China and the Uighur Genocide

Yasin Patel analyses the situation in Xinjiang, the history and the current crisis, the detention centres, International legal protections and the UN conventions.

Introduction

The last 12 months have seen China under the microscope as various allegations regarding the origin of the COVID pandemic have focused upon the Chinese area of Wuhan. Meanwhile, elsewhere in China an international crime is being committed: the treatment of Uighur Muslims in the Chinese city of Xinjiang. Human rights abuses, genocide, torture, murder, abduction, rape … the list is endless. The Chinese government claims that they have set up special '*vocational schools'* which combat '*terrorism and religious extremism'* that the Uighur Muslims, amongst other ethnic minority groups are attending.

The first independent expert report on the application of the 1948 Genocide Convention to the ongoing treatment of the Uighurs in China ("the report") has just been published.[1] It examines China's treatment of Uighurs under the 1948 genocide convention. And the executive summary provides chilling reading:

The persons and entities perpetrating the above-indicated acts of genocide are all state agents or organs – acting under the effective control of the state – manifesting an intent to destroy the Uighurs as a group within the meaning of article II of the Genocide convention.[2]

Other independent sources of evidence have also established that the Uighur Muslims are being subjected to torture on a regular basis and forced to commit acts contrary to their own religious beliefs. The appalling treatment of Uighur Muslims in Xinjiang has been acknowledged as a genocide by the United Nations ("UN"), numerous countries and leading international personnel. But the Chinese authorities have been unmoved in their position, denying the allegations and ignoring the international outcry.

[1] The Uighur Genocide: an examination of China's Breach of the 1948 Genocide Convention by the Newlines Institute for Strategy in cooperation with the Raoul Wallenberg Centre for Human Rights
[2] Ibid

History

Since the Communist Party in China took power, the city of Xinjiang has been an autonomous region of China. Uighur Muslims are a Turkic speaking Muslim minority who have a history of being persecuted within China. The current treatment of the Uighurs can be seen to have similarities in history with those communities who were persecuted and victims of genocide elsewhere in the world in the 1930's and 1940's. Despite the Chinese government declaring Xinjiang an autonomous region, people's lives there are strictly controlled. It can be seen that the Chinese government has slowly been trying to conduct ethnic cleansing to remove Uighur Muslims from Xinjiang for decades: when the Chinese first colonized Xinjiang 8 million Chinese people of Han descent were moved there.

Following the colonization, Muslims in Xinjiang faced growing restrictions in practising their religion suggesting the ethnic cleansing has been an aim of the Chinese government for a long time. Since 2014, the Chinese government under President Xi Jinping's administration has pursued a policy which has led to more than one million Muslims (the majority of them Uighurs) being held in detention camps.

Re- Education Camps (also known as Detention Camps)

The Chinese government have continuously denied all the claims, calling these internment camps 're-education' camps. They claim that people are willingly attending special 'vocational schools' that aim to combat the 'terrorism and religious extremism' that exists in Xinjiang, however, they have presented limited evidence as to the necessity of this need to combat terrorism. Despite the evidence and footage being verified by intelligence agencies and independent experts throughout the world, China's government insists that their internment of Uighur people does not infringe on their human rights, claiming that they are vocational training centres. Foreign Minister, Wang Yi, told reporters that claims of genocide in Xinjiang "*could not be more preposterous. It is a rumour fabricated with ulterior motives and total lies*". Leaked government data shows that the vast majority of those being held in these internment camps have not been charged with any crime or allegations but detained for actions such as attending mosque or practising their religion. President Xi Jinping has said that China's Xinjiang strategy was correct and "*must be adhered to in the long term*". This shows that the

conditions that the Uighur community in Xinjiang live in and the treatment they face will not stop until action is taken.

In the camps, they are made to renounce their faith, learn Mandarin Chinese rather than speaking their language (which is similar to Turkish) and swear loyalty to President Xi Jinping. Accounts from former detainees show the harsh treatment and torture that people inside these internment camps are faced with during their time spent there. Former female detainees have spoken about the population control the Chinese government have been carrying out as the women said they were given injections that stopped their periods or caused unusual bleeding consistent with the effects of birth control drugs. These accounts are corroborated by reputable sources such as a report[3] by Chinese scholar Adrian Zenz that was based on official regional data, policy documents and interviews with ethnic minority women in Xinjiang. In this report, it is revealed that natural population growth within the Uighur community in Xinjiang has declined dramatically in recent years. In a BBC news interview, the Chinese ambassador Liu Xiaoming denied these claims and claimed that in the last 40 years the population had doubled.

Adrian Zenz in his report[4] gives a different picture of the acts in the "re-education camps", to what the Chinese authorities claim. Mass deaths, selective death sentences, long-term imprisonment of elders, systematic torture and cruel treatment including sexual abuse and torture, interrogations and indoctrination, targeted detention of Uighur community leaders and people of childbearing age, forced sterilisation, family separation, mass labour transfer schemes and the transfer of Uighur children to state-run orphanages and boarding schools.

The message from respected academics, International human rights groups and reputable publications are united in that the actions of the Chinese government are inhumane and they need to be held to account for the genocide they are carrying out against the Uighur community in Xinjiang. The detention of innocent citizens in these camps continue a Chinese policy: ever since the Chinese took power in Xinjiang they have been trying to eradicate the Uighur culture and traditions by moving those of Han descent to Xinjiang as well as forcing those in the detention camps to learn the language, culture and traditions of the Han descent.

[3] Coercive Labor and Forced Displacement in Xinjiang's Cross-Regional Labor Transfer Program: A Process-Orientate Evaluation by Adrian Zenz
[4] Ibid

UN Convention

Under the UN convention, signed by 152 countries including China, a finding of genocide can be made if a party violates any one of five defined acts. Zenz's report has found that China has violated all of them and accused the Chinese Communist Party ("CCP") of clearly demonstrating an "*intent to destroy, in whole or in part, a national, ethnical, racial or religious group. The intent to destroy the Uighurs as a group is derived from objective proof, consisting of comprehensive state policy and practice, which President Xi Jinping, the highest authority in China, set in motion."*

The five acts are:

i) killing members of the group;
ii) causing serious bodily or mental harm to the group;
iii) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
iv) imposing measures intended to prevent births within the group; and
v) forcibly transferring children of the group to another group.

The actions that numerous countries have been taking shows this is a pressing issue with many of them calling for an official investigation. The possibility for an investigation remains an option if stronger evidence comes to light that will help support the request that has already been brought forward. This shows that China has been acknowledged as carrying out a genocide the issue being how exactly to hold the Chinese government to account and settle the case for the Uighur Muslims that have faced both physical and mental torture from this genocide.

International Protections

Article 18 of the Universal Declaration of Human Rights ("UDHR") of the UN states that *everyone has the right to freedom of thought, conscience and religion; this includes freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.* Similarly, Article 20 and 27 of the International Covenant on Civil and Political Rights ("ICCPR") act as a protection against religious discrimination. China has repeatedly violated these human rights says leaked

government data and it shows that the vast majority of those held in detention camps have not been charged with any crime and allegedly detained for actions such as attending mosque or practising their religion, contrary to their inalienable rights.

The Rome Statute of the International Criminal Court ("ICC") defines the crime against humanity as, "*serious violations committed as part of a large-scale attack against any civilian population"*. China's internment of Uighur Muslims in Xinjiang is by definition, both a crime of genocide and crime against humanity. Article 7 of the Rome Statute lays out the acts that must be carried out for an action to be classed as a crime against humanity. China has carried out four of these which are imprisonment, torture, enforced sterilisation and persecution against any identifiable group or collectively, in this case, on cultural and religious grounds.

In addition, the crimes against women by the Chinese authorities are going unnoticed. Adrian Zenz[5] highlights China's attempt to suppress the population by forcing birth control on Uighurs. Uighur women are being threatened with internment in the camps for refusing to abort pregnancies that exceed birth quotas. They are being involuntarily fitted with Intrauterine devices ("IUD's") while others are being coerced into receiving sterilisation surgery. The effects of this can be seen in the dramatic decline in the natural population growth in the Uighur community between 2015 and 2018. Growth rates fell by 84%, and declined further in several minority regions in 2019. For 2020, one Uighur region set a near-zero birth rate target of 1.05 per mile.

Another violation of human rights is forced labour. In the garment industry, Uighur forced labour is present at all stages of production. In addition to the internment camps, the Chinese government has transferred an estimated 80,000 Uighur labourers to other parts of China between 2017-2019 to factories that strongly suggest forced labour.

Under Article 6 of the Rome Statute (ICC), a genocide *"is killing members of a group causing serious bodily or mental harm to members of the group, deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or part, imposing measures intended to prevent births within the group or forcibly transferring children of the*

[5] Coercive Labor and Forced Displacement in Xinjiang's Cross-Regional Labor Transfer Program: A Process-Orientate Evaluation

group to another". Against these criteria, China has committed the crime of genocide against Uighur Muslims and with this in mind should be held liable for these crimes. However, China has not ratified the statute meaning that until they do, the ICC cannot prosecute China's humanitarian crimes against the Uighur community in Xinjiang.

There is precedent for possible prosecution or at least an investigation from the ICC due to the Myanmar case against the Rohingya genocide. In 2018, Fatou Bensouda submitted a request for the ICC to begin using its jurisdiction over the Rohingya Muslim genocide in Myanmar. This adapted a unique approach, however, as Myanmar is not a signatory of the Rome Statute. The deportation of Rohingya Muslims from Myanmar to Bangladesh meant that Bangladesh, a country that had ratified the Rome Statute, could be held accountable for the crimes that occurred when the Rohingya Muslims were forced to move across the border. In 2019, Pre-Trial Chamber III authorised the Prosecutor to proceed with the case following the request that was submitted by Bensouda. The same concept could be utilised here: the Uighur Muslims have been deported from countries to Xinjiang, such as Cambodia and Tajikistan which are both countries where the ICC has jurisdiction. However, at the end of 2020, the ICC said there was not enough evidence for them to act on this, therefore, the request for an investigation had been declined but the file for the case has been left open. One wonders how much more evidence do they require: a confession of the abuses from the Chinese government?

The struggles that are being presented in the battle to hold the Chinese government to account for the Uighur genocide show that some change is needed. The UN was set up to keep peace, dignity and equality. However, how do you bring to account countries like China that avoid signing treaties such as the Rome Statute to protect themselves for actions and policies they carry out? This implies that it may be better for the UN to create a universal Rome Statute that would apply to countries regardless of whether or not they have ratified it so that cases such as the Uighur genocide and any genocides that happen can be settled by the ICC and help minorities such as Uighur Muslims fight for their human rights and the abuses they face.

This is not the first time where a genocide against a cultural Muslim community has occurred. In 1995, the Srebrenica massacre of 8,000 Bosnian Muslim men and boys took place; one of the worst atrocities in Europe to take place since World War II. Yet Europe has failed to acknowledge this genocide by Serbian forces as a European tragedy. This shows that genocides against Muslim communities are not rare and actions need to be taken to ensure that

those who carry out and order them are held to account. Twenty-five years after the Bosnian Muslim genocide, the families of those who were killed feel that their ancestors suffering has not been acknowledged by the rest of the world. Without the Chinese government being held to account for their actions and punishment for such genocides by governments, the continuing acts of barbarity and cultural destruction will not cease.

What can or will nations do?

Despite no bite from any legal action against China, numerous countries have publicly acknowledged the Uighur Genocide and some have even stopped trading in goods that originate from Xinjiang. The US has sanctioned multiple Chinese officials and the House of Representatives approved the 'Uighur forced labour prevention Act' which aims to stop imports from Xinjiang. The French President, Emmanuel Macron has called for an official investigation into Xinjiang. An inter-parliamentary alliance on china which is made of hundreds of lawmakers across Europe, North America, Africa and Asia-Pacific has lobbied for international action over Xinjiang supporting the case at the ICC and calling for the UN to investigate the matter. The UK government has announced new measures to stop UK companies trading with Chinese firms connected to the forced labour of Uighur Muslims. This includes a tightening up of the Modern Slavery Act. But in reality, this is little more than small talk when one considers the real economic benefits that all of these countries are getting from Chinese exports, business development, investments and tourism. A real message would be boycotting goods, products and possibly events. But without a united message and action from the nations and bodies of the world, China will see no need for change. And when the International Olympic Community ("IOC") decides to turn a blind eye to the genocide, China will not feel any international pressure to change.

IOC hypocrisy

The Beijing 2022 Winter Games begin on the 4 February 2022. An opportunity to promote a country, the culture, sights and all the good things of a nation: and a tool for political propaganda. The IOC is willing to host an Olympic Games in a nation where Independent reports have alleged and have proof of genocide. The parallels to the run-up to the 1936 Munich games are aplenty. But for the IOC President, Thomas Bach, the position is clear:

"We are taking this very seriously (…) But we are not a super world government where the IOC can solve or even address issues for which the UN security council, G7 and G20 has no solution.

We have to fulfil our role and to live to our responsibilities within our area of responsibilities, and the governments have to live up to their responsibilities in their remits.

Human rights and labour rights and others will be part of the host city contract. And on this we are working very closely with the organising committee that we are also monitoring. This includes, for instance, supply chains or labour rights, and their freedom of press and many other issues."

No doubt Mr Bach and his colleagues at the IOC will insist upon freedom of religion, conscience, movement, culture and language for all of those participating in the games and associated with them as part of the host city contract. And will the Uighur Muslims be getting the same rights a few miles away? Is this part of the host city contract? Bach and his colleagues underestimate the real power of sport: both as a propaganda tool and as a leverage for change.

Conclusion

The German Lutheran pastor, Martin Niemöller highlighted the cowardice of German intellectuals and clergy including himself, as the Nazis rose to power and group after group were purged:

First, they came for the socialists, and I did not speak out –
Because I was not a socialist.
Then they came for the trade unionists, and I did not speak out –
Because I was not a trade unionist.
Then they came for the Jews, and I did not speak out –
Because I was not a Jew.
Then they came for me
And there was no one left to speak for me. [6]

[6] Martin Niemöller

In Germany it was the Jewish population: in China, the Uighur Muslims. The parallels to what is happening to the Uighurs is for all to see: one hopes that the Chinese people and the nations of the world do not continue to hide behind the veil of cowardice for the sake of personal benefits, economic favours, International trading deals and beneficial conditions.

Internationally, the actions of the collective nations have been as useful as Shaw's 'Chocolate Cream Soldier'[7]: noble words but with no intention of acting upon them. Unless the Uighur people are supported and the Chinese government have pressure and boycotts imposed upon them to stop this genocide, the world will not just be permitting this atrocity to occur, but through its inaction, permit it to happen. But how long will it be before they too utter the words, "*there was no one left to speak for me*"[8]?

This article has been written by Yasin Patel, a barrister practising specialist areas of law including International Law at Church Court Chambers. Aneeka Sharma assisted in the research of this work.

[7] Arms and the Man – George Bernard Shaw
[8] Martin Niemöller