

# Indo-Pacific Security Program Memorandum

## PRIMARY JURISDICTION OF HUMANITARIAN CONCERN

### A New Tool to Blunt China's Campaign in Xinjiang

By Michael Sobolik

#### BOTTOM LINE

Understanding the logic of China's atrocities in Xinjiang is impossible apart from accounting for the One Belt, One Road (OBOR) initiative.

The Chinese Communist Party (CCP) needs Xinjiang to function as a critical OBOR hub, and is cracking down on Uyghurs and other minority groups to establish total control over the territory.

U.S. policymakers should exploit this logic and consider sanctioning commerce passing through Xinjiang.

As the U.S.-China relationship grows increasingly confrontational, few issues have captured the attention of policymakers more than the ongoing gross violations of human rights in China's Xinjiang Uyghur Autonomous Region (XUAR). For the past four years, the Chinese Communist Party has executed a systematic campaign of mass oppression against the territory's Uyghurs, Hui, ethnic Kazakhs, and other groups. This campaign has ranged from high-tech surveillance and arbitrary arrest to internment camps and forced labor.<sup>1</sup> Secretary of State Mike Pompeo has condemned these atrocities as "the stain of the century,"<sup>2</sup> and several members of Congress have called on President Trump to designate the oppression as genocide.<sup>3</sup> Recent reports suggest that the administration is now considering doing so.<sup>4</sup>

Regardless, the primary challenge for politicians in Washington will be to channel justified opprobrium into constructive policy outcomes – that is, maturing America's China policy from confrontation to competition. Thus far, the totality of America's Xinjiang policy can be summed up by two characteristics: moral condemnation and targeted financial pressure. For instance, the designation of Xinjiang Party Sec-

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retary Chen Quanguo under the Global Magnitsky Act on July 9, 2020 condemned him for “gross human rights violations” while also freezing his visa and blocking his U.S.-parked assets.<sup>5</sup> The subsequent sanctions on the Xinjiang Production and Construction Corps (XPCC), announced on July 31st, escalated sanctions from individuals to entities, thus capturing a broader swath of CCP activity within Xinjiang.<sup>6</sup>

Moreover, the Departments of State, Treasury, Commerce, and Homeland Security have issued a joint advisory encouraging American companies to divest their supply chains of any Xinjiang connections.<sup>7</sup> U.S. Customs and Border Protection has also seized shipments of human hair originating from Xinjiang, due to concerns over slave labor.<sup>8</sup>

Many of these sanctions and actions have yet to take full effect. Some steps, if dutifully enforced, have the potential to severely hamper nearly a fifth of Xinjiang’s economy.<sup>9</sup> Even so, the current agenda overlooks a critical angle that, when understood and operationalized, could actually cripple China’s campaign against the Uyghur people.

## ***Belt and Road***

Fully understanding the plight of Uyghurs in China is impossible without taking into account the One Belt, One Road (OBOR) initiative, the signature foreign policy project of Chinese president Xi Jinping, which envisions an integrated Eurasian economic market with Beijing as its capital. Economically, OBOR – also known as the “Belt and Road” – is China’s calculated plan, in response to its aging working population and rising labor costs, to preempt the impending realignment of global supply chains. Geopolitically, the project provides China direct access to the Indian Ocean, Bay of Bengal, and the Persian Gulf, while circumventing the U.S.-patrolled Malacca Straits. Politically, it represents the CCP’s gambit to weaken American influence in Asia, the Middle East, and Europe. In totality, the initiative previews the

world that China hopes to build, and reveals its plan to deconstruct the one currently in place.

These aspirations hinge on the XUAR. Of the six OBOR land routes currently envisioned and under construction, three pass through China’s westernmost territory (see Figure 1). The China-Pakistan Economic Corridor (CPEC), the flagship \$62 billion project that provides China with land access to deep water ports in the Indian Ocean, originates in Kashgar and runs through Tashkurgan Tajik county, on China’s border with Kashmir. The New Eurasian Land Bridge (NELB) originates on China’s east coast, but cuts across the XUAR before it passes through Kazakhstan and Central Asia on its way to Europe. Finally, the China-Central Asia-West Asia Economic Corridor (CCA-WAEC) originates in the XUAR and cuts westward across the continent before terminating in the Balkans.<sup>10</sup>

True, China does have alternative trade routes to Europe that bypass the territory. For instance, the China-Mongolia-Russia Corridor passes through Inner Mongolia and connects China’s east coast to the Baltic states.<sup>11</sup> But relying exclusively on this corridor would endanger two broader geopolitical imperatives of the CCP. For one, China could only access Europe by land through Russia, which would disproportionately empower Moscow’s role in OBOR, potentially at Beijing’s expense. Additionally,

***The primary challenge for the United States will be maturing America’s China policy from confrontation to competition.***

the logic of the “Belt and Road” necessitates an integration of the entire Eurasian landmass. Shifting Europe’s political orientation away from Washington is indeed a principal objective of the effort – one made significantly easier if the Middle East, West Asia, and Central Asia are tilting eastward as well. As Chinese state-controlled outlet Xinhua explained in 2014, Xinjiang “connects Pakistan, Mongolia, Russia, India and four other central Asian countries with a borderline extending 5,600 km,



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Figure 1: Xinjiang's Centrality in OBOR



Sources: Organization for Economic Cooperation and Development, South China Morning Post, Standard Chartered, Global Infrastructure Connectivity Alliance.

giving it easy access to markets in the Eurasian heartland.”<sup>12</sup>

### *Xinjiang investments*

At OBOR’s onset, the CCP recognized the crucial role Xinjiang would invariably play. When Xi Jinping announced the Silk Road Economic Belt – OBOR’s terrestrial component – in 2013, he did so in Kazakhstan, just across the border from the XUAR.<sup>13</sup> Senior officials within the CCP quickly identified Xinjiang as a “core region” of the Belt.<sup>14</sup> And in 2016, the PRC’s 13th Five Year Plan left no ambiguity on the subject, declaring: “We will ensure that Xinjiang becomes an important window for opening up westward.”<sup>15</sup>

Accordingly, the CCP set about the work of rapidly transforming the XUAR into a regional, even global, hub of commerce. From 2013 to 2018, Beijing’s investments in Xinjiang totaled \$70 billion, eclipsing the entire economic potential of the CPEC.<sup>16</sup> In 2017 alone, Xinjiang

authorities invested \$66 billion in infrastructure.<sup>17</sup> The results speak for themselves. In 2016, 700 freight trains made the trek from Urumqi, Xinjiang’s capital, to Europe. They operated on four lines and only ran once a week. By 2018, 1,400 such trains crisscrossed Eurasia, running on 19 international lines.<sup>18</sup> According to Xinhua, “the transportation time of China-Europe freight trains departing from the center has been cut from 22 days to 15 days, and that of the routes between China and Central Asia from 66 hours to 44 hours.”<sup>19</sup>

The regional impact of this investment in Xinjiang is difficult to overstate. In 2018, the Rand Corporation estimated that the initiative could, under certain circumstances, boost trade volumes throughout Asia by \$329 billion (a 7.3% increase), while increasing trade for the European Union by \$133 billion (a 2.6% increase).<sup>20</sup> The following year, the World Bank published a more detailed projection of OBOR’s economic impact for a number of countries, many of which benefit from Xinjiang’s





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role as a hub.<sup>21</sup> Assuming infrastructure projects materialize and border delays are minimized, states in South Asia, Central Asia, West Asia, the Middle East, and Europe all stand to reap substantial gains from OBOR (See Table 1).

**Table 1: World Bank GDP growth projections of OBOR participants**

Country	GDP growth, low-end*	GDP growth, high-end*
Albania	4.37%	9.08%
Armenia	14.49%	17.2%
Azerbaijan	14.22%	17.07%
Bahrain	2.87%	16.89%
Belarus	7.26%	12.49%
Bulgaria	6.86%	8.86%
Estonia	2.65%	5.35%
Iran	9.62%	13.43%
Kazakhstan	10.54%	20.23%
Kuwait	7.41%	9.24%
Kyrgyzstan	22.08%	31.52%
Latvia	1.84%	9.14%
Lithuania	2.67%	9.5%
Pakistan	6.32%	12.75%
Poland	4.62%	6.34%
Qatar	1.99%	12.67%
Romania	4.51%	6.17%
Saudia Arabia	5.94%	13.03%
Slovenia	4.3%	7.01%
Tajikistan	27.54%	31.31%
Turkey	6.77%	7.73%
Ukraine	3.47%	11.26%

Source: The World Bank.

\* NOTE: These GDP figures are one of three range scenarios in the World Bank report and assume both the development of infrastructure as well as interconnectivity, specifically reductions in cross-border delays.

## Where Geopolitics and Human Rights Collide

Thus far, Beijing has leveraged this economic potential to garner diplomatic support for its ongoing reeducation

campaign of Uyghurs in Xinjiang. In response to a United Nations resolution in July 2019 wherein 22 countries condemned human rights abuses in Xinjiang, a coalition of 50 ambassadors and representatives responded with a separate resolution praising China's "counter-terrorism" campaign there:

*Faced with the grave challenge of terrorism and extremism, China has undertaken a series of counter-terrorism and deradicalization measures in Xinjiang, including setting up vocational education and training centers. Now safety and security has returned to Xinjiang and the fundamental human rights of people of all ethnic groups there are safeguarded.*<sup>22</sup>

The vast majority of the 50 signatories represent countries and territories that stand to benefit from Belt and Road projects, and many depend particularly on Xinjiang. South and Central Asian states like Pakistan, Tajikistan, Uzbekistan, and Turkmenistan, as well as Middle Eastern nations like Iran, Syria, Iraq, Kuwait, the UAE, and Saudi Arabia – all signatories to the resolution – rely in whole or in part on Xinjiang for integration into the Silk Road Economic Belt, a reality reflected in numerous public statements of overt support for China's project to reeducate the Uyghur people (see Box 1).

Indeed, several countries are already reaping financial rewards from aligning with Beijing. Saudi Arabia's "Vision 2030" development plan has brought tens of billions of dollars of Chinese investment into the Kingdom over the past three years.<sup>23</sup> Prime Minister Imran Khan has been particularly explicit in Pakistan's monetary allegiance to the PRC: "They came to help us when we were at rock bottom, and so we are really grateful to the Chinese government."<sup>24</sup> These financial incentives lubricate China's Belt and Road, which runs over the backs of oppressed minorities.

## Washington's response

In response, Washington has thus far focused on three unilateral responses: (1) punish Xinjiang-connected CCP



**BOX 1: SUPPORT FOR CHINA'S REEDUCATION CAMPAIGN IN XINJIANG**

**"Frankly, I don't know much about that."**<sup>25</sup> Imran Khan, Prime Minister of Pakistan, March 2019

**"Many reports by international rights groups don't reflect reality."**<sup>26</sup> Qassym-Jomart Tokayev, President of Kazakhstan, December 2019

**"We...would really not like to feel on ourselves unfavorable political consequences in relation to some competition in our region between large players."**<sup>27</sup> Abdulaziz Kamilov, Foreign Minister of Uzbekistan, February 2020

**"We respect and support China's rights to take counter-terrorism and de-extremism measures to safeguard national security."**<sup>28</sup> Mohammed bin Salman, Crown Prince of Saudi Arabia, February 2019

**"We note with appreciation that human rights are respected and protected in China in the process of counter-terrorism and deradicalization."**<sup>29</sup> United Nations Human Rights Council Letter, July 2019, signed by representatives of Algeria, Angola, Bahrain, Bangladesh, Belarus, Bolivia, Burkina Faso, Burma, Burundi, Cambodia, Cameroon, Comoros, Congo, Cuba,, the Democratic Republic of the Congo, Djibouti, Egypt, Equatorial Guinea, Eritrea, Gabon, Iran, Iraq, Kuwait, Laos, Mozambique, Nepal, Nigeria, North Korea, Oman, Pakistan, the Philippines, Russia, Saudi Arabia, Serbia, Somalia, South Sudan, Sri Lanka, Sudan, Syria, Tajikistan, Togo, Turkmenistan, Uganda, the United Arab Emirates, Uzbekistan, Venezuela, Yemen, Zambia, Zimbabwe, and the representative of Palestine.

officials, (2) target the governing PRC apparatus responsible for carrying out gross human rights violations, and (3) protect legitimate U.S. business interests from being complicit in these violations. As indicated earlier, the primary tools the

Trump administration has utilized thus far are economic sanctions, specifically Global Magnitsky sanctions, and customs authorities. Thus, much of the policy focus in the U.S. has centered on sanctioning high-level CCP officials, designating the XPCC, and blocking slave labor-produced cotton exports from China.

This starting point is sensible, but it fails to account for geopolitics. The slave labor dimension is ancillary to the party's primary reason for cracking down in Xinjiang – namely, its geographic potential. The CCP, long fearful of separatism and terrorism, seems to view the pacification of Xinjiang as a necessary condition for integrating Eurasia on its terms. Even if the toughest of existing U.S. sanctions – the designation of the XPCC – were fully and consistently enforced, the existing transportation infrastructure in Xinjiang would remain in place, commerce would continue to cross borders, and connected OBOR projects throughout the continent would continue to operate. Geopolitics, not subsidized cotton production, is the *raison d'être* of the CCP's campaign in Xinjiang.

If Washington is serious about changing the risk-reward calculus for the CCP and compelling party leaders to end their oppression of Uyghurs, or at least significantly raising the costs to Beijing of China's reeducation campaign in the XUAR, policymakers must account for this reality. Here, a clear opportunity exists: appropriately calibrated unilateral action from the U.S. has the power to break China's multilateral network of support for Uyghur oppression. In order to do this, however, the U.S. needs to consider establishing a unique category of sanctions.

***Primary Jurisdiction of Humanitarian Concern***

Instead of merely sanctioning slave labor-backed exports from Xinjiang, Washington could sanction all commerce passing through the XUAR with the creation of a new designation: a "primary jurisdiction of humani-

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tarian concern.” Instead of targeting individuals or entities with visa restrictions and asset freezes, this sanction would mirror existing anti-money laundering provisions by restricting American banks from providing financial services to any entity facilitating or benefiting from commercial activity within a region of gross human rights violations.

This tool, if implemented and enforced throughout Xinjiang, could effectively cut off half of the Silk Road Economic Belt from the international dollar-denominated banking system. Importantly, the underlying principle is not to punish legitimate commercial activity, but rather to target trade that relies on – and exploits – persecuted and brutalized groups and minorities. Much like laws prohibiting the importation of “blood diamonds,” this authority would stymie commerce that depends on, and is inextricably connected to, similar atrocities, such as forced sterilizations, population control, and systematic repression.

Regardless of whether the United States labels China’s persecution of the Uyghurs as a genocide, policymakers need to think beyond existing tools in order to hold the CCP accountable. The chilling logic behind Beijing’s conduct in Xinjiang is impossible to understand when divorced from the geopolitical context of OBOR. Yet it is this very nexus that represents a systemic vulnerability for China – one that U.S. policymakers can and should exploit in their efforts to impose concrete costs on the CCP for its abhorrent behavior. 

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