

CHAPTER ONE

INTRODUCTION

A. Background of Research

In recent years, People’s Republic of China (PRC) has faced racial discrimination issue about ethnic minority in Xinjiang Uyghur Autonomous Region (XUAR). Since April 2017, around 10 percent of the population in Xinjiang had been detained, imprisoned, even disappeared. 386 Uyghurs intellectuals, scholars, artists, and journalists were detained in a camp which they call as “re-education camp”; including 21 staffs of Xinjiang University, 13 staffs of Kashgar University, 6 staffs of Xinjiang Medical University, 6 staffs of Xinjiang Social Sciences Academy, and 101 students.¹ The number of detainees continue to increase from 2017 to 2019. In October 2018, 231 scholars, students, journalists, and artists had disappeared, some of them were detained and received a prison sentence. The number of detainees is continuously increasing up to 1.5 million Uyghurs who are detained in re-education camp.²

¹ Prasenjit Duara, The Uyghur American Association, 2019, “AAS Statement on Extra Judicial Detention of Turkic Muslims in Xinjiang, PRC”, available at <https://uyghuramerican.org/article/aas-statement-extra-judicial-detention-turkic-muslims-xinjiang-prc.html>, accessed on Tuesday, April 2nd, 2019 at 2:28 PM.

² Bahram K Sintash, Uyghur Human Rights Project, 2019, “Detained and Disappeared: Intellectuals Under Assault in the Uyghur Homeland”, available at <https://docs.uhrp.org/pdf/Detained-and-Disappeared-Intellectuals-Under-Assault-in-the-Uyghur-Homeland.pdf>, accessed on Tuesday, April 2nd, 2019 at 2:36 PM.

Uyghurs are indigenous people of Tarim Basin, they are the second largest Muslim minority in China. The Xinjiang Uyghur Autonomous Region is the territory of Turkic Muslim ethnic with 11 million Uyghurs and 1.6 million Kazakhs. Uyghurs are not ethnically Chinese in that they are more closely related to the Central Asian people. We can find Uyghurs living within the borders of the countries that border Xinjiang, such as Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan. They speak Turkic language and use the Arabic alphabet; their language is important to their Muslim heritage and culture.³

Islam and other religions in China are related to the ethnicity. Islam is one of the religions which belong to minority group in China. Most Muslim communities in China have customary regulations like inviting Muslim community to supervise the religious affairs and religious school. Besides that, one of the minority groups, Uyghur is involved in the East Turkestan Islamic Movement (ETIM), that has been changed to be the Turkestan Islamist Party (TIP). In 1989, ETIM was founded to separate Xinjiang from China which could then be governed by Islamist precepts.⁴ ETIM uses extremist violence to achieve its political aim of an independent state. Also, Uyghurs involved in contemporary warzones from Afghanistan to Syria

³ Human Rights Watch, 2018, "Eradicating Ideological Viruses", available at https://www.hrw.org/sites/default/files/report_pdf/china0918_web.pdf, accessed on Wednesday, March 13th, 2019 at 10:08 AM.

⁴ Andrew Mumford, 2018, "Theory-Testing Uyghur Terrorism in China", *Perspectives on Terrorism*, Vol. 12, No. 5, Vienna, Terrorism Research Initiative, p. 19.

which make China become considered as participant of the global jihadist threat.

Because of this action, the government of Xi Jinping launched a renewed “Strike Hard Campaign” against Violent Terrorism in Xinjiang. The Chinese government concluded that this action, especially some violent attacks in public areas, such as knife attack at the Kunming Railway Station, and bombing in Urumqi, was a kind of threats to national unity which must be abandoned. The Chinese government claimed the attacks were done by the ETIM.⁵

In 2009, it became China’s bloodiest incident between Uyghurs and Han Chinese. This incident was occurred in Shaoguan, at Xuri Toy Factory to be exact. On 26 June 2009, six Uyghurs men were accused of raping two Han women, two days later police announced the detention of a worker dismissed from the Xuri Toy Factory who spread the allegation of rape. However, two people of ethnic Uyghur died and more than 118 people were injured because of that allegation.⁶

On 5 July 2009, hundreds of Uyghurs demonstrated at the People’s Square in XUAR. The demonstrators protested the authorities who were deemed indecisive after the deaths of Uyghurs workers in Shaoguan. Then, the demonstrators left People’s Square and moved to another place in the

⁵ Stefanie Kam, 2015, “China”, *Counter Terrorist Trends and Analyses*, Vol. 8, No. 1, Singapore, International Centre for Political Violence and Terrorism Research, p. 83.

⁶ Amnesty International, 2010, “China: “Justice, Justice”: The July 2009 Protests in Xinjiang, China”, available at www.observatori.org/paises/pais_81/documentos/asa170272010en.pdf, accessed on Wednesday, March 13th, 2019 at 5:44 PM.

Southern Part in Urumqi through Nanmen because police were detaining demonstrators. After a few minutes in the Southern part of Urumqi, the police came to give warning such as threw teargas to the demonstrators and fired warning shot into the air. Nevertheless, the demonstration still continued in a peaceful way and the police began beating and detaining demonstrators and the police also threw stones towards them. This situation was more chaotic when police shot one of the demonstrators who demanded justice for the discrimination that had been occurred.⁷

A day later, large numbers of Han Chinese came to Uyghurs region and began retaliating against Uyghurs with knives, sticks, and spiked steel bars. In this incident, some Uyghurs died because of the attacks which were carried out by Han Chinese. 1.300 people were arrested because of religious extremism and terrorism case.⁸

After the China's bloodiest incident, ethnic clashes are getting worse and government surveillance is getting strict towards Uyghurs. In May 2014, China launched "Strike Hard Campaign against Violent Terrorism" in Xinjiang who has three main goals to be eradicated through this campaign namely separatism, terrorism, and extremism with dictated rule of strict, fast, and heavy.⁹ Because of this campaign, many Uyghurs were imprisoned on terrorism charges and they did not have proper legal rights where they

⁷ *Ibid.*

⁸ *Ibid.*

⁹ Renee Xia, Victor Clemens, Frances Eve, Chinese Human Rights Defenders, 2018, "China's Counter-Terror Campaign Indiscriminately Targets Ethnic & Religious Minorities in Xinjiang", available at <https://www.nchrd.org/2018/07/criminal-arrests-in-Xinjiang-account-for-21-of-chinas-total-in-2017>, accessed on Tuesday, April 2nd, 2019 at 1:32 PM.

were not permitted to challenge the decision, and they would be quickly put on trial with sentenced to prison. Their lawyers are also under pressure because they could not protest the violation of their client's rights; they would be dismissed from the cases if they did it. The lawyers also said that in Xinjiang, there were many terrorism cases that did not completely prescribe court procedures, and usually the decisions had been decided before the trial was carried out with the government or the official who decided the sentence, not the judge.¹⁰

Ilham Tohti was a Uyghur scholar who became one of the victims of the strike hard campaign. Ilham Tohti was a lecturer who taught economics at the National Ethnic Minority University in Beijing. Ilham Tohti also shared some information regarding Uyghurs through a website. In 2014, he got a life sentence because of separatism accusation.¹¹ Before being imprisoned, Uyghurs were detained in re-education camp and after that the detainees would be moved to prison without any detail explanation on criminal charges or prison sentences; prosecutions and sentences were often carried out secretly. While others who were not being detained or imprisoned must follow re-education program in their village.

Uyghurs who were detained for the first time were forced to stand for 12 hours. Also, they were forced to sing political songs, learned speeches of the Chinese Communist Party, ate pork which is strictly prohibited in Islam,

¹⁰ Human Rights Watch, *Loc. Cit.*

¹¹ Renee Xia, Victor Clemens, Frances Eve, *Loc. Cit.*

they were also forbidden to pray and to grow a beard, and the only language allowed in the camp was Mandarin. Outside the camp, state has used systems of surveillance to monitor their daily behavior and control their speech. The Xinjiang authorities also make foreign ties a punishable offense, targeting people who have connection with 26 sensitive countries such as Kazakhstan, Turkey, Malaysia, Indonesia, and etc. If Uyghurs have been to these countries, have families, or communicate with people there, they will be interrogated, detained, and even imprisoned.¹² Discriminations are not only occurred inside the camp but also carried out outside the camp. Every university requires Mandarin language while they are taught in their own language in Uyghurs schools, but universities require a lower test score for Uyghurs and Han, this cause an imbalance of human resources between minorities and Han Chinese.

When Han Chinese immigrate to Xinjiang where they have better education than Xinjiang people, Han Chinese can get higher paying jobs. This matter makes scholars believe that this is one of the ways to reduce Uyghurs as minority groups to be the second-class citizens through economic, political, and racial inequality. Acts of discriminations which is carried out by the Chinese Government are contrary to policy and regulation of the Communist Party towards minority rights.

Based on the policy and regulation under People's Republic of China Constitutional Law which is made by Communist Party, minorities have

¹² Human Rights Watch, *Loc. Cit.*

equal rights to live according to their customs, beliefs, and free from any discriminations. International human rights group such as the Human Rights Watch, Amnesty International, as well the United Nations (UN) have received many reports that one million Uyghurs are in massive internment camp that is shrouded in secrecy. The UN Committee on Economic, Social, and Cultural Rights (CESCR) expressed concern about discrimination against ethnic minorities in China, such as employment, health, education, culture and adequate standard of living. The CESCR expressed concerns regarding Uyghurs ability to enjoy freedom of religion and the provisions in schools where Mandarin is used as medium instruction to the minority students.

Also, the UN Committee on the Elimination of Racial Discrimination (CERD) expressed concerns about discrimination against ethnic minorities in China.¹³ The United Nations Universal Periodic Review (UPR) began their assessment of China's human rights record towards ethnic minority in re-education camp in Xinjiang Uyghur Autonomous Region. But the Chinese Government strictly prohibited the assessment.¹⁴

Evidences show that re-education camp which is held by the Chinese Government is a part of discrimination and has violated the Uyghurs rights as minority. Based on those facts, the researcher is interested in to evaluating the implementation of International Convention on the Elimination of All

¹³ Amnesty International, *Op. Cit.*, p. 10.

¹⁴ *Ibid.*

Forms of Racial Discrimination (ICERD) in China and in finding out the International Law of Responsibility to Protect Perspective towards racial discrimination in Uyghur case.

B. Problems Formulation

The research problems are:

1. How is the implementation of International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) in the People's Republic of China?
2. What is the Responsibility to Protect perspective in the case of racial discrimination happened to Uyghur in People's Republic of China?

C. Objectives of Research

The objectives of research are:

1. To highlight some problems on the implementation of International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) in People's Republic of China.
2. To find out the People's Republic of China's Responsibility to Protect in the case of racial discrimination against Uyghur.

D. Benefits of Research

1. Theoretical Benefits

The research would give theoretical understanding on the concept of International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and the Responsibility to Protect (R2P).

2. Practical Benefits

The research would describe the implementation of International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) in China. This research would also give a better understanding on the Perspective of Responsibility to Protect in Uyghur case.

E. Systematic of Writing

The research consists of five chapters, namely: Chapter One Introduction, Chapter Two Literature Review, Chapter Three Research Methods, Chapter Four Finding and Analysis, Chapter Five Conclusion and Recommendation.

In Chapter one, the researcher elaborates general matter, such as Background, Research Problems, Objectives of the Research, Benefits of the Research, and Systematic of Writing. The background provides current condition of Uyghurs and the issue of racial discrimination towards minority in China. The researcher also addresses the research problem which will be discussed in the next chapter.

Chapter two explains the general theory and the legal aspects related to the international law on the Responsibility to Protect. It is also providing the

meaning of racial discrimination based on the International Convention on the Elimination of All Forms of Racial Discrimination.

In chapter three, the researcher discusses the research methods used in the research. It covers the type of the research, types of data, the method of data collection and the method of data analysis. The type of this research is normative legal research. The research use statute approach and case approach. Also, this research uses research materials taken from some literatures, namely primary, secondary, and tertiary legal material. And the data will be collected through library research, and will be analyzed using qualitative method.

In chapter four, the researcher analyzes the implementation of International Convention on the Elimination of All Forms of Racial Discrimination in China, and also the Perspective of Responsibility to Protect (R2P) on racial discrimination in the Uyghur case.

Chapter five covers the conclusion and suggestions on this research. In this chapter, the researcher concludes the implementation of ICERD and the Perspective of Responsibility to Protect (R2P). Also, the researcher provides some suggestions on how China should be responsible towards Uyghur regarding racial discrimination.