



POLICY BRIEF INITIATIVE

THE UYGHUR TRIBUNAL JUDGMENT

Stacey M. Mitchell & Carrie Booth Walling

Created in the United Kingdom at the request of the World Uyghur Congress, the People's Uyghur Tribunal investigated alleged crimes, including genocide, perpetrated by the People's Republic of China (PRC) against Uyghur and other Turkic Muslim minorities in Xinjiang since 2016. On December 9, 2021, it rendered a judgment against the PRC for torture, crimes against humanity, and genocide. The judgment shines a light on the brutal conditions of incarceration and processes of indoctrination perpetrated by the Chinese government against minority Muslim groups to eradicate their identity, language, culture, and religion. The Tribunal's brief describes a genocide by attrition and demonstrates how powerful countries use the guise of national security to evade responsibility for their perpetration of systematic and widespread crimes against marginalized populations within their borders. The Tribunal's judgment highlights that genocide refers to the social destruction of groups and not only their physical annihilation. States and international organizations should take steps to stop the atrocity crimes underway in Xinjiang and punish their perpetrators.

The Uyghur Tribunal

People's tribunals are independent organizations that examine egregious violations of international human rights and criminal laws perpetrated by leaders. They do not have official powers of sanction or enforcement. People's tribunals have been created in response to events such as the Armenian Genocide, the Vietnam War, and the violence in the Philippines, sometimes decades later. The Uyghur Tribunal's objective was to reach an impartial and considered judgment on whether genocide or crimes against humanity have been perpetrated against Xinjiang's Turkic Muslim populations. Launched in September 2020, the Tribunal was supported by independent researchers, including medical and legal experts, and funded through voluntary contributions. The Tribunal's verdict is based on witness testimony about incarceration camps and corroborated with expert and documentary evidence. In December 2021, the Tribunal determined beyond reasonable doubt that the PRC is responsible for torture, crimes against humanity, and genocide. Although it identified President Xi Jinping, Communist Party leader Chén Quánguó, and other officials as bearing primary responsibility for these acts, the Tribunal focused on how their actions demonstrate the genocidal intent of the PRC rather than their individual criminal liability.

Understanding the Judgment

The Tribunal found overwhelming evidence of 7 of the 11 recognized crimes against humanity: deportation and forcible population transfer; arbitrary imprisonment and severe deprivation of liberty; torture; rape and other forms of sexual violence; persecution; enforced disappearance; and other inhumane acts. The Tribunal also determined the PRC was responsible for genocide. This was through the imposition of measures to prevent Uyghur births, part of the broader campaign to assimilate marginalized Muslim peoples into Chinese society.

The Tribunal judgement highlights that the common understanding of genocide as mass killing of an ethnic, racial, religious, or national group, usually within a particular block of time, is problematic. Genocide is better understood as a process rooted in conditions of structural violence that persist for years. The definition of genocide in Article II of the UN Genocide Convention prohibits mass killings and a wide range of other offenses, with no required time frame for commission. The intent to destroy a protected group is the key requirement, which international jurisprudence contends may be inferred from the culpable acts systematically directed against the group by the perpetrator(s). The Genocide Convention defines genocide as any of five acts that are punishable in Article II: (a) mass killing; (b) causing serious bodily or mental harm; (c) inflicting life conditions calculated to cause physical destruction; (d) preventing births; and (e) the forcible transfer of children out of the group. The Tribunal documents several ways that genocidal intent is demonstrated by the treatment of Uyghurs in Xinjiang incarceration camps. Examples include pregnant women forced to have abortions even at the very last stages of pregnancy, involuntary sterilization, and the compulsory insertion of Intrauterine Devices (IUDs) in Uyghur women as a means of birth control. All fall within the scope of Article II(d) of the Genocide Convention, which includes prohibiting measures to prevent births. Although there is evidence of wider crimes that fall within the scope of the remaining sections of Article II, the Tribunal did not have enough evidence to conclusively rule on those charges.

The Tribunal does not specifically refer to these acts as “genocide by attrition,” yet their findings describe a process of annihilation taking place over several years, which includes practices and policies—deprivations of human rights—that lead to the slow and steady destruction of the group.

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Implications of the Tribunal's Judgment

- The Tribunal's verdict contributes to a greater understanding of the methods used by powerful states to destroy unwanted populations under the guise of national security.
- Genocide is not solely about mass killing but can be a slow and strategic process of destruction. The work of the Uyghur Tribunal confirms that the genocide declarations made by governments, IGOs, and media should be treated with the seriousness they deserve.
- Under the Genocide Convention, states confirm that genocide is an international crime and pledge to prevent genocide and to punish it. Governments and international organizations should take measures to stop the genocide underway in Xinjiang and punish its perpetrators. This includes extending diplomatic pressures on the Chinese government beyond Olympic diplomatic withdrawals, increasing sanctions against the Chinese government and individuals identified as perpetrators, and imposing stringent import bans, like the Uyghur Forced Labor Prevention Act (2021) in the United States.
- China does not accept the authority of the International Court of Justice (ICJ) to hear any cases brought against China in the ICJ pursuant to Article IX of the Genocide Convention. The Genocide Convention, however, has achieved customary law status. States should reconsider holding China accountable in the ICJ for its crimes in Xinjiang. This is also a recommendation of the Tribunal.
- The Tribunal's verdict can also inform future attempts aimed at the prosecution of China's leadership based on universal jurisdiction.

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Recommended Reading:

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2. Uyghur Tribunal Judgment. December 9, 2021. <https://uyghurtribunal.com/wp-content/uploads/2021/12/Uyghur-Tribunal-Summary-Judgment-9th-Dec-21.pdf>.
3. Rosenberg, Sheri P., and Everita Silina. "Genocide by Attrition: Silent and Efficient." In *Genocide Matters: Ongoing Issues and Emerging Perspectives*, edited by Joyce Apsel and Ernesto Verdeja, 106-126. London: Taylor and Francis, 2013.
4. Shaw, Martin. *What is Genocide?* Cambridge: Polity Press, 2007.