



**THE 2022 WINTER OLYMPICS
AND GENOCIDE:
A HISTORY OF ENABLING ATROCITIES
AND THE PATH FORWARD**

January 2022

The Global Accountability Network



Syracuse University College of Law & University of Michigan Law School's Syrian
Accountability Project Present:

**THE 2022 WINTER OLYMPICS AND GENOCIDE: A HISTORY OF ENABLING ATROCITIES AND
THE PATH FORWARD**

January 2022

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The Syrian Accountability Project (SAP) is a student organization founded at Syracuse University College of Law and expanded to University of Michigan College of Law. SAP is affiliated with the Global Accountability Network (GAN). The entirety of the report is that of SAP alone, and not reflective of the views of Syracuse University or its College of Law.

The GAN is a collective of international criminal prosecutors and practitioners who supervise and work with law students on specific atrocity projects for Syria, Yemen, Venezuela, and the newly instituted Uyghur Accountability Project (UAP). The students under SAP are assigned to a section of the work such as investigations, research, and/or legal analysis regarding alleged war crimes and/or crimes against humanity. SAP's goals are to gather evidence that can one day help to form the basis for a criminal prosecution and to make a qualitative analysis on the current crises in Syria.

THE UYGHUR GENOCIDE

Genocide is the intentional violation of any **one** of the acts under Article II of the Genocide Convention.



Evidence shows China is committing all **five** acts intentionally.

GENOCIDE CONVENTION

CHINA'S INTENT

(Article II) intent to destroy, in whole or in part, a national, ethnical, racial or religious group

- Declaring a "People's War on Terror" while conflating religious extremism and terrorism^{2 4 5}
- Instructions from officials to "round up everyone who should be rounded up," "wipe them out completely ... destroy them root and branch," and "break their lineage, break their roots, break their connections, and break their origins."^{2 5}
- Likening Uyghur detentions to "eradicating tumors"²

CHINA'S ACTS

(1) Killing members of the group;

- Reports of mass death and deaths of prominent Uyghur leaders selectively sentenced to death by execution or, for elders in particular, by long-term imprisonment²

(2) Causing serious bodily or mental harm to members of the group;

- Systematic torture and cruel treatment, including rape, sexual abuse, exploitation, and public humiliation, at the hands of camp officials and Han cadres assigned to Uyghur homes under Government-mandated programs²
- Consistent and brutal torture methods, including beatings with metal prods, electric shocks, and whips^{2 4}
- Programs designed to indoctrinate and "wash clean" brains^{2 4}

(3) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

- Systematic targeting of Uyghurs of childbearing years, household heads, and community leaders for detention in unliveable conditions^{2 4}
- Forced birth-prevention measures imposed on Uyghur women^{2 3 5}
- Separating Uyghur children from their parents^{2 4 5}
- Transfer Uyghurs on a mass scale into forced hard labor schemes in a manner that parallels the mass internment.^{2 3}

(4) Imposing measures intended to prevent births within the group;

- Dual systematic strategy of forcibly sterilizing Uyghur women of childbearing age and interning Uyghur men of child-bearing years, preventing the regenerative capacity of the group^{2 3 5}
- Directives to “carry out family planning sterilization,” “lower fertility levels,” and “leave no blind spots.”^{2 3 5}
- State-funded birth-prevention campaign targeting women of childbearing age in Uyghur-concentrated areas with mass forced sterilization, abortions, and IUD placements^{2 3 5}

(5) Forcibly transferring children of the group to another group.

- Where detentions and forced labor schemes leave children without parents, they are sent to State-run orphanages, raised in Chinese-language environments with standard Han chinese child-rearing methods^{2 4 5}

WHAT YOU CAN DO

* Call your elected officials and tell them this is something that matters to you and ask them what they are doing about it.

[How to Contact Your Elected Officials](#)

* Endorse the global campaign for fashion brands to end their complicity in Uyghur forced labour and divest from Xinjiang supply chains.

[End Uyghur Forced Labor](#)

* Support Uyghur Organizations and Projects

[Uyghur American Association](#)

[Save Uighur](#)

[Uyghur Human Rights Project](#)

SOURCES

1. [The Genocide Convention](#)
2. [Newlines Institute for Strategy and Policy](#)
3. [Sterilizations, IUDs, and Mandatory Birth Control: The CCP's Campaign To Suppress Uyghur Birthrates in Xinjiang](#)
4. [“Like We Were Enemies In A War”: China's Mass Internment, Torture and Persecution of Muslims in Xinjiang](#)
5. [“Break Their Lineage, Break Their Roots”: China's Crimes against Humanity Targeting Uyghurs and Other Turkic Muslims](#)
6. [Business & Human Rights Resource Center](#)

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I. INTRODUCTION¹

All tyranny needs to gain a foothold is for people of good conscience to remain silent.

- Edmond Burke

It is time to stop “whistling past the graveyard” regarding China hosting the Olympic Winter Games in February of 2022 while they commit an ongoing genocide against the Uyghur peoples. This cannot happen if the international community wants to maintain sense of the rule of law and the obligation to investigate and prosecute nations who have been found to be attempting to destroy and peoples in “whole or in part.” As the International Olympic Committee and China raise their flags before the athletes of the world this winter, that act will gut the Genocide Convention which outlaws the “crime of crimes.”

The silence is deafening. Most of the United Nations has largely accepted that China can destroy in whole or in part the Uyghur peoples while the world’s athletes assemble near Beijing in the name of sport. There have been diplomatic efforts to call attention to the plight of the Uyghurs, yet the nations with the clout to change the situation have been reticent to do so. Aided and abetted by the International Olympic Committee (IOC), which has a long-term incestuous relationship with tyrants, China will shrug off the world’s “half-measures” and move on.

All of this is emblematic of how the world views atrocities and accountability in the age of the strongman.² The United Nations paradigm, built around the concept of the rule of law, has shown to be ineffective against the raising tide of nationalism/populism around the world. Two of the five permanent members of the UN Security Council are ruled by tyrants, another member is wavering towards authoritarianism, the other two members have little say and are also facing nationalistic movements. It is an unsettled world and the 2022 Winter Olympics hosted once again by an authoritarian regime, will only solidify one tyrant’s power, and weaken the world’s political system that has been somewhat stable for over seven decades.

We must ask ourselves whether we must allow this to continue under our nose, specifically with regards to the IOC’s complicity. In the modern era, it seems the IOC places “cash” ahead of principle and turns a blind eye to tyrants using the Olympic movement to bolster their political power. It is a long sordid association. It must stop. A solution would be a permanent location for the summer and the winter games at an agreed upon neutral location. A convention or protocol convened by the United Nations to do so would take the IOC out of politics and pure profit and put the Olympic movement in a place where the ideal of “the glorification of sport” returns in its purest form.

This white paper discusses the historical and legal context of the 2022 Winter Olympic Games taking place where an active and ongoing genocide is taking place. The games will go on, but we must understand that mankind will be the loser as each medal is handed out. How long can we continue like this?

¹ This introduction by David M. Crane, founding Chief Prosecutor of the UN Special Court for Sierra Leone and founder of the Global Accountability Project.

² David M. Crane has used this term in his concept of the wave theory of atrocity accountability. The first wave accountability was at the International Military Tribunals at Nuremberg and Tokyo; the second wave was the Age of Accountability (1993-2015); the third wave being the Age of the Strongman (2015 to present).

II. FACTUAL BACKGROUND

The PRC is currently committing genocide against Uyghurs in the Xinjiang Uyghur Autonomous Region (“XUAR”).³ The “first independent expert application of the 1948 Genocide Convention to the ongoing treatment of the Uyghurs in China” found:

In 2014, China’s Head of State, President Xi Jinping, launched the “People’s War on Terror” in XUAR, making the areas where Uyghurs constitute nearly 90 percent of the population the front line. High-level officials followed up with orders to “round up everyone who should be rounded up,” “wipe them out completely . . . destroy them root and branch,” and “break their lineage, break their roots, break their connections, and break their origins.” Officials described Uyghurs with dehumanizing terms and repeatedly likened the mass internment of Uyghurs to “eradicating tumors.”⁴

Not only has the PRC shown its intent to destroy Uyghurs, but it has also acted on this intent by, among other egregious acts, detaining Uyghur men while also instituting a forced birth control and sterilization regime on Uyghur women.⁵ This is what some experts have called a “slow genocide.”⁶

The XUAR is an autonomous region in the northwestern PRC that borders the PRC provinces Qinghai and Gansu to the east, the Tibet Autonomous Region to the south, Afghanistan and Kashmir to the southwest, Kyrgyzstan and Tajikistan to the west, Kazakhstan to the northwest, Russia to the north, and Mongolia to the northeast.⁷ Uyghurs are a predominately Muslim, distinct Turkic group indigenous to this region.⁸ Ethnic tensions between China and

³ NEWLINES INST. FOR STRATEGY AND POL’Y, *THE UYGHUR GENOCIDE: AN EXAMINATION OF CHINA’S BREACHES OF THE 1948 GENOCIDE CONVENTION* (March 2021) (concluding “the People’s Republic of China (China) bears State responsibility for committing genocide against the Uyghurs in breach of the 1948 Convention”); ADRIAN ZENZ, *STERILIZATIONS, IUDS, & MANDATORY BIRTH CONTROL: THE CCP’S CAMPAIGN TO SUPPRESS UYGHUR BIRTHRATES IN XINJIANG 3* (The Jamestown Foundation June 2020, Updated Mar. 17, 2021) (providing evidence that “Beijing’s policies in Xinjiang meet one of the genocide criteria cited in [the Convention], namely that of Section D of Article II: “imposing measures intended to prevent births within the [targeted] group””). *See also* AMNESTY INT’L, “Like We Were Enemies In A War” China’s Mass Internment, Torture and Persecution of Muslims in Xinjiang (June 2021) (concluding “the Chinese government has committed at least the following crimes against humanity: imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; torture; and persecution.”).

⁴ NEWLINES INST., *supra* note 3, at 3.

⁵ NEWLINES INST., *supra* note 3 (summarizing “Mass Birth-Prevention Strategy. China has simultaneously pursued a dual systematic strategy of forcibly sterilizing Uyghur women of childbearing age and interning Uyghur men of child-bearing years, preventing the regenerative capacity of the group and evincing an intent to biologically destroy the group as such China is carrying out a well-documented, State-funded birth-prevention campaign targeting women of childbearing age in Uyghur-concentrated areas with mass forced sterilization, abortions, and IUD placements. China explicitly admits the purpose of these campaigns is to ensure that Uyghur women are “no longer baby-making machines.”); ZENZ *supra* note 3, at 3.

⁶ Adrian Zenz & Erin Rosenberg, *Beijing Plans a Slow Genocide in Xinjiang*, FOREIGN POL’Y (June 8, 2021, 2:39 PM), <https://foreignpolicy.com/2021/06/08/genocide-population-xinjiang-uyghurs/>.

⁷ Chiao-Min Hsieh & Victor C. Falkenheim, *Xinjiang*, ENCYCLOPEDIA BRITANNICA (Aug. 9, 2018), <https://www.britannica.com/place/Xinjiang>.

⁸ *Id.*

Uyghurs are decades and even centuries old.⁹ Since 1949, the PRC has tried to integrate the XUAR through “in-migration” of a Han Chinese population.¹⁰ In July 2009, the PRC’s efforts culminated in deadly ethnic violence between Uyghurs and Han Chinese in the XUAR.¹¹ As a result, the PRC conflated Uyghurs with terrorists in its effort to suppress separatism in the XUAR.¹² The PRC thus began its genocide on Uyghurs to solidify a Han Chinese dominance in the XUAR under the guise of combatting terrorism.¹³



Map of China and the XUAR. Credit to The New York Times.

⁹ Hsieh & Falkenheim *supra* note 7.

¹⁰ ZENZ *supra* note 3; Hsieh & Falkenheim *supra* note 7.

¹¹ Aysha Khan, *Uighurs reflect on 2009 violence that set off Chinese crackdown*, THE WASH. POST (July 10, 2020), https://www.washingtonpost.com/religion/uighurs-reflect-on-2009-violence-that-set-off-chinese-crackdown/2020/07/10/03ce53ae-c246-11ea-9fdd-b7ac6b051dc8_story.html; Nathan Beauchamp-Mustafaga, *Bearing Witness 10 Years On: The July 2009 Riots in Xinjiang*, THE DIPLOMAT (July 29, 2019), <https://thediplomat.com/2019/07/bearing-witness-10-years-on-the-july-2009-riots-in-xinjiang/> (explaining “In reality, it is unlikely the true scope of the riots and casualty figures will ever be known due to a lack of independent oversight.”)

¹² See *infra* notes 29 & 31.

¹³ ZENZ *supra* note 3, at 20 (concluding “The population control regime instituted by CCP authorities in Xinjiang aims to suppress minority population growth while boosting the Han population through increased births and in-migration. Draconian measures that impose surgical birth control methods enable the state to increase or decrease minority population growth at will, akin to opening or closing a faucet. Additionally, regional authorities actively encourage interethnic marriages, in an effort to dilute Uyghur cultural identity and promote assimilation into the “Chinese Nation-Race”).

The Uyghur Genocide has roots in the “War on Terror” declared by President George W. Bush after September 11, 2001.¹⁴ President Bush met with the PRC President at the time, President Jiang Zemin, and claimed to say that counter-terrorism efforts “must never be used as an excuse to persecute minorities.”¹⁵ Instead, in 2002, the U.N. and U.S. Department of the Treasury listed the Eastern Turkistan Islamic Movement (“ETIM”), a Muslim separatist group founded by militant Uyghurs, as an international terrorist organization.¹⁶ A U.S. Congressional Research Service Report describes ETIM “at its height” as “a small, loosely organized and poorly financed group that lacked weapons and had little if any contact with global jihadist groups.”¹⁷ Nevertheless, with international backing for a “War on Terror” and ETIM designated as an international terrorist organization, the PRC began what one expert calls “probably the largest incarceration of an ethnoreligious minority since the Holocaust.”¹⁸

The PRC has prioritized surveillance since the September 11 attacks and amplified such surveillance after the 2009 Urumqi riots and subsequently cited terrorist attacks.¹⁹ The PRC

¹⁴ President George W. Bush, Address to a Joint Session of Congress and the American People (Sept. 20, 2001) (stating “This is not, however, just America’s fight. And what is at stake is not just America’s freedom. This is the world’s fight. This is civilization’s fight. This is the fight of all who believe in progress and pluralism, tolerance and freedom. We ask every nation to join us And we will pursue nations that provide aid or safe haven to terrorism. Every nation, in every region, now has a decision to make. Either you are with us, or you are with the terrorists.”); Chien-peng Chung, *China’s “War on Terror”: September 11 and Uighur Separatism*, FOREIGN AFFAIRS, Jul. - Aug., 2002, Vol. 81, No. 4 (Jul. - Aug., 2002), pp. 8-12, COUNCIL ON FOREIGN RELATIONS, <https://www.jstor.org/stable/20033235> (stating “In the wake of the September 11 attacks on the United States, China has launched its own “war on terror.” Beijing now labels as terrorists those who are fighting for an independent state in the northwestern province of Xinjiang, which the separatists call “Eastern Turkestan.”). Khaled A. Beydoun, *Exporting Islamophobia in The Global “War On Terror”*, N.Y.U. L. REV. 81 (2020) (arguing “While led by the United States, the War on Terror gradually became a global crusade, whereby states across the world found an opportune moment to persecute and punish their own Muslim populations to achieve their ends.”).

¹⁵ Robin Wright & Edwin Chen, *Bush Says China Backs War on Terror*, LA TIMES (Oct. 18, 2001, 12:00 AM), <https://www.latimes.com/la-101901bush-story.html>. See Beydoun, *Exporting Islamophobia supra* note 14, at 93-94 (explaining “Roughly one month after making the “War on Terror” speech in Washington, D.C., President Bush traveled to China, where he met a president and an administration assessing how to handle its Uighur Muslim “problem” in Xinjiang province. China’s President, Jiang Zemin, adopted the crusade’s existential binary of “civilization” versus “terrorism,” a framing the regime deployed to counter China’s eleven million Uyghur Muslims striving for self-determination.”).

¹⁶ United Nations Security Council, *East Turkistan Islamic Movement*, UNITED NATIONS (Apr. 7, 2011) https://www.un.org/securitycouncil/sanctions/1267/faq_sanctions_list/summaries/entity/eastern-turkistan-islamic-movement; Beina Xu, Holly Fletcher, & Jayshree Bajoria, *East Turkistan Islamic Movement (ETIM)*, FOREIGN AFFAIRS, (Sept. 4, 2014) <https://www.cfr.org/backgrounder/east-turkestan-islamic-movement-etim>.

¹⁷ THOMAS LUM & MICHAEL A. WEBER, *UYGHURS IN CHINA 2* (Cong. Rsch. Serv., 39th ed. 2020), <https://crsreports.congress.gov/product/pdf/IF/IF10281> (reporting “The U.S. government ‘identified sufficient evidence’ to consider three violent incidents in China purportedly involving Uyghurs as terrorist attacks in 2014. According to the Department of State, the lack of available information has made it difficult to verify most other PRC accounts of alleged terrorist activity”).

¹⁸ *China Suppression Of Uighur Minorities Meets U.N. Definition Of Genocide, Report Says*, NPR (July 4, 2020, 7:58 AM ET), <https://www.npr.org/2020/07/04/887239225/china-suppression-of-uighur-minorities-meets-u-n-definition-of-genocide-report-s>.

¹⁹ Erin Handley, *How China’s mass detention of Uyghur Muslims stemmed from the 2009 Urumqi riots*, ABC NEWS (July 4, 2019, 10:56 PM), <https://www.abc.net.au/news/2019-07-05/china-xinjiang-urumqi-riots-10th-anniversary-uyghur-muslims/11270320>; Thomas Coffey, *Under The Watchful Eye Of The CCP: Chinese Surveillance In Xinjiang*, HUM. RTS. PULSE (Apr. 21, 2021), <https://www.humanrightspulse.com/mastercontentblog/under-the-watchful-eye-of-the-ccp-chinese-surveillance-in-xinjiang>.

emphasized that surveillance and assimilation of Muslim minorities was a part of their counterterrorism efforts.²⁰ According to the Human Rights Watch, the PRC system, known as the Integrated Joint Operations Platform (“IJOP”), collects data such as the physical traits and behavioural characteristics of XUAR residents.²¹ The IJOP also collects data on everyday activities including cell phone and home electricity usage.²² In addition to facial and voice recognition software, the PRC also uses artificially intelligent software to “predict” whether a person is likely to commit a crime in the future.²³

Despite increased criticism of U.S. based firms’ involvement in XUAR surveillance operations, several Chinese surveillance companies name prominent U.S. partners including Microsoft, Oracle, and IBM.²⁴ For example, the Xiamen Dragon Information Technology Co. Ltd., provides public surveillance technology that allows the PRC to place ethnic tags on citizens including Uyghur, Tibetan, and Han Chinese.²⁵ At least 100 U.S. cities and towns have bought surveillance technologies from Chinese companies and U.S. government officials have expressed their concern.²⁶ In 2019, the U.S. Department of Commerce blacklisted 28 Chinese companies that were linked to the surveillance of Muslim minorities in the XUAR.²⁷

Surveillance of Muslim minorities in the XUAR extends beyond what the PRC is able to do through advanced technology. For example, the Fanghuju Program enables human surveillance that dispatches Han officials “to Uyghur homes to spy on their activities, monitor their thoughts and feelings, and carry out indoctrination.”²⁸ As such, the PRC is using both human and technological surveillance to perpetrate the Uyghur genocide.

The PRC attempts to justify its violations of *jus cogens* norms under the guise of combatting terrorism.²⁹ Specifically, the PRC fails to distinguish between religious extremism and terrorism in its criminal law and equates Islam with extremism.³⁰ A UN Special Rapporteur commented on its Counter-Terrorism Law explaining that “‘extremist’ crime is a very vague and problematic category. Absent a qualifier of ‘violent’ extremism conducive to terrorism, the terms remain broad

²⁰ Sebastian Strangio, *Geoffrey Cain on Xinjiang’s ‘Perfect Police State’*, THE DIPLOMAT, (Aug. 24, 2021), <https://thediplomat.com/2021/08/geoffrey-cain-on-xinjiangs-perfect-police-state/>.

²¹ Omar Shakir & Maya Wang, *Mass Surveillance Fuels Oppression of Uyghurs and Palestinians*, HUM. RTS. WATCH (Nov. 24, 2021, 3:00 PM EST),

<https://www.hrw.org/news/2021/11/24/mass-surveillance-fuels-oppression-uyghurs-and-palestinians#>.

²² *Id.*

²³ Strangio, *supra* note 20.

²⁴ Roseanne Gerin & Alim Seytoff, *U.S. Tech Products Enable Chinese Surveillance in Xinjiang, Researchers Find*, RADIO FREE ASIA, (Aug. 5, 2021), <https://www.rfa.org/english/news/uyghur/us-tech-products-08052021185345.html>.

²⁵ *Id.*

²⁶ Zack Whittaker, *U.S. towns are buying Chinese surveillance tech tied to Uighur abuses*, TECH CRUNCH, (May 24, 2021, 11:00 AM EDT), <https://techcrunch.com/2021/05/24/united-states-towns-hikvision-dahua-surveillance/>.

²⁷ Ana Swanson & Paul Mozur, *U.S. Blacklists 28 Chinese Entities Over Abuses in Xinjiang*, THE NEW YORK TIMES, (Oct. 7, 2019),

<https://www.nytimes.com/2019/10/07/us/politics/us-to-blacklist-28-chinese-entities-over-abuses-in-xinjiang.html>.

²⁸ Daria Impiombato, *Xinjiang’s Oppression Has Shifted Gears*, FOREIGN POL’Y, (Nov. 1, 2021, 6:00 AM), <https://foreignpolicy.com/2021/11/01/xinjiang-china-uyghur-camps/>.

²⁹ *See infra* note 30.

³⁰ SEAN ROBERTS, “THE WAR ON THE UYGHURS: CHINA’S INTERNAL CAMPAIGN AGAINST A MUSLIM MINORITY” 211 (Princeton University Press, 2020).

and overly vague and may encroach on duly protected human rights.”³¹ In response, the PRC argued, “[e]xtremism is the ideological basis for terrorism. In order to effectively combat terrorism, it is necessary to oppose all types of extremism.”³² Ultimately, the PRC’s failure to distinguish extremism and terrorism in its criminal law has allowed it to detain hundreds of thousands, and possibly millions of Uyghurs, in the XUAR.³³ Regardless of any justification provided by the PRC, none is legally relevant in a case of genocide, and none will absolve the PRC of state responsibility for the Uyghur genocide.³⁴

III. IOC COMPLICITY IN CRIMES AGAINST HUMANITY

This section will track the history of the International Olympic Committee (“IOC”) in legitimizing authoritarian states and its complicity in crimes against humanity. While the PRC bears ultimate responsibility for the Uyghur genocide, it is not alone in its guilt. The IOC has been a consistent enabler of atrocities and its refusal to take a stand against genocide of the Uyghur people is yet another stain in a long history of moral bankruptcy. This section shows the consequences of the IOC’s acquiescence to *jus cogens* violations by tracing a path from the Berlin 1936 Olympics to the 2022 Beijing Winter Olympics. Further, this section also provides a historical record of the IOC’s conduct in enabling such violations.

³¹ Fionnuala Ní Aoláin et al., *Mandates*, 2 U.N. Doc. OL CHN 18/2019 (Nov. 1, 2019) (explaining further that “Concerns have previously been noted when the term ‘extremism’ is deployed, not part of a strategy to counter violent extremism, but as an offense in itself . . . [C]rimes not having the quality of terrorism regardless of how serious, should not be the subject of counter-terrorist legislation. Nor should conduct that does not bear the quality of terrorism be the subject of counter-terrorism measures, even if undertaken by a person also suspected of terrorist crimes.”). See also Beydoun, *Exporting Islamophobia supra* note 14, at 95 (arguing “Beijing equates expressions of Uighur Muslim identity with the threat of separatism, which wholly conflates it with terrorism and extremism. Classifying Uighur Muslims, as a whole, as extremists (or potential extremists) afflicted with the Islamic illness enables China to carry forward a mass internment program that dwarfs the internment of Japanese Americans following the Pearl Harbor attacks in scale. This classification allows China to justify “lengthy internments and future interventions any time officials deem Islam a threat. The goal of mass internment, the new signature program of China’s domestic War on Terror, is to destroy the Uighur quest for self-determination—not to combat terrorism.”).

³² PRC Letter in Response to 2 U.N. Doc. OL CHN 18/2019 (Nov. 1, 2019) (Dec. 16, 2019), <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=35050>.

³³ Aoláin et al., *supra* note 31 (stating “an estimated million Uyghurs and other Turkic Muslims have reportedly been sent to internment facilities under the guise of “counter-terrorism and de-extremism” policies since 2016”); NEWLINES INST., *supra* note 3 (explaining “The estimates of detainees in the newly constructed or expanded camps range from 1 to 2 million, a number which generally omits those formally sentenced under the broader mass internment drive.”); AMNESTY INT’L, “LIKE WE WERE ENEMIES IN A WAR,” *supra* note 3, at 7. See also James Millward and Dahlia Peterson, “China’s System of Oppression in Xinjiang: How It Developed and How to Curb It,” *Global China: Assessing China’s Growing Role in the World*, *The Brookings Institution*, Sept. 2020, at 17, www.brookings.edu/wp-content/uploads/2020/09/FP_20200914_china_oppression_xinjiang_millward_peterson.pdf.

³⁴ NEWLINES INST., *supra* note 3, at 9 (explaining “The stated purposes or motives behind acts of genocide are legally irrelevant to the question of intent under the Genocide Convention, although such motives might demonstrate that officials are factually aware of certain practices and their outcomes. Thus, China’s attempts to justify its policies in XUAR as a war against extremism, terrorism, or separatism do not absolve the State of responsibility for genocide.”)

Berlin – 1936

The modern Olympics emerged from the 1936 Berlin Olympics hosted during Hitler's regime as the leader of the Nazi Party.³⁵ From the spectacle of the torch-burning relay to the building of an entire media operation to promote the games in a way that would soften the image of the country's totalitarian state, the Nazi Germany's goal for hosting the Games was two-fold: First, the new Nazi state wanted to fix its image and to be seen as a legitimate international player.³⁶ Second, the games were used to promote the racist ideology of Nazi Germany.

Using advanced broadcasting technology that has never before been used to showcase the games, the Nazis had speeches and pamphlets that propagated their racial views to a global audience.³⁷ The Nazis successfully washed their image despite opening concentration camps and committing mass arrests and murders before and during the games.³⁸



The Olympic flame arrives in the stadium surrounded by huge Nazi swastika flags. Credit Popperfoto/PPP.

³⁵ Howard Berkes, *Nazi Olympics Tangled Politics and Sport*, NPR (June 7, 2008), <https://www.npr.org/templates/story/story.php?storyId=91246674>.

³⁶ *Id.* (explaining many authoritarian regimes use the Olympic Games to refurbish their international image. The lights, the Olympic fame, the prestige and the pomp work to make the media forget the crimes against humanity perpetrated by these authoritarian regimes).

³⁷ Samuel D. Smith, *Ode to Peace or Prelude to War? The Opening Ceremonies of the 1936 Berlin Olympics as Political Theater*, VANDERBILT UNIV. 1, 1, <https://ir.vanderbilt.edu/bitstream/handle/1803/8358/Ode-to-Peace.pdf?sequence=1&isAllowed=y>.

³⁸ Robert Lipsyte, *Olympics; Evidence Ties Olympic Taint to 1936 Games*, THE NEW YORK TIMES (Feb. 21, 1999), <https://www.nytimes.com/1999/02/21/sports/olympics-evidence-ties-olympic-taint-to-1936-games.html>.

Nazi Germany's success would not have been possible without the IOC's complicity. The IOC saw the benefits of working with Nazis and engaged with them in a corrupt bargain: The IOC would work to sanitize the image of the Nazi regime in exchange for cash, increased publicity for the games, and even a Nobel Peace Prize.³⁹ The politicized nationalism, rank corruption, and the use of the games as a political tool started due to a deal between Hitler and the IOC.⁴⁰ As such, the 1936 Berlin Games is the first example of the modern Olympics and all the abuses that flow therefrom.⁴¹

The German state significantly curtailed the social and economic rights of Jews during the lead up to the Olympics with laws such as the Nuremberg Laws, which helped codify Nazi Germany's racial hierarchy into its legal system.⁴² The Nazis also began to severely threaten Poland and other neighboring states during this time, and Hitler ordered forces into the Rhineland as a "show of force" in 1936.⁴³

Hitler's propaganda plans for the 1936 Olympics were unprecedented because it was a modern Olympics with the spectacles of the Games being greater than the Games itself, was unheard of.⁴⁴ Much of the modern pomp and circumstance in the Olympics comes from Nazi propaganda that was designed to make the Third Reich look appealing on the international stage.⁴⁵ To do this, the German government decided to add more ceremonies and "products" to the Olympic games.⁴⁶ For example, the Olympic Torch Relay and the torch itself were creations of the Nazi regime, they did not become part of the Olympics until the 1936 Games.⁴⁷

Even though the IOC had reservations about hosting the Olympics in Germany after the Nazis took power, its fears were assuaged after the German government gave false assurances that Jewish athletes would be able to compete.⁴⁸ The IOC was enamored with German's plans and planned to host the Winter Olympics in Germany in 1940 despite the growing violence of the Nazi state.⁴⁹ Notably, German Jews were explicitly excluded from the German Olympics and more broadly, from participation in German athletics, both as participants and socially.⁵⁰ Only one Jewish German athlete was able to participate under the banner of Nazi Germany and the 1933 "Aryans only" policy which was instituted in all German athletic organizations, was strictly enforced.⁵¹ Despite

³⁹ Lipsyte, *supra* note 38.

⁴⁰ Lipsyte, *supra* note 38.

⁴¹ Lipsyte, *supra* note 38.

⁴² *Nazi Germany and Anti-Jewish Policy*, ANTI-DEFAMATION LEAGUE 1, 2 (2005), <https://www.adl.org/sites/default/files/documents/assets/pdf/education-outreach/nazi-germany-and-anti-jewish-policy.pdf>.

⁴³ *German Pre-War Expansion*, HOLOCAUST ENCYC. (last visited Dec. 18, 2021), <https://encyclopedia.ushmm.org/content/en/article/german-prewar-expansion>.

⁴⁴ PBS INT'L, *Nazi Games, The Berlin – 1936*, PBS INT'L, <https://pbsinternational.org/programs/the-nazi-games-berlin-1936/> (last visited Jan. 7, 2022).

⁴⁵ Berkes, *supra* note 35.

⁴⁶ Berkes, *supra* note 35.

⁴⁷ Berkes, *supra* note 35.

⁴⁸ Berkes, *supra* note 35.

⁴⁹ Berkes, *supra* note 35.

⁵⁰ *Exclusion of Jews*, U.S. HOLOCAUST MEM'L MUSEUM, https://www.ushmm.org/exhibition/olympics/?content=exclusion_jews&lang=en (last visited Dec. 31, 2021).

⁵¹ Emma Ockerman, *What Happened When Hitler Hosted the Olympics 80 Years Ago*, TIME (Aug. 1, 2016), <https://time.com/4432857/hitler-hosted-olympics-1936/>.

assuring the IOC that the German government would not use the Olympics to promote fascism, white supremacy and its other ideological tenets, the Germans did just that and their strategy was a large success due to the assistance of the IOC.⁵²

The IOC and Nazi Germany began a path of corruption and moral bankruptcy in the 1936 Olympics, but as this section will continue to evidence, the path did not stop there. In 1936, the IOC simply chose to do nothing and appealed to some ideal that sports are apolitical when the Nazis were being explicitly political. The ability of authoritarian regimes to win positive coverage through hosting events may have been started by the Nazis but it only happened because the IOC put the games over people. A pattern that would continue to this day.

Moscow - 1980

The Soviet Union invaded Afghanistan in December 1979 in response to the execution of its pro-Soviet leader, the People's Democratic Party General Secretary Nur Mohammad Taraki.⁵³ Tarki was killed by his second in command, Hafizullah Amin, a move that ruined ties between Afghanistan and the USSR.⁵⁴ Amin was an incompetent leader and was too unfocused in his actions to meet the needs of the people, protests began to arise against this rule, and he enacted harsh crackdowns, culminating in thousands of forced disappearances and murders.⁵⁵ Amin quickly realized that his move was a blunder, this pushed anti-regime rebels to form the Taliban, a unified rebel front designed to fight the forces of Afghani government.⁵⁶ Moscow was not happy, they saw Amin was not only incompetent but as a potential traitor to the communist bloc as Amin worked to increase relations with the U.S.⁵⁷ Amin was killed by the USSR in Operation Storm-333 which was then backed up by a ground invasion by Soviet troops.⁵⁸ This invasion led to a 9-year guerilla war that led to the deaths of over 1 million Afghan civilians, an unknown number of Taliban fighters, and over 14,000 Soviet soldiers.⁵⁹

Right after the beginning of the war, the Soviet Union announced that it was hosting the 1980 Olympics.⁶⁰ The President of the U.S. at the time, Jimmy Carter, announced a unilateral boycott of the 1980 Olympics over the Soviet invasion of Afghanistan.⁶¹ The IOC was not influenced to support the people of Afghanistan by this boycott and if anything, worked to actively stop the

⁵² Graham Dunbar, *IOC apologizes, deletes tweet about 1936 Berlin Olympics*, AP NEWS (July 24, 2020), <https://apnews.com/article/sports-europe-museums-berlin-2020-tokyo-olympics-germany-4662821966b155a89d05ecb512034d3c>.

⁵³ *The Soviet Invasion of Afghanistan and the U.S. Response, 1978–1980*, U.S. DEP'T OF STATE: OFF. OF THE HISTORIAN, <https://history.state.gov/milestones/1977-1980/soviet-invasion-afghanistan> (last visited Dec. 31, 2021).

⁵⁴ *Id.*

⁵⁵ *Casting Shadows: War Crimes and Crimes against Humanity: 1978-2001*, THE AFG. JUST. PROJECT 1, 10 (2005), <https://www.legal-tools.org/doc/8761bd/pdf/>.

⁵⁶ *Supra* note 55, at 10.

⁵⁷ *Supra* note 55, at 11.

⁵⁸ Aleksandr Antonovich Lyakhovskiy, *Inside the Soviet Invasion of Afghanistan and the Seizure of Kabul, December 1979*, THE COLD WAR INT'L HIST. PROJECT WORKING PAPER SERIES 1, 34 (2007), https://www.wilsoncenter.org/sites/default/files/media/documents/publication/WP51_Web_Final.pdf.

⁵⁹ Imtiyaz Gul Khan, *Afghanistan: Human Cost of Armed Conflict since the Soviet Invasion*, 17 PERCEPTIONS 209, 213 (2012), http://sam.gov.tr/pdf/perceptions/Volume-XVII/winter-2012/9-Imtiyaz_Gul_Khan.pdf.

⁶⁰ *Supra* note 53.

⁶¹ *Supra* note 53.

boycott.⁶² This led to an international debate over the “validity” of such a boycott and if it would even be effective.⁶³ The boycott ultimately failed, in large part due to poor planning involved on the U.S. side of how to get allies involved.⁶⁴

By working with the USSR to end the boycott and host an Olympics, the IOC proved that it is not only a political actor, but one that has no issue working with authoritarian regimes in the pursuit of its own benefits.⁶⁵

The Soviet invasion was universally panned as an imperialist power grab by the Soviet Union.⁶⁶ The UN General Assembly voted against the invasion, a symbolic but important vote that greatly embarrassed the USSR on the world stage.⁶⁷ States used measures, such as sanctions and embargoes, at first in order to punish the USSR. For example, President Carter imposed a grain embargo on the USSR, but it was largely unsuccessful.⁶⁸ President Carter also thought of an Olympics boycott because it was inexpensive and he assumed that it would be an easy foreign policy victory.⁶⁹ Staunch U.S. allies, like Japan, and/or supported the Taliban’s fight against what was perceived by some to be an attack on Islam.⁷⁰ Under this reasoning, the U.S. and Iran actually became allies on an issue as Iran was strongly against the Soviet invasion.⁷¹

The IOC was not pleased with the boycott.⁷² It worked to drive a wedge between the U.S. and the U.S. Olympic Council, arguing that the USOC was supposed to be non-partisan and that it was now a tool of the U.S. foreign policy agenda.⁷³ Under heavy pressure, the USOC decided to support the U.S. government’s course of action which put it in a bad light with the IOC.⁷⁴

⁶² Andrew Rice, *The 1980 Moscow Olympic Boycott as a Tool of American Foreign Policy*, THE UNIV. OF WESTERN ONT. 1, 85 (Aug. 4, 2020), <https://ir.lib.uwo.ca/cgi/viewcontent.cgi?article=10561&context=etd>.

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ Karen DeYoung, *Overwhelming U.N. Vote Condemns Soviets*, THE WASH. POST (Jan. 15, 1980), <https://www.washingtonpost.com/archive/politics/1980/01/15/overwhelming-un-vote-condemns-soviets/346d9a75-e904-48c5-9b58-c1b007926501/> (Archived).

⁶⁷ *Id.*

⁶⁸ Robert L. Paarlberg, *Lessons from the Grain Embargo*, FOREIGN AFF. (1980), <https://www.foreignaffairs.com/articles/united-states/1980-09-01/lessons-grain-embargo>.

⁶⁹ Nicholas Evan Sarantakes, *Jimmy Carter’s Disastrous Olympic Boycott*, POLITICO (Feb. 9, 2014), <https://www.politico.com/magazine/story/2014/02/carter-olympic-boycott-1980-103308/>.

⁷⁰ Rice, *supra* note 62, at 29.

⁷¹ Rice, *supra* note 62, at 29.

⁷² Rice, *supra* note 62, at 85.

⁷³ Rice, *supra* note 62, at 85.

⁷⁴ *The Olympic Boycott, 1980*, U.S. DEP’T OF STATE, <https://2001-2009.state.gov/r/pa/ho/time/qfp/104481.htm> (Archive) (last visited Dec. 31, 2021).



A large crowd attends the opening ceremony of the 1980 Olympic Games in Moscow. Credit IOC.

Grappling with the political bruises from the international condemnation of the invasion of Afghanistan, the USSR decided to remain silent regarding the boycott.⁷⁵ While the U.S. was able to convince many Muslim nations and some close allies to join the boycott, its efforts were mostly unsuccessful.⁷⁶ The U.S. boycott failed primarily due to poor communication and an inability between President Carter and his staff to lay down the objectives and terms of the boycott.⁷⁷ The U.S. also had a hard time selling the importance of a boycott to key allies in Europe who largely did not care about a war between “the Soviet Union and the third world.”⁷⁸ Key American allies such as the UK and Australia agreed with the boycott initially, but then sent teams anyway – a major blow to American efforts.⁷⁹

Domestic support for the boycott fell as Americans began to see the futility of the measure and stories about how the boycott was harming the careers of promising athletes began to come out.⁸⁰ The CIA and foreign policy arms of the U.S. government all reported to President Carter that the boycott had a negligible economic effect on the USSR and while a powerful stand, accomplished little in terms of changing Soviet thinking on Afghanistan.⁸¹

⁷⁵ Allen Guttmann, *The Cold War and the Olympics*, 43 INT’L J. 1, 9 (1988), https://www.jstor.org/stable/40202563?seq=10#metadata_info_tab_contents.

⁷⁶ Rice, *supra* note 62, at 45.

⁷⁷ Rice, *supra* note 62, at 45.

⁷⁸ Rice, *supra* note 62, at 45.

⁷⁹ *Supra* note 74.

⁸⁰ Sarantakes, *supra* note 69.

⁸¹ Guttmann, *supra* note 75, at 6.

President Jimmy Carter announced an international boycott, a defining but ultimately weak move that undercut the US's efforts to build a global boycott.⁸² The U.S.'s European allies were furious as the U.S. did not inform them of a planned boycott and they were more furious at the idea that the U.S. assumed they would go along with it anyway.⁸³ The boycott was managed poorly by the U.S. and it seemed to have no real roadmap or strategy behind the boycott—a criticism that came from both in and outside of the White House. The U.S. ended the boycott after public pressure swung against it: The U.S. walking away from the situation looking incompetent and with weaker standing.⁸⁴

The IOC had a vested interest in seeing the 1980 Moscow games become a success and pursued a familiar strategy of denying that it and sports are political while accusing other parties of being political.⁸⁵ It pursued its same course by arguing that sports and politics are separate.⁸⁶ It argued that a boycott was a unilateral and nakedly political attack on the games and that the only victims would be the athletes.⁸⁷

Afghanistan suffered tremendously under the Soviet invasion and the Soviet military was accused of numerous war crimes and human rights violations.⁸⁸ According to Dr. Imtiyaz Gul Khan's report *Afghanistan: Human Cost of Armed Conflict since the Soviet Invasion*, the

“Soviet-Afghan war has killed at least a million Afghans, maimed and disabled many more, [it] created an army of orphans and widows, turned half the population into internally displaced persons and refugees, including six million outside the country.”¹⁵ One report indicates that 1.0 million people became disabled during the Soviet-Afghan war.¹⁶ The migration and the human killings together kept the country's population always decreasing. The 1979 census estimated the country's pre-war population at 13.05 million, though other reports suggested it to be between 15-17 millions, including the nomadic population.¹⁷ Noor Ahmed Khalidi calculated that 876,825 Afghans, constituting 7% of the total Afghan population, were killed during 10-year war (1978-1987).⁸⁹

Moscow also increased its internal repression inside the USSR before the games, arresting dissidents such as “Andrei Sakharov, a Soviet dissident and human rights activist, was arrested in Moscow for protesting the invasion of Afghanistan.”⁹⁰ This caused more vocal international backlash from the West but amounted to little action as many Western nations disagreed on how to respond, as for the IOC, it had no comment.⁹¹

⁸² Guttman, *supra* note 75, at 6.

⁸³ Guttman, *supra* note 75, at 9.

⁸⁴ Sarantakes, *supra* note 69.

⁸⁵ Sarantakes, *supra* note 69.

⁸⁶ Sarantakes, *supra* note 69.

⁸⁷ Rice, *supra* note 62, at 34.

⁸⁸ Rice, *supra* note 62, at 34.

⁸⁹ Khan, *supra* note 59, at 213.

⁹⁰ Rice, *supra* note 62, at 87.

⁹¹ Rice, *supra* note 62, at 89.

The Moscow Games were an example of how the IOC has no issue working with authoritarian states that are actively committing human rights abuses because it saw the political benefits of working with an authoritarian state and was impressed by the speed the USSR could build infrastructure designed to support the games.⁹² The organization took no steps to even understand the political and humanitarian basis of the boycott, even if it was poorly planned and executed.⁹³

The IOC is one of the most political and politicized international organizations despite touting itself as being “apolitical.”⁹⁴ “So what is a boycott for? It’s against all the Olympic spirit. It’s against all the values we have in sport and what we are standing for in sport” Thomas Bach, head of the IOC, was quoted saying in a 2020 interview.⁹⁵ This quote showcases how the IOC does not see itself as having done anything wrong by resisting the boycott, using the failure of said boycott to justify its actions after the fact.⁹⁶ The organization’s promoted dedication to sports is a method of accountability avoidance and not only does it work with authoritarian regimes to promote the Olympics, but it also works with them to limit criticism of said games and to disempower those who speak out.⁹⁷ The quote “The Olympic committee’s goal is to embrace the entire “human family”, but in doing so the IOC has awarded the Games to police states that are bent on staging spectacular festivals to reinforce their own authority”⁹⁸ accurately summarizes the IOC’s aims when working with authoritarian states to put on the Olympics.

Sarajevo – 1984

The 1984 Winter Olympics in Sarajevo, Yugoslavia outwardly represented peace, unity, and prosperity which allowed the country to garner global validation and acceptance.⁹⁹ However, with ethnic tensions rising following the death of communist leader Josip Tito in 1980, Yugoslavia would split into five independent countries, and genocide and ethnic cleansing would hide behind the status of war.¹⁰⁰ Soon after, the IOC would donate millions to restore Sarajevo and the Zetra Olympic Hall, symbolically and facially restoring the country’s national acceptance.¹⁰¹

After World War II, Yugoslavia became a communist republic under Marshal Josip Broz Tito’s power.¹⁰² Bosnia, Serbia, Montenegro, Croatia, Slovenia, and Macedonia unified to form the Federal Republic of Yugoslavia.¹⁰³ The Federation was composed of a number of ethnic groups,

⁹² Rice, *supra* note 62, at 89.

⁹³ Rice, *supra* note 62, at 89.

⁹⁴ Rice, *supra* note 62, at 89.

⁹⁵ *IOC President Thomas Bach reflects on the boycott of the Olympic Games Moscow 1980 40 years later*, INT’L OLYMPIC COMM. (July 16, 2020), <https://olympics.com/ioc/news/ioc-president-thomas-bach-reflects-on-the-boycott-of-the-olympic-games-moscow-1980-40-years-later>.

⁹⁶ Rice, *supra* note 62, at 85.

⁹⁷ Rice, *supra* note 62, at 85.

⁹⁸ Alyssa Gunstrom, *The Eternal Flame: Politics of the Olympic Games*, BEMIDJI STATE UNIV. 1, 3, <https://www.bemidjistate.edu/academics/honors/wp-content/uploads/sites/73/2017/03/The-Eternal-Flame-Politics-of-the-Olympic-Games-Gunstrom-Alyssa.pdf> (last visited Dec. 31, 2021).

⁹⁹ Gunstrom, *supra* note 98, at 3.

¹⁰⁰ Gunstrom, *supra* note 98, at 3.

¹⁰¹ Gunstrom, *supra* note 98, at 3.

¹⁰² Gunstrom, *supra* note 98, at 3.

¹⁰³ Gunstrom, *supra* note 98, at 3.

including: Serbs (Orthodox Christians), Croats (Catholics), Bosniaks (Muslims) and, ethnic Albanians (Muslims).¹⁰⁴ Tito ruled from 1943 until his death in 1980.¹⁰⁵

During the 1980's following the death of Tito, "Yugoslavia slipped into the deepest economic, political, and social-psychological crisis in its history, resulting in disorientation, insecurity, and a fear of the future."¹⁰⁶ This led to a growing loss of "legitimacy, sense of purpose, and confidence."¹⁰⁷ This crisis chipped away at roles, values, and identity.¹⁰⁸ Shortly after hosting the 1984 Olympics, the country was thrust into turmoil.¹⁰⁹

The horrific violence of the 1990s resulted from the collapse of a complex political post-World War II bargain that assured economic security and political representation for all ethnically diverse people in the state's federation.¹¹⁰ When the bargain began to collapse in the late '80s, governmental rule shifted to the republics, which were identified with national groups but were largely multiethnic.¹¹¹ The extreme violence that followed in Croatia and Bosnia-Herzegovina was a combination of land grabbing by leaders of the republics who had given up on the federation and local ethnic minorities panicked by the prospect of second-class status in new states, and nationalist opportunists who used violence to set themselves up as local bosses.¹¹²

The stability of Tito's Yugoslavia was partly rooted in Slovenia.¹¹³ As the fourth-largest but richest republic, Slovenia and Croatia offset Serbia.¹¹⁴ Without Slovenia, Croatia would inevitably be dominated by the far larger Serbia, and reactions to Serb dominance had already torn apart the interwar kingdom of Serbs, Croats, and Slovenes.¹¹⁵ Tito's system could not survive the exit of Slovenia.¹¹⁶

In June 1991, Slovenia and Croatia declared independence from Yugoslavia, beginning the country's break up.¹¹⁷ In May 1991, "the Yugoslav army—largely composed of Serbs and controlled by Slobodan Milosevic—invaded Croatia, justifying the act as a means to protect the

¹⁰⁴ *Background: Tito's Yugoslavia*, CTR. FOR EUR. STUD., <https://europe.unc.edu/background-titos-yugoslavia/> (last visited Dec. 31, 2021).

¹⁰⁵ *Bosnia and Herzegovina, 1992-1995, History of Ethnic Tensions*, U.S. HOLOCAUST MEM'L MUSEUM, <https://www.ushmm.org/genocide-prevention/countries/bosnia-herzegovina/case-study/background/history-ethnic-tensions>, (last visited Dec. 31, 2021).

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ MARINE-JANINE CALIC, *A HISTORY OF YUGOSLAVIA* 330 (Charles W. Ingrao et al. eds., 2019).

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ CALIC, *supra* note 109, at 330.

¹¹⁶ James D. Fearon, *THE WORLD / YUGOSLAVIA: Was Tito's Way the Best to Keep Peace?*, LA TIMES (Sept. 5, 1999), <https://www.latimes.com/archives/la-xpm-1999-sep-05-op-7006-story.html> (Archive).

¹¹⁷ *Id.*

Serbian minority there.”¹¹⁸ When the city of Vukovar fell, the Serbs conducted mass executions of hundreds of Croat men, burying them in mass graves.¹¹⁹

In 1992, Bosnia declared independence from Yugoslavia.¹²⁰ Bosnian Serbs opposed the creation of a Bosniak majority independent Bosnian nation.¹²¹ Once the U.S. and the European Union recognized Bosnia’s independence, Bosnian Serb forces backed by the Serb-dominated Yugoslav army immediately launched offensives to control areas they coveted.¹²² The Serbian military campaign was not only to secure coveted territory, but to “cleanse” Bosnia of its Muslim civilian population.¹²³ The Serbian assaults targeted Bosniak and Croatian civilians mainly.¹²⁴ They were tortured, raped, murdered, robbed, and forcefully displaced.¹²⁵ This was later recognized as “ethnic cleansing.”¹²⁶

During the Bosnian War, from 1992 to 1995, “an estimated 80,000 Bosniak people were killed.”¹²⁷ In July 1995, Bosnian Serb forces “killed as many as 8,000 Bosniak men and boys from the town of Srebrenica.”¹²⁸ It was the largest massacre in Europe since the Holocaust.¹²⁹

In the bombing campaign of Bosnia’s capital, the “Siege of Sarajevo,” roundups and mass executions of civilians were conducted by Bosnian Serb forces.¹³⁰ Civilians were also confined in concentration camps, tortured, systematically raped, and shot at by snipers surrounding the city when they tried to get food and water.¹³¹

In the Srebrenica Massacre in July 11, 1995, more than 8,000 Bosnian Muslim men and boys were killed after the Bosnian Serb Army attacked Srebrenica despite the presence of UN peacekeepers and designation as a “safe space.”¹³² At the end of the Bosnian War, more than 100,000 civilians had been killed, more than 20,000 were missing and believed to be dead, and two million had become refugees.¹³³

¹¹⁸ Fearon, *supra* note 116.

¹¹⁹ *Bosnia and Herzegovina, 1992-1995, Serbia Forces Target Civilians*, U.S. HOLOCAUST MEM’L MUSEUM, <https://www.ushmm.org/genocide-prevention/countries/bosnia-herzegovina/case-study/violence/serbian-forces-target-civilians>, (last visited Dec. 31, 2021).

¹²⁰ *Id.*

¹²¹ *Bosnia and Herzegovina, 1992-1995*, U.S. HOLOCAUST MEMORIAL MUSEUM (last visited Dec. 31, 2021), <https://www.ushmm.org/genocide-prevention/countries/bosnia-herzegovina/case-study/background/1992-1995>.

¹²² *Supra* note 119.

¹²³ *Supra* note 121.

¹²⁴ *Supra* note 121.

¹²⁵ *Supra* note 121.

¹²⁶ *Supra* note 121.

¹²⁷ *Supra* note 121.

¹²⁸ *Supra* note 121.

¹²⁹ *Supra* note 121.

¹³⁰ *Supra* note 121.

¹³¹ *Supra* note 119.

¹³² *Bosnia and Herzegovina: 25th Anniversary of Srebrenica massacre is a sombre warning from history*, AMNESTY INT’L (July 9, 2020), <https://www.amnesty.org/en/latest/news/2020/07/bosnia-and-herzegovina-25th-anniversary-of-srebrenica-massacre-is-a-sombre-warning-from-history/>.

¹³³ *Supra* note 119.

Following the Bosnian War, the IOC donated millions to rebuild Zetra Olympic Hall—currently named Juan Antonio Samaranch Olympic Hall.¹³⁴ Less than 100 people attended the grand reopening of Zetra Olympic Hall.¹³⁵ At the reopening, statements by the President of the Bosnian Olympic Committee expressed the IOC’s validation of the state.¹³⁶ He said “Today, at this place, where until a few months ago there was nothing but senseless ruins, we are gathered to receive the gifts of Olympic friendship and solidarity.”¹³⁷ In attendance was the president of the IOC, Juan Antonio Samaranch, who turned over the key to Mayor Rasim Gacanovic and said, “Today, we celebrate the culmination of our collaborative efforts to rebuild this Olympic Hall, which we hope will contribute to the process of reconstruction of Bosnia and reconciliation between its people.”¹³⁸ Hansjorg Kretschmer, head of the European Union Office in Bosnia, said, “[i]nternational sporting events at Zetra will carry a message of peace and understanding around the globe...after nearly four years of grim fame as the besieged city in . . . Europe, Sarajevo is again becoming the city of the Winter Olympic Games.”¹³⁹



A podium used during the 1984 Winter Olympics, now a civil war ruin. Credit to Barcroft Media.

The destruction of Sarajevo, especially to the Olympic facilities during the Bosnian War, was a blow to its Olympic heritage.¹⁴⁰ The rebuilding of the Olympic Hall resurrected the “Olympic spirit” that carried with it global recognition and validation.¹⁴¹ The IOC’s rebuilding of the hall serves as an effort to maintain the integrity of the legacy that hosting Olympic games carries.¹⁴² It

¹³⁴ *Supra* note 119.

¹³⁵ *Supra* note 119.

¹³⁶ *Supra* note 119.

¹³⁷ *Supra* note 119.

¹³⁸ *Supra* note 119.

¹³⁹ *Zetra Olympic Hall Reopens in Sarajevo*, THE WASH. POST, <https://www.washingtonpost.com/archive/sports/1999/05/29/zetra-olympic-hall-reopens-in-sarajevo/b29a9914-1fbc-4062-a917-71515b8863e1/> (Archive) (last visited Dec. 31, 2021).

¹⁴⁰ *Sarajevo '84: the human legacy that has stood the test of time*, INT’L OLYMPIC COMM. (June 21, 2019), <https://olympics.com/ioc/news/sarajevo-84-the-human-legacy-that-has-stood-the-test-of-time>.

¹⁴¹ *Id.*

¹⁴² *Id.*

forgets the ethnic cleansing and thousands executed, raped, and tortured at Sarajevo by glossing over the tragedies by restoring the historic 1984 Olympic Hall in exchange for maintaining the superficial and trademark legacy of the Olympics. Following the Bosnian War, rebuilding the Olympic facilities where innocent people were once killed erases the history we should constantly be reminded of.

Athens - 2004

Almost ten years after the Bosnian War, the most devastating conflict since World War II, the Olympics hosted their 2004 summer Olympics in Athens, Greece.¹⁴³ Greece's support of Bosnian Serb forces during their attacks and ethnic cleansing efforts is little recognized.¹⁴⁴ Some Greeks may be considered to have aided the Serb Bosnian army during the Srebrenica genocide of July 1995.¹⁴⁵



© AP
The Athens canoing and aquatics centre at the former Helliniko Olympic complex now abandoned. Credit to AP.

The first group of Greek volunteers arrived in Bosnia in 1993, when the Serbian offensive in Bosnia and Herzegovina was advancing.¹⁴⁶ The Greek Volunteer Guard (“GVG”) was officially formed at the request of Ratko Mladic in March 1995. GVG consisted of approximately one hundred military trained Greeks who wanted to support their Serb “orthodox brothers” in their war against the Muslim community of Bosnia.¹⁴⁷ Although some were mercenaries, many of these soldiers held ties to the Golden Dawn and the extreme right in general went to Bosnia in support of the Serb Bosnian Army to propagate their ideology and political agenda.¹⁴⁸ Golden Dawn is a

¹⁴³ *Supra* note 140.

¹⁴⁴ *Supra* note 140.

¹⁴⁵ *Supra* note 140.

¹⁴⁶ *Supra* note 140.

¹⁴⁷ *Supra* note 140.

¹⁴⁸ Petros Konstantinidis, *The Greek Militiamen Involved in the Srebrenica Massacre*, ATHENS LIVE (Dec. 8, 2017), <https://medium.com/athenslivegr/the-greek-link-to-srebrenica-bf5f844e892>.

far-right neo-Nazi extremist group founded in the 1980's by neo-Nazi Nikolaos Michaloliakos.¹⁴⁹ One GVG member, Michalis Mavrogiannakis, said “I, like many other Greek volunteers, belong to a political ideology and specifically to Golden Dawn — and this is why we went up there [Bosnia].”¹⁵⁰

Religious rhetoric in Greece often underlies nationalistic ideas, xenophobia, and white supremacy.¹⁵¹ While the Greek Orthodox Church has been known for being politically vocal throughout history, it made its support of the Bosnian Serbs and the GVG known.¹⁵² Archbishop Seraphim personally invited Radovan Karadzic to Athens in 1993, where Karadzic thanked Greece for its support by saying, “We have only God and the Greeks on our side.”¹⁵³ In 2016, Karadzic was held responsible for and found guilty of committing war crimes, including the genocide ethnic cleansing of Bosnian Muslims and Croats from Serb-held areas during their military campaign.¹⁵⁴

Politicians also expressed their support of the Serbs during the Yugoslav wars. Prime Minister Konstantinos Mitsotakis and Andreas Papandreou kept close ties with Slobodan Milosevic's regime and violated the 1992 UN embargo by reportedly sending artillery and goods to Serbia and Montenegro due to fear of the wars spreading to Greece.¹⁵⁵

Unsurprisingly the Greek media also expressed its vehement support of the Serbs. For example, when the genocide was taking place in Srebrenica, the “TO ETHNOS” newspaper celebrated the Serbs' victory and congratulated the GVG for their participation.¹⁵⁶ Additionally in 1995, the newspaper of Golden Dawn, had published pictures of the GVG with the caption, “Greek patriots fight at the Bosnian front on the Serbs' side.”¹⁵⁷

As a result of Russia's veto in the UN Security Council, the Srebrenica massacre has not been officially recognized as a genocide.¹⁵⁸ Despite Greece's recognition of the facts, there has been no admission of responsibility from the state or the media either wholly or partially.¹⁵⁹

Shortly after Greece's involvement and open support of the Bosnian Serb forces from 1993 to 1995 in the Yugoslav wars, Greece won its bid from the IOC to host the 2004 summer Olympics shortly after in 1997.¹⁶⁰ While the IOC was funding the rebuilding of Sarajevo and its Olympic

¹⁴⁹ *Golden Dawn*, COUNTER EXTREMISM, <https://www.counterextremism.com/threat/golden-dawn> PROJECT (last visited Dec. 18, 2021).

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ Konstantinidis, *supra* note 148.

¹⁵⁴ Tim Hume, *Radovan Karadzic found guilty of genocide, sentenced to 40 years*, CNN (Mar. 24, 2016), <https://www.cnn.com/2016/03/24/europe/karadzic-war-crimes-verdict/index.html>.

¹⁵⁵ Konstantinidis, *supra* note 148.

¹⁵⁶ Konstantinidis, *supra* note 148.

¹⁵⁷ Konstantinidis, *supra* note 148.

¹⁵⁸ *Russia vetoes UN genocide resolution on Srebrenica*, ALJAZEERA (July 9, 2015), <https://www.aljazeera.com/news/2015/7/9/russia-vetoes-un-genocide-resolution-on-srebrenica>.

¹⁵⁹ Konstantinidis, *supra* note 148.

¹⁶⁰ Jere Longman, *Athens Wins a Vote for Tradition, and the 2004 Olympics*, THE NEW YORK TIMES (Sept. 6, 1997), <https://www.nytimes.com/1997/09/06/sports/athens-wins-a-vote-for-tradition-and-the-2004-olympics.html>.

facilities, they selected Greece, the country that aided in the war on the side that demolished a country it was now spending millions to rebuild.¹⁶¹

Greece's support and enablement of genocide and ethnic cleansing in the Yugoslav wars did not deter the IOC from selecting Greece for the 2004 Olympics. Not only does economic failures and controversial involvement in the Bosnian War taint Greece's past, but their Olympic journey was also mismanaged and riddled with corruption and political bribery. The IOC's choice in selecting Greece for its 2004 Olympics demonstrates a tone-deaf global awareness. Although Greece mismanaged its hosting of the Olympics, the IOC gave Greece momentary and superficial international recognition and validation.

Beijing - 2008

China came under the world spotlight in 2008 when they hosted the Summer Olympics in Beijing. With the motto of, "One World, One Dream," it was an opportunity for China to prove their status as an economic world superpower, quell criticisms of their human rights and environmental policies, and cultivate pro-China attitudes around the globe.¹⁶² Many people in the Olympic community hoped that the opportunity to host the Olympics "would accelerate openness in China and facilitate improvement in its record on human rights."¹⁶³

2008 would instead prove to be a year of troubles for China leading up to the Olympics. In March, huge anti-government riots erupted in the Tibetan capital of Lhasa, sparking violent protests in Tibetan areas across western China.¹⁶⁴ The subsequent government crackdown brought sharp international criticism of Beijing's human rights record and its rule over Tibet.¹⁶⁵

China has long held a questionable human rights record in the global community.¹⁶⁶ Francois Carrard, the executive director of the IOC, said that delegates faced one overriding political issue with regard to voting for Beijing to host the 2008 Summer Olympics: human rights. "Some people say, because of serious human rights issues, 'We close the door and say no,'" Mr. Carrard stated.¹⁶⁷ "The other way is to bet on openness. Bet on the fact that in the coming seven years, openness, progress and development in many areas will be such that the situation will be improved. We are taking the bet that seven years from now we will see many changes."¹⁶⁸ Juan Antonio Samaranch, then president of the IOC., said the awarding of the 2008 Games could open "a new era for China."¹⁶⁹

¹⁶¹ *Supra* note 140.

¹⁶² See *BEIJING 2008: One World, One Dream*, INT'L OLYMPIC COMM. (June 28, 2005), <https://olympics.com/ioc/news/beijing-2008-one-world-one-dream>.

¹⁶³ Jere Longman, *OLYMPICS; Beijing Wins Bid for 2008 Olympic Games*, THE NEW YORK TIMES (July 14, 2001), <https://www.nytimes.com/2001/07/14/sports/olympics-beijing-wins-bid-for-2008-olympic-games.html>.

¹⁶⁴ Jim Yardley, *Tibetan capital in turmoil as violence erupts*, THE NEW YORK TIMES (Mar. 14, 2008), <https://www.nytimes.com/2008/03/14/world/asia/14iht-china.1.11080712.html>.

¹⁶⁵ *Id.*

¹⁶⁶ See Camila Ruz, *Human rights: What is China accused of?*, BBC NEWS (Oct. 21, 2015), <https://www.bbc.com/news/magazine-34592336>.

¹⁶⁷ Longman, *supra* note 163.

¹⁶⁸ Longman, *supra* note 163.

¹⁶⁹ Longman, *supra* note 163.

China spent an estimated \$40 billion dollars to prepare to host the Olympic games. According to the government-run Beijing Olympic Research Center, most of the money went to roads, airports, and other infrastructure, and investment in the environment.¹⁷⁰ As a result of Olympic preparation, an estimated 1.5 million Chinese residents were displaced to make space for the construction.¹⁷¹ “In Beijing, and in China more generally, the process of demolition and eviction is characterized by arbitrariness and lack of due process,” the organization stated in a report.¹⁷²

The opening ceremonies were a chance for China to establish the legitimacy of its games, and by extension, the legitimacy of its human rights violations. As Jim Yardley wrote in the New York Times,

“... the opening ceremonies gave the Communist Party its most uninterrupted, unfiltered chance to reach a gargantuan global audience. At one point, thousands of large umbrellas were snapped open to reveal the smiling, multicultural faces of children of the global village. Any Olympic opening is a propaganda exercise, but Friday night’s blockbuster show demonstrated the broader public relations challenge facing the Communist Party as China becomes richer and more powerful. The party wants to inspire national pride within China, and bolster its own legitimacy in the process, even as leaders want to reassure the world that a rising China poses no danger.”¹⁷³

The Olympic Games continued relatively quietly, due to the swift, and harsh, response of Chinese officials to arrest and detain protestors, and bar journalists and bloggers from entering the Tibet region.¹⁷⁴ The strict control of information coming out of Tibet remains today.¹⁷⁵ Following another wave of protests in Tibet in 2011, the Chinese government began requiring that all foreigners trying to enter Tibet be part of organized tours and acquire special travel permits.¹⁷⁶ For journalists, approved travel is nearly impossible.¹⁷⁷ As of 2021, Chinese officials have continued to prevent foreign journalists and scholars from accessing to the region.¹⁷⁸ It is clear that the

¹⁷⁰ James McBride & Melissa Manno, *The Economics of Hosting the Olympic Games*, COUNCIL ON FOREIGN RELATIONS (last updated Dec. 14, 2021), <https://www.cfr.org/backgrounder/economics-hosting-olympic-games>.

¹⁷¹ Lindsey Beck, *Beijing to evict 1.5 million for Olympics: group*, REUTERS (June 5, 2007), <https://www.reuters.com/article/us-olympics-beijing-housing/beijing-to-evict-1-5-million-for-olympics-group-idUSPEK12263220070605>.

¹⁷² *Id.*

¹⁷³ Jim Yardley, *China’s Leaders Try to Impress and Reassure World*, THE NEW YORK TIMES (Aug. 8, 2008), <https://www.nytimes.com/2008/08/09/sports/olympics/09china.html>.

¹⁷⁴ Preeti Bhattacharji & Carin Zissis, *Olympic Pressure on China*, COUNCIL ON FOREIGN RELATIONS, <https://www.cfr.org/backgrounder/olympic-pressure-china> (Archive) (last updated June 17, 2008).

¹⁷⁵ *2020 Country Reports on Human Rights Practices: China (Includes Hong Kong, Macau, and Tibet) – Tibet*, U.S. DEP’T OF STATE: BUREAU OF DEMOCRACY, HUM. RTS., AND LAB. (2020), <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/china/tibet/>.

¹⁷⁶ *China imposes Tibet travel restrictions*, BBC NEWS (Mar. 8, 2011), <https://www.bbc.com/news/world-asia-pacific-12673461>.

¹⁷⁷ AFP, *Herders to hoteliers: China lures millions of tourists to Tibet*, TIMES OF INDIA (June 15, 2021), <https://timesofindia.indiatimes.com/world/china/explained-what-happened-at-chinas-taishan-nuclear-reactor/articleshow/83537158.cms>.

¹⁷⁸ *Foreign journalists say China blocked independent reporting in Tibet*, INT’L CAMPAIGN FOR TIBET (Mar. 01, 2021), <https://savetibet.org/foreign-journalists-say-china-blocked-independent-reporting-in-tibet/>

promises of 2001 for greater openness and access as a result of hosting the Games have sharply fallen short.

Despite the optimism of the IOC that giving China the honor of hosting the 2008 Olympics would translate naturally into an improvement in human rights' conditions, China instead used its place on the world stage to put on a performance to show off its best side, and distract from and attempt to legitimize, the continued violation of the basic rights of its people that continues today. Again, the IOC put money before human rights and profited on the coattails of an oppressive regime.

IV. STATES PARTICIPATING IN THE BEIJING 2022 OLYMPICS

In light of the genocide and human rights atrocities the PRC is currently committing against the Uyghur population in the XUAR, states should assess whether participating in the 2022 Winter Olympics in Beijing may make participating States complicit in genocide. Although some States recognize the gravity of participating in the 2022 Winter Olympics while the PRC is committing genocide and human rights atrocities against the Uyghur population, no country is planning on fully boycotting the Beijing 2022 Olympics.¹⁷⁹

Although many democratic countries have expressed concerns over Beijing hosting the 2022 Winter Olympics, other countries have extended their support to the PRC.¹⁸⁰ During the UNHRC 47th regular session, Belarus gave a joint statement on behalf of 69 countries countering criticisms against China's human rights record.¹⁸¹ The statement argued that human rights allegations made against China are unfounded and asserted on the basis of political motivation as a pretext of interfering in China's internal affairs.¹⁸² The statement also stressed that "Hong Kong, Xinjiang, and Tibet related issues are China's internal affairs that brook no interference by any external forces."¹⁸³ This statement offers explicit political support to the PRC as the country prepares to host the Olympics.¹⁸⁴

Norway has also offered support to the PRC as the country prepares for the 2022 Winter Olympics. In a speech marking the one-year countdown to the 2022 Winter Olympics, the Norwegian ambassador to China, Signe Burdeset, discussed how Norway has been sharing some of its winter sports expertise with China to help make Beijing 2022 successful.¹⁸⁵ In her statement, Ambassador Burdeset also noted that "Norwegian coaches and athletes are cooperating with the

¹⁷⁹ John Feng, *Which Countries Are Boycotting China's Winter Olympics? Full List*, NEWSWEEK (Dec. 8, 2021), <https://www.newsweek.com/every-country-staging-diplomatic-boycott-chinas-winter-olympics-1657177>.

¹⁸⁰ Deng Xiaoci, *Support from US allies, Latin America for Beijing Olympics a slap at Washington's absurdity*, GLOBAL TIMES (Dec. 13, 2021), <https://www.globaltimes.cn/page/202112/1241384.shtml>.

¹⁸¹ *Joint statement of 69 countries at the Interactive Dialogue on High Commissioner's annual report at the 47th session of the Human Rights Council*, PERMANENT MISSION OF THE CHINA TO THE UNITED NATIONS OFF. AT GENEVA AND OTHER INT'L ORGANIZATIONS IN SWITZ. (June 22, 2021), <https://www.mfa.gov.cn/ce/cegv//eng/dbdt/t1886467.htm>.

¹⁸² *Id.*

¹⁸³ *Id.*

¹⁸⁴ *Id.*

¹⁸⁵ *Norwegian Ambassador confident of successful Beijing 2022*, XINHUA NET (Jan. 29, 2021), http://www.news.cn/english/2021-01/29/c_139707721.htm.

Chinese cross-country and biathlon team in their preparatory work for the 2022 Beijing Winter Olympics.”¹⁸⁶

Likewise, Russia has offered its political support to Beijing 2022.¹⁸⁷ With Beijing and Moscow working to deepen their ties, President Vladimir Putin is the first leader to accept his invitation to the 2022 Winter Olympics.¹⁸⁸ Russia has also supported the PRC by criticizing countries that have spoken out about the Olympics being held in China.¹⁸⁹ The Russia Director of Foreign Intelligence Service, Sergey Naryshkin, shared that Russia is “watching with regret assaults on the future of the Olympics in Beijing.”¹⁹⁰ He went on to explain that “unfounded assaults by former U.S. Secretary of State Mike Pompeo, who said at the beginning of the year that Beijing would try to divert the attention of the global community from internal repression” is an example of a “politicalized attempt to spoil the sports holiday for the global sports community” that should be countered.¹⁹¹

While the PRC has been able to mobilize political support for Beijing 2022, the country has also worked to secure financial backing.¹⁹² The PRC will finance the Games through several different avenues. First, the IOC will help finance the Games through the Organizing Committee for the Olympic Games Budget.¹⁹³ This fund is largely privately financed through the Olympic Partner (“TOP”) program and the IOC’s sale of broadcasting rights.¹⁹⁴ TOP sponsors include companies like Airbnb, Alibaba, Allianz, Atos, Bridgestone, CocaCola, Intel, OMEGA, Panasonic, Proctor & Gamble, SAMSUNG, TOYOTA, and VISA.¹⁹⁵

Broadcasting rights have also been sold to several networks around the world. Major deals have been brokered with companies such as the Sony Picture Networks India, Seven West Media, CBC, DStv SuperSport, Econet Media, South African Broadcasting Corporation, the BBS, NBC Universal, Discovery Inc., and Eurosport.¹⁹⁶ In addition to IOC funding, lower-level sponsors are also supporting the 2022 Winter Olympics. Most of these lower-level sponsors are Chinese companies.¹⁹⁷ However, companies like EF Education First, SNICKERS, Yum, and PwC are

¹⁸⁶ *Supra* note 185.

¹⁸⁷ *Putin Is First Leader to Say He’ll Attend Beijing Olympics*, BLOOMBERG NEWS (Sept. 16, 2021), <https://www.bloomberg.com/news/articles/2021-09-17/putin-is-first-leader-to-say-he-ll-attend-beijing-winter-games>.

¹⁸⁸ *Id.*

¹⁸⁹ *Beijing 2022: Putin tells Xi he will attend Winter Olympics*, BBC NEWS (Dec. 16, 2021), <https://www.bbc.com/news/world-asia-59663827>.

¹⁹⁰ *Russia confident that Beijing Olympics will take place, intel chief says*, RUSSIAN NEWS AGENCY (July 30, 2021), <https://tass.com/sport/1321179>.

¹⁹¹ *Id.*

¹⁹² *Big Brands Face a \$110 Billion Dilemma*, BLOOMBERG NEWS (Oct. 11, 2021), <https://www.bloomberg.com/news/articles/2021-10-11/big-brands-face-a-110-billion-dilemma-with-the-beijing-olympics>.

¹⁹³ *How are the Olympic Games financed?*, INT’L OLYMPIC COMM., <https://olympics.com/ioc/faq/roles-and-responsibilities-of-the-ioc-and-its-partners/how-are-the-olympic-games-financed> (last visited Dec. 31, 2021).

¹⁹⁴ *Id.*

¹⁹⁵ *The Olympic Partner Programme*, INT’L OLYMPIC COMM., <https://olympics.com/ioc/partners> (last visited Dec. 31, 2021).

¹⁹⁶ *See Beijing Olympics 2022 Live Streaming + TV Channels*, SPORTSNAR, <https://www.sportsnar.com/beijing-olympics-2022-live-streaming-tv-channels/> (last visited Dec. 31, 2021).

¹⁹⁷ *Id.*

lower-level sponsors of Beijing 2022.¹⁹⁸ In addition, KFC, Pizza Hut, and Taco Bell, while not direct sponsors, make up Yum China's holdings which is a sponsor of Beijing 2022.¹⁹⁹

Given the PRC's human rights record in the XUAR, the U.S. has explored limiting their support of Beijing 2022 by restricting their association with companies that are supporting the 2022 Winter Olympics.²⁰⁰ A bipartisan group of representatives has introduced the Beijing Winter Olympics Sponsor Accountability Act.²⁰¹ If passed, the Bill would prohibit "the executive agencies of the federal government from contracting for the procurement of goods or services with any person that has business operations with the Beijing Organizing Committee for the 2022 Olympic and Paralympic Winter Games of the International Olympic Committee."²⁰² However, the Bill has not left committee and corporate accountability has not been largely pursued by other countries.²⁰³

Although some States recognize the gravity of participating in the 2022 Winter Olympics while the PRC is committing genocide and human rights atrocities against the Uyghur population, no country is planning on fully boycotting Beijing 2022. Given the widespread recognition of genocide and human rights atrocities in the XUAR coupled with the largely unaffected participation in the 2022 Winter Olympics, participating States may be complicit in genocide.

V. COMPLICITY UNDER THE GENOCIDE CONVENTION

This section seeks to identify the ways States may be held accountable under the complicity provision in the Genocide Convention.

Article III(e) of the Genocide Convention stipulates that "complicity in genocide" shall be punishable, but does not provide any definition of "complicity."²⁰⁴ Some scholars suggest that the notion should be interpreted in accordance with the principles of international criminal law, as it primarily originates from criminal law.²⁰⁵ Others argue it should be interpreted in the context of the rules of state responsibility, particularly Article 16 of the ILC Articles on the Responsibility of States for Internationally Wrongful Acts ("Article 16").²⁰⁶ A third approach is to interpret the notion in accordance with criminal law when it comes to individual responsibility, while taking into account Article 16 if state responsibility is at issue.²⁰⁷

¹⁹⁸ *Beijing 2022*, BEIJING ORGANISING COMM. FOR THE 2022 OLYMPIC AND PARALYMPIC WINTER GAMES, <https://www.beijing2022.cn/en/> (last visited Dec. 31, 2021).

¹⁹⁹ *Yum China Announced as the Official Retail Food Services Sponsor of Beijing 2022 Games*, BEIJING ORGANISING COMM. FOR THE 2022 OLYMPIC AND PARALYMPIC WINTER GAMES, <https://www.beijing2022.cn/a/20200720/012468.htm> (last visited Dec. 31, 2021).

²⁰⁰ Beijing Winter Olympics Sponsor Accountability Act, H.R.3645, 117th Cong. (2021-22).

²⁰¹ Beijing Winter Olympics Sponsor Accountability Act, H.R.3645, 117th Cong. (2021-22).

²⁰² Beijing Winter Olympics Sponsor Accountability Act, H.R.3645, 117th Cong. (2021-22).

²⁰³ Beijing Winter Olympics Sponsor Accountability Act, H.R.3645, 117th Cong. (2021-22).

²⁰⁴ Convention on the Prevention and Punishment of the Crime of Genocide, Dec. 9 1948, S. Exec. Doc. O, 81-1 (1949), 78 U.N.T.S. 277.

²⁰⁵ See e.g. Marko Milanović, *State Responsibility for Genocide*, 17 EUROPEAN J. OF INT'L LAW 553, 556 (2006).

²⁰⁶ See e.g. Roberto Ago, Yearbook of the International Law Commission (1978), Vol. I, p. 241.

²⁰⁷ See e.g. Paolo Palchetti, *State Responsibility for Complicity in Genocide*, in THE UN GENOCIDE CONVENTION: A COMMENTARY 381, 384 (Paola Gaeta ed., 2009).

Article 16 stipulates as follows:

A State which aids or assists another State in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if:

- (a) That State does so with knowledge of the circumstances of the internationally wrongful act; and
- (b) The act would be internationally wrongful if committed by that State.

Scholars essentially deduce two requirements from the wording of Article 16 for complicity under the Genocide Convention. First, a state must aid and assist the perpetrators of the genocide and, second, must do so with full knowledge that the aid and assistance will be used to commit genocide.²⁰⁸

Regarding the first criterion, some disagreement exists as to whether a positive act by a state is required or whether an omission could as well lead to complicity in genocide. Although the text of Article 16 seems to imply the need for a positive act, some scholars argue that complicity may likewise result from omission by a state.²⁰⁹ For example, if a state deliberately tolerates foreign troops on its territory committing genocide, that state will by omission incur international responsibility for complicity in genocide.²¹⁰ Another opinion denies the possibility of complicity by omission except for the specific circumstance, where a state “halts its regular conduct with the aim of assisting in a wrong.”²¹¹ Regardless, most cases including an omission which aids and assists the commission of genocide will violate the primary obligation of preventing genocide (Article I of the Genocide Convention), since the latter is broader in scope, covering instances where states were uncertain at the time when they should have acted that genocide was about to be committed.²¹²

The second criterion equally raises some disagreement as to whether the assisting and aiding state needs to share the genocidal intent of the principal perpetrator, or whether the mere knowledge that the assisted state will commit genocide suffices. At the 87th meeting of the Sixth Committee to the Genocide Convention, the representative of the United Kingdom, Sir Gerald Fitzmaurice, introduced an amendment in order to add the word “deliberate” to the wording of Article III(e) of the Genocide Convention.²¹³ He considered such an amendment essential, since it might be possible for a state to “be implicated in a crime in all innocence.”²¹⁴ The representatives of Luxembourg and the Soviet Union found any such amendment superfluous, since that “general

²⁰⁸ See Palchetti, *supra* note 207, at 392-93

²⁰⁹ See Palchetti, *supra* note 207, at 386-87.

²¹⁰ See Palchetti, *supra* note 207, at 386-87.

²¹¹ Erik Kok, *The Principle of Complicity under International Law – Its Application to States and Individuals in Cases Involving Genocide, Crimes against Humanity and War Crimes*, in *THE DIVERSIFICATION & FRAGMENTATION OF INT’L CRIM. L.* 557, 581 (Larissa van den Herik and Carsten Stahn eds, 2012).

²¹² Nina HB Jørgensen, *Complicity in Genocide and the Duality of Responsibility*, in *THE LEGACY OF THE INT’L CRIM. TRIBUNAL FOR THE FORMER YUGOSLAVIA* 247, 253 (Bert Swart, Alexander Zahar, and Göran Sluiter eds, 2011).

²¹³ Sixth Committee, Summary Records of Meetings, 87th meeting, UN Doc A/C.6/SR.87 (Oct. 29, 1948), reprinted in: 2 HIRAD ABTAHI AND PHILIPPA WEBB, *THE GENOCIDE CONVENTION: THE TRAVAUX PRÉPARATOIRES* 1572, 1581-82 (2008).

²¹⁴ *Id.*

principle was so obvious that to describe complicity as deliberate was mere repetition.”²¹⁵ Accordingly, Fitzmaurice withdrew his amendment “since it was understood that, to be punishable, complicity in genocide must be deliberate.”²¹⁶

While the text of Article 16 only requires states to act with “knowledge of the circumstances of the internationally wrongful act,” the ILC’s commentary mentions a higher threshold, requiring an intent to facilitate the occurrence of the wrongful act.²¹⁷ This inconsistency in the terminology is a source for the dispute whether knowledge or a specific intent is required.²¹⁸ It is the predominant view of scholars, however, that the assisting state incurs responsibility if it has full knowledge that its assistance will be used to commit genocide, while a specific intent is not necessary.²¹⁹ Further, Article 16 does not require the assisting state to share the same intent as the perpetrator, but the assisting state will have to have knowledge “that the assistance provided will facilitate the wrongful act, coupled with a decision to proceed with the assistance nonetheless, consciously accepting that the assistance provided will facilitate the wrongful act (indirect or oblique intent).”²²⁰

Bosnia and Herzegovina v. Serbia and Montenegro

Bosnia and Herzegovina v. Serbia and Montenegro was initiated in the International Court of Justice (ICJ) by Bosnia and Herzegovina on March 20, 1993, and is currently the only ICJ case involving allegations of complicity under the Genocide Convention. Bosnia and Herzegovina’s claim centered around Serbia’s responsibility for the massacre of Bosnians by the Republika Srpska during the Bosnian war from 1992-1995.²²¹ Because Serbia had provided both weapons and economic contributions to the Army of Republika Srpska (“VRS”), Applicant claimed that Serbia was complicit in the genocide committed by the VRS during the war.²²²

In its judgment dated February 26, 2007, the Court found that the only instance of genocide that the VRS had committed in Bosnia during the war was the massacre of over 7,000²²³ Muslim men in Srebrenica in July 1995.²²⁴ The Court stated that this was because Applicant did not establish “that any of the widespread and serious atrocities...were accompanied by the necessary specific intent (*dolus specialis*) on the part of the perpetrators.”²²⁵ In addition, the Court concluded that Serbia had not, itself, committed, “conspired to commit,” “incited the commission of,” nor had it been complicit in genocide.²²⁶ This was because, according to the Court, “it was not

²¹⁵ Sixth Committee, *supra* note 213, at 1583, 1585.

²¹⁶ Sixth Committee, *supra* note 213, at 1587.

²¹⁷ See JAMES CRAWFORD, *THE INT’L L. COMM’N’S ARTICLES ON STATE RESPONSIBILITY* 149 (2002).

²¹⁸ See Marko Milanović, *Intelligence Sharing in Multinational Military Operations and Complicity under International Law*, 97 INT’L L. STUD. 1269, 1306-8 (2021).

²¹⁹ See e.g. Palchetti, at 389; Jørgensen, at 265; Milanović [2006] at 574.

²²⁰ Milanović [2021] at 1321.

²²¹ Application of Convention on Prevention and Punishment of Crime of Genocide (Bosn. & Herz. v. Serb. & Montenegro), Application Instituting Proceedings, 2007 I.C.J. 1, ¶ 10 (Mar. 20), <https://www.icj-cij.org/public/files/case-related/91/13275.pdf>.

²²² *Bosn. & Herz. v. Serb. & Montenegro*, 2007 I.C.J. at 139-141.

²²³ *Id.* at 155, ¶ 278.

²²⁴ *Id.* at 198, ¶ 376.

²²⁵ *Id.*

²²⁶ *Id.* at 237-38.

conclusively shown” that plans to commit genocide at Srebrenica were communicated to Serbian authorities.²²⁷ Therefore, Bosnia and Herzegovina had not “conclusively established” that Serbia had “supplied aid to the perpetrators of the genocide in full awareness that the aid supplied would be used to commit genocide,” which is required to demonstrate complicity.²²⁸



The International Court of Justice Courtroom. Credit to Ina Vukic.

The ICJ established a similar framework as the Draft Articles in determining whether Serbia had violated Article III of the Genocide Convention. According to the ICJ, in order for a state or party to be complicit in genocide, it must establish the following two elements:

- 1) That a positive action was “taken to furnish aid or assistance” to the genocide perpetrator(s),²²⁹ and
- 2) That the state or its organs were fully aware that a genocide “was about to be committed or was underway” at the time, but still provided aid despite knowing it would enable or facilitate genocide.²³⁰

The court solidifies the use of Article 16 to determine state complicity by establishing that this test for complicity differs from that of international criminal law and is, instead, substantively the same as “aid or assistance” as defined in Article 16 of the International Law Commission’s (ILC) Articles on State Responsibility.²³¹ Although the Court ultimately found that Serbia had not been

²²⁷ *Bosn. & Herz. v. Serb. & Montenegro* at 218, ¶ 423.

²²⁸ *Id.*

²²⁹ *Id.* at 222, ¶ 432.

²³⁰ *Id.* at 223, ¶ 432.

²³¹ *Id.* at 217, ¶ 420.

complicit in genocide, four out of fifteen judges dissented from the majority's holding,²³² several of whom argued there was sufficient evidence to show that Serbia had been complicit.²³³

To be complicit under the ICJ's definition, a state must take an affirmative action to provide aid or assistance to a genocide perpetrator.²³⁴ The Court did not contest that Serbia had provided the Republika Srpska and the VRS with "substantial aid of a political, military and financial nature" before and during the genocide at Srebrenica.²³⁵ Therefore, part one of the above test was satisfied. However, the Court could not conclude that Applicant had "established beyond any doubt" that Serbia was "fully aware" that the VRS intended to or was committing genocide when it provided that aid.²³⁶ Specifically, the Court found that there was no evidence that the VRS's plan "was brought to the attention of the Belgrade authorities when it was taken" and before "it was actually carried out"—a process which the court found to have taken only three days.²³⁷

Judge Keith, dissenting from the majority on the point of "complicity," disagreed that the evidence was insufficient.²³⁸ He pointed out that the Court, itself, had noted the Serbian leadership "and President Milošević above all, were fully aware" of the climate of hatred between Bosnian Serbs and Muslims in Srebrenica.²³⁹ This, coupled with the close relationship between Milošević and Mladić—extensive evidence of which was provided to the court—showed that Milošević must have known about the plan to destroy a protected group.²⁴⁰ Other critiques of the majority's conclusion mentioned inconsistent reliance by the ICJ on the ICTY's findings. Judge Bennouna, in his dissent, underlined that although the ICJ had relied upon ICTY jurisprudence for various issues, including how it characterized Srebrenica as a genocide, in the absence of a trial of Milošević, the Court gave too much benefit of the doubt to Serbia when considering what its leadership knew in the days leading up to the genocide.²⁴¹ However, regarding such evidentiary concerns, the Court would likely respond that the evidence it did have still fell short of certainty. Instead, this would be considered information from which it "might at least have been surmised" by Serbia that the VRS was planning to commit genocide, and therefore better serve as evidence that Serbia had violated its duty to prevent genocide rather than being complicit in it.²⁴²

Overall, the test that the ICJ applied to determine whether a state was complicit in genocide is straightforward, but has an extremely high bar. The first portion of the test is generally simple to satisfy, requiring an affirmative action by the aiding state towards the perpetrating state. However,

²³² *Bosn. & Herz. v. Serb. & Montenegro* at 238, ¶ 4.

²³³ See Application of Convention on Prevention and Punishment of Crime of Genocide (*Bosn. & Herz. v. Serb. & Montenegro*), Judgment, 2007 I.C.J. 49, ¶ 1 (Feb. 26), <https://www.icj-cij.org/public/files/case-related/91/091-20070226-JUD-01-08-EN.pdf> (separate opinion by Keith, J.); Application of Convention on Prevention and Punishment of Crime of Genocide (*Bosn. & Herz. v. Serb. & Montenegro*), Judgment, 2007 I.C.J. 49, ¶ 1 (Feb. 26), <https://www.icj-cij.org/public/files/case-related/91/091-20070226-JUD-01-08-EN.pdf> (separate opinion by Bennouna, J.).

²³⁴ *Bosn. & Herz. v. Serb. & Montenegro* at 222, ¶ 432.

²³⁵ *Id.* at 218, ¶ 422.

²³⁶ *Id.* at 218, ¶ 422.

²³⁷ *Bosn. & Herz. v. Serb. & Montenegro* at 218, ¶ 423.

²³⁸ *Id.* at ¶ 10.

²³⁹ *Id.* at ¶ 10.

²⁴⁰ Keith, J. at 355 ¶ 10-11.

²⁴¹ Bennouna, J. at 361.

²⁴² *Bosn. & Herz. v. Serb. & Montenegro* at 225, ¶ 438.

that it must be proven “beyond any doubt” that the aiding state was aware of the recipient states’ intent to commit genocide needs explicit proof and goes beyond the ICTY’s standard.²⁴³

The Concept of Complicity in Other International Tribunals

Article 3(e) of the Genocide Convention recognizes complicity in genocide as punishable under the convention.²⁴⁴ The International Criminal Tribunal for the former Yugoslavia (“ICTY”) and the International Criminal Tribunal for Rwanda (“ICTR”) were created to punish genocide and to enforce Article 3 of the Genocide Convention.²⁴⁵ Both tribunals interpreted and applied the Genocide Convention to punish the criminal conduct including the acts of genocide and complicity in genocide.²⁴⁶

The tribunals recognized that the elements of complicity under international criminal law include “first, . . . that the underlying or predicate crime has been committed by another person; . . . second, there must be a material act by which [the one who is complicit] actually contributes to the perpetration of the crime; . . . [and] thirdly the accomplice’s act must be carried out with the intent and with knowledge of the perpetrator’s act.”²⁴⁷ Specifically, to prove the first element, complicity in genocide requires proof of the predicate act of genocide beyond a reasonable doubt.²⁴⁸ The ICTR adopted the Rwandan Penal Code’s definition of complicity and defined the second element as “complicity by procuring means . . . complicity by knowingly aiding or abetting a perpetrator of genocide . . . or complicity by instigation . . . through gifts, promises, threats, abuse of authority or power, machinations or culpable artifice.”²⁴⁹ While the first two elements of complicity refer to the *actus reus* of the crime, the third element is relevant to the *mens rea* of the substantive offense.²⁵⁰

Over time, the international criminal tribunals have changed their interpretation of the *mens rea* required for the actor to be guilty of complicity in genocide. Initially, the ICTR interpreted the *mens rea* for complicity in genocide as one of lesser *mens rea* than the specific nexus to genocide needed under facilitation of genocide, “to be guilty the actor did not need the “specific intent to destroy, in whole or in part, a national, ethnic, racial, or religious group,” the actor only has to know that there is a “genocidal plan” and his/her participation supports that ultimate plan.”²⁵¹ Moreover, the trial chamber in *Prosecutor v. Akayesu* clarified that complicity in genocide has a different intent required than the crime aiding and abetting in genocide, “when dealing with a person accused of having aided and abetted in the planning, preparation and execution of genocide, it must be proven that such a person did have the specific intent to commit genocide, namely that,

²⁴³ *Bosn. & Herz. v. Serb. & Montenegro* at 218, ¶ 422.

²⁴⁴ Convention on the Prevention and Punishment of the Crime of Genocide, Dec. 9, 1948, 102 Stat. 3045, 78 U.N.T.S. 277 [hereinafter Genocide Convention].

²⁴⁵ Daniel M. Greenfield, *The Crime of Complicity in Genocide: How the International Criminal Tribunals for Rwanda and Yugoslavia Got it Wrong, and Why it Matters*, 98 J. OF CRIM. L. & CRIMINOLOGY 921, 922 (2008).

²⁴⁶ *Id.*

²⁴⁷ William A. Scabas, *Enforcing International Humanitarian Law: Catching the Accomplices*, 842 INT’L REV. RED CROSS 439, 447-48 (2001).

²⁴⁸ *Prosecutor v. Akayesu*, Case No. ICTR-96-4-T, Judgment, ¶¶ 529-30 (Sept. 2, 1998).

²⁴⁹ *Id.* at ¶ 537.

²⁵⁰ Greenfield *supra* note 245, at 926.

²⁵¹ *Prosecutor v. Akayesu* at ¶¶ 540, 544.

he or she acted with the intent to destroy in whole or in part, a national, ethnic, racial or religious group, as such; whereas, . . . the same requirement is not needed for complicity in genocide.”²⁵²

However, subsequent decisions by both the ICTR and the ICTY interpreted complicity in genocide as a form of accomplice liability, and conflated aiding and abetting genocide with complicity in genocide.²⁵³ Now, instead of an actor being guilty of complicity in genocide by knowing of the genocidal plan, or knowing that genocide is a foreseeable result of the actor’s actions, a perpetrator needs to have a higher *mens rea*, “a specific intent specific motive nexus.”²⁵⁴

Complicity when an actor acted within a state position

The ICTR found that Akayesu, “a founding member of the new political party, . . . Mouvement Démocratique Républicain MDR,” was not guilty of complicity in genocide because he was found guilty of the act of genocide, which are “mutually exclusive.”²⁵⁵ Edouard Karemera, a key member in the “MRND party (le Mouvement Revolutionnaire National pour le Developpement, later le Mouvement Republicain National pour la Democratie et le Developpement)” and Matthieu Ndirumpatse, another high level member of the MRND party, were both found not guilty of complicity of genocide based on the ICTR’s alternate guilty convictions of genocide.²⁵⁶

Similarly, the ICTY found that General Krstic was not guilty of complicity in genocide because he was a principal perpetrator in the genocide of Bosnian Muslims.²⁵⁷

Attribution of State Responsibility

Scholars have discussed how the ICJ has jurisdiction under Article 9 of the Genocide Convention to hear cases of states accused of complicity in genocide.²⁵⁸ David Greenfield posited that if the tribunals were to revert back to their original interpretation of the *mens rea* required for complicity in genocide, then states could be held accountable for their conduct as accomplices to the act of genocide.²⁵⁹

²⁵² *Prosecutor v. Akayesu* at ¶ 485.

²⁵³ Greenfield *supra* note 245, at 924.

²⁵⁴ *Id.*

²⁵⁵ *Prosecutor v. Akayesu* at ¶¶ 52, 532.

²⁵⁶ *Prosecutor v. Karemera*, Case No. ICTR-98-44-T, Judgment, ¶ 1672 (Feb. 2, 2012).

²⁵⁷ *Prosecutor v. Krstic*, Case No. IT-98-33-T, Judgment, ¶¶ 644-45 (Aug. 2, 2001) (“General Krstic participated in a joint criminal enterprise to kill the military-aged Bosnian Muslim men of Srebrenica with the awareness that such killings would lead to the annihilation of the entire Bosnian Muslim community at Srebrenica. His intent to kill the men thus amounts to a genocidal intent to destroy the group in part. . . . In particular, at a stage when his participation was clearly indispensable, General Krstic exerted his authority as Drina Corps Commander and arranged for men under his command to commit killings. He thus was an essential participant in the genocidal killings in the aftermath of the fall of Srebrenica. In sum, in view of both his *mens rea* and *actus reus*, General Krstic must be considered a principal perpetrator of these crimes.”).

²⁵⁸ Greenfield *supra* note 245, at 925 n. 12.

²⁵⁹ Greenfield *supra* note 245, at 950 (“The drafters of the Genocide Convention and the Statutes of the ad hoc Tribunals intended to ensure that those without the specific intent specific motive nexus could still be prosecuted for committing the crime of complicity in genocide as long as the [accomplices] have the requisite specific intent [has knowledge of, or recklessly is regards knowledge of, the perpetrator’s genocidal intent] without specific motive or malice.”)

Complicity Under *Jus Cogens* and *Erga Omnes*

In the famous *obiter dictum* in its *Barcelona Traction* judgment, the ICJ clarified that there are obligations that are owed to the international community as a whole, for which ‘all States can be held to have a legal interest in their protection; they are obligations *erga omnes*.’²⁶⁰ The ICJ went on to confirm that the norms outlawing genocide are of such an obligation.²⁶¹ Furthermore, the ICJ explained in *Armed Activities* that the prohibition of genocide is also a *jus cogens* norm.²⁶² However, this does not *per se* apply to the obligations to prevent and punish genocide. The *jus cogens* nature of both those ancillary obligations is disputed.²⁶³

With regards to *erga omnes*, the obligation to prevent genocide is predominantly viewed to be of such a nature.²⁶⁴ The exact scope of that obligation to prevent remains, however, unclear.²⁶⁵ The 2007 *Bosnian Genocide* judgment, for instance, shed some light to the scope *ratione personae* of that obligation.²⁶⁶ The ICJ clarified that whether a state has to discharge the obligation to prevent genocide depends on that state’s “capacity to influence effectively the action of persons likely to commit, or already committing genocide” and “varies greatly from one state to another.”²⁶⁷

Another obligation that flows from the *jus cogens* character of the prohibition of genocide, is stipulated in Article 41(2) ARSIWA.²⁶⁸ According to that norm, states are under a duty not to “recognize as lawful a situation” that was created by a breach of a *jus cogens* norm, “nor render aid or assistance in maintaining that situation.” It follows from this obligation that states which are aware of genocide being committed must refrain from providing any aid or assistance to a state which may use that assistance for the perpetration of genocide.²⁶⁹ This obligation essentially resembles the prohibition of complicity in genocide, and hence is as well one of an *erga omnes* character.²⁷⁰

VI. INTERNATIONAL ACTIONS

This section will discuss political and economic actions that states can take to combat the PRC’s genocide of the Uyghur people. Prior to the 2022 Beijing Winter Olympics, participating countries and entities should be encouraged to take economic and political actions to address the

²⁶⁰ *Case Concerning the Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain)*, Judgment, 1970 I.C.J. Rep. 3, ¶ 33 (5 Feb.).

²⁶¹ *Id.* ¶ 34.

²⁶² *Case Concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Rwanda)*, Judgment, 2006 I.C.J. Rep. 6, ¶ 64 (3 Feb.).

²⁶³ See e.g. Manuel Ventura and Dapo Akande, *Mothers of Srebrenica: The Obligation to Prevent Genocide and Jus Cogens – Implications for Humanitarian Intervention*, EJIL:TALK! (Sept. 6, 2013) <https://www.ejiltalk.org/ignoring-the-elephant-in-the-room-in-mothers-of-srebrenica-is-the-obligation-to-prevent-genocide-jus-cogens/>; Dapo Akande and Sangeeta Shah, *Immunities of State Officials, International Crimes and Foreign Domestic Courts*, 21 EUR. J. OF INT’ L. 815, 833 (2010).

²⁶⁴ See e.g. Milanović [2006] at 570; Orna Ben-Naftali, *The Obligations to Prevent and Punish Genocide*, in THE UN GENOCIDE CONVENTION: A COMMENTARY 27, 36 (Paola Gaeta ed., 2009).

²⁶⁵ See e.g. Milanović [2006] at 570.

²⁶⁶ *Bosnian Genocide* [2007] ¶ 430.

²⁶⁷ *Bosnian Genocide* [2007] ¶ 430.

²⁶⁸ International Law Commission, *Draft Articles on Responsibility of States for Internationally Wrongful Acts*, Supplement No. 10 (A/56/10) (Nov. 2001), <https://www.refworld.org/docid/3ddb8f804.html>.

²⁶⁹ See e.g. Palchetti, at 392-93; Milanović [2006] at 570; Kok, at 562.

²⁷⁰ Milanović [2006] at 570.

Uyghur genocide. There are numerous ways countries can support their national pride and athletes while also avoiding complicity in the genocide of the Uyghur people, such as applying political pressure from a global coalition, economic sanctions, import bans, delisting from stock exchanges, applying pressure on individual shareholders, restricting stock trading, and import tariffs.

Even so, the PRC has expressed no intention to cave to international rhetoric and has refused to open the door for an international investigation.²⁷¹ The global community is now tasked with taking greater steps. Most recently, the PRC accused the U.S. and its allies of inflaming cold war tensions, stating in a December press release that:

“The U.S. Government’s decision reflects its mentality of the Cold War ... [and] politicize[s] sports, create[s] divisions and provoke[s] confrontation. This approach will find no support and is doomed to fail. It will only make them more isolated and stand in opposition to the trend of the times and to the vast majority of countries and people around the world.”²⁷²

The resistance of the PRC to international pressure requires that participating countries and entities work together to stop genocide. If the global community adopts coordinated political and economic actions, there is a greater chance for positive changes from the PRC, and greater protections for the Uyghur people.

Political and economic actions should be designed to curb or end the direct and indirect benefits the PRC, states, individuals, corporations, and governmental entities gain from the atrocities committed against the Uyghur people. The economic benefits referenced herein are those resulting from the forced labor and genocide of the Uyghur people bolstering Chinese exports for global industries.²⁷³ Importantly, international responses to complicit parties need to be extended beyond the scope of direct benefits. Broad responses should include prohibiting individuals, corporations, and entities from participating in global economic structures that benefit indirectly from the exploitation of Uyghur forced labor, with the purpose of creating pressure against the PRC. In addition, actions must directly call out the conduct of the PRC and recognize the violation of the Uyghur people’s basic human rights.

²⁷¹ Cate Cadell, *China counters Uyghur criticism with explicit attacks on women witnesses*, REUTERS, <https://www.reuters.com/article/us-china-xinjiang/china-counters-uighur-criticism-with-explicit-attacks-on-women-witnesses-idUSKCN2AT1BA> (last updated Mar. 01, 2021, 1:08 AM).

²⁷² *Reactions to U.S. govt officials' boycott of Beijing Olympics*, REUTERS, <https://www.reuters.com/lifestyle/sports/reactions-us-govt-officials-boycott-beijing-olympics-2021-12-07/> (last updated Dec. 6, 2021, 11:50 p.m.).

²⁷³ U.S. DEP’T OF STATE, BUREAU OF ECON. AND BUS. AFFAIRS, *Xinjiang Supply Chain Business Advisory* (July 13, 2021) <https://www.state.gov/xinjiang-supply-chain-business-advisory/> [<https://www.state.gov/wp-content/uploads/2021/07/Xinjiang-Business-Advisory-13July2021-1.pdf>]; see also Laura T. Murphy & Nyrola Elimä, N. *In Broad Daylight: Uyghur Forced Labour and Global Solar Supply Chains*, SHEFFIELD HALLAM UNIV., HELENA KENNEDY CTR. FOR INT’L JUSTICE (2021), <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/in-broad-daylight>, *Cotton: The Fabric Full of Lies, A report on forced and prison labor in Xinjiang, China, and the nexus to global supply chains*, CITIZEN POWER INITIATIVES FOR CHINA (Aug. 2019), <https://www.citizenpowerforchina.org/report-released-cotton-the-fabric-full-of-lies/>.

Political Actions

The starting point for all actions to combat the PRC genocide of the Uyghur people should arise from the political will of nation states. At its core, the Uyghur genocide is a crisis involving a political rot within the PRC and international community that treats vulnerable minority groups as collateral damage for political gain. After Xi Jinping became president of China in 2013, Beijing began cracking down more aggressively on separatism among Uighurs and other Muslim minorities in the country.²⁷⁴ The totalitarian ambition of Xi Jinping has culminated in genocide of the Uyghur people. Such wanton treatment of the Uyghur people for political gain needs to be met with equal vigor from the international community.

Boycotts

Most recently, the U.S. has announced that it will conduct a diplomatic boycott of the 2022 Beijing Winter Olympics.²⁷⁵ The diplomatic boycott, which leaves athletes free to travel to Beijing to compete, is also joined by the U.K., Canada, New Zealand, Japan, and Australia.²⁷⁶ In response, the PRC threatened unspecified “resolute countermeasures” against any such move.²⁷⁷ Notably, the diplomatic boycott of Beijing is smaller in scale and severity in comparison with Cold War-era boycotts like the boycott of the 1980 Olympic games in Moscow.²⁷⁸ Other U.S. allies like South Korea and France have expressly stated that they will not participate in the diplomatic boycott.²⁷⁹ Moreover, China has announced strict COVID-19 protocols, including mandatory quarantine, meaning fewer dignitaries were likely to travel to Beijing anyway.²⁸⁰

²⁷⁴ Jonah Shepp, *What Is China Doing to the Uighurs in Xinjiang?*, INTELLIGENCER (Sept. 15, 2021), <https://nymag.com/intelligencer/article/uyghurs-china-explainer.html>.

²⁷⁵ Steve Holland et al., *U.S. officials to boycott Beijing Olympics over rights 'atrocities'*, REUTERS (Dec. 7, 2021), <https://www.reuters.com/lifestyle/sports/us-officials-boycott-beijing-olympics-cnn-2021-12-06/>.

²⁷⁶ Chad De Guzman, *How the U.S. Boycott of the Beijing Olympics Is Splitting the World*, TIME (Dec. 16, 2021), <https://time.com/6129154/beijing-olympics-boycott/>; see also Christopher Edward Carroll, *New Zealand's Mixed Messaging on the Beijing Olympic Boycott*, THE DIPLOMAT (Dec. 14, 2021), <https://thediplomat.com/2021/12/new-zealands-mixed-messaging-on-the-beijing-olympic-boycott/> and Justin Mccury, *Japan PM will not attend Beijing Winter Olympics opening ceremony*, THE GUARDIAN (Dec. 16, 2021), <https://www.theguardian.com/sport/2021/dec/16/japan-pm-will-not-attend-beijing-winter-olympics-opening-ceremony> (Stating that New Zealand and Japan will not be sending diplomats, while also not endorsing a diplomatic boycott).

²⁷⁷ Holland et al., *supra* note 275.

²⁷⁸ De Guzman, *supra* note 276 (stating that 45 nations participated in the 1980 boycott).

²⁷⁹ De Guzman, *supra* note 276.

²⁸⁰ De Guzman, *supra* note 276.



Activists called for a boycott of the Beijing Games at a rally in LA, CA in November 2021. Credit to Frederic J. Brown/Agence France-Presse.

In the modern era of the Olympic Games, boycotts have become a showcase for major geopolitical disputes. Typically a specific action is provided as justification for the boycott, such as the Soviet invasion of Afghanistan during the 1980 games, but wider political tensions have also played a critical role in the use of boycotts.²⁸¹ Currently, diplomatic boycotting countries have cited the human rights abuses of the PRC against the Uyghur people as justification, but wider geopolitical tension with China has also escalated the tension.²⁸²

Olympic boycotts and calls for boycotts have traditionally been effective at raising global awareness to a relevant issue, but criticism remains that rarely results in changing a host nation's behavior.²⁸³ For example, more than 20 African countries withdrew from taking part in the 1976 Montreal Summer Games to advocate for the exclusion of New Zealand after its rugby team participated in a tour of Apartheid South Africa.²⁸⁴ Still, New Zealand took part and won 15 gold medals that year.²⁸⁵ Another example is the 1980 Moscow boycott which failed to prevent the invasion of Afghanistan by the Soviet Union. In addition to having few results concerning the change of host-nation behavior, critics have also argued that any boycott only punishes the athletes that participate.²⁸⁶

While critics have argued that the results of a boycott typically fail to warrant its use, the IOC has approached the issue from a different perspective. The IOC has historically relied on principles of neutrality regarding political issues, emphasizing that the mission of the IOC is to unite the

²⁸¹ De Guzman, *supra* note 276.

²⁸² Holland et al., *supra* note 275.

²⁸³ De Guzman, *supra* note 276.

²⁸⁴ *Montreal 1976*, IOC, <https://olympics.com/en/olympic-games/montreal-1976> (last visited Dec. 17, 2021).

²⁸⁵ De Guzman, *supra* note 276.

²⁸⁶ De Guzman, *supra* note 276.

entire world in peaceful competition.²⁸⁷ To achieve this unity, the IOC remains neutral on any and all political disputes between nations.

However, the IOC's stated political neutrality has increasingly come under scrutiny from international advocate groups. Human Rights Watch accused the IOC of covering for the PRC when IOC members met with Peng Shuai, a tennis star who recently accused the PRC of sexual misconduct, via video chat at the height of questions about her wellbeing.²⁸⁸ The IOC said Peng Shuai was safe, but failed to address questions about her allegations against a senior Community Party official.²⁸⁹ Furthermore, the World Uyghur Congress, an international organization advocating Uyghurs' rights, urged governments to withdraw from the Games, saying participants would be complicit with "genocide" in China.²⁹⁰

The IOC has responded by saying that many of the political issues have become intractable, but clarified that the Games must continue regardless.²⁹¹ Dick Pound, the IOC's longest-serving member, clarified the position, stating "[The] games are not going to be cancelled, and people need to understand that."²⁹² Dick Pound also stated that the diplomatic boycotts are enough to send a message to China as many of the countries in the world are already requesting China modify its behavior.²⁹³

The critical issue that seems to allude the IOC is that neutrality is impossible in the context of genocide. Silence *is* an endorsement of genocide, as it enables the perpetrator to continue committing atrocities with impunity. There is no neutrality on the issue of genocide and human rights violations, and any silence by the IOC or the participating states only serves to legitimize the PRC on a global scale. Yet, the criticism of boycotts remains substantively valid and, by themselves, will be insufficient to curb the PRC's behavior.

Global Coordinated Political Action

A more coordinated and joint effort on behalf of the international community of nations is needed to assert meaningful pressure on the Chinese government. A recent example of a global coordinated effort was the Cross-regional Joint Statement on the Human Rights Situation in Xinjiang, signed by 43 countries and read by France's U.N. Ambassador Nicolas De Riviere.²⁹⁴ The Joint Statement was a one-page letter addressing the concern about the "situation in the Xinjiang Uyghur Autonomous Region."²⁹⁵ It called on China to allow "immediate, meaningful, and unfettered access to Xinjiang for independent observers, including the UN High Commissioner

²⁸⁷ IOC President Thomas Bach, *Solidarity and political neutrality vital to the universality of the Olympic Games, President Bach tells ANOC General Assembly*, IOC (Oct. 17, 2019), <https://olympics.com/ioc/news/solidarity-and-political-neutrality-vital-to-the-universality-of-the-olympic-games-president-bach-tells-anoc-general-assembly>.

²⁸⁸ *Olympics: Protect Peng Shuai*, HUM. RTS. WATCH (hereinafter, HRW) (Dec. 1, 2021), <https://www.hrw.org/news/2021/12/01/olympics-protect-peng-shuai#>.

²⁸⁹ *Id.*

²⁹⁰ De Guzman, *supra* note 276.

²⁹¹ De Guzman, *supra* note 276.

²⁹² De Guzman, *supra* note 276.

²⁹³ De Guzman, *supra* note 276.

²⁹⁴ U.N. GAOR, 76th Sess., 3rd Comm., U.N. Doc. A/CCPR/C.3/2021/1/Rev. 1 (Oct. 21, 2021).

<https://onu.delegfrance.org/we-call-on-china-to-allow-immediate-meaningful-and-unfettered-access-to>.

²⁹⁵ *Id.*

for Human Rights, and relevant special procedure mandate holders, as well as to urgently implement the Committee on the Elimination of Racial Discrimination's (CERD) eight recommendations related to Xinjiang."²⁹⁶

While 43 countries recognizing the situation in Xinjiang is a considerable increase in involvement from the diplomatic boycott, more countries need to generate statements regarding the human rights situation in Xinjiang. For example, in 2020 the German Ambassador Christoph Heusgen also presented a statement on behalf of 39 other countries, calling on China to "respect human rights, particularly the rights of persons belonging to religious and ethnic minorities, especially in Xinjiang and Tibet."²⁹⁷ Also, another joint statement was read by Canadian Ambassador Leslie Norton on behalf of 40 countries to the U.N. Human Rights Council in June, 2021.²⁹⁸ The Canadian-led statement claimed reports of torture, forced sterilization, sexual violence and forced separation of children from their parents.²⁹⁹ Once again, the nations called for unfettered access to be granted into the XUAR for independent observers, including the High Commissioner.³⁰⁰

Yet, China has found a friendly nation to defend it against accusations of Genocide. Cuba recently issued a statement expressing concern that the push for action against China has been fueled by "political motivation" and "disinformation."³⁰¹ While Cuba did not expressly address France's or Canada's joint statement, or the XUAR and China specifically, the immediacy of the statement following France's statement against China's actions in the XUAR clearly represented support for PRC's resistance to allowing further investigations.³⁰² China also responded to the joint statements in a press conference expressing support for the statements made during Cuba's joint statement at the UN General Assembly.³⁰³ China claimed that a "small number of Western countries, based on disinformation, rumors and lies, keep attacking and maligning China on issues relating to Xinjiang and other matters and interfering in China's domestic affairs with human rights as a disguise."³⁰⁴ China also reaffirmed its determination to safeguard national sovereignty, security, and development interests.³⁰⁵

An increase in joint, coordinated efforts is needed for two primary reasons. First, they allow a coalition of countries to assert pressure on China to reform its behavior and allow human rights monitors access to the XUAR. For example, a global coalition of political will successfully pressured South Africa to end its practice of Apartheid. India and many other countries played a

²⁹⁶ U.N. GAOR, *supra* note 294.

²⁹⁷ Christoph Heusgen, Ambassador, U.N. Gen. Assembly Third Comm., Statement by Ambassador Christoph Heusgen on behalf of 39 Countries in the Third Committee General Debate (June 6, 2020).

²⁹⁸ Leslie E. Norton, Ambassador and Permanent Representative of Canada, Joint Statement on the Human Rights Situation in Xinjiang to the 47th Session of the United Nations (June 22, 2021).

²⁹⁹ *Id.*

³⁰⁰ *Id.*

³⁰¹ U.N. GAOR, 65th Sess., Agenda item 86, U.N. Doc., A/HRC/65/181 (Oct. 21, 2021), https://www.un.org/en/ga/sixth/76/pdfs/statements/universal_jurisdiction/14mtg_cuba_e.pdf.

³⁰² *Id.*

³⁰³ Ministry of Foreign Affairs of the People's Republic of China, *Foreign Ministry Spokesperson Wang Wenbin's Regular Press Conference* (Oct. 22, 2021),

https://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/2511_665403/t1916229.shtml.

³⁰⁴ *Id.*

³⁰⁵ *Id.*

critical role in the fight against racialism and colonialism at a time when African representation in the UN and other international forums was nonexistent.³⁰⁶ India's fight and a global coalition broke the economic power of a racist regime and asserted substantial international pressure resulting in the abolition of Apartheid in 1994.³⁰⁷

Second, it further discourages threats of retaliation of the kind the PRC has made against those that publicly raise concerns about the genocide and crimes against humanity in Xinjiang.³⁰⁸ Involving more countries also works to discredit China's claim that only a small number of Western countries are pushing back against these concerning reports of their treatment of the Uyghur people.

A global coordinated effort would also pave a road towards petitioning the UN Human Rights Council to adopt a Resolution to create a commission of inquiry with authority to investigate allegations of human rights violations against the Uyghur people in Xinjiang.³⁰⁹ Such a commission would also make recommendations to end the abuses, identify responsible officials, provide a plan to hold them accountable, call for appropriate reparations for victims, and report regularly to the council and other relevant UN bodies.³¹⁰ Most importantly, commissions of inquiry identify the root causes of the violence and violations and address the rights to the truth, justice, remedies and reparations, and guarantees of non-recurrence.³¹¹

As of the end of 2021, no state has granted complete "unfettered access" to the UN High Commissioner, but there have been many calls in the past for such, and many states have granted at least partial access to independent observers. For example, in December of 2020 a UN refugee agency called for "unfettered access" to be granted to the High Commissioner to Tigray in Ethiopia "amidst disturbing reports from Ethiopians fleeing to Sudan."³¹² In March of 2021 a probe was announced as being carried out by the High Commissioner's Office, and a joint investigation was launched regarding the human rights violations and abuses "allegedly committed by all parties in the context of the Tigray conflict..."³¹³ Even having partial access allows for record keeping and the documentation of these atrocities, and all political efforts need to be taken to achieve such a goal.

³⁰⁶ M. Muslim Khan, *India – South Africa Unique Relations*, 71 THE INDIAN J. OF POL. SCI. 613, 613 (2010).

³⁰⁷ *Id.*

³⁰⁸ *Ignoring Beijing's Threats of Retaliation: Daily Brief*, HRW (Oct. 22, 2021) <https://www.hrw.org/the-day-in-human-rights/2021/10/22>.

³⁰⁹ *International Commissions of Inquiry, Commissions on Human Rights, Fact-Finding missions and other Investigations*, U.N. HUM. RTS. COUNCIL (2020), <https://www.ohchr.org/EN/HRBodies/HRC/Pages/COIs.aspx>.

³¹⁰ U.N. OHCHR, *Commissions of Inquiry and Fact-Finding Missions on International Human Rights and Humanitarian Law: Guidance and Practice*, U.N. Doc. HR/PUB/14/7 at 7 (2015).

³¹¹ U.N. OHCHR, *supra* note 310, at 7; A recent example is the Resolution on the situation of human rights in Burundi which created a Commission of Inquiry, whose responsibilities include investigating human rights violations, identifying those responsible, and making recommendations on how to hold those individuals accountable. *See* U.N. GAOR, 33rd Sess., Agenda item 4., U.N. Doc. A/HRC/RES/33/24 (Oct. 5, 2016).

³¹² U.N. News, *Ethiopia: UN refugee agency calls for 'unfettered access' to Tigray*, HUMANITARIAN AID (Dec. 11, 2020) <https://news.un.org/en/story/2020/12/1079852>.

³¹³ Press Release, Aaron Maasho and Ravina Shamdasani, *Ethiopia: The Office of the United Nations High Commissioner for Human Rights and the Ethiopian Human Rights Commission to Conduct a Joint Investigation With a View to a Credible Accountability Process*, U.N. Press Release A/CCPR/CN./PV (Nov. 3, 2021).

In addition to making general statements on the “situation” in the XUAR, nations should further specify, in all individual and joint public condemnations of rights abuses in the XUAR, that Chinese Authorities are responsible for criminal acts that are part of widespread or systematic attacks against Turkic Muslims in the XUAR. Recently, the Human Rights Watch expressly stated that the Chinese government is committing crimes against humanity against the Uyghur people.³¹⁴ This language should be adopted by states when issuing statements concerning the PRC’s conduct in the XUAR. It is not enough to address the “situation” regarding the Uyghur people, and states must label the activity for what it is: genocide.

Economic Actions

The list of products implicated in the Uyghur forced labor and genocide is rapidly growing, with number of implicated individuals, corporations, and entities is growing in kind. Research has indicated the following industries as being directly involved in, or indirectly benefiting from, Uyghur forced labor and genocide: cotton,³¹⁵ tomato,³¹⁶ semiconductor/technology manufacturing,³¹⁷ and solar.³¹⁸ The same research has shown that the atrocities against the Uyghur people are no longer limited to the XUAR.³¹⁹ The PRC has been exporting Uyghurs throughout China who are forced to work in an increasing array of industries.³²⁰ This, and future research will prove instrumental in identifying targets for countries crafting and executing responses to genocide.

The U.S. and the EU have begun to implement limited economic responses,³²¹ but the continued genocidal campaign evidence the need for a broad expansion of actions to truly impact the PRC and to stop the Uyghur genocide. Previous limited actions have included economic sanctions and partial import restrictions targeting certain individuals, corporations, and entities directly involved in the Uyghur genocide within the XUAR.³²²

³¹⁴ Human Rights Watch, Stanford Law School’s Human Rights & Conflict Resolution Clinic, “*Break Their Lineage, Break Their Roots,*” *China’s Crimes Against Humanity Targeting Uyghurs and Other Turkic Muslims* (Apr. 19, 2021), <https://www.hrw.org/report/2021/04/19/break-their-lineage-break-their-roots/chinas-crimes-against-humanity-targeting>.

³¹⁵ *Cotton: The Fabric Full of Lies, A report on forced and prison labor in Xinjiang, China, and the nexus to global supply chains*, CITIZEN POWER INITIATIVES FOR CHINA (Aug. 2019), <https://www.citizenpowerforchina.org/report-released-cotton-the-fabric-full-of-lies/>.

³¹⁶ U.S. DEP’T OF HOMELAND SEC., U.S. CUSTOMS & BORDER PROTECTION (CBP), *CBP Issues Region-Wide Withhold Release Order on Products Made by Slave Labor in Xinjiang*, (Jan. 13, 2021), <https://www.cbp.gov/newsroom/national-media-release/cbp-issues-region-wide-withhold-release-order-products-made-slave>.

³¹⁷ Vicky Xiuzhong Xu et al., *Uyghurs for sale, ‘Re-education’, forced labour and surveillance beyond Xinjiang*, AUSTRALIAN STRATEGIC POL’Y INST. (Mar. 1, 2021), <https://www.aspi.org.au/report/uyghurs-sale>.

³¹⁸ Murphy & Elimä, *supra* note 273.

³¹⁹ Xu, *supra* note 317.

³²⁰ *See id.*

³²¹ *West hits China with coordinated sanction over Xinjiang abuses*, EURACTIV (Mar. 23, 2021), <https://www.euractiv.com/section/china/news/west-hits-china-with-coordinated-sanction-over-xinjiang-abuses/>; U.S. DEP’T OF STATE, *Joint Statement on Xinjiang*, (Mar. 22, 2021), <https://www.state.gov/joint-statement-on-xinjiang/>.

³²² *Id.*; *see also* CBP, *The Department of Homeland Security Issues Withhold Release Order on Silica-Based Products Made by Forced Labor in Xinjiang*, (June 4, 2021), <https://www.cbp.gov/newsroom/national-media-release/department-homeland-security-issues-withhold-release-order-silica>, CBP, *supra* note 316.

The current economic responses have widely been insufficient to curb the ongoing genocide, as data indicates the flow of tainted products around the globe has only increased while the genocide continues.³²³ The limited efficacy of current economic actions indicates a need for a fresh and coordinated international effort. For example, economic responses should be expanded to include:

1. Broader and more coordinated economic sanctions;
2. Import Restrictions and revising existing trade treaties;
3. Delisting complicit corporations from stock exchanges; and
4. Tariffs on goods resulting from Uyghur forced labor.

1. *Economic Sanctions*

Economic sanctions on individuals, governmental entities, and businesses serve to address international policy issues of security, financial, and social purposes.³²⁴ Economic sanctions come in many forms including freezing of assets and prohibitions from international transactions.³²⁵

Participating countries should enact sanctions targeting any individual, corporation, or governmental entity in charge of or gaining financial benefits from Uyghur forced labor and genocide. Economic sanctions should be designed to isolate and remove actors and beneficiaries from global financial and trade institutions. Freezing of assets and isolation furthers the goal of turning individuals, corporations, governmental entities, and the Chinese public away from supporting the PRC's atrocities against the Uyghur people.

The U.S. and the EU have already enacted sanctions on some of the most prominent parties to the Uyghur genocide including individual members of the PRC, the Xinjiang Production and Construction Corps ("XPCC"), and certain corporations directly involved in the forced labor and genocide of the Uyghur people.³²⁶

For countries in need of a system to authorize and enact economic sanctions, they may model the U.S. and EU's well-established systems for implementing sanctions against foreign individuals and entities. The U.S. has used executive orders and the Global Magnitsky Act to authorize and apply sanctions on Chinese individuals, corporations, and governmental entities.^{327,328} Likewise,

³²³ U.S. DEP'T OF TREASURY, *Treasury Sanctions Chinese Government Officials in Connection with Serious Human Rights Abuse in Xinjiang*, (Mar. 22, 2021) <https://home.treasury.gov/news/press-releases/jy0070>; Finbarr Bermingham, *China trade: Xinjiang exports to U.S. doubled in first quarter, even as cotton ban and sanctions kicked in*, SOUTH CHINA MORNING POST (Apr. 22, 2021 12:45pm), <https://www.scmp.com/economy/china-economy/article/3130567/china-trade-xinjiang-exports-us-doubled-first-quarter-even>.

³²⁴ Jonathan Masters, *What are Economic Sanctions?*, COUNCIL ON FOREIGN RELATIONS (last updated Aug. 12, 2019 8:00 AM), <https://www.cfr.org/backgrounder/what-are-economic-sanctions>.

³²⁵ *Id.*

³²⁶ *Uighurs: Western countries sanction China over rights abuses*, BBC (Mar. 22, 2021), <https://www.europarl.europa.eu/delegations/en/chair-s-statement-of-23-march-2021-on-eu-product-details/20210324DPU29209>.

³²⁷ Exec. Order No. 13818, 82 FR 60839 (Dec. 26, 2017), <https://www.federalregister.gov/documents/2017/12/26/2017-27925/blocking-the-property-of-persons-involved-in-serious-human-rights-abuse-or-corruption>.

³²⁸ U.S. DEP'T OF TREASURY, *Treasury Sanctions Chinese Government Officials in Connection with Serious Human Rights Abuse in Xinjiang*, (Mar. 22, 2021) <https://home.treasury.gov/news/press-releases/jy0070>.

the EU has utilized restrictive measures (sanctions) authorized by Article 215 of the Treaty on the Functioning of the European Union (“TFEU”).³²⁹

Recently, President Biden announced that the U.S. was imposing new sanctions on Chinese biotech companies, surveillance companies, and government entities for actions in Xinjiang province.³³⁰ Specifically, the Commerce Department has barred American companies from selling components to the entities without a license, targeting China’s Academy of Military Medical Sciences that develops biotechnology to support the Chinese military.³³¹

Separately, the Treasury Department announced that DJI, the world’s largest drone manufacturer, and seven other Chinese companies are now placed on an investment blacklist because of their involvement in the biometric surveillance and tracking of Uyghurs.³³² DJI is the largest global supplier of small, low-altitude drones used by hobbyists, photographers, businesses, and governments.³³³ This is yet another example of the numerous downstream beneficiaries of Uyghur forced labor, and indicates the growing complexity of addressing genocidal actions within the context of an integrated global market. Under the current economic sanctions imposed by President Biden, individuals in the U.S. will be prohibited from purchasing or selling publicly traded securities connected with the companies. The Treasury Department also added a series of other companies to the investment blacklist, including the image-recognition software firm Megvii, supercomputer manufacturer Dawning Information Industry, facial recognition specialist CloudWalk Technology, cybersecurity group Xiamen Meiya Pico, artificial intelligence company Yitu Technology, and cloud computing firms Leon Technology and NetPosa Technologies.³³⁴

In addition to the U.S., the EU has imposed a set of economic sanctions meant to curb the PRC’s genocidal campaign. The EU imposed travel and economic sanctions on four of China’s officials in response to the imprisonment of hundreds of Uyghur Muslims.³³⁵ The EU sanctions included restrictions on Chen Mingguo, the director of the Xinjiang Public Security Bureau, because of the treatment of Uyghurs in Xinjiang.³³⁶ The sanctions are the first the EU has imposed since the 1989 sanctions against China as a result of the Tiananmen Square massacre,³³⁷ which resulted in the death of 10,000 protestors.³³⁸

³²⁹ *Restrictive Measures (Sanctions)*, EUR. COMM’N, https://ec.europa.eu/info/business-economy-euro/banking-and-finance/international-relations/restrictive-measures-sanctions_en (last visited Oct. 31, 2021 3:06 PM).

³³⁰ The Associated Press, *Biden administration imposes sanctions against China over abuse of Uyghurs*, NBC NEWS (Dec. 16, 2021), <https://www.nbcnews.com/politics/national-security/biden-administration-imposes-sanctions-against-china-over-abuse-uyghurs-n1286100>.

³³¹ *Id.*

³³² The Associated Press, *supra* note 330.

³³³ The Associated Press, *supra* note 330.

³³⁴ The Associated Press, *supra* note 330.

³³⁵ Jeannette Muhammad, *U.S. Joins EU In Sanctions Against China Over Treatment of Uyghur Muslims*, NPR (Mar. 22, 2021), <https://www.npr.org/2021/03/22/980090541/u-s-joins-eu-in-sanctions-against-china-over-treatment-of-uyghur-muslims>.

³³⁶ *Id.*

³³⁷ *Id.*

³³⁸ *Tiananmen Square protest death toll 'was 10,000'*, BBC NEWS (Dec. 23, 2017), <https://www.bbc.com/news/world-asia-china-42465516> (explaining that the death toll has been unclear, with previous estimates of the deaths in the pro-democracy protests ranged from several hundred to more than 1,000).

The application of sanctions was met with reciprocity by the PRC, applying sanctions against 10 European individuals and four entities as retribution.³³⁹ European Parliament members Reinhard Butikofer, Michael Gahler, Raphaël Glucksmann, Ilhan Kyuchyuk and Miriam Lexmann were included in China's sanctions.³⁴⁰ A foreign ministry spokesperson for the PRC explained that the EU action:

“... [is] based on nothing but lies and disinformation, disregards and distorts facts, grossly interferes in China's internal affairs, flagrantly breaches international law and basic norms governing international relations, and severely undermines China-EU relations.”³⁴¹

The retributive economic response has been a consistent theme in PRC diplomacy. In January 2021, China issued sanctions against 28 U.S. government officials in response to then-Secretary of State Mike Pompeo accusing the PRC of genocide against the Uyghur people.³⁴² China's foreign ministry indicated that it will likely impose sanctions on any entity in response to accusations of genocide, explain that sanction will were imposed on those “who have seriously violated China's sovereignty and who have been mainly responsible for such U.S. moves on China-related issues.”³⁴³

While the U.S. and EU response has been a step in the right direction, it remains insufficient to stop the PRC from its ongoing genocide against the Uyghurs. More countries need to be included into a larger sanctions regime against the PRC in order to pressure downstream beneficiaries and bring more countries into the process of ending the genocide. Genocide is not merely a Global North issue to solve and nations across the world need, especially Global South nations, to retain power that can be utilized against the PRC to end this atrocity. The Global South has a stake in the Uyghur outcome as well, as China's relations with Global South countries have exhibited trends towards exploitation on social and economic levels.³⁴⁴ Integrating Global South countries not only provides a united stand globally against genocide, but empowers Global South countries to buffer exploitative foreign enterprises.

2. *Import Restrictions, Domestic Production, and Revised Trade Treaties*

Import restrictions serve to eliminate or reduce global market access for goods implicated in the forced labor and genocide of the Uyghur people. Coupled with support for domestic

³³⁹ *Supra* note 338.

³⁴⁰ *Id.*

³⁴¹ *Id.*

³⁴² Rachel Treisman, *China Slaps Sanctions On 28 Trump Administration Officials, Including Mike Pompeo*, NPR (Jan. 202, 2021), <https://www.npr.org/2021/01/20/958996415/china-slaps-sanctions-on-28-trump-administration-officials-including-mike-pompeo>. It is worth noting that there were a series of political motivations that motivated the former Secretary of State Mike Pompeo, *for further reading see* Kate Cronin-Furman, *Pompeo's Mistimed Uighur Genocide Declaration Hands China Ammo*, FOREIGN POL'Y (Jan. 19, 2021), <https://foreignpolicy.com/2021/01/19/pompeo-uighur-genocide-declaration-china-propaganda/>.

³⁴³ Treisman, *supra* note 342.

³⁴⁴ *See generally* Ilaria Carrozza, *The Global South in Times of Crisis: A China–Africa Relations View*, E-INT'L RELATIONS (May 14, 2020), <https://www.e-ir.info/2020/05/14/the-global-south-in-times-of-crisis-a-china-africa-relations-view/>.

production, the global community can successfully wean itself from further implications in the human rights violations occurring in China.

Countries can identify and ban the import of any product made in whole or in part by the forced labor and genocide of the Uyghur people occurring anywhere within China. Discontinuing the import of such goods reduces the lucrative nature of the forced labor and genocide of the Uyghur people. Such items to ban may include Chinese made cotton products,³⁴⁵ tomato products,³⁴⁶ solar power products,³⁴⁷ and other technology implicated.³⁴⁸

Countries desiring to implement import bans may start by examining actions taken by the U.S. The U.S. has implemented import restrictions on certain cotton,³⁴⁹ tomato,³⁵⁰ and silica-based (solar) products coming from the XUAR.³⁵¹ The current import bans require the importing companies to certify that their products are not made in whole or in part by the forced labor of the Uyghur people.³⁵²

Although the current import bans provide a crucial starting point, the product certification process is exposed to the risk of approving products based on incomplete or misleading information.³⁵³ Forced labor has tainted products throughout entire industries because of the widespread use of Uyghur forced labor throughout China.³⁵⁴ To address these risks, import bans should be designed to ban wider swaths, or even complete categories of goods (i.e., a textile ban instead of a ban on cotton products).

Recently the U.S. Congress passed the Uyghur Forced Labor Prevention Act (“UFLPA”) that applied a categorical ban mentioned above to all goods arising from the XUAR.³⁵⁵ Under the UFLPA, a presumption is created that all goods mined, produced, or manufactured wholly or in part in the XUAR are made with forced labor and are therefore barred from entry into the United

³⁴⁵ *Cotton: The Fabric Full of Lies, A report on forced and prison labor in Xinjiang, China, and the nexus to global supply chains*, CITIZEN POWER INITIATIVES FOR CHINA (Aug. 2019), <https://www.citizenpowerforchina.org/report-released-cotton-the-fabric-full-of-lies/> [<https://drive.google.com/file/d/1Vvkqi-9yQRQqWi9s5YDTuGHmC68sbUti/view>].

³⁴⁶ CBP, *supra* note 316.

³⁴⁷ Xu, *supra* note 317.

³⁴⁸ Murphy & Elimä, *supra* note 273.

³⁴⁹ CBP, *supra* note 316.

³⁵⁰ U.S. DEP’T OF HOMELAND SEC., U.S. CUSTOMS AND BORDER PROTECTION (CBP), *The Department of Homeland Security Issues Withhold Release Order on Silica-Based Products Made by Forced Labor in Xinjiang* (June 4, 2021), <https://www.cbp.gov/newsroom/national-media-release/department-homeland-security-issues-withhold-release-order-silica>.

³⁵¹ U.S. DEP’T OF HOMELAND SEC., *DHS Cracks Down on Goods Produced by China’s State-Sponsored Forced Labor* (Sept. 14, 2020), <https://www.dhs.gov/news/2020/09/14/dhs-cracks-down-goods-produced-china-s-state-sponsored-forced-labor>.

³⁵² CBP, *supra* note 316.

³⁵³ *WRC Case Brief: Lacoste Linked to Factory in China that Reportedly Uses Forced Labor*, WORKER RTS. CONSORTIUM (Mar. 2020), <https://www.workersrights.org/wp-content/uploads/2020/03/WRC-Case-Brief-Yili-Zhuo-Wan-Lacoste.pdf>.

³⁵⁴ Xu, *supra* note 317.

³⁵⁵ Katie Wermus, *U.S. to Ban All Imports From China’s Xinjiang Region Unless Produced Without Forced Labor*, NEWSWEEK (Dec. 16, 2021), <https://www.newsweek.com/us-ban-all-imports-chinas-xinjiang-region-unless-produced-without-forced-labor-1660257>.

States.³⁵⁶ The presumption can only be rebutted if a business can prove by “clear and convincing” evidence that the facility in the XUAR did not use forced labor.³⁵⁷ In addition, the UFLPA creates a separate sanctions regime via an amendment to the Uyghur Human Rights Policy Act of 2020 which applies to all individuals, entities, and Chinese government officials who are responsible for serious human rights abuses in connection with forced labor.³⁵⁸

Notably, the UFLPA established a timeline of implementation. Within 180 days of the UFLPA passage, the U.S. government must provide a “strategy” to Congress on how to approach the import of goods made with forced labor from Xinjiang.³⁵⁹ The “strategy” from the government must include a list of entities in the XUAR that produce, transport, or export goods made in whole or part by human trafficking victims.³⁶⁰ The passage of import ban legislation, such as the UFLPA, will be critical for nations across the globe to counter PRC atrocities, and may provide additional material benefit for domestic production capabilities.

Any new import ban or restriction should be accompanied by support for domestic production and the revision of trade treaties. Increasing domestic production serves two purposes. First, domestic production reduces dependence on imports implicated in atrocities. Second, increased domestic production serves to ease economic pressure created by import bans, and provides new export opportunities to other countries.

For countries that are wary of World Trade Organization regulatory implications when subsidizing domestic industries, they may consider the growing number of countries showing acceptance and leadership for such practices.³⁶¹ For example, the U.S. has increased funding for expanding domestic production of semiconductors, or microchips.³⁶² Although the reason for such action differs, countries should consider the implication of remaining complicit in, and indirectly funding the Uyghur genocide. For participating countries wishing to take a stance, bolstering domestic production provides clear benefits to the domestic population and to the Uyghur people.

Finally, revising foreign trade treaties with countries other than China may serve to place additional pressure on the PRC. Revised trade treaties should be designed to utilize alternate sources for products implicated in the Uyghur genocide. Tapping into alternate sources for products and goods further enables countries to reduce or eliminate the benefits Chinese individuals, corporations, or governmental entities derive from the forced labor and genocide of the Uyghurs.

³⁵⁶ John Cotton Richmond, *How Congress plans to ban goods produced by Uyghur forced labor*, THE HILL (Dec. 17, 2021), <https://thehill.com/opinion/international/586355-how-congress-plans-to-ban-goods-produced-by-uyghur-forced-labor?rl=1>.

³⁵⁷ *Id.*

³⁵⁸ *Id.*

³⁵⁹ Richmond, *supra* note 356.

³⁶⁰ Richmond, *supra* note 356.

³⁶¹ *Agreement on Subsidies and Countervailing Measures (“SCM Agreement”)*, WORLD TRADE ORGANIZATION (WTO), https://www.wto.org/english/tratop_e/scm_e/subs_e.htm (last visited Oct. 31, 2021 3:07 PM).

³⁶² Thomas Frank, *Senate passes \$250 billion bipartisan tech and manufacturing bill aimed at countering China*, CNBC, <https://www.cnbc.com/2021/06/08/senate-passes-bipartisan-tech-and-manufacturing-bill-aimed-at-china.html> (last updated June 9, 2021 11:13 AM).

3. *Delisting from Stock Exchanges*

Delisting Chinese corporations implicated in the Uyghur genocide from stock exchanges serves to cut-off access to global funds that Chinese firms raise by market capitalization. Delisting will also serve to eliminate the possibility of shareholder complicity and indirect funding of the Uyghur genocide.

Participating countries, with such an ability, may delist Chinese firms implicated in the Uyghur genocide. The U.S. has recently taken similar actions to delist Chinese firms that do not comply with current reporting regulations, such as requiring U.S. investors to divest in the coming year all investments in a group of Chinese companies designated as having ties to the Chinese military.³⁶³ In addition, the U.S. has recently imposed restrictions on commercial interactions with a group of Chinese technology-related companies that have military ties.³⁶⁴ While delisting has traditionally resulted from regulatory violations for audit purposes, they should be extended to address human rights violations committed throughout China against the Uyghur people.

By targeting Chinese corporations directly participating in or indirectly benefiting from the Uyghur genocide, nations can combat China's significant access to global capital. The goal of delisting is to disincentivize corporate use of Uyghur forced labor and any participation in or funding of the Uyghur genocide. Relisting of any Chinese corporation should be made contingent on the discontinuation of any use of Uyghur forced labor.

4. *Tariffs*

In addition to the aforementioned measures, tariffs should be imposed on imported goods implicated in the Uyghur forced labor and genocide. Traditionally, tariffs have been used to generate income for governments, or to protect domestic industries from questionable business practices committed by foreign countries.³⁶⁵ By expanding tariffs to address social issues abroad, countries may gain a tool to increase the cost of business for Chinese corporations benefiting from the Uyghur forced labor and genocide.

Tariffs on Chinese goods also serve to increase the costs for Chinese corporations that export goods and reduce access to global markets. The goal of tariffs should be to turn Chinese manufacturers away from the use of Uyghur forced labor and apply general economic pressure on the PRC.

Examples of tariffs include those imposed by the United States on Chinese manufactured goods starting in 2018.³⁶⁶ The tariffs were designed and targeted to address intellectual property (IP) theft committed in China, and to protect domestic industries hurt by cheaper Chinese imports and other

³⁶³ Jeremy Mark, *Taking stocks off the board: The rising threat of delisting in US-China relations*, ATLANTIC COUNCIL (May 10, 2021), <https://www.atlanticcouncil.org/blogs/taking-stocks-off-the-board-the-rising-threat-of-delisting-in-us-china-relations/>.

³⁶⁴ *Id.*

³⁶⁵ Andrew Chatzky and Anshu Siripurapu, *The Truth About Tariffs*, COUNCIL ON FOREIGN RELATIONS, <https://www.cfr.org/backgrounder/truth-about-tariffs> (last updated Oct. 8, 2021, 3:28 PM).

³⁶⁶ Off. of the U.S. Trade Representative, *President Trump Approves Relief for U.S. Washing Machine and Solar Cell Manufacturers* (Jan. 22, 2018), <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/january/president-trump-approves-relief-us>.

unfair business practices.³⁶⁷ Despite criticism and retaliation from the PRC, the tariffs were believed to be successful in having an effect on the targeted manufacturing industries in China.³⁶⁸ Furthermore, the tariffs resulted in a positive impact on domestic production as shown by an increase in jobs in related domestic sectors.³⁶⁹ By 2020, China and the U.S. signed a revised trade deal including provisions addressing the issues which instigated the tariffs.³⁷⁰ Such success might encourage participating countries to consider tariffs to address the Uyghur genocide.

VII. CONCLUSION

The goal of this paper is to recognize the genocide occurring in XUAR against the Uyghur people, document the history of the IOC enabling the violation of human rights and the perpetuating of genocide, track the legal framework for holding complicit parties accountable, and identify possible actions states and private entities may take to avoid complicity. Most directly, the PRC is responsible for the genocide of the Uyghur people. Forced concentration camps, disappearances, and slave labor put the responsibility squarely on the shoulders of the PRC. However, the PRC does not shoulder responsibility for this atrocity alone.

The IOC, participating members states, companies, and private individuals also bear responsibility for the Uyghur genocide. In February 2022, the nations of the earth will descend onto Beijing to ski, bobsled, skate, and engage in other competitive winter-based activities while human beings are enslaved and unjustifiably incarcerated. The IOC and participating states owe a duty, both legal and moral, to confront the PRC and avoid complicity in genocide. States have numerous ways to achieve this end, whether it is through a boycott, political measures to assert pressure, or economic actions that can punish bad actors who are exploiting the situation in the XUAR.

Yet, state action alone will be insufficient. A coordinated, united, and persistent effort will be needed on behalf of nation states across the globe to put an end to the Uyghur genocide. Powerful countries like the United States, U.K., Canada, Australia, France, and Germany need to create a coalition that engages in symbiotic political and economic measures against the PRC and complicit parties. In addition, participation in the Olympic games without recognizing the atrocities being committed in the XUAR against the Uyghur people will only serve to enable the PRC and downplay the suffering of the Uyghurs. Nothing can be done, absent the PRC unilaterally ending their horrific campaign in the XUAR, to end the genocide prior to the Olympic games. However, countries and entities have the opportunity to take a stand for universal human rights and challenge corrupt power. Political courage is needed more than ever, or the Uyghur genocide will yet be

³⁶⁷ *Id.*

³⁶⁸ Kevin Yao, Gabriel Crossley, *China's GDP growth grinds to near 30-year low as tariffs hit production*, REUTERS, <https://www.reuters.com/article/us-china-economy-gdp/chinas-gdp-growth-grinds-to-near-30-year-low-as-tariffs-hit-production-idUSKBN1WX05A> (last updated Oct. 17, 2019 10:07 PM); see also Naomi Xu Elegant, *The U.S. trade war slowed China's 2019 economic growth to its weakest pace in nearly 30 years*, FORTUNE (Jan. 17, 2020, 4:38 AM), <https://fortune.com/2020/01/17/china-gdp-growth-2019-weakest-30-years-trade-war/>.

³⁶⁹ Robert E. Scott, *Aluminum tariffs have led to a strong recovery in employment, production, and investment in primary aluminum and downstream industries*, ECON. POL'Y INST. (Dec. 11, 2018), <https://www.epi.org/publication/aluminum-tariffs-have-led-to-a-strong-recovery-in-employment-production-and-investment-in-primary-aluminum-and-downstream-industries/>.

³⁷⁰ *What's in the U.S.-China Phase 1 trade deal*, REUTERS, <https://www.reuters.com/article/us-usa-trade-china-details-factbox/whats-in-the-u-s-china-phase-1-trade-deal-idUSKBN1ZE21F> (last updated Jan 15, 2020 1:16 PM).

another failure that casts a dark shadow on the integrity of nation states and the international community. Beware the silence that Edmund Burke warned us about on how tyranny grows.