



AN INTERNATIONAL PEOPLE'S TRIBUNAL

Witness Name: Nevenka Tromp		
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Date of testimony: 11 September 2021		
Link to recording*: <a href="https://www.youtube.com/watch?v=2P3SAXVbrSg">https://www.youtube.com/watch?v=2P3SAXVbrSg</a>		
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\*Please note that all recordings of the Uyghur Tribunal hearings can be found on You Tube: [Uyghur Tribunal - YouTube](#)



1 11<sup>th</sup> September 2021 (1:22:39 – 1:53:31)

2 Nevenka Tromp

3

4 NEVENKA TROMP – Before we start explaining the *de jure* organigram that you now  
5 see in front of you, I would like to refer to the history of this concept. This concept of  
6 trying to understand the functioning of China as a state in relation to large-scale  
7 violence in Xinjiang province was actually a reflection of the work I was doing as a  
8 member of the Leadership Research Team at the United Nations Tribunal for the  
9 Former Yugoslavia. The background is as follows: Observing the results of the state  
10 use of violence opens a very important question. This question is “What is the  
11 relationship between states, state institutions, and individuals working in these  
12 institutions in the commission of these crimes?” It goes to show the intention of the  
13 state institutions. In order to understand the functioning of every official on the ground,  
14 one has to establish first what is the *de jure* structure of a state, and how a state  
15 functions. *De jure* structure is basically nothing else than a systematisation and  
16 collection of laws, with first of all the constitution, but also the law on the government,  
17 the defence, and so on. What you see now is the concept of the functioning of China  
18 as a state, based on a very abstract concept: how any state in the world *ought* to  
19 function. This is what the prescriptive idea of the state is. What we found, interestingly,  
20 and it reflects the work I was doing at the Research Team as we are looking at a  
21 Communist state, is a concept of the state called “Party-state.” On this organogram,  
22 as you notice different colours (blue, green, and red), and you will see that we were  
23 following the pattern of the so-called “pillars” of power. The first one is the state itself.  
24 It obviously represents legislative power, but also a very important concentration of

25 power embodied by the President of the state. The second power is the government,  
26 the executive power. One has to understand that if you tried to make a hierarchy, the  
27 state would come first. For instance, everyone in this room probably knows who the  
28 president of China is, but hardly anyone would know who the Prime Minister of China  
29 is. That shows how exposed those people in power are. This concentration of power  
30 through the President of the State is obvious thanks to all these links you are seeing.  
31 If you follow the pink lines, they go from top down and show how state institutions  
32 relate and how they are connected on a lower level in a very centralised structure.  
33 Hopefully you will see that there is a continuous connection from all decisions made  
34 at the state level, and they go down to local levels. The government is nothing else  
35 than an enabler. In these institutions, the civil servants, who usually have double  
36 positions as Party members and in the government, enact all decisions made at the  
37 top level. A separate and quite elaborate pillar of power is the Party. The reason why  
38 this is important is that Party structure, and Party hierarchy, is the backbone of the  
39 state. Looking to this diagram for where the decision-making process takes place first,  
40 in the sense of long-term strategic policies, then it would definitely be the Party,  
41 followed by the state, with the government in third place. So, when we did this research  
42 on behalf of the UT, with the help of junior researchers, including a mandarin-speaking  
43 researcher, we were able to fill all these boxes with links to the actual documents,  
44 some of which we had to translate ourselves. So, this is not evidence by itself, but this  
45 is actually an analytical tool. When you click on these links, you will be led to the  
46 original text of the laws that we present here. The prescriptive way, or “how things  
47 ought to work,” is usually not what it is in reality. In reality, in the *de facto* organogram,  
48 we paid a lot of attention to individuals occupying different positions, because the  
49 policies and the complexity of decision-making is very often reflected on the situation

50 on the ground. For that purpose we were following the double, or triple positions that  
51 were held by prominent members of the Communist Party. We have created these two  
52 organograms so that they basically complete each other. So, you see now if you click  
53 on one of those links, for example here “National Congress of the Party,” you will be  
54 able to read the original document as a reference material. I would bring your attention  
55 to this: it is important not to think in terms of formal or informal, because *de facto*  
56 connections are not informal: they are very much formal. They are based on  
57 combinations of different positions held, but they have something “*ad-hoc-ish*” in them,  
58 because we never know what positions the next person will hold. It is therefore very  
59 important to stay anchored in the reality of ongoing Chinese politics to understand  
60 what is really happening. Now, why did we concentrate on decision-making  
61 processes? Well for very obvious reasons: there is a very strong indication, in the  
62 Western democracies as well as in authoritarian regimes, that those who make  
63 decisions are also those who unmake decisions. So, in the case of China, if the CCP  
64 receives evidence that the practices displayed in Xinjiang province are questionable  
65 and possibly criminal, then those in power would also have power to review them.  
66 Thank you very much.

67 *PANEL – Given the opacity of the de facto power structures, for the purpose of our*  
68 *work, in your view, how legitimate is it to make inferences about these power*  
69 *structures?*

70 NT – I would strongly recommend that any inference or decision made about this  
71 should be confirmed by witnesses with knowledge of what is really happening.

72 *PANEL – Jessica Batke’s organogram shows two structures: the party and the state*  
73 *government. Why does this one separate state and government whereas she stays to*  
74 *the “two pillars” instead of the three?*

75 NT – When we discussed this issue with Jessica Batke, this was her position. She  
76 does not see a difference between state and government. I think there is a legitimate  
77 way to say that there is no difference. If you go to the state pillar, the green one, you  
78 will see judicial power on one side, and then you will see executive power. For us,  
79 because the functional President of the state, I would separate it from the government  
80 as more important. You could see it as one, but I think it is very important to see it as  
81 separate, because the President is also Secretary General and the Party should be  
82 an important point of reference when it comes to how concentration of power looks in  
83 reality and which individuals have power to start or stop the processes we are  
84 discussing here. This is why we did not pay too much attention to the Prime Minister  
85 of China, because we all look first to the President.

86 *PANEL – Regarding the place of the People’s Liberation Army (PLA) at the heart of*  
87 *this organigram, following the lines leading to Xi Jinping, so there is nobody between*  
88 *Xi and the PLA?*

89 NT – I am not an expert of China. I have offered a concept of how to follow the power  
90 and decision-making process. But in the organogram, you will very easily see at the  
91 Party level the Military Commission. Then, you have the Central Military Commission  
92 as well (*in the state pillar*). If you look in the *de facto* organogram you will see the same  
93 name as Secretary-General for the Party, President of the State, and Chairperson of  
94 this military committee which is an extraordinary concentration of power in one person.

95 *PANEL – So, if you go downwards, the organogram leads to the XPCC and Xinjiang*  
96 *itself. Can we imagine the PLA collaborating with these bodies in Xinjiang itself? Would*  
97 *they have a presence?*

98 NT – I do not think I am the best person to answer this. This is too detailed for my  
99 knowledge. But a general answer to any question that goes from top down, is that any  
100 important decision should go and be supported through the Party hierarchy and  
101 structure top-down. If we keep in mind that none of these executive bodies operate  
102 without parallel Party structure, then the answer is probably yes, but then again I am  
103 not an expert an China.

104 *PANEL – The XUAR has “autonomous” in its name, but from that chart it does not look*  
105 *like it has much autonomy, even on the de jure chart?*

106 NT – I think that is something we should explore this system of complexity and  
107 federalisation of China under the light of the fact that this was copied from the Soviet  
108 system. Autonomous provinces are a different category than Republics. They do not  
109 exist because they are given some form of autonomy, but because these territories  
110 belong to minorities and not peoples. In the Soviet constitution, there was a huge  
111 normative difference between “nations” (which have the right to self-determination, the  
112 right to secession, if all others agree, which in practice means never), and  
113 “autonomous provinces” (which do not have a right to secede). This aspect of the  
114 Soviet constitution was also copied in China, as well as in the former Yugoslavia so  
115 we learned about this as children in primary school, and it is different from the Western  
116 understanding of “autonomous.”

117 *PANEL – A couple of witnesses have said that things happening on the ground could*  
118 *not happen without the approval or more of President Xi. Does your organigram help*  
119 *us in any way in respect to that proposition?*

120 NT – No.

121 *PANEL – You gave an account of responsibility decision-making, including the power*  
122 *to put something right, to change something. Does that help us at all, if you wanted to*  
123 *follow a trail of decision-making, if you wanted to track particular decisions to higher*  
124 *level at the top?*

125 NT – Not directly, but indirectly it might. The task before this tribunal is to investigate  
126 alleged criminal activities and atrocities. If one of these acts were to be qualified as  
127 criminal, then one would have to go to the notion of criminal intent. So, if you look into  
128 this state and then ask yourself if these atrocities have been planned for a certain goal,  
129 and execution of this goal predisposes violence and criminality against individuals and  
130 groups, who is responsible? How could decision-making be such that those in charge  
131 of decision-making know that they could achieve it only by application of mass violence  
132 against individuals, groups, national minorities. Then, the question is “could a state  
133 have a criminal intent?” This is a huge debate. If state can have criminal intent, who  
134 exactly within the state? Who are the individuals who have criminal intent? So, in this  
135 organogram, one could and should ask the question “if everything is centralised and  
136 goes top-down, did Party individuals and those in charge of state structure have power  
137 to plan such activities or strategies, and how does it reflect on the people on the  
138 ground? For example, has a prison guard criminal intent to do harm to the whole  
139 group? So, this organogram gives a lot of possibilities to reflect on this important  
140 question. Can states be criminal? When does criminality of the state come? Who are

141 the individuals who actually represent the state? And who of these individuals had the  
142 means, power, capacity to plan and execute such policies?

143 *PANEL – In the setting of the Yugoslav wars, you were dealing with post-formal*  
144 *communist states, and one thing considered for genocide by experts in genocide was*  
145 *whether the controlling marionette strings for genocide might be invisible, but*  
146 *nevertheless the controlling mechanism would be there. With a functioning Communist*  
147 *state, is it possible for there to be invisible marionettes strings for such activities? Or*  
148 *does the duplication of roles and multiplicity of bodies make less easy?*

149 NT – The crux of the answer here is that, per definition, the state has to monopolise  
150 violence. Any violence happening and not in control by the state structure will be  
151 sanctioned by the state. No state can allow proliferation of violence by any group  
152 without endangering its very existence and position. In the case of the former  
153 Yugoslavia, there was a need to have auxiliary groups like party armies which were  
154 used by the state for its own criminality and purposes, and there was no accountability.  
155 I don't know about the Chinese situation, but as it is now there is no need for tolerance  
156 for any group in China. There is no state of emergency, or war or immediate threat of  
157 war, so we are talking about a peaceful time in a very powerful state that deals with  
158 these issues as its own internal questions, claiming its right on its own sovereignty.  
159 This makes China quite different from other cases I worked on states that were in  
160 conflict, in state of war or in post-conflict society. China has none of these measures  
161 that would require a different approach, or a change in use of state force.

162 *PANEL – We have had a number of comparisons made by witnesses between what*  
163 *is alleged to be going on in Xinjiang and the Nazis and the National-Socialist party in*

164 *the 1930's and 1940's. Have you studied that state structure? How does that compare*

165 *with what we have here, if you have any insight?*

166 NT – I cannot give you an answer to this.