



How the United States Can Address China's Uyghur Genocide

by Arielle Del Turco

Key Points

Beijing's targeted, widespread perpetration of forced sterilizations and abortions on Uyghur women led the U.S. to determine that genocide is ongoing in China.

The United States' commitment to the 1948 Genocide Convention obligates it to take action to prevent and punish genocide.

To address China's genocide, the U.S. should target China's forced labor, review UNFPA's funding in China, utilize Global Magnitsky Act sanctions, and encourage other countries to join in condemning China's genocide.

"[The woman was] like someone who simply existed, otherwise she was dead, completely finished by the rapes. They say people are released, but in my opinion everyone who leaves the camps is finished. Their goal is to destroy everyone, and everybody knows it."

*- Tursunay Ziauwudun, Uyghur survivor
of a Chinese concentration camp*

On January 19, 2021, his last day in office, former Secretary of State Mike Pompeo officially determined that China is committing genocide and crimes against humanity in Xinjiang. By becoming the first country to officially designate Beijing's repressive actions against the Uyghur Muslim minority as an atrocity, the United States demonstrated moral leadership.¹ In addition to being a strong statement of support for the Uyghur people, this determination expands the U.S. government's

capability and responsibility to respond to Beijing's atrocities and gross violation of religious freedom and fundamental human rights.

The determination puts pressure on the new Biden administration to be tough on China, especially with respect to human rights issues. Pompeo's successor, Secretary of State Antony Blinken, affirmed the determination in his confirmation hearing, saying, "That would be my judgment as well."² Yet, other Biden officials have sent more mixed signals regarding the legitimacy of the determination. In her confirmation hearing, UN Ambassador Linda Thomas-Greenfield suggested the State Department may be reviewing Pompeo's determination.³ Since then, State Department spokespersons have made it clear that the Biden administration agreed with the genocide determination. However, the repeated use of the past tense, such as affirming "that what took place in Xinjiang *was* genocide," may hint at a desire to negate the United States' responsibility to confront Beijing's ongoing abuses.⁴

Pompeo's determination may hinder the plans of some Biden officials, including U.S. Special Presidential Envoy for Climate John Kerry, who is advocating for cooperation with China on climate change and other issues.⁵ However, the administration may experience tension if the United States is simultaneously condemning the ongoing genocide while also elevating China as a key partner in addressing climate change. Activists hope the determination will focus the Biden administration's foreign policy on addressing human rights abuses by the Chinese government.

What Is Happening in Xinjiang?

The Xinjiang region in northwest China is the location of the most totalitarian crackdown on a religious group in the world today. The Chinese government has herded over one million Uyghurs and other ethnic Turkic Muslims into what they call "vocational education training centers."⁶ In reality, these centers operate as extrajudicial detention facilities where detainees are subjected to brainwashing and other forms of torture, including rape.⁷ Outside the camps, the entire region is closely surveilled by the Chinese government. Detainees "released" from the camps are funneled to factories where they are utilized as forced labor.⁸

According to open-source government documents and first-hand accounts of survivors of China's "re-education" camps, the Chinese government is forcibly sterilizing Uyghur women and coercively aborting their unborn children in order to eliminate the Uyghur people.

The findings of expert researcher Adrian Zenz indicate that Chinese authorities planned that at least 80 percent of women of childbearing age in four minority prefectures of Xinjiang would be subject to compulsory IUD usage or compulsory sterilizations by 2019.⁹ Although the national birthrate dropped 4.2 percent in 2019, the drop in Xinjiang was far more precipitous—almost 24 percent. Birth rates in the mostly Uyghur regions of Hotan and Kashgar decreased by more than 60 percent from 2015 to 2018.¹⁰ In 2021, the Chinese embassy to the United States defended its population control policies in Xinjiang, arguing that the policies liberated women from being "baby-making machines."¹¹

Chinese government documents confirm that birth control violations can be punished by extrajudicial internment.¹² Meanwhile, thousands of Uyghur children are separated from their parents who are interned in "re-education" camps.¹³ They are taken to be raised in state-run orphanages, taught Communist Party values, and prohibited from learning about Uyghur culture or using the Uyghur language.

Genocide Is Occurring and We Are Obligated to Act

These occurrences fit within the *1948 Convention on the Prevention and Punishment of the Crimes of Genocide's* widely accepted definition of genocide. The Convention defined "genocide" to mean "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.”¹⁴

The United States has joined this treaty,¹⁵ and subsequently passed implementing legislation that similarly defined genocide.¹⁶

Although the Chinese government can credibly be accused of several types of genocidal behavior as defined above, it is focused on the imposition measures intended to prevent births within the group. Secretary Pompeo cited the efforts to limit Uyghur births as a “key” determining factor in his decision to issue the genocidal determination.¹⁷ Michael Sobolik and David Knapp write, “Policies such as the forced sterilization of Uyghur women and the imposition of birth quotas for Uyghur families reflect a clear attempt by the Chinese government to erase the Uyghur people, while child separations and the placement of Uyghur children into Han Chinese ‘child welfare’ camps are clearly intended to destroy the Uyghur ethnicity.”¹⁸ Although genocide is traditionally associated with acts of mass murder to destroy a people group, China’s actions in Xinjiang are rightly deemed to be genocidal according to international and U.S. law.¹⁹

In Article I of the Genocide Convention, contracting parties, including the United States, “confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.” To what extent this responsibility extends beyond the borders of the United States remains a source of debate. But the spirit of the convention, and America’s agreement to it, was to avert situations of genocide from unfolding. To this end, parties are tasked with the dual responsibility of preventing and punishing genocide.

We are past the point of fully preventing genocide in Xinjiang. But at the very least, the United States should be firmly committed to punishing the perpetrators of genocide in China. International law does not enforce itself, and it takes domestic political will to take up the call to halt and punish.²⁰ The United States has historically taken international treaties seriously, and this case should be no exception. We have an obligation to fulfill the responsibilities that we agreed to in the Genocide Convention.

Genocide is so heinous that it demands a powerful and immediate response. In explaining why this crime is so unique, Todd Buchwald and Adam Keith write, “The idea that a perpetrator’s aim is to wipe out an entire people seems so grotesque—so qualitatively different from ‘mere’ mass murder—as to defy imagination.”²¹ To determine the occurrence of an “ongoing genocide” is itself a call to action. Now that the United States has done so, meaningful action must follow. The United States has a long history of promoting international human rights, albeit at times inconsistently. Building on this legacy, the United States has a moral and urgent responsibility to address China’s most heinous atrocities.

Four Actions the U.S. Must Take

Now that the United States has labeled what is occurring in Xinjiang a genocide, the government must act. If it does not, the international norm against genocide will be undermined. The following are policy options U.S. policymakers can consider using to hold China accountable for its abuses against the Uyghur people.

1. Congress should pass the Uyghur Forced Labor Prevention Act.

The Uyghur Forced Labor Prevention Act (S. 65/H.R. 1155) will apply a rebuttable presumption that prohibits goods produced in Xinjiang from being imported to the U.S. unless Customs and Border Protection can certify that the goods being imported are not produced, either wholly or in part, with forced labor.²² This is a critical step to inhibit the Chinese government’s ability to profit from the forced labor of detainees interned in camps in Xinjiang. By using forced labor to make cheap consumer goods for Western nations, the Chinese government profits from and funds its atrocities against the Uyghur people. Prohibiting the importation of goods produced in Xinjiang links genocide to trade access in American markets, making it an impactful measure.

2. The Biden administration should ensure that U.S. support for the UN Population Fund does not contribute to coerced sterilizations in China.

In 2017, the Trump administration prevented U.S. funds from supporting the United Nations Population Fund (UNFPA) by invoking the Kemp-Kasten Amendment, which enables the president to determine whether to withhold funding from an organization because it “supports or participates in the management of a program of coercive abortion or involuntary sterilization.”²³ Since Congress first passed the Kemp-Kasten Amendment in 1985, the United States has not contributed to UNFPA in 18 of the past 36 years. The funding withdraws were based on U.S. determinations that UNFPA’s program in China partners with China’s National Health and Family Planning Commission (NHFPC), which is known to facilitate coercive abortions and sterilizations.²⁴

Former Secretary of State Pompeo issued the most recent Kemp-Kasten determination on June 16, 2020, which stated:

While there is no evidence that UNFPA directly engages in coercive abortions or involuntary sterilizations in China, the agency continues to indicate in its country program documents provided to the agency’s [UNFPA’s] executive board in approving the program, that it partners on family planning with the NHFPC [National Health and Family Planning Commission of the People’s Republic of China] and thus can be found to support, or participate in the management of China’s coercive policies for purposes of the Kemp-Kasten Amendment.²⁵

The United States’ genocide determination adds additional weight to these findings. Secretary Pompeo cited the Chinese government’s effort to limit Uyghur births via forced sterilizations and abortions as a “key” determining factor that genocide was occurring in Xinjiang in the form of a sterilization program. Xinjiang’s Health Commission is tied to widespread forced sterilization of Uyghur women.²⁶ Available evidence suggests that the central Chinese government appears to fund sterilizations in Xinjiang.²⁷

President Biden has instructed the Secretary of State to “take the steps necessary to resume funding to the United Nations Population Fund.”²⁸ This is a mistake. The United States must ensure that U.S. funds do not support, even indirectly, the Chinese government perpetrating coerced abortions and forced sterilizations against the Uyghur people. To that end, the United States should conduct a thorough review of the UNFPA’s connection to China’s National Health and Family Planning Commission and the Xinjiang Health Commission.

3. The United States should apply targeted sanctions on Chinese officials responsible for atrocities.

The U.S. government must use the authority provided by the Global Magnitsky Human Rights Accountability Act,²⁹ utilizing Executive Order 13818 which significantly broadens the scope of the Global Magnitsky Act,³⁰ to sanction Chinese officials responsible for acts of genocide and crimes against humanity targeting Uyghur Muslims. The sanctions imposed under the Global Magnitsky Act are the most substantial punishment the U.S. government can impose upon individuals to address international human rights violations. They include freezes on U.S. assets, banning travel to the U.S., and prohibitions on Americans doing business with sanctioned individuals or entities.

4. U.S. officials should encourage like-minded countries to condemn China's atrocities.

U.S. officials should encourage allies to condemn Beijing’s ongoing human rights abuses in the strongest possible terms. This could build global momentum to address the issue. Following the U.S. determination, the Canadian Parliament voted to recognize abuses against Uyghurs as genocide.³¹ More countries should be encouraged to adopt a similar stand.

Conclusion

After the horrors of the Holocaust, the countries of the United Nations affirmed the need to prevent genocide and punish perpetrators by adopting the Genocide Convention. The United States has ratified this Convention and must do its utmost to live up to the commitment. Now that the United States has determined Beijing's actions in Xinjiang to be a genocide, meaningful action must be taken. To do anything less would weaken the gravity of genocide in international law and send the message to the Chinese government that they can unleash whatever abuses they wish against their own people without consequences. The response of Congress and the Biden administration should include a range of actions intended to confront Beijing's heinous violations of religious freedom and human rights.

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² David Brunnstrom and Humeyra Pamuk, "U.S. secretary of state nominee Blinken sees strong foundation for bipartisan China policy," Reuters, January 16, 2021, accessed March 2, 2021, <https://www.reuters.com/article/us-usa-biden-state-china/u-s-secretary-of-state-nominee-blinken-sees-strong-foundation-for-bipartisan-china-policy-idUSKBN29O2GB>.

³ Patricia Zengerle and Michelle Nichols, "U.S. reviewing China genocide ruling to make sure it sticks," Reuters, January 27, 2021, accessed March 2, 2021, <https://www.reuters.com/article/us-usa-china-genocide/u-s-reviewing-china-genocide-ruling-to-make-sure-it-sticks-idUSKBN29W268>.

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