention and Punishment of the Crime of Genocide definition, and the Rome Statute of the International Criminal Court definition.

### **1) Dictionaries definitions of ‘genocide’**

Merriam Webster Dictionary defined the term ‘genocide’ as the deliberate and systematic destruction of a racial, political, or cultural group.<sup>12</sup> Genocide in the Cambridge English Dictionary is defined as the murder of a whole group of people, especially a whole nation, race, or religious group.<sup>13</sup> Oxford English Dictionary defined genocide as the deliberate killing of a large number of people from a particular nation or ethnic group with the aim of destroying that nation or group.<sup>14</sup>

### **2) Definition of the term ‘genocide’ by the Convention on the Prevention and Punishment of the Crime of Genocide**

The definition of the crime of genocide as contained in Article II of the Genocide Convention was the result of a negotiating process and reflects the compromise reached among United Nations Member States in 1948 at the time of drafting the Convention.<sup>15</sup> Article 11 of the Genocide Convention states that:

‘In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- a) Killing members of the group;
- b) Causing serious bodily or mental harm to members of the group;

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<sup>10</sup> *Ibid.*

<sup>11</sup> Theriault H C ‘Genocidal Mutation and the Challenge of Definition’ 2010 (41) (4) *Metaphilosophy* p481.

<sup>12</sup> Merriam Webster dictionary available at <https://www.merriam-webster.com/dictionary/genocide> (accessed 13/04/2021).

<sup>13</sup> Cambridge English dictionary available at <https://dictionary.cambridge.org/dictionary/genocide> (accessed 13/04/2021).

<sup>14</sup> Oxford English dictionary available at <https://www.lexico.com/definition/genocide> (accessed 13/04/2021).

<sup>15</sup> United Nations Office on Genocide Prevention and the Responsibility to the Project available at <https://www.un.org/genocideprevention/genocide> (accessed 13/04/2021).

- c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- d) Imposing measures intended to prevent births within the group;
- e) Forcibly transferring children of the group to another group.’<sup>16</sup>

### **3) Definition of the term ‘genocide’ by the Rome Statute of the International Criminal Court**

Genocide is defined in the same terms as in the Genocide Convention in the Rome Statute of the International Criminal Court (Article 6), as well as in the statutes of other international and hybrid jurisdictions. Many States have criminalized genocide in their domestic law; others have yet to do so.<sup>17</sup>

Article 6 of the Rome Statute of the International Criminal Court states that:

‘For the purpose of this Statute, ‘genocide’ means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- a) Killing members of the group;
- b) Causing serious bodily or mental harm to members of the group;
- c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- d) Imposing measures intended to prevent births within the group;
- e) Forcibly transferring children of the group to another group.’<sup>18</sup>

### **The 1994 Rwandan Genocide**

By the early 1990s, Rwanda, a small country with an overwhelmingly agricultural economy, had one of the highest population densities in Africa. About 85 percent of its population was Hutu; the rest were Tutsi, along with a small number of Twa, a Pygmy group who were the original inhabitants of Rwanda. Rwanda’s colonial period, during which the ruling Belgians favored the minority Tutsis over the Hutus, exacerbated the tendency of the few to oppress the many, creating a legacy of tension that exploded into violence even before Rwanda gained its independence. A Hutu revolution in 1959 forced as many as 330,000 Tutsis to flee the country, making them an even smaller minority. By early 1961, victorious Hutus had forced Rwanda’s Tutsi monarch into exile and declared the country a republic. After a United Nations referendum that same year, Belgium officially granted independence to Rwanda in July 1962.<sup>19</sup>

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<sup>16</sup> Article 11 of the Convention on the Prevention and Punishment of the Crime of Genocide approved and proposed for signature and ratification or accession by General Assembly resolution 260 A (111) of 9 December 1948. Entered into force 12 January 1951, in accordance with article X111.

<sup>17</sup> United Nations Office on Genocide Prevention and the Responsibility to the Project available at <https://www.un.org/genocideprevention/genocide> (accessed 14/04/2021).

<sup>18</sup> Article 6 of the Rome Statute of the International Criminal Court United Nations General Assembly, United Nations Treaty Series, vol 2187, No.38544 17 July 1998. Entered into force 1 July 2002.

<sup>19</sup> Rwandan Genocide. History.com available at <https://www.history.com/topics/africa/rwandan-genocide> (accessed 14/04/2021).

Ethnically motivated violence continued in the years following independence. In 1973, a military group installed Major General Juvenal Habyarimana, a moderate Hutu, in power. The sole leader of Rwandan government for the next two decades, Habyarimana founded a new political party, the National Revolutionary Movement for Development (NRMD). He was elected president under a new constitution ratified in 1978 and reelected in 1983 and 1988, when he was the sole candidate. In 1990, forces of the Rwandese Patriotic Front (RPF), consisting mostly of Tutsi refugees, invaded Rwanda from Uganda. Habyarimana accused Tutsi residents of being RPF accomplices and arrested hundreds of them. Between 1990 and 1993, government officials directed massacres of the Tutsi, killing hundreds. A ceasefire in these hostilities led to negotiations between the government and the RPF in 1992. In August 1993, Habyarimana signed an agreement at Arusha, Tanzania, calling for the creation of a transition government that would include the RPF. This power-sharing agreement angered Hutu extremists.<sup>20</sup>

On April 6, 1994, a plane carrying Habyarimana and Burundi's president Cyprien Ntaryamira was shot down over the capital city of Kigali, leaving no survivors. (It has never been conclusively determined who the culprits were. Some have blamed Hutu extremists, while others blamed leaders of the RPF). Within an hour of the plane crash, the Presidential Guard, together with members of the Rwandan armed forces (FAR) and Hutu militia groups known as the Interahamwe (Those Who Attack Together) and Impuzamugambi (Those Who Have the Same Goal), set up roadblocks and barricades and began slaughtering Tutsis and moderate Hutus with impunity. Among the first victims of the genocide were the moderate Hutu Prime Minister Agathe Uwilingiyimana and 10 Belgian peacekeepers, killed on April 7. This violence created a political vacuum, into which an interim government of extremist Hutu Power leaders from the military high command stepped on April 9. The killing of the Belgium peacekeepers, meanwhile, provoked the withdrawal of Belgium troops. And the U.N. directed that peacekeepers only defend themselves thereafter.<sup>21</sup>

The mass killings in Kigali quickly spread from that city to the rest of Rwanda. In the first two weeks, local administrators in central and southern Rwanda, where most Tutsi lived, resisted the genocide. After April 18, national officials removed the resisters and killed several of them. Other opponents then fell silent or actively led the killing. Officials rewarded killers with food, drink, drugs and money. Government-sponsored radio stations started calling on ordinary Rwandan civilians to murder their neighbors. Within three months, some 800,000 people had been slaughtered.<sup>22</sup>

Meanwhile, the RPF resumed fighting, and civil war raged alongside the genocide. By early July, RPF forces had gained control over most of country, including Kigali. In response, more than 2 million people, nearly all Hutus, fled Rwanda, crowding into refugee camps in the Congo (then called Zaire) and other neighboring countries. After its victory, the RPF established a coalition government similar to that agreed upon at Arusha, with Pasteur Bizimungu, a Hutu, as president and Paul Kagame, a Tutsi, as vice president and defense minister. Habyarimana's NRMD party, which had played a key role in organizing the genocide, was outlawed, and a new constitution adopted in 2003 eliminated reference to ethnicity. The new constitution was followed

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<sup>20</sup> *Ibid.*

<sup>21</sup> *Ibid.*

<sup>22</sup> *Ibid.*

by Kagame's election to a 10-year term as Rwanda's president and the country's first-ever legislative elections.<sup>23</sup> The 1994 killings in Rwanda is an example of Genocide, crimes against humanity.

### **The definition of the term 'tribunal'**

A tribunal is a kind of court or forum of justice that has authority in a specific area.<sup>24</sup> A tribunal is also a committee or board appointed to adjudicate on a particular matter.<sup>25</sup> A tribunal in the general sense is any person or institution with the authority to judge, adjudicates on, or determine claims or disputes, whether or not it is called a tribunal in its title. For example, an advocate appearing before a court on which a single judge was sitting could describe that judge as 'their tribunal'. Many governmental bodies that are titled 'tribunals' are so described to emphasize the fact that they are not courts of normal jurisdiction. For example, the International Criminal Tribunal for Rwanda is a body specially constituted under international law; in Great Britain, Employment Tribunals are bodies set up to hear specific employment disputes. Private judicial bodies are also often styled 'tribunals'. The word 'tribunal' is not conclusive of a body's function. For example, in Great Britain, the Employment Appeal Tribunal is a superior court of record. The term is originally derived from the tribunes, magistrates of the Classical Roman Republic. 'Tribunal' originally referred to the office of the tribunes, and the term is still sometimes used in this sense in historical writings.<sup>26</sup>

### **The legality of the allegation of crime of genocide and Uyghur tribunal**

The annual US Department of State Country Reports on Human Rights Practices accused China of committing crime of genocide against the Uyghur Muslim group. The Uyghur tribunal has been launched to consider the allegation that China is perpetrating serious crimes against the Uyghur's including rape, torture etc. If proved, these allegations could lead to the conclusion that these crimes constitute crimes against humanity and/or genocide. The notion of crimes against humanity has evolved under international customary law and through the jurisdictions of international courts such as the International Criminal Court, the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda. Many States have also criminalized crimes against humanity in their domestic law; others have yet to do so.<sup>27</sup>

Crimes against humanity have not yet been codified in a dedicated treaty of international law, unlike genocide and war crimes, although there are efforts to do so. Despite this, the prohibition of crimes against humanity, similar to the prohibition of genocide, has been considered a peremptory norm of international law, from which no derogation is permitted and which is applicable to all States.<sup>28</sup> Genocide is often referred to as a crime against humanity. The preamble

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<sup>23</sup> *Ibid.*

<sup>24</sup> Merriam-Webster dictionary available at <https://www.merriam-webster.com>dictionary>tribunal> (accessed 13/04/2021).

<sup>25</sup> Tribunal meaning available at <https://www.yourdictionary.com>tribunal> (accessed 14/04/2021).

<sup>26</sup> What does tribunal mean? Definitions .net available at <https://www.definitions.net>definition>tribunal> (accessed 14/04/2021).

<sup>27</sup> United Nations Office on Genocide Prevention and the Responsibility to the Project available at <https://www.un.org>genocideprevention>genocide> (accessed 14/04/2021).

<sup>28</sup> *Ibid.*

to the Convention on the Prevention and Punishment of the Crime of Genocide recognized that in all periods of history genocide has inflicted great losses on humanity.<sup>29</sup> While on the other hand, the preamble to the Rome Statute of International Criminal Court is mindful of the fact that during the past century, millions of children, women and men have been victims of unimaginable atrocities that deeply shock the conscience of humanity.<sup>30</sup> Both international treaties recognize the importance of abolishing crimes against humanity.

The 1998 Rome Statute establishing the International Criminal Court (Rome Statute) is the document that reflects the latest consensus among the international community on crimes against humanity. The Statute is also the treaty that offers the most extensive list of specific acts that may constitute the crime.<sup>31</sup> Article 7 of the Statute states that:

‘For the purpose of this Statute, ‘crime against humanity’ means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- a) Murder;
- b) Extermination;
- c) Enslavement;
- d) Deportation or forcible transfer of population;
- e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- f) Torture;
- g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
- i) Enforced disappearance of persons;
- j) The crime of apartheid;
- k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.<sup>32</sup>

The provision of article 7 of the Statute contains the following main element:

- 1) A *physical element* which includes:
  - a) ‘Attack directed against any civilian population’. This means a course of conduct involving the multiple commissions of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack;
  - b) ‘Extermination’ includes the intentional infliction of conditions of life, inter alia the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population;

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<sup>29</sup> Preamble to the Convention on the Prevention and Punishment of the Crime of Genocide.

<sup>30</sup> Preamble to the Rome Statute of the International Criminal Court.

<sup>31</sup> United Nations Office on Genocide Prevention and the Responsibility to the Project available at <https://www.un.org/genocideprevention/genocide> (accessed 14/04/2021).

<sup>32</sup> Article 7 para 1 (a-k) Rome Statute of the International Criminal Court.

- c) ‘Torture’ means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions;
- d) ‘Forced pregnancy’ means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy;
- e) ‘Persecution’ means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity;
- f) ‘The crime of apartheid’ means inhumane acts of a character similar to those referred to in paragraph 1, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime;
- g) ‘Enforced disappearance of persons’ means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.<sup>33</sup>
- 2) A *contextual element*: ‘when committed as part of a widespread or systematic attack directed against any civilian population’. The contextual element determines that crimes against humanity involve either large-scale violence in relation to the number of victims or its extension over a broad geographic area (widespread), or a methodical type of violence (systematic). This excludes random, accidental or isolated acts of violence.<sup>34</sup> In addition, article 7(2)(a) of the Rome Statute determines that crimes against humanity must be committed in furtherance of a State or organizational policy to commit an attack.<sup>35</sup>
- 3) A *mental element*: ‘with knowledge of the attack’.

Again, article II of the Genocide Convention contains a narrow definition of the crime of genocide, which includes two main elements:

- 1) A *mental element*: the ‘intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such’; and
- 2) A *physical element*: which includes the following:
  - a) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
  - b) Imposing measures intended to prevent births within the group.

There are two active components of proving that a crime has been committed. The components are:

- 1) The legal maxim ‘Affirmanti Non Neganti Incumbit Probatio’. The maxim literally means that the burden of proof lies on the person that asserts that a crime has been committed.

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<sup>33</sup> Article 7 para 2 (a, b, e, f-i) of the Rome Statute of the International Criminal Court.

<sup>34</sup> United Nations Office on Genocide Prevention and the Responsibility to the Project available at <https://www.un.org/genocideprevention/genocide> (accessed 15/04/2021).

<sup>35</sup> Article 7 para 2 (a) of the Rome Statute of the International Criminal Court.

The onus of proof is on the person who affirms that a crime has been committed and not on the person that denies it.

- 2) The second element of proving a crime is that the criminal elements the ‘Actus Reus’ and ‘Mens Rea’ must be proved beyond reasonable doubt. The Actus Reus literally means ‘guilty act’ while the Mens Rea means ‘a guilty mind’.

Therefore, to constitute criminal behavior, the element actus reus and mens rea must occur simultaneously. The actus reus involves the ‘actual intent’ to commit a crime and must be proved beyond reasonable doubt that there was an intent on the part of the criminal to commit the act. It should be noted that different crimes require different degrees of intent. For example, to prove larceny, the prosecution must establish that the defendant intentionally took property to which he knows he is not entitled, intending to deprive the owner of possession permanently. Negligent homicide, on the other hand, involves thoughtlessness, inadvertence, or inattention in a person’s duty to exercise due care toward others. A drunk driver who kills another is often charged with criminal negligent homicide.

The intent is the most difficult element to determine. To constitute genocide, there must be a proven intent on the part of perpetrators to physically destroy a national, ethnical, racial or religious group. Cultural destruction does not suffice, nor does an intention to simply disperse a group. It is this special intent, or *dolus specialis*, that makes the crime of genocide so unique. In addition, case law has associated intent with the existence of a State or organizational plan or policy, even if the definition of genocide in international law does not include that element. Importantly, the victims of genocide are deliberately targeted - not randomly – because of their real or perceived membership of one of the four groups protected under the Convention (which excludes political groups, for example). This means that the target of destruction must be the group, as such, and not its members as individuals. Genocide can also be committed against only a part of the group, as long as that part is identifiable (including within a geographically limited area) and ‘substantial’.

Based on the foregoing, the onus lies on the Uyghur tribunal to prove intent on the part of China to commit the alleged crime of genocide. The tribunal has the duty to prove beyond reasonable doubt the element of ‘intent’ in the following:

- 1) On the issue of committing crime against humanity, the tribunal has to prove that:
  - a) The crime against humanity was committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.

The tribunal has to prove that it is in the systemic nature or is the method of China to attack the Uyghur Muslim group. Secondly, the tribunal has to prove that China has knowledge of the attack, and that the alleged crime against humanity was well planned, calculated and executed. ‘Attack directed against any civilian population’ means a course of conduct involving the multiple commission of acts against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack.<sup>36</sup> The tribunal has to establish the fact that there is a policy, rule or law in China to lodge attacks on the Uyghur Muslim group.

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<sup>36</sup> United Nations Office on Genocide Prevention and the Responsibility to the Project available at <https://www.un.org/genocideprevention/genocide> (accessed 15/04/2021).

- b) The intentional infliction of conditions of life, example the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population which is 'Extermination' must be proved.
- c) The intentional infliction of severe pain or suffering, whether physical or mental, which is torture upon any Uyghur Muslim in the custody or under the control of the Chinese government must be proved.
- d) 'Forced pregnancy' which is the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law.

In the case of alleged genocide against Uyghur women, the reverse is the case that the women were prevented from conceiving to hinder the population of the group. Whichever allegation that is levied against China, the tribunal has the onus of proving the element of 'intent' to commit the crime beyond any reasonable doubt.

- e) The tribunal has to prove the act of 'Persecution' which is the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity.
- f) The crime of 'Apartheid' which is inhumane acts committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime has to be proved.

In South Africa, enforced apartheid was a policy of racial segregation, on its citizens.<sup>37</sup> Apartheid was based on 'racial discrimination',<sup>38</sup> and included rigid and increasingly sophisticated controls over all black South Africans.<sup>39</sup> Apartheid is a crime against humanity. For the tribunal to prove that crime against the Uyghur Muslims is a crime against humanity that leads to enforced apartheid, the tribunal has to prove that there is racial discrimination or segregation on Uyghur Muslims who are members of the Chinese country.

- g) Finally on the issue of crime against humanity, the tribunal has to prove 'Enforced disappearance of persons which is the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.

The intent to commit the above listed elements of crime against humanity must be proved by the tribunal if they are asserting allegations of crime against humanity on China. The two basic elements of criminal behavior, which are the actus reus and the mens rea, must simultaneously be present in the allegation of crime against humanity and must be proved by the party that asserts, in this case, the Uyghur tribunal against China.

- 2) On the issue of committing the crime of genocide, the tribunal has to prove the following:
  - a) That the alleged acts were committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group. In this case the Uyghur population. The deliberate target on Uyghur Muslims has to be proved.

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<sup>37</sup> United Nations Educational, Scientific and Cultural Organization *Apartheid* (1967) preface.

<sup>38</sup> *Ibid.*

<sup>39</sup> Monteath TL *A History of South Africa* (1995) p193.

- b) The tribunal has to prove that there is deliberate infliction on the group conditions of life calculated to bring about its physical destruction in whole or in part.
- c) Finally on the allegation of genocide, the tribunal has to prove that China is imposing measures intended to prevent births within the Uyghur Muslim group.

The onus is on the tribunal to prove the allegation of genocide against China. Again, the elements of actus reus and mens rea must simultaneously be present.

### **The legality of the Uyghur tribunal**

Generally, tribunals are established by the legislature or the constitution of any country for the decision or judgment of the tribunal to have any binding effect on the citizens or government of the country. For example, in India, the Central Government shall, by notification, establish an Administrative Tribunal, to be known as the Central Administrative Tribunal, to exercise the jurisdiction, powers and authority conferred on the Central Administrative Tribunal by or under the Administrative Tribunal Act.<sup>40</sup> The Administrative Tribunal Act further states that:

‘Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court) in relation to certain matters’.<sup>41</sup>

Chapter IV section 22 (3) also states that:

‘A Tribunal shall have, for the purposes of (discharging its functions under this Act), the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of some matters’.<sup>42</sup>

In addition, in Nigeria, the Code of Conduct Tribunal was set up by Section 20 of the Code of Conduct Bureau and Tribunal Act, CAP C15, Volume 2, Laws of the Federation of Nigeria, 2004 to deal with complaints of corruption by public servants for the breaches of its provisions.<sup>43</sup> In the case of the Code of Conduct Tribunal, the Fifth Schedule, Part I, Paragraph 15 of the 1999 Constitution provide that:

‘There shall be established a tribunal to be known as Code of Conduct Tribunal which shall consist of a Chairman and two other persons. The Chairman shall be a person who has held or is qualified to hold office as a Judge of a Court of record in Nigeria’.<sup>44</sup>

These provisions show the legality of tribunals that are formed by the constitution or legislature of any country. The decisions of these tribunals are binding on its citizens. The Uyghur tribunal is an independent tribunal and its decision is not binding on the government of China. Moreover, China is not a party to the tribunal. The Uyghur tribunal does not have any government backing and the tribunal’s judgment is not binding on any government.<sup>45</sup>

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<sup>40</sup> Chapter 11 4(1) the Administrative Tribunals Act 1985.

<sup>41</sup> Chapter 111 14 (1) of the Administrative Tribunals Act 1985.

<sup>42</sup> Chapter IV 22(3) of the Administrative Tribunals Act 1985.

<sup>43</sup> Section 20 of the Code of Conduct Bureau and Tribunal Act, CAP C15 Volume 2, Laws of the Federation of Nigeria 2004.

<sup>44</sup> The Fifth Schedule, Part 1, Para 15 of the 1999 Constitution of Nigeria as amended.

<sup>45</sup> Uyghur Tribunal available at [uyghurtibunal.com](http://uyghurtibunal.com) (accessed 10/05/2021).

Secondly, as earlier stated, a tribunal is a kind of court or forum of justice that has authority in a specific area. Furthermore, article VI of the Genocide Convention states that: ‘Persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction’.<sup>46</sup>

In the case of Uyghur tribunal, a UK tribunal formed to investigate China’s alleged genocide against Uyghur Muslim population; the tribunal is not duly constituted. For any tribunal to be duly constituted, it must comprise of experts in a particular field. Chapter 1 section 2 (3c) of the Tribunal, Courts and Enforcement Act 2007 states that: ‘there is the need for members of tribunals to be experts in the subject-matter of, or the law to be applied in, cases in which they decide matters’.<sup>47</sup> In the present case of allegation of genocide, the tribunal should be composed of experts in international human rights law. The Uyghur tribunal is chaired by Sir Geoffrey Nice, who is the only human right expert as a member of the tribunal. This alone makes the Uyghur tribunal not competent to assert the allegation of genocide against China.

Thirdly, according to article VI of the Genocide Convention, the tribunal not only should it be competent and duly formed but also, should be in the territory of which the act was committed. In this instance, the tribunal should be formed in China. However, the tribunal can also be formed by international penal tribunal as may have jurisdiction with respect to those contracting parties which shall have accepted its jurisdiction. In this present circumstance, the contracting party which is China must accept the jurisdiction of Uyghur tribunal that is based in the UK. The international tribunal which in this case is the Uyghur tribunal that is based in UK may have jurisdiction with respect to the contracting state in this case China, which shall accept its jurisdiction to assert the allegation of genocide.

Fourthly, according to the Uyghur tribunal, around 30 witnesses and experts are expected to give evidence at the first public hearing and written witness testimonies which include submissions from ‘people who have had direct experience or tangential experience, alleging relations or family members are missing’ shall be given at the hearing.<sup>48</sup> Generally, ‘A written witness statement, testimonies or evidence is 1) a document recording the evidence of a person, which is signed by that person to confirm that the contents of the statement are true and 2) a statement should record what the witness saw, heard or felt.’<sup>49</sup>

A type of witness statement is statements provided voluntarily in compliance with section 9 of the Criminal Justice Act of 1967. Section 9 of the Criminal Justice Act states that:

- 1) In any criminal proceedings, other than committal proceedings, a written statement by any person shall, if such of the conditions mentioned in the next following subsection as are

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<sup>46</sup> Article VI of the Genocide Convention.

<sup>47</sup> Chapter 1 section 2 (3c) of the Tribunal, Courts and Enforcement Act 2007.

<sup>48</sup> Uyghur Tribunal available at [uyghurtibunal.com](http://uyghurtibunal.com) (accessed 09/05/2021).

<sup>49</sup> Witness Statements Investigation Enforcement Guide HSE available at <https://www.hse.gov.uk> (accessed 09/05/2021).

applicable are satisfied, be admissible as evidence to the like extent as oral evidence to the like effect by that person;

- 2) The said conditions are:
  - a) the statement purports to be signed by the person who made it;
  - b) the statement contains a declaration by that person to the effect that it is true to the best of his knowledge and belief and that he made the statement knowing that, if it were tendered in evidence, he would be liable to prosecution if he wilfully stated in it anything which he knew to be false or did not believe to be true;
  - c) before the hearing at which the statement is tendered in evidence, a copy of the statement is served, by or on behalf of the party proposing to tender it, on each of the other parties to the proceedings: and
  - d) none of the other parties or their solicitors, within seven days from the service of the copy of the statement, serves a notice on the party so proposing objecting to the statement being tendered in evidence under this section.<sup>50</sup>

Provided that the conditions mentioned in paragraphs (c) and (d) of this subsection shall not apply if the parties agree before or during the hearing that the statement shall be so tendered.<sup>51</sup> Paragraph (c) of section 9 of the Criminal Justice Act specifically states that ‘a copy of the witness statement is served, by or on behalf of the party proposing to tender the statement as evidence’, on each of the other parties to the proceedings: in this present situation of the allegation against China of committing the crime of genocide against Uyghur Muslims, the statement is to be served by the Uyghur tribunal on China but in this case, China is not a party to the tribunal or its investigation. For any witness statement to be valid and be administered as evidence, both parties must agree to accept it as evidence. In the present case, Uyghur tribunal cannot tender any witness statement on China because China is not a party to the Uyghur tribunal. Therefore no witness statement is binding on China.

Furthermore, according to paragraph (d) of section 9, the witness statement shall be admissible as evidence if none of the parties within seven days from the service of the copy of the statement serves a notice on the party so proposing objecting to the statement being tendered in evidence. In the present allegation of genocide against China, the issue of objecting the witness statement is not applicable because the copy of the witness statement cannot be served on China since they are not party to the Uyghur tribunal.

In conclusion on the admissibility of witness statement as evidence, the witness statement can only be admissible if none of the other parties object to the statement being tendered in evidence. In this present case, China is not a party to the Uyghur tribunal therefore no witness statement can be served on them not to talk of the witness statement been accepted as evidence by China.

Finally, on the legality of the Uyghur tribunal, the judgment of the Uyghur tribunal could be marred by allegation of bias. Bias is the action of supporting or opposing a particular person or thing in an unfair way, because of allowing personal opinions to influence your judgment.<sup>52</sup> Though the judgment of the Uyghur tribunal will not have any binding effect on China, the

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<sup>50</sup> Section 9 Criminal Justice Act 1967 available at [legislation.gov.uk](https://legislation.gov.uk) (accessed 09/05/2021).

<sup>51</sup> *Ibid.*

<sup>52</sup> Cambridge English Dictionary available at <https://dictionary.cambridge.org> (accessed 10/05/2021).

allegations of genocide if proved would be brought before Karim Khan, a UK lawyer elected to take over in June 2021 as chief prosecutor at the International Criminal Court.<sup>53</sup> Karim Khan, Rodney Dixon (a UK lawyer that previously filed allegations against China in International Criminal Court) and Geoffrey Nice (the current chairman of the Uyghur tribunal) are all members of Temple Garden Chambers located in London.<sup>54</sup> All have mutual interest and have the tendency of being biased in their prosecuting China. Geoffrey Nice who is the chairman of the Uyghur tribunal should recuse himself (because of potential conflict of interest and lack of impartiality) from the tribunal. There is tendency of biased judgment against China since there is proof that Geoffrey Nice, Karim Khan and Rodney Dixon enjoy relationship that emanates from been members of the same chamber. Moreover, Rodney Dixon and Geoffrey Nice have both been active in International Criminal Court.

In summary, for the allegation of genocide against China to succeed, the tribunal first should be approved by the constitution or legislature and be duly constituted with experts in international human rights law. Secondly, the tribunal must have the jurisdiction to handle the allegation. Where the tribunal does not have jurisdiction by virtue of the fact that it is not formed where the alleged crime was committed, the parties involved must accept its jurisdiction that is the jurisdiction where the tribunal is formed. In this case, China must agree and accept the jurisdiction which is in UK that the tribunal is based. China should be a party to the tribunal. The chairman of the tribunal who is Geoffrey Nice who has the tendency of been biased in his judgments because of been members of the same law chamber with Karim Khan and Rodney Dixon should recuse himself from the tribunal. Thirdly, the basic element of any criminal behavior which is ‘intent’ must be proved beyond reasonable doubt.

## **Recommendations**

The author believes that for the allegation of genocide against China to be successful, the following must be implemented:

- 1) The tribunal should be duly constituted with experts in international human rights law;
- 2) The jurisdiction for the tribunal should be based in China and if otherwise, both parties must agree and accept where the jurisdiction is, which in this case is internationally based;
- 3) The allegations of genocide must be proved beyond reasonable doubt. The onus is on the Uyghur tribunal to prove this fact. ‘It goes without saying that he who asserts, must prove it’; and
- 4) The actus reus and mens rea, which are active elements of any criminal behavior, must be available simultaneously in any allegation and must be proved also beyond reasonable doubt.

So far, it seems that these conditions cannot be satisfied.

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<sup>53</sup> UN news, available at

[https://news.un.org/en/story/2021/02/1084582#:~:text=Karim%20Asad%20Ahmad%20Khan%20was,International%20Criminal%20Court%20\(ICC\).&text=Criminal%20lawyer%20and%20human%20rights,International%20Criminal%20Court%20\(ICC\).](https://news.un.org/en/story/2021/02/1084582#:~:text=Karim%20Asad%20Ahmad%20Khan%20was,International%20Criminal%20Court%20(ICC).&text=Criminal%20lawyer%20and%20human%20rights,International%20Criminal%20Court%20(ICC).) (accessed 10/05/2021)

<sup>54</sup> Temple Garden Chambers available at <https://tgchambers.com> (accessed 10/05/2021).

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# **The Fine Line between Being the Fourth Estate and Objective Impartiality: Media Opinion and Response to the Uyghur Tribunal**

Salma Yusuf

## **Introduction**

Uyghur, the residents of Xinjiang, have always been and distinct ethnicity, with closer roots with the diverse Turkhic communities of the region. Buddhism and Islam have had a considerable influence on the lifestyle of these people, enabling them to shape an independent identity and prosper owing to the Silk Route that passed through the region.

The Xinjiang province was annexed by China as early as the 18th century, and later, in 1949, with the aid of the USSR. Since then, consistent attempts have been made to assimilate the Uyghur community with the Han Chinese identity<sup>1</sup>, sparking protests and riots. Terming them as “Terrorists” and their acts as “separatism”, China has, according to numerous sources, undertaken a rather inhuman approach for dealing with the people of the Uyghur community<sup>2</sup>. While denying all accusations against it with regards to activities in the Uyghur region, it has showcased the infrastructural development carried out therein, as a proof of its willingness to ensure the appropriate growth of the region and its residents. However, the People’s to investigate China’s alleged Genocide and crimes against Humanity against Uyghur, Kazakh and other Turkic Muslim populations. or simply, the Uyghur Tribunal, which convened in June 2021, under the Chairmanship of Geoffrey Nice, the lead prosecutor of Slobodan Milošević, former President of Serbia, at the UN’s International Criminal Tribunal for the former Yugoslavia, assisted by Nick Vetch, Dame Parveen Kumar, Ambreena Manji, Tim Clark, Raminder Kaur, David Linch, Audrey Osler and Catherine Roe had a different story to tell, undoubtedly, contradicting the Chinese version. Established in September 2020, its primary objective isto determine whether the internationally recognized crimes of genocide and crimes against humanity have been committed against the Uyghur, Kazakhs and other Turkic Muslim populations living in China.

For instance, with the able assistance of the Panel Members, such as expert witnesses, it gathered “controversial evidence” What is fascinating is that during the course of the proceedings, the testimonies offered by the victims certainly aligned with the previous ground-level findings of Human Rights Watch (hereafter referred to as HRW). For instance, in its “Break Their Lineage, Break Their Roots” China’s Crimes against Humanity Targeting Uyghurs and Other Turkic Muslims, HRW reported that several Turkic Muslims, either disappeared or were detained either as prisoners and enrolled for the “re-education programme”, which involved, allegedly forcing them to embrace the Chinese customs and ways of life.

## **Witness Testimony**

The Uyghur Tribunal, during its proceedings, had the opportunity to assess several testimonies of people hailing from Xinjiang, who directly or indirectly witnessed or were affected

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<sup>1</sup> <https://apnews.com/article/china-cables-ap-top-news-international-news-china-race-and-ethnicity-4ab0b341a4ec4e648423f2ec47ea5c47>

<sup>2</sup> <https://www.bbc.com/news/world-asia-china-55794071>

by the alleged acts of the Chinese government. Nurisman Abdureshid, a 33-year-old witness, reported that her family disappeared and were detained on the charges of “terrorism”, while she was in Turkey, while Mehmet Tevekkül, a 51-year-old Uyghur was detained twice for being “religious”<sup>3</sup>. Witnesses confirmed the rampant utilization of means for aborting Uyghur women and compelling them to take contraceptive pills, for controlling the growth of the population of this community in the region<sup>4</sup>. Likewise, they were exposed routinely to rape and torture, which was brought to light in April 2021. Australian Strategic Policy Institute reported the illicit transfer of Uyghur to different regions of China where they are allegedly indulged in forced labour with the strict prohibition of professing religious beliefs - on the second day of proceedings of the Tribunal several experts did emphasize the same, in the hopes of consolidating a strong case against China. It recorded the statements of Habibulla Achad, a witness, who was instrumental in drawing the attention of the audience to the strict curbs imposed by the Chinese authorities, prohibiting them from professing their religion, i.e. Islam<sup>5</sup>. Wang Leizhan, a former Policeman in China attested to the aforesaid findings, besides stating arbitrary detentions and strict implementation of censorship laws in Urumqi<sup>6</sup>. Nyrola Elimä, a witness in these proceedings, enabled the world to realize the deplorable conditions of the Uyghur who are forcibly imprisoned<sup>7</sup>. Relying upon the evidence such as the aforesaid, gathered during these exhaustive sessions, lawyers seek to move the International Criminal Court against the Chinese Government for safeguarding the rights of the citizens.

As the Tribunal is set to reconvene in September, 2021 and finally give its “verdict” with regards to whether the acts of the Chinese authorities amount to genocide against the Uyghur community, in the light of the non-engagement with the Tribunal by China, a neutral outcome is unlikely. While the media has been instrumental in ensuring a detailed report on the proceedings of the Tribunal, there remains a need to analyze the diverse media reports, for understanding the authenticity of their findings and assertions is the primary objective of this paper. This paper will further discover, describe and analyze the media opinion, media response and reportage of the Tribunal to date. It will identify trends and trajectories on how the media coverage is linked and connected with geopolitics and international relations.

## **Media Trends, Geopolitics and International Relations**

The 21st century is undoubtedly the age of information and every administrative, legal or even scientific initiative requires the backing of appropriate documentation. , Unlike the earlier times, logic and rationality increasingly govern the justice redress mechanisms of today and ensure that that justice is ensured for the deserving. Reasonability, backed by verified data, enables humans to assert their position in society and henceforth, they often resort to any means for securing the same, or, for that matter, creating it in a few instances. One of the crucial drawbacks

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<sup>3</sup><https://www.rfa.org/english/news/uyghur/uyghur-tribunal-06072021173432.html>

<sup>4</sup><https://uyghurtribunal.com/wp-content/uploads/2021/06/07-1050-JUN-21-UTFW-062-Nursiman-Abdureshid-English.pdf>

<sup>5</sup><https://uyghurtribunal.com/wp-content/uploads/2021/06/06-1150-JUN-21-UTFW-060-Habibulla-Achad-English.pdf>

<sup>6</sup><https://uyghurtribunal.com/wp-content/uploads/2021/06/07-1000-JUN-21-UTFW-022-Wang-Leizhan-English.pdf>

<sup>7</sup><https://uyghurtribunal.com/wp-content/uploads/2021/06/07-0900-JUN-21-UTFW-044-Nyrola-Elima-English.pdf>

of this era is that technology, which was essentially responsible for ushering in the information age, is also capable of if misused, inter-alia disturbing public peace and harmony. As of today, easier access to tools that enable the creation and circulation of the data enables individuals to promote their agenda, even based on false claims and findings, for personal gains. Every community seems to have its version of any incident or claim, which it asserts heavily in the public domain, through the means of social media. Such means of propaganda are a blot to democratic societies and purely means of rallying innocent people for political gains by ambitious statesmen. For tackling this spread of misinformation, the press and the media houses, also considered as the 'Fourth Estate' of government and required to play a critical role in democracy, are required to report on news and events as they unfold neutrally, only after its authenticity is verified. Within local jurisdictions, several laws regulate the press with the sole intention of ensuring the free flow of verified and legitimate content among the masses. In a nutshell, the press is expected to refrain from acting as a propaganda machine, either for or against the State, if it seeks to serve its true purpose in contemporary democracies.

Today, media, specifically news agencies play a crucial role in ensuring that the common person is made aware about the developments of the judicial mechanisms, besides making them aware of their rights and duties therein. That is to say, it is the perfect medium for making the State reach out its people and brief them about the extent to which they are bound by the laws of the State, besides enabling them to realize the subsidies which they are entitled to. On a serious note, however, it is instrumental in bridging the rather rigid and reserved judiciary and the curious citizenry of the democracy, by helping the understand the extent of crime rate and felony in the region and the mannerism in which the State deals with it – it does, to considerable extent, act as a deterrent for curbing the commission of illicit acts in the region.

However, maintaining such neutrality is rather a utopian concept owing to the involvement of global and regional superpowers in matters of dissemination of authentic information. In other instances, the ruling party in a country typically exert some influence in the functioning of the media or that of the modes whereby they are "telecasted", for long-term political benefits. Ideally to possess dictatorial ambitions in democratic establishments abrogates the very essence which their Constitutions seeks to promote and uphold within their jurisdiction and yet, the press is heavily relied upon for achieving despotic objectives therein. This nevertheless, is certainly reflective of the fact that in several instances, the media houses do end up exposing their political affiliations quite subtly, directly affecting the decision-making process of the individuals.

Western media has played a crucial role in bringing to light the alleged human rights violations of the Uyghur of Xinjiang region of China. However, the Chinese press, on the other hand, has consistently denied the claims made by the Western politicians, human rights activists and social workers, claiming that such "allegations" levelled against them were baseless and merely an attempt to malign and subdue China in the international realm. Similarly, the establishment and the proceedings of the Uyghur Tribunal is not immune to such conflicting opinions, so broadcasted by the press and the media houses, thereby making it difficult to formulate a legitimate opinion with regards to the situation of the Uyghur community in China.

## **Middle East and Asian Countries**

The report of Al-Jazeera, the Doha-based news channel has, at length, described the details of the Uyghur Tribunal, with special emphasis on the “heart-wrenching testimonies” of the “victims”<sup>8</sup>. Such an assertion is in line with that of Qatar, which, unlike all its Muslim neighbors, categorically stands against the Chinese’s position on the Uyghur issue, despite it increasing the chances of affecting the socio-economic relationship with China. Evidently, in 2019, Qatar refused to support other 37, predominantly Muslim nations for dismissing any abrogation of the freedoms of the Uyghur in Xinjiang China<sup>9</sup>.

Japan, which has consistently opposed the expansionist policies, has joined the West in criticizing its activities in Xinjiang<sup>10</sup> and through its diverse news reports, Japan Times has highlighted the detention of Uyghur or those researching and working for realizing their plight<sup>11</sup>. With regards to its views on the Uyghur Tribunal, it has been instrumental in drawing the attention of its readers to its proceedings, though, after its first session, has attempted to showcase the possibility of mounting pressure on the Japanese Government for imposing sanctions against China for indulging Uyghur in forced labour<sup>12</sup>.

Asian News International, based in New Delhi, India on the other hand, has, however reported merely the facts of the proceedings, apparently refraining from making any politically controversial opinion thereby<sup>13</sup>. CP24, a Canadian news channel too, has undertaken a similar position while reporting the matter<sup>14</sup>, although Canada itself has condemned China for its “human rights record”<sup>15</sup>. Dhaka Tribune<sup>16</sup> of Bangladesh and South China Morning Post<sup>17</sup> have indulged in reporting only the proceedings of the Tribunal. Surprisingly, TRT World, a Turkish media house, which is known for discussing issues of importance and relevance to the status of Muslims worldwide, has not considered offering a detailed analysis of the Uyghur Tribunal.

## Europe

Although Germany seems to have taken only a moderate stance against the Chinese with regards to the plight of the Uyghur in the region, DW-News, the state-owned international media house funded by the German federal tax budget<sup>18</sup> has been instrumental in showcasing the world,

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<sup>8</sup><https://www.aljazeera.com/news/2021/6/4/uyghur-tribunal-hears-evidence-of-alleged-china-abuses>

<sup>9</sup><https://theprint.in/world/qatar-refuses-to-certify-chinas-human-rights-record-on-treatment-of-uyghur-muslims/279851/>

<sup>10</sup><https://www.channelnewsasia.com/news/asia/japan-australia-raise-concerns-china-abuses-xinjiang-14978924>

<sup>11</sup><https://www.japantimes.co.jp/opinion/2020/03/01/commentary/japan-commentary/persecution-lonely-death-uyghur-scholar/>

<sup>12</sup> <https://www.japantimes.co.jp/news/2021/06/15/national/g7-uyghurs-forced-labor-japan/>

<sup>13</sup><https://www.aninews.in/news/world/europe/uyghur-tribunal-hears-allegations-of-rights-abuses-in-china20210605164901/>

<sup>14</sup><https://www.cp24.com/world/uk-people-s-tribunal-hears-claims-china-abused-uyghurs-1.5456611>

<sup>15</sup><https://www.theguardian.com/global-development/2021/jun/22/china-canada-relations-xinjiang-human-rights>

<sup>16</sup><https://www.dhakatribune.com/world/east-asia/2021/06/04/uyghur-tribunal-hears-allegations-of-rampant-china-abuses>

<sup>17</sup><https://www.scmp.com/news/world/europe/article/3135967/uk-uygur-tribunal-begins-china-and-west-clash-over-xinjiang>

<sup>18</sup><https://www.dw.com/en/what-kind-of-company-is-deutsche-welle/a-3252998>

the plight of the Uyghur community through its several reports and relatively aggressively. It has played a crucial role in amplifying the reports by HRW and Amnesty International on the plight of the Uyghur community in China and is invested in drawing the attention of the masses to the alleged imprisonments and detentions of these people by the Chinese authorities under the pretext of tackling terrorism<sup>19</sup>.

However, while Deutsche Welle (DW News), a German broadcasting channel, has not made any specific comment with regards to the Tribunal, as of 4th June 2021<sup>20</sup>, i.e. on the very first day of the session, it has been instrumental in drawing attention to the sufferings of the intellectuals of the Uyghur communities in China, hinting support to the first session of the Tribunal, so conducted in the United Kingdom. To some extent, this showcases the prevailing animosity between Germany and China and the inclination of the latter towards its European neighbor, which have undertaken a bolder stance with regards to this matter.

France24, a premium news channel in France, co-owned by commercial national network TF1 and the state-owned France Télévisions<sup>21</sup> has reported the proceedings to a considerable extent, and in a milder sense, sided with the endeavours of the West to curb the alleged atrocities. Notably, France is keen on surveying the abuses of the Chinese against the Uyghur and is known for pressurizing them to that effect<sup>22</sup>.

Islam21c, one of the major media initiatives striving to ensure that the voices of Muslims are heard in the West, has, in its report by Shaheer Choudhury termed the testimonies of the Uyghur, tendered during the proceedings of the Tribunal, declaring the witnesses as “survivors”<sup>23</sup>.

## South Asia

News-X, which is owned by Karthikeya Sharma, the son of Indian Congress leader Venod Sharma, has termed the acts of the Chinese in Xinjiang, against the Uyghur as “atrocious”<sup>24</sup>, while Firstpost, an Indian newspaper, has merely reported the details of the session and the testimonies

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<sup>19</sup><https://www.dw.com/en/chinese-courts-jail-dozens-of-uyghurs-over-terror-charges/a-17650254>

<sup>20</sup><https://www.youtube.com/watch?v=aTE4J5JsByM>

<sup>21</sup>[https://publicdiplomacy.wikia.org/wiki/France\\_24#:~:text=The%20network%20is%20co-owned,headquarters%20are%20in%20New%20York](https://publicdiplomacy.wikia.org/wiki/France_24#:~:text=The%20network%20is%20co-owned,headquarters%20are%20in%20New%20York).

<sup>22</sup><https://www.france24.com/en/france/20210224-france-excoriates-china-s-institutional-repression-of-uyghurs>

<sup>23</sup>[https://www.islam21c.com/news-views/uyghur-tribunal-underway-with-bone-chilling-survivor-testimonies/?\\_cf\\_chl\\_jschl\\_tk\\_=a24ace902c3f09afb85f09403e1bc13fa1618b9b-1626086562-0-AdVoV8KWR8Y4cBYF1HP5IzHkfiKEpSEb84snkAgH3KUicteJadUeSaSTuZznhrKd1aJPK1xV2b\\_DjSNLAsMHqI72MZNulq6yRk3th6DzqgUmKnKkHE-atpO-1qfhVWE4D\\_CC7Mq8zah3akMQxcRH5HUE0DhVXLLe2jlkysC42rnW-2BN2U0WOF0wLKuYu-JE8yPOq8fijPvr22C0qQiuC\\_NUBixpBctUnb6\\_Yi3q4x9xir1OSzSGTrWh0xrCijEzkZVWvTsv7JhrFSjxwL4xoN7yvW6O\\_YXnPKD74IS1sZFwDDteHgy3fFY76S7FWHs8KFS5XOuyaYEo7Jk\\_zVpOyUBG6AjPYwSs4-u414DsywMqzLgyEp17mV1THWNYK-S652Y1hgHAJ\\_99fV0JgmKSwzrEinKSgNhrRjPwscV8RhtGT96uYeb13ELUHc6QuCjMJqeHgpFchxej9-5dvp3ZfZ\\_nAnt9LbR826f5m0dw2NHBAaKAUGCMQB6iNLnPe56147JllihN\\_cnq2NYkik-w-Hrt8eiDmsCpmh2CTaifcPle8ThvAQ2pt3lybQukPmCbDFA](https://www.islam21c.com/news-views/uyghur-tribunal-underway-with-bone-chilling-survivor-testimonies/?_cf_chl_jschl_tk_=a24ace902c3f09afb85f09403e1bc13fa1618b9b-1626086562-0-AdVoV8KWR8Y4cBYF1HP5IzHkfiKEpSEb84snkAgH3KUicteJadUeSaSTuZznhrKd1aJPK1xV2b_DjSNLAsMHqI72MZNulq6yRk3th6DzqgUmKnKkHE-atpO-1qfhVWE4D_CC7Mq8zah3akMQxcRH5HUE0DhVXLLe2jlkysC42rnW-2BN2U0WOF0wLKuYu-JE8yPOq8fijPvr22C0qQiuC_NUBixpBctUnb6_Yi3q4x9xir1OSzSGTrWh0xrCijEzkZVWvTsv7JhrFSjxwL4xoN7yvW6O_YXnPKD74IS1sZFwDDteHgy3fFY76S7FWHs8KFS5XOuyaYEo7Jk_zVpOyUBG6AjPYwSs4-u414DsywMqzLgyEp17mV1THWNYK-S652Y1hgHAJ_99fV0JgmKSwzrEinKSgNhrRjPwscV8RhtGT96uYeb13ELUHc6QuCjMJqeHgpFchxej9-5dvp3ZfZ_nAnt9LbR826f5m0dw2NHBAaKAUGCMQB6iNLnPe56147JllihN_cnq2NYkik-w-Hrt8eiDmsCpmh2CTaifcPle8ThvAQ2pt3lybQukPmCbDFA)

<sup>24</sup><https://www.newsx.com/world/uyghur-tribunal-to-investigate-a-possible-genocide-in-china.html>

of the witnesses, coupled with an explanation of the Chinese perspective on it<sup>25</sup>. The Hindu, which too has settled on merely reporting the details of the proceedings of the Tribunal, however, previously, has significantly reported the instances of alleged persecutions against and the staged-aspirations of the Uyghur community - be it shedding light on numerous reports<sup>26</sup>, in-depth analysis of their plight<sup>27</sup>, or the protests conducted by them elsewhere in the world, The Hindu has made it available for all its readers in India<sup>28</sup>. Republic World, has termed the activities of China in Xinjiang as a “clampdown” against the Uyghur<sup>29</sup> and with regards to the Tribunal, has placed assertion on how the Chinese authorities have adamantly denied the allegations leveled during the proceedings<sup>30</sup>.

Wion News, currently run by Sudhir Chaudhary and Palki Sharma Upadhaya, currently, has been instrumental in providing a diverse and detailed opinion on the status of Uyghur in Xinjiang besides terming the activities of China therein, as “crimes” and “state-sponsored rapes”<sup>31</sup>. However, Wion, known for its aggressive approach towards China, termed the testimonies offered at the Tribunal as worrisome<sup>32</sup>.

Daily News and Analysis, India, which falls within the same category as that of the aforesaid media outlets in terms of their political affiliation, has, over several years, consistently attempted to subdue China for its pursuit against the Uyghur community. Be it spreading awareness about the activities of human rights organizations for pressurizing China<sup>33</sup> or giving a voice to the Uyghur populace in a rather aggressive manner<sup>34</sup>, this media house has covered the spectrum of views. Nevertheless, it appears that the mainstream Indian media is certainly undertaking an Anti-Chinese stance, also indicating its struggle for appeasing the interests of the ruling party herein.

## **The United States of America**

The Cable News Network (CNN), has actively participated in communicating the radical approach of the United States of America against China, with regards to the alleged unfair treatment of the Uyghur therein<sup>35</sup>. Significantly, US Senator for Florida, Mark Rubio, relied upon

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<sup>25</sup><https://www.firstpost.com/world/cannot-forget-uyghur-tribunal-hears-allegations-of-rampant-china-abuses-9686201.html>

<sup>26</sup><https://www.thehindu.com/news/international/china-forcibly-sterilises-uyghurs-to-control-population-report/article31950495.ece>

<sup>27</sup><https://www.thehindu.com/news/international/leaked-chinese-government-documents-show-details-of-xinjiang-clampdown-says-news-report/article29997947.ece>

<sup>28</sup><https://www.thehindu.com/news/international/uyghur-women-stage-a-march-in-istanbul-against-china-camps/article34022554.ece>

<sup>29</sup><https://www.republicworld.com/world-news/china/chinas-clampdown-on-uyghurs-overseas-has-spread-to-nearly-30-countries-report.html>

<sup>30</sup><https://www.republicworld.com/world-news/rest-of-the-world-news/china-denounces-uyghur-tribunal-evidence-as-false.html>

<sup>31</sup><https://www.youtube.com/watch?v=NbzKQmVAFdo>

<sup>32</sup><https://www.youtube.com/watch?v=taXpxMd16bU>

<sup>33</sup><https://www.dnaindia.com/world/report-campaign-for-uyghurs-against-china-persecution-of-ethnic-minorities-2870022>

<sup>34</sup><https://www.youtube.com/watch?v=epEaOuZzbAY>

<sup>35</sup><https://edition.cnn.com/2021/01/19/us/us-xinjiang-china-genocide-intl/index.html>

one of the reports of this channel for criticizing the forced deportation of the Uyghur populace back to China<sup>36</sup>. In addition to shedding light the personal experiences of the Uyghur with regards to the treatment suffered by them at the hands of the Chinese officials<sup>37</sup>, its team has, on the ground level, played a crucial role in rescuing stranded Uyghur children in China<sup>38</sup>. However, it seems that CNN has not sensationalized the news of reportage of events of the Tribunal.

The Associated Press, one of the oldest news agencies in the world, known for delivering factually accurate news, has gone to the extent of interviewing certain witnesses before the commencement of the proceedings of the Tribunal, thereby engaging in an analysis of the situation in Xinjiang.<sup>39</sup>

Fair Observer, U.S. based online media platform, has “praised” Sweden’s efforts for safeguarding the rights of the Uyghurs<sup>40</sup>, going to the extent of prescribing penalization for China for its policy in Xinjiang<sup>41</sup>. However, it has surprisingly failed to generate any significant opinion with regards to the Tribunal.

Radio Free Asia, owned by U.S. Agency for Global Media, has, as a media house, been crucial in making the masses aware about the plight of the Uyghur community. It's reports, arguably, showcase its firm belief in the eye-witness accounts so offered by the eye-witnesses, without attempting to dig deeper with regards to their legitimacy therein<sup>42</sup>. Nevertheless, it has certainly brought to the notice of all, the allegedly recent imprisonments of teachers of a Uyghur school<sup>43</sup>, in addition to emphasizing the alleged attempts by China for thwarting the personal liberty of this populace living beyond its borders<sup>44</sup>.

Washington-based Voa News expressed the views of the supporters of the Uyghur Tribunal and its ability to bring about a positive and much required change in the status of the Uyghur therein<sup>45</sup>. Interestingly, it brought to notice the silence of President Erodgan of Turkey on the “plight” of the Uyghur in China, and placed on record the allegations against his Government with regards to “trading” Uyghur in return of vaccines<sup>46</sup>!

Reuters, one of the well-reputed organizations, known for employing the finest journalists of the world, recently published the impact China’s population control policy could have on the

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<sup>36</sup><https://edition.cnn.com/2021/06/11/middleeast/uyghur-deportations-rubio-china-intl/index.html>

<sup>37</sup><https://edition.cnn.com/2021/06/24/china/xinjiang-prisons-china-intl-hnk-dst/index.html>

<sup>38</sup><https://www.youtube.com/watch?v=gMHB7tQOIJg>

<sup>39</sup><https://apnews.com/article/europe-china-government-and-politics-fd19b109674aa8770083c069a5daadd4>

<sup>40</sup>[https://www.fairobserver.com/region/asia\\_pacific/anna-hayes-uighur-rights-china-persecution-surveillance-concentration-camps-asylum-news-18221/](https://www.fairobserver.com/region/asia_pacific/anna-hayes-uighur-rights-china-persecution-surveillance-concentration-camps-asylum-news-18221/)

<sup>41</sup>[https://www.fairobserver.com/region/asia\\_pacific/china-uighur-muslims-detention-camps-human-rights-abuses-news-18812/](https://www.fairobserver.com/region/asia_pacific/china-uighur-muslims-detention-camps-human-rights-abuses-news-18812/)

<sup>42</sup><https://www.rfa.org/english/news/uyghur/uyghur-tribunal-06042021174406.html>

<sup>43</sup><https://www.rfa.org/english/news/uyghur/high-school-07012021100931.html>

<sup>44</sup><https://www.rfa.org/english/news/uyghur/transnational-repression-06252021184853.html>

<sup>45</sup><https://www.voanews.com/east-asia-pacific/activists-praise-uk-peoples-tribunal-chinas-alleged-uyghur-abuse>

<sup>46</sup><https://www.voanews.com/europe/turkish-opposition-challenge-erdogan-over-uighur-silence>

Uyghur population therein<sup>47</sup>. It highlighted the views of human rights groups such as Human Rights Watch with regards to the plight of the Uyghur population and broadcasted globally<sup>48</sup>, the sanctions imposed by the western giants, i.e. USA and UK. However, any conclusive or different data with regards to the proceedings of the Uyghur Tribunal remains unavailable. Even the New York Times, which has worked extensively in “exposing” the allegedly illicit Chinese affair of tracking<sup>49</sup>, detaining Uyghur population<sup>50</sup> and the mannerism whereby it spreads its propaganda against this ethnic group<sup>51</sup>, has not presented a distinct report on the aspects of the Tribunal.

## The United Kingdom

The BBC (British Broadcasting Corporation), a public service broadcaster in the United Kingdom unlike its American counterpart, has, in detail, discussed the proceedings of the Uyghur Tribunal<sup>52</sup>, and has even on previous occasions drawn attention of its readers and viewers through its electronic channels to the alleged human rights abuse (that of religious freedom<sup>53</sup> and bodily dignity and integrity<sup>54</sup>) in Xinjiang. By actively proffering the views of condemnation of the alleged acts of the Chinese by the United Kingdom, it took the pains of describing Amnesty's report on the plight of Uyghur in Xinjiang,<sup>55</sup>. Sky News in the United Kingdom has undertaken a similar approach and had apparently accepted the eye-witness accounts in their entirety<sup>56</sup>, which may jeopardize the legitimacy of the Tribunal and may mislead the masses into believing these “assertions” as “facts”. Such is not tenable in view of the fact that there is an absence of an appropriate defence present at the Tribunal from the Chinese authorities. That said, it is not a deliberate exclusion testimony of the testimony of the Chinese authorities but rather a refusal of the Chinese authorities to engage with the Peoples Tribunal. The mechanism of the People’s Tribunal is typically one of fact-findings rather than an adjudicatory mechanism especially when the testimony of the defence is absent. The Artnewspaper, based in London and New York City has termed the testimonies offered by the witnesses during the affairs of the Tribunal as “horrific”<sup>57</sup>

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<sup>47</sup><https://www.reuters.com/world/china/exclusive-amid-accusations-genocide-west-china-polices-could-cut-millions-uyghur-2021-06-07/>

<sup>48</sup><https://www.reuters.com/article/us-china-rights-xinjiang-idUSKBN2C61I6>

<sup>49</sup><https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwirmIXtst7xAhWMzDgGHTUICp4QFnoECBMQAA&url=https%3A%2F%2Fwww.nytimes.com%2F2019%2F02%2F21%2Fbusiness%2Fchina-xinjiang-uighur-dna-thermo-fisher.html&usq=AOvVaw2v8NvN9fDdQmoT3yJxYIuc>

<sup>50</sup>[https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwirmIXtst7xAhWMzDgGHTUICp4QFnoECBEQAA&url=https%3A%2F%2Fwww.nytimes.com%2F2018%2F09%2F08%2Fworld%2Fasia%2Fchina-uighur-muslim-detention-camp.html&usq=AOvVaw2Cfba0zoQH-YDaGNys\\_J-I](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwirmIXtst7xAhWMzDgGHTUICp4QFnoECBEQAA&url=https%3A%2F%2Fwww.nytimes.com%2F2018%2F09%2F08%2Fworld%2Fasia%2Fchina-uighur-muslim-detention-camp.html&usq=AOvVaw2Cfba0zoQH-YDaGNys_J-I)

<sup>51</sup><https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwirmIXtst7xAhWMzDgGHTUICp4QFnoECBAQAA&url=https%3A%2F%2Fwww.nytimes.com%2Finteractive%2F2021%2F06%2F22%2Ftechnology%2Fxinjiang-uyghurs-china-propaganda.html&usq=AOvVaw0UMynG840Y0OUNAR40VyF9>

<sup>52</sup><https://www.bbc.com/news/uk-57318564>

<sup>53</sup><https://www.bbc.com/news/world-asia-china-56986057>

<sup>54</sup><https://www.bbc.com/news/world-asia-55930344>

<sup>55</sup><https://www.bbc.com/news/world-asia-china-57386625>

<sup>56</sup><https://news.sky.com/story/a-time-when-i-was-dead-uyghur-woman-held-in-chinese-detention-camp-tells-of-inhuman-torture-12325702>

<sup>57</sup><https://www.theartnewspaper.com/news/inside-the-brutal-xinjiang-detention-camps>

while Capx, a British online newspaper, has entrusted its faith in the potential of the Uyghur Tribunal in exposing the ground-reality of Xinjiang.

A brief overview of the foregoing analysis reveals that the countries, which resolutely stand against China, have the support of their mainstream media-houses which is certainly likely to impact the political consciousness of the laypersons. To that effect, China and its allies have made it a point to counter heavily such allegations. Nevertheless, it won't be wrong to state that the Uyghur issue has certainly been a great factor in dividing the world into two halves, and this polarization is undoubtedly, detrimental to world peace.

### **China and Its Allies**

From a Chinese perspective, the Uyghur Tribunal seems to be purely an affair to demean it in the international realm by the West, halt its efforts from becoming a global superpower with regards to their policy against the Uyghur, Chinese authorities have consistently denied any allegations of “arbitrary detentions” and those conducted therein, where such detention according to the official record, are purely for the purpose of combating terrorism. The “re-education camps”, they assert, could be viewed as merely the means of “reforming” and “rehabilitating” these diverse groups, so as to confirm with the “Chinese way of Life”, for ensuring their utmost loyalty to the state.

In the name of safeguarding the sovereignty, a nation still cannot justify such means, for subduing dissent, which is likely to treat innocents in a degrading manner. All measures must be taken within the framework of the principles of international human rights law. China allegedly, according to numerous reports, by both media-houses and the human rights organizations, has, allegedly gone to the extent of treating Uyghur as second-class citizens and even forcibly sterilizing their women. This would naturally fall within the ambit of “genocide” as per the prevailing international standards, though the refusal of China to recognize these norms ideally makes it immune from being tried for its activities in Xinjiang. This however, should not be construed as a means for clamping down upon the minority (as has been alleged), who could rather, voluntarily be assimilated into the populace, by assuring them their personal freedoms, as long as they do not conflict with the well-being of the entire region.

However, the Chinese media has made it a point to avert all the efforts of the West, either direct through the medium of sanctions or indirectly, through the Uyghur Tribunal, from affecting its pre-existing policy. For instance, CGTN, operated by China Media Group (Government of the People's Republic of China), has lashed against the proceedings of the Uyghur Tribunal. While it has conveyed to its readers the illegitimacy and the unreliability of the findings of the said forum<sup>58</sup>, it went to the extent of terming it as a farce and as stated previously, merely an Anti-Chinese propaganda<sup>59</sup>.

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<sup>58</sup><https://news.cgtn.com/news/2021-06-08/VHJhbnNjcmlwdDU1NDM5/index.html>

<sup>59</sup><https://news.cgtn.com/news/2021-06-04/The-Uyghur-Tribunal-hearing-is-a-farce-from-start-to-finish-10OXfVwFUI/index.html>

Xinhuanet<sup>60</sup> has also taken a similar position, criticizing the attempt of the West to legitimize the Tribunal; China Daily has declared Nice's involvement in the said matter as a "testimony" of spoiling China's image in the world<sup>61</sup> - propaganda against it<sup>62</sup>. Zhao Linjian, Foreign Ministry Spokesperson of China called the Tribunal an "orchestrated show" and a medium of "instigating" separatism<sup>63</sup>.

China.org, is in consonance with the aforesaid findings, and has gone to the extent of holding that the Uyghur Tribunal was funded by separatists groups, who are keen on threatening the sovereignty of China<sup>64</sup>.

According to Global Times, a Beijing-based Chinese newspaper, the Uyghur Tribunal is merely an attempt to intervene in China's internal matters<sup>65</sup>, in contravention to the international laws. Openly terming it as a "pseudo-court", this media outlet has attempted to showcase the numerous discrepancies within the evidence tendered during the course of the proceedings and malign the witnesses<sup>66</sup>.

The media outlet Asianews.it in its report dated 5th June, 2021, Russia sided with China and has refuted the allegations made against the latter with regards to treating the Uyghur in an undignified manner<sup>67</sup>.

Notably, Dawn.com of Pakistan reported Imran Khan's staunch position for accepting China's version with regards to their treatment towards the Uyghur, which stems from the strong ties existing between the two nations<sup>68</sup>. The said media-house, headquartered at Karachi, has on previous occasions, been instrumental in criticizing the silence of Pakistan with regards to the "insufferable" position of the Uyghur populace in Xinjiang.

According to the publication, The Diplomat, Pakistan, which once was considered as a safe haven for Uyghur, is nothing less than a prison, where they fear for their lives, that of being abducted and sent back to China<sup>69</sup>. It has reported that Uyghur who migrated to Pakistan decades ago are being accused of separatism by both China and Pakistan and are being pursued accordingly. It goes to the extent of pointing out that Pakistan has done little to tend to the pleas of their men, whose Uyghur wives have been detained in China<sup>70</sup>.

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<sup>60</sup>[http://www.xinhuanet.com/english/2021-06/08/c\\_139996676.htm](http://www.xinhuanet.com/english/2021-06/08/c_139996676.htm)

<sup>61</sup><https://www.chinadaily.com.cn/a/202106/16/WS60c953c0a31024ad0bac6feb.html>

<sup>62</sup><https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwi2pLyn597xAhVftgFHVA0BLUQFnoECAsQAA&url=https%3A%2F%2Fwww.chinadaily.com.cn%2Fa%2F202106%2F16%2FWS60c9955ea31024ad0bac9786.html&usq=AOvVaw1wN18qTz6eIYbmEZ8FzV7A>

<sup>63</sup>[https://www.fmprc.gov.cn/mfa\\_eng/xwfw\\_665399/s2510\\_665401/t1882182.shtml](https://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/t1882182.shtml)

<sup>64</sup>[http://www.china.org.cn/world/2021-06/09/content\\_77556608.htm](http://www.china.org.cn/world/2021-06/09/content_77556608.htm)

<sup>65</sup><https://www.globaltimes.cn/page/202106/1225382.shtml>

<sup>66</sup><https://www.globaltimes.cn/page/202106/1225418.shtml>

<sup>67</sup><http://www.asianews.it/news-en/Moscow-to-Beijing's-rescue:-No-Uyghur-genocide-in-Xinjiang-53065.html>

<sup>68</sup><https://www.dawn.com/news/1632666>

<sup>69</sup><https://thediplomat.com/2021/06/how-pakistan-is-helping-china-crack-down-on-uyghur-muslims/>

<sup>70</sup><https://asiatimes.com/2018/04/protests-loom-pakistan-chinas-jailing-mens-uyghur-wives/>

Haaretz, an Israeli news channel has showcased how the Gulf States, such as Saudi Arabia and Iran, have steadily ignored the well-being of their fellow Uyghur Muslims, for safeguarding their relations with the Chinese<sup>71</sup>.

The lack of any legal backing, absence of appropriate rules and procedures and jurisdiction, makes it really seem like an attempt to defame China without any sufficient and verified evidence - the moment, this Tribunal goes a step ahead in declaring China either innocent or guilty for its activities in China based on the mannerism in which it has been acquiring evidence, it would depart from the concept of rule of law, and would certainly be no less than a propaganda machinery, as has been claimed by the Chinese officials. To that effect, the Tribunal, in its upcoming sittings, needs to make it a point that while broadcasting its proceedings, utmost neutrality is maintained by the officials and that the news reports herein, make it a point to stray away from “corrupting” their reports on this controversial issue by either exaggerating or personalizing the same for appeasing any political entity.

## **Conclusion**

On weighing the diverse perspectives offered by the media houses, the Uyghur Tribunal, which was primarily established for ascertaining the position of the Uyghur ethnic minority in China, has seemingly been portrayed by the media as tools of “justice-delivery mechanism”. It is worth mentioning that the evidence gathered during the course of the proceedings of the Tribunal have largely been denied by the Chinese officials, who have termed it as an attempt to malign China.

Media is the watchdog of all democracies and it is expected to aid the government in ensuring healthy governance, primarily by pointing out the prevailing loopholes in laws, policies and bringing forward the demands, desires, ambitions and expectations of the people from its Government. Post-World War II, there has been a consistent attempt to ensure the steady promotion of democratic regimes, elected and run through the direct or indirect participation of the people, for their welfare. That is to say, the Governments of today’s era are ideally obliged to preserve and protect the rights of its individuals and to that effect, the media is expected to aid the latter rather than become a tool in the hands of the former for promoting its interest. In this information age, stricter restrictions on the press are likely to pave the path for despotisms to prevail, which shall then make it easier for the Government to subdue the rights of certain social groups which do not conform with their “ideology”.

Thus, it is necessary to grant sufficient autonomy to the media houses, until they do not indulge in such activities, which threaten the nation - punishments to that effect are certainly justified, but precautionary measures based on apprehensions is certainly illegitimate and counters the self-autonomy of the masses sufficiently. Thus, independence of the media from the clutches of the Government and its voluntary participation in conveying neutral news is the only remedy for the appropriate realization of human rights in the 21st century.

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<sup>71</sup><https://www.haaretz.com/middle-east-news/.premium-gulf-states-have-sacrificed-uyghur-muslims-for-access-to-china-s-cash-1.9115903>

The media reporting on and commentary on the Uyghur Tribunal reveals that international relations and geopolitics are inextricably linked to the media reporting of the proceedings, events and issues being dealt with by the Uyghur Tribunal. That said, research reveals that a handful of media organizations are reporting the proceedings and do not venture into commentary or analysis and remain as neutral. Against this backdrop it must be said that while ‘trial by media’ must be avoided at all costs for human rights issues in general, and the Uyghur issues included, the role of the media as the Fourth Pillar in government and as a bastion of the rights and dignity must not be overlooked.

# **The Analysis of Uyghur Tribunals' Witness Statement and Admissibility of Chinese Allegation of Crime of Genocide in International Criminal Court**

Agbakwuru Moghalu C E & Temiloluwa Lawal

## **Part 1 Analysis of the Hearing**

It is alleged that the People's Republic of China (PRC) has and continues to perpetrate the most serious of international crimes against the Uyghur's, Kazakhs and other Turkic Muslims in the Uyghur region of North West China.<sup>1</sup> In June 2020 Dolkun Isa, President of the World Uyghur Congress formally requested that Sir Geoffrey Nice QC, a British barrister, establish and chair an independent people's tribunal to investigate 'ongoing atrocities and possible Genocide' against the Uyghur's, Kazakhs and other Turkic Muslim Populations. The Uyghur Tribunal (Tribunal) was launched on 3 September 2020 with assistance from a non-governmental organization, the Coalition for Genocide Response.<sup>2</sup> Though not affiliated with or backed by any state or statute, the tribunal, an eight-member panel chaired by Sir Geoffrey Nice, has begun sitting in London, the United Kingdom, to hear and determine the accusations leveled against the Chinese authorities.<sup>3</sup>

Witnesses and experts have provided testimonies about torture, rape, and other human rights violations in the Xinjiang Uyghur Autonomous Region (XUAR) at the four days of Uyghur tribunal hearing in London, investigating whether China's treatment of its ethnic Uyghur's and other Turkic Muslims constitutes genocide.<sup>4</sup>

As clarified by the body:

"The Uyghur Tribunal, which has no powers of sanction or enforcement, will confine itself to reviewing evidence to reach an impartial and considered judgment on whether international crimes are proved to have been committed by the PRC...It will be for States, international institutions, commercial companies, art, medical and educational establishments, and individuals to determine how to apply the Tribunal's Judgment, whatever it may be, in their dealings with the PRC...This could include, but is not limited to, trade and other sanctions including against individuals, proscribing the sale of technologies, surveillance and medical equipment and the declaration of ineligibility for visas."<sup>5</sup>

Part 1 of this report analyses the witness statements and the admissibility of the allegation of crime of genocide against China in the International Criminal Court.

## **Analysis of witness statements**

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<sup>1</sup> Uyghur Tribunal available at: [uyghurtribunal.com](http://uyghurtribunal.com) (accessed 08/06/2021).

<sup>2</sup> *Ibid.*

<sup>3</sup> Uyghur Tribunal, 'about' <https://uyghurtribunal.com/about/> accessed June 3, 2021

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid*

A witness statement is a document recording the evidence of a person, which is signed by that person to confirm that the contents of the statement are true.<sup>6</sup> A statement should record what the witness saw, heard or felt. However, it is also important to record anything that may open up a new line of enquiry or help in corroborating other information.<sup>7</sup>

In any criminal proceedings, the prosecutors and defendants may present evidence in support of their cases. The prosecutor has the burden of proving guilt beyond any reasonable doubt, while the defendant may present evidence to challenge the prosecutor's case. Each side should have the opportunity to review the other side's evidence before trial and object to the introduction of certain evidence before or during trial.<sup>8</sup> In the Uyghur tribunal proceedings, the Chinese government, the supposed defendant in the allegation of crime of genocide is not a party to the tribunal. Therefore, China cannot review evidence of any witness to a trial that the government is not a part to. The criminal proceeding has no binding effect on the Chinese government since the government is not a party to the tribunal.

Secondly, the role of prosecutors may differ depending on the legal tradition adopted in a particular country. Two types of legal traditions dominate the nature of investigation and adjudication around the world in any criminal proceeding: accusatorial or adversarial and inquisitorial legal systems. Common law countries use an adversarial system to determine facts in the adjudication process. In the adversarial system, the prosecution and defense compete against each other, and the judge serves as a referee to ensure fairness to the accused, and that the legal rules of criminal procedure followed. The adversarial system assumes that the best way to get to the truth of a matter is through a competitive process to determine the facts and application of the law accurately.<sup>9</sup>

The inquisitorial system is associated with civil law legal systems, and it has existed for many centuries. It is characterized by extensive pre-trial investigation and interrogations with the objective to avoid bringing an innocent person to trial. The inquisitorial process can be described as an official inquiry to ascertain the truth, whereas the adversarial system uses a competitive process between prosecution and defense to determine the facts. The inquisitorial process grants more power to the judge who oversees the process, whereas the judge in the adversarial system serves more as an arbiter between claims of the prosecution and defense.<sup>10</sup>

In any criminal proceeding adopted the accusatorial system or the inquisitorial, the accused or the defendant is to be a party to the proceeding and approve the witness statement to be tendered in tribunal or court as evidence. The Uyghur tribunal witness statement and the proceeding in general does not have any binding effect on China since the government is not a party to the trial.

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<sup>6</sup> Health and Safety Executive, Witness Statements Investigation Enforcement Guide available at: <https://www.hse.gov.uk/investigation/witness-witness> (accessed 08/06/2021).

<sup>7</sup> *Ibid.*

<sup>8</sup> Rules Regarding the Admissibility of Evidence in a Criminal Procedure available at: <https://www.justia.com/criminal/procedure/admissibility> (accessed 08/06/2021).

<sup>9</sup> UNODC The Doha Declaration: Promoting a Culture of Lawfulness, Module 9 Prosecution Strategies, Adversarial versus Inquisitorial Legal Systems available at: <https://www.unodc.org/module-9/key-issues/adversarial> (accessed 08/06/2021).

<sup>10</sup> *Ibid.*

The Chinese government has openly declared not being party to the proceeding therefore the government is not bound by any witness statement.

Furthermore, under section 9 (2) of Criminal Justice Act the contents of a written statement will be admissible, as oral evidence, if the following conditions are satisfied:

- a) The statement purports to be signed by the maker;
- b) The statement contains a declaration by the maker that it is true to the best of his/her knowledge and belief and that it was made knowing that, if it were tendered in evidence, the maker would be liable to prosecution if she or he willfully stated in it anything which he or she knew to be false or did not believe to be true (known as a 'perjury declaration');
- c) A copy of the statement is served on the other parties before the hearing where the statement is tendered in evidence; and
- d) None of the other parties object to the statement being tendered in evidence.<sup>11</sup>

Subsection C and D states that a copy of the witness statement before being tendered in court is served to the defendant and the defendant shall not object to the admissibility of the witness statement. However, in the Uyghur tribunal witness, a statement cannot be tendered to the defendant and no cause for objection since the supposed defendant being the Chinese government, is not a party to the proceeding.

### **Admissibility of witness statement in the International Criminal Court**

The United Nations had considered the idea of establishing a permanent international criminal court at various times ever since the end of the Second World War. In 1993 and 1994, it set up two ad hoc tribunals to punish serious violations of international humanitarian law committed, respectively, in the former Yugoslavia and Rwanda.<sup>12</sup> A series of negotiations to establish a permanent International Criminal Court (hereinafter referred to as ICC) that would have jurisdiction over serious international crimes regardless of where they were committed started up in 1994 and led to the adoption of the Statute of the International Criminal Court (Rome Statute) on 17 July 1998 in Rome.<sup>13</sup> This accomplishment is the culmination of years of effort and shows the resolve of the international community to ensure that those who commit grave crimes do not go unpunished.<sup>14</sup>

The ICC is not a substitute for national courts. According to the Rome Statute, it is the duty of every state to exercise its criminal jurisdiction over those responsible for international crimes.<sup>15</sup> The ICC can only intervene where a state is unable or unwilling genuinely to carry out the investigation and prosecute the perpetrators. The primary mission of the International Criminal

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<sup>11</sup> Section 9 (2a-d) Criminal Justice Act 1967 available at: <https://www.legislation.gov.uk/section/9/enacted> (accessed 09/06/2021).

<sup>12</sup> International Committee of the Red Cross, Statute of the International Criminal Court available at: <https://www.icrc.org/documents/statue/international> (accessed 10/06/2021).

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*

<sup>15</sup> Understanding the International Criminal Court available at: <https://www.icc-cpi.int/publications/uiceng> (accessed 11/06/2021).

Court is to help put an end to impunity for the perpetrators of the most serious crimes of concern to the international community as a whole, and thus to contribute to the prevention of such crimes.<sup>16</sup>

Furthermore Article 1 of the Rome Statute states that:

The ICC shall be a permanent institution and shall have the power to exercise its jurisdiction over persons for the most serious crimes of international concern, as referred to in the Statute, and shall be complementary to national criminal jurisdictions. The jurisdiction and functioning of the Court shall be governed by the provisions of the Statute. The jurisdiction of the Court shall be limited to the most serious crimes of concern to the international community as a whole.<sup>17</sup>

The Court has jurisdiction in accordance with the Statute with respect to the following crimes:

- a) The crime of genocide;
- b) Crimes against humanity;
- c) War crimes and
- d) The crime of aggression.<sup>18</sup>

Article 11 states that:

- 1) The Court has jurisdiction only with respect to crimes committed after the entry into force of the Statute.<sup>19</sup>
- 2) If a State becomes a Party to the Statute after its entry into force, the Court may exercise its jurisdiction only with respect to crimes committed after the entry into force of the Statute for that state, unless that state has made a declaration under article 12, paragraph 3.<sup>20</sup>

Article 12 (1) states that:

A state which becomes a Party to the Statute thereby accepts the jurisdiction of the Court with respect to the crimes referred to in article 5.<sup>21</sup>

According to the provision of the Article 12 (1) the pre-condition for the exercise of jurisdiction by the Court is that the state must be a party to the court. The Court may exercise its jurisdiction in situations where the alleged perpetrator is a national of a State Party or where the crime was committed in the territory of a State Party.<sup>22</sup> A state that is not a party to the Statute may make a declaration to the effect that it accepts the Court's jurisdiction.<sup>23</sup> As soon as a state becomes a party to the Rome Statute, it accepts the jurisdiction of the ICC in respect of the crimes

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<sup>16</sup> *Ibid.*

<sup>17</sup> Article 1 United Nations General Assembly Rome Statute of the International Criminal Court, 17 July 1998, ISBN No.92-9227-227-6 available at: <https://www.refworld.org/docid/3ae6b3a84.html> (accessed 11/06/2021).

<sup>18</sup> *Ibid* Article 5 (a-d).

<sup>19</sup> *Ibid* Article 11 (1).

<sup>20</sup> *Ibid* Article 11 (2).

<sup>21</sup> *Ibid* Article 12 (1).

<sup>22</sup> *Ibid* Article 12 (2).

<sup>23</sup> *Ibid.*

listed in Article 5 of the Statute. Under Article 25 of the Statute, the Court has jurisdiction over individuals and not States.<sup>24</sup>

Any individual who is alleged to have committed crimes within the jurisdiction of the ICC may be brought before the ICC. In fact, the office of the prosecutor's prosecutorial policy is to focus on those who, having regard to the evidence gathered, bear the greatest responsibility for the crimes, and does not take into account any official position that may be held by the alleged perpetrators.<sup>25</sup>

Although China has accepted that the creation of ICC was a positive addition to the legal architecture of global governance, it has thus far refused to join the ICC. The interest of China in the ICC, however, was not terminated by its refusal to join in 1998. Ever since then, it has maintained a dialogue with the ICC and remained involved in its subsequent developments.<sup>26</sup> China kept a prominent position in the work of the Preparatory Commission, helping to draft the supplementary documents to the Rome Statute. It also regularly participated in the meetings of the assembly of States Parties as an observer and actively engaged with the discussions of the special working group on the crime of aggression.<sup>27</sup>

Though a non-State Party ineligible to vote in the review conference decisions, China sent a delegation to observe the conference and voice its opinions. On many occasions, it explicitly expressed its interest in following closely the continuous evolution of the ICC. As a permanent member of the Security Council, China did not seek to use its veto power to block the Council referrals of situations in Darfur or Libya to the ICC. All these different forms of engagement indicate that China has a consistent and continuous interest in the ICC.<sup>28</sup> Despite having vested interest in the evolution of the ICC, China is not a party to ICC. This means that ICC does not have jurisdiction to handle any crime of genocide alleged by the Uyghur tribunal that China is committing against Uyghur Muslims.

In December 2020, the ICC said it would not investigate the allegations of crime of genocide against China because it was outside its jurisdiction, as China is a nonmember state.<sup>29</sup> Also, it is not realistically possible to bring China to International Court of Justice which is another formal international court. China, although a signatory to and ratifier of the Genocide Convention, has entered a reservation against International Court of Justice jurisdiction.<sup>30</sup> The International Court of Justice investigates only legal disputes between states submitted to it by them and provides advisory opinions on legal questions at the request of the United Nations and certain

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<sup>24</sup> Rome Statute Article 25.

<sup>25</sup> Understanding the International Criminal Court available at: <https://www.icc-cpi.int/publications/uicceng> (accessed 11/06/2021). See also Article 25 on Individual criminal responsibility.

<sup>26</sup> Dan Zhu China, The International Criminal Court and Global Governance available at: <https://www.internationalaffairs.org.au/china-the-international> (accessed 11/06/2021).

<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*

<sup>29</sup> Activists Praise UK 'People's Tribunal' on China's Alleged Uyghur Abuse available at: <https://www.voanews.com/east-asia-pacific/activists> (accessed 11/06/2021).

<sup>30</sup> The Art Newspaper, Uyghur tribunal reveals horrific abuses inside Xinjiang detention camps available at: <https://www.theartnewspaper.com/nes/inside-the> (accessed 11/06/2021).

agencies.<sup>31</sup> In summary, the witness statement is not admissible and the allegations against China in the ICC will not stand.

## **Conclusion**

In conclusion, the witness statement, the judgment of the tribunal and the jurisdiction of the ICC to prosecute China on the allegations of genocide would not hold any water for the following reasons:

- 1) The tribunal has no state backing meaning no state support therefore any judgment of the tribunal is not legally binding on China.
- 2) The tribunal is not duly constituted.
- 3) China is not a party to the tribunal therefore the witness statement is not binding on the government and the witness statement is not admissible as evidence.
- 4) The ICC cannot prosecute China, because China is outside the jurisdiction of ICC.
- 5) China has entered a reservation against ICJ jurisdiction therefore ICJ cannot prosecute China.

The organizers of the Uyghur tribunal hearing have stated that it is not realistically possible to bring China to any formal international court.<sup>32</sup> According to Luke de Pulford, the U.K.-based human rights campaigner and founder of Coalition for Genocide Response, the tribunal is not endorsed by the British government but could prompt more direct action from authorities.<sup>33</sup> There is no known route to any other court that can deal with the issues before the tribunal. Until then, the tribunal can only provide a body of evidence that is indelible and available to posterity.<sup>34</sup>

## **Part 2 Analysis of the Opinions outside of the Tribunal**

Following accusations leveled against the People's Republic of China concerning genocide allegedly committed against the Uyghur people, a Turkic ethnic group originating from and culturally affiliated with the general region of Central and East Asia and native to the Xinjiang Uyghur Autonomous Region in Northwest China, the Uyghur Tribunal was formed, in September 2020 with assistance from a non-governmental organization, the Coalition for Genocide Response. The body was deemed essential by the coalition, especially as the International Criminal Court has refused to investigate these allegations due to lack of jurisdiction.

Expectedly, the establishment of the Tribunal has drawn different reactions worldwide. For the purpose of Part 2 of this report, opinions surrounding the legality and legitimacy of the body shall be divided into four: those that support the Tribunal, those against, those are currently on the fence and staying silent, and those show sympathy for the Uyghurs but are cautious with using the term "genocide."

### **1. For:**

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<sup>31</sup> Activists Praise UK 'People's Tribunal' on China's Alleged Uyghur Abuse.

<sup>32</sup> Uyghur Tribunal available at: [uyghurtibunal.com](http://uyghurtibunal.com).

<sup>33</sup> Activists Praise UK 'People's Tribunal' on China's Alleged Uyghur Abuse.

<sup>34</sup> Uyghur Tribunal available at: [uyghurtibunal.com](http://uyghurtibunal.com)

### a) The United States and Australia

According to the counsel for the Tribunal, Hamid Sabi, the United States, and Australia have shown support by offering to provide relevant material, to add to thousands of pages of documentary evidence already compiled.<sup>35</sup> Though the American and Australian governments have not openly backed the Tribunal, they have been quite vocal about China's alleged maltreatment of the Uyghurs and have begun to impose sanctions. In addition to the sanctions imposed against two Chinese officials, allegedly involved in human rights abuses against the Uyghurs, US Secretary of State, Antony Blinken has said that he would consider banning Chinese imports made by the Uyghurs with forced labor.<sup>36</sup> President Joe Biden has also vowed to be "unrelenting" in calling attention to the maltreatment of the Uyghurs.<sup>37</sup> While Australia welcomes the idea of sanctions, they have not announced any such measures because the nation lacks '*Magnitsky-style*' laws that allow the swift rollout of sanctions against individuals for human rights violations. In a joint statement with her New Zealand counterpart, Australia's foreign minister, Marise Payne has called on China "to grant meaningful and unfettered access to Xinjiang for United Nations experts, and other independent observers."<sup>38</sup> Further:

"The Australian and New Zealand Governments today reiterate their grave concerns about the growing number of credible reports of severe human rights abuses against ethnic Uighurs and other Muslim minorities in Xinjiang...In particular, there is clear evidence of severe human rights abuses that include restrictions on freedom of religion, mass surveillance, large-scale extra-judicial detentions, as well as forced labor and forced birth control, including sterilization. "<sup>39</sup>

Uyghur community leaders in Australia have criticized the Australian government regarding the latter's handling of the situation.<sup>40</sup> The criticism comes after the Chinese embassy in Canberra held a press conference where journalists were presented with 'propaganda videos' regarding conditions in Xinjiang. Uyghur community leaders have labeled the said materials as "preposterous" as they see it as part of a move to legitimize the crackdown on people in the Xinjiang region. Consequently, those with missing or detained families have pleaded with the Australian government to help the Uyghurs in concentration camps.

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<sup>35</sup> Uighur, 'Uyghur Tribunal opens with testimony of alleged rape, torture' (Aljazeera, 4 June 2021) <https://www.aljazeera.com/news/2021/6/4/uyghur-tribunal-hears-evidence-of-alleged-china-abuses> accessed June 6, 2021

<sup>36</sup> Deirdre Shesgreen, 'The US Says China is Committing Genocide Against the Uyghurs, Here's Some of the Most Chilling Evidence' (USA News Today, 2 April 2021) <https://www.usatoday.com/in-depth/news/politics/2021/04/02/is-china-committing-genocide-what-you-need-know-uyghurs/7015211002/> accessed June 16, 2021

<sup>37</sup> Ibid

<sup>38</sup> Daniel Hurst, 'Australia and New Zealand Welcome Sanctions on China over Uighur Abuses but Impose none of their Own' (The Guardian, 23 March 2021) <https://www.theguardian.com/world/2021/mar/23/australia-and-new-zealand-welcome-china-sanctions-over-uyghur-abuses-but-impose-none-of-their-own> accessed June 17, 2021

<sup>39</sup> Ibid

<sup>40</sup> Bang Xiao, 'Uyghur Community Leaders in Australia Appalled and Outraged the Government Allowed a Chinese Communist Party Propaganda Parade' (ABC News, 7 April 2021) <https://www.abc.net.au/news/2021-04-07/uyghur-leaders-call-china-atrocities-genocide-xinjiang/100053014> accessed June 16, 2021

## **b) Coalition for Genocide Response**

Luke de Pulford, co-founder of the Coalition for Genocide Response and Adviser to the World Uyghur Congress has noted that though it lacks powers to impose sanctions, the Tribunal is of "global significance", especially as it is currently impossible for an international court to investigate and consider the case owing to China's veto power on the United Nations Security Council. Accordingly, the body would serve "to ensure the Genocide Convention does not become a meaningless document."<sup>41</sup>

## **c) The United States Institute of Peace**

The United States Institute of Peace, while acknowledging that the Tribunal is not backed by any government and its findings will not be binding on any country, has chosen to stay positive. According to the institute:

"The hearings play an important role in providing recognition to victims' suffering and in strengthening the legal argument for a UN Commission of Inquiry or other international accountability mechanisms... Based on the evidence presented, the Uyghur tribunal will apply international legal standards to determine whether the Chinese government committed crimes against the Uyghurs and whether those crimes amount to genocide and/or crimes against humanity. Although the decision will have no binding legal effect, the findings may provide an important additional advocacy tool for multilateral and country-level action....Such findings could be used to press the UN to act and to overcome the ongoing split within the General Assembly over China's treatment of the Uyghurs. UN action could include the establishment of a commission of inquiry or a fact-finding mission to conduct a U.N.-backed investigation."<sup>42</sup>

## **d) Human Rights Activists**

Since the International Criminal Court and the International Court of Justice have refused to investigate the accusations leveled against China, human rights activists generally view the Tribunal as a platform that will serve to encourage future investigation(s) by the international courts because the world will be paying attention to the Tribunal proceedings.<sup>43</sup>

## **2. Against:**

### **a) The Chinese Government**

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<sup>41</sup> ITV News, 'Why a People's Tribunal is happening in London to examine China's alleged atrocities of Uyghur Muslims' (ITV news, 3 June 2021) <https://www.itv.com/news/2021-06-03/why-a-peoples-tribunal-is-happening-in-london-to-examine-chinas-alleged-atrocities-of-uyghur-muslims> accessed June 8, 2021

<sup>42</sup> Lauren Baillie & Rachel Vandenbrink, 'Tribunal Brings Voice to China's Uyghurs Amid International Gridlock' (United States Institute of Peace, 10 June 2021) <https://www.usip.org/publications/2021/06/tribunal-gives-voice-chinas-uyghurs-amid-international-gridlock> accessed June 15, 2021

<sup>43</sup> Asim Kashgarian, 'Activists Praise UK People's Tribunal on China's Alleged Uyghur Abuse' (VOA News, 14 June 2021) <https://www.voanews.com/east-asia-pacific/activists-praise-uk-peoples-tribunal-chinas-alleged-uyghur-abuse> accessed June 17, 2021

The position of the People's Republic of China is clear as Chinese authorities have been outspoken about their disapproval of the Tribunal. The government of China has termed the body a "grave violation of international law and a serious provocation to the 25 million people of all ethnic groups in the region."<sup>44</sup> According to foreign ministry spokesman Zhao Lijiang, "It is not even a real tribunal or special court, but only a special machine producing lies....It was founded by people with ulterior motives and carries no weight or authority. It is just a clumsy public opinion show under the guise of law."<sup>45</sup> While declining to comment on China's attacks on the body, the Tribunal vice-chair Nick Vetch has claimed that the People's Republic of China was invited to provide the Tribunal with any evidence they may have, but failed to do so.<sup>46</sup>

### **b) The Xinjiang Government**

Like the Chinese Government, the Tribunal has been openly condemned by the Xinjiang Authorities. Elijan Anayat, a Xinjiang government spokesperson, commented at a news conference that "No state, organization or individual has the right to arbitrarily find another state guilty of genocide."<sup>47</sup>

## **3. Silent: The Arab Region**

Curiously, The Arab world has remained silent about the establishment of the Tribunal. It may not be unconnected with the treatment of Uyghurs by Arab countries in the past. If existing evidence is anything to go by, the formation of the Uyghur Tribunal is an unwelcome development in this region. According to reports, Arab countries have been complicit with China in their maltreatment of the Uyghurs. In 2017, about 90 Uyghurs were allegedly arrested and detained by Egyptian policemen who claimed that Uyghurs had been declared terrorists by the Chinese government. Consequently, the Uyghurs in detention were interrogated by Chinese officials.<sup>48</sup> In a similar vein, it has been reported that these countries have been working with China to extradite Uyghurs in the region back to China.<sup>49</sup> Accordingly:

"In Egypt, rights groups have documented hundreds of detentions -- and at least 20 deportations -- of Uyghurs in 2017, the majority of the students at the prestigious Islamic University of Al-Azhar...In Saudi Arabia between 2018 and 2020, at least one Uyghur Muslim was allegedly detained and deported after performing the

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<sup>44</sup> Feng Yilei, 'UK Uyghur Tribunal aims to smear China, has no legal basis: Xinjiang officials' (CGTN, 25 May 2021) <https://news.cgtn.com/news/2021-05-25/UK-Uyghur-tribunal-aims-to-smear-China-Xinjiang-officials-10xQ1KVxisE/index.html> accessed June 3, 2021

<sup>45</sup> France 24, 'Uyghur Tribunal to Convene Over Abuses as China Fumes' (France 24, 4 June 2021) <https://www.france24.com/en/live-news/20210604-uyghur-tribunal-to-convene-over-abuses-as-china-fumes> accessed June 14, 2021

<sup>46</sup> Ibid

<sup>47</sup> Ibid, footnote 12

<sup>48</sup> France 24, 'Nightmare as Egypt Aided China to Detain Uyghurs' (France 24, 18 August 2019) <https://www.france24.com/en/20190818-nightmare-as-egypt-aided-china-to-detain-uyghurs> accessed June 16, 2021

<sup>49</sup> Jomana Karadsheh and Gul Tuysuz, 'Uyghurs are being Deported from Muslim Countries, Raising Concerns about China's Growing Reach' (CNN, 8 June 2021) <https://edition.cnn.com/2021/06/08/middleeast/uyghur-arab-muslim-china-disappearances-cmd-intl/index.html> accessed June 16, 2021

Umrah pilgrimage in Islam's holiest cities. Another was arrested after a pilgrimage and faces deportation. "<sup>50</sup>

Reportedly, Turkish President Recep Tayyip Erdogan, who once championed Uyghur Rights, has toned down his criticism of China's maltreatment of the Uyghurs in a bid to boost relations with the Chinese authorities.<sup>51</sup> This development could spell further danger for the thousands of Uyghurs who have now settled in Turkey. As remarked by an Activist:

"These countries pride themselves for being leaders of the Islamic world, but they don't bat an eyelid when returning people for persecution for being Muslim...It is quite outrageous, and I think it's hypocritical, but that illustrates the geopolitical reality."<sup>52</sup>

#### 4. Cautious: The UK, The EU, and Canada

The UK has decided to remain neutral. According to Nigel Adams, UK's Asia minister, there is credible evidence of widespread use of forced labor, internment camps, targeting of ethnic groups, and actions that amount to systematic abuse of human rights. However, he also expressed that the UK's longstanding position is that determining genocide is for "competent national and international courts."<sup>53</sup> The foregoing position is shared by the Netherlands. Though Dutch lawmakers were the first in Europe to condemn the mistreatment of the Uyghur people, the Dutch Foreign Minister Stef Blok has noted that the government is taking care not to use the word "genocide" as neither the United Nations nor an international court has made such a declaration.<sup>54</sup> While The EU has imposed joint travel and economic sanctions on four of China's officials in response to the imprisonment of hundreds of Uyghur Muslims,<sup>55</sup> it is yet to openly support or condemn the establishment of the Tribunal. Elsewhere, Canada's House of Commons has voted overwhelmingly to declare China's treatment of its Uyghur minority population a genocide. Notably, Prime Minister, Justin Trudeau while abstaining, has called for further examination.<sup>56</sup>

#### Conclusion

It is apparent that the Uyghur Tribunal has generated and will continue to generate mixed reactions, especially concerning its legitimacy and legality as well as the uncertainty of its

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<sup>50</sup> Ibid

<sup>51</sup> Ibid

<sup>52</sup> Ibid

<sup>53</sup> Patrick Wintour 'UK MPs declares China is committing genocide against Uyghurs in Xinjiang' (The Guardian, 22 April 2021) <https://www.theguardian.com/world/2021/apr/22/uk-mps-declare-china-is-committing-genocide-against-uyghurs-in-xinjiang> accessed June 6, 2021

<sup>54</sup> Dutch News, 'Dutch parliament votes to recognize treatment of Uighurs in China as genocide' (Dutch News, 26 February 2021) <https://www.dutchnews.nl/news/2021/02/dutch-parliament-votes-to-recognise-treatment-of-uighurs-in-china-as-genocide/> accessed June 6, 2021

<sup>55</sup> Jeannette Muhammad, 'U.S. Joins EU in Sanctions Against China Over Treatment of Uyghur Muslims' (NPR, 22 March 2021) <https://www.npr.org/2021/03/22/980090541/u-s-joins-eu-in-sanctions-against-china-over-treatment-of-uyghur-muslims?t=1623919742623> accessed June 17, 2021

<sup>56</sup> BBC News, 'Canada's Parliament Declares China's Treatment of Uighurs "Genocide"' (BBC News, 23 February 2021) <https://www.bbc.com/news/world-us-canada-56163220> accessed June 17, 2021

consequence. While the Tribunal's decision and its potential effects remain to be seen, one thing is clear; The Uyghurs finally have the world's attention.

## 农牧业在喀什地区少数民族弱势群体帮扶中扮演了什么样的角色？

吴俊尧，杨雨欣，刁文翔  
(排名不分前后)

“如果能种好几亩地的水果，或者养 10 只羊，基本就不会贫困了。”伯然克什木乡十八村的农业专干说道。

伯什克然木乡位于喀什市的东北部，离喀什市区约 40 分钟车程。2019 年以前，伯乡的一些村庄仍是当地的深度贫困村——其中包括了伯乡十八村，近千户人家曾深陷贫困的泥沼。

然而幸运的是，这里自然条件较好，盛产林果业，甚至被称为“百果之乡”。因此，无论是在从前脱贫攻坚的过程中，还是今天乡村振兴对农村家庭的进一步的帮扶，农牧业都发挥了非常重要的作用。

### 农牧业在少数民族弱势群体生活中的角色：以伯乡为例

对于伯乡的许多少数民族弱势群体而言，农牧业是他们经济收入的主要来源。

“你们那边如果没事的话去图书馆看书，我们这边没事就去放羊、耕地，这是两种世界。”在谈到自家果园的时候，家庭刚刚脱贫的伯乡十八村大学生小米说道。

伯乡十八村的村民布尼介绍了他们家庭的年收入结构：“我的临时务工收入是 12000 元一年，红枣和葡萄卖出去是 13000 元，然后养殖的收入是 5000 元，加上没有卖的麦子就是 50000 元。”

这个一度贫困的家庭在他们的八亩农田上种植了玉米、小麦、葡萄，这些作物和两头黄牛为布尼亚米尼家庭带来了大部分收入。这些大部分由农牧业带来的收入支撑着这个经济压力不小的家庭：8 岁罹患脑瘫的孙子每天所需约 100 元的治疗费用和药费、大女儿每年 5000 元的学费和 12000 元的生活费等。

在农牧业中，林果种植业对于当地而言是一种比较稳定的收入来源。

“林果业是伯乡十八村最主要的农业产业。”十八村的农业专干说道。

伯乡生产的水果主要有石榴、葡萄、无花果等温带作物。其中，石榴、无花果都是经济价值比较高的作物。大部分的伯乡村民介绍道，在这两年的市场上，一公斤石榴可以带来 6 到 18 元左右的收入，而一个无花果就可以卖出 1 元左右。

“我们家去年卖无花果的收益是 3000 元。”小米说道。她家总共有 15 棵无花果树，每年每棵树能稳定产出三次，约 250 个无花果。每次他们采下的无花果都能当天在喀什市区的市场售空。这也给家庭经济收入比较低的小米家带去了不少的收入。

除了林果业外，畜牧业也在伯乡农民的经济收入中扮演重要角色。



图一：中南屋学生向当地农户了解果园情况

“如果想帮一户人家脱贫，最快的方法就是给他们 10 只羊。”村里的农业专干介绍道。羊两年能生三胎，而一只小羊就能够卖出 1000 元左右。

当地养殖的牲畜通常包括牛、羊、鸽子和驴。农户根据牲畜的种类通过繁殖，配种，产奶和育肥盈利。因为相对高的收益，养殖常被农户视作重要的经济来源。

“去年家里卖了十只羊，八只大羊九千。”农户吾日古丽说道。通过养殖，她家的年收入从几年前人均二千到今年已经人均将近一万。

农牧业对于当地农民尤其是弱势群体而言作用巨大，但发展农牧业并非易事：劳动力匮乏、生产资料不足等问题，往往是弱势群体发展农牧业的主要障碍。

农牧业的生产重度依赖家庭中的劳动力。对于一些弱势群体家庭而言，成年人患病导致家庭劳动力匮乏，是他们无法充分发展农牧业的主要原因。

小亚是伯乡十八村的一名职高学生，家里曾经有 15 亩地。但由于家里成年人患有心脏病，无法从事重体力劳动，如今只能耕作 8 亩地，减少了许多创收。



图二：十六岁青年小亚的阿姨作为家中目前仅有的劳动力需要支持家中五个孩子的抚养和丈夫的治疗

农户家中的牲畜、果树和农田等资产缺乏导致的产量不足则是另一个主要问题。

五年前，一场大火烧毁了阿依古丽家的羊圈。这造成了经济损失的同时，也使他们家因为缺乏资金修羊圈而无法重新养羊。即使如今他们通过多年的积蓄重新修葺起羊圈并购买了母羊，但又因为他们无法负担购买公羊的开销而迟迟不能进行配种繁育。

此外，这个家庭在仅有四亩地的情况下，种植葡萄的产量很低。“去掉自己吃的部分，去年卖出去的葡萄仅有三五百块钱。”阿依古丽说道。

然而，这个因需要照顾一个罹患脑瘫儿子而失去劳动力的家庭，需要负担一个孩子大学生活的每年五千元学费和其余四个孩子的抚养。虽然政府给予低保，保障该家庭的基本生活，但由于生产资源的匮乏，整个家庭生活经济收入低的阴霾之下。



图三：阿依古丽的母亲因为需要照顾罹患脑瘫的女儿，只能趁家里有人照顾时打零工补贴家用

### 各方的农牧业帮扶弱势群体之路

考虑到农牧业在当地少数民族弱势群体的重要地位，近年来各方从农牧业的不同方面为他们提供帮扶。

政府在农牧业帮扶上主要采取了以下四个措施：发展庭院经济，技术宣讲，帮忙配种和联系企业统一收购农产品。

2018年起，当地政府开始大力发展庭院经济，推动农户在自己院落周围进行生产。在喀什地区，政府提供资金供农户进行葡萄架的搭建和院落的修葺；同时免费提供种子和施肥服务，有效地帮助农户在农牧业上提高收入。

阿依古丽家就是一个典型的因此受益的家庭。庭院经济让因为要照顾脑瘫孩子无法长期出门务工的奶奶得以在家里种植红枣、葡萄——四亩地的农产品能为这个家庭带来约800元的收入，缓解了家里部分的经济负担。

同时，政府也在当地定期开展农牧业技术的宣讲。技术人员每15天就到农户家中进行包括农药施打和果树修整知识的宣讲，有效减少了病虫害的影响，为农户增收。

“现在都知道要打药了，打了药就好很多了！”谈起定期宣讲的效果，村干部难掩激动——从前因为植物的病疫不能及时处理，农民常常只能通过砍伐果树来防止病

疫的传播，保护果树的健康。这导致经济收益大大降低。

为了保证劳动力不足的农户也如期丰收，村政府会派遣林果队员到农户家里协助采摘。如今，这样的问题不再会影响农户家庭林果业的收获了。

“特别满意！”农户布尼在提到村政府在种植方面的帮扶时说道。在这户家庭中，两个老人作为家中的劳动力，需要负责照顾脑瘫孙子的治疗，同时还要抚养另外两个孙子。村政府不但定期组织人员到家中帮忙采摘和打药，还为爷爷介绍了工作。此外，村政府还为这户人家找好销路，该家中因疫情滞销的水果也都纷纷销售出去了。

如今，劳动力的缺乏不再是困扰这个家庭生产的主要原因了。

与此同时，公益组织也开展了许多生计发展的项目来帮扶弱势群体。其中，深喀社工站的“小母羊”和“驴宝贝”项目就是典型的例子。

深喀社工站成立于2011年3月，是南疆的第一家由政府主导、民间自主运营的社会工作专业服务机构，以推动喀什社会工作发展、培育本土公益组织、培养本土社会工作人才和开发与实施精品项目为主要业务。

在2011年和2019年，社工站分别开设了“小母羊”和“驴宝贝”项目。“驴宝贝”项目是向经过挑选的贫困妇女赠送母驴来帮助增收。深喀社工站通过要求农户在母驴第一次产仔后将驴崽赠送给下一位需要帮助的妇女，从而实现项目的延续。三年来，项目通过赠送的52头母驴、能力培训让这批经济收入低的农村妇女获得生计资本和发展的能力。

吾日古丽是第一批从“驴宝贝”项目受益的农户妇女。三年前，深喀社工站为家庭人均年收入不足2000元的她赠送母驴。在此后的几个月里，吾日古丽通过卖驴奶获得了5000多元的经济收入。后来驴仔长到一岁，吾日古丽将它卖了出去，又获得了5000元的经济收入。加上家人的陆续就业，吾日古丽家现在的家庭年收入达到了32000元。

驴宝贝项目除了给她家带去经济收入，也帮助她拓宽了视野。



图四：吾日古丽家里通风和卫生条件良好，已经在项目的帮助下用上了现代的挤奶和消毒工具

“在参观养驴的地方，我看到了挤驴奶的过程，学会了挤驴奶，知道了怎样饲料有营养，还有母驴的妊娠期给它们吃什么饲料，现在我都会直接用机器给挤奶了！”古丽回忆起参观养驴基地时的场景时仍难掩激动。

然而，这些农牧业帮扶的项目在开展过程中其实会遇到许多困难，走不少弯路。

如今“小母羊”项目问题是“礼品金”的回收。“小母羊”项目通过给农户“礼品金”用于买羊，希望可以帮助贫困的农户实现生计发展。在规定的时间内，农户在实现增收后需要偿还当初发放的“礼品金”。因为农户家庭经济情况、疫情等原因，“小母羊”项目礼品金的回收至今仍然在缓慢进行中。

“项目周期太长导致变数过多，例如政府出台很多政策会影响到项目的执行。”负责项目执行的深喀社工站社工哈斯耶提无奈地说道。

“驴宝贝”项目遇到的主要问题则是驴的繁殖问题——一部分母驴受孕困难，目前的51头母驴中仅有一半产仔。

“收益好的都已经产了第三头了，收益不好的一头没产，真的是白养两年。”社工哈斯耶提惋惜道。

除了公益组织，政府的农牧业帮扶工作也经常遇到障碍。村里希望带动农民们更

换良种石榴以提高收入，但更换品种往往需要砍去现有的果树并等待至少五年的时间。考虑到时长和潜在收入的损失，大部分村民不愿尝试。

“在农民看到我们实验结果的情况以后，他们也许就会愿意把老树砍掉了。”村里的农业专干若有所思。

虽然存在困难，但是总体而言，伯乡十八村的农牧业正在向着一个积极的方向发展。

针对“驴宝贝”的项目情况，乡政府有计划组建合作社将 52 头驴集中饲养。

“集中饲养的话，不但可以解决饲料问题，最主要的是能够科学地解决母驴配种率低的问题，从而为妇女们创收。”社工哈斯耶提说道。



图五：中南屋为驴宝贝项目捐赠的新一批两头母驴，捐赠给了当地的两户有需要的农户家庭

“14 年我统计他们的收入，把他们的名字写到扶贫板上。现在他们的收入高了，脱贫了，就业稳定了，生活也好了。”村里的农业专干开心地说道。

随着政府和公益组织深耕喀什的伯什克然木乡，用农牧业进行帮扶，当地少数民族弱势群体的生活会越来越好。

## 21 世纪以来，喀什地区的未成年人双语教育发生了哪些变革？

成煜航 鲁雨城 倪文韬 张子琪  
(以上排序不分先后，张嘉源亦对此文有贡献)

“我们家的孩子的国语水平比我好多了，我的国语不如他们。我们现在经常一半维吾尔语一半国语地进行交流。”新疆喀什一位 50 岁上下的父亲如此说道，而它反映出来的是这里几十年来双语教育的变迁。

双语教育是指在少数民族教育教学过程中，同时使用国家通用语言文字和少数民族语言文字开展相关课程教学的一种教学模式。

双语教育在世界各地往往都有漫长而复杂的变迁过程。以美国为例，他们经过了建国时包容双语教育，20 世纪二十年代一战爆发导致了民众反对移民从而反对双语教育，六十年代《民权法案》引起对双语教学的重视，八十年代里根总统“独尊英语运动”，最后到九十年代布什总统的重新重视这样的变迁过程。

在 31 个少数民族聚居的新疆喀什地区，为了促进民族间的交流和当地的经济的发展，政府不断革新双语教育政策，力求找到最适合当地的双语教育之道。从总体趋势来看，我们能看到国语教学逐渐加强的一个过程。



图一：卖羊的巴扎店主接受采访 | 图源：中南屋

## 双语班的设立

至 2002 年底，新疆维吾尔自治区所有地州市都开办了双语班，共有 105 所学校的 294 个双语班，学生人数达到 13733 人。<sup>1</sup>

简单来说，它是指在少数民族为主的学校（俗称“民校”）里设立与“普通班”并存的“双语班”，并在“双语班”中实行较大比例的国语教学。对于汉语学生为主的学校（俗称“汉校”），双语教育的概念则基本不相关。

根据调研结果来看，21 世纪以来喀什地区的初中、高中“民校”普遍设有双语班，而小学“民校”则仅有个别学校有双语班的存在。

对于高中而言，双语班一般都是理科班——除了民语文外，所有的课程（均为数理化课程）用国语上课。会出现这种情况，主要是因为对于国语基础不好的学生而言，历史、地理等文科如果采用国语授课，学生接受起来比较困难，而数理化则这个问题不是非常严重。

对于初中和小学而言，因为不存在文理分科，双语班中则是部分课程用国语授课、部分课程用维语上课的情况。

无论是什么学段，普通班是指学校授课的语言是维语，并设有国语语文课（不过也是该学校开始有国语课之后才有）。

“我初中和高中都是普通班。那时我们的教材和上课语言都是维语，然后每天有一节用国语授课的国语语文课。”今年大三的热伊莱说道。

不过，最开始，并非每个学校都设立了“双语班”——它经历了一个普及的过程。

“我在 2008 年上初中的时候是双语班——我们是学校里第二届双语班。”毕业两年的喀什市区居民哈斯耶提回忆说。

## 国语课的提早

在喀什地区，我们观察到国语课程呈现逐渐提早的过程。

“2009 年，我们学校才开始有国语课。”喀什市伯什克然木喀拉库木小学的学生说道。

在喀什市附近的伯什克然木乡十八村，有一所比较主要的小学——喀拉库木小学。根据调研，2009 年之前，这所学校是没有国语课程的。但是，2009 年，这里开设了国语课程。在这一年，三年级及以上的同学都开始了国语课。

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<sup>1</sup> 《新疆双语教育工作专题研究》

2009年，这所小学的四年级学生阿伊，以及五年级学生伊莱均表示他们从这一年开始上国语课了——和他们三年级的学弟学妹一样。而一二年级的学生则不受影响。

2011年，喀拉库木小学国语课开始的时间提早到了一年级。

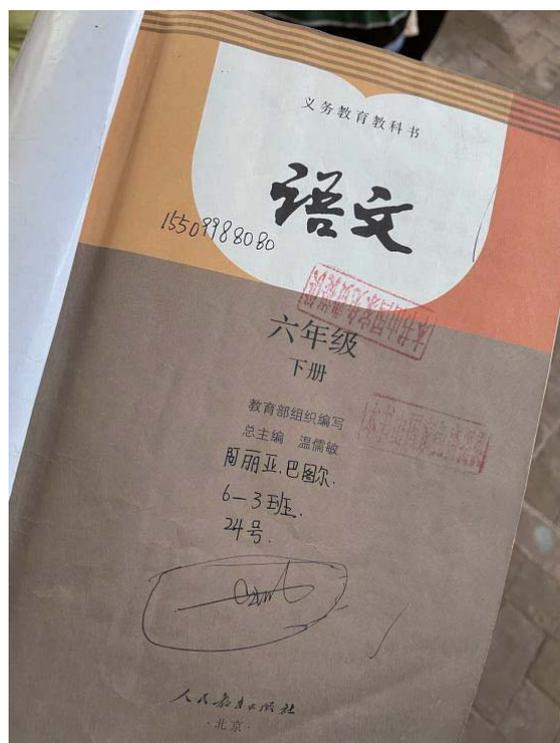
阿斯亚是2011年在这所学校入学的，而她一入学就有了国语课。除了国语语文课，她的数学课也是用国语授课的。不过，根据阿斯亚的回忆，他们学校并没有采用“双语班”的说法——因而这种变化所实施的对象是普通班的学生。

喀拉库木小学的情况一直持续到了2017年全面普及汉语教学。

### 全面推广国语教学——“汉语课”变成“语文课”

2017年9月，喀什地区的双语教育迎来了一个历史性的阶段：全面推广国语教育。

我们的许多访谈对象均表示，从这一年开始，学校教育转变为全面国语授课。也就是说，不管是喀什汉校还是民校，除了民族语文（维吾尔语）外，其他科目一律采用国语教学。从这一年开始，“汉语课”的说法被“语文课”替代——这个语文课与内地学生上的语文课较为类似，也包括了文言文的内容，而这是之前喀什地区民校中学生不会学习到的。



图二：人教版语文课本

“一开始我还是很不适应的，毕竟之前的小学都是用维语授课。”2017年9月上初一的小古亲身经历了这个变化。小学时，小古的学校用维语授课。而上初中时，她的学校已经全部是国语授课了——除了民语文课以外。

“那时，比我大一届的学长学姐就深受影响，因为他们在初一时还是用维语进行很多课程的授课。”小古继续说道。政策变化后，经历了用维语上初一年的学生，在2017年上初二时已经变成全部用国语授课了。

热依汗妮沙也深受该政策的影响。2017年9月，刚上初三第二学期的她发现有维语释义的汉语课本变成了语文课本。“上课有很多困难，难度上升了许多，主要是因为看不懂。”热依汗妮沙说道。

这场变化的影响是非常广泛的——不过，对于本来在高中双语班就读的同学来说影响并不大——因为主修理科的他们本来在高二开始已经是除了民语文外全部国语上课了。

2018年，古丽正在双语班上高中二年级。她回忆道，期末考试的时候她的学弟学妹做文科卷子时已经是用国语了。“我的下一届全都是国语授课了。”但是，这场变革对于已经在高二时分班进入理科学习的她而言，并没有产生什么影响。

## 民族语言在高考中的分量逐渐变轻

原来，喀什少数民族的高考有三种类型：民考民、民考汉、双语。

民考民是指普通班的学生全部用维语进行高考；民考汉是指在“汉班”或者“汉校”上学的学生用国语进行高考——与汉族同学一样；双语则是指在双语班的同学，民语文用维语考，而数理化用国语考。

高中读文科普通班的夏穆，经历了2017年高三那年教学全部变成国语授课的改革。在高考时，她的卷子依旧都是维语。

普通班读高中、2018年高考的阿伊也是经历过维语高考的，也就是说高考卷子都是维语。

在双语班读高中、2019年高考的古丽则是除了民语文外，都是国语高考。

此外，2021年6月之后，一个新的变革发生了：民族语文考试没有了。“我们学校今年刚毕业的学生是最后一批可以选考民族语文的了。”热依汗说道。

## 双语教育改革所带来的变化

21世纪之前，因为双语教育在新疆南疆推广力度不大，有许多少数民族群体国语学习不足——甚至直到今天也无法说国语。而这也导致了他们今天在做生意、工作等方面面对许多挑战。

“我很后悔当时没有好好学国语，我现在听不懂也不会说国语，这对我的生意有很大影响。”一位57岁的喀什老城商家通过翻译这么告诉我们。

同样在老城，经历过“汉校”学习的另一位商家则表现出了完全不同的国语掌握程度。而因为好招揽游客，他的生意要好不少。



图三：喀什老城商家接受采访 | 图源：中南屋

经过这些改革，现在喀什地区的双语教育取得了许多傲人的成果。将国语作为主要授课的语言，年轻的孩子接受到更多以国语为授课语言的课程，因此他们相比以前的受教育者更早、更熟练地掌握国语。

“我们家的孩子的国语水平比我好多了，我和他们俩的交流反而变得困难，因为我的国语不如他们，我们只能一半维吾尔语一半国语地进行交流。”喀什古城的一位做生意的干部子弟如是说。

不过，仍然有许多方面需要更多的努力。虽然年幼的孩子相对而言能够比成年人更加熟练地掌握国语，但是在面对同龄的少数民族朋友时，这些孩子还是会倾向于使用维吾尔语来和朋友交流；同时，由于许多孩子的父母不会讲国语，在家依然需要使用维吾尔语交流，因此国语使用的语言环境的缺失也使得他们的国语水平受到一定程度的局限。

正如一位来喀什古城旅游的上海游客所说的：“我来新疆旅游一个月了，喀什是我的最后一站，但是这里当地人说的话我基本都听不懂，包括出租车司机和当地的商贩，

这使得我的旅游体验很差”。当地的河北商家也因为“听不懂维吾尔族顾客的话”而有时卖不出商品。

因此，虽然双语教育在一定程度上取得了成果，但仍路漫漫而修远兮，政府仍需要加强双语教育的力度并且能够确保落实到实处，这样他们才能在同样的蓝天下，拥有和内地同龄人一样的人生。



图四：向喀什儿童了解双语教育的现状和展望 | 图源：中南屋

（作者说明：喀什地区双语教育在不同地区、不同学校的落实情况与网上可以找到的新疆整体政策有一定区别，且近年来变化情况比较复杂。我们的调研文章是基于对喀什市及周边农村的数十名青少年的采访所得的阶段性发现，可能会存在一定偏差。欢迎读者指正！）

## 新疆喀什地区，少数民族青少年职业规划的现状与挑战

马子琪 任嘉晨 董雨实 朱玥  
(排名不分先后)

“我对未来没有什么规划，可能高考完填报志愿的话，就填一些医学类的。”当问起对父母所期待自己从事的职业有何打算时，热依莱如此说道。

职业规划是指青少年对自己的兴趣爱好、特点特长进行综合权衡，结合时代行业发展，确定最佳的职业奋斗目标，并为实现这一目标做出行之有效的安排。

职业规划对于青少年的发展非常重要。比如美国教育坚持以职业作为生涯教育的导向，学生生涯规划教育贯穿小学、初中、高中和大学——分别突出职业浸润、职业探索、学业管理、职业准备。德国各联邦大多也将职业生涯教育列为必修课程，在中学的七至十年级开设，不仅包括传统的课堂教学，还有形式多样的职业体验与社会实践环节。

然而和很多发展中地区类似，新疆喀什地区青少年的职业规划意识与能力还在很初步的阶段。在《维吾尔族大学生就业焦虑现状分析与对策》文章中表明，多数维吾尔族青少年“没能客观地分析评价自己，对自我的现在和未来缺乏连贯清晰的思考”，从而引发了就业焦虑等问题。

### 现状与挑战

具体来说，喀什的许多青少年缺少职业规划，一方面是他们没有思考未来要做什么工作的意识；另一方面，他们也不知道应该如何为自己的未来做出一步步具体的准备。

“在高考结束五天的时候，老师让我们到学校里填了志愿。我之前从来没有考虑过学什么专业，要做什么工作的事情，最后是哥哥回家帮我在网上填写的。”目前正在读大一的阿依在回顾自己填报志愿的过程时说道。选择专业是职业规划中的重要一环，但在喀什地区，许多维吾尔族青少年很少有对未来专业进行了解的想法。

热伊莱是就读于新疆工程学院的准大四生，当她回顾自己高中阶段的职业规划时，她说自己没有过什么了解，也不知道怎么去了解，现在专业能源工程都是“瞎填的”。甚至在上大三之前，她对于专业内容仍没有一个清晰的概念，只知道老师说“挂科就不好啦”，但不清楚自己能胜任什么样的工作，为了找工作自己还需要做什么，如何规划未来的职业。“也许是销售类的吧，销售类工作门槛很低，技术类工作虽然对口，但是会比较难。”

虽然部分大学有职业规划讲座，但很多学生对具体求职的步骤和行动还是毫无头绪。在深喀社工站和中南屋（一家带领青年做调研和公益项目的社会企业）组织的职业规划工作坊里，很多即将要毕业的学生不知道什么是简历，也不知道怎么写一个好

简历。有了简历之后，也不知道把简历投递到哪些地方。大部分学生甚至不知有招聘网站，也不明白该怎么去用。



图一：中南屋的学生与阿依图尔荪·萨迪尔交谈的过程

这导致许多青少年在职业发展甚至学业发展方面走弯路，浪费了时间与资金。

今年准大三的保险学学生古丽就是一个例子。她选择保险的契机仅仅是因为表姐是做保险的。有一次过节时，她的表姐送了非常贵的礼物，这让她认为这个专业就业情况还不错。但是古丽当时忽视了自己的劣势——不喜欢数学，数学也不好，而保险专业本身就会运用到很多数学的内容。在上学期期间，她又发现大专学到的内容“百度上都可以直接查到”，感觉专业课的内容没有什么意义。

现在古丽发现自己真正想从事的是教育。为了拿到教师方面的资格证成为一名老师，古丽需要在大专结束后考教育方面的本科学位。如果专科申本科顺利的话，这还要再花她至少4年的学习时间，以及额外的学费来完成这一目标。

当然，这里许多青少年也有相对好的职业规划，使得他们一步步踏实地迈向自己的目标。

即将毕业的米热阿依是一个典型的例子。她在高中时便意识到了新媒体行业的风口，并且发现了自己对摄影的兴趣，高考过后也如愿录取到了重庆大学的新闻传播专业。在校期间她对自己的专业十分满意，声称“从未后悔过”。毕业后她计划先在重庆闯荡两年，然后再决定是否回到家乡从事新媒体行业。正因为她早早地对自己的特长、兴趣、和职业发展有了充分地评估，她才能如愿学到一个感兴趣专业，并明确的知道自己未来想要什么，又该做什么。

## 原因分析

出现这种情况，一方面是因为当地青少年缺少职业规划的意识和能力。

中南屋创始人黄泓翔老师对此深有同感。在中南屋和深喀社工站合作第一次在帕乡组织职业规划活动时，报名了26人，但最后只出席了2个人。第二次活动让村委会帮忙通知，结果一个人也没有来。“很多青年人觉得自己没有这样的需求，也没有认为这个东西对他有用，或者他可能会觉得该知道的都知道了。”黄老师在挨家挨户走访、和学生们深入交流后感慨道。

即使很多青少年了解未来的职业方向，他们也没有查找到相关信息的搜索能力，来了解行业现状和就业机会。

热伊莱在做职业规划相关的搜索时，她拿出手机，打开微信，并用微信上方的搜索框来搜索关于她专业“能源与动力工程”相关的内容。热伊莱说，她基本不用百度搜索，手机就只是用来看微信、刷刷抖音，就算搜索也只是在微信里面搜索。此外，她也不知道如何运用求职网站或者app来挖掘自己感兴趣的职业，查看企业的要求，并为此努力。



图二：中南屋的学生采访深喀社工站的负责董老师

另一方面是因为家庭和学校中缺乏对青少年职业规划方面的引导和教育。

深喀社工站在深喀产业园的社工说，农村里部分家庭认为上学没有意义，当孩子高中或职高毕业了就希望他们回家照顾父母、耕种农田。大部分家庭希望孩子做像公务员、老师、警察、医生等“铁饭碗”职业，导致了大多数青少年视野狭窄，只知道铁饭碗是公认稳妥的好工作、好未来，也不会想去找更多资源去探索自我、探索社会。



图三：中南屋四期学员与热伊莱做一对一的职业规划研究

热伊莱说，她从小看到家里的亲戚大部分都是医生或者老师，认为自己未来也可以在这两个职业中进行选择。小学的时候她想过要当老师，但是到初中看到老师要管调皮的学生非常累，觉得辛苦就不想了。后来爸爸跟她说“那就当医生吧，就学点医学方面的知识，护士也行。”热伊莱自己本身的态度也是“做也行，不做也罢。”

同时学校也没能很好的引导和培训学生。大部分受访者说，高中的时候老师对专业设置也了解不多，因此不被允许去引导学生如何选专业、做职业规划，以免对学生造成不适当的影响。学生仅仅通过在高考后被分发到的一本厚厚的“志愿指南”来了解未来的职业规划，去问老师时，甚至部分老师也不清楚相关的专业、职业。

就算学校有相关的指导课程，它能起到的帮助也可以进一步加强。热伊莱就读的新疆工程大学每个学期有5节求职方面的大型讲座，教授怎么做简历、参加面试等职业技能，伊莱听说大四上学期会有教认识自我。然而她觉得这些课程大多是老师在念ppt，让她们自己体会。当问到这个课程对她职业规划的帮助时，热伊莱说，“应该有用吧，我也不清楚。”

## 未来发展

目前有许多组织在尝试帮助喀什的青少年培养职业规划意识，提高职业规划能力，也取得了一定成绩。

在2011年3月，深圳市对口支援新疆（喀什）社会工作站（简称深喀社工站）正式成立。这是一个民间自主运营的社会工作专业服务机构，以开发精品项目，培养本地社会服务人才为主要工作内容，帮助了许多弱势青少年、妇女等。

在 2017 年，深喀社工站正式入驻深喀产业园，帮助那里的学生职工进行职业规划。职高的学生会在产业园做实习，毕业后在产业园工作。截止 2019 年，产业园共有 5000 名稳定的学生职工。同年，深喀社正式开始规划课程，为学生职工开展培训。

每一次课程会成立 20 人左右的小组，开启为期 40 次的课时，帮助学生职工发现其自身的优势、建立自信、分析性格和兴趣，以及选择适合的职业发展方向。社工站还通过团建、上课等方式，帮助青少年搭建自己的圈子，在优秀的圈子里互相鼓励，一起进步。



图四：中南屋第四期学员和喀什伯乡当地结对伙伴古丽米热职业规划后的反馈现场

到了 2021 年，深喀社工站为青少年开展就业软实力培训项目，为未来的职业目标做准备。项目包括教授喀什青年怎么找工作、如何了解自己的优势和劣势以及整个社会行业的情况、怎么投简历、面试、沟通等内容。

有一位女性职工因为深喀社职业规划课程的帮助，从“小透明”的普通职工，做到了主管的职位。开始时蒲老师发现她行动力比其他职工要好一些，随后她主动去参加社工站的各种巡演活动，最终社工站也将优秀员工的奖项颁发给了她的家庭。

从前她的家人从不希望她出来工作，在看到她取得的成就之后，开始全力支持她的选择。后来，她得到机会赴深圳了解内地的工厂现状后，这激发了她更进一步的念头。现在她已经成为了主管，并还会带领自己的小组，平日里开开会、分享经验，希望帮助更多的人成长。

中南屋组织职业发展工作坊帮助当地青年找到合适的工作。

在职业发展工坊中，认知自己是第一步。中南屋学员和热伊莱先深度访谈，了解她的学习背景、兴趣爱好等，再通过M B T I人格测试来帮助她了解自己。然后，根据热伊莱测出的人格结果匹配适合的职业，再结合她目前能源与动力学工程的学术背景，中南屋学员帮助她在网上查找相关职业的信息和就业要求。随后，中南屋学员教她学习使用求职网站，搜索适合自己的工作岗位以及相关要求。从而为热伊莱针对性地准备简历等材料、做出具体行动计划。

项目结束后，热伊莱说，“我更了解我自己了。”

小米谈及做简历的收获时也说到，“我之前不知道可以建立邮箱，现在我也有自己的邮箱了。”



图五：中南屋四期学生采访中南屋创始者间导师关于职业规划活动的看法

职业发展工坊还将继续根据以往所有的经验，改进教学模式。

“未来，我们也将和深喀社工站合作开展更多的青少年职业发展工作坊。我们希望能让青少年更好地认识自己，拓宽未来的选择方向。同时，我们也想推动当地青少年的就业，助力喀什地区的可持续发展”中南屋创始人黄泓翔说道。

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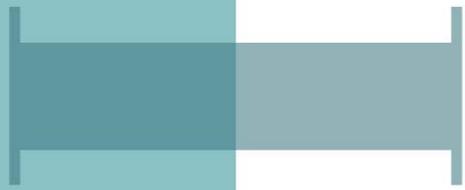
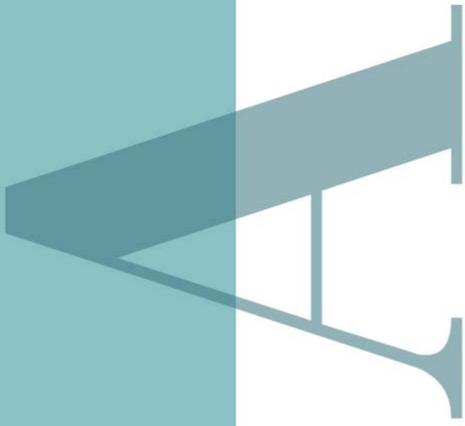
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