CHINA'S ETHNIC MINORITY DILEMMA:

UIGHURS CASE STUDY

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Abstract

The Uighur dilemma has been debated for quite some time already. The global media discussed what is happening in the Chinese province of Xinjiang with several political analyses and special reports being disseminated throughout the globe. The studies done on this subject has been scarce, but when combining them together in a specific mold and with a targeted objective from a pinpoint angle it delivers the needed result, which is what this research has aimed at doing. The goal was studying the material that have been done on Xinjiang according to International Law with the aim of deducing whether they amount to what can be called as "crimes against humanity" and to what extent. The events where studied also according to precedents from the cultural perspective in what was defined as "cultural genocide" from the courts of the ICTY and ICTR especially. The data were gathered through a review of the literature, mainly journals and researches, from academic sources. The events were deemed to have breached international law in the domain of crimes against humanity in several instances. The facts also matched the precedents of some cases of the ICTY and ICTR. At the end several solutions were presented to reduce the tension and alleviate the pain of the ethnic minority in question. One of the main limitations of this study is the inability to conduct any field research on the ground. We'd recommend to see more researches and studies being conducted on this subject and from different angles and perspectives to encircle the topic from all its sides in order to reach some degree of clarity.

Keywords: **Xinjiang, Uighurs, China, Geopolitics, Human Rights, International Law, Ethnic Minorities**

List of abbreviations

CCP	Chinese Communist Party
ETIM	East Turkistan Islamic Movement
XUAR	Xinjiang Uighur Autonomous Region
PRC	People's Republic of China
UFF	Uighur Foreign Fighters
SOEs	State owned enterprises
PLO	Palestine Liberation Organization
ETLO	East Turkistan Liberation Organization
ETR	East Turkistan Republic
SCO	Shanghai Cooperation Organization
BRI	Belt and Road Initiative
ASEAN	Association of Southeast Asian Nations
SU	Soviet Union
CA	Central Asia
CTC	Counter-Terrorism Committee

Glossary

Minzu	Official ethno-national category in the PRC; comprises 56 groups, including Uighurs and Hans[1]
Xinjiang	A region in northwest China established by the Chinese government as the Xinjiang Uyghur autonomous region in 1955[2]
Sinkiang	
	One of many ways to write the word "Xinjiang"
Hukou	Household registration system

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[1] (Bovingdon, Autonomy in Xinjiang: Han Nationalist Imperatives and Uyghur Discontent, 2004)

[2] (Ercilasun & Ercilasun, 2018)

Introduction

This research aims at studying the Chinese Uighur dilemma, and the rising tension within the autonomous region whilst presenting some solutions through concrete and feasible plans. The conflict with the Uighur ethnic minority in northwest China and the alleged mistreatment of Uighurs in Xinjiang by the Chinese authorities and the actions of the CCP towards this Muslim minority can be to some extent, according to international law deemed as a crime against humanity, and how can this be proven according to international law and the international treaties and what can we propose as solutions to this issue will be the main objective of this study.

The **focus and scope** of this research study will comprise of the timeframe which can be set according to the events of the last decade or two. The scope consists of the Uighurs (ethnic minority) in the Autonomous province of Xinjiang in China, where the co-existence of Uighur and Han is creating a big dilemma for the Chinese authorities and one that is at risk to escalate if no sustainable remedy or solution is implemented to suture the chasm and try to elevate the peripheral region into the homogeneity that central China is enjoying where prosperity and economic development is soaring. The study aims also at discussing the alleged persecution of the Uighurs by the CCP, going over the articles and precedents (ICC) of International Law and the International Treaties to point out the limits that the Chinese authorities have crossed, while also going through the precedents of the ICTY and ICTR to test if they match what was called as a "cultural genocide" before proposing tangible and feasible solutions by offering what we think will be accepted by both parties and the transition to a new setup of governance which is adopted in a country that faced a similar dilemma and alleviated the pressures resulting from this issue with a specific configuration of governance that contributes to minimize the risks and maximize the authority of the central

government in the process. The regional geographic element of the territory in question can offer also some sort of solution that we will discuss in detail, where geopolitics can sometimes create an umbrella that certain people can benefit from in terms of a wide range of aspects and elements. Dealing with ethnic minorities can be tricky and often states cross the limit in dealing with them without even knowing that their actions contradict International Law and the subsequent International Treaties that have codified the appropriate measures that should be taken to safeguard the ethnic minorities around the world and the indigenous peoples who feel that their existence is threatened. And the international efforts towards combating terrorism will be discussed in two-ways, one that concerns China's fears of terrorism within its territories that is nefarious to its ascendancy on the global power scale and world hegemony and the other that can be complicated in regard to minorities self-determination and freedom seeking paths that derail sometimes into an unwanted paths. All of the mentioned points and subjects will be put under a scientific microscope where subjectivity is absent and personal opinions are non-existent.

As for the **relevance and importance**, we can cite for **motivation** the following quote by Suzy Kassem that says "… If you don't stand up for all that is right, then understand that you are part of the reason why there is so much wrong in the world"

As for the **relation to existing work on this topic,** much has been done regarding crimes against humanity, ethnic cleansing and persecution of ethnic minorities throughout the years, but few have covered this particular ethnic minority and from a recent perspective, at least in the last decade or so, which is at the time of writing, is happening behind closed doors even amid the technological advances of the 21st century.

In regard to the **contribution of new insights,** this study aims to shed some much-needed light on the Uighur case and to discuss how the province of Xinjiang has been cut off from

the Chinese interior, a population that doesn't enjoy a reputable level of self-governance, and isolated in a way or another from its own country. Secondly, discussing the relevant domains of international law and the international treaties that are being allegedly infringed in this case by the Chinese authorities and the limitations of international law and the international treaties regarding this issue. Thirdly, offering solutions by abolishing the Hukou system of household registration, by transitioning to a federal way of governance, like for example with the Russian model that granted ethnic minorities in the former Republic of Sakha (Yakutia) self-governance in the 1990s, while discussing the external solutions also which can be manifested in regional Central Asian guarantees and an international effort against terrorism**, therefore** this study offers solutions to a problem, and remedies that the author would like to think would be sustainable that will grant all parties involved maximum gain and minimum losses in the long run, solutions that doesn't belittle the dignity and authority of all parties involved also. This is a way of not having to deal with a problem all over again after a few years or decades.

As for the **relevant literature:** Gladney (2004) offers a great insight into the culture and traditions of the Uighur ethnic minority in Xinjiang, through religion, music, literature and traditions from their existence up until modern day and how this ethnic minority tried to preserve its being through tangible material. Jakimow and Barabantsera (2016) dealt with the stratification problem that is menacing the Chinese society, between superior Han and inferior "others". They tackle the issue of "Othering" across the Chinese state and the issue of citizenship of ethnic minorities and rural migrants in order to demonstrate how belonging to the Chinese state have been subject to several key factors amidst the global developments of the citizen concept. Bovingdon (2004) deals with this topic from an administrative perspective trying to offer an administrative solution to this dilemma which will bring peace to the region in a pacifist way by abolishing the minzu system and creating a different

operational system instead, while Novic (2016) discussed in great detail the subject of cultural genocide while studying carefully the precedents of the ICTY and ICTR to clearly show how this topic have been subject to several jurisprudence from this kind of Chambers. Smith-Finley (2010) might be considered the most valuable and recent literature done regarding the Uighur case and the struggle of this ethnic minority in the face of the overwhelming Han-majority in trying to stay distinct and preserve their own identity and not be diluted in the bigger ethnic majority conducted by the Chinese authorities towards this ethnic minority in Xinjiang. It is a well-structured book, and a relatively recent one, where Smith-Finley covers to a certain extent several key aspects of this ethnic minority that has been for so long surrounded with some sort of mysticism.

The secondary sources cited are mostly researches about ethnic conflicts in light of a shortage of literature on the struggle within this particular topic. Journals enrich the study with valuable insights and a scientific addition to the research considering that these material are published at a much faster rate and keeps pace with the ongoing events on a daily basis.

In regard to **filling the gap in the literature**, this study has put into perspective international law and the subject of crimes against humanity in regard to the Uighurs of Xinjiang while also discussing in great detail the precedents of the ICTY and ICTR and how they match the situation of the ethnic minority in the peripheral region of China. There's also the new solutions to the Uighur problem which were proposed at the end of the study in the form of 4 subtopics.

Problem statement:

In the past decades, "human rights" have been one of the most important issues in world politics. World leaders and the prominent states around the globe have become vocal on human rights breaches and the need to raise the level of tolerance and diversity of

ethnicities and the plurality in nations' societies around the world, but few studies have fully grasped the importance of diversity and the protection of ethnic minorities in the Far East region and how to reach the ultimate solution to protect these endangered societies in their proper states among other major ethnicities.

In the literature on ethnic minorities in northwest China, an extensive research has been done regarding the various aspects of the Uighur ethnic minority; culture, tradition, art, literature and the composition of their societies. To gain a better understanding of the ethnic conflict between minority and majority in China, and the chasm between the state's main ethnic minority living in the northwest, in-depth qualitative research is required, focusing on the nature of the schism between Han and Uighur in Xinjiang.

This study aims to better understand the origin of the intolerance between Han and Uighur, the relevant material of international law regarding this topic and how they might lead to prove the existence of crimes against humanity and cultural genocide and the prospective solutions to this dilemma. Qualitative methods will be used to gain in-depth insight into the different aspects of the study aforementioned. This data will be contextualized with a review of recent literature.

Research question(s):

- ❖ What is the importance of Xinjiang and where does the Uighurs stand in all this?
  - ▪ **Objective:** discussing the importance of Xinjiang to the CCP and the bad situation the Uighurs are finding themselves stuck in
  - o What are the infringements of international law and the international treaties being allegedly done by the Chinese authorities regarding this ethnic minority and do they confirm the existence of crimes against humanity and cultural genocide?

- **Objective:** discussing the relevant material in international law and the relevant treaties and where they apply in this case, alongside noting some of the limitations of the international law and the international treaties in this regard

o What are the solutions to this case?

- **Objective:** discuss the long term solutions to the Uighur problem by proposing 4 solutions, 2 of which are of internal nature and the other 2 of external character whether regional or international

As for the **hypothesis**, we would like to carefully study if the facts available, when placing them under the microscope of International Law and customary international law are deemed as crimes against humanity and cultural genocide and what are the legal retributions accordingly

Chapter 1 discusses in great detail the geopolitics aspect of the research's subject going through the geographic concentration of ethnic minorities and the national or separatist movements that arose in the region whilst discussing the ethnic heterogeneity in the region and the Uighur v. Han narratives. Chapter 1 dissects also the challenges in the way of Chinese development and the domestic security issue that poses itself in the region as a hurdle in reaching the ultimate Belt and Road initiative of the Chinese authorities.

Part II of Chapter 1 delves deep into the conflict from the cultural genocide perspective discussing the relativity between the ongoing actions in the region and the precedents of the international courts of law such as the ICTY and ICTR and debate whether what is happening can amount to the level of an actual "Cultural Genocide" with a scientific approach.

Chapter 2 tackles the subject from the perspective of International Law and the International Conventions Treaties', citing the most relevant articles of International Law and the most relevant international treaties that can be used in order to reach a conclusion to the nature of events in the region whilst pointing out the limitations of international law and the loopholes that can be used to evade penalties in some instances.

Part II of Chapter 2 is the section where a solution is offered on the administrative level in the form of the abolishment of the *Hukou* system, or the transition to a federal system that can lead to a peaceful resolution in the area. The last part points out the factor of the external solutions which are of geopolitical nature in the Central-Asian region and the impact of international efforts in the war against terrorism.

We would like to note that this study is purely academic with no relation whatsoever to the parties being mentioned, and no personal opinion on the actions of both either. The author is aiming to fulfil his academic objectives and trying to implement the knowledge he gained from his masters' courses in a work of his own, and the research is based on an analytical perspective drawing from the writings and findings of researchers and scholars throughout the years. Therefore we want to avoid any misconceptions and reiterate our respect to the state of China, as this study aims not at undermining its sovereignty or authority over its territories and its governance over its people. China was and will forever be a state to admire and respect.

Literature review/theoretical framework

Ethnic minorities around the world attract the interest of researchers for several reasons, be it geo-strategic, historical, and anthropological or for human rights causes. Each and every researcher tackles this issue from a different perspective and angle for his book or study and therefore leads his prose to a conclusion that satisfies his corresponding hypothesis or axis of study. The Uighur ethnic minority issue have been covered by scholar authors throughout history from the historical perspective, and lately, maybe in the last 15 years or so, the compass of study has been enlarged to encompass several other issues concerning this ethnic minority that arose in the last decade or two. Gardner Bovingdon (2004) discusses in his book "Autonomy in Xinjiang: Han nationalist imperatives and Uyghur discontent" the ethnic conflict in Xinjiang between Han and Uighur and the circumstances that engulfed this issue whether be it on the administrative level or else. Before discussing the topic of independence of the XUAR in detail. Dru Gladney is one of the main authors about the Uighurs throughout the years, and is cited by many scholars who tackle this topic in their respective studies. One of his main literary pieces about this subject, "Dislocating China: Muslims, Minorities and Other Subaltern Subjects" (2004), discusses several aspects concerning the Uighur ethnic minority whether be it historical, cultural, political or social and ethnical, giving great insight about this group of people. In Iredale and Bilik (2003), Ren Qiang and Yuan Xin discuss in Chapter 5, Impacts of Migration to Xinjiang since the 1950s, the ethnicity issue of the

Uighurs in the autonomous region through several strata of analysis, like the inter-marriage with the Han population and the several censuses of the population throughout the years and how the Han migration has affected the proportion of the XUAR's population between Han, Uighur, Hui and several other minorities in the region like Kazakh and Kirgiz and so on. This study helps define the social nature of the region and its evolution over a large scale of time. Gardner Bovingdon's book "The Uyghurs: Strangers in Their Own Land" (2010), argues that

the nature of the Uighur's identity makes it difficult for any sort of fusion or amalgamation between Uighur and Han a mere impossibility at best. Bovingdon elaborates the historical aspect of Xinjiang through the World War and the Sino-Russo conflict that resulted in endless tension and skirmishes in the autonomous region, the separatist movements that took place and the Uighur resistance to Han dominance along the years. Joanne Smith Finley gives great insight in her book "The Art of Symbolic Resistance: Uyghur Identities and Uyghur-Han Relations in Contemporary Xinjiang" (2013) about the chasm and inequality in Xinjiang between Uighur and Han on different levels of socio-economic aspects. Finley discusses also the capacity in which Uighurs expressed their religious beliefs over the years and its difference with Han traditions and the latter's chauvinism and how it was manifested through several examples. The book mentions the ways in which this minority expressed itself through music and literature to preserve its culture and traditions. In "Uyghur Nation: Reform and Revolution on the Russia-China Frontier", David Brophy (2016) delves deep into the geo-strategic element of Xinjiang and the Sino-Russo conflict that affected the autonomous region for a long period of time and how each state acted in a way that fits its objectives in the area and interacted with the Uighurs accordingly. Brophy gives great insight in how Xinjiang was formed, its frontiers and demarcation, and how the Turkic[3] people settled in it a long time ago. Peter Frankopan (2015, 2018) and Marshall (2015) offer an abundance of facts and analysis about the importance of Xinjiang from the geo-strategic perspective and Frankopan (2018) addresses the topic of the Belt and Road initiative and mentions the aspects of Xinjiang in that regard along the way. Jakimow and Barabantseva (2016) deal with the issue of "Othering" in the Chinese society, and especially between the dominant Han majority and the rest of the ethnic groups within China. They tackle the topic from its roots

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[3] Turkic peoples are clans that originated from the Mongol Empire as sub-branches with languages that derive from the same family and a mother identity that engulfs all of them at some point back in history (eg. Turk, Oguz, Kypchak, Karluk, Kyrgyz, Uighur, Mongol, Oirad, etc. (Kara, 2018)

and fragment it into multiple strata in order to better understand the ethnic social dilemma that casts its shadow over the Chinese community and stretches into the political, administrative and economic aspects where this issue becomes even more important and has more consequences and diversifications. Millward (2004) offers great insight into the roots of the separatist movements that arose within Xinjiang, and the impact these groups had along the years and the result it amounted to. Millward also mentions the several groups that were founded along the years, the ones that were shut, and the way the international community, especially the United States dealt with the subject, in the circumstances that engulfed the particular era that these movements took place. The literature listed above, among many that will enrich this study, offer a considerable amount of facts and analyses into each and every part and parcel of this topic, but few surround the subject with all its aspects in a single research study and offer a contextual framework for the events happening in the autonomous region from the perspective of international law and the international treaties and few (Bovingdon 2004), offer a tangible solution to an ongoing, and as it seems endless crisis, in the Chinese autonomous region(s). The obvious obstacle in the way of scholars from collecting considerable data and facts on the ground near the site of the actual events is the restrictions imposed by the Chinese authorities on entry to Xinjiang, either be it from interested domestic parties or foreign expeditions seeking more information. Scholars and researches are getting their information and data from scarce sources that are emanating through a thin crack within the World Wide Web and investigative journalists that have gone to lengths in trying to squeeze out every iota of news and information about the whereabouts of this ethnic minority in northwest China. Therefore few information-seeking people have ever been in the autonomous region, and upon the information of these few, scholars have built their studies and researches upon, which is why a lot is left to be discovered and unearthed about this topic in the years and maybe centuries to come. Albeit in the age of

information and digitalization, it might not take thousands of years, like our discoveries of the ancient kingdoms and civilizations, the Mayans or maybe the Aztecs, to build the full picture of what is happening in northwest China and the reasoning behind it all from different perspective whether it be geopolitical, social or economic. This research aims to take advantage of the vast material at hand cited above to hopefully further advance the knowledge about this subject and try to cover it from different aspects and angles and, of course, offer a solution, because by simply repeating what others have wrote and not going the extra mile would make this research dull and redundant, which is what we aimed at avoiding. Hopefully studies that will be made by researchers and scholars in the future can use this study as a beneficial material to build upon, and hopefully reach new heights and go beyond what exists now. Finding a solution to the household registration system in China, the *Hukou*, will be a breakthrough in trying to solve the tension and conflict that engulfed Xinjiang for many long years and never seemed on its way to a conclusion any time soon. Bovingdon (2004) proposed an administrative solution to the Uighur problem, and his advances will be very essential to what this research will try to build on in order to reach its own conclusion. Bovingdon's proposal was made 17 years ago, and that's why this study will try to offer even more, because the events that happened throughout this long period of time will surely have created a whole new different conglomeration of circumstances and interactions between different parties to the conflict. In that regard, this study aims to build on Bovingdon's proposal and try to offer a more advanced solution and a contemporary plan for years to come.

> Brennan Davis in "Being Uighur…with Chinese characteristics" discussed the limitations of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and its shortcomings regarding certain situations which happens to be the case in Xinjiang, especially with the *hukou* system that China is adopting regarding

the people within its boundaries. Davis elaborates on this topic in great detail which

will enhance this study's knowledge regarding this aspect of the subject. Novic (2016)

has discussed in great detail the subject of Cultural Genocide from the perspective of

customary international law in the form of precedents of the ICTY and ICTR going to

great length in reaching satisfying results in that regard. On the social front, Zhixiang

Jian elaborates on the intermarriage subject between different sects in China, which

will help us develop the relation between the Uighur and the Han in Xinjiang

specifically. Ali Caksu goes in great detail about the perpetrations of the Chinese

authorities in regard to their Uighur citizens in Xinjiang, discussing the recent events

in the autonomous region whilst covering all the aspects of the so-called stiff

regulations that this ethnic minority live within. Nader Hasan delves deep into the

historical aspect of Xinjiang and the Uighurs alike going on to unearth the importance

of these 2 elements within China in regard to the ongoing events. Dru Gladney (2002)

takes a comparative approach in his journal study between Xinjiang and the West Bank

discussing the similarities between the Uighurs and the Palestinians, the living

conditions of both within a system that is different to theirs, going on to conclude that

Xinjiang may be the new West Bank in some sort. Michael Clarke in "China and the

Uyghurs: the Palestinization of Xinjiang" discusses the same element as Gladney

going through a similar comparative approach between Xinjiang and the West Bank

in terms of the social and political conditions. Ercilasun and Ercilasun (2018) discuss

the historical path of the Uighurs and the social and political aspect of their

community, while noting the importance of the role of the diaspora and the

transnational Uighur community. Thum (2014) elaborates on the religious and

spiritual aspect of the Uighurs and its continuance throughout history until modern

times. Millward (2007) discusses the historical chronology of the Uighurs between

different empires and after that between the Russian and the Chinese influence until the early 2000s. Dwyer (2005) examines the Chinese policy and language use in its regions and its effects on the Uighur identity. While it elaborates even further on this aspect after the events of September 11 in the United States and what it meant in terms of combatting terrorism with the new dye which these ethnic minorities have been cast with. Kaltman (2007) explores the ethnical aspect of the Uighur people whilst delving into the cultural side of this community and its relations with the Han majority and the migration movement that has been taking place along the years. In "Living under the Heel of the Dragon" Kaltman depicts the Uighur point of view on the social level within China and Xinjiang in particular. Soliev (2018) reports on the tight security measure that the Chinese authorities have implemented to stop any terrorism activities by some Uighur groups who have adopted a jihadist doctrine and tried to initiate terrorist attacks. Kam (2016) also elaborates on this idea and the measures that the CCP have adopted in order to nip terrorism in the bud before it expands to a non-containable scale and reach within its territories. Zhao (2010) takes a critical view of the current literature on the Islamic radicalization and Uighur insurgency in Xinjiang, Zhao uses in his study a sociological lens in order to analyze and explore the structural changes in the Uighur community over the past decades and show the efficiency and importance of a social cohesion theory to identify the key causal variables which determine the cause of Uighur insurgency and Islamic radicalization. Clarke and Kan (2017) discuss the role and reason of the Uighur involvement in a global jihadist movement, sometimes under the Al-Qaeda umbrella in Syria and the so-called East Turkistan region. This study explores the scope and scale of the Uighur Foreign Fighters (UFF) activity in different locations, its implications and the nature of their participation in global jihadist groups. Cao et al.

(2018) uncover in their study "Digging the Ethnic Violence in China Database: the Effects of Inter-Ethnic inequality and Natural Resources Exploitation in Xinjiang" the threat that the unrest in the region of Xinjiang on the internal Chinese security, and the instability of Xinjiang which has repercussions and ramifications on the wider security issue in Central Asia on the macro level and China on the micro level. Hastings (2011) explains in his study "Charting the Course of Uyghur Unrest" the course of Uighur-related violence in Xinjiang and Central Asia since 1990 from a great database of data from various sources. Hastings culminates in a conclusion about the potency of the Uighur insurgency and the potential level it could amount to in the years to come and what results and repercussion it may have on the region and China as a whole. Roberts (2009) discusses the potential rise of a Uighur nation after the first experiment of this sort failed to continue. His study emphasizes the role of anti-colonial sentiments that the Uighur intellectuals and the whole Uighur community as a whole harbors towards the state of China, and the prospect of a development of a modern national consciousness.

The theoretical framework:

The Theory of Constructivism:

The most relevant theory that envelops all the aspects of the research topic is the theory of constructivism developed mainly by Nicholas Onuf, American scholar, political scientist, and currently professor emeritus of international relations at Florida International University in his book "World of our Making" (1989) and re-developed in a later book entitled "Making Sense, Making World: Constructivism in social theory and international relations" (2013). This study aims at developing a structural analysis that seeks to showcase the deep chasm between Uighur and Han identities,

the perpetrations on both sides to reach proper goals, the implications according to international law, the limitations of international law and the possible solutions to this big dilemma. This lead us to adopt the theory of constructivism which can be the best mold that this study will fit in, taking into consideration all the different aspects of the research as whole. Onuf defines constructivism as a way of studying social relations of any kind. This particular theory doesn't aim at explaining social relations, instead at giving perspective to its different aspects and events while taking a neutral approach. This theory was used frequently in the international relations field, which was the first field studied under this microscope of a theory. Constructivism considers that social relations shapes human beings into who they are and what they do. Social rules act as conductors of what should be done and what shouldn't be, and the latter bears consequences as a matter of fact; and this leads to what is called as "practice", which sets the norm. Rules also indicates the active participants in the society, and constructivism refers to these particular individuals as "agents". Society determines who are the "agents" and in which exact thing they act as agents within. Agents may act on behalf of other people, therefore agency is a "social condition", thus a government can be considered as a social construction. In compliance with determined rules, these individuals act collectively and in various combinations, on behalf of the country they belong to. Rules grants agents choices to act within, they form the cadre of the permissible acts. And agents act in the society to achieve goals which reflects the people's needs, but most of the time agents doesn't have the perfect conception of the society's needs, believing that reaching the intended goal reflects rationality. When taking an outside perspective they often don't seem as rational as their agents supposed them to be, and this is due usually to the complexities of agency and human fallibility. The respective society's rules often help to explain the

logicality with which the society's agents acted upon. And according to constructivism, rules and practices often go hand in hand to form a stable "pattern" that more often than not, suits the agent's intentions. Constructivism labels this thing as "institutions". Agents are aware of the institutions in their respective environments, and it is clearly evident that the actions of some agents affect others in the society, and create consequences for other agents which have to respond accordingly. (Onuf, 2013) In the case of ethnic conflict, this is often the case. The actions of the few usually affects the livelihood of a great portion of the society. As for the consequences, this particular issue remains hotly debatable, because as history have shown, there are instances where the law is proclaimed, and other instances where the law fails to make ends meet. On the international level, applying the law becomes even harder, especially with the problematic issue of state sovereignty among many. While Alexander Wendt (1992) transcends constructivism to the level of the international sphere and the relations between states through international relations where according to him "inter-subjective conception of process in which identities and interests are endogenous to interaction, rather than a rationalist-behavioral one in which they are exogenous". Wendt elaborates more to say that constructivism "might contribute significantly to the strong liberal interest in identity- and interest-formation and thereby perhaps itself be enriched with liberal insights about learning and cognition which it has neglected" and argues that the "neorealist claim that self-help is given by anarchic structure exogenously to process". (Wendt, 1992)

John Duckitt and Boris Bizumic's theory of ethnocentrism and racial prejudice:

Duckitt and Bizumic's theory of ethnocentrism and racial prejudice revolves around three main concepts: a) group self-centeredness, b) out-group negativity and c) in-group positivity. (Duckitt & Bizumic, 2012) According to the authors,

ethnocentrism is seen as ethnic self-centeredness and self-importance which has six specific expressions. They distinguish ethnocentrism from merely out-group negativity, in-group positivity or the association of out-group negativity with in-group positivity, instead they consider these as roughly ethnic self-centeredness. (Duckitt & Bizumic, 2012) Duckitt and Bizumic stresses the point of ethnocentrism being solely in-group positivity. Although the higher forms of ethnocentrism are demonstrated through the belief of intergroup ethnocentric individuals or groups that their ethnic group is more important and more valuable than others, and through the hyper-valuation of their group and the undervaluation of the others, thereby disadvantaging the other groups. (Duckitt & Bizumic, 2012) Duckitt and Bizumic elaborates even more and delve deeper into this theory by splitting it into 4 subdivisions. One of these 4 components may be manifested more than the others, or there could be a combination of several components. If a) purity is manifested, then the focal point here will be the avoidance or resistance of contact with the other ethnic group, if b) exploitiveness [sic], there will be a manifestation of readiness to take advantage and exploit the other group, if c) preference, there will be a display of readiness to favor in-group over out-group whatever the situation, and if d) superiority, clear signs of readiness to see the in-group's domination over other groups will be clear. (Duckitt & Bizumic, 2012)

This theory clearly helps with explaining to a high degree the racial chasm that is manifested in China between "Han" and "Non-Han" ethnic groups. The Han majority consists the largest ethnic proportion in mainland China, and Han superiority in the Chinese Society can be demonstrated through several examples (Jakimow & Barabantseva, 2016) that we are going to discuss later on, and this the theory of

Duckitt and Bizumic will be very handful in reaching the explanation required in this study.

The Theory of Realism in International Relations

According to Hans Morgenthau, who is considered as one of the founding fathers of the theory of Realism in International Relations, posited 6 principles of political realism in his book Politics Among Nations (1948) stating that:

1- Politics is governed by objective laws

2- In International politics, "interest is defined in terms of power"

3- Interest defined as power is not given an unchangeable meaning once and for all

4- There is "tensions between the moral command and the requirements of successful political action"

5- Political realism refuses to identify the moral aspirations of a particular nation with the moral laws that govern the universe"

6- "interest defined as power" is an understanding that gives international politics a separate standing and thus emancipates it from other fields of study (Viotti & Kauppi, 2014)

Morgenthau sees that both domestic and international politics are a struggle for power, and that the tendency to dominate an element of all human associations. (Viotti & Kauppi, 2014) In contrast, Edward Hallett Carr in his book The Twenty Years' Crisis (1939) critiqued the utopian and the idealist thoughts in international relations after WWI but at the same time challenged the most extreme versions of realism that ruptures morality from politics in international relations. Carr sees that utopianism and realism intertwine in international relations politics. (Viotti & Kauppi, 2014)

According to Kenneth Waltz, politics in international relations is conducted in a state of anarchy in the absence of any form of international governance, because there is no world "*orderer*" or an international organization that has the capability and the authority to dictate world politics. Waltz believes that power is unequally distributed among states, and that economic prosperity and military power aren't always in tandem. And elaborates further to say that at the "international level one cannot hope that the powerful states will follow policies that are right, but merely to hope that they will not get it all wrong" (Waltz, 1979) Waltz believes that a system of polarity on the international level is healthy to maintain international stability, whether be it a unipolar, bipolar or multipolar system of hegemony. (Waltz, 1979)

The theory of realism in international relations can help in explaining the actions being conducted by the Chinese state and the objectives that lay behind these procedures currently being undertaken by the CCP, especially in our case study of Uighurs in the XUAR, the Xinjiang Uighur Autonomous Region in the northwest of China on the Sino-Kazakh frontier. States according to the theory of realism act in a way to minimize the losses and maximize the benefits of whatever situation they face or goal they seek to accomplish, and they perceive the circumstances and their actions through an objective lens where morality and sentiments doesn't exist at all. If there's an objective that is beneficial to the interest of the state, there has to be a way to reach it and morality won't be a factor when laying down the plans to achieve it. Therefore the theory of realism will suit this study in the respective chapters about geopolitics and states actions according to its interests and the potential intersections with international law at some point.

Methodology

The methodology adopted in this research study is as follows:

The overall approach:

- This research will adopt the qualitative data analysis
- The type of research design will focus mainly on the qualitative case study analysis of the Uighurs ethnic minority, through secondary sources collected mainly from all sorts of literature review types available

The details:

- Data collection will be primarily through literature review from archival sources
- Data analysis will be conducted using the thematic analysis method with a semantic approach
- The tools and materials used are mainly computers and access to the internet where several e-books, pdf's, journals and scientific data were found

Evaluation of the methods:

- The most prominent obstacle in this research is the researcher's incapability of traveling to the sources' hubs and respected countries we should say to conduct the research close at hand
- The approach used in this research will give the readers an in-depth knowledge of a basically problematic geostrategic and legal issue of a contemporary nature that has been scarcely studied in the past years which will enrich the topic from new angles and perspectives

Conceptual Framework

The continuance of the ongoing actions being done in the area will aggravate the crisis instead of solving it

Resorting to solutions in Xinjiang will ease the tension in the area and the dilemma this region pose for China

Mutual concessions from both parties

Time
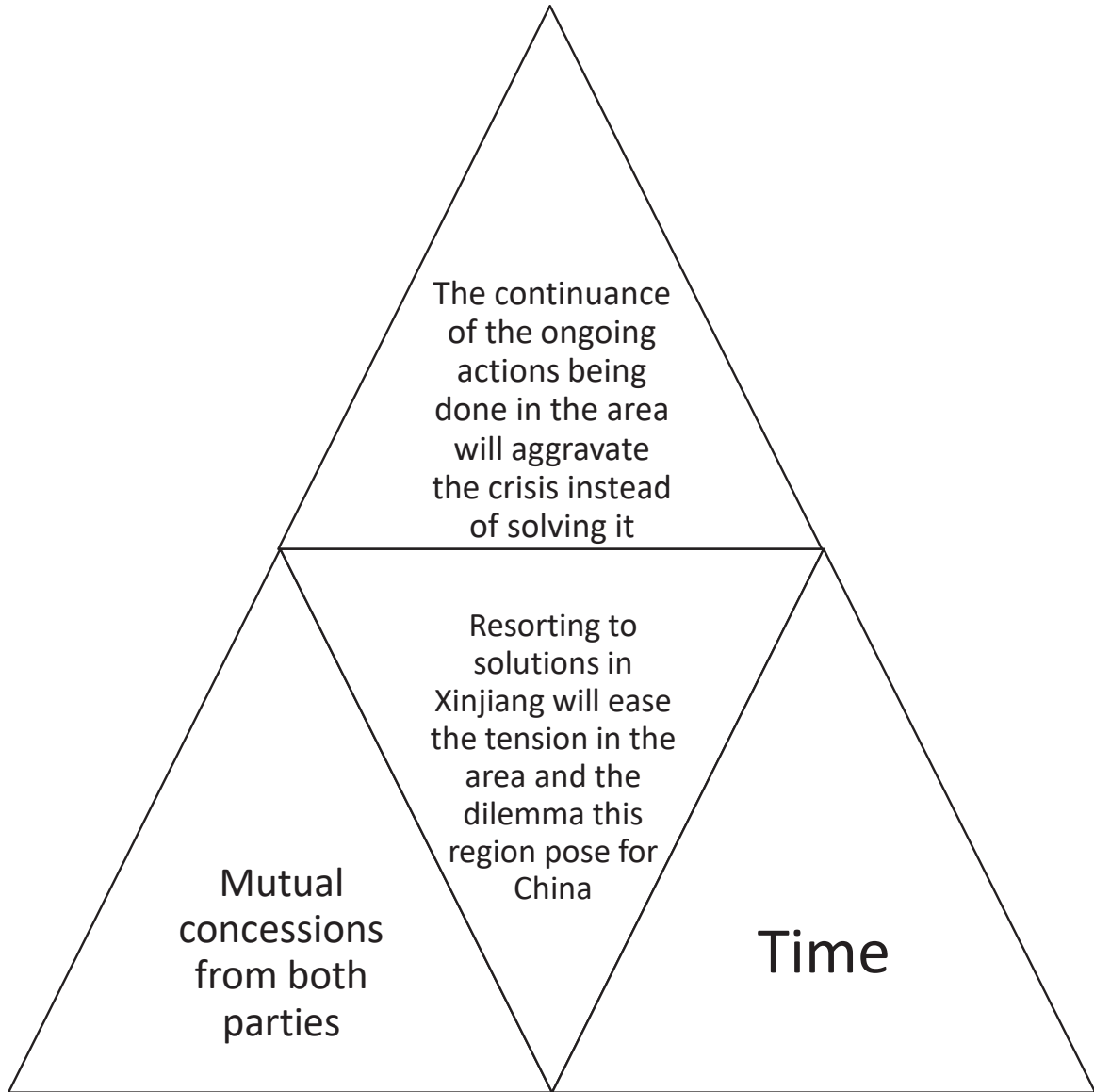
Conceptual Framework:

Dependent Variable: Implementing reasonable solutions in Xinjiang will ease the tension in the area and the dilemma this region pose for China
Independent Variable: The continuance of the ongoing actions being done in the area will aggravate the crisis instead of solving it
Moderator Variable: Time
Mediator Variable: Mutual concessions from both parties

CHAPTER 1: THE UIGHURS SOCIETAL DILEMMA WITHIN THE CHINESE SOCIETY

1- Geopolitics of Identity in China

China or as it is formally known The People's Republic of China (PRC) is today considered as the 3rd largest country by land dimensions and comprises the largest population in the world. The country's population is in its majority of the Han ethnicity, which is up to 91% of the country's population density. ((Brown, 2013, p. 10) (Gladney, 2004, pp. 63,81) (Jian, 2017, p. 15) on the other side, there are also 55 other officially recognized ethnic groups (Brown, 2013, p. 7) (Jian, 2017, p. 1). China comprises 22 provinces, five autonomous regions (Tibet, Xinjiang, Ningxia, Inner Mongolia and Guanxi), 4 cities directly under the central government (Beijing, Tianjin, Shanghai and Chongqing), and 2 special administrative regions (Hong Kong and Macau). (Brown, 2013, p. 7).

Figure 1. China Map, source: Encyclopædia Britannica, Inc.

The area of our study, Xinjiang, is the autonomous region on the northwestern frontier of China that borders Kazakhstan, Kyrgyzstan, Tajikistan, Mongolia, Russia, and Pakistan, India and Afghanistan and amounts to 18 percent of China's land area. (Fuller & Starr, 2003, p. 4). Xinjiang became a province of China in 1902 and was later designated as the Xinjiang Uyghur Autonomous Region (XUAR) in October 1950 (Qiang & Xin, 2003, p. 89) after its annexation by the Chinese state that year. Xinjiang's geopolitical importance was highlighted during the World War between Russia and China in central Asia. Muslim identity started to form in this region throughout the years, and the Soviet Turkistan, which consists today of the belt of states along the southern frontier of the Federal state of Russia, started to become fragmented into several states which became known as Kazakhstan, Turkmenistan, Tajikistan, Kyrgyzstan and Uzbekistan. This fragmentation was said to be stemmed from the Stalinist doctrine of self-determination, and it lead to a consensus that the Muslims of the region are starting to form their own identity away from the Soviet Union, which sparked a dream of a certain Turkic people called the Uighurs in the hope to create a nation of their own called Uyghuristan. (Brophy, 2016, pp. 184-185) The Uighur are descendants of a high civilization of Central Asian nomadic people who had a kingdom based in Turpan (Gladney, 2004, p. 206) and who inhabited the steppes of Central Asia living a nomadic and tribal life especially in the Mongol Era. (Kara, 2018, p. 99)

a. Xinjiang: The Geographic Concentration of Ethnic Minorities:

Upon the founding of the PRC in 1949 through the communist revolution of Mao Zedong, a dialogue was initiated between representatives of the state and the peoples who considered themselves as belonging to "national minorities". This led to the emergence of approximately

400 groups that harboured the belief of having common descent and therefore applied to the Chinese authorities for recognition as official minorities. (Gladney, 2004, p. 9) But after a long process that involved the participation of Chinese anthropologists, linguists and local officials, 54 groups were granted successfully the state's recognition as a legitimate ethnic group, and 350 others were excluded from recognition. In the next 50 years only one group managed to overturn the initial rejection and gain recognition, and they are known as the Jinuo, in 1979. One interesting thing is that 749,341 people were listed as "unidentified" in the 1990 census. (Gladney, 2004, p. 9) The Uighurs are one of 10 ethnic Muslim groups within China, and are the second largest of these groups behind the Hui who are almost 20 million scattered around the Chinese mainland with a concentration in Xinjiang more than any other place. (Gladney, 2004, p. 152) The Hui unlike the Uighurs, who are considered as ultra-conservatives, have been described as "Muslim Chinese" who simply doesn't eat pork. (Gladney, 2004, p. 120) After the Han migration into Xinjiang, and the increase of Han density in the area from 6.71% to 40% in the 1990 census, Hui-Han intermarriage has been of considerable value in regard to other inter-ethnic marriages in the area (Jian, 2017, pp. 15-16), and amounted to about 12.071%

Table 4 Comparison of intermarriage data in the 2000 and 2010 censuses

Ethnic status of household head	Year	Number of household head	Household head (%)	Ethnic status of the spouses of household heads (%)										
Han	2000	231,795,173	100.000	Han	Manchu	Mongol	Zhuang	Tujia	Yi	Miao	Hui	Buyi	Yao	Dong
				98.322	0.421	0.228	0.207	0.133	0.121	0.116	0.096	0.042	0.041	0.038
	2010	262,632,221	100.000	Han	Manchu	Zhuang	Mongol	Miao	Tujia	Yi	Hui	Yao	Buyi	Dong
				98.512	0.341	0.190	0.185	0.166	0.118	0.118	0.089	0.040	0.039	0.036
Zhuang	2000	2,974,022	100.000	Zhuang	Han	Yao	Miao	Yi	Dong	Mulao	Maonan	Hui	Dai	Li
				87.974	9.972	0.929	0.213	0.162	0.153	0.197	0.118	0.034	0.026	0.025
	2010	3,136,624	100.000	Zhuang	Han	Yao	Miao	Mulao	Yi	Dong	Maonan	Hui	Li	Dai
				86.758	11.037	0.974	0.255	0.191	0.174	0.169	0.119	0.024	0.023	0.022
Manchu	2000	2,536,153	100.000	Manchu	Han	Mongol	Xibo	Korean	Hui	Dahur	Zhuang	Yi	Miao	Tujia
				54.751	43.312	1.319	0.212	0.120	0.109	0.033	0.033	0.018	0.018	0.014
	2010	2,432,975	100.000	Manchu	Han	Mongol	Xibo	Hui	Korean	Zhuang	Miao	Dahur	Yi	Tujia
				52.947	44.795	1.551	0.216	0.142	0.118	0.041	0.036	0.032	0.019	0.016
Hui	2000	1,955,084	100.000	Hui	Han	Dongxiang	Manchu	Yi	Mongol	Uyghur	Tibetan	Sala	Miao	Zhuang
				86.200	12.211	0.516	0.168	0.092	0.090	0.087	0.080	0.078	0.056	0.054
	2010	2,204,190	100.000	Hui	Han	Dongxiang	Manchu	Mongol	Yi	Sala	Tibetan	Uyghur	Miao	Zhuang
				86.244	12.071	0.617	0.177	0.094	0.091	0.091	0.068	0.066	0.054	0.044
Miao	2000	1,685,203	100.000	Miao	Han	Tujia	Dong	Gelao	Buyi	Shui	Zhuang	Yi	Yao	Bai
				77.752	12.592	4.789	1.962	0.847	0.737	0.278	0.247	0.186	0.121	0.089
	2010	1,662,791	100.000	Miao	Han	Tujia	Dong	Buyi	Gelao	Zhuang	Shui	Yi	Yao	Bai
				77.966	13.430	4.025	1.821	0.722	0.614	0.296	0.234	0.196	0.138	0.116
Uyghur	2000	1,537,519	100.000	Uyghur	Han	Hui	Kazak	Uzbek	Tujia	Miao	Kyrgyz	Zhuang	Tibetan	Mongol
				99.104	0.561	0.078	0.077	0.032	0.025	0.023	0.019	0.016	0.013	0.013
	2010	1,887,722	100.000	Uyghur	Han	Kazak	Hui	Uzbek	Kyrgyz	Zhuang	Mongol	Tujia	Tibetan	Miao

Table 1. Comparison of intermarriage data from the 2000 census (Jian, 2017, p. 11)

of Hui marriages in the 2010 census (Jian, 2017, p. 11) In contrast, the statistics show that the lowest Chinese inter-ethnic marriages is between the Han and the Uighur, after that comes the Kazakhs and then the Tibetans. (Jian, 2017, p. 16)

The Hui have adopted the Chinese language and culture as their own, and so they are viewed, as aforementioned, as "Muslim Chinese" (Gladney, 2004, p. 152), whereas the Uighurs, Tibetans and Kazakhs have worked to preserve their own dialect, customs, traditions and cultures throughout history. (Jian, 2017, p. 16) Uighurs mainly reside in southern Xinjiang, in the Kashgar and Hotan prefectures, and often when asked about their identity refer to themselves by their oasis names such as Kashgarlik, Aksulik or Turpanlik for example, and only to outsiders do they call themselves Uighurs. (Gladney, 2004, p. 166) [Gladney (2004, p.167) citing Shahrani (1984:27)] recalls the following statement:

"When you ask a Turkestani what is his identity, he will answer that he is, first of all, a 'Muslim', then an inhabitant of such or such city or village … or if he is a nomad, member of such or such tribe."

The XUAR comprises of other ethnic minorities who have mother states nearby, such as the Kazakhs, the Kyrgyz, the Uzbeks, Tajiks and the Tatars, who are all mainly practitioners of Islam. (Gladney, 2004, p. 242)

The Han migration into Xinjiang has been significant over the years, from the annexation of the province in 1949 up until the 21st century. The migration caused the population of the region to increase 26 times in the 20th century from what it has been in 1949 which amounts to a growth of roughly 8.1 percent. (Gladney, 2004, p. 219) And according to the 2000 census, the previously estimated Han population of 6.9 million was revealed to be around 7.5 million which is about 31.6 percent (double the rate of local minorities). (Gladney, 2004, p. 220) According to scholars the so called state-sponsored migration into the area was some sort of "divide and rule" policy towards Turkic Muslim peoples. (Fuller & Starr, 2003) Hans were a

tiny minority merely amounting to 200,000 in the 1940s in Xinjiang, but after the migration that began in 1950, this figure rose to 5 million in 1975 and then to 8.2 million in 2007, and therefore while the Uighurs are still the vast majority in Xinjiang, they are now only a plurality. (Bovingdon, 2010, pp. 11-12) This migration had a notable opposition from the Uighurs and their senior figures which was noted through a series of violent events since 1990 that received international press coverage which were compared to those in Palestine, Chechnya, Aceh or Mindanao. (Bovingdon, 2004, p. 6) Senior Uighur figures saw this so called "state-sponsored" Han migration as some sort of a colonization and an abridgement to their hypothetical autonomy, and they have warned, even before the creation of the XUAR that the influx of Hans will diminish their political influence and force cultural assimilation. (Bovingdon, 2004, p. 26) Several minority studies have noted that this process is some sort of Han cultural assimilation or Sinicization (Gladney, 2004, p. 226) and that Han immigration and state policies have put pressure on Uighurs to assimilate linguistically and culturally, but this process have increased the gulf between Uighurs and Hans. (Bovingdon, 2004, p. ix) But the notable thing is that the Uighurs have sought throughout the years to retain much of their ethno-religious identity and have developed new ones in tandem with nationality policies and socioeconomic changes. And what is notable is that the peoples of Inner Asia have been very much resistant to Han cultural assimilation even when Xinjiang was brought into the Chinese state. And Gladney (2004) notes that it isn't Hanification (Han hua) that consists an issue for ethnic identity, but the "Chinese nationalization" (*Zhongguo hua*). (Gladney, 2004, p. 226) The rise of ethnic consciousness and ethnic rivalry, often portrayed as tribalism, has been noted as an endemic feature of African and Asian politics, and it can be better understood as a phenomenon linked to colonialism. (Heywood, 2013, p. 162) The ethnic identity of the Uighurs have been determined by the Chinese state as interest-motivated actors seeking benefits from favourable policies, which can be inadequate according to historical proportions and socio-political consequences that has

engulfed their existence. The current narrative is that their current identity is a "label" assigned to them by the Chinese state, but the more accurate description would be that the Uighur identity is an identity that has evolved and interacted with the changing circumstances in dialectical fashion. (Gladney, 2004, p. 227) This description doesn't suggest, according to Gladney (2004), that their ethnic identity is merely a product of state creation or dissolution, but rather a combination of dialectical interaction on both sides of the agreed-upon ethnonym. (Gladney, 2004, p. 228)

i. Dynamics of Ethnical Nationalism and Separatism

Ethnic identity has been marred by politics throughout the times which resulted in some scholars coining the term "identity politics" on this phenomenon. As we mentioned the area of Xinjiang (which means "New Dominion" or "New Frontier"[4] (Gladney, 2004, p. 247)) was a place of major importance in the Russo-Chinese exchanges during the World War, and after the annexation of the region by China following the rise of the communist party and Chairman Mao in 1949, the area contained already a multitude of ethnic minorities, especially that the Uighurs existed in Central Asia and in this particular piece of land since the beginning of time. (Gladney, 2004, p. 247) As aforementioned the attempts of assimilation of these minorities by the Chinese government have seen different degrees of success across the myriad ethnicities present throughout the area. Much like the Western Sahara in Africa, where the Moroccan state annexed parts of it after deploying heavy military forces to crush any sort of rebellion, the Sahrawi people who lived in the area where left in the wilderness and on the other side of the "wall" which is a long borderline fence under heavy guard which Morocco built to secure itself from the Polisario Front (PF) who sought to protect their land which they thought was theirs and is being taken from them. Moroccan immigration soon changed the habitat of the area and

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4 In 1884, the Manchu Qing Dynasty conquered and formally annexed the territory of East Turkistan and named it "Xinjiang" (Gladney, 2004, p. 247)

made the Sahrawis, which their name mean "inhabitants of the desert", strangers in their own land. (Marshall, 2018, pp. 140-141) The Uighurs found themselves in a similar scenario in 1949, where they were being merged with a state that they don't see any ties to it on the sociological and ethnic level. The level of differences between China and the Uighurs is substantial, from language (Mandarin and Turkic-Altaic) to religion (Confucianism and Islam) and the societal level which is becoming of cosmopolitan type in eastern China around mega-cities such as Beijing, Guangzhou, Chongqing and Shanghai and the conservative community of the Uighurs which can be described as traditional and simplistic. And this chasm was exacerbated even more in light of the citizenship model of the Chinese society. The traditional idea of *tianxia* (all under heaven) (Jakimow & Barabantseva, 2016, p. 2) contradicts the principle of ethnic pluralism that is considered the main goal of the Chinese government. (Gladney, 2004, p. 227) The basic element of *tianxia* is to unify all people regardless of their language or customs, and it was the principle under which the Chinese authority sought the incorporation of different ethnicities into its dominion. The very term of "Chinese citizens" within China or "*guomin*" was centred on the Han majority, who were considered as the core of the nation. (Jakimow & Barabantseva, 2016, p. 2) "Othering" in China was noticeable through the *minzu* system, and in Communist China, the category of "peasant" (*nongmin*) was used to designate a part of society that was seen as "feudal". Then the *hukou* system contributed to deepen even more the chasm between urban and rural in China, between the developed east and the under-developed peripheries (The west and north). (Jakimow & Barabantseva, 2016, p. 3) This citizenship regime caused a depiction of the so-called "rural migrant worker" as a marginalized non-citizen, who is the "other" of the modern urban city person, who is considered The Citizen. (Jakimow & Barabantseva, 2016, p. 4) The states' multiple powers positions people in many ways. Apart from the coercive reach of the state and the census-taking, the variety of apparatuses that institute a system of labels which categorizes and

classifies people is a very potent tool within the states disposal. This labelling criminalizes entire segments of the population on the basis of social location in regard to race, ethnicity and economic standing. (Sanchez, 2006, pp. 35-36) The hukou system is based on registering people in the place of their birth, and therefore when these individuals, being of the so-called "peasant workers" (*nongmingong*) or "floating population" (*liudongrenkou*) who amount to around 261.9 million people, when these individuals travel to the big cities they carry with them their labels which prevents them from having the basic social rights such as free healthcare, education or work-place insurance. (Jakimow & Barabantseva, 2016, p. 5) Therefore rural dwellers, people from Xinjiang or Tibet from the periphery regions, are stigmatized for as long as they are alive in China.
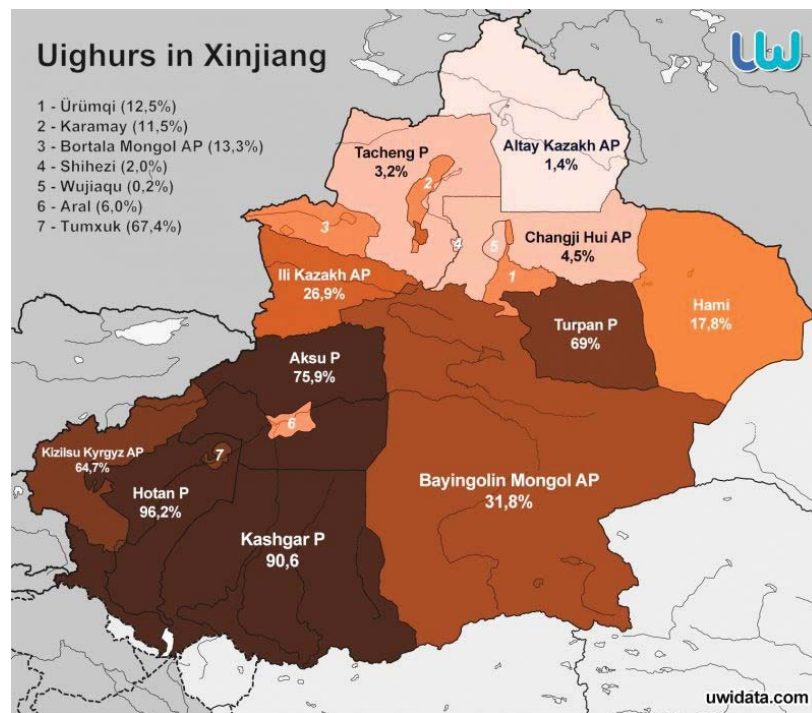
The Administrative Level:

Figure 2. The Demographic map of Xinjiang
Source: United World International (United World International, 2020)

After elaborating on the sociological element, we move on to the administrative level of Xinjiang and the role of the Uighurs in this region. The capital Urumchi (or Urumqi) have a

95% Han concentration in regard to its demographic shape. (Fuller & Starr, 2003, p. 16) Xinjiang can be seen as having a growing economy and a healthy per capita income which lifts the region to the 12th place among the 31 Chinese provinces, and qualifies the area to be one of the most developed outside the most-developed southeast. (Fuller & Starr, 2003, p. 4) But what needs to be taken into consideration is that the region's growing economy can't be measured on a macro level, because the capital Urumqi soaks up the vast share of the economic growth of the area, leaving place like the rural south, Kashgar or Khotan in a well-developed state, relying heavily on agriculture and what's noticeable is that 84% of Uighurs are involved in agriculture and husbandry. (Gladney, 2004, p. 220) On the other hand, the Uighurs seem less interested in education than their Han counterparts, and they tend to shy away from jobs with long hours and rigid work disciplines. (Bovingdon, 2004, p. 41) The Production and Construction Corps, which is a paramilitary contractor of the state (Bovingdon, 2004, p. 18), forms a potent arm of the Chinese government in the region and has authority over its own administrative affairs and has its proper security apparatus, courts, judiciary etc. and is under the direct rule of Beijing. (Bovingdon, 2004, p. 27) The so-called *bingtuan* employed around 2.2 million people in 1994 with a density of 88.3 percent of Han Chinese which amounted to 35% of the total population of Xinjiang that year. (Bovingdon, 2004, p. 27) And as for the cadre recruitment of the top officials of Xinjiang, the CCP opted to carefully choose the Uighurs to whom it may entrust with a high level job that may be concerned with the policy making of the region. (Bovingdon, 2004, p. 28) State-owned enterprises (SOEs) made a cut of 600,000 jobs between 1995 and 2000 of which Uighurs were the majority. (Bovingdon, 2004, p. 38) And as for the private sector, Uighurs and Non-Hans have found much greater difficulty in getting jobs. (Bovingdon, 2004, p. 39) In the oil sector, the Uighurs have been left out of this domain which consists of a major Han concentration. (Bovingdon, 2004, p. 39) The other point of view is that the Uighurs have, by choice, chosen not to pursue academic ambitions, which

may have contributed to aggravate the inequality. And it is not a secret that the Uighurs are less educated than the Hans, and few have tried to reduce that gap. The Uighur families have chosen the focus on the agrarian sector more than anything else, though it may be noted that they might be scared away by the high tuition fees that they can't afford. (Bovingdon, 2004, p. 41) There's some sort of resentment towards the implemented system in Xinjiang. The inhabitants of the region feel that Hans are getting favourable treatments while non-Hans have insignificant chances of getting to the top jobs and high official offices. Bovingdon (2004) recalls doing an interview with a Xibo man about discrimination in the region and the comparison with the United States stating: "*Our media say the U.S. discriminates, but even so, a black man can become head of the Defence Department. Of Commerce. Of the Supreme Court [sic]. In China, does the Supreme Court have a single minzu? Does the Military Affairs Commission in Beijing? [Explicit word]*" Such claims goes a long way to show the sense of resentment within the community in Xinjiang regarding Han and non-Han rights.

Separatism agitations

After the triangular game of control in the region ended between the Russian, the Chinese and to a lesser extent the British, the region witnessed successive events that changed the course of action on the macro and micro level. China was witnessing the rise of Chiang Kai-shek atop his Kuomintang party (or GMD) and its tussle for power in China with the CCP. Kai-shek established Nanjing as his capital, and Xinjiang's governor Yang Zengxin was hesitant in merging Xinjiang into the GMD fold. His successor in 1928, Jin Shuren, followed in his footsteps but saw his efforts fall short in 1931 which lead in part to the creation of the first East Turkistan Republic. (Brophy, 2016, p. 233) What's noteworthy is that the Uighurs are seen as being the most resistant ethnic minority (especially among the Muslim ethnic minorities) of any sort of integration within the Chinese society and their strong desires for a separate state (Uyghuristan), albeit it remains unclear if this idea is general in terms of the

Uighur society's willingness for a total separation. (Gladney, 2003, p. 466) Initially, the Chinese communist part, under the influence of the USSR, offered ethnic minorities the possibility of secession. That was even codified in Article 14 of the CCPs' 1931 constitution which stated the recognition of the "right of self-determination" of China's ethnic minorities and their capability to form separate states, but that principle wasn't upheld after the CCP's 1949 rise to power in China. (Clarke M. , Ethnic Separatism in the People's Republic of China: History, Causes and Contemporary Challenges, 2013, p. 113) And according to Dru C. Gladney:

"… Party documents (Dangshi Wenshi Ziliao) that have come to light from the Long March reveal that until 1937 Chairman Mao explicitly promised self-determination to the minorities, offering them not only privileges, but also the right to secede, as remained in the case of the Soviet constitution until the collapse of the USSR. However, in China this right was withdrawn by 1940 and limited regional 'autonomy' was offered instead. The transition in Chinese terminology from 'self-determination' (zi zhu) to 'autonomy' (zi zhi) is slight, but for the minorities it represented a major shift in policy" (Gladney, 2004, p. 164)

Chinese officials saw that the Soviet model didn't fit China's circumstances, and that a central state is far more suited for its needs than a federal state. The CCPs leaders watched the tumultuous era of Gorbachev and the period of Soviet disintegration with caution. Therefore their decision was based on what they observed and the analysis that stemmed from that. (Bovingdon, 2004, p. 10) After the proclamation of the first East Turkistan Republic, the Soviets denounced the willingness of the Uighurs in the Soviet controlled parts of the region, to revolt like their counterparts in Kashgar, calling that uprising an imperialist plot. (Brophy, 2016, p. 252) The Politburo acted decisively and dispatched Red Army brigades to Xinjiang. The Soviet army succeeded in its assault on Ma Zhongying's men who sought help from Khoja Niyaz Haji's East Turkistan Republic. The Soviets did eventually

sack Kashgar to put to an end the existence of the first East Turkistan Republic. (Brophy, 2016, p. 254)

Throughout history when lines are being drawn in the sand, little regard is given to the people living on that particular piece of land. When big players are involved in a high stakes game, the ante is driven up until one or the other has to fold. Usually the cards are thrown out after the hand is finished and the players forget about it, in order to concentrate on their next hand. Uighurs who can be described as pawns in Central Asia, have been used unfortunately as the "cards" in the Central Asian high stakes game between the Soviet Union and China over many years. Ethnic minorities' fates aren't usually decided by their own people because of several elements that usually shape geopolitics. After the fall of the first Eastern Turkistan Republic, and around 1944, the Soviets changed their geostrategic view of Xinjiang. This area is alongside the belt of soviet satellite states and any reverberations in this region will

Figure 3. The Second (Soviet-Backed) East Turkistan Republic

surely have considerable impact on the Soviet's own Central Asian minorities. The Soviet Union allegedly encouraged the Ili Rebellion, (though official facts about this issue remain scarce) and believed that the Kuomintang should rule in cooperation with the Communist Party in China. (Benson, 1990, p. 39) It is believed that the Soviets considered that the promotion of freedom, equality and a genuine right to self-determination for ethnic minorities will help bolster the Soviet Union's development and the rise of the Soviet system. (Chua, 2007, pp. 255-256) But after the communists rose to power the Soviets backed and the CCP

annexed the area in what was described as a "peaceful liberation". (Gladney, 2013, pp. 224-225) The Uighur's two short-lived self-governance filled its people with a belief that "Uyghuristan" is a project that never dies, a project that lives in their collective memory and cultural identity in their shared history as indigenous people of Central Asia. The relation between history and memory is complex. According to Historiography, groups in a society are formed from their shared past, and their way of reacting to this past can define their present and future. (LaCapra, 2006)

After the communist takeover in Xinjiang in 1949, several protests took place in the region, some more severe than others but each time the Chinese authorities had to be vigilant in order to prevent any miscalculations that can lead to unwanted results. These events took place in more than one city and in more than one way, and we're going to enlist some of them briefly in the appendix just to give the reader a sense of the frequency, not necessarily the magnitude. [See Appendix 1] The data available enlists 19 revolts and 194 cases of so-called "separatist" activities in Xinjiang from 1951 until 1981. (Millward, Violent Separatism in Xinjiang: A Critical Assessment, 2004, pp. 5-9)

What is noteworthy is that these incidents weren't of any religious type or pattern and there wasn't any leadership or party backing of some sort to them. These demonstrations weren't organized and aimed mainly at making a stand regarding social issues at the time. And most of them weren't staged by ethnic minorities, some of these incidents were even initiated by Han immigrants to the region. Therefore there wasn't a particular or specific pattern during the 1980s in the protests in Xinjiang. (Millward, Violent Separatism in Xinjiang: A Critical Assessment, 2004, pp. 9-10)

The very nature of the area, the history and events that lead to its formation have significant impact on its social instability. The two East Turkistan Republics and the lingering hopes of

the Uighurs to have a separate state at some point, alongside the factionalism and civil disunion in the post-communist takeover of the region contributes in keeping the area under constant fear of "widespread social disorder". (Gladney, 2003, pp. 224-225)

In 1996, the Central government of China issued a confidential document referred to as "Document No.7" which indicated the potential danger of "illegal religious activities" in the region and other "hostile" actions in Xinjiang. (Clarke M. E., 2011, p. 129) The Chinese government was always in a state of vigilance especially when, after initiating the "Strike Hard" campaign, the authorities found 1.1 tons of explosives, 92 guns, 696 grams of heroin, more than 60 kilograms of marijuana and more than 7.7 million Yuan (around $927,000) which was illicit money. (Clarke M. E., 2011, p. 131) And what was more alarming is that the Uighurs were proven to have been in contact with the Taliban, from which they received aid and in whose ranks they fought also. (Clarke M. E., 2011, p. 131) The CCP could not afford a single moment's lowering of its guard about the ongoing events in the region. The signs of ethnic chauvinism and separatism feelings weren't about to fade anytime soon. In 1990 the word "jihad" against the Chinese state was used explicitly during the Baren incident. (Clarke M. E., 2011, p. 132) Kabul fell to the Taliban in 1996, and that was even more alarming to the Chinese authorities as the level "Islamic Fundamentalism" could reach a point where it will be very nefarious to China in particular and Central Asia in general. (Clarke M. E., 2011, p. 133) Aside from fighting in the ranks of the Taliban, reports in the year 2000 also indicated the involvement of the Uighurs in the ranks of the Islamic movement of Uzbekistan (IMU). (Clarke M. E., 2011, p. 146) These signs clearly shows that the Uighurs, in fear of losing their religious identity in Xinjiang with their dilution by Han-migration and the tight restrictions on their mosques and madrassas, they leaned towards Pan-Islamic groups, even though these organizations are of military type and have malicious intentions. The Uighurs on one hand tried to gain recognition, whether by drawing attention

to their acts, or by gaining a sense of belonging in other entities than China. The terrorist attacks of 11 September 2001 was a defining moment for sure. Upon the US's declaration of "war on terror" by the Bush administration, Beijing had finally a global support in its campaign against Islamic Radicalism on its territories, and particularly in Xinjiang. And the CCP founded what was called the Shanghai Cooperation Organization (SCO) with other Central Asian countries in order to secure its borders from the outside as well as securing itself from the inside. (Clarke M. E., 2011, p. 148)

In 2002, Beijing issued what was called the "Document on East Turkistan Terrorism". The document enlisted the "East Turkistan Islamic Movement" (ETIM) as a terrorist organization which was backed by the US embassy in Beijing in August 2002. (Millward, Violent Separatism in Xinjiang: A Critical Assessment, 2004, p. 13) And in December 2003, the Chinese Ministry of Public Security released an official document containing terrorist organizations with the names of 4 groups, including ETIM and ETLO (East Turkistan Liberation Organization) alongside the World Uyghur Youth Congress (WUYC) and East Turkistan Information Centre (ETIC). (Millward, Violent Separatism in Xinjiang: A Critical Assessment, 2004, p. 14) The initial report of 2002 cites several organizations responsible for the acts of violence in Xinjiang [See Appendix 2]. Then in 2009 the famous Urumqi violent events happened which caused several casualties and severe damage to the city. The authorities took various measures, from the detainment of 1,500 Uighur individuals to the sacking of Urumqi CCP secretary, Li Zhi and the police chief Liu Yaohua in late 2009. (Clarke M. E., 2011, pp. 1-2)

Conclusion

The root of ethnic separatism is that the Uighurs, since their incorporation into Mainland China, has seen themselves as "different" to their Chinese counterparts. From the simplest of

things, the difference in attire is even remarkable between Uighurs and Han. The Uighurs, who are described as tribal, nomadic, traditional people of the steppes, wear "costumes" or "uniforms", whereas the more modern Hans wear "clothes". (Gladney, 2004, p. 64) The differences continue into religion, between Confucianism and Islam, the latter which is seen by the Chinese state as being too radical and one that can have serious reverberations on the societal level which in turn can have deep implications on the economic strata and that is an unwanted upshot for a state on the ascendency in world economy and in rivalry with the United States for top spot. The Uighurs have resorted to radical groups for 2 main reasons. The first is the sense of belonging to an organization that shares its religious beliefs, and offers protection to its members (albeit with negative intentions and means), and the second element which is the need for recognition. And that is basically at the root of all ethnic conflicts throughout the years. The Palestinians, and in particular the military groups within its society such as the PLO, have resorted to nefarious tools in order to gain recognition on the world stage and that was on a massive scale especially with the hijacking of a TWA airliner in Beirut in 1985 which witnessed the killing of a US marine on board, the planting of a bomb aboard an American plane which killed 3 passengers over Greece in 1986, the destruction of a Pan Am 747 over Scottish territory in 1988 (Fisk, 2001, p. 441), and the most famous incident of 1972 when a group of armed Palestinians massacred the Israeli Olympic team at Munich in 1972. (Fisk, 2001, pp. 547-548) while the Catalans staged massive but peaceful demonstrations of almost 350,000 people in the streets of Barcelona in protest against the rejection of the Spanish government to recognize their right of self-determination and to hold a referendum in that regard to prove the majority's will to reach that goal in the region. (BBC, 2019) The level of violence that ethnic minorities usually revert to can vary from one instance to another, depending on the circumstances that engulfs each and every case. When it happens in the land of a nation that is bound for the world's top spot as the

most potent nation economically, the story will surely have a lot of twists and turns before it nears its conclusion.

ii. The Geopolitical Realities: Uighur vs. Chinese narratives

The dynamics of Xinjiang is of a heterogeneous nature, where Uighurs and Han-Chinese are pretty much like oil and water, they don't interblend and commingle on any really important matter or in a field of significant relevance to either. This reality has created some sort of a dilemma for both, the state and the Uighurs alike. The latter see the land as theirs since the beginning of time, Sinkiang has been their "home" ever since, while the Chinese government consider the region to be an integral part of its landmass and an area that isn't up for debate about its belongingness at any given time. Chinese sovereignty reigns supreme and whomever the people living on its land has to become fully fledged to its rules and policies like any other nation does. But what is debatable here is the rights of self-governance on a small-scale level, the permission for a group of people, who are not homogeneous with the Han majority, to rule themselves on a regional level all the while remaining within the Chinese entity. The Uighur and Chinese narratives have along the years, differed greatly and met halfway, at various points in a sequence of events that was full of twists and turns, depending on the myriad circumstances and surrounding events that made the decision-makers mold their policies accordingly and fittingly.

Ethnocentrism has had an influence on Chinese policies throughout the years, especially when shaping the country's public policy. Holding the ultimate power within the hands of a central government in a land of 9.6 million square kilometers (Brown, 2013, p. 7) has surely a reason behind it. No other country this big has a central government in charge. The United States of America, Russia, Brazil and Canada who are the biggest countries in the world have all resorted to a federal system of governance. Ethnocentrism is evident on both sides in the

issue of Xinjiang, and this term, which is a fundamental concept in psychology, can help us understand better the socio-political element at stake in this subject. Ethnocentrism can be manifested in prejudice towards others and out-group hostility, dominance over other groups and it could even lead to open conflicts. (Duckitt & Bizumic, 2012, p. 887) The intergroup aspects are preference, superiority, purity and exploitativeness which revolves around the concept of the importance of one's own group over the others and that it is higher than the latter in value. (Duckitt & Bizumic, 2012, p. 888) The word ethnocentrism itself if decomposed will be fragmented into two words, "ethnos" and "center", which means that ethnicity is the epicenter of everything according to said group. (Duckitt & Bizumic, 2012, p. 890) The policy of the Chinese government revolves around the superiority of the Han Chinese in Mainland China which is manifested in more than one way. Even in the autonomous regions such as Xinjiang, this policy is evident. As mentioned in the preceding section, the Cadre recruitment in the region and the employment opportunities are somehow funneled in one way or the other, towards Han Chinese. The Production and Construction Corps (*bingtuan*), which is the biggest industrialist company in Xinjiang employed around 2.2 million people in 1994-1995 of which 88.3% were Han. (Bovingdon, 2004, p. 27) Cadre recruitment is similar in terms of opportunities on offer for the region's population and the preferences in that regard. The CCP carefully chooses the Uighurs it needs in what are considered high ranking offices, ones who won't compromise its policymaking, and that has been a constant pattern throughout the years. (Bovingdon, 2004, p. 28) And what was remarkable in the late 70s is that fewer than 10% of non-Han cadres held positions that qualified them to be considered as "leaders" at the county level or above. (Bovingdon, 2004, p. 29) Of the 106,000 non-Han cadres of 1965 (Bovingdon, 2004, p. 28) over 99,000 were dismissed from their jobs between 1966 and 1976. (Bovingdon, 2004, p. 29) As mentioned in the preceding section, the Uighurs found it hard to get decent jobs because of their rural

nature and less-educated status then their Han counterparts. This is also evident in the State

owned enterprises. (Bovingdon, 2004, p. 38) According to Amy Chua (2007) what is

perceived in the Western media as Chinese intolerance has contributed in enhancing and

consolidating Chinese nationalism which is a thing of envy from other world entities:

> *"… What makes the headlines in Western newspapers tends to be the intolerance and repression directed at political dissidents, religious sects such as the Falun Gong, and ethnic minorities like the Tibetans. But the flip side of this intolerance has been the staggering success of Chinese ethno-nationalism as an instrument of strategic tolerance – a success already achieved hundreds of years ago and now simply taken for granted. Today, while the European Union struggles to hold together 450 million people, China commands the loyalty and ethnic identification of nearly 1.3 billion people, a fifth of the world's population"*
> (Chua, 2007, p. 291)

The Chinese government sees the interest of the nation as a sacrosanct issue that reigns

supreme over all other subjects and matters whatever these might be, which can be seen in a

different way from the perspective of the Western countries who draw policies and

regulations cautiously with human rights issues at the back of their minds all the time. The

approach to ethnic minorities in China might not be ideal if weighed on the human rights

scale, but the state's policies and decisions have propelled China to the highest end of the

world economic pyramid in recent times. (Silver, 2020)

The 168 countries outside the top 25 make up less than a fifth of the total global economy.
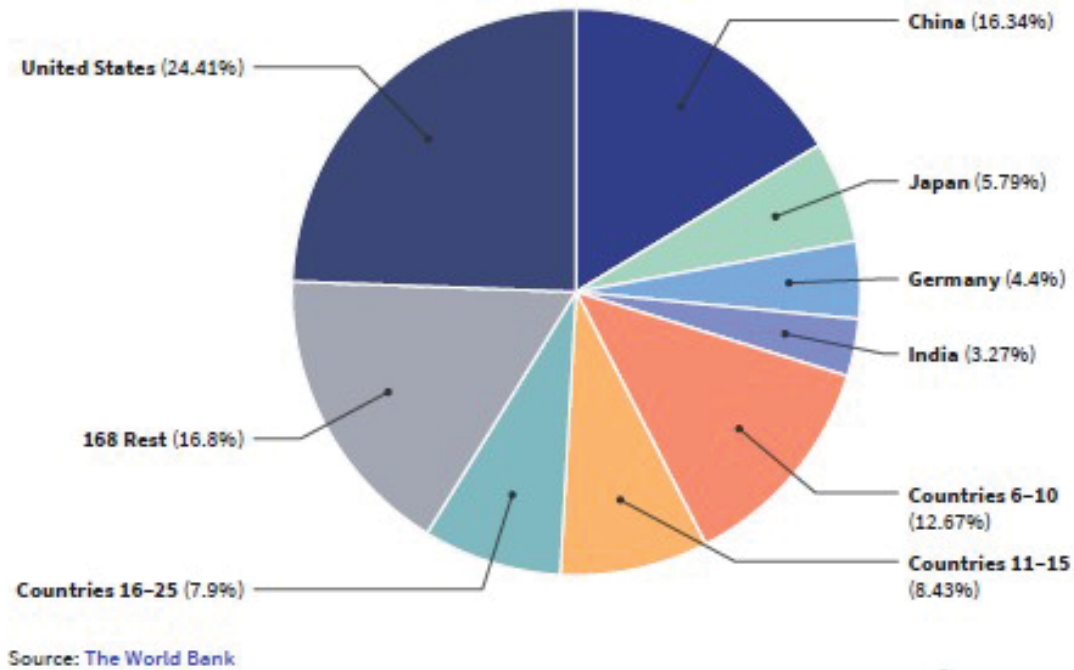
China (16.34%)

Japan (5.79%)

Germany (4.4%)

India (3.27%)

Countries 6–10 (12.67%)

Countries 11–15 (8.43%)

Countries 16–25 (7.9%)

168 Rest (16.8%)

United States (24.41%)

Source: The World Bank

Figure 4. % Share of the Global Economy
Source: Investopedia.com via the World Bank (Silver, 2020)

While on the other side, the Uighurs are a group of people who take pride in their ethnicity and they act and are seen as a closed community. As previously discussed, their refusal to inter-marry and adopt any sort of Chinese characteristics have made them a closed community. They strive so hard to protect their identity, which can be manifested through religion, art, music and traditions. The famous Czech writer Milan Kundera was quoted once as saying: "*La culture, c'est la mémoire de people, la conscience collective de la continuité historique, le mode de penser et de vivre*" which when translated to English reads as follows: "Culture, it is the memory of the people, the collective conscience of the historical continuity, the way of living and thinking". As we discussed earlier in the study, collective and cultural memory form the identity of the people. And "minoritized" peoples often use subjective experience to criticize and rewrite dominant and oppressive narratives. (Alcoff & Mohanty,

2006, p. 4) Samuel P. Huntington denotes the refusal of Mexican immigrants to assimilate within the American society and the way they continue to adhere to their values, customs and culture. And Huntington refers also to the Muslims in Europe, even though a minority, cling to their identity. (Huntington, 2011, p. 304) The biggest proportion of minorities often refuse assimilation within the bigger group because they fear that this might lead to the disappearance of their identity.

Since the era of the First Emperor of the Qin in 221 BC, China always had a sense of superiority towards tribal people of Central Asia, and their fear of invasion from these people drove them to build the famous Great Wall of China. All of these elements created the idea for the Chinese that they enjoy cultural supremacy and boosted their ethnocentrism in juxtaposition with the "barbarian" people of the steppes. (Chua, 2007, pp. 61-63) And the Chinese for 3000 years have the belief that they share a common ancestry, which is an ancestry not shared by Tibetans or Uighurs. (Chua, 2007, p. 296) Even though, the Chinese throughout history have alternated their stance towards Turkic people between tolerance and intolerance. During the Tang Dynasty (AD 618-907) (Chua, 2007, p. 64) the emperor Yang Guifei promoted a soldier named An Lushan, who is a Turk of the Khitan tribe, to the position of commissioner of the imperial stables, but Lushan later staged what was known as the "An Lushan Rebellion" of 755. Fast forward to the late 1970s and early 1980s, in what was called the "reformist era" of Deng Xiaoping. Deng's economic plans for Xinjiang coupled with the initiatives taken by Wang Enmao, the CCP's secretary of Xinjiang, in the region helped raise the economic conditions of the inhabitants of Xinjiang thus contributing in stabilizing the area for several years. (Clarke M. E., 2011, p. 81) Yet soon demonstrations took place in the streets of Urumqi demanding the replacement of Han officials with elected minority candidates, greater autonomy for the region, ending the coercive family planning and the replacement of the Governor. (Clarke M. E., 2011, p. 85) And then things escalated to

a boiling point where the authorities described the incidents as "an outburst of ethnic nationalist 'splittism'" and in 1989 XUAR chairman Tomor Dawamat described the period as "an extremely difficult political fight against those advocating 'separatism'". (Clarke M. E., 2011, pp. 89-90)

The alternation of the Chinese government between tolerance and crackdown on the Uighurs was noticeable throughout the years, and what's baffling is that the Uighurs have responded to both in the same manner. The Chinese government tried both ways with this Turkic ethnic minority to no avail, and as we discussed earlier and as we will conclude later the answer to this dilemma lies in the nature of the problem itself. To deal with a problem, you have at first fully understand its nature and its aspects in order to reach an adequate and precise solution. This solution needs to be tailored specifically to the problem at hand, therefore the decision-makers cannot adopt solutions that solved other problems, no matter what the similarities may be. And secondly, alleviating a big issue with minor remedies won't put an end to the problem, it will only alleviate its repercussions until the problem arises again. The deep chasm between Uighur and China isn't as simple as other issues that may be treated in a short span of time, this issue needs a sustainable solution that we will discuss in subsequent chapters.

b. The Challenges of Chinese Development

China needs no introduction when it comes to world economy. The country has risen to the highest levels in terms of economic growth and challenging recently for top spot with the United States. China's GDP grew by 10.5% between 2001 and 2010 which is a mind blowing number to say the least. (Jain, 2017) Yet the country faces several challenges whether these are of economic nature or security issues on the national and international level. The economic growth of the state has been mainly focused on the already developed eastern side

where major cities, or what we can now call Mega-Cities, have arisen to world status cities such as Beijing, Guangzhou, Chongqing, Shanghai, Tianjin and Shenzhen to name a few. The over-development in the east has been met with an underdevelopment in the west, where the areas are usually considered as rural and agriculture. Peripheral regions such as Xinjiang and Tibet have been underdeveloped throughout the years and this unequal development throughout China created, among other reasons, a huge debt that rose from 150% of the GDP in 2008 to 225% in 2016. (Jain, 2017) China's official political regime is socialism, but when it comes to the economy and the industrial spur it has witnessed over the years, one can notice a sense of capitalism in that regard. The huge development in several aspects such as technology, industry and trade has boosted the economy of the country remarkably. Yet several cases of corruption have been noted and the profit the few of the elites at the expense of the majority. (Jain, 2017)

On the other hand several security issues have blotched the developmental plans of the Chinese governments throughout the years and the economic rise of the country. The internal security issues keeps party members always on red alert and in a state of anxiety in order to nip any danger in the bud and stop any security threat in its tracks. Proactivity has been a prerequisite for security apparatuses in Beijing. The problem of the ethnic minorities in the Chinese west regions has been a non-stop cause of concern. The Uighurs in Xinjiang and the Tibetans in Tibet have agitated for so long to gain independence since they don't see themselves belonging to the Chinese state for so many reasons. Hence the Chinese's plans of inclusive growth have been dealt a huge blow with these separatism agitations from ethnic minorities. We'll discuss the security issues in detail to give the reader a better understanding of this subject.

i. Domestic Policy: China's Internal Security Dilemma

As aforementioned, the security threat to the central rule of the Chinese government is massive, the peripheral regions pose a security dilemma to the CCP and its ultimate control over mainland China. The preference of the Chinese authorities to have a central government rather than a more stratified model of ruling has had its benefits and its downfalls in the country. In a state stretching over 9.6 million square kilometers (Brown, 2013, p. 7), it becomes harder to exert the authorities' rule over the whole land, and that has been an issue that plagued several empires throughout history, because with the expansion of the landmass, greater efforts needs to be done in order to keep everything under control for the solitary unit of power who's governing and exerting power over, not just land but peoples. Peoples with an "s" because no matter what efforts some states have done throughout history to unitize its demographic element, it has been almost impossible to achieve homogeneity anywhere and anytime. In the 21st century it is almost impossible to name a country that has a homogenous ethnicity except for Japan[5]. (Arakaki, 2008, p. 42) Our area of study Xinjiang, which is one of 5 autonomous regions within China, has witnessed a multitude of violent events and separatism related activities that sprung to the forefront of the headlines in China, in Central Asia and most recently the world. The magnitude of violence that spread throughout the area over the years have been disparate and irregular. The nature of violent incidents have differed and the scale of victims has been uneven, but every one of these events has carried with it a great significance and

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[5] The number of foreigners in Japan accounted for 2.93 million residents in 2019 which amounted to 2.3% of the population. Even that figure fell by 100,000 due to multiple reasons such as the global financial crisis and the Fukushima catastrophe (Statista Research Department, 2021)

some sort of "message" or "mark" that the rioters or the instigators felt the need to deliver in order to raise their existential threat to the forefront.
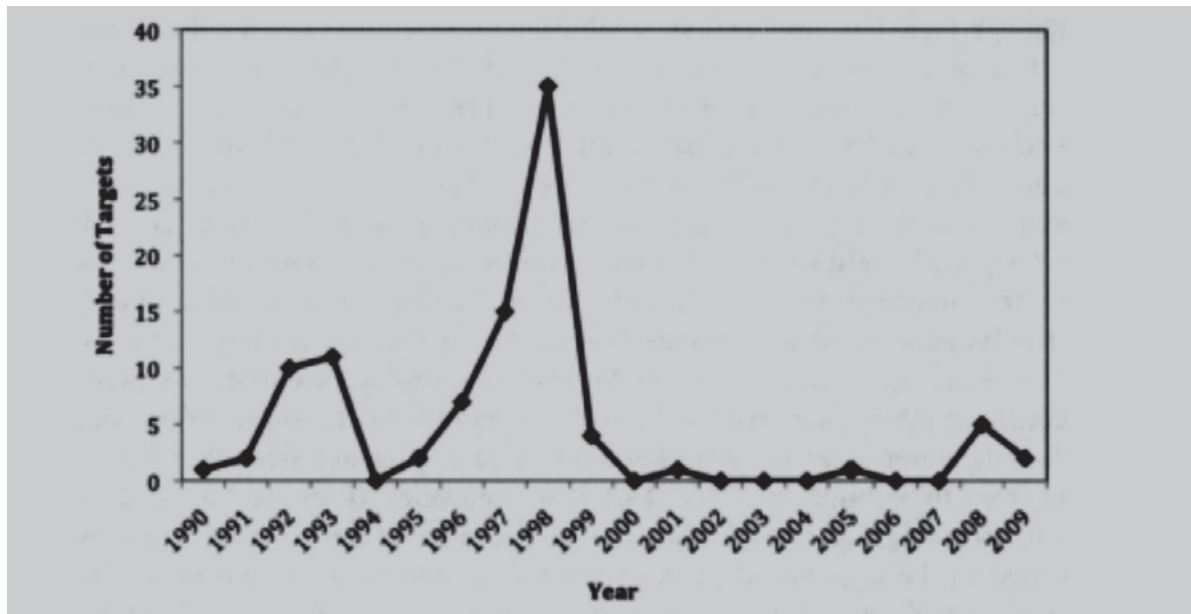

Figure 5. Violent Incidents in Xinjiang, 1990-2009 via (Hastings, 2011, p. 900)

The Chinese authorities have acted swiftly to prevent any miscalculations and unwanted results. In the late 90s early 2000s the "Strike Hard" campaign has been effective in limiting the damage done by violence instigators and rioters. The People's Liberation Army resorted to dispatching 220,000 troops, 400,000 internal security force personnel alongside 260,000 border defense personnel to the field in 1998 to maintain order in the region and the reduction of violence was noticeable. (Hastings, 2011, pp. 904-905) We can't also ignore the fact that the *hukou* system of registration makes the government's job in tracking people much easier, which helped the authorities to follow the tracks of the Uighurs with ease. (Hastings, 2011, p. 905) The so-called rebels aren't usually organized, and if so, they aren't united under one leadership or banner. This is why it has been easier for the Chinese authorities to limit their threat, confiscate their weapons and incarcerate the majority of the outlaws within a short space of time. (Hastings, 2011, p. 905) The rebels usually resort to import weapons from

nearby states, where most Uighurs have affiliations to an extent, but this is a challenge that China has solved 3 decades ago.

China tried to minimize the risk of ethnic minorities in Xinjiang by securing the region from inside and the outside. By raising the economic prospects of the area, Beijing hoped the separatist movements will reduce significantly. (Clarke M. E., 2011, pp. 102-103) The land in Xinjiang is rich in minerals and petrol (Clarke M. E., 2011, p. 106), which can boost the region's economy and living standards. Deng Xiaoping's visionary plans had eased the tensions in Xinjiang in the early 90s after conducting his southern tour. Major cities in Xinjiang were given the privileges accorded to eastern coast cities, and this "openness" towards the west was remarkable indeed. The area's role was seen as a pillar in the trade route with Central Asia, in what was called in ancient times as the "Silk Road", (Clarke M. E., 2011, p. 107) it was meant to integrate Xinjiang in the rest of China.

After the fall of the Soviet Union, China acted swiftly to diminish any concerns regarding the threat that might be posed by the so-called "new neighbors". These old soviet states are mainly Muslim states and after the demarcation of the borders was done, these states found themselves comprising a notable number of Uighurs within their lands. This was alarming to China and in the early 1990s the foreign ministry was busy conducting diplomatic and cooperation deals (regarding security) with states such as Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan. (Clarke M. E., 2011, p. 110) These moves were vital for the CCP to maintain stability in the region on the security front, having new Muslim states all around mainland China, comprising Uighurs by the thousands, and who might potentially at some point pose a threat to Chinese unity. Swift diplomatic action and bilateral trade deals saw China strengthen its grip on the region from the outside, after maintaining stability from the inside to a certain degree. Trade deals with significant amount of money were made with these relatively modest economic nations (at the time), helped forge China's Central Asian presence and

cement its regional security. (Clarke M. E., 2011, pp. 112-114) Yet the main issue which persisted for so long was not economic, nor military or political, it was religious. China saw Islam as too radical, a religion that can increase the possibility of Uighur separatism in Xinjiang. Whatever economic prosperity the region might witness, any religious repression alienates Uighurs from the state. The banning on mosques constructions, madrassas or any sort of religious piety has contributed to Uighur dissatisfaction. (Clarke M. E., 2011, pp. 117, 132-133) The Chinese government saw that liberal thinking and relaxation of policies regarding religion in the area wasn't beneficial for the state after several incidents were erupting in Xinjiang every now and then, especially the Baren incident of 1990, in which the word "*jihad*" was used for the first time against the Chinese authorities. (Clarke M. E., 2011, p. 132) This word often carries with it a significant alarming sense since it bears religious meaning[6]. As Clarke (2011) coined it, this so-called "Carrot and Stick" strategy between economic prosperity and religious repression has seen the region's stability swing back and forth, between stable and unstable at times. The cooperation group of Central Asian states which was founded in 1996 under the name "The Shanghai Five" was expanded in 2001 to comprise intelligence services and full security cooperation, and by adding Uzbekistan to the group consisting of China, Russia, Kazakhstan, Kyrgyzstan and Tajikistan. (Clarke M. E., 2011, pp. 126-145)

In 2021, the decision of US president Biden's administration to pull American troops from Afghanistan after almost 20 years of military presence in the Central Asian country and several casualties on the American side of roughly 22,000 troops of which 2,300 were deceased (Zhen & Zhang, 2021), has led several analysts into thinking that the American departure will lead to a security vacuum in the area. China shares a border 76km long with

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[6] The term "jihad" can be understood between two extremes. At one end, it can denote a religiously obligatory campaign against non-Muslims "who should be conquered". At the other end, it can mean any commendable efforts Muslims take in order to avoid any misdeeds. (Sedgwick, 2015, pp. 34-35)

Afghanistan and the Wakhan Corridor is shut for 5 months of the year, and is open for

herders and the original inhabitants of the area. The eastern end of the Corridor borders…

Xinjiang, and this is a reason that the area is perilous and very dangerous.
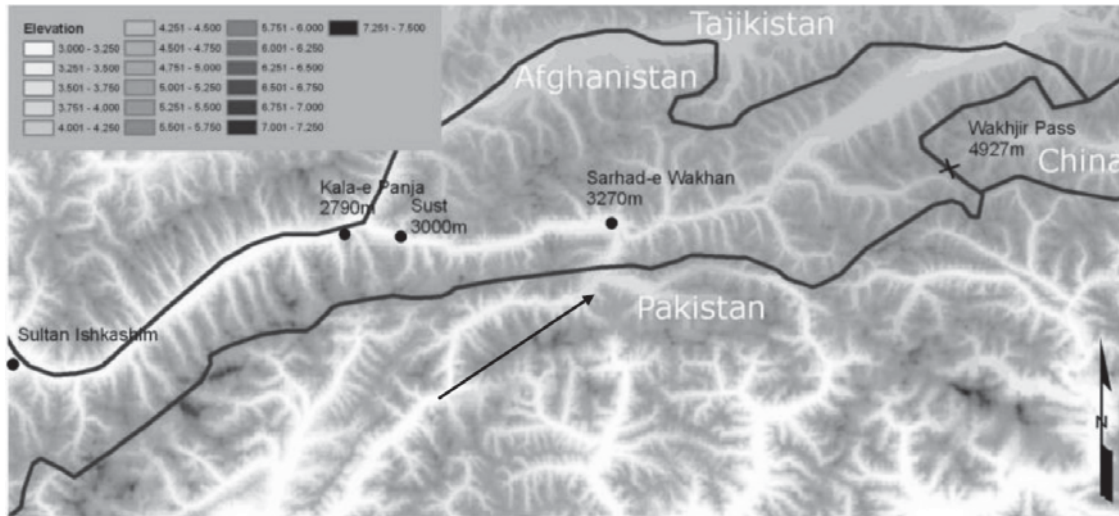

Figure 6. The Wakhan Corridor (Townsend, 2005, p. 39)

The Corridor was used for Opium trafficking since the inhabitants of this land cultivate this

addictive substance in abundance. (Townsend, 2005, p. 37) And security threats were raised

when allegedly Taliban used the Corridor in 2001. (Townsend, 2005, p. 38) The potential

security vacuum left by the American military departure in 2021 will raise concerns for

Beijing on how to maintain stability along the border with Afghanistan. Uighurs have a

history of fighting in the ranks of Taliban as we mentioned earlier in the research, and the

latter might harbor some religious connection to the Uighurs, but optimists view the

American departure as a chance for China to tighten its grip in the region. ETIM (East

Turkistan Islamic Movement) was removed from the American terrorist groups list, and

Biden's administration has put the human rights issues at the forefront of its agenda, and had

the US kept troops in the region, the view from the Chinese side is of concern as to an

American intervention in Xinjiang. (Zhen & Zhang, 2021) Only time will tell what the next

move will be for the Chinese to strengthen their grip on the region and the Corridor with

Afghanistan. Will it be through the deployment of troops and the reinforcement along the border with heavy military presence, or through trade deals with the Afghani government that will yield significant bilateral agreements along the way which may result in a dual military presence on both sides of the border and the promise not to let any infiltrators rock the stability on the Chinese side of the Corridor.

ii. Foreign Policy: Challenges of the Belt and Road Initiative

Figure 7. China's Belt and Road Initiative
sources: Belt and Road Portal, China's National Development and Reform Commission
via supplychainbrain.com[7]

The "Belt and Road Initiative" is China's biggest ambitious foreign policy to date and is being considered as Xi Jinping's signature project, after the president launched it in 2013 on his tour in Kazakhstan (Mayer, 2018, p. 2) (Qoraboyev & Moldashev, 2018, p. 119) while others have described it as being China's Marshall Plan which will set forth a new geo-economic strategy. (Mayer, 2018, p. 7) Its importance to Jinping was stated even more explicitly with the plan being added to the Communist Party's constitution. (Tan, 2017) The plan consists of infrastructure deals worth up to $890 billion which are underway and there's a remaining $4 trillion to be spent. (Mayer, 2018, p. 9) The "New Silk Road" encompasses 4.4 billion people and 65 countries in Europe, Asia and Africa.[8] Traditionally the Silk Road was seen as the first example of globalization during the Mongol Empire era and now the new Silk Road will challenge the US economically while also challenging Putin's Eurasian

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[7] https://www.supplychainbrain.com/ext/resources/0-images/article-images/2020/0302_ChinaChillRunsDeep.jpg?1583126201
[8] Although the number of people can sound a little bit inflated since China alone comprises 1.4 billion of said 4.4 billion people being affected by the project

Economic Union (EEU). (Qoraboyev & Moldashev, 2018, p. 121) Liu and Dunford call the BRI (Belt and Road Initiative) a new framework of globalization and they term it as "inclusive globalization". (Liu & Dunford, 2016, p. 14) Central Asia was always seen as an incoherent geo-strategic area of countries that aren't nearly in a state of cooperation and co-development, and the SCO is nearly the only tangible element of regional cooperation between the countries of Central Asia. (Qoraboyev & Moldashev, 2018, p. 122) This element has created troubles for China's project since New Delhi raised suspicions over the initiative's intrusion into its sovereignty (Mayer, 2018, p. 15) while protests have risen in countries such as Kazakhstan opposing China's expansion into their land. (Qoraboyev & Moldashev, 2018, p. 124)

China's rise in world economy has seen the country draw up a plan of this massive scale which will surely catapult the country to first place worldwide economically with a significant gap with second place on that list. Stating all of the above surely highlights the importance of the "Initiative" to the country and the regional challenges it faces before nearing completion, but what's more challenging is the rebellion of ethnic minorities like the Uighurs in face of such a project that may leave them looking from outside in once again. This is why China may need to allocate a significant importance on security along the route of the new Silk Road in order to ensure the fluidity of the project and that everything is running smoothly. Historically China's military prowess wasn't really tested, and this is a sticky point in the years to come, because unlike the USA, China's army hasn't secured the mainland from outside, from within other states. This will surely put China's military capabilities to the test in future years when it comes to Xinjiang and securing the Belt and Road Initiative in the region. Any rebel attacks will without a doubt increase significantly the cost of the project and this is why China needs to control the region. (Sun, 2018, p. 224) What will be more challenging for the Chinese government is that the Uighur rebels will act

in some sort of cooperation with guerillas in Southeast Asia, which will create a regional dilemma for China to deal with. This problem will weaken the social balance and political stability in Southeast Asia thus contributing to the deterioration of the local investment environment which might lead in turn to halt any sort of progress of the important infrastructure of the BRI and hinder the whole project. (Sun, 2018, p. 225) The region of Southeast Asia has lacked any sort of counter-terrorism organizations that dealt efficiently with problems that arose in the region throughout the years. The measures that took place were usually of bilateral or trilateral nature and on the spot, especially given that regional organizations such as the Association of Southeast Asian Nations' (ASEAN) are reluctant to interfere with internal issues. (Sun, 2018, p. 226) The threat to the BRI from the Uighurs can also happen overseas given that this ethnic minority also cooperates at some level with sympathetic groups in countries such as the Philippines. This will cause a headache for the Chinese government in order to protect the project outside of its borders. The CCP has condoned bilateral security cooperation agreements with countries such as Indonesia and the Philippines and increased its online counter-terrorism measures to break any sort of communication between the Uighurs and other militants in other countries. (Sun, 2018, pp. 226-227) Pinjie Sun (2018) notes that the ultimate solution is increasing cooperation with Southeast Asian countries on the security level and collaborating with the US in terms of counter-terrorism cooperation in the region. (Sun, 2018, p. 228) Sun clearly has a point in shedding light on the need of China to cooperate with the United States especially given the US' potency in dealing with security threats overseas throughout history and its massive overseas military presence especially in the region of Southeast Asia and Japan. The Chinese-American cooperation can help the CCP reach the regional stability it needs for a project of this scale. While on the other hand incorporating the Uighurs in the oil and gas sector in Xinjiang can be beneficial on the long run given that this measure has the potential to

alleviate this ethnic minority's concerns regarding social inequality with the Han majority.

The solution for the long-term will be discussed in subsequent chapters.

2- Investigations into a Cultural Genocide Label?

Figure 8. Uighur Folklore

What is culture? Sometimes we forget the true meaning of the word and interpret it according to our own perspective or experience in relation to this word. More often than not we neglect by mistake the true essence of the word "culture". If we're going to look up in the dictionary for the word culture we're going to see that it is defined as customary beliefs, social norms and material traits of a racial, religious or social group. These can be coalesced into a set of shared attitudes, values, goals and practices that characterizes the group according to the definition in the Merriam Webster dictionary. But is culture really this narrow and simple? Culture is the fruit of years and decades of inter-group connections and social fabric that is woven with shared memories, experiences and sometimes sorrow and grief. It consists of different strata of layers upon layers of social cohesion and shared memories that results in a shared "identity". Culture is the identity and that is something that can't be explained in a

simple way. Therefore when speaking about Cultural genocide we're speaking about a process where the suppression and the extinguishing of the proper traits of a certain group might culminate in the total destruction of their culture and therefore their identity ceases to exist. (Novic, 2016, p. 4) Yvonne Donders defines cultural genocide as:

"the destruction by the State or State organs of the culture of a community in its broad sense of the term, including the 'distinctive spiritual material, intellectual and emotional features of society or a social group', encompassing 'in addition to art and literature, life-styles, ways of living together, value systems, traditions and beliefs'" (Novic, 2016, p. 4)

Hence cultural genocide can be seen as a technique of genocide where the suppression of a group from speaking its native language or practice its traditional religion will ultimately result in destroying the group just as killing some of its members. (Novic, 2016, p. 4) This can happen with a single act, such as destroying a church or a mosque, or through a long-term process. (Novic, 2016, p. 237) Claudia Card considers that social vitality is built through contemporary and inter-generational relationships that forms an identity which gives meaning to a life. (Short, 2010, p. 840) Damien Short (2010) quotes Raphael Lemkin, the main person behind the drafting of the Genocide convention, as saying the following:

"So-called derived needs, are just as necessary to their existence as the basic physiological needs… These needs find expression in social institutions or, to use an anthropological term, the culture ethos. If the culture of a group is violently undermined, the group itself disintegrates and its members must either become absorbed in other cultures which is a wasteful and painful process or succumb to personal disorganization and, perhaps, physical destruction… (Thus) the destruction of cultural symbols is genocide… (It) 'menaces' the existence of the social group which exists by virtue of its common culture" (Short, 2010, p. 835)

After this long introduction we'll delve deeper into what a process of Cultural Genocide really is and what are the elements that lead to it. This phenomenon isn't that simple and its complexity can be tricky sometimes. Several authors and scholars have dissected this topic from different angles and perspectives and gave us rich material to work with in order to reach a scientific conclusion to our subject.

a- Framework for a Cultural Genocide potential recognition

In this section we'll discuss in detail the factual elements happening in Xinjiang and their relativeness to Cultural Genocide. This will lead us to a scientific result upon which we'll discuss the relevant International Law material that convicted past perpetrators according to similar infringements. Cultural Genocide was originally proposed by Raphael Lemkin during the draft of the Genocide convention in 1948 but was later left out of the official draft, and it was also omitted altogether in 2007 when the United Nations Declaration on the Right of Indigenous Peoples (UNDRIP) came to light. (Novic, 2016, p. 9) But later on genocide based on the premise of culture found a solid ground in the rulings of the ICTY as we shall see later on in this segment. The proving of *actus reus* and *mens rea* are the elements that would be essential in any international incident that needs a conclusion. And these elements were debated further enough in the rulings of the ICTY that set precedents that can be used for cases in our modern era and is very beneficial in our case to reach a satisfying result.

i. The confirmation of the existence of a cultural genocide

As we stated before, gradually diluting a group of peoples' culture or the forced assimilation of this group into the culture of an outer-group, a more dominant and bigger one, can lead to the dissolution of this group altogether by the disappearance of their own identity and uniqueness.

Geo-strategically, China sees Islam as a possible tool between the Uighurs of Xinjiang and the neighboring Muslim countries such as Uzbekistan, Tajikistan, Kyrgyzstan, Turkmenistan, Kazakhstan and Afghanistan, which may initiate some sort of turbulence in the area for separatism and a possible link with any of these neighbors. The Chinese authorities have tried to isolate Xinjiang from these Central Asian nations. (Clarke M. E., 2011, p. 7) Xinjiang is basically distinct culturally and linguistically from the Chinese interior and the CCP has tried

to maintain control (Clarke M. E., 2011, p. 48) and especially, as we saw earlier, given the importance of Xinjiang geographically for the Belt and Road Initiative. First of all linguistically, the CCP intervened with the alphabetic scripts of ethnic minorities which were Turkic Altaic and Arabic through the Islamic teachings and turned it to Cyrillic. (Clarke M. E., 2011, p. 56) As Tim Mackintosh-Smith notes "linguistic links are more powerful than genetic ones; ink is thicker than blood" (Mackintosh-Smith, 2019, p. 239) therefore when interfering with a people's proper language it is a disruption to a process of cultural accumulation that started centuries ago. In the late 1950s "local nationalism" was considered a felony and jail was its convenient punishment. (Clarke M. E., 2011, pp. 56-57) During the Great Leap Forward a movement called the Cultural Revolution to eradicate the "4 Olds" of old customs, ideas, culture and habits was put to the fore (Clarke M. E., 2011, p. 66) and minorities like the Uighur were soon as exotic and erotic, which is how they were depicted in Han comedy. (Gladney, 2004, pp. 52-53,61-62) The Chinese considers the minorities as "primitive" compared to the modern Han-Chinese. (Gladney, 2004, p. 63) So the campaign to eliminate the "Four Olds" saw in Xinjiang the burnings of Qurans, persecution of imams, desecration of mosques and other religious sites, humiliation of ethnic minority intellectuals, and prohibition on traditional dress. (Clarke M. E., 2011, p. 66) James Millward (2007) notes the following:

"*Uyghur music and dance, a central element of marriages, circumcision parties and other ritual celebrations, were forbidden, and Uyghur musical instruments were themselves condemned as 'feudal'*" (Millward, Eurasian Crossroads: A History of Xinjiang, 2007, p. 274)

And the campaign wasn't over just yet as Millward also notes:

"*There are many reports of Qur'ans burnt; mosques, mazars, madrasas and Muslim cemeteries shut down and desecrated; non-Han intellectuals and religious elders humiliated in parades and struggle meetings; native dress prohibited; long hair on young women cut off in the street… the authorities formally cancelled religious holidays, detained non-Han cultural and political leaders in reform camps and controlled the media from which flowed anti-Islamic and anti-Turkic propaganda*" (Millward, 2007, p. 275)

It was even remarkable the personal story of a Uighur eye-witness in a town near Kashgar which Millward published:

"*Several white and black pigs were kept in a building people called 'mosque'. There was a small window on the wall. I was too short to be able to see the pigs from the window, so my older sister put me on her shoulder. When I grew older I found out that almost all the mosques in our region were turned into pig houses. Even Uighur songs were written in praise of pigs*" (Millward, 2007, p. 275)

Years later the "Strike Hard" campaign saw military and paramilitary forces deployed in Xinjiang to "tighten restrictions on cultural expression and religious practices" which was a severe attack on Uighur cultural heritage. This campaign also included the "burning of Uighur historical literature, imprisoning Uighur authors, banning traditional music with Muslim references and forbidding instruction in the Uighur language at Xinjiang University". The state's argument is that these moves were put in place to prevent any sort of attempts at separatism. Even religious practices such as fasting during Ramadan was banned in schools and government offices and students were told to break their fasts. Imams also were subject to instructions from the government about the lawful religious practices. (Davis, Being Uighur . . . with "Chinese Characteristics, 2019, pp. 98-99) Religious dresses in Xinjiang such as *burqas*, *niqabs* and hijabs, also Islamic symbols such as "crescent and stars" and even "long beards" are forbidden in public places in some cities with these measures falling under the campaign "Project Beauty". (Clarke M. , 2015, pp. 129-130) Even poems and jokes are being disseminated secretly on duplicated old cassettes in fear of the tight censoring of the authorities. They form for the Uighurs in Xinjiang some sort of subtle resistance and repudiate a Uighur discourse secretly within the Han space. (Bovingdon, 2010, pp. 94-95) The authorities in Urumqi doesn't wait for social impact of the Uighurs' songs to ban them or not, instead it implements a proactive measure by requiring professional singers to submit beforehand their lyrics to a censorship committee before their public release. Even the sad

words in a song that depicts a gloomy picture of its respective society are changed to more positive ones. (Bovingdon, 2010, p. 96)

The cultural restrictions as we have seen are severe and tight which might be found unlawful in international law according to our findings which we'll discuss in the next segment.

ii. Conviction according to International Law

As we mentioned in the introduction to this section, Cultural Genocide was twice eliminated from being officially written in an International Law document, first when drafting the Genocide Convention in 1948[9] (although it was originally included), and then in 2007 when drafting the United Nations Declaration on the Right of Indigenous Peoples (UNDRIP). (Novic, 2016, pp. 9-10)

1- Relevant minority rights articles in International Law treaties

- Article 27 of the International Covenant on Civil and Political Rights[10] remained for a long period of time the only relevant article regarding minority rights and their protection in International Law. Hence we notice that minority rights were protected by articles related to individual rights. (Novic, 2016, p. 104)

- The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious, and Linguistic Minorities adopted by the UNGA in 1992 is a non-binding instrument of International Law that can be exercised by members of

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[9] William Schabas was quoted as saying: *"This was not really a rejection of [Lemkin's] thesis by which a group may be destroyed through attacks on its economy, its cultural bodies and its political institutions. Rather, it was simply a case of the world not being ready for such an innovative proposal in a binding treaty"* (Novic, 2016, p. 28)

[10] Article 27 of the ICCPR states: "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language (United Nations, 1976)

minorities "individually" or concomitantly with other members of their group (Novic, 2016, p. 105)

- The Convention 169 on Indigenous and Tribal Peoples adopted by the International Labor Organization (ILO) in 1989. This legal instrument defined in its Article 1 (2) the indigenous peoples[11] but only 20 states ratified this convention until now. (Novic, 2016, p. 107)

- The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) came to light on 13 September 2007. It is a non-binding instrument but its articles mirror customary international law. It defines the cultural aspect of the indigenous peoples in 17 of its 46 articles. Article 8 of this declaration, which is the most integral, was supposed to be Article 7 and after a lot of controversy the final output was agreed upon by the participating parties[12]. (Novic, 2016, p. 107)

- Article 1.1 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)[13] (Novic, 2016, p. 111)

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[11] Article 1 (2) of the Convention 169 on Indigenous and Tribal Peoples states: Peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of present State boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions (International Labour Organisation, 1989)

[12] Article 8 states: 1- Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.

2- States shall provide effective mechanisms for prevention of, and redress for:
   (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities
   (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources; (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;
   (d) Any form of forced assimilation or integration;
   (e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them (Novic, 2016, pp. 109-110)

[13] Article 1.1 of the ICERD states: In this Convention, the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life (International Convention on the Elimination of All Forms of Racial Discrimination, 1969)

- Article 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR)[14] (Novic, 2016, p. 111)

- The 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious, and Linguistic Minorities

According to Novic (2016), the debate that the four opposing states to this declaration have initiated clearly indicates the presence of an *opinio juris* in this case. And the International Law Association (ILA) indicated that the provisions of the Declaration can be considered as norms of customary international law:

Indigenous peoples have the right to recognition and preservation of their cultural identity. This includes not only the right not to be subject to genocide (which amounts to a rule of jus cogens), but also the right to be free from ethnocide. The latter right presupposes that all the prerogatives that are essential to preserve the cultural identity of indigenous peoples according to their own perspective must be preserved, including, e.g., the right to use ancestral lands and natural resources according to their own tradition, the right to profess and manifest their religion in community with the other members of the group, the right to pursue their traditional medicines and burial traditions, etc. (Novic, 2016, p. 111)

The right for peoples and their cultures to exist and survive has been seen as a fundamental human right which drove Dembour and Cowan to find the link between support for "cultural recognition" and "cultural survival" by stating:

"In the stark distinction between mass or majoritarian cultures, on the other, internal homogeneity is too easily assumed and taken as natural. An endangered 'culture' is

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[14] Article 15 states: 1. The States Parties to the present Covenant recognize the right of everyone:
   (a) To take part in cultural life;
   (b) To enjoy the benefits of scientific progress and its applications;
   (c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author
   2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture
   3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity
   4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields (International Covenant on Economic, Social and Cultural Rights, 1976)

perceived as a pre-existing given which must be defended, rather than as something creatively reworked during struggles to actualize rights"

This right of groups to exist was documented in a legal document through the 1946 UNGA Resolution 96 (1) which concurred that *"genocide is a denial of the right of existence of entire human groups"*. The ICJ pointed to the point that the essence of the convention was to preserve the very existence of certain human groups, while the African Charter indicates that this right falls under the category of the right to self-determination. (Novic, 2016, p. 113) While the Human Rights Committee in its General Comment No.23 saw that the protection of the rights under Article 27 of the ICCPR has for a goal to ensure the "survival" and continuation of the development of the cultural, religious and social *identity* of the minorities in question, which will be beneficial for the society as a whole. (Novic, 2016, p. 114) What is noticeable also is Article 33 (1) of the 2007 UNDRIP which states that *"indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions"*. (Novic, 2016, p. 118)

The former United Nations Secretary General, Kofi Annan, initiated what was called the "5-point action plan" which aimed at *"protecting the rights of minorities, since they are genocide's most frequent targets"*. There's also the so-called "analysis framework" initiated by the OSAPG (Office of the Special Adviser on the Prevention of Genocide) which contains 8 categories of factors that the OSAPG make use of to decide whether there's a real risk of genocide in a particular situation. (Novic, 2016, p. 137)

2- The Precedents

The precedents are jurisprudence that some courts have taken and were used as a basis for later cases were similar incidents might have occurred. Along the years they become what is called is called "norms" of customary international law and therefore become an integral part

of international law. The precedents in our case are the most reliable and essential elements to reach a conclusion and find a verdict if we can call it like that. We're going to put the precedents in a list just like we did in the segment before to make it easier for the readers.

(a) The Krstić case

While the court didn't consider that cultural genocide is a process on its own, it acknowledged that it may be a factor leading to *mens rea* of the perpetrator. The main statement of the Trial Chamber reads as follows:

> *"The Trial Chamber is aware that it must interpret the Convention with due regard for the principle of nullum crimen sine lege. It therefore recognizes that, despite recent developments, customary international law limits the definition of genocide to those acts seeking the physical or biological destruction of all or part of the group. Hence, an enterprise attacking only the cultural or sociological characteristics of a human group in order to annihilate these elements which give to that group its own identity distinct from the rest of the community would not fall under the definition of genocide. The Trial Chamber however points out that where there is physical or biological destruction there are often simultaneous attacks on the cultural and religious property and symbols of the targeted group as well, attacks which may legitimately be considered as evidence of an intent to physically destroy the group. In this case, the Trial Chamber will thus take into account as evidence of intent to destroy the group the deliberate destruction of mosques and houses belonging to members of the group"*
> (Novic, 2016, p. 48)

(b) The Tadić case

The Tadić case relied on the Barbie case and the conclusion of Rapporteur LeGunehec who remarked about the crime of persecution by writing: "*par dessus tout, ces crimes violent les droits fondamentaux de l'humanité*"[15] and the Trial Chamber reached a conclusion that says:

> *"it is evident that what is necessary is some form of discrimination that is intended to be and results in an infringement of an individual's fundamental rights (…) it is the violation of the right to equality in some serious fashion that infringes on the enjoyment of a basic or fundamental right that constitutes persecution, although the discrimination must be on one of the listed ground to constitute persecution under the Statute"*

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[15] Translated in English: "Accordingly, these crimes violate the fundamental rights of humanity"

According to Novic (2016) the Tadić trial defined the *actus reus* of persecution and noted that persecution has various forms and that the physical element doesn't necessarily have to be present. (Novic, 2016, p. 156)

(c) The Kupreškić case

The Kupreškić trial built on the verdict of the Tadić trial and went further to claim that "*persecution can also involve a variety of other discriminatory acts, involving attacks on political, social and economic rights*". (Novic, 2016, p. 156)

(d) The Blaškić judgement

The main note to be taken from the Blaškić trial would be:

> "*it is the specific intent to cause injury to a human being because he belongs to particular community or group, rather than the means employed to achieve it, that bestows on it its individual nature and gravity and which justifies its being able to constitute criminal acts which might appear in themselves not to infringe directly upon the most elementary rights of a human being, for example, attacks on property*" (Novic, 2016, p. 157)

(e) The ICTY trial of Kordić and Čerkez

The main verdict of the ICTY trial of Kordić and Čerkez would be:

> "*This act, when perpetrated with the requisite discriminatory intent, amounts to an attack on the very religious identity of a people. As such, it manifests a nearly pure expression of the notion of 'crimes against humanity', for all of humanity is indeed injured by the destruction of a unique religious culture and its concomitant cultural objects.*" (Novic, 2016, p. 157)

(f) The Prlić case

The ICTY concluded in this case that the crimes that happened in Mostar which included the destruction of the Mostar Bridge and ten mosques represented violations of the Muslim population's rights to life, freedom and dignity (Novic, 2016, p. 158)

Conclusion:

The Precedents, which were mainly verdicts or commentaries issued by the ICTY, represent a solid ground on which to consider cultural genocide as a serious offence in terms of the "fundamental rights" and as "crimes against humanity". We would like to refer to Novic (2016) in her comment which finds the ICTY's notes to be "paradoxical" since it recognized as a crime described as "serious violation of fundamental rights" the cultural genocide element which is outside the scope of the human rights protection, and which was left out of the 1948 Genocide Convention altogether.

CHAPTER 2: "UIGHURS PERSECUTION" UNDER THE LENS OF INTERNATIONAL LAW

Figure 9. Protest by Indian Muslims against the detention of Uighurs by the Chinese government, in Mumbai, September 14 2018, taken by Punit Paranjpe, AFP via France 24

1- On the prevention and elimination of persecution

Crimes against humanity in international law aren't codified in covenants and international treaties, instead they can be deducted from the precedents and jurisprudence in customary international law. Under the broad title of crimes against humanity we find two subsections which can be considered as such: persecution and inhuman acts. (Novic, 2016, pp. 142-143) In this section we will deal with the crime of persecution, which falls under the title of crimes against humanity, and how the current events happening in Xinjiang can amount to the level of persecution and can be considered thus as crimes against humanity and how these events can be found culpable under the scope of international law and customary international law. Several scientific resources will be inspected in order to reach a satisfying conclusion, which should be objective, scientific and unbiased. International law can be tricky at times,

especially in sensitive cases like the one we're dealing with right now, and this is why we will follow a sound and methodological argumentation that can be clear and transparent for the reader as much as possible.

a. Persecution through international law and international treaties' scope

The codification of crimes against humanity of persecution weren't aplenty and in some instances it bared broad definitions and explanations. This has left the door open for the judges to address the issue as they found adequate and made them creative in some instances. We can find some references in the Nuremberg trials and the ILC Draft Codes of Crimes against the Peace and Security of Mankind. The Rome Statute has helped in codifying customary international law and the crimes against humanity of persecution is clearly stated in Article 7[16]. (Novic, 2016, p. 144) When speaking about precedents, what is noteworthy is that there can be quite a few differences between one and the other at some instances. In the case of the ICTR, the crime against humanity was noted concomitantly with discriminatory elements based on political, racial or religious grounds. (Novic, 2016, p. 145) The notable *RuSHA* case which was under the scope of the United States International Military Tribunal of Nuremberg found that the transferring of "*racially valuable*" alien children to be a crime against humanity especially since it is some sort of elimination and suppression of 'national characteristics'. (Novic, 2016, p. 148) The 1991 Draft Code[17] made a huge leap towards

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[16] 1. For the purposes 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:
(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;
2. For the purposes of paragraph 1:
(g) 'Persecution' means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity (International Criminal Court, 2011)
[17] In its commentary about the 1991 provision, the ILC noted that persecution can take the form of:
a prohibition on practicing certain kinds of religious worship; prolonged and systematic detention of

defining "inhumane acts" and coined it as "systematic or mass violation of human rights" which is based on "persecution on social, political, racial, religious and cultural grounds", and then the 1996 Draft Code reiterated the wording "crimes against humanity" that was used in the ICTY and ICTR. The ILC noted that the crime of persecution is manifested in "*the denial of the human rights and fundamental freedoms to which every individual is entitled without distinction as recognized in the Charter of the United Nations (Art.1 and 55) and the International Covenant on Civil and Political Rights (Art.2)*" (Novic, 2016, p. 149) Professor Cherif M. Bassiouni in his commentary on the Nuremberg and Tokyo Charters and the Control Council Law No.10 remarks that the act of persecution is more often than not a part of a major crime, it is not an element by itself but a part of a bigger process, and Bassiouni views that a nexus should be available between the discriminatory policy and the existing international crime. (Chella, 2004, p. 31) But in response to that we can refer to the verdict made by Tadić trial which noted that persecution can be based on discrimination and the suppression of *basic or fundamental rights* and that it doesn't require the physical element and went on to state the following:

"The notion of persecutory act provides broad coverage, including acts mentioned elsewhere in the Statute as well as acts which, although not in and of themselves inhumane, are considered inhumane because of the discriminatory grounds on which they are taken"

The Kupreškić case built on that verdict to note that persecution involve an array of other discriminatory acts which may contain attacks on political, social and economic rights. (Novic, 2016, p. 156) And even the ICTY created a solid ground on which to criminalize the attacks against religion and cultural heritage under the category of "persecution" in the

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individuals who represent a political, religious or cultural group; a prohibition on the use of a national language, even in private; systematic destruction of monuments or buildings representative of a particular social, religious, cultural or other group (Novic, 2016, pp. 148-149)

Blaškić verdict[18]. The ICTY's judgement regarding the case of Kordić and Čerkez followed in the same path when noting:

"This act, when perpetrated with the requisite discriminatory intent, amounts to an attack on the very religious identity of a people. As such, it manifests a nearly pure expression of the notion of 'crimes against humanity', for all humanity is indeed injured by the destruction of a unique religious culture and its concomitant cultural objects"

Conclusion

Therefore, upon the material that we elaborated on in the above segment, we can notice that persecution was a peremptory norm in the customary international law and was even codified in some International Law treaties and covenants. The codification was widely debated and could have been interpreted in a myriad of ways, but the International Tribunals and Chambers have interpreted the legal material in a way that was convenient in regard to making "persecution" a crime on its own in international law and not an element of a bigger and more major crime. As noted by the ICTY, persecution can amount to genocide, when its severity reaches a certain level (Novic, 2016, p. 153), but it is nonetheless a severe crime by itself because it causes grave repercussions and sometimes irreparable damage to the global society by eliminating a key component that contributes to its diversity and multiplicity. In the next section we'll discuss crimes against humanity in tandem with the events happening in Xinjiang trying to link the actions taking place in the Autonomous Region with their respective articles in international law material to reach a scientific conclusion that the events

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[18] It is the specific intent to cause injury to a human being because he belongs to a particular community or group, rather than the means employed to achieve it, that bestows on it its individual nature and gravity and which justifies its being able to constitute criminal acts which might appear in themselves not to infringe directly upon the most elementary rights of a human being, for example, attacks on property (Novic, 2016, p. 157)

and actions over there can be considered as crimes against humanity before enlisting in the section after that the relative penalties ensuing from the legal material.

i.   Crimes against humanity and International Law

Crimes against humanity has been throughout history a key concept of international customary law but was codified later on in several tribunals. It was incorporated in the Charter of the Nuremberg Tribunal and after that in the Tokyo Tribunal when the Allies needed to criminalize the acts of the Nazis. After that Crimes against humanity were included in the Statutes of the International Criminal Tribunals of the Former Yugoslavia (ICTY) and Rwanda (ICTR) in the 90s, and after that in the Special Court for Sierra Leone (SCSL) and the Extraordinary Chambers in the Courts of Cambodia (ECCC) and the ICC. Subsequently, crimes against humanity were identified as a category of offences within international law by the General Assembly and the International Law Commission (ILC). (Sadat, 2013, pp. 337, 340) During the ICTY trials several cases contributed significantly in the development of the concept of crimes against humanity. For example the Tadić case dropped the requirement of the war nexus, and the trial also neglected the need for "discriminatory intent" on the part of the accused. The Kunarac trial considered the need to prove that the attack or the acts of the accused are within a policy or plan are not necessary[19]. (Sadat, 2013, pp. 345-346)

Article 7 of the Rome Statute enlists 4 preconditions to consider an act as a crime against humanity:

1- The crime must be a part of a "widespread or systematic attack"[20]

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[19] The omission of the policy requirement in the ICTY Statute consists a contradiction with its presence at the ICC (Sadat, 2013, p. 346)
[20] The Rome Statute intentionally inserted the rubric "widespread or systematic" instead of "and systematic" (Sadat, 2013, p. 351)

2- Directed against a civilian population

3- With knowledge of the attack

4- Involving "a course of conduct containing the multiple commission of acts… against any civilian population… (Sadat, 2013, p. 352)

Darryl Robinson notes that the biggest difference between Article 7 of the ICC Statute and the precedents of the tribunals is that the ICC Statute was not imposed by the victors and instead it was a multilateral treaty through multilateral negotiations involving 160 states. And in addition to dropping the requirement of the war nexus and the discriminatory motive, Article 7 recognizes the crime of Apartheid and Enforced Disappearance (Robinson, 1999, p. 43) Therefore alongside the precedents of the International Tribunals, the Statute of the ICC remains one of the most "authoritative legislations" in relation to the crimes against humanity in international criminal law. (Malekian, 2011, p. 214)

In trying to find the linkage between Crimes against humanity under international law and the events happening in Xinjiang we'll try to enlist the most notable elements and their relation to the law in a scientific and methodological way in an objective context taking into consideration that no personal view on the topic exists. The reports, studies, journals and books that are relied upon in this section are contemporary and recent (in the last decade) especially since we discussed the earlier events in a detailed way in previous sections. Of the list of prohibited acts within crimes against humanity we can cite:

1- Imprisonment

Towadi, Kasim Rumawi and Tahir citing a report from the British Broadcasting Corporation (BBC) in 2018 state that the British Television Channel found *"a large, tight-security complex emerged, complete with a two-kilometer outer wall and 16 guard substations"* and

continued to say that a UN committee reported that: *"up to 1 million Uighurs and other Muslim groups are detained in the western Xinjiang region where they undergo so-called 're-education' programs"* The aforementioned authors continue by quoting Human Rights Watch indicating that *"Uighurs are closely monitored and have to provide biometric and DNA samples, up to a million people have been detained, and the detainees are forced to learn Mandarin, directed to denounce and even abandon their priestly beliefs"*. According to the authors the BBC have questioned former detainees who proclaimed about them being physically and psychologically[21] abused in the "camps" and that entire families vanished in Xinjiang. (Towadi, Rumawi, & Tahir, 2021, p. 60) Brennan Davis describes how the CCP have forced over a million Uighurs into camps for 'reeducation'. His estimates are that 11.5% of the Muslim population in Xinjiang between the ages of 20 and 79 have been detained. According to Davis the camps were firstly denied existence by the Chinese authorities who later on described these camps as 'vocational training centers' where the 'trainees' learn job skills. The camps are for fighting extremism according to the Chinese state, but eyewitnesses have described how they were forced to *"share a room with 45 other detainees with… so little room which made them sleep in shifts"*. While others have claimed that they were *"forced to sing propaganda songs, and if they refuse they are not fed"*. (Davis, 2020, pp. 100-102) Darren Byler describes the camps as "medium-security prisons" and "forced-labor factories" that have for objective making the Uighurs renounce their religious identity and embrace the Chinese secular principles. Byler notes that only a handful of "non-Chinese" detainees have ever been released. (Byler, 2019, p. 4)

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[21] The content of abuse in the program included: *"reduction of forced sleep, beatings, and people being hung from ceilings and walls to the compulsion to abandon their religious beliefs or consume alcohol and meat (haram) in order to violate their religious practices"* (Towadi, Rumawi, & Tahir, 2021, p. 61)

As of 29 May 2019 there have been 94 internment camps which were detected by satellite images, like Google Earth Pro, and GPS by the online activist Shawn Zhang. (Çaksu, 2020, p. 178) Çaksu notes that the camps have been built purposefully to be used for interment:

"…they have walls and watchtowers just like prisons, the inmates are monitored 24 hours a day and deprived of any freedom and privacy. The rooms have iron gates and the windows are sealed with iron bars and wire netting. It is nearly impossible to escape from the camps… there are hundreds of surveillance cameras inside the buildings, including the dormitories, washrooms and toilets." (Çaksu, 2020, p. 179)

2- Torture

According to Brennan Davis' research: *"one inmate described being restrained to a chair so that he was immobilized, prevented from sleeping, beaten with batons, and stabbed with needles… while other eyewitnesses said that detainees are forced to sing propaganda songs, and if they refuse, they are not fed."* (Davis, 2020, p. 102) Ali Çaksu reports that:

"…detainees are not allowed to use the toilet for long periods of time, are not allowed to see a doctor when they are ill and are forced to perform drills like soldiers. If an inmate does not comply, he/she is sent to solitary confinement, deprived from food and/or sleep for a long time, beaten or tortured physically and/or psychologically" (Çaksu, 2020, p. 180)

Çaksu reports a statement allegedly made by a former inmate that goes by the name Mihrigul Tursun who according to him told reporters in Washington that "she was interrogated for four days in a row without sleep, had her hair shaved, was electrocuted and was subjected to an intrusive medical examination" she even says the following quote: "I thought that I would rather die than go through this torture and begged them to kill me". (Çaksu, 2020, p. 180)

According to a report issued by the Newlines Institute for strategy and policy in March 2021 titled "The Uyghur Genocide: An Examination of China's Breaches of the 1948 Genocide Convention", the physical torture included common forms that happened regularly in the camps like:

"forcing detainees to sit on small stools, shackling them to 'tiger chairs', beds, walls, ceilings, or heavy fetters, or subjecting them to solitary confinement and food deprivation for prolonged periods of time... they are also subjected to whippings and constant beatings by metal and electric prods or bare cords... other eyewitnesses reported being forced to ingest blackout-causing drugs, confined to nail-covered or electrified chairs, subjected to complete strip searches, or hung on walls and beaten with electrified truncheons" (Newlines Institute, 2021, pp. 27-28)

3- Sexual Violence

According to the Newlines Institute report mentioned above:

"Former detainees have testified to systematic mass rape and other sexual abuse in the detention facilities. There are also accounts of gang rapes perpetrated by security officials, including references to masked men, the use of an electrified stick... and a designated table for 'doings things'. Other accounts testify to witnessing police take young girls into a closed room to 'take turns with them', with some never to return..."

While the journal The Responsibility to Protect titled "Responses to Human Rights Violations in a Changing Global Environment" cites that: "under custody, women have been raped and subjected to sexual abuse. (Epure, Gulbrandsen, Bapt, Abbott, & Faux, 2021, p. 47)

4- Enforced Sterilization

According to the Report mentioned above: *"government policies in this regard (preventing birth) include handing out monetary incentives for undergoing sterilization, punishing individuals with detention for violating birth control policies and forcing surgical and medicine-induced sterilization"* (Epure, Gulbrandsen, Bapt, Abbott, & Faux, 2021, p. 48) this government policy in 2019 targeted childbearing women in Uighur regions somewhere between 14 and 34 percent. Of the Uighur immigrants to Turkey, 25% of the women who were examined were sterile. (Newlines Institute, 2021, p. 31) According to Adrian Zenz, the natural population growth in Xinjiang dropped significantly with the growing rates falling

startlingly by 84%. (Zenz, 2020, p. 2) Zenz reports that in 2018, an eyewitness that goes by

the name Tursunay Ziyawudun (a Uighur lady) reported that *"…her fellow female camp*

detainees either underwent surgical sterilization or were given medication that stopped their

menstrual periods" while another woman "…was offered 'free' surgical sterilization and

threatened with internment if she refused". (Zenz, 2020, p. 15)

5- Severe Deprivation of Fundamental Rights

According to a report by Yves Moreau, the Chinese authorities are using a national DNA

database and other surveillance data like video cameras and facial scanners to keep the

Uighurs' activities in check and monitor their daily routine in the province of Xinjiang

(Moreau, 2019, pp. 36-37), which is contradictory to human rights such as the right to live in

dignity and the right of privacy. According to Darren Byler every Uighur has a biometric

record, face signature through scanning from different angles, all of which resulted in the

creation of a high-definition portfolio of personal emotions of each individual. Along with

that, all Uighurs are required to install a cellphone app called "Clean Net Guard" which

monitors everything they say, read and write along with every person they connect with on

their smartphones. Uighurs are also classified by police officers in the region as "safe",

"average" or unsafe" which is according to them being:

"…in military age, underemployed, praying regularly, possessing unauthorized religious
knowledge, having a passport, had traveled to one of 26 Muslim-majority countries,
overstayed their visa, had an immediate relative living abroad, taught their children about
Islam in their home…" (Byler, 2019, pp. 13-14)

Conclusion

The **gravity and severity** of the actions being implemented in Xinjiang can be deducted from

the rigorous and strict level of policies being conducted in the region. The narrative

mentioned above along with the statement of eyewitnesses makes the gravity and severity of

this case at a high level. And based on all the material that we have discussed in previous segments and chapters we can notice that the measures being taken have been on **discriminatory grounds** towards the Uighur ethnic minority in the Chinese northwestern region of Xinjiang. The target is a **civilian population** that has borne the gauntlet of religious repression and suppression of fundamental rights because of their ethnicity, religion orientation and race. The suffering has also been of a mental nature in many instances, especially that the human nature is based first and foremost on the psyche before the biological aspect and the two of them cannot be separated. That being said, the point is that any physical suffering can lead in a big proportion to mental suffering, and the tightness of living conditions is also a huge factor in the morale of the people concerned. The situation in Xinjiang can, to a certain extent, be described as an **Apartheid** were non-Uighurs live in a relatively stable condition while Uighurs live in a tight and restricted environment where certain and special rules apply to them only.

ii. The Penalties and Punishments of International Law regarding Crimes Against Humanity

Figure 10. Ahmad al-Faqi al-Mahdi, left, at the international criminal court in The Hague. Photograph: AFP/Getty via theguardian.com

The Rome Statute of the International Criminal Court and its provisions remain the most potent tool the international community has at its disposal to convict and held perpetrators accountable in front of a supranational judicial entity. The Statute indicates[22] what are the initiation proceedings or the "trigger mechanisms". The first one is a referral by a State Party, the second mechanism is a referral by the Security Council conducted under the Chapter VII of the UN Charter and the third option is the launching of an investigation by the Prosecutor who can act on his own initiative. (Cryer, Friman, Robinson, & Wilmshurst, 2010, p. 163) The United Nations established in 1993 the International Criminal Tribunal of Yugoslavia for the atrocities that happened in Bosnia and Herzegovina and Croatia. The ICTY was *the first court created by the UN and the first international war crimes tribunal since the Nuremberg*

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[22] Article 15, Article 15 bis[5], Article 15 ter[6] and Article 16

and Tokyo tribunals. (About the ICTY, 2017) While the ICTR was founded on 8 November 1994 by the United Nations Security Council's resolution 955 in order to prosecute persons responsible for the genocidal acts and serious violations of international humanitarian law that took place in Rwanda. (Scharf, 2012) These two ad-hoc tribunals did set a precedent of initiating a court for the sole purpose of reaching a verdict for a specific case on a supranational level. According to statistics:

"26 defendants at the ICTY and 8 defendants at the ICTR have been sentenced for crimes that fell under the jurisdiction of the Tribunals which includes genocide, crimes against humanity, grave breaches of the Geneva Conventions and war crimes. The ICTY verdicts have ranged between 5 and 46 years of prison, in contrast the ICTR's sentences have seen charges last between 12 years and life imprisonment." (Keller, 2001, pp. 56-57)

<u>The most high-profile verdicts issued by the ICTY were:</u>

The Serushago case: Mr. Omar Serushago did plead guilty to genocide and crimes against humanity which included murder, extermination and torture. The verdict was a sentence of a single term comprising 15 years behind bars.

The Erdemovic case: Drazen Erdemovic also pleaded guilty to murder as a crimes against humanity in 1996. The sentence in the Erdemovic case was 10 years imprisonment.

The Krstic case: General Radislav Krstic was tried for genocide, crimes against humanity and war crimes for this actions in the takeover of Srebrenica in 1995. (Keller, 2001, pp. 9-10, 17) He became the first person to be convicted of genocide and to a sentence of 46 years imprisonment. (International Criminal Tribunal for the former Yugoslavia, 2001)

The International Criminal Court (ICC):

The ICC over the years have had a lot of shortcomings and obstacles in its way. Major states like the United States of America and China have not ratified its Statute and aren't in full compliance with the court with Secretary of State Mike Pompeo even describing the court as a "Kangaroo court" (Simons, 2020). The court issued 9 convictions only even though it has been in operation since 2002, while despite the high number of arrest warrants only 8 suspects have been arrested and brought in front of the court. (Babaian, 2017, p. 140)

The most high-profile cases are:

➢ Jean – Pierre Bemba Gombo (sentenced to 18 years in prison)

➢ Lubango Dyilo

➢ Germain Katanga

➢ Ahmad al-Faqi al-Mahdi

➢ Laurent Gbagbo

➢ Charles Blé Goué (Babaian, 2017, p. 197)

Conclusion

Indictments have been relatively sparse and inconsistent. The principle of national sovereignty stands sometimes in the way of initiating a trial and reaching a verdict. Article 34 of the Vienna Convention on the Law of the Treaties states clearly that no state is bound by any obligation to which it did not consent (pacta tertiis). (Potter, 2012, p. 232) While the ICC have faced allegations such as being racist, neo-colonial and biased since most of the cases have been against African States, and noticeably the first conviction was made in 2012 which

is 10 years after the entry into force of the court, and 8 years after the Democratic Republic of the Congo referred the case to the tribunal. (Babaian, 2017, p. 141) While the ad-hoc tribunals have been more damning in their trials and verdicts as we have seen with the 3 cases discussed in the previous section. But on the other hand founding an ad-hoc tribunal is not an easy matter to accomplish, it may take years before the court is founded and given the full authority to start its appropriate work, and the verdict may also take years to be issued.

b. Insufficiency of the international legal framework

The system on the international level doesn't function in a similar way to the system on the domestic and national level. States enjoy the right of "sovereignty" which, according to the realist point of view, makes nation states act in a way that conforms to their own interests and operate "*in a tenuous net of breakable obligations*". (Hathaway, 2002, pp. 1942-1943) Therefore compliance to the international treaties doesn't take place unless it is in the interest of the nation states like for example raising a state's power in a geopolitical manner or on the ideological level, which led to the wider belief that *international treaties and institutions exist only because powerful states benefit from their presence*. (Hathaway, 2002, p. 1944) This is why when states act in conformity with international human rights treaties it happens to be a coincidence rather than a deliberate change of policy to suit this treaty and act accordingly. (Hathaway, 2002, p. 1946) Popularly the general understanding would be that treaties need to have some sort of coercive measures to achieve high rates of compliance which is the modus operandi of the domestic legal systems. But on the other hand, coercive economic or military sanctions in case of any treaty violation isn't feasible all the time because these measures are "politically and economically" costly and ineffective at changing behavior. In that regard, and because they are costly, they tend to be administered sporadically and intermittently which

doesn't make for an effective deterrent. (Hathaway, 2002, p. 1956) The Human Rights Treaty regimes don't have the needed mechanisms to impose any penalties in case of any violation and can't dispense rewards in cases of compliance, it is left for third party countries to try and incentivize the states in question. In some cases economic aid from powerful states stops when certain regimes act in an abusive manner, or trade agreements shift from one end to another because of states practices. This is why in the total absence of enforcement measures, states commit themselves to treaties whenever it suits them and their interests. (Cole, 2012, p. 1135) This inefficiency at making non-compliance costly has seen states face limited repercussions in cases of violations towards human rights treaties and it has made non-conformity "relatively inexpensive". (Hafner-Burton, Tsutsui, & Meyer, International Human Rights Law and the Politics of Legitimation Repressive States and Human Rights Treaties, 2008, p. 123)

i.   China's Legal Obligations Under International Conventions

China is member of 25 human rights treaties which include 6 of the 13 that are considered by the OHCHR to be core human rights instruments (Ahl, The Rise of China and International Human Rights Law, 2015, p. 638), but signatory to two. (Wan, 2007, p. 727) The 6 core treaties that China has joined are:

- Covenant on the Elimination of All Forms of Discrimination Against Women (CEDAW)
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

- United Nations Convention against Torture (CAT)[2324]

- United Nations Convention on the Rights of the Child (CRC)

- International Covenant on Economic, Social and Cultural Rights (ICESCR)

- Optional Protocol to the Convention on the Rights of the Child, on the sale of Children, Child Prostitution and Child Pornography (OP-CRC-SC)

While the PRC has signed two treaties without ratifying which are the International Covenant on Civil and Political Rights (ICCPR) and the Optional Protocol to the Convention on the Rights of the Child on the involvement of Children in Armed Conflict (OP-CRC-AC). (Wan, 2007, p. 729)

What is noteworthy is that China has joined all 4 Geneva Conventions, ratified 5 of the 10 ILO conventions which are mentioned officially by the OHCHR, while the ILO did approve 187 conventions (as of 2006) which are by majority of humanitarian type. (Wan, 2007, pp. 729-733)

Björn Ahl notes that China participates in the international human rights regimes through the submission of reports, the drafting of new instruments and by engaging in a multitude of bilateral human rights dialogues. (Ahl, 2015, p. 638) While Ann Kent remarks that as per Articles 55 and 56 of the UN Charter, all members of the United Nations are required to promote "*universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion*" which indicates explicitly that the PRC is obliged to comply with UN human rights norms with disregard to the state having ratified international covenants or not. (Kent, 1999, p. 194)

Kent notes that under the ICCPR, China is obliged to grant its citizens:

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[23] The United Nations Convention against Torture (UNCAT) is considered to have gained the status of customary international law which makes it binding on all states whether they are signatories of the treaty or not (Severson, Alex ; Amnesty International, 2010)

[24] China ratified the CAT in 1988 (Ahl, 2010, p. 403)

1- The right of self-determination (Article 1)

2- The right to life (Article 6)

3- The right to freedom from torture and cruel, inhuman or degrading treatment (Article 7)

4- The right to liberty and security of person which includes freedom from arbitrary arrest (Article 9)

5- The right to freedom of movement (Article 12)

6- The right of due process (fair trial and the presumption of innocence until proven guilty) (Article 14)

7- The right of freedom of thought, opinion, conscience and religion (Articles 18-19)

8- The right of peaceful assembly (Article 21)

9- The right of freedom of association (organized labor unions) (Article 22)

10- The right to take part in public affairs directly or indirectly through choosing representatives and the right to vote and equal suffrage (Article 25) (Kent, 1999, p. 196)

The Universal Declaration of Human Rights indicates clearly in Article 9 that "no one shall be subjected to arbitrary arrest, detention or exile" but the Chinese law of reeducation through labor (*laodong jiaoyang* or *laojiao*) remains. (Kent, 1999, p. 212) Article 21 of the UDHR states that "everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal…" while the numbers of 1997 indicated that around 200,000 people were detained without charge or trial. (Kent, 1999, p. 213)

While on the other hand, the European Union has inserted what it termed as the "Human Rights Clause" in its trade agreements over the last years. This clause is considered as essential for the EU's foreign policy, and it has been added to more than 50 agreements with 120 partners. (Duchâtel & Hall, 2008, p. 92) Duchâtel and Hall indicate that accepting this

human rights clause entails legal risks for China. This agreement can make the EU in a position of power to extract more concessions on human rights from the PRC. (Duchâtel & Hall, 2008, p. 93)

What is interesting to note is that Articles 18 and 26 of the ICCPR are concerned mainly with 3 aspects of the religious freedom (which is of concern to the Uighurs in Xinjiang):

1- The freedom to have or adopt a religion of the individual's choice

2- The freedom to exercise this religion in public or in private, individually or in a community, through worship, observance and teaching; and

3- The right to be free from discrimination on religious grounds (Kolodner, 1994, p. 483)

While Article 27 of the International Covenant on Civil and Political Rights safeguards the religious freedom for minorities, a religion of "their own", and prohibits the authorities from putting restrictions regarding this issue. (Kolodner, 1994, p. 486)

ii.   The limitations of International Law on Human rights violations

Nation states sign on human rights treaties as long as it is in the best interest of the state concerned. (McGuinness, 2005, p. 398) The interests which are the most fundamental drivers behind every decision states usually make. Traditionally states carry out the obligations of an international treaty with "good faith" and what is called in international law as *pacta sunt servanda* which means that "agreements must be kept" (Goldsmith & Posner, 2006, p. 12) but the absence of an international government has made international law at times seem outdated. (Suter, 2004, p. 344) The sovereignty principle that states enjoy is sometimes a huge barrier to hold them accountable in case of human rights breaches. The international society lacks international governance, and this is why state sovereignty reigns supreme even though treaties are in place. The Interpol is not an international police, it is only a global

information-sharing organization that hasn't the power to enforce international law. (Suter, 2004, p. 344) The nature and the legal mechanism of international human rights treaties makes ratification costless and usually states are not obliged to make certain changes in their practices to comply with the treaty they ratified. The ratification of a treaty is only of significant value when it is supplemented later on with the implementation of the treaty obligations in domestic legislation. (Goodman & Jinks, 2003, pp. 172-173) Usually compliance with a treaty is not rewarded in return, albeit in some instances from third states or NGOs, and this is why compliance isn't always impeccable. Official IHL coercive mechanisms are missing and the obligations to draft reports regarding domestic human rights conditions have no deep impact on the situation in nation states[25]. In case of a violation regarding a treaty of human rights nature, there is not a norm that the perpetrator in question will be sanctioned. (Goldsmith & Posner, 2006, pp. 43-44) Therefore states usually aren't in a constant fear of being sanctioned or legally held in court in case of any violation of human rights treaties, which makes the consequences of a breach of limited scale. As mentioned above, for a treaty to enter fully into effect it must be complemented with domestic law amendments and changes in domestic practices, but these two procedures aren't mandatory by the treaty, which is why the latter fails in some instances to have a clear impact of states behavior. (Goldsmith & Posner, 2006, p. 44) When changes happen in a certain situation it is probably because of an intervention by a major state (like the Carter Administration) or when domestic protests escalates to a high level that alerts the attention of prominent NGOs which leads these organizations to exercise their power and take action. (Goldsmith & Posner, 2006, pp. 46-49) These manifestations are usually happening in democratic states with active civil societies, which is probably of lower significance in states that are not democratic. (Hafner-

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[25] 70% of parties have overdue reports
110 nations have 5 or more overdue reports
Around 25% have initial overdue reports
The average time for an overdue report is 5 years (Goldsmith & Posner, 2006, p. 44)

Burton & Tsutsui, 2007, p. 423) Liberal democracies usually ratify international human rights treaties because their policies are already in conformity with these treaties, and in any case of incongruence, reservations are made to fix the problem. On the other hand states who are not democratic have little cost to pay if any in cases of non-compliance with the treaty they ratified, which is why ratification comes with a low risk. (Goldsmith & Posner, 2006, p. 50) Ratification of international human rights treaties through the years haven't had a significant correlation with the amelioration of human rights conditions in concerned states. (See Appendix 3) Keith Suter notes that international law has evolved at a very slow pace which made some of its principles seem out of date such as those related to piracy and diplomacy, and this may be in part due to the lack of international governance and the absence of a central global unit that dictates the international norms. (Suter, 2004, p. 346)

The limitations of the International Court of Justice:

1- The absence of an international philosophy that commands respect for one system of international law (the roots of the ICJ goes back a long way to the disputes between the UK and the United States)

2- National sovereignty which make governments resilient in front of international pressure and at times unwilling to implement changes in policy. States aren't forced to cooperate when they are pressed with charges (compulsory jurisdiction) and notably only half of the UN member states accept the ICJ's jurisdiction

3- Only nation-states can be parties to an ICJ case which makes for example minorities unable to file a lawsuit and terrorist organizations escape the jurisdiction of the court.

4- The absence of an international enforcement system which makes the ICJ unable to summon accused people to its court or to follow up the verdict with the adequate procedures.

5- Not all cases can be filed to the international court system (like the Suez Canal issue of 1950)

6- The procedural issues such as facts collection and law interpretation which make judges of the international court unable to do because usually these two aspects are conducted by two separate entities domestically such as the lower courts (facts) and the higher courts (law interpretation) (Suter, 2004, pp. 349-352)

Sometimes the Statute of limitations can create dilemmas of unfair and "selective justice" where the major states have political support and can protect themselves by delaying the course of justice until the incident gets time-barred. On the other hand, human rights cases tend to be complicated and usually take years on end to gather all the required facts and go through the chains of command while trying to figure out the whole complex scenario that unfolded in order to lead to the actual incident such as the actions of low-ranking officials, and at times third states might be unwilling to cooperate if need be. (Hessbruegge, 2012, p. 340)

2- Prognostic Scenarios to the Xinjiang Issue

The Xinjiang problem has been escalating for years on end, and the current situation coupled with the ongoing events will only lead to more and more tension in the years to come. This complex status quo won't materialize in a stable situation at any point in the future, therefore solutions need to be found in order to stabilize the region and deliver a win-win outcome for both parties involved, the Uighur people and the Chinese Communist Party. The solutions we're proposing are of two categories, first we will lay two proposals that are of internal nature, and in the second part we'll propose two solutions of external nature, which means that they are related to regional and international correlation with third party actors and states.

The proposals aren't necessarily the ultimate solutions to the problem, but according to our study we have reached theses propositions from the analysis that we based our research on, and ultimately we have concluded that these remedies can ease the tension in the region by alleviating the fears of both sides involved therefore creating a balanced and steady environment that will lead eventually to more human rights benefits for the Uighur people and an even better social and economic outcome for the Chinese authorities. The region of Xinjiang is crucial for both China and the area of Central Asia as a whole, because its instability can lead to great repercussions on the situation of the center of continent. The first solution we'll discuss is related to the *Hukou* system which is the social composition of the Chinese society and the stratification of the people within which is unhelpful in some ways to the greater good of the Chinese people on the macro and micro levels. Then the most important proposition will be the transition to a Federal system of state which can be of great importance for the future of Xinjiang and China alike. The next segment which is about the external solutions will begin by postulating the regional solutions to the problem within Central Asia and the second part will be about the international war against terrorism to combat any unwanted insurgencies in the Xinjiang province and its peripheries.

a. Internal Solutions

The Internal Solutions as we have discussed above will comprise mainly of two categories. First the abolishment of the Hukou social system in China and second about the implementation of the Federal system in the country in order to reach a better status quo then the ongoing modus vivendi. The internal solutions are propositions to the Chinese authorities based on our objective conception as to how the state can act in its own capacity to mend the tension in the province and build a more solid foundation for the years to come. These are the

measures that, if implemented, will go a long way to ameliorate the Chinese Xinjiang problem.

i. The Abolishment of the *Hukou* System

The *Hukou* system was molded according to the Soviet *propiska* system (internal passport), and was put in place in order to regulate household registration which in turn pinned people to their respective place of residence, either urban or rural. (Chan & Buckingham, Is China Abolishing the Hukou System?, 2008, p. 587) The system was first implemented in order to limit the flow of the rural population to the big cities in the period when China sought to create an upsurge in its industrial power. It entered officially into full force on 22 June 1955 upon the signing of Premier Zhou Enlai. (Cheng & Selden, 1994, pp. 645,655) The classification of the *hukou* registration is spread across mainly two classes, there's the "agricultural" type *nongye* (农业) and the "non-agricultural" fei nongye (非农业) *hukou*. Before the reform era, in the early stages of the system, the type of a person's *hukou* determined the subsidies he or she was entitled to from the state like "commodity grain", state-provided housing, education, employment, medical care and other social benefits. (Chan & Buckingham, Is China Abolishing the Hukou System?, 2008, p. 588) This significant chasm between urban and rural has seen many rural residents flock to the big cities in search of better opportunities, but this phenomenon has created a big wave of illegal migration that has swept across the big cities of eastern China in a nefarious way sometimes. The *hukou* migration is considered as qianyi (迁移) migration, whereas non-hukou migration is called as

renkou liudong (人口流动) which means population movement or what is termed in popular language as "floating". This group of people, the floating population, although it was first considered as of temporary nature, it has lasted for years in some instances (Chan & Buckingham, Is China Abolishing the Hukou System?, 2008, p. 590) and some studies has

estimated the total number of the floating population to be around 150 million. (Mackenzie, 2002, pp. 305,310) This population wasn't allowed to buy and own land in the cities or even rent rooms for their habitat, and this has caused many of them to be homeless and in some cases set up illegal shantytowns on the outskirts of the cities. (Mackenzie, 2002, p. 312) Cities such as Taiyuan the capital of the province of Shanxi has seen a rise of its population in 1957 from 270,000 people to 1.1 million in merely 7 years. (Cheng & Selden, 1994, p. 663) But these events didn't come without any peril. The crime rate in the 1990s increased dramatically by 6 percent and serious crimes by 18 percent, and according to Shanghai's police, more than 70 percent of the thefts that were committed in the city were by migrants. (Mackenzie, 2002, p. 310) Some officials have noticed that the economy depended as much on these migrants, and political scientist Cheng Li quoted a Guangdong official as saying: *"if the migrant workers are stopped, there would be at least a stagnation in the coastal areas. At worst, the economy of the coastal areas would collapse, causing the national economy to collapse"* (Mackenzie, 2002, p. 310) while others saw that the *hukou* system helps the state limit the influx of "non-productive" dependents to the cities. (Cheng & Selden, 1994, p. 657) The gulf between urban and rural *hukou* has been noticeable across the years of the pre-reform era whether economically or socially as the table below clearly indicates.

Economy

Industry	Agriculture
Priority sector	Non-priority sector
State owned	Non-state sector
State support and control	Self-reliance
Monopoly profits through unequal sectoral exchange	As provider of cheap resources for the state sector

Society
(based on *hukou* classification)

"Non-agricultural" households	*"Agricultural" households*
State protection; subject to political control	Self-reliant; subject to less central control
State-provided employment and welfare	Employment and welfare based on local collectives
Restricted entry	Tied to land and agriculture

Table 2. Pre-Reform Era chasm between urban and rural hukou (Chan & Zhang, 1999, p. 831)

This disparity was soon to be addressed by the Chinese authorities in a series of actions that defined the years to come.

The *hukou* reform era started around the 1980s coinciding with the Deng Xiaoping reform era in the economy and the creation of Modern-day China. The "hukou selling" started taking place by some local governments to raise money in return. There was what was called the "urban capacity fee" investment or home purchase. Other measures where in the form of a "blue-stamp hukou", and around the year 1993 more than 3 million urban hukou had been sold for roughly 25 billion Yuan (around 3,859,573,250.00 USD). Those who had agricultural hukou always had to pay a royalty on top of the price that was paid by nonagricultural hukou to get a hukou in cities such as Xiamen, sometimes buying a house in a mega city like Hainan required agricultural hukou to pay an extra fee to transfer their hukou there. (Chen & Fan, 2016, pp. 12-13) For example in 2006 the government of Sichuan dropped all barriers concerning rural-urban conversion in its cities and towns. Its Chongqing counterpart declared in 2010 that rural people who give up willingly their rural hukou will enjoy the same social benefits as their urban counterparts. But this procedure was a double- edged sword that had deeper implications than first thought of. According to the Chinese law,

rural people, or the so-called peasants or villagers (*nongmin* 農民) owned their land

according to "contract land" or *chengbaodi* (承包地) for every household according to its

size and secondly concerning "housing land" or *zhaijidi* (宅基地) which grants the villagers

the right to build their proper houses on their land and expanded as they like. This is why

according to Article 26 of the Law of the People's Republic of China on Land Contract in

Rural Areas (農村土地承包) rural families who move to the city and obtain urban hukou

have to return their land to the village, albeit those who move to small towns. But according

to Chen and Fan, the ambiguity of the law regarding cities and towns has seen many rural

people lose their rights to land contract in most cases when obtaining urban hukou. (Chen &

Fan, 2016, p. 17) Article 47 of the Land Management Law (土地管理法) declares that

there's a fair compensation to be paid when relinquishing a land in rural areas when obtaining

urban hukou, but given that the land's monetary value is always high, people are becoming

ambivalent about giving up their lands to obtain urban hukou. (Chen & Fan, 2016, pp. 17-18)
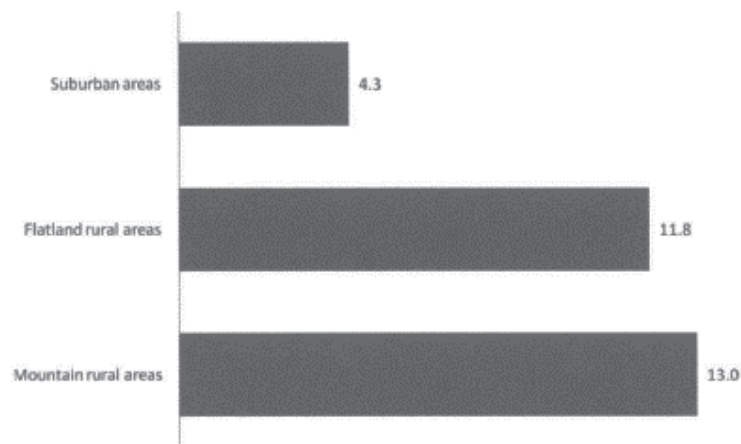
Source: National Health and Family Planning Commission, "Floating Population Dynamic
             Monitoring Survey" (2010).

Table 3. Proportions of Rural Population willing to return their land in exchange for urban hukou (%) (Chen & Fan, 2016, p. 18)

That explains to a large extent why villagers hesitate to transfer their hukou to urban hukou in

fear of losing their land which they cultivate and build their houses on, and this represents a

great sacrifice in exchange of getting an urban hukou, where they can't even afford the costs in the cities or even housing accommodations. (Chen & Fan, 2016, p. 19)

Discussion and Conclusion

The hukou system has been the pillar of the Chinese society for decades. At first it was created out of necessity, to curb the big wave of internal migration from rural areas to urban cities where people find employment opportunities in abundance. But in a country like China, where nowadays it comprises 1.4 billion people, it is not a minor thing to let all the population flow eastwards where population density is at alarming levels. This is why the Chinese authorities have been proactive about this issue and decided to implement a registration system where every household is pinned to its place of residence. In the early stages it was a brilliant idea to control the population's flow, but nowadays in the modern era it represents a stratification model where people are put in castes from cradle to grave, unless villagers are willing to sacrifice a lot in return for half the benefits of their urban counterparts. The social system needs a revamp, and a significant reshaping in order to meet the standards of the 21st century where every human being is entitled to universal human rights and have the ability to fulfill his or her dreams in full. The philosopher John Locke talked about the "pursuit of happiness" right in his book "An Essay Concerning Human Understanding", and it was enshrined in the American declaration of independence which consisted of the well-known phrase "life, liberty and the pursuit of happiness", and was a cornerstone on which the American founding fathers built the nation upon. Human beings in every society need to feel that they are capable of reaching their true potential while minimizing the pain and maximizing the pleasure[26]. Jeremy Bentham the founder of modern utilitarianism indicated that *actions are morally right if they tend to promote happiness or pleasure, and morally*

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[26] It is a pillar of the Hedonism philosophy promoted mainly by the Greek philosopher Epicurus

wrong if they tend to promote unhappiness or pain (Duignan & Plamenatz, 2021). This is why modern societies need to be a place where people are given all the tools to minimize pain and maximize happiness in order to attain their goals and reach their full potential. The hukou system doesn't grant all the Chinese citizens equal rights and duties and prevents people living in the countryside from reaching the same level of achievements as their city dwellers counterparts. This is why we have come to the conclusion in our analysis that the abolishment of the hukou system and the implementation of a more egalitarian and just system will contribute to filling the gap between rural and urban people that exists in Chinese society. China's economic rise in the international sphere needs to be in tandem with social reform on the inside to safeguard the country's internal boundaries from any miscalculations and unwanted turbulence that can initiate small but dangerous ripples which might lead to significant repercussions down the line which can be nipped in the bud through a series of social reforms to prevent things like these from happening.

ii.   The Transition to a Federal Composition

The federal system of governance has been a widely debated topic of interest throughout the years with its success and failures in many countries around the globe. One might easily recognize that the most prominent example of federalism is the United States of America where this system has been effective ever since the founding fathers and the federalists have put it in place through the writings of James Madison, Alexander Hamilton and John Jay. But what many don't seem to realize is that over a third of the world's population is ruled in their states according to federalism. (Heywood, 2013, p. 381) This form of governance has been widely repudiated around the globe, where many countries have resorted to it in their quest for shelving political unrest and implementing the underpinnings of the state's norm (s).

Kenneth Wheare quoted by John Law is believed to have said: *"by the federal principle I mean the method of dividing powers so that the general and regional governments are each, within a sphere, co-ordinate and independent"* (Law, 2013, p. 93) Federalism therefore is a kind of governance where authority is divided between the central government and regional governments in order to expedite the bureaucratic steps and make it faster for people to benefit from new policies and implementations. This was quoted in the work of Hueglin and Fenna by saying: "in a federal system of government, sovereignty is shared and powers are divided between two or more levels of government each of which enjoys a direct relationship with the people" (Law, 2013, p. 95) In this instance the notion of sovereignty is thought to be not found in governments, nor in the constitutions lying behind governments, but *in the people lying behind the constitution, and that there can be no ulterior source of political authority lying behind the people.* (Law, 2013, p. 101) The division of powers between central and regional governments ensures, in theory at least, the avoidance of encroachment of one on the powers on the other and this is a form of a compromise between the unity and regional diversity, and between a strong central source of power and the need to place checks and constraints on that power. (Heywood, 2013, p. 381)
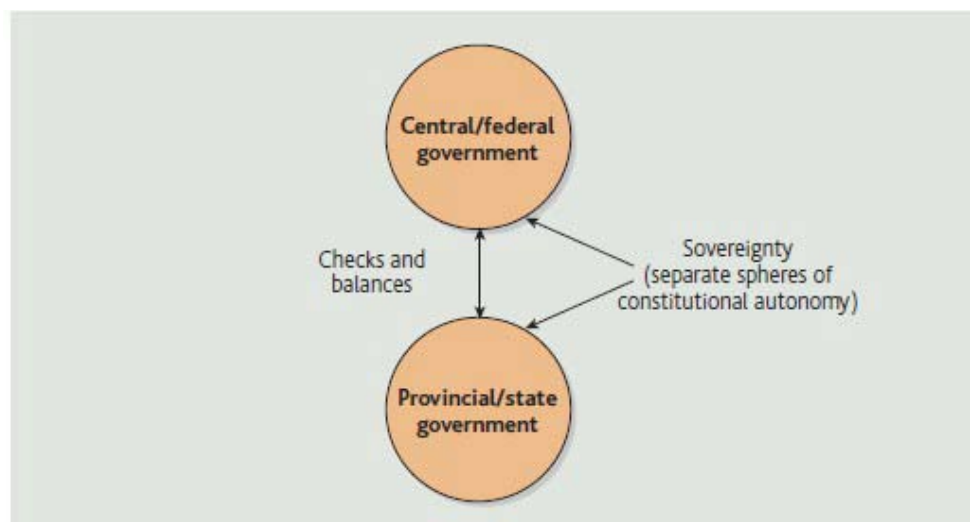

Figure 11. The composition of a federal state

All of the abovementioned discussion leads us to the problem of Xinjiang. Gladney, the scholar who studied the Uighurs and Xinjiang extensively, concluded in his study of 2002 that the region needs a resolution. He offered 4 solutions he found to be adequate (the Alaska model, the Scotland model, the Hawaii model and the Australian model). In our study we are offering the "Federal model". And as we discussed earlier, this form of governance offers insurances for all parties involved that no one or the other will encroach on the rights of the other subject, all parties have insurances of their rights and duties. China is a country that stretches to vast amounts of lands as we pointed out in previous sections[27]. While Xinjiang which consists 18% of China's mainland[28] is bigger than most of the prominent countries in the world such as France and Germany. The federal form of governance is beneficial in countries that comprise large swaths of land. The geographical aspect is not a lesser factor in adopting this form of governance than the other factors. Most countries with large sums of territory have resorted to federalism including Canada, Brazil, Australia, Mexico and India. What is noteworthy is that most of the geographically large states' drive behind the adoption of federalism was the ethnic diversity of their multiple regions, and according to Heywood this issue has created pressure on these countries to try and maintain central authority and a unitary form of governance, especially the nature of the cultural and ethnic heterogeneity that exists in large states. Heywood considered that *"Federalism, in short, has often been an institutional response to societal divisions and diversities"*. (Heywood, 2013, p. 383) India has 25 self-governing states, in the case of Punjab and Kashmir, religious differences were taken into account. Like India, China has the experience of being religiously different from big regions within the mainland such as Xinjiang, Tibet and Inner Mongolia. As discussed in

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[27] See page 31
[28] See page 32

previous segments, the tensions in these areas have created a headache for the Chinese Communist Party throughout the years. The unitary form of governance in China has been nefarious in the quest of the Chinese state to exert authority onto its peripheral regions and quell frictions that might arose from the local population. The system of autonomous regions was not very successful as the many examples in this study have shown over a period of many decades. The CCP tries to maintain its authority which at the same time reduces the political representation of the local population in their area's political and governmental entity. Even the leaders and high status government officials in the region were appointed by the Central government and had its blessing which will help implement its policy and philosophy in the XUAR. The regional governments therefore are an extension to the central government and not a separate entity on their own.

The Sakha (Yakutia) case:

Sakha or Yakutia was formerly identified as the Republic of Sakha by the Russian Federation upon the dissolution of the Soviet Union. Sakha is an area in central Siberia that is rich in oil and minerals, amounts to about 20% of the size of Russia[29] and sparsely populated due to its climate. Sakha comprises mainly people of Turkic origin, just like Xinjiang, and witnessed the migration of people from other regions due to the discovery of oil and minerals. The sale of Sakha's oil was conducted by the central government and the latter gave Sakha its share in the form of state subsidies. (Kempton, 1996, pp. 589-590) Yakutia was granted "republic" status in the Russian Federation which consisted of 21 republics and 68 territorially determined components[30]. The republic of Sakha enjoyed great political autonomy under President Boris Yeltsin and elected Mikhail Nikolaev as its president. The division of power was manifested in the 1992 Federal Treaty which defined the powers that were consecrated to

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[29] 1.2 million square miles (Kempton, 1996, p. 589)
[30] These components consisted of: 49 regions (oblasti) 1 autonomous region, 6 territories (kraya), 2 federal cities (goroda) and 10 autonomous regions (okruga)

the central authority, the issues that were under joint-jurisdiction and the powers granted to the regional governments. In this treaty, the republics were granted the right to have their own external policy, external trade with the central government or other entities and solidified the sovereignty of the republics. Then the new constitution in 1993 established new ground rules for the relations between Moscow and the other components while Nikolaev agreed several bilateral agreements with president Yeltsin in 1995. (Kempton, 1996, pp. 606-607)

The Sakha experiment clearly shows how the Russian Federation dealt with ethnic diversity on its territories in the post-Soviet era. While the same experiment may not be feasible now in modern-day China, it is certainly admirable what a great deal of autonomy granted to ethnic minorities can do to reduce the risk of social imbalance and political instability within a state of vast lands. Federalism can be a great tool to enhance the peripheral regions' economic and social level while at the same time take some of the burden away from the central authority in terms of micro-level political, social and cultural issues. On the macro level the central government will always remain the sole representative of the state in terms of foreign relations, international treaties, war and peace decisions and sovereignty.

b. External Solutions

Security isn't a one sided process that can have a unitary hub only, this multifaceted series of operations and Intel needs to be in a multipolar web of interconnections from different parties involved and affected by the same issue in order to encircle the source of concern from all its angles and therefore reach a satisfying solution that can be effective and sustainable at the same time. This is why after proposing two internal solutions we now turn our attention to the outside factors that can be all the more important and of equal footing to the internal solutions as well. In proposing two external solutions we begin by discussing the Central Asian

Regional security measures that can be taken to reach regional stability before moving to the second solution where we propose a set of international efforts that can be exerted in the fight against terrorism.

i.   Central Asian Regional Guarantees

Moving outwards requires a certain understanding in order to fully grasp the nature of international affairs, regionally and internationally. Baruah and Mohan described the situation as follows:

"*... Some scholars view the security dilemma as rooted in the anarchic nature of the international system that obliges each state to look after its own security. Unlike in domestic politics, where the state enjoys the monopoly on violence, enforces a set of laws, and mediates conflicts between different entities, there is no higher authority in the international system.*" (Baruah & Mohan, 2018, p. 86)

China's rise to "global hegemon" status forces the country, in one way or another, to become what the US used to be, a regional and international arbitrator, a global powerhouse. If China is to defend its interests domestically and abroad it must expand its security measures across the region and outside mainland China if it wants to be proactive and not reactive, especially when it comes to dealing with Islamic radicalism in Central Asia and protecting its economic interests such as the Belt and Road Initiative. We're going to suggest two propositions that can be done by the Chinese authorities in order to reach this objective.

1- Fostering the alliance with Russia

China and Russia, after the dissolution of the Soviet Union, have founded the Shanghai Cooperation Organization to fill the political vacuum that appeared after the SU (Soviet Union) ceased to exist. (Fels, 2018, p. 248) These two countries have similar geostrategic and

geopolitical goals in CA (Central Asia) as Laruelle and Peyrouse denote these objectives to be:

"…desired stability on their borders, are concerned about the ability of the Central Asian states to withstand destabilization and consider the region as the main transit zone for drug-trafficking from Afghanistan." (Laruelle & Peyrouse, 2009, p. 27)

Moscow and Beijing share the same policy of limiting the influence of the United States in Central Asia, especially in the wake of September 11 when the US established military bases in states such as Afghanistan. Now that the US has withdrawn its troops from Afghanistan and Taliban rose to power, there has been a new vacuum of power and security in the region which demands these two countries to rise to the occasion. (Stewart & Ali, 2021) Russia and China are viewed by most Central Asian countries as more favorable to the West which opened the door for many interaction with the regimes of these states. (Laruelle & Peyrouse, 2009, p. 27) The region is very important in terms of the energy sector (oil and gas), especially countries such as Kazakhstan which is the main oil supplier to Russia for example. (Laruelle & Peyrouse, 2009, p. 42) China on the other hand needs stability in the region to maintain the security of its BRI project, which is why these two Asian powerhouses needs to foster their bilateral relations even more to cement their places in the region and limit any "unwanted" Western intervention on their "turf". The ongoing economic and diplomatic relations can be expanded even more to reach military and security cooperation that serves the interests of both countries. Islamic radicalism is a nuisance to both states, therefore joining efforts to tackle this issue seems plausible in order to unite forces and suppress any terrorist operations that threatens to destabilize Central Asia and cause severe repercussions for both countries on their borders (North and West in China, Southern Russia).

Figure 12. Central Asia

Radical movements such as the Hizb ut-Tahrir in Uzbekistan poses a significant threat to both

the Kremlin and Beijing[31], which is why enhancing the military cooperation between the two

countries will go a long way to stabilize the region security-wise.

2- Empowering the Shanghai Cooperation Organization

The Shanghai Cooperation Organization is a multilateral body that was created in 2001 to

foster relations in Central Asia between Russia, China and other Central Asian countries[32].

(Giragosian, 2006, p. 133) The organization's foundation lacked the "traditional" security

organization shape and was seen as merely a "forum" like the G8 or the G20 rather than

organizations like the EU. Blank was quoted Clarke (2011) as saying:

"In every respect, America's war against terrorism has diminished China's power and standing in Central Asia. The Shanghai Cooperation Organization, the linchpin of its strategy to fight terrorism and separatism has been discredited and shown to command no effective military resources or political support by the members" (Blank 2002) (Clarke M. E., 2011, p. 148)

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[31] China and Russia did in fact have significant technological and military contributions to Central Asian states to help them fight radical movements (Laruelle & Peyrouse, 2009, p. 28)

[32] The organization consists of China, Russia, Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan was added upon the expansion of the Shanghai Five (or Pact) into the Shanghai Cooperation Organization (Millward, 2004, p. 16)

Although, the SCO has founded what was named as the Regional Anti-terrorist structure or RATS with an aim to gather, analyze and diffuse valuable information to in some capacity create a database of terrorist networks and establish a connection with other security organizations. (Bolonina, 2019, p. 16) While at the same time, the organization remains handicapped by the dominance of national interests of its members over the multilateral cooperation between them on the supranational level. (Giragosian, 2006, p. 134) This is why the SCO needs to be empowered by its member states, given more resources and valuable time to grow and develop especially on the security level where it needs to be dedicated more weaponry and Intel that will allow the organization to be effective in combatting terrorism on the field and in the cyber world. China along with Russia can allocate more funding for the organization and assign experienced personnel which will boost the SCO and make it the Asian competitor to the NATO. The latter has penetrated the Central Asian field through its PfP program which stands for the NATO's Partnership for Peace Program with several Central Asian countries such as Kyrgyzstan, Turkmenistan, Uzbekistan and Kazakhstan. (Giragosian, 2006, p. 141) The SCO if empowered can maybe one day reach the level of NATO and that will be beneficial to all nations around the world for this thing will fortify regional stability and security in more than one place.

ii. International Efforts in the War Against Terrorism

Tackling terrorism unilaterally can be exhausting, depleting and non-ending as the United States found out in the last two decades or so, while also recently putting an end to its longest war ever that lasted around 20 years in Afghanistan. (Stewart & Ali, 2021) The United States' "War on Terrorism" cost the Department of Defense an additional $1.778 trillion on top of its initial budget between 2001 and 2017. In 2017 the American military budget

reached a mere $773.5 billion of which $523.9 billion were allocated to the DOD and $175.9

billion for activities and agencies that are related to defense, of those $58.8 billion were

allocated to the Department of Defense's Overseas Contingency Operations (OCO) to combat

ISIS while another $14.9 billion were administered to the State Department and Homeland

Security for OCO to combat ISIS. (Breen-Smyth, 2017, p. 66)[33] A nightmarish phenomenon

like "terrorism", which isn't even defined in a certain terminology at the time of writing,

needs to be tackled through concerted efforts from multiple actors working hand in hand to

reach a satisfying and sustainable solution to this issue, which is why international efforts in

the "War against terrorism" is a must especially in the digital age of the 21st century. There

exists formal networks, like the Interpol, semi-formal networks when a need arises, like the

intelligence agencies cooperating together for a sole purpose, and informal networks are the

ones that operate on small scale in a specialized manner. (Clutterbuck, 2006, p. 35)

According to Clutterbuck, a big portion of the collaborations being done on the international

level nowadays are of bilateral or trilateral nature, the G8 being the most prominent example,

and intelligence agencies from multiple countries are cooperating routinely in a sort of

international network. The only offspring of this international cooperation has been the

International Criminal Police Organization or ICPO which is more commonly known as

Interpol. (Clutterbuck, 2006, p. 45) Under Interpol's banner the clearest operational entity

that does most of the workload is the Fusion Task Force (FTF). But Article 3 handicaps

Interpol from interfering when the case under investigation is related to political, military,

religious or of racial character. (Clutterbuck, 2006, p. 46) The United Nations has created

resolution 1373 in 2001 to eradicate and disrupt terrorist networks upon the attacks of

September 11. Yet while the majority of states have ratified and signed the UN's counter-

terrorism conventions, many of them simply don't have the capacity or the necessary tools to

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[33] See Appendix 4 for a more detailed chart on page 124

implement them. Implementation is by far the most important step of the process, and without it the conventions lose a significant proportion of their power. (Cortright, Lopez, Millar, & Gerber-Stellingwerf, 2007, p. 30)[34] And although the United Nation's counter-terrorism committee (CTC) have worked extensively with other international organizations on multiple levels of engagement, the root of all challenges remain the absence of a universally acclaimed definition of "terrorism", while also on the other hand the CTC lacks an enforcement mechanism to implement the required procedures when need be. (Cortright, Lopez, Millar, & Gerber-Stellingwerf, 2007, pp. 44-45)

One of the most feasible solutions would be, as mentioned in the preceding section, to enhance regional organizations such as the SCO in order to have more tangible work on the ground, and that can also be taken on the international scene where the SCO can work in tandem with the NATO to achieve broader security objectives and goals for the short and long term. The work being done between organizations and the share of expertise will only be beneficial for the greater good of humanity especially when it comes to problems like terrorism. The mentioned organizations can join forces and personnel experiences with the CSTO also while sharing information and Intel will be crucial in the digital age we live in today. Cybercrimes are the next mode of warfare that terrorists are using to permeate societies and the lives of the youth to instill their ideology. Which is why states have to unite forces and tackle terrorism from its roots. This can be done by raising awareness, and the level of education, eradicating poverty and making sure to deal with malnutrition and the access to water in poor places. Terrorists try to have a foothold in such places where they take

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[34] The United Nations' counter terrorism committee has: *"worked with several functional international agencies to develop capacity-building programs to improve implementation. As noted, the CTC has cooperated extensively with UNODC/TPB, the Commonwealth Secretariat, and the IMF. Other organizations that have shared information with the CTC include the G8 and its counter-terrorism Action Group (CTAG), the International Civil Aviation Organization (ICAO), the International Maritime Organization (IMO), the International Organization for Migration, the Organization for the Prohibition of Chemical Weapons (OPCW), the World Customs Organization (WCO) and the Financial Action Task Force (FATF)"* (Cortright, Lopez, Millar, & Gerber-Stellingwerf, 2007, p. 39)

advantage of people's livelihood situations. The EU, The United Nations and summits such

as the G8 and the G20 needs to come together on such important matters that might get out of

hand at any given point. Military intervention and millions of dollars can be saved by dealing

with the aforementioned issues that affect the lives of millions of people on a daily basis. The

following is a table that helps to better understand the need to act on preventive measures.

Protective

Military, police, and intelligence operations against Al-Qaida
Enforcement of UN Security Council counter-terrorism resolutions
Homeland security

Preventive

Addressing political grievances:
• Supporting an Israeli-Palestinian settlement
• Ending military occupation in Iraq
• Lowering the U.S. military profile in Arab and Muslim countries
Improving governance in regions of instability:
• Assisting with nation building efforts in failed states
• Providing consistent support for democracy and human rights
Expanding economic and social opportunity:
• Supporting sustainable economic development
• Supporting poverty reduction initiatives

Table 4. Counter-Terrorism Policy Measures (Cortright & Lopez, 2007, p. 262)

Thesis Conclusion:

This research aimed to identify three main elements. First the importance of the Xinjiang

region to China on the geopolitical scale, especially with the project of the BRI, the

infringements of international law in the policy conducted towards the Uighurs of the Xinjiang

region in northwestern China. How the actions being done in the area have in any shape or

form crossed the line when it comes to international law and customary international law, and

what are the best possible solutions to the parties involved. Based on the qualitative analysis

of relevant literature review, it can be concluded that the region is of immense importance for

the Chinese authorities for the time being and especially for the future, and

that several breaches of international treaties and international conventions were found to have taken place while the results also indicate that the policies were culpable acts when matching them with the jurisprudence (precedents) of the International Tribunals like the ICTY and ICTR. The solutions that were offered had a pragmatic nature which aimed at alleviating any pain or damage while keeping the stability of the area for the long term in a sustainable way.

The approach taken in this study have been relied upon to tackle the issue of this ethnic minority in China from an international law perspective in order to fulfill the academic purposes of the master's degree being pursued. We expected to find legal elements that correlated to what was happening in an interconnected way to arrive at a conclusion that can be as scientific to the utmost degree and unbiased. The results that stemmed from this research matched the expectations that were in mind at the beginning of this journey. They were convenient to the conception that was taking shape on a rough draft before initiating the research process and starting to stick the pieces together on the canvas of the main project.

The methodology that we used was the most efficient since it was convenient to the means we have at our hands and was helpful to understand all of the aspect of the subjects from different perspectives and angles while enriching this study with valuable material that glued all the pieces of information together in a seamless way that makes it an easy read for the potential readers. The study offered a legal insight of the subject in question which wasn't done before in this manner and along this structure. This study clearly illustrates that the events taking place breaches certain elements of international law, while it also raises the question as to how these breaches can be put in a legal framework.

The hypothesis that was debated was whether the procedures of the authorities in northwestern China amount in any shape or way to the degree of crimes against humanity

that falls under International Law through several treaties and conventions and whether these actions can also be described as "cultural genocide" which wasn't codified in international treatises or conventions but rather through customary international law in the form of international tribunals' precedents like the ICTY and ICTR. In chapter 1 and chapter 2 this hypothesis have been proved scientifically through a long procedure of argumentation and methodological analysis of different sorts of scientific journals and books that enriched this research's bibliography along the way.

The approach is relatively new as aforementioned, while the solutions that were offered were also new propositions that weren't discussed before or weren't debated at length in the past years. All of this proves the reasoning behind choosing this particular approach which offers great insight through a much defined lens and scope in order to reach a very particular set of results. The three main elements in question were put together in a mold like few studies have done before which is why it offers a pristine debate area.

Recommendations:

Based on these conclusions, future researchers on this topic should consider what are the legal frameworks that can be feasible to reduce the tension in the area of Xinjiang and how can the Uighurs be protected from a legal perspective. And there needs to be future studies to find a social framework which can alleviate the pain of this ethnic minority in a way that makes them under a certain international umbrella where regional organization like the EU for example, the United Nations of the NGOs can be of particular help in socio-economic ways to this minority through multiple ways.

Our study has laid the tools needed to achieve these aims by offering the roots of the problem especially in the first part of Chapter 1 where the sociological issues were presented to make

readers know how the chasm between ethnicities in the region came to the fore. And the argumentation about the "cultural genocide" and "crimes against humanity" have given potential researchers valuable material to build upon in order to reach our recommendation in a saturated and complete way. The legal perspective this study offered have laid the foundation for future studies to build upon for the legal framework to take place. And all of these elements, the sociological issues alongside the legal perspective, when combined together helps form the shape of the socio-economic framework that can be initiated by the international community to alleviate the tension of Xinjiang and its Uighur population. This study has filled the gap in the literature review by giving insight into the "crimes against humanity" perspective in tandem with discussing the events under the scope of the international tribunals' precedents to reach the conclusion of "cultural genocide".

Several studies have taken place about this subject in recent years, and this study helps complement the existing knowledge and theories or assumptions being put in place to form a structure of information to be put under scrutiny aiming at reaching several conclusions and endpoints. We have cited several scholars who are specialized in the subject of Xinjiang and the Uighurs and our research has given much needed all-around insight that can be of help when discussing this topic from the legal, social and political perspective in the near and distant future.

References

Ahl, B. (2010). Exploring Ways of Implementing International Human Rights Treaties in China. *Netherlands Quarterly of Human Rights*, 361-403.

Ahl, B. (2015). The Rise of China and International Human Rights Law. *Human Rights Quarterly*, 637-661.

Alcoff, L. M., & Mohanty, S. P. (2006). Reconsidering Identity Politics: An Introduction. In L. M. Alcoff, S. P. Mohanty, M. Hames-Garcia, & P. M. Moya, *Identity Politics Reconsidered* (pp. 1-9). New York: PALGRAVE MACMILLAN.

Arakaki, O. (2008). *Refugee Law and Practice in Japan.* Aldershot: Ashgate Publishing Limited.

Babaian, S. (2017). *The International Criminal Court – An International Criminal World Court?* Hamburg: Springer International Publishing.

Baruah, D. M., & Mohan, C. R. (2018). Connectivity and Regional Integration: Prospects for Sino-Indian Cooperation. In M. Mayer, *Rethinking the Silk Road* (pp. 85-98). Shanghai: Springer Nature.

BBC. (2019, October 27). *Catalonia crisis: Separatist protest draws 350,000 in Barcelona*. Retrieved from BBC: https://www.bbc.com/news/world-europe-50194846

Benson, L. (1990). *The Ili Rebellion: The Moslem Challenge to Chinese Authority in Xinjiang, 1944-1949.* London: M.E. Sharpe, Inc.

Bolonina, A. (2019). Security Dimension of China's Presence in Central Asia. *ASIA FOCUS*, 1-20.

Bovingdon, G. (2004). *Autonomy in Xinjiang: Han Nationalist Imperatives and Uyghur Discontent.* Washington D.C: East-West Center Washington.

Bovingdon, G. (2010). *The Uyghurs Strangers in their own land.* New York: Columbia University Press.

Breen-Smyth, M. (2017). Countering Terrorism in the International Arena: An Evaluation. *Georgetown Journal of International Affairs*, 65-75.

Brophy, D. (2016). *Uyghur Nation: Reform and revolution on the Russia-China frontier.* London: Harvard University Press.

Brown, K. (2013). *Contemporary China.* China: Palgrave Macmillan.

Byler, D. (2019, MAY 1). Ghost World. *LOGIC*.

Çaksu, A. (2020). Islamophobia, Chinese Style: Total Internment of Uyghur Muslims by the People's Republic of China. *Islamophobia Studies Journal*, 175-198.

Chan, K. W., & Buckingham, W. (2008). Is China Abolishing the Hukou System? *The China Quarterly*, 582-606.

Chan, K. W., & Zhang, L. (1999). The Hukou System and Rural-Urban Migration in China: Processes and Changes. *The China Quarterly*, 818-855.

Chella, J. (2004, August). *Persecution: a crime against humanity in the Rome Statute of the International Criminal Court.* Gold Coast: Bond University.

Chen, C., & Fan, C. C. (2016). China's Hukou Puzzle: Why Don't Rural Migrants Want Urban Hukou? *China Review*, 9-39.

Cheng, T., & Selden, M. (1994). The Origins and Social Consequences of China's Hukou System. *The China Quarterly*, 644-668.

Chua, A. (2007). *Day of Empire: How Hyperpowers Rise To Global Dominance - And Why They Fall.* New York: Doubleday.

Clarke, M. (2013). Ethnic Separatism in the People's Republic of China: History, Causes and Contemporary Challenges. *European Journal of East Asian Studies*, 109-133.

Clarke, M. (2015). China and the Uyghurs: The "Palestinization" of Xinjiang? *Middle East Policy*, 127-146.

Clarke, M. E. (2011). *Xinjiang and China's Rise in Central Asia - A History.* Abingdon: Routledge.

Clutterbuck, L. (2006). Developing a counter-terrorism network...back to the future? In P. Katona, J. P. Sullivan, & M. D. Intriligator, *COUNTERING TERRORISM AND WMD* (pp. 33-50). New York: Routledge.

Cole, W. M. (2012). Human Rights as Myth and Ceremony? Reevaluating the Effectiveness of Human Rights. *American Journal of Sociology*, 1131-1171.

Cortright, D., & Lopez, G. A. (2007). Strategies and Policy Challenges for Winning the Fight Against Terrorism. In D. Cortright, & G. A. Lopez, *Uniting Against Terror* (pp. 237-274). Cambridge: The MIT Press.

Cortright, D., Lopez, G. A., Millar, A., & Gerber-Stellingwerf, L. (2007). Global Cooperation Against Terrorism Evaluating the United Nations Counter-Terrorism Committee. In D. Cortright, & G. A. Lopez, *Uniting Against Terror* (pp. 23-50). Cambridge: The MIT Press.

Cryer, R., Friman, H., Robinson, D., & Wilmshurst, E. (2010). *An Introduction to International Criminal Law and Procedure.* Cambridge: Cambridge University Press.

Davis, B. (2019). Being Uighur . . . with "Chinese Characteristics. *American Indian Law Review*, 81-116.

Davis, B. (2020). Being Uighur . . . with "Chinese Characteristics". *American Indian Law Review*, 81-116.

Duchâtel, M., & Hall, J. (2008). The Human Rights Clause in China-Europe Negotiations. *China Perspectives*, 91-94.

Duckitt, J., & Bizumic, B. (2012). What Is and Is Not Ethnocentrism? A Conceptual Analysis and Political Implications. *Political Psychology*, 887-909.

Duignan, B., & Plamenatz, J. P. (2021, June 2). *Jeremy Bentham British philosopher and economist*. Retrieved from Britannica: https://www.britannica.com/biography/Jeremy-Bentham

Epure, G., Gulbrandsen, K., Bapt, E., Abbott, C., & Faux, E. (2021). Responses to Human Rights Violations in a Changing Global Environment. *The Responsibility to Protect*, 1-66.

Ercilasun, G. K., & Ercilasun, K. (2018). *THE UYGHUR COMMUNITY: Diaspora, Identity and Geopolitics.* Ankara: Palgrave Macmillan.

Fels, E. (2018). The Geopolitical Significance of Sino-Russian Cooperation in Central Asia for the Belt and Road Initiative. In M. Mayer, *Rethinking the Silk Road* (pp. 247-267). Shanghai: Springer Nature.

Fisk, R. (2001). *Pity The Nation: Lebanon At War.* Oxford: Oxford University Press.

Fuller, G. E., & Starr, F. S. (2003). *THE XINJIANG PROBLEM.* Central Asis-Caucasus Institute.

Giragosian, R. (2006). The Strategic Central Asian Arena. *China and Eurasia Forum Quarterly*, 133-153.

Gladney, D. C. (2003, June). Islam in China: Accomodation or Separatism. *The China Quarterly*, pp. 451-567.

Gladney, D. C. (2004). Cyber-Separatism. In D. C. Gladney, *Dislocating China: Muslims, Minorities and Other Subaltern Subjects* (p. 242). London: C. Hurst & Co.

Gladney, D. C. (2004). *Dislocating China Reflections on Muslims, Minorities, and Other Subaltern Subjects.* Hong Kong: C. Hurst & Co.

Gladney, D. C. (2013). Separatism in China: The Case of the Xinjiang Uyghur Autonomous Region. In J.-P. Cabestan, & A. Pavkovic, *Secessionism and Separatism in Europe and Asia: To Have a State of One's Own* (pp. 220-236). Abingdon: Taylor and Francis Group.

Goldsmith, J. L., & Posner, E. A. (2006). *The Limits of International Law.* New York: Oxford University Press.

Goodman, R., & Jinks, D. (2003). Measuring the effects of human rights treaties. *European Journal of International law*, 171-183.

Hafner-Burton, E. M., & Tsutsui, K. (2007). Justice Lost! The Failure of International Human Rights Law To Matter Where Needed Most. *Journal of Peace Research*, 407–425.

Hafner-Burton, E. M., Tsutsui, K., & Meyer, J. W. (2008). International Human Rights Law and the Politics of Legitimation Repressive States and Human Rights Treaties. *International Sociology*, 115–141.

Hastings, J. V. (2011, December). Charting the Course of Uyghur Unrest. *The China Quarterly*, pp. 893-912.

Hathaway, O. A. (2002). Do human rights treaties make a difference? *Yale Law Journal*, 1935-2042.

Hessbruegge, J. (2012). Justice delayed, not denied: statutory limitations and human rights crimes. *Georgetown Journal of International Law*, 335-356.

Heywood, A. (2013). *Politics.* China: PALGRAVE MACMILLAN.

Huntington, S. P. (2011). *The Clash of Civilizations and the Remaking of World Order.* New York: Simon and Schuster.

International Convention on the Elimination of All Forms of Racial Discrimination. (1969, January 4). *International Convention on the Elimination of All Forms of Racial Discrimination*. Retrieved from United Nations Human Rights Office of the High Commissioner: https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx

International Covenant on Economic, Social and Cultural Rights. (1976, January 3). *International Covenant on Economic, Social and Cultural Rights*. Retrieved from United Nations Human Rights Office of the High Commissioner: https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx

International Criminal Court. (2011). *Rome Statute of the International Criminal Court.* The Hague: International Criminal Court.

International Criminal Tribunal for the former Yugoslavia. (2001, August 2). *United Nations International Criminal Tribunal for the former Yugoslavia*. Retrieved from Radislav Krstic becomes the First Person to be Convicted of Genocide at the ICTY and is Sentenced to 46 Years Imprisonment: https://www.icty.org/en/press/radislav-krstic-becomes-first-person-be-convicted-genocide-icty-and-sentenced-46-years

International Criminal Tribunal for the former Yugoslavia. (2017, December 31). *About the ICTY*. Retrieved from International Criminal Tribunal for the former Yugoslavia: https://www.icty.org/en/about

International Labour Organisation. (1989, June 27). *C169 - Indigenous and Tribal Peoples Convention, 1989 (No. 169)*. Retrieved from International Labour Organisation: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169

Jain, R. (2017). China's Economic Development Policies, Challenges and Strategies, 1978-present: An Overview. *Indian Journal of Asian Affairs*, 65-84.

Jakimow, M. G., & Barabantseva, E. (2016). 'Othering' in the Construction of Chinese Citizenship. In B. Chaudhuri, & L. Konig, *The Politics of the "Other": Western Concepts in Non-Western Contexts - Case Studies from India and China* (pp. 167-178). Abingdon: Routledge.

Jian, Z. (2017). The recent trend of ethnic intermarriage in China: an analysis based on the census data. *The Journal of Chinese Sociology*.

Kara, D. S. (2018). The Formation of Modern Turkic 'Ethnic' Groups in Central and Inner Asia. *The Hungarian Historical Review*, 98-110.

Keller, A. N. (2001). PUNISHMENT FOR VIOLATIONS OF INTERNATIONAL CRIMINAL LAW: AN ANALYSIS OF SENTENCING AT THE ICTY AND ICTR. *Indiana International & Comparative Law Review*, 53-74.

Kempton, D. R. (1996). The Republic of Sakha (Yakutia): The Evolution of Centre-Periphery Relations in the Russian Federation. *Europe-Asia Studies*, 587-613.

Kent, A. (1999). After Vienna: China's implementation of Human Rights. In A. Kent, *China, the United Nations, and Human Rights : The Limits of Compliance* (p. 345). Philadelphia: University of Pennsylvania Press.

Kolodner, E. (1994). Religious Rights in China: A Comparison of International Human Rights Law and Chinese Domestic Legislation. *Human Rights Quarterly*, 455-490.

LaCapra, D. (2006). Experience and Identity. In L. M. Alcoff, J. E. Butler, J. Flores, R. Halwani, M. Hames-Garcia, S. Harding, . . . J. K. Tchen, *Identity Politics Reconsidered* (pp. 228-245). New York: PALGRAVE MACMILLAN.

Laruelle, M., & Peyrouse, S. (2009). China as a Neighbor: Central Asian Perspectives and Strategies. *Central Asia-Caucasus Institute & Silk Road Studies Program*, 1-201.

Law, J. (2013). How Can We Define Federalism? *Perspectives on Federalism*, 88-120.

Liu, W., & Dunford, M. (2016, March 29). Inclusive globalization: unpacking China's Belt and Road Initiative. *Area Development and Policy*, p. 18.

Mackenzie, P. W. (2002). Strangers in the City: The Hukou and Urban Citizenship in China. *Journal of International Affairs*, 305-319.

Mackintosh-Smith, T. (2019). *Arabs: A 3000-Year History of Peoples, Tribes and Empires.* Croydon: Yale University Press.

Malekian, F. (2011). CRIMES AGAINST HUMANITY. In F. Malekian, *Principles of Islamic International Criminal Law* (pp. 213-223). Leiden: Brill.

Marshall, T. (2018). *Divided: Why we're living in an Age of Walls.* Eliott and Thompson Limited.

Mayer, M. (2018). China's Rise as Eurasian Power: The Revival of the Silk Road and Its Consequences. In M. Mayer, *Rethinking the Silk Road: China's Belt and Road Initiative and emerging Eurasian relations* (pp. 1-42). Shanghai: Palgrave Macmillan.

McCarthy, N. (2015, February 4). *The War On Terror Has Cost American Taxpayers Nearly $1.7 Trillion*. Retrieved from Statista: https://www.statista.com/chart/3189/cost-of-the-war-on-terror/

McGuinness, M. E. (2005). EXPLORING THE LIMITS OF INTERNATIONAL HUMAN RIGHTS LAW. *University of Georgia Law School* (pp. 393-421). Athens: University of Georgia Law School.

Millward, J. (2004). *Violent Separatism in Xinjiang: A Critical Assessment.* Washington: East-West Center.

Millward, J. (2007). *Eurasian Crossroads: A History of Xinjiang.* New York: C. Hurst & Co.

Moreau, Y. (2019, December 5). Crack down on genomic surveillance. *Nature*, pp. 36-38.

Newlines Institute. (2021). *The Uyghur Genocide: An Examination of China's Breaches of the 1948 Genocide Convention.* Newlines Institute.

Novic, E. (2016). *The Concept of Cultural Genocide: An International Law Perspective.* Oxford: Oxford University Press.

Onuf, N. (2013). *Making Sense, Making Worlds Constructivism in social theory and international relations.* Abingdon: Routledge.

Potter, J. (2012). The International Criminal Court and the complexities of international criminal justice. In G. Boas, W. A. Schabas, & M. P. Scharf, *International Criminal Justice* (pp. 231-253). Cheltenham: Edward Elgar Publishing Limited.

Qiang, R., & Xin, Y. (2003). Impacts of Migration to Xinjiang Since the 1950s. In R. Iredale, N. Bilik, & G. Fei, *China's Minorities on the Move: Selected Case Studies* (pp. 89-105). New York: Routledge.

Qoraboyev, I., & Moldashev, K. (2018). The Belt and Road Initiative and Comprehensive Regionalism in Central Asia. In M. Mayer, *Rethinking the Silk Road China's Belt and Road Initiative and Emerging Eurasian Relations* (pp. 115-130). Shanghai: Palgrave Macmillan.

Robinson, D. (1999). Defining "Crimes Against Humanity" at the Rome Conference. *The American Journal of International Law*, 43-57.

Sadat, L. N. (2013). Crimes Against Humanity in the Modern Age. *The American Journal of International Law*, 334-377.

Sanchez, R. (2006). On a Critical Realist Theory of Identity. In L. M. Alcoff, J. E. Butler, J. Flores, R. Halwani, M. Hames-Garcia, S. Harding, . . . J. K. Wei Tchen, *Identity politics reconsidered* (pp. 31-52). Hampshire: PALGRAVE MACMILLAN.

Scharf, M. P. (2012, May). *Statute of the International Criminal Tribunal for Rwanda*. Retrieved from Audiovisual Library of International Law: https://legal.un.org/avl/ha/ictr/ictr.html

Sedgwick, M. (2015). Jihadism, Narrow and Wide: The Dangers of Loose Use of an Important Term. *Perspectives on Terrorism*, 34-41.

Severson, Alex ; Amnesty International. (2010, November 5). *TOP 10 THINGS YOU WANTED TO KNOW ABOUT UNCAT BUT WERE AFRAID TO ASK*. Retrieved from Amnesty International: https://www.amnestyusa.org/top-10-things-you-wanted-to-know-about-uncat-but-were-afraid-to-ask/

Short, D. (2010, November). Cultural genocide and indigenous peoples: A sociological approach. *The International Journal of Human Rights*, pp. 831–846.

Silver, C. (2020, December 24). *The Top 25 Economies in the World*. Retrieved from Investopedia: https://www.investopedia.com/insights/worlds-top-economies/

Simons, M. (2020, July 6). *Uighur Exiles Push for Court Case Accusing China of Genocide*. Retrieved from The New York Times: https://www.nytimes.com/2020/07/06/world/asia/china-xinjiang-uighur-court.html

Statista Research Department. (2021, February 8). *Number of registered foreign residents living in Japan from 2010 to 2019 (in millions)*. Retrieved from Statista: https://www.statista.com/statistics/687809/japan-foreign-residents-total-number/#:~:text=Number%20of%20foreign%20nationals%20Japan%202010%2D2019&text=In%202019%2C%20approximately%202.93%20million,2.3%20percent%20of%20the%20population.

Stewart, P., & Ali, I. (2021, August 31). *Last U.S. troops depart Afghanistan after massive airlift ending America's longest war*. Retrieved from Reuters: https://www.reuters.com/world/last-us-forces-leave-afghanistan-after-nearly-20-years-2021-08-30/

Sun, P. (2018). Uyghur Militant Activity in Southeast Asia and Its Security Implications. In A. Arduino, & X. Gong, *Securing the Belt and Road Initiative* (pp. 215-233). Palgrave, Singapore.

Suter, K. (2004). The Successes and Limitations of International Law and the International Court of Justice. *Medicine, Conflict and Survival*, 344-354.

Tan, H. (2017, October 31). *China wrote Belt and Road Initiative into the party constitution. That makes it riskier than ever*. Retrieved from CNBC: https://www.cnbc.com/2017/10/31/china-wrote-belt-and-road-initiative-into-the-party-constitution.html

Towadi, M., Rumawi, N. K., & Tahir, S. A. (2021). An Indication of China's Policy towards Uighurs and its Implications by International Law Aspects. *Jambura Law Review*, 55-71.

Townsend, J. (2005). *China and Afghan Opiates: Assessing the Risk.* Uppsala: Central Asia-Caucasus Institute & Silk Road Studies Program.

United Nations. (1976, March 23). *International Covenant on Civil and Political Rights*. Retrieved from United Nations Human Rights: Office of the High Commissioner: https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx

United World International. (2020, December 17). *Xinjiang Geopolitics in the 21 century: BRI, the US alliance with terrorists and fake news*. Retrieved from United World International: https://unitedworldint.com/14852-xinjiang-geopolitics-in-the-21-century-bri-the-us-alliance-with-terrorists-and-fake-news/

Viotti, P. R., & Kauppi, M. (2014). *International Relations Theory.* Harlow: Pearson.

Waltz, K. (1979). *Theory of International Politics.* Addison-Wesley.

Wan, M. (2007). Human Rights Lawmaking in China: Domestic Politics, International Law, and International Politics. *Human Rights Quarterly*, 727-753.

Wendt, A. (1992). Anarchy is what States Make of it: The Social Construction of Power Politics. *International Organization*, 391-425.

Zenz, A. (2020). *Sterilizations, IUDs, and Mandatory Birth Control: The CCP's Campaign to Suppress Uyghur Birthrates in Xinjiang.* Washington, DC: The Jamestown Foundation.

Zhen, L., & Zhang, R. (2021, April 5). US withdrawal from Afghanistan 'may help. *South China Morning Post*.

Appendix 1: The protests that took place in Xinjiang, from 1954 till 1989, (p. 41 and 42)

The demonstrations that took place in Xinjiang between 1954 and 1989 represent a noteworthy element of study for the region's social dimension. And the list goes as follows:

- *December 1954: 300 members from Khotan, Karakash and Lop counties led by an individual called Abdimit*

- *April-May 1962: violent protests in Central Yining (Ghulja) comprising roughly 2000 person*

- *1967-1968: clashes involving 50,000 "bingtuan" workers around Urumqi*

- *Early 1969: 4000 Uighurs in Yining*

- *1979: around 8000 Chinese originating initially from Shanghai protested in Aksu. The protest lasted for 40 days and saw 1000 individuals stage a hunger strike*

- *1980-1981: several incidents occurred, and in 3 out of 4 cases, minor incidents turned ugly and the numbers of protesters escalated to 2000 at some times.*

- *December 1985: 2000 non-Han students from Xinjiang University and 6 other universities protested against nuclear testing in the region among other issues*

- *June 1988: 300 students protested against derogatory graffiti, their slogans demanded freedom, democracy and equality of nationalities*

- *May 1989: Muslim students (Hui) protested in Urumqi against sexual content in a publication which they deemed insulting to Islam. Around 200 individuals were injured* (Millward, Violent Separatism in Xinjiang: A Critical Assessment, 2004, pp. 6-10)

Appendix 2: Uyghur Groups linked to Violence (p.44)

In the PRC's report of 2002, several terrorist groups were mentioned alongside the East Turkistan Islamic Movement, and here is a brief recount:

- **East Turkistan Islamic Movement (ETIM)**
  Founded by Hasan Mahsum in 1998. Gathered around 150 terrorists and had connections to Al Qaeda and the Taliban. In 2003, the government of Pakistan announced the killing of Hasan Mahsum during a raid on an Al Qaeda base.
- **East Turkistan Liberation Organization (ETLO)**
  Founded by Mehmet Emin Hazret, and is accused of several incidents of violence inside and outside of Xinjiang. Credited also with actions of kidnapping and links to IMU and Chechen and Afghan terrorists.
- **United Revolutionary Front of East Turkistan (URFET)**
  Founded by Yusupbek Mukhlisi in mid-1970s. The report links the group with the bombings of Urumqi and Beijing.
  Uyghur Liberation Organization (ULO)
  Founded by Hashir Wahidi (Ashir Vahidi). The document of 2002 links the ULO with acts of violence in Kyrgyzstan in 2000, an attack on a Chinese businessman and a Chinese delegation.
  Other Groups:
  - **East Turkistan Islamic Party of Allah (linked with the 1997 Yining Inicdent)**
  - **Shock Brigade of the Islamic Reformist Party**
  - **East Turkistan Islamic Party**
  - **East Turkistan Opposition Party**
  - **Islamic Holy Warriors**
  - **East Turkistan International Committee**

NB. Some reports mentions the name of a group called the "Wolves of Lop Nor" who are linked with the bus bombing in Beijing in 1997 (Millward, Violent Separatism in Xinjiang: A Critical Assessment, 2004, pp. 22-27)

Appendix 3: Relationship between treaty ratification and human rights ratings
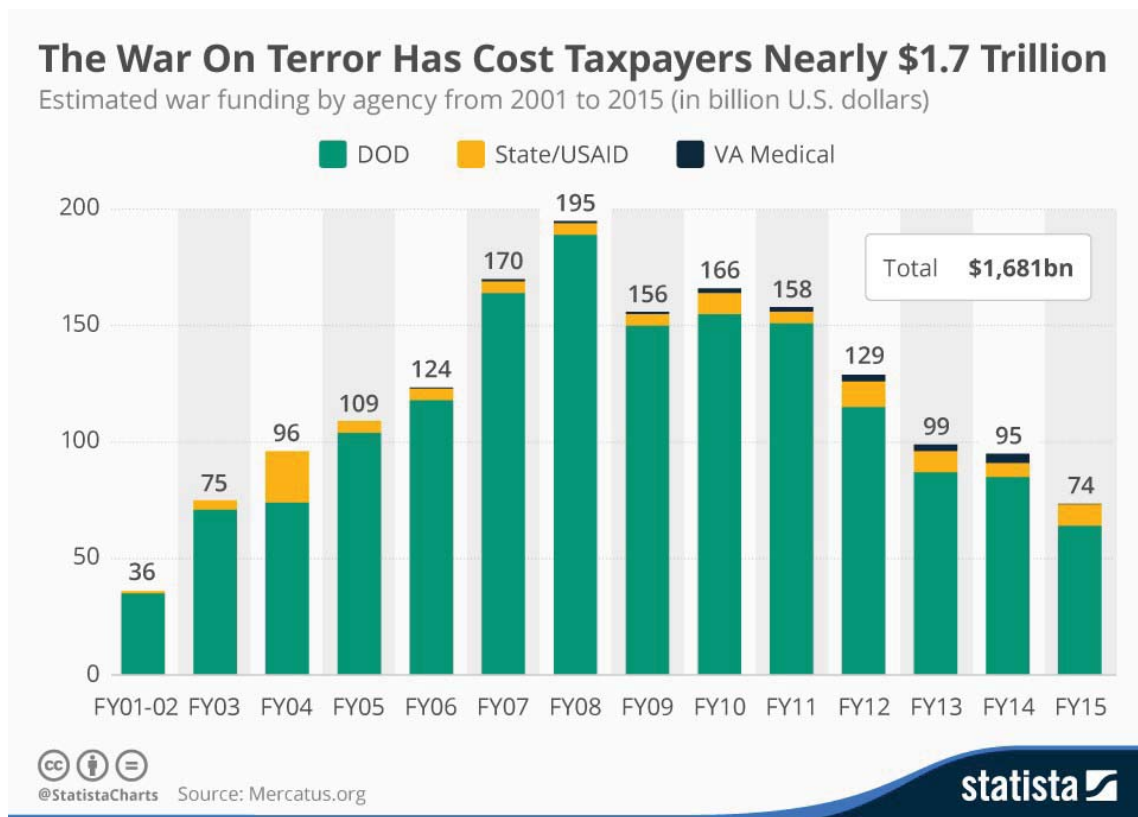**(Universal Treaties) p.93**

Treaty	Human Rights Measure	Direction of Relationship	R-Squared or Pseudo R-Squared
Genocide Convention	Genocide	+	0.42
Genocide Convention	Genocide (no country dummies)	(+)	0.51
Torture Convention	Torture	(+)	0.39
Torture Convention	Torture (no country dummies)	+	0.31
Article 21	Torture	(+)	0.39
Covenant on Civil and Political Rights	Fair Trial	(+)	0.31
Optional Protocol	Fair Trial	(−)	0.30
Covenant on Civil and Political Rights	Civil Liberty	(−)	0.61
Optional Protocol	Civil Liberty	(+)	0.61
Conv. on the Political Rights of Women	Percentage of Men in Parliament	(−)	0.87

Note: Except where otherwise indicated, these results control for country characteristics through the use of country dummy variables. All results appearing in parentheses are not statistically significant at the 95% level.[195]

(Hathaway, 2002, p. 1993)

Appendix 4: The Expenses of the United States' War on Terror from 2001 to 2015 (in billions US dollars) p.111

The War On Terror Has Cost Taxpayers Nearly $1.7 Trillion

Estimated war funding by agency from 2001 to 2015 (in billion U.S. dollars)

Legend: DOD | State/USAID | VA Medical

Total $1,681bn

FY	Value
FY01-02	36
FY03	75
FY04	96
FY05	109
FY06	124
FY07	170
FY08	195
FY09	156
FY10	166
FY11	158
FY12	129
FY13	99
FY14	95
FY15	74

@StatistaCharts   Source: Mercatus.org   statista

(McCarthy, 2015)

DOD: Department of Defense

USAID: United States Agency for International Development

VA: Veterans Administration