



Trump's Most Meaningful China Move Could Still be to Come

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As the Trump administration marks its final days in office, its officials are working to lock in the president's wholesale revamp of U.S.-China relations. The State Department already announced a slew of sanctions in response to Beijing's Hong Kong crackdown and its United Front activities within America. The Department of Treasury also added more than 30 Chinese companies to a U.S.-curated "blacklist" that prohibits Americans from investing in Chinese military-affiliated entities.

These actions are the latest evidence that the U.S.-China relationship is increasingly defined by confrontation—exacerbated most recently by Beijing's unacknowledged culpability for the coronavirus pandemic and punitive actions against democracies bold enough to point it out.

But the president has one unresolved China item on his desk that could be his administration's most consequential China policy yet: a formal finding, under the Genocide Convention, of genocide in Xinjiang.

The totalitarian terror being implemented by the CCP in Xinjiang is by now well catalogued: high-tech surveillance, arbitrary arrest, indefinite detention in reeducation camps, torture, rape, forced labor, family separations and coercive birth control policies. U.S. news outlets have also uncovered a Chinese state-backed "Pair Up and Become Family" campaign, which encourages Han Chinese men to cohabitate with Uyghur women and take the place of imprisoned Uyghur husbands. Xinjiang authorities have also set up Mandarin-language boarding schools for Uyghur children.

These actions are in a category beyond Beijing's routine controls on free speech and association, which target all Chinese nationals. Measured by the standards outlined in Article II of the Genocide Convention, it becomes clear that Chinese authorities are, at a minimum, guilty of three separate acts of genocide in Xinjiang: preventing births among Uyghurs, undermining familial cohesion by separating Uyghur family members, and deliberately inflicting physical and psychological harm to members of the group. Secretary of State Mike Pompeo has condemned these human rights violations as "the stain of the century."

The Trump administration has addressed elements of these human rights violations via economic sanctions and the withholding of release orders for Uyghur slave-labor-produced cotton. But the president has yet to formally designate these atrocities as a genocide. His administration's hesitancy is, to a degree, understandable. An atrocity determination, once made, is near impossible to walk back until the oppressed are safeguarded and the oppressors are punished. Delaying this decision may no longer be an option. A provision sponsored by Senators Marco Rubio and Jeff Merkley in the recently passed omnibus legislation mandates an atrocity determination for Xinjiang within 90 days of enactment. Two days after Congress passed the bill, Secretary of State Mike Pompeo formally began the State Department's review.

Legally, a formal determination would trigger America's commitments under the Genocide Convention of 1948 to "prevent and punish" genocide. These obligations would likely complicate attempts at cooperative diplomacy with the PRC. America's top priorities with China would, by necessity, include a campaign to stop the atrocities against the Uyghurs, which could conflict with other objectives.

Of course, international law is not self-executing. The preservation of norms, customs and treaties depends upon the adherence and enforcement of nation states. In reality, it would fall to a Biden administration to defend the Uyghurs. If Biden were to inherit an atrocity determination from Trump, it could complicate any plans he or his advisors may have for unprincipled engagement with Beijing.

For starters, downplaying a previous administration's finding of genocide would weaken international norms. Just as Obama's unwillingness to punish Bashar al-Assad for using chemical weapons emboldened the Syrian dictator to continue using them, silence in the face of horrific abuses in Xinjiang would empower Xi to double down on his campaign.

More fundamentally, prioritizing transnational issues like climate change with a genocidal dictator would devalue Uyghur oppression as "one of many" equities with Beijing. This "stain of the century" is *the* issue in U.S.-China relations. Yes, Biden characterized Uyghur persecution in Xinjiang as a genocide while campaigning against Trump, but he did so through a campaign spokesman. As the political pendulum swings from campaigning to governing, it is uncertain whether the promise of an election aide can stand up against contrary positions advocated by envoys, secretaries and advisers.

The Trump administration has done much to defend the Uyghurs, but outgoing officials must leave nothing to chance. The president should call a spade a spade and formally designate the oppression in Xinjiang as a genocide.

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