R2P Sidelined: The International Response to China's Repression of Muslim Minorities in Xinjiang

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Abstract

There has been a lack of recourse to the language of 'The Responsibility to Protect' (R2P) in respect of reports that the Chinese government is perpetrating mass atrocity crimes against the Muslim minorities that reside in Xinjiang. What does this suggest about the overall normative power of R2P, and is the neglect of R2P reflective of a more general weakening in provisions designed to deal with wide-scale human rights abuses?

Keywords

China – Xinjiang Uighur Autonomous Region – responsibility to protect – human protection

It is a state's responsibility to protect its population from mass atrocity crimes, according to the doctrine of 'The Responsibility to Protect' (R2P). However, there is little prospect that in countries such as Iraq, Myanmar, Syria or Yemen, where evidence of atrocities is readily available, that the perpetrators are going to be held to account. Neither is China likely to be held to account in relation to allegations of arbitrary detention, mass surveillance, family separation, and forced labour suffered by Uighur and other Muslim minorities residing in the Xinjiang Uighur Autonomous Region. While potential findings of genocide and crimes against humanity have been mooted they have not, as yet, been

acted upon. The norm of R2P finds itself marginalised in preference to other condemnatory strategies, or neglected entirely.

The route to R2P via a UN Security Council Resolution is stymied, not least because China is a veto-wielding permanent member of the Council. For those governments willing to raise the alarm, an alternative is to present critical statements at the UN's Human Rights Council in Geneva or at UN meetings in New York. The US government has enacted sanctions against some Chinese officials as well as companies implicated in the repression. Pressure for access to be given to a UN fact-finding mission headed by the UN High Commissioner for Human Rights, Michelle Bachelet, has regularly (if so far unsuccessfully) been exerted. And nearly 50 UN independent experts have communicated their alarm at reports of the collective repression of religious and ethnic minorities in China, including in Xinjiang, calling for a special session of the Human Rights Council to be held or the appointment of a Special Rapporteur to gather further evidence on the human rights situation in China.¹ Such actions are capable of challenging China's image as 'responsible great power', but the general lack of recourse to R2P language in response to reports of a serious failing on China's part to protect over a million of its nationals from what may be mass atrocity crimes illustrates some of the difficulties that supporters of R2P face.

Why has this absence come about and what does this failure to apply the R2P principle tell us about the overall normative power of R2P? A typical strategy in China and elsewhere in the world is to deny that mass atrocities are taking place. More often, there is a reframing of the action to align it with other global norms. China, for example, portrays past unrest leading to violence among a small minority of the Uighur population in Xinjiang as terrorist action, as an example of religious extremism, or as geared towards threatening the territorial integrity of China. Beijing describes its policies in response to 'extremist

1 For some examples of these actions see 'UN: Unprecedented Joint Call for China to End Xinjiang Abuses', Human Rights Watch, 10 July 2019, <https://www.hrw.org/news/2019/07/10/un-unprecedented-joint-call-china-end-xinjiang-abuses>, accessed 28 October 2020; UN Office of the High Commissioner for Human Rights, 'UN Experts Call for Decisive Measures to Protect Fundamental Freedoms in China', 26 June 2020, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26006&LangID=E>, accessed 28 October 2020; Zachary Basu, 'More Countries Join Condemnation of China over Xinjiang Abuses', 8 October 2020, <https://www.axios.com/un-statement-china-uighurs-xinjiang-6b29dbf5-b93c-4c70-bd4c-333e1c23471f.html>, accessed 28 October 2020. Some 60 parliamentarians from 16 countries have also submitted a letter to the Prosecutor of the International Criminal Court in support of a complaint on alleged crimes. See Patrick Wintour, 'ICC Uighur Genocide Complaint Backed by Parliamentarians Around World' *The Guardian*, 9 November 2020, <https://www.theguardian.com/world/2020/nov/09/icc-uighur-genocide-complaint-parliamentarians-world-chinese-government>, accessed 12 November 2020.

behaviour' in benign terms: as designed to create social stability and to promote economic development through the provision of vocational and other re-educational training programmes to a population otherwise left behind in an increasingly prosperous China. With stability and growth in place, China claims that the unrest will dissipate, and national unity be strengthened.

Many governments have aligned their responses with Beijing's reframing, as they have in other related policy areas. They themselves either purport to believe that China's means justify the various ends that Beijing says it is seeking, and some fear that they too at some stage could be charged with a manifest failure to protect their populations from mass atrocity crimes. Like China's, their rhetoric clings closely to a strict interpretation of Article 2(7) of the UN Charter and the norm of non-interference in matters seen as being within the domestic jurisdiction of a state. A number of such states have also become so dependent on China's economic largesse that they see no benefit in taking a stand on an issue not high on their list of priorities. They have seen the economic pain that China is willing to exact if what it regards as its core interests are thwarted, as Norway found after the country's Nobel Committee in 2010 awarded the Peace Prize to Chinese dissident and rights activist, Liu Xiaobo.²

Thus, R2P has not been operationalised with respect to one of the most egregious instances of repression of an ethnic minority. A powerful China expresses its support for a thin version of R2P, to the effect that while we may agree that states bear the responsibility to protect populations, those states should be allowed to determine how protection can best be guaranteed. This formulation places the state at the centre and in a role as the provider or cur-tailer of the rights of individuals.

It is a formulation that fits with China's responses to other areas of human protection. This raises the question of whether R2P is itself in particular trouble or whether, as countries grapple with a China seeking to play a leading role

2 Charlotte Gao, 'Liu Xiaobo's Death Breathes Life into China-Norway Trade Talks', *The Diplomat*, 28 August 2017, <https://thediplomat.com/2017/08/liu-xiaobos-death-breathes-life-into-china-norway-trade-talks/>, accessed 28 October 2020. In March 2019, China's Permanent Mission to the UN Office in Geneva directly approached developing country representatives and sent letters to other ambassadors in Geneva asking them to refrain from attendance at a side-event on Xinjiang organised by the US Permanent Mission and four other Western governments. As the letter put it: 'In the interest of our bilateral relations and continued multilateral cooperation, I hereby kindly request your delegation, bearing in mind the political motivation behind the above-mentioned side event, not to co-sponsor, participate in or be present at this side event.' See Roie Yellinke and Elizabeth Chen, 'The "22 vs. 50" Diplomatic Split between the West and China over Xinjiang and Human Rights', *China Brief*, 31 December 2019, at <https://jamestown.org/program/the-22-vs-50-diplomatic-split-between-the-west-and-china-over-xinjiang-and-human-rights/>, accessed 28 October 2020.

in global governance, it has become part of a more general weakening in provisions designed to protect individuals from violence.³ Beijing has been articulating a set of beliefs that emphasise that humankind can best be protected by a strong and socially stable state that concentrates its efforts on economic development – a narrative that Beijing associates with its own experiences since it introduced the policy of ‘Reform and Opening’ in late 1978. That narrative has had fatal results for the Uighur population in Xinjiang. More broadly, it represents a minimal, pluralist, vision of global order that downgrades the importance of our common humanity.

3 An elaboration of this idea can be found in my *China, the UN, and Human Protection: Beliefs, Power, Image* (Oxford: Oxford University Press, 2020), research for which was supported by the Leverhulme Trust.