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Information Age Imperialism: China, 'Race,' and Neo-Colonialism in Africa and Latin America

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Information Age Imperialism: China, ‘Race,’ and Neo-Colonialism in Africa and Latin America

James Dever¹
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I. INTRODUCTION.....	2
II. CHINA IN CRISIS.....	3
A. <i>The Chinese Context</i>	3
B. <i>Behind the Wolf</i>	6
III. STATE-SPONSORED DOMESTIC TERROR.....	10
A. <i>Hong Kong</i>	10
B. <i>Tragedy in Xinjiang</i>	11
C. <i>High-Tech Surveillance</i>	13
D. <i>Opportunity Wasted</i>	15
IV. GREAT POWER COMPETITION.....	17
A. <i>Threat Vectors</i>	17

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B. <i>BRI: The Foreign Policy Vision</i>	21
V. COLONIALISM	23
A. <i>The Colonial Encounter</i>	23
B. <i>The Creation of ‘Race’</i>	25
C. <i>Colonialism in Africa</i>	26
D. <i>Colonialism in Latin America</i>	29
VI. CHINESE NEO-COLONIALISM	32
A. <i>Mutual Unequal</i>	32
B. <i>China in Latin America</i>	36
C. <i>Medical Diplomacy</i>	40
VII. CONCLUSION: AMERICAN PROTEST, GLOBAL FREEDOM.....	44

I. INTRODUCTION

There is little to no historical antipathy between China and Africa or China and Latin America. The issue is not merely whether China is a neo-colonial power (it is)³ but rather how colonial and post-colonial legacies facilitated China’s rise and continued welcomed presence in specific regions. This article adds to the literature by arguing a parochial focus on China’s neo-colonial practices, without more, misses a larger point. By failing to locate and properly contextualize colonial and post-colonial trauma, Western powers—the U.S. in particular—will continue to be confounded why authoritarian China is embraced in Africa and Latin America. Beijing’s engagement with both regions is multifaceted. Its lack of an unfriendly, aggressive, or colonial past allows it to masquerade hardline neo-colonial strategies as mutually beneficial policies for economic partnership and growth. China has a compelling story that sells well in Africa and Latin America. It survived harsh colonial regimes, internal chaos, and extreme poverty only to emerge an economic and socio-political juggernaut. But the China presented to the world is a mirage; its true nature is found in the horrors of Xinjiang concentration camps, privacy-

³ See AT Editor, *Is China the Neocolonial Power in Africa?*, AFRICA TIMES (Oct. 27, 2019, 7:01 PM), <https://africatimes.com/2019/10/27/is-china-the-neocolonial-power-in-africa/>.

erasing digital state surveillance models, the Hong Kong crackdown, intellectual property theft by state-sponsored companies, and debt trap diplomacy. Beijing does not often reveal its true intentions. “Wolf-warrior” diplomacy is a rare instance of a Chinese Communist Party mistake. The Belt and Road Initiative is less an infrastructure and telecommunications project, albeit on a massive scale, than it is a hortatory expression of 21st century Chinese global hegemony. The Belt and Road Initiative will not make the world more egalitarian, secure, or free. Only the U.S. can counter Chinese aggression against ethnic and political minorities within China and against unfair trade practices and technology inequity internationally. However, a slick post-colonial lexicon is insufficient to explain to Africa and Latin America why, sooner or later, they will reach a point of no return with China. The U.S. must first reckon with the BLM movement against systemic racism and its international COVID-19 response before regaining the necessary moral authority to counter China on the world stage.

II. CHINA IN CRISIS

A. *The Chinese Context*

China is in trouble. Beijing’s harsh *realpolitik* is exposed on the world stage: the continuing human rights tragedy in Xinjiang,⁴ the unprecedented crackdown on freedom in Hong Kong,⁵ its negligence and obfuscation in the face of the Covid-19 global pandemic,⁶ its dangerous aggression and provocation against India,

⁴ See Maya Wang, *More Evidence of China’s Horrific Abuses in Xinjiang but Little Action Holding Beijing Accountable*, HUM. RIGHTS WATCH (Feb. 20, 2020, 1:32 PM) (detailing human rights abuses at the Chinese government’s “political education” camps for religious Muslim minorities), <https://www.hrw.org/news/2020/02/20/more-evidence-chinas-horrific-abuses-xinjiang>.

⁵ Grace Tsoi & Lam Cho Wai, *Hong Kong Security Law: What is It and is It Worrying?* BBC News, June 30, 2020, <https://www.bbc.com/news/world-asia-china-52765838>.

⁶ James Schultz & Sean Carter, *China Needs to be Held Accountable for Covid-19’s Destruction*, CNN, June 20, 2020,

a fellow nuclear power, along the contested Himalaya border region,⁷ the eternal cyber breaches commissioned by China against both the U.S. public and private sectors to include the Presidential election and coronavirus vaccine research,⁸ heightened awareness and concern regarding China's ubiquity in the global telecommunication and technology sectors,⁹ high-profile allegations that China is using apps especially popular with younger people, such as TikTok and WeChat, for nefarious spying and privacy-invasion purposes,¹⁰ not to mention longstanding smoldering

<https://www.cnn.com/2020/06/20/opinions/china-needs-to-be-held-accountable-for-covid-19s-destruction/index.html> (summarizing Associated Press reports that the Chinese government concealed critical facts about the virus, silenced whistle-blowers, which likely deprived the world of information regarding the virus' transmissibility and lethality).

⁷ James Griffiths, *India and China are Squaring off in the Himalayas Again. How Worried should we be?*, CNN (Sept. 2, 2020, 2:48 AM), <https://www.cnn.com/2020/09/02/asia/india-china-himalayas-border-intl-hnk/index.html>; see also James Griffiths, *India's Modi Responds to 'Violent Face-Off' with China over Himalayan Border*, CNN (June 18, 2020), <https://www.cnn.com/2020/06/17/asia/china-india-himalayas-conflict-intl-hnk/index.html>.

⁸ Tim Starks, *Russia, China and Iran trying to Hack Presidential Race, Microsoft Says*, POLITICO (Sept. 10, 2020), <https://www.politico.com/news/2020/09/10/russia-china-iran-cyberhack-2020-election-411853>; see also Eric Geller & Betsy Woodruff Swan, *DOJ Says Chinese Hackers Targeted Coronavirus Vaccine Research*, POLITICO (Aug. 21, 2020), <https://www.politico.com/news/2020/07/21/doj-chinese-hackers-coronavirus-research-375855>.

⁹ Sherisse Pham, *New Sanctions Deal 'Lethal Blow' to Huawei, China Decries US Bullying*, CNN (Aug. 18, 2020, 11:25 AM), <https://www.cnn.com/2020/08/17/tech/huawei-us-sanctions-hnk-intl/index.html>.

¹⁰ See generally, Zak Doffman, *Warning — Apple Suddenly Catches TikTok Secretly Spying On Millions of iPhone Users*, FORBES (June 26, 2020, 1:46 AM), <https://www.forbes.com/sites/zakdoffman/2020/06/26/warning-apple-suddenly-catches-tiktok-secretly-spying-on-millions-of-iphone-users/?sh=16931c7234ef>; see also Nikki Carvajal & Caroline Kelly, *Trump Issues Orders Banning TikTok and WeChat from Operating in 45 Days if They Are Not Sold by Chinese Parent Companies*, CNN (Aug. 7, 2020, 7:26 AM), <https://www.cnn.com/2020/08/06/politics/trump-executive-order-tiktok/index.html>; see also Tim Wu, *A TikTok Ban Is Overdue*, N.Y. TIMES (Aug. 18, 2020, 11:25 AM), <https://www.nytimes.com/2020/08/18/opinion/tiktok-wechat-ban-trump.html>.

tensions such as Chinese military expansion in the disputed South China Sea region.¹¹

China transformed itself in record time from a nation mired in poverty to an internationally recognized great power. Scholars are unsure how to qualify China's success; some hold it is a neo-colonial power while others perceive it as a necessary counterweight to perceived U.S. economic and political hegemony.¹² The fact China is not on a path to liberalism means the pendulum in Washington has swung in the last two decades or so from a consensus approach supporting engagement with China to a less flexible stance with calls for intense competition and even containment of China in a new 'cold war.'¹³ China's ability to be flexible and opportunistic undoubtedly aided its rise; notwithstanding its classical Marxist roots, the Chinese Communist Party (CCP) is fully capable of embracing aspects of capitalism while maintaining stringent communist ideological precepts. In political scientist Yuen Yuen Ang's view, "directed improvisation" and not state control is the reason behind China's economic miracle.¹⁴ If that is true, China's economic miracle somewhat more a leap in the dark. In either event, China's political and economic

The TikTok and WeChat controversy belies a consequential struggle: two dueling visions of the internet. The older U.S. perspective believes the internet should connect everyone in neutral fashion and that censorship by nation-states should be rare. In contrast, China is the world's leading proponent of "net nationalism," an idea that the internet is primarily a tool of state control. In this perspective, the internet's essential functions are economic growth, surveillance, and thought control.

¹¹ The Editorial Board, *China's Claims to the South China Sea are Unlawful. Now What?*, N.Y. TIMES (July 27, 2020),

<https://www.nytimes.com/2020/07/27/opinion/pompeo-south-china-sea.html>.

¹² Carmen G. Gonzalez, *China in Latin America: Law, Economics, and Sustainable Development*, 40 ENV'T L. REP. 10171, 10171 (2010) ("Others applaud China's unorthodox development strategies and portray China as a successful model for developing countries and as a welcome counterweight to U.S. economic and political hegemony.").

¹³ Jessica Chen Weiss, *A World Safe for Autocracy? China's Rise and the Future of Global Politics*, FOREIGN AFFAIRS (July/Aug. 2019), <https://www.foreignaffairs.com/articles/china/2019-06-11/world-safe-autocracy>.

¹⁴ *Id.*

models are not suitable for export.¹⁵ Authoritarian-minded leaders may look with envy at CCP-type controls but find it difficult to emulate the Chinese system.¹⁶ China's distinct authoritarianism comes from a discrete socio-historical context. In the third decade of the twenty-first century, the CCP maintains domestic power, in part, due to a robust and almost unimaginably expensive internal security apparatus that by 2011 cost more than the Chinese military.¹⁷

B. *Behind the Wolf*

On July 23, 2020, Secretary of State Mike Pompeo delivered a speech titled "Communist China and the Free World's Future"¹⁸ wherein he detailed a paradigm shift in U.S. foreign policy and detailed the CCP's designs for global hegemony:

What do the American people have to show now 50 years on from engagement with China? ... We opened our arms to Chinese citizens, only to see the (CCP) exploit our free and open society Perhaps we were naive about China's virulent strain of communism ... or hoodwinked by Beijing's talk of a "peaceful rise." Whatever the reason ... China is increasingly authoritarian at home, and more aggressive in its hostility to freedom everywhere else... the only way to truly change communist China is to act not on the basis of what Chinese leaders say, but how they behave... I've met with Uyghurs and ethnic Kazakhs who escaped Xinjiang's concentration camps. I've talked with Hong Kong's democracy leaders, from Cardinal Zen to Jimmy Lai... The challenge of China demands

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Michael R. Pompeo, *Communist China and the Free World's Future*, U.S. DEP'T OF STATE (July 23, 2020), <https://2017-2021.state.gov/communist-china-and-the-free-worlds-future-2/index.html>.

exertion, energy from democracies – (including) those in ... Africa ... (and) South America ...”¹⁹

In recent years, as China attained first-rate power status, it switched to a more aggressive style of diplomatic messaging termed “wolf-warrior diplomacy.”²⁰ The new approach appears popular within China, at least among hardline nationalists and CCP devotees, and breaks with the more measured, temperate, traditional Chinese style of international engagement.²¹ The evocative term comes from a 2015 Chinese domestic blockbuster. The film quickly spawned a sequel, *Wolf Warrior 2*, complete with the jingoistic tagline “[e]ven though a thousand miles away, anyone who affronts China will pay.”²² Produced with a \$31 million budget, *Wolf Warrior 2* tells the story of a Chinese special forces veteran who successfully battles American mercenaries and defends Chinese interests around the world.²³ The film grossed \$810 million in China but only \$2 million in North America.²⁴ Chinese state media took a shine to the term and began using it to describe Beijing’s increasingly bombastic and combative diplomatic language. Wolf-warrior diplomacy is most often aimed at U.S. spokespersons and refutes self-defined spurious charges against Beijing. For instance, a common wolf-warrior diplomatic refrain denies any notion China is responsible for Covid-19.²⁵ According to China’s Foreign Minister Wang Yi, China’s policy is akin to a self-defense measure because China never picks a fight or bullies others but will push back against any deliberate insult, resolutely defend its national

¹⁹ *Id.*

²⁰ Ben Westcott & Steven Jiang, *China is Embracing a New Brand of Foreign Policy. Here’s What Wolf Warrior Diplomacy Means*, CNN (May 29, 2020), <https://www.cnn.com/2020/05/28/asia/china-wolf-warrior-diplomacy-intl-hnk/index.html>.

²¹ Zhiqun Zhu, *Interpreting China’s ‘Wolf-Warrior Diplomacy,’* THE DIPLOMAT (May 15, 2020), <https://thediplomat.com/2020/05/interpreting-chinas-wolf-warrior-diplomacy/>.

²² Westcott & Jiang, *supra* note 20.

²³ Taylor Shortal, *Hollywood’s Red Dawn: China’s Restrictions on American Film*, 2 BUS. ENTREPRENEURSHIP & TAX L. REV. 208, 212 (2018).

²⁴ *Id.*

²⁵ Westcott & Jiang, *supra* note 20.

honor, and counter slander with facts.²⁶ The shift in tone came directly from the top; President Xi Jinping issued an edict to diplomats in 2019 exhorting them to show more “fighting spirit” in their international engagements.²⁷

Wolf-warrior diplomacy is a misstep; China is conflating an ability to indulge in acts of braggadocio with the capacity to garner meaningful international esteem. Its hawkish, often misleading statements are landing flat abroad.²⁸ For all its global aspirations, China remains a remarkably inward-facing country. The punitive twentieth century casts a long shadow over the *weltanschauung* of Beijing. That China continues to showcase a tin ear is seen in the promotion of two of its most vocal proponents of wolf-warrior diplomacy: Foreign Office Ministers Hua Chunying and Zhao Lijian. Beginning in 2018, the pair launched a series of baseless conspiracy theories against the U.S. and the West. More recently, they mocked national responses to the coronavirus pandemic and the Black Lives Matter (BLM) movement.²⁹ Zhao Lijian in particular seems to embody China’s restless and malcontented diplomatic posture. His efforts are not particularly successful. After peddling a conspiracy theory that the U.S. Army may have intentionally brought the coronavirus to Wuhan, the city at the epicenter of the Covid-19 outbreak, Twitter “slapped its fact-check icon” on his text and publicly scorned his assertions.³⁰ More interesting still is Zhao Lijian’s venture into racialized messaging. Following international condemnation of China’s repression of its Uyghur minority

²⁶ *Id.*

²⁷ Keith Zhai & Yew Lun Tian, *In China, a Young Diplomat Rises as Aggressive Foreign Policy Takes Root*, REUTERS (Mar. 31, 2020), <https://www.reuters.com/article/us-china-diplomacy-insight/in-china-a-young-diplomat-rises-as-aggressive-foreign-policy-takes-root-idUSKBN21I0F8>.

²⁸ Alexandra Ma, *China’s New, Hardline ‘Wolf Warrior’ Diplomacy is Supposed to Cement Its Dominance – but It’s Also Uniting Its Rivals Abroad and Dividing People at Home*, BUSINESS INSIDER (June 27, 2020, 4:12 AM), <https://www.businessinsider.com/china-wolf-warrior-diplomacy-backfires-uniting-rivals-dividing-at-home-2020-6>.

²⁹ *Id.*

³⁰ Isobel Asher Hamilton, *Twitter Fact-Checked a Chinese Government Spokesman After He Suggested the US Brought COVID-19 to Wuhan*, BUS. INSIDER (May 28, 2020, 7:23 AM), <https://www.businessinsider.com/twitter-fact-checks-china-government-spokesman-2020-5>.

population, Zhao wrote on Twitter “[i]f you’re in Washington, D.C., you know the white never go to the SW area, because it’s an area for the black and Latin. There’s a saying ‘black in & white out’, which means that as long as a black family enters, white people will quit, & price of the apartment will fall sharply.”³¹ Zhao’s tweet was roundly criticized outside China and he quickly deleted it.³² He nonetheless followed up with a subsequent Twitter message noting racial and ethnic segregation patterns of living in Washington D.C.³³ Given the combination of Zhao’s rise and the CCP’s endorsement of wolf-warrior diplomacy, it appears likely Chinese diplomats will engage in further instances of race-baiting.

The U.S. would do well to recognize wolf-warrior diplomacy has more to do with Chinese insecurities than it is an expression of international primacy. Shi Yinhong, a professor of international relations, explained in a May 2020 webinar that China’s aggressive remarks failed to adequately acknowledge complex global realities and were delivered “too hastily, too soon and too loudly in tone.”³⁴ Instead of burnishing China’s international image and placating those who may blame China for Covid-19, the wolf-warrior diplomats were undermining China’s credibility while needlessly provoking other countries.³⁵ It may be that wolf-warrior diplomacy

³¹ Huizhong Wu, *Move Over Trump: China’s Tweeting Diplomats Open Fresh Front in Propaganda Fight*, REUTERS (July 16, 2020, 4:10 AM), <https://www.reuters.com/article/us-china-diplomacy-internet/move-over-trump-chinas-tweeting-diplomats-open-fresh-front-in-propaganda-fight-idUSKCN1UB0MQ>.

³² See Wendy Wu, *Is It Time for China to Leash Its Wolf Warrior Diplomats*, SOUTH CHINA MORNING POST (Aug. 12, 2020) (detailing how other Chinese ministers have faced similar levels of opprobrium. In Paris, ambassador Lu Shaye was summoned by the French foreign office to answer for comments on his embassy website asserting France had left its citizens to die of coronavirus in aged care homes.), <https://www.scmp.com/news/china/diplomacy/article/3097134/it-time-china-leash-its-wolf-warrior-diplomats>.

³³ Huizhong Wu, *supra* note 31.

³⁴ Wendy Wu, *supra* note 32.

³⁵ Minxin Pei, *China’s ‘Wolf Warrior’ Diplomats Are Being More Reckless Than Donald Trump. That’s a Mistake. That’s a Mistake*, SOUTH CHINA MORNING POST (June 13, 2020, 2:00 AM), <https://www.scmp.com/comment/opinion/article/3088462/chinas-wolf-warrior-diplomats-are-being-more-reckless-trump-thats>.

is a historic mistake.³⁶ The U.S. must avail itself of China's error. If nothing else, wolf-warrior diplomacy is a clinic in how to frustrate consensus-building. It is the antithesis of ordered messaging. The U.S. should go in the complete opposite direction and treat the nations of the world with candor and respect. To do otherwise risks America's ability coordinate and lead the free world at a critical juncture in history."³⁷

III. STATE-SPONSORED DOMESTIC TERROR

A. *Hong Kong*

The increasingly interconnected world means China sometimes cannot easily hide its appalling abuses.³⁸ The call for human rights protections in China is nothing new, although there are increasing signs the need is becoming acute.³⁹ The fact that President Xi Jinping has overseen a deterioration in human rights coinciding with a rise in his own power had led some analysts to make comparisons to Mao Zedong.⁴⁰ The U.S. can and should engage China on its deplorable human rights record. Following China's repression in Hong Kong, President Trump signed the Hong Kong Autonomy Act⁴¹ which stripped the city of its special trading

³⁶ See generally Alexander Downer, *Why China's Wolf Warrior Diplomacy is a Historic Mistake*, FIN. REV. (July 13, 2020, 12:00 AM), <https://www.afr.com/world/asia/why-china-s-wolf-warrior-diplomacy-is-a-historic-mistake-20200712-p55b93>.

³⁷ *Id.*

³⁸ See, e.g., Donie O'Sullivan, *Twitter Deletes China-Linked Account that Spread False Information about Hong Kong and Covid-19*, CNN (June 12, 2020, 7:19 AM), <https://www.cnn.com/2020/06/11/tech/twitter-manipulation-account-removal/index.html>.

³⁹ Margaret K. Lewis, *Human Rights and the U.S.-China Relationship*, 49 THE GEO. WASH. INT'L L. REV. 471, 478 (2017).

⁴⁰ *Id.*

⁴¹ Andrew Restuccia & Lindsay Wise, *Trump Signs Hong Kong Sanctions Bill, Pivots to Criticizing Biden*, THE WALL ST. J. (July 14, 2020), <https://www.wsj.com/articles/trump-signs-hong-kong-sanctions-bill-11594762613>.

status with the U.S. The measure was necessary due to a new security law imposed by Beijing, which meant Hong Kong was no longer sufficiently autonomous from China to justify special treatment.⁴² Essentially, the security law undermined Hong Kong's autonomy and increased the risk of sensitive U.S. technology and intellectual property being illegally diverted to unauthorized end users in China and elsewhere."⁴³ Speaking of the Hong Kong Autonomy Act, President Trump asserted that the law provided his administration with the necessary tools to hold responsible the individuals and entities that extinguished the flame of freedom in Hong Kong.⁴⁴ In his address, President Trump equated the devolution in Hong Kong civil rights and liberties with a newfound inability to compete in free markets.⁴⁵ If President Trump is correct, China's determination to continually oppress peoples will have longitudinal real-world economic consequences.

B. *Tragedy in Xinjiang*

Beyond the imposition of a police state in Hong Kong, recent events in Xinjian, China's westernmost province, ought to shock the world's conscience and bring condemnation upon China for human rights abuses against the Uyghur ethnic minority. Xinjiang, officially the Xinjiang Uyghur Autonomous Region, is home to approximately 11 million Uyghurs, a predominantly Muslim ethnic

⁴² James Griffiths, *US-China Relations Are at an All-Time Low, but Trump Still Seems Unsure How to Handle Beijing*, CNN (July 17, 2020),

<https://edition.cnn.com/2020/07/16/asia/us-china-trump-relations-intl-hnk/index.html>. On July 14, 2020, President Trump signed Executive Order (EO) 13936, *The President's Executive Order on Hong Kong Normalization*. *The President's Executive Order on Hong Kong Normalization*, 85 FR 43413.

⁴³ BIS Final Rule Suspends EAR Hong Kong Preferential Treatment, 62 No. 30 *The Gov't Contractor* ¶ 227 (Aug. 12, 2020), <https://www.friedfrank.com/siteFiles/News/GOV'T%20CONTRACTOR.pdf>.

⁴⁴ Morgan Chalfant, *Trump Signs Bill Imposing Sanctions on China Over Hong Kong*, THE HILL (July 14, 2020, 5:48 PM), <https://thehill.com/homenews/administration/507341-trump-signs-bill-imposing-sanction-on-china-over-hong-kong>.

⁴⁵ *Id.*

minority that speaks a language similar to Turkish and has a unique culture.⁴⁶ Uyghur history is complex. The territory was the easternmost edge of the medieval Islamic Empire.⁴⁷ During the tenth century, the population converted to Islam from Buddhism and Christianity. Many centuries later, in 1759, the Manchus invaded their domain and “blanketed the area with colonial non-Muslim administration and limited the Islamic authority to a secondary position.”⁴⁸ In the twentieth century, various governments imposed regulations to further isolate the Uyghurs from Islam. In the 1970s, however, China implemented its open-door policy⁴⁹ and enabled the Uyghurs to restore their mosques, organize Hajj pilgrimages, and attend Islamabad universities to study Islam.⁵⁰ An Islamic renaissance flowered from 1978 to 1988 but Beijing came to view these developments as a threat to state secular authoritarianism. Forbidden for decades to practice Islam, the Uyghurs have since been subjected to Chinese coercion methods, including the depiction of Uyghur resistance as international terrorism.⁵¹ Since 2016, China interned at least one million Uyghurs in concentration camps it euphemistically calls “reeducation centers” or “vocational training and education centers.”⁵² In actuality, the centers are concentration camps, designed to brainwash Uyghurs and force them to abandon their heritage and religion.⁵³ The detainees are abused, tortured,

⁴⁶ Nectar Gan, et. al., *What’s Been Happening in China’s Xinjiang, Home to 11 Million Uyghurs?*, CNN (June 19, 2020), <https://www.cnn.com/2020/06/19/asia/xinjiang-explainer-intl-hnk-scli/index.html>.

⁴⁷ Caprice L. Roberts, *Rights, Remedies, and Habeas Corpus—the Uyghurs, Legally Free While Actually Imprisoned*, 24 GEO. IMMIGR. L.J. 1, 12 (2009).

⁴⁸ *Id.*

⁴⁹ Deng Xiaoping transformed modern China when he created a new “open door” policy to attract foreign capital and businesses. *See generally*, Guocang Huan, *China’s Open Door Policy: 1978-1984*, 39 JOURNAL OF INT’L AFFAIRS, 1, 1-18.

⁵⁰ Roberts, *supra* note 47.

⁵¹ *Id.*

⁵² *See* Bill Bostock, *China is Forcibly Sterilizing Uyghur Women and Giving Them Unwanted Abortions in a Mission to Purge the Muslim Minority, Report Says*, BUS. INSIDER (June 29, 2020, 7:47 AM), <https://www.businessinsider.com/china-forcibly-sterilizing-uyghur-women-xinjiang-abortion-contraception-ap-2020-6>.

⁵³ *Id.*

raped, and murdered.⁵⁴ China is sterilizing Uyghur women and forcing them to undergo unwanted abortions in an attempt to eradicate the group.⁵⁵ China's campaign against the Uyghurs meets the suppression of birth criteria set forth by the United Nations Convention for the Punishment and Prevention of the Crime of Genocide.⁵⁶ As one female Uyghur said in stark terms about China's genocidal aims: "[t]he Chinese government wants to control the Uyghur population and make us fewer and fewer, until we disappear."⁵⁷ Proof of China's inhumane treatment of the Uyghurs arrived on America's shores in 2020 when eagle-eyed U.S. Customs and Border Protection agents seized 13 tons of product made from human hair suspected of being forcibly removed from Uyghurs imprisoned in concentration camps.⁵⁸ The grisly discovery is further evidence of China's maintenance of a massive network of concentration camps in Xinjiang, where the Uyghur prisoners are subjected to a continual range of horrors.⁵⁹

C. High-Tech Surveillance

⁵⁴ Rayhan Asat & Yonah Diamond, *The World's Most Technologically Sophisticated Genocide is Happening in Xinjiang The United States Needs to Formally Acknowledge the Scale of the Atrocities*, FOREIGN POL'Y (July 15, 2020), <https://foreignpolicy.com/2020/07/15/uighur-genocide-xinjiang-china-surveillance-sterilization/>.

⁵⁵ Bostock, *supra* note 52.

⁵⁶ Scott Simon, *China Suppression of Uighur Minorities Meets U.N. Definition of Genocide, Report Says*, NPR (July 4, 2020, 7:58 AM), <https://www.npr.org/2020/07/04/887239225/china-suppression-of-uighur-minorities-meets-u-n-definition-of-genocide-report-s>; *see also* *China cuts Uighur births with IUDs, abortion, sterilization*, ASSOCIATED PRESS (June 29, 2020), <https://foreignpolicy.com/2020/07/15/Uyghur-genocide-xinjiang-china-surveillance-sterilization/https://apnews.com/269b3de1af34e17c1941a514f78d764c>.

⁵⁷ *Id.*

⁵⁸ Martha Mendoza, *AP Exclusive: Hair Weaves From Chinese Prison Camps Seized*, ASSOCIATED PRESS (July 3, 2020), <https://apnews.com/fff5fc7925f09916bf6b9d5f79bb4132>.

⁵⁹ Allison Gordon, *13-Ton Shipment of Human Hair, Likely From Chinese Prisoners, Seized*, CNN (July 3, 2020), <https://www.cnn.com/2020/07/02/us/china-hair-uyghur-cpb-trnd/index.html>.

Not content with twentieth-century-style concentration camps, China is hard-wiring Xinjiang for segregated surveillance.⁶⁰ Applying military style cyber capabilities to civilian control, the Chinese government created a “virtual cage” that complements the physical concentration camps in Xianjing.⁶¹ To enable surveillance, Xinjiang operates under a grid management system: municipal centers are divided into squares of about 500 people and each square has an assigned police unit that monitors inhabitants by regularly scanning their identification cards, faces and bodies, DNA samples, and cell phones.⁶² In the Uyghur city of Kashgar, the police rely on an app to flag people exhibiting suspicious behavior, such as atypical smartphone use, avoiding the front door, coming and going from home or refueling someone else’s vehicle.⁶³ Human Rights Watch claims the government’s arbitrary power is reflected in the app which is designed “to consider vague, broad categories of behaviors, many of them perfectly legal, as indicators of suspiciousness.”⁶⁴ Wang Lixiong, a Chinese author who has written about China’s surveillance state in Xinjiang explains that the “goal here is instilling fear – fear that their surveillance technology can see into every corner of your life.”⁶⁵ The company behind the technology is the China Electronics Technology Group Corp., or CETC, a state-owned defense contractor.⁶⁶ China began its intense

⁶⁰ Chris Buckley & Paul Mozur, *How China Uses High-Tech Surveillance to Subdue Minorities*, N.Y. TIMES (May 22, 2019), <https://www.nytimes.com/2019/05/22/world/asia/china-surveillance-xinjiang.html>.

⁶¹ *Id.*

⁶² Asat & Diamond, *supra* note 54.

⁶³ Buckley & Mozur, *supra* note 60.

⁶⁴ *Id.*; see also Katie Canales, *Leaked Chinese Documents Show How Hundreds of Thousands of Uighur Muslims Are Brainwashed in Concentration Camps*, BUS. INSIDER (Nov. 24, 2019, 4:43 PM), <https://www.businessinsider.com/leaked-government-documents-uighur-muslims-prison-camps-china-cables-2019-11>.

⁶⁵ Buckley & Mozur, *supra* note 60.

⁶⁶ Nathan Vanderklippe, *China Using High-Tech Surveillance in Battle Against Spread of Coronavirus*, GLOBE AND MAIL (Mar. 11, 2020), <https://www.theglobeandmail.com/world/article-china-employing-high-tech-surveillance-in-battle-against-spread-of/>.

Uyghur surveillance program in 2013.⁶⁷ By hacking into Uyghur-owned smartphones and embedding tracking software on apps that hosted Uyghur-language news, Uyghur-targeted beauty tips, and religious texts like the Koran, the Chinese government monitored the whereabouts of purported enemies of the state around the world.⁶⁸

D. *Opportunity Wasted*

On June 17, 2020, President Trump signed the bipartisan Uyghur Human Rights Policy Act.⁶⁹ The Act is intended to hold Chinese officials accountable and imposes sanctions on foreign individuals and entities responsible for human rights abuses in Xinjiang. Additionally, the statute requires reports to Congress on several topics, including the Chinese government's acquisition and development of technology to facilitate internment and mass surveillance. So far so good. Yet undermining the significant moral dimensions of the law were a series of bombshell allegations leveled at President Trump by his former National Security Advisor John Bolton. In his bestselling book,⁷⁰ *The Room Where It Happened: A*

⁶⁷ Paul Mozur & Nicole Perlroth, *China's Software Stalked Uighurs Earlier and More Widely, Researchers Learn*, N.Y. TIMES (July 1, 2020), <https://www.nytimes.com/2020/07/01/technology/china-uighurs-hackers-malware-hackers-smartphones.html>; See also Emilie C. Schwarz, *Human vs. Machine: A Framework of Responsibilities and Duties of Transnational Corporations for Respecting Human Rights in the Use of Artificial Intelligence*, 58 COLUM. J. TRANSNAT'L L. 232, 236 (2019) (describing how China shows no sign of stopping research on technological surveillance programs, including facial recognition software that helps officials determine a person's current emotional state).

⁶⁸ Mozur & Perlroth, *supra* note 67.

⁶⁹ Uyghur Human Rights Policy Act of 2020, Pub. L. No. 116-145, 134 Stat. 648. Additionally, in July 2020, Secretary of State Mike Pompeo announced new sanctions against China for Uyghur human rights violations he dubbed "the stain of the century." Laura Kelly, *U.S. sanctions Chinese officials, paramilitary agency over Uighur abuses*, THE HILL (July 31, 2020, 3:21 PM), <https://thehill.com/policy/international/510024-us-sanctions-chinese-officials-paramilitary-agency-over-uighur-abuses>.

⁷⁰ John Bolton's memoir sold over three quarters of a million copies in its first week of sales. Brian Stelter, *John Bolton's memoir has sold a staggering*

White House Memoir, Bolton insists President Trump told President Xi Jinping he endorsed Beijing's Uyghur concentration camps.⁷¹ Bolton noted that "Trump said that Xi should go ahead with building the camps, which he thought was exactly the right thing to do ... which meant we could cross repression of the Uyghurs off our list of possible reasons to sanction China, at least as long as trade negotiations continued."⁷² By President Trump's own admission, he initially prioritized the making of a trade deal with China over punishing Beijing for mistreating the Uyghurs.⁷³ President Trump's detractors insist this was no one-off as his record, in their view, shows a selective approach to human rights issues; regions where President Trump is looking to "make a deal" are unlikely to face sanctions.⁷⁴ For their part, China hawks privately expressed frustration because they believe President Trump did not need The Uyghur Human Rights Policy Act because the Global Magnitsky Act already provided him with the authority to impose U.S. lawful entry and property sanctions against any foreign person or entity for reasons including extrajudicial killings, torture, or other gross violations of internationally recognized human rights.⁷⁵ From this

780,000 copies in its first week on sale, CNN (July 1, 2020), <https://edition.cnn.com/2020/07/01/media/john-bolton-book-best-seller/index.html>.

⁷¹ Philip Ewing, *Trump Told China To 'Go Ahead' With Prison Camps, Bolton Alleges in New Book*, NPR (June 17, 2020, 6:11 PM), <https://www.npr.org/2020/06/17/875876905/trump-told-china-to-go-ahead-with-concentration-camps-bolton-alleges-in-new-book>.

⁷² *Id.*

⁷³ Michael Crowley, *Trump Says He Avoided Punishing China Over Uighur Camps to Protect Trade Talks*, N.Y. TIMES (July 9, 2020), <https://www.nytimes.com/2020/06/21/us/politics/trump-Uyghurs-china-trade.html>; see also Jonathan Swan, *Exclusive: Trump held off on Xinjiang sanctions for China trade deal*, AXIOS (June 21, 2020), <https://www.axios.com/trump-Uyghur-muslims-sanctions-d4dc86fc-17f4-42bd-bdbd-c30f4d2ffa21.html>.

⁷⁴ Swan, *supra* note 73. President Trump's detractors point to his use of sanctions to intimidate Iran and Venezuela while he appeared reticent to impose similar restraints on China and Saudi Arabia, two countries with which he was looking to "make a deal."

⁷⁵ Global Magnitsky Human Rights Accountability Act, Subtitle F of Pub. L. No. 114-328, 130 Stat. 2000.

perspective, the Uyghur Human Rights Policy Act was perhaps less an expression of President Trump's hardline stance against Uyghur oppression and more a measure by Congress to press sanction.⁷⁶

IV. GREAT POWER COMPETITION

A. *Threat Vectors*

The 2018 National Defense Strategy made clear China is now the primary U.S. national security concern.⁷⁷ China is determined to fashion a “world-class” military.⁷⁸ The U.S. risks losing strategic advantage to China across several critical domains.⁷⁹ For instance, China is poised to surpass the U.S. in gross domestic product (GDP) while gaining technological advantages in critical scientific research areas, including artificial intelligence (AI), quantum computing, advanced battery storage and semiconductor technologies, genomics and synthetic biology, fifth-generation cellular networks (5G), and robotics.⁸⁰ The differences between the U.S. and China are stark and the consequences for the world should China prevail are grave. The U.S. aspires to create a “free and open” world, complete with respect for sovereignty and the independence of nations, peaceful resolution of disputes, fair and open trade,

⁷⁶ Swan, *supra* note 73.

⁷⁷ U.S. DEP'T OF DEF., SUMMARY OF THE 2018 NATIONAL DEFENSE STRATEGY OF THE UNITED STATES OF AMERICA: SHARPENING THE AMERICAN MILITARY'S COMPETITIVE EDGE, 1-2 (2018).

⁷⁸ U.S.-CHINA ECON. AND SEC. REV. COMM'N, 117TH CONG., ANN. REP. TO CONG. 541 (U.S. Gov't Publishing Office 2019).

⁷⁹ Adam Segal et al., *Absent a New National Strategy, the U.S. Risks Losing Its Edge to China in Technology and Innovation, Warns Task Force*, COUNCIL ON FOREIGN RELATIONS (Sept. 18, 2019), <https://www.cfr.org/news-releases/absent-new-national-strategy-us-risks-losing-its-edge-china-technology-and-innovation>.

⁸⁰ ELY RATNER ET AL., CTR. FOR A NEW AM. SEC., RISING TO THE CHINA CHALLENGE: RENEWING AMERICAN COMPETITIVENESS IN THE INDO-PACIFIC 3 (2019).

adherence to international law, greater transparency and responsible governance.⁸¹ By contrast, China's global vision is largely illiberal, whereby Beijing sets the economic and military order and nations fall in line.⁸² If China triumphs, the world will be poorer for it; nations under China's sphere of influence will be characterized by weak civil society and a cancerous authoritarianism bolstered by China's surveillance state.⁸³

China is likewise a threat to U.S. private sector interests.⁸⁴ In 2012, former NSA Director Keith Alexander famously declared that Chinese hacking efforts into U.S. industrial and intellectual property constituted "the greatest transfer of wealth in history."⁸⁵ As Vice President Mike Pence explained in 2018:

[T]o win the commanding heights of the 21st century economy, Beijing has directed its bureaucrats and businesses to obtain American intellectual property ... the foundation of our economic leadership by any means ... and using that stolen technology, the Chinese Communist Party is turning plowshares into swords.⁸⁶

To provide a comprehensive defense against Chinese hacking, the 2019 National Defense Authorization Act provided that the U.S.

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *China's Threat to American Government and Private Sector Research and Innovation Leadership: Testimony before the House Permanent Select Committee on Intelligence*, 115th Cong. (statement of Elsa Kania), <https://www.cnas.org/publications/congressional-testimony/testimony-before-the-house-permanent-select-committee-on-intelligence>.

⁸⁵ Josh Rogin, *NSA Chief: Cybercrime Constitutes the "Greatest Transfer of Wealth in History,"* FOREIGN POL'Y (July 9, 2012), <https://foreignpolicy.com/2012/07/09/nsa-chief-cybercrime-constitutes-the-greatest-transfer-of-wealth-in-history/>.

⁸⁶ Mike Pence, *Vice President Mike Pence's Remarks on the Administration's Policy Towards China*, HUDSON INST. (Oct. 4, 2018), <https://www.hudson.org/events/1610-vice-president-mike-pence-s-remarks-on-the-administration-s-policy-towards-china102018>.

will employ all instruments of national power to defeat malicious cyber events.⁸⁷ Nonetheless, most detected Chinese cyber operations against U.S. companies are directed against cleared defense contractors and information firms whose products and services support government, as well as private sector networks.⁸⁸ Estimates vary, but according to the Ponemon Institute, the average malicious cyber event cost U.S. companies \$7 million in 2017.⁸⁹ Costs can quickly skyrocket, depending on the scale of the cyber event in question; the Equifax breach reportedly cost its insurers approximately \$125 million.⁹⁰ The Chinese private sector has its sights on U.S. industry secrets too. Huawei Technologies Co., Ltd (Huawei) is but a single example. Headquartered in Shenzhen, China, Huawei is the nation's largest telecommunications manufacturer and the world's second-largest manufacturer of smartphones, with over \$90 billion in revenue in 2017 alone.⁹¹ Suspicion regarding Huawei dates back at least to 2012, when the House Intelligence Committee issued a report concluding that Huawei was a national security threat due to its wanton disregard for U.S. intellectual property laws.⁹² It is remarkable Huawei is unremarkable; in China Huawei is not an exception because, like any major company, its lines of business are supplicative to the CCP.⁹³ In 2018, during a Senate Intelligence Committee hearing,

⁸⁷ 10 U.S.C. §394.

⁸⁸ Naveed Jamali & Tom O'Connor, *Chinese Spies Pose Unprecedented Threat to U.S. Beyond Elections to Mass Infiltration of Businesses, Intelligence Officials Say*, NEWSWEEK (Aug. 27, 2020), <https://www.newsweek.com/china-number-one-threat-us-intelligence-agencies-say-1527830>.

⁸⁹ Scott. J. Shackelford et al., *Rethinking Active Defense: A Comparative Analysis of Proactive Cybersecurity Policymaking*, 41 U. PA. J. INT'L L. 377, 384 (2019).

⁹⁰ *Id.*

⁹¹ Grace Sullivan, *The Kaspersky, ZTE, and Huawei Sagas: Why the United States Is in Desperate Need of a Standardized Method for Banning Foreign Federal Contractors*, 49 PUB. CONT. L. J. 323, 333-34 (2020).

⁹² *Id.*; see also MIKE ROGERS & DUTCH RUPPERSBERGER, INVESTIGATIVE REPORT ON THE U.S. NATIONAL SECURITY ISSUES POSED BY CHINESE TELECOMMUNICATIONS COMPANIES HUAWEI AND ZTE 3, 31, 42, 44 (2012).

⁹³ Matt Burgess, *Is China Really Using Huawei to Hack the World's Communications?* WIRED (Jan. 25, 2019), <https://www.wired.co.uk/article/huawei-5g-uk-security>.

FBI Director Christopher Ray testified that Beijing might use Huawei's immense, global telecommunications infrastructure to compromise U.S. security interests.⁹⁴ As a result, in August 2018, Congress passed the 2019 NDAA and section 889 codified a ban on Huawei.⁹⁵ The difficulty is that, what made Huawei a possible threat vector, its necessary close association to the CCP, makes all Chinese telecommunication companies similarly tainted. For instance, in April 2020, Federal Communications Commission (FCC) Chairman Ajit Pai, made a compelling case against ZTE, another Chinese telecommunications giant. In his remarks, Pai said the U.S. will not allow the CCP to exploit network vulnerabilities and compromise critical communications infrastructure.⁹⁶ On June 30, 2020, the FCC voted unanimously to designate ZTE and Huawei as national security threats, thus cutting them off from billions of dollars in federal broadband subsidies.

It is particularly concerning when U.S. technology companies capitulate to CCP talking points and are complicit in silencing speech. In June 2020, Sen Josh Hawley (R-MO) condemned the conferencing app Zoom for eroding its principles when it shut down the accounts of U.S.-based Chinese activists who held an event on the platform commemorating the 1989 anniversary of the Tiananmen Square Massacre.⁹⁷ Zoom temporarily suspended the account of Zhou Fongsuo, the director of the nonprofit Humanitarian China, subsequent to his hosting a Zoom meeting with approximately 250 users remembering the massacre of anti-Communist protestors by Chinese government personnel. In a statement defending its action, Zoom acknowledged Zhou Fongsuo's account was suspended because "when a meeting is held across different countries, the participants within those countries are

⁹⁴ Sullivan, *supra* note 91 at 334.

⁹⁵ John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, § 889(a), (f)(3)(A), 132 Stat. 1636, 1917 (2018).

⁹⁶ David McCabe, *FCC Designates Huawei and ZTE as National Security Threats*, N.Y. TIMES (June 30, 2020), <https://www.nytimes.com/2020/06/30/technology/fcc-huawei-zte-national-security.html>.

⁹⁷ Dean DeChiaro, *Hawley Accuses Zoom of 'Trading American Values for Beijing Profits,'* CQ ROLL CALL (June 15, 2020), 2020 WL 3172629.

required to comply with their respective local laws.”⁹⁸ Chinese law forbids discussion of Tiananmen Square. In his letter to Eric Yuan, Zoom’s chief executive, Senator Hawley admonished Zoom for choosing censorship over free speech and using the convenience of Chinese “local laws ... are what Party officials use to oppress more than a billion people, including more than one million Uyghurs who have been forced into slavery.”⁹⁹ Hawley concluded his letter on an ominous note: “Trading American values for Beijing profits never ends well.”¹⁰⁰

B. *BRI: The Foreign Policy Vision*

The Belt and Road Initiative (BRI) is the centerpiece of Beijing’s foreign strategy.¹⁰¹ In 2013, China mobilized vast resources and spearheaded a massive infrastructure development program; in its words, it began creating a modern Silk Road.¹⁰² The BRI includes over 125 countries and almost half of the world’s GDP.¹⁰³ The BRI is creating a land, sea, and telecommunications network connecting China with much of the rest of the world¹⁰⁴—yet, it is so much more than a trade route. It is a “mega strategic initiative,” a “going-global strategy,” a “geo-economic vision” from the world’s second largest economy, biggest exporter of goods, and third largest investor for two-thirds of the global population.¹⁰⁵ The BRI’s foundational normative blueprint, the Vision and Actions statement, co-authored by China’s National Development and Reform Commission, Ministry of Foreign Affairs, and Ministry of

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ Weixia Gu, *China’s Belt and Road Development and A New International Commercial Arbitration Initiative in Asia*, 51 VAND. J. TRANSNAT’L L. 1305, 1307 (2018).

¹⁰² August Nelson Dinwiddie, *China’s Belt and Road Initiative: An Examination of Project Financing Issues and Alternatives*, 45 BROOK. J. INT’L L. 745, 745 (2020).

¹⁰³ *Id.*

¹⁰⁴ Gonzalo Puig, *Free Trade Areas for China’s Belt and Road*, 24 J. INT’L ECON. L. 3, 3 (2021).

¹⁰⁵ *Id.*

Commerce, exhorts countries along the BRI to promote “unimpeded trade.”¹⁰⁶ The tone of the Vision and Actions statement is noteworthy and pledges Beijing will work “to build a community of shared interests, destiny and responsibility, featuring mutual political trust, economic integration and cultural inclusiveness.”¹⁰⁷

The BRI is a marketing campaign at heart.¹⁰⁸ In 2017, President Xi Jinping gave an address at the Belt and Road Forum where he addressed the BRI’s five main goals: policy coordination, facilities connectivity, unimpeded trade, financial connectivity, and people to people bonds.¹⁰⁹ China funds the projects via credit lending or “debt-trap diplomacy” – a predatory scheme aiming to hook poor countries Chinese loans.¹¹⁰ Since the BRI’s launch, Chinese banks have given hundreds of billions of dollars in loans to participating countries.¹¹¹ Debt-distressed and low-income nations, fearing its governments are falling into “debt-traps” which may threaten national security, have relied upon Public-Private Partnerships (PPP) using Build-Operate-Transfer (BOT) models to finance BRI projects.¹¹² When developing a PPP via a BOT, the public authority grants a concession right to a private sector entity or sponsor to develop an infrastructure facility; the entity is responsible for financing, building, and operating the facility for a specified time. At the end of the specified time, the project hopefully should have generated sufficient profits to cover project costs, repayment of debt principal, and promised return on investor equity. At this point, the

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ Eyck Freymann, ‘One Belt One Road’ Is Just a Marketing Campaign, THE ATLANTIC (Aug. 17, 2019), <https://www.theatlantic.com/ideas/archive/2019/08/beneath-the-veil-of-xi-jinpings-legacy-project/596023/>.

¹⁰⁹ Dinwiddie, *supra* note 102.

¹¹⁰ Freymann, *supra* note 108. As a counterpoint, emerging research is showing debt-trap diplomacy, though widely propagated in the West, may not have the anticipated deleterious effects on poorer nations thereby failing to give impetus for pushback against China. *See generally*, Deborah Brautigam, *A Critical Look at Chinese ‘Debt-Trap Diplomacy’: The Rise of a Meme*, 5 AREA DEV. & POL’Y J. 1, 1 (2020).

¹¹¹ Dinwiddie, *supra* note 102, at 746.

¹¹² *Id.*

facility is transferred to the public authority free of charge.¹¹³ Not surprisingly, these speculations about the future are often wrong, giving rise to the “debt trap” designation.¹¹⁴ A few countries see China’s debt practices for what they are: a form of neo-colonialism. In 2018, Malaysian prime minister Mahathir Mohamad announced his country was canceling two multibillion dollar BRI projects because Malaysia could not pay its debts and “[w]e do not want a situation where there is a new version of colonialism.” It appears this and other high-profile BRI failures are teaching China to be more cautious of reputational risk factors. China is currently instituting a course correction and the government now publishes foreign investment guides.¹¹⁵

V. COLONIALISM

A. *The Colonial Encounter*

More than two hundred years ago, colonialism was packaged and sold to the world as a benign, civilizing mission for the benefit of peoples of color in Africa, Latin America, North America, India, Australia, and Asia.¹¹⁶ Trade was a primary driving force of colonial expansion.¹¹⁷ Doctrines were written to provide trading companies like the British East India Company and the Dutch East India Company quasi-sovereign rights over indigenous peoples. Company

¹¹³ *Id.* at 748.

¹¹⁴ Nathaniel Taplin, *One Belt, One Road, and a Lot of Debt*, WALL ST. J. (May 2, 2019, 5:33 AM), <https://www.wsj.com/articles/one-belt-one-road-and-a-lot-of-debt-11556789446>; Helen Davidson, *Warning Sounded Over China's 'Debtbook Diplomacy'*, GUARDIAN (May 15, 2018), <https://www.theguardian.com/world/2018/may/15/warning-sounded-over-chinas-debtbook-diplomacy>.

¹¹⁵ *Id.*

¹¹⁶ Obiajulu Nnamuchi, *The Goose and the Gander: A Jurisprudential Defense of Medicalization of Female Genital Ritual*, 17 MICH. ST. U.J. MED. & L. 197, 217 (2013).

¹¹⁷ Antony Anghie, *Finding The Peripheries: Sovereignty and Colonialism in Nineteenth-Century International Law*, 40 HARV. INT'L L.J. 1, 36 (1999).

charters provided the right to trade in specific areas and the ability to take certain political action, like coining money or starting a martial campaign against indigenous peoples.¹¹⁸ By the nineteenth century, European states assumed direct responsibility for colonial lands.¹¹⁹ For instance, in 1858, the British East India Company was dissolved to make way for British colonial rule. This change entailed a critical shift in the ideology justifying Empire in terms of commodities to a new, sterner language of order, hierarchy and governance. The new approach was articulated at the Berlin Conference,¹²⁰ during 1884-85, when European colonial powers divided indigenous lands in Africa.¹²¹ Critically, too, the Berlin Conference acted as a pressure valve for inter-European rivalries; for example, African lands were exchanged and bartered to ease Continental politics.¹²²

¹¹⁸ *Id.* at 37.

¹¹⁹ *Id.*

¹²⁰ The Berlin Conference (1884-85) regulated colonial spheres of interest in parts of Africa. Representatives of Europe's leading powers, as well as Turkey and the United States, convened the Berlin Conference to decide to whom Congo belonged and to formalize rules for future acquisition of African lands. The final act of the conference (Berlin Act) in 1885 excluded African input and became a foundation for European colonial expansion in Africa. In certain respects, the Berlin Act was limited: it did not apply to past occupations or to the interior of Africa and only in the reciprocal relations of the signatory states. In practice, however, the Berlin Act has much wider application as its terms represented an emerging consensus as to all territorial expansion regardless of location or parties involved. Ultimately, the Berlin Act led to a series of monopolistic possessions characterized by violence and coercion. For more in-depth analysis, see Olufunmilayo B. Arewa, *Colonialism, Legal Borrowing, and Disruption in Africa*, 113 AM. SOC'Y INT'L L. PROC. 66, 66 (2019); Matthew M. Ricciardi, *Title to the Aouzou Strip: A Legal and Historical Analysis*, 17 YALE J. INT'L L. 301, 391 (1992).

¹²¹ Anghie, *supra* note 117, at 37.

¹²² Guy Fiti Sinclair, *"The Ghosts of Colonialism in Africa": Silences and Shortcomings in the ICJS 2005 Armed Activities Decision*, 14 ILSA J. INTL. & COMP. L. 121, 123 (2007) ("Amidst general concern that disputes over African territory might lead to conflict between the European powers, the Conference sought 'to channel the scramble in Africa into pacific channels.'").

B. *The Creation of 'Race'*

Race is a social construct. Indeed, race operates *solely* as a social construct and was a critical method of defining 'the other' in colonial contexts.¹²³ As notions of race are responsive to the needs of power elites, its social construction and concomitant expressions of racism alter from time and place. Writing in 1856, leading transcendentalist Ralph Waldo Emerson wrote about the significance of race as caste, a type of social predestination segregating the elect and non-elect: "race ... puts the hundred millions of India under the dominion of a remote island in the north of Europe."¹²⁴ Over a century ago, American sociologist W.E.B. Du Bois studied the problem of the creation of 'race.' He was profoundly troubled race was getting substituted as a biological explanation for what he knew to be social and cultural differences amongst people.¹²⁵ Mainstream science today wholeheartedly embraces W.E.B. Du Bois' views.¹²⁶ As one leading scientist of the human genome put it, "[t]he more we learn about humankind's genetic differences ... the more we see that they have almost nothing to do with what we call race."¹²⁷ As 'race' is a social construct, racism is born from social legacies of oppression.¹²⁸ Further, 'race' was a useful concept to colonizers; it was a metric of differentiation.¹²⁹ Colonizers pointed to the differentiation to

¹²³ Patrick Wolfe, *Land, Labor, and Difference: Elementary Structures of Race*, 106 AM. HIST. REV. 866, 867 (2001).

¹²⁴ Ta-Nehisi Coates, *What We Mean When We Say Race Is a Social Construct*, THE ATLANTIC (May 15, 2013), <https://www.theatlantic.com/national/archive/2013/05/what-we-mean-when-we-say-race-is-a-social-construct/275872/>.

¹²⁵ Megan Gannon, *Race is a Social Construct, Scientists Argue*, SCI. AM. (Feb. 5, 2016), <https://www.scientificamerican.com/article/race-is-a-social-construct-scientists-argue/>.

¹²⁶ *Id.*

¹²⁷ Sharon Begley, *Three Is Not Enough*, NEWSWEEK (Feb. 12, 1995, 7:00 PM), <https://www.newsweek.com/three-not-enough-184974>.

¹²⁸ Steven A. Ramirez & Neil G. Williams, *On the Permanence of Racial Injustice and the Possibility of Deracialization*, 69 CASE W. RES. L. REV. 299, 309 (2018).

¹²⁹ Natsu Taylor Saito, *Tales of Color and Colonialism: Racial Realism and Settler Colonial Theory*, 10 FLA. A & M U.L. REV. 1, 24 (2014).

support myriad horrors, including violent assimilation policies, socio-religious indoctrination, and the brutalization of indigenous bodies.¹³⁰

C. Colonialism in Africa

The colonial state in Africa was extant less than a century in most cases.¹³¹ Yet the effects of colonialism are lasting and profound, not least because the practice created arbitrary territorial boundaries while reordering political spaces, modes of economic production, and exploiting societal cleavages.¹³² According to historian Michael Crowder, the portrait of Africa painted by the colonial powers was one of a people who, on the eve of occupation, were politically decentralized, living in small enclaves, dominated by unscientific fears of the natural world, and living in perpetual fear of attack.¹³³ Thus was born the fantasy that Africa required Europe to save it.¹³⁴ The voracious rapidity of the so-called “Scramble for Africa” was astounding: in half a generation, Europe gained virtually an entire continent that included ten million square miles of new territory and 110 million subjects.¹³⁵

Perhaps nowhere in Africa was the colonizer’s avarice on display more than the Congo. For most of the nineteenth century, Belgium’s Parliament remained indifferent to colonial enterprise.¹³⁶ The Belgian royal family, however, relished colonial ambitions. Leopold I, father of the infamous Leopold II of the Congo, knowing outright conquest of Africa was impossible, set about purchasing

¹³⁰ *Id.* at 20.

¹³¹ Tom Brower, *Reframing Kurtz's Painting: Colonial Legacies and Minority Rights in Ethnically Divided Societies*, 27 *DUKE J. COMP. & INT'L L.* 35, 50 (2016).

¹³² *Id.*

¹³³ MICHAEL CROWDER, *WEST AFRICA UNDER COLONIAL RULE* 12 (Hutchinson 1968).

¹³⁴ *Id.*

¹³⁵ THOMAS PAKENHAM, *THE SCRAMBLE FOR AFRICA: WHITE MAN'S CONQUEST OF THE DARK CONTINENT FROM 1876 TO 1912*, at xxi (Avon Books 1992).

¹³⁶ MARTIN EWANS, *EUROPEAN ATROCITY, AFRICAN CATASTROPHE: LEOPOLD II, THE CONGO FREE STATE AND ITS AFTERMATH* 15 (Routledge 2015).

large swaths of territory.¹³⁷ He had a good historical model in President Thomas Jefferson's Louisiana Purchase, accomplished scant decades earlier. Leopold I failed numerous times. He could not buy Guatemala, Crete, Fiji, the New Hebrides and even a part of Texas which the United States acquired after the Mexican-American War.¹³⁸ When Leopold I died in 1865, Leopold II ascended the Belgian throne and continued his father's work of empire.¹³⁹ He was determined, as he put it, to get "a slice of this magnificent African cake."¹⁴⁰ Leopold II created ruses whole cloth to gin up support for his enterprise; for instance, he was the chief proprietor of an organization whose stated purpose was saving African souls from Islam.¹⁴¹ Highly regarded throughout Europe as the "philanthropic" monarch, he welcomed Christian missionaries to the Congo.¹⁴² His soldiers found acclaim in Continental newspapers; faded ink on brittle pages tell triumphal stories of troops battling local slave-traders bent on capturing fellow humans and reducing them to a price.¹⁴³ Not to be outdone, Leopold II's main agent, Henry Stanley, a notorious self-promoter in his own right, already famous for his apocryphal greeting, "Dr. Livingstone, I presume?"¹⁴⁴ depicted the Congo and its inhabitants as the backdrop for narratives of Whites bestowing 'civilization' and religion to the people of Africa.¹⁴⁵ Leopold II first met Stanley in 1878 and in December of that year Stanley signed a 5-year contract to establish the Congo enterprise.¹⁴⁶ Leopold II never visited the region that was his personal fief. The inaptly named Congo Free State was soon "awash in corpses."¹⁴⁷ It is estimated Belgium's exploitation of the Congo reduced the

¹³⁷ Joseph Blocher & Mitu Gulati, *Transferable Sovereignty: Lessons from the History of the Congo Free State*, 69 DUKE L.J. 1219, 1226 (2020).

¹³⁸ *Id.* at 1227.

¹³⁹ *Id.*

¹⁴⁰ ADAM HOCHSCHILD, *KING LEOPOLD'S GHOST: A STORY OF GREED, TERROR, AND HEROISM IN COLONIAL AFRICA* 58 (Houghton Mifflin 1998).

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ *See generally*, Clare Pettitt, *DR. LIVINGSTONE, I PRESUME? MISSIONARIES, JOURNALISTS, EXPLORERS, AND EMPIRE* (Harv. Univ. Press 2007).

¹⁴⁵ Sinclair, *supra* note 122, at 124.

¹⁴⁶ Ewans, *supra* note 136, at 57.

¹⁴⁷ Hochschild, *supra* note 140, at 227.

region's population by ten million people.¹⁴⁸ It is an understatement to say that during its relatively brief existence between 1885 and 1908, the Belgian Congo was the situs of unspeakable horrors.

The breakup of indigenous societies under colonial rule was the subject of Chinua Achebe's 1958 anti-colonial masterpiece *Things Fall Apart*. Achebe was writing, as he often expressed, against the Africa of Joseph Conrad's *Heart of Darkness*, that classic work of colonial apologia.¹⁴⁹ In a polemic against Conrad's depiction of African peoples, Achebe commented on a few sentences from *Heart of Darkness*: "[t]his passage, which is Conrad at his best, or his worst, according to the reader's predilection, goes on at some length . . . And then Conrad delivers the famous coup de grâce. Were these creatures really human?"¹⁵⁰ Achebe's *Things Fall Apart* is a powerful counterpoint to *Heart of Darkness*. At the novel's end, the reader is left only with the erroneous, bereft musings of a middling colonial bureaucrat.¹⁵¹ The systemic iniquities described in *Things*

¹⁴⁸ Sinclair, *supra* note 122, at 125.

¹⁴⁹ Kwame Anthony Appiah, *The Achievement of Chinua Achebe*, N.Y. REV. BOOKS (May 22, 2017), <https://www.nybooks.com/daily/2017/05/22/the-achievement-of-chinua-achebe/>. The reduction of a human life to a commodity and a monetary sum is the essence of slavery. WALTER JOHNSON, SOUL BY SOUL: LIFE INSIDE THE ANTEBELLUM SLAVE MARKET 2 (1999). Lest anyone think slavery in the United States was confined to the antebellum South, the practice of slaveholding was widespread in New England during the eighteenth and early nineteenth centuries. JOANNE POPE MELISH, DISOWNING SLAVERY: GRADUAL EMANCIPATION AND 'RACE' IN NEW ENGLAND, 1780-1860 1-2 (1998). The traditional narrative of a "free white New England was a type of "amnesia meant to erase a more complicated, pernicious experience. *Id.* at xiii.

¹⁵⁰ Appiah, *supra* note 149.

¹⁵¹ In writing about his Igbo homeland, Achebe's *Things Fall Apart* accomplished what Conrad never could in providing a counterpoint to European colonialism and tragic farce. *See generally*, CHINUA ACHEBE, THINGS FALL APART (Penguin Books 1958). Okonkwo's suicide and erasure of his voice, and by extension, the complete society and culture of his people, is the more powerful for it: "In the many years in which [the Commissioner] had toiled to bring civilization to different parts of Africa he had learned a number of things . . . [to avoid giving] the natives a poor opinion of him. In the book he planned to write he would stress that point. As he walked back to the court he thought about that book . . . The story of this man who had killed a messenger and hanged himself would make interesting reading. One could almost write a whole chapter on him. Perhaps not a whole chapter but a reasonable paragraph, at any rate.

Fall Apart meant that the transition from colony to successful nation-state has not been easy for many African countries. After brutalizing Africans and siphoning the land's natural resources for decades, the various colonial powers granted independence to the scattered nations of Africa without preparing the new rulers to handle their devastated economies and various ethnic groups.¹⁵² In many instances, the departing colonial powers perpetuated their abuse of African resources through the imposition of constitutions which maintained the privileges of the immigrant European population at the expense of indigenous peoples.¹⁵³ Apartheid South Africa is but a single example. Not surprisingly, a fair percentage of the post-colonial African leaders emulated the savagery of the colonizers and heaped misery, warfare, poverty, and hunger upon their own.¹⁵⁴

D. Colonialism in Latin America

The nations comprising Latin America came into existence after the arrival of Europeans to the coastal region of eastern South America and the Caribbean Islands during the fifteenth and sixteenth centuries.¹⁵⁵ When considering the region's history, it is important to "face east" and remember Latin America has a history that stretches back much further in time than the arrival of the Spanish and Portuguese.¹⁵⁶ These colonial societies quickly became rigidly hierarchical with severely constrained social mobility for indigenous peoples, peoples of mixed heritage, and persons of

There was so much else to include, and one must be firm in cutting out details. He had already chosen the title of the book, after much thought: *The Pacification of the Primitive Tribes of the Lower Niger*." See generally, *id.*

¹⁵² Emmanuel O. Iheukwumere & Chukwuemeka A. Iheukwumere, *Colonial Rapacity and Political Corruption: Roots of African Underdevelopment and Misery*, 3 CHI.-KENT J. INT'L & COMP. L. 1, 2-3 (2003).

¹⁵³ *Id.* at 3.

¹⁵⁴ *Id.*

¹⁵⁵ Yanira Reyes Gil, *Critical Conversations on Nationalism, Self-Determination, Indigenous People, Globalization and Colonialism: Reflections on the South-North Exchange, 2004 & 2005*, 17 FLA. J. INT'L L. [xiii], at xv (2005).

¹⁵⁶ See generally DANIEL K. RICHTER, *FACING EAST FROM INDIAN COUNTRY: A NATIVE HISTORY OF EARLY AMERICA* (Harvard Univ. Press rev. ed. 2003).

African descent.¹⁵⁷ Hector Meléndez, a scholar of Latin American history, locates the region's colonial domination as a collective wound binding the region together while moving forward through time.¹⁵⁸ Legal historian Francisco Valdés views the Spanish legacy in Latin America as causing the destruction of native civilizations and wholesale genocide.¹⁵⁹ Broadly constructed, there were three overarching stages or epochs of colonial enterprise: (1) 1500 – 1800, characterized by the transfer of wealth from indigenous societies to Europe; (2) 1800 – 1950, the continued impoverishment of the region albeit sometimes directed from inter-Latin power sources; and (3) 1950 – 1970, dubbed the “neocolonial period” and characterized by wealth transfer through local development and export-led industrialization strategies.¹⁶⁰

During the early modern period, Latin American colonialism was rooted in the exploitation of the bountiful natural resources held by indigenous peoples and the imposition of Spanish-Portuguese centric values, culture, and religion.¹⁶¹ Violence was a constant feature of the experience.¹⁶² Laying the foundation for the so-called “Black Legend,” in his *Brief Account of the Devastation of the West Indies*, published in 1542, the Dominican Friar Bartolomé de Las Casas said the following about atrocities the Spanish committed in Peru:

“After having killed not only all people of rank but almost all males capable of bearing arms, the Spaniards subjected the rest ... [of the indigenous peoples] to devilish serfdom and exacted slaves as a

¹⁵⁷ KENNETH J. ANDRIEN, *THE HUMAN TRADITION IN COLONIAL LATIN AMERICA* 2-3 (Rowman & Littlefield Publishers 2d ed. 2013).

¹⁵⁸ Gil, *supra* note 155, at xv; *see generally*, HÉCTOR MELÉNDEZ, *GRAMSCI EN LA DE DIEGO: TRES ENSAYOS SOBRE CULTURA NACIONAL, POSMODERNIDAD E IDEOLOGÍA* (Ediciones La Sierra 1995).

¹⁵⁹ Gil, *supra* note 155, at xv.

¹⁶⁰ *Id.* at xvi.

¹⁶¹ Yuri Mantilla, *The Rights of Indigenous Peoples of the Andean Region, International Law, and Global Economic Integration*, 43 *SUFFOLK TRANSNAT'L L. REV.* 39, 41 (2020).

¹⁶² *Id.*

tribute Shiploads of which were sent to Peru to be sold. Beyond this [the Spaniards] committed so many murderous deeds and atrocities that an entire kingdom . . . which had been one of the most populous and fertile on earth was utterly destroyed.”¹⁶³

The “Black Legend,” a tradition of anti-Spanish criticism, was popular among European powers from the seventeenth to the nineteenth centuries not least as an ideological weapon in the struggle amongst European powers for colonial possessions.¹⁶⁴ In response, Spanish colonial apologists fashioned a “White Legend,” whereby colonial violence was downplayed and a type of *pax hispanica* ended the supposed endemic warfare amongst indigenous groups.¹⁶⁵

The U.S. issued the Monroe Doctrine in 1823. The doctrine held that the independent republics of the Americas would never be recolonized and remain free from European intervention.¹⁶⁶ The doctrine’s stated purpose of noninterventionism was not intended and in fact did not apply to the U.S.¹⁶⁷ The Monroe Doctrine was understood in Latin America as a type of “imperial edict” that had the twin effect of undermining the sovereignty and self-determination of Latin American nations.¹⁶⁸ Unlike the European colonial experience in Africa, U.S. colonialism in Latin America was not a form of territorial acquisition as much as a particular form of socio-political domination.¹⁶⁹ The arc of history shows the U.S. expanded its sphere of influence southwards and increasingly intervened in Latin America to advance, in part, its own commercial

¹⁶³ Wolfgang Gabbert, *The Longue Durée of Colonial Violence in Latin America*, 37 HIST. SOC. RSCH./HISTORISCHE SOZIALFORSCHUNG (SPECIAL ISSUE) 254, 254 (2012).

¹⁶⁴ *Id.* at 255.

¹⁶⁵ *Id.*

¹⁶⁶ Mohamed S. Helal, *On Coercion in International Law*, 52 N.Y.U. J. INT’L L. & POL. 1, 50 (2019).

¹⁶⁷ *Id.*

¹⁶⁸ David Ryan, *Colonialism and Hegemony in Latin America: An Introduction*, 21 THE INT’L HIST. REV. 287, 287-88 (1999).

¹⁶⁹ *Id.* at 288.

interests.¹⁷⁰ These practices reached a crescendo during the Theodore Roosevelt Administration and his “big stick” approach to international politics, which granted the U.S. authority to exercise “international police power” in the Western Hemisphere. One unintended consequence of the “big stick” approach is that “many Latin American radicals and nationalists historically have looked upon the United States as their natural enemy.”¹⁷¹ This perspective, especially applied to the post-war inter-American relationship, views U.S. colonialism in Latin America in terms of unequal treaties, interventionist trade regimes, and overbearing diplomatic directives.¹⁷²

VI. CHINESE NEO-COLONIALISM

A. *Mutual Unequal*

Africa is changing. Sub-Saharan Africa is urbanizing at the world’s fastest rate.¹⁷³ No issue is more central to the ongoing conversation about Africa’s development than Sino-African relations.¹⁷⁴ Given the decades-long slide of economic decline in some African regions, China’s appeal is readily apparent.¹⁷⁵ China’s

¹⁷⁰ Helal, *supra* note 166.

¹⁷¹ *Id.* at 51.

¹⁷² Ryan, *supra* note 168, at 288.

¹⁷³ John Campbell, *Africa is the Fastest Urbanizing Place on the Planet*, COUNCIL ON FOREIGN RELATIONS, (Sept. 12, 2018), <https://www.cfr.org/blog/africa-fastest-urbanizing-place-planet>.

¹⁷⁴ MUNYARADZI MAWERE & COSTAIN TANDI, “A New Form of Imperialism?” *Interrogating China-Africa Relations and Development Prospects in Africa*, in DEVELOPMENT PERSPECTIVES FROM THE SOUTH: TROUBLING THE METRICS OF [UNDER-] DEVELOPMENT IN AFRICA 393, 393 (Munyaradzi Mawere ed., 2016).

¹⁷⁵ NDUBISI OBIORAH ET. AL., “Peaceful Rise” and Human Rights: *China’s Expanding Relations with Nigeria*, in CHINA INTO AFRICA: TRADE, AID, AND INFLUENCE 292 (Robert I. Rotberg ed., 2008); *see also* DAVID SHINN & JOSHUA EISENMAN, *A Historical Overview of China-Africa Relations*, in CHINA AND AFRICA: A CENTURY OF ENGAGEMENT 17 (2012) (describing that trade was the

supporters claim its interests in Africa are apolitical and business-oriented, with a proven track record of generating economic growth without creating aid dependency. Additionally, some African intellectuals welcome China's involvement on the continent as a marker heralding a return to a multipolar world in which Africa will have a bigger role to play.¹⁷⁶ The reality is that China's strategy is self-referential and neo-colonial with strategic economic asymmetries and a failure or unwillingness to condemn oppressive African governments.¹⁷⁷ In this view, "[t]he interest of China in Africa is highly suspicious ... it is a relationship that should be handled with caution especially by the African governments ... [because] it mirrors the Euro-African relationship during Europe's colonial adventures in Africa."¹⁷⁸

Colonialism, in its raw form, is a socio-political ecosystem predicated on the subordination of certain association members while granting the colonizers prerogatives denied to the colonized.¹⁷⁹ China continues to benefit more from Africa than Africa does from China. However, it is wrong to say that the evolution of the Sino-Africa relationship is one-way, with passive Africa responding to Chinese overtures. After all, African people and governments initiated contact and sought relations with China before independence.¹⁸⁰ Further, post-independence leaders such as Tanzania's Julius Nyerere and Zambia's Kenneth Kaunda looked to China as a model for domestic economic nation building.¹⁸¹ In the 1960s and 1970s, China's relations with African nations were often driven by domestic African considerations, as China fashioned itself for those audiences into a plausible alternative to both the West and

first link between China and Africa. Egypt's famed Queen Cleopatra reportedly wore silks that probably originated in China.)

¹⁷⁶ Obiorah, *supra* note 175, at 289.

¹⁷⁷ Mawere & Tandi, *supra* note 174, at 393.

¹⁷⁸ *Id.* at 401 (discussing how other scholars hold China's actions are more altruistic and opine China's good relations with Africa are the fruit of persuasion rather than the heavy-handed approach of either Western colonialism or Western-directed financial practices).

¹⁷⁹ Lea Ypi, *What's Wrong with Colonialism*, 41 PHIL. & PUB. AFF. 158, 162 (2013); E. Tendayi Achiume, *Migration As Decolonization*, 71 STAN. L. REV. 1509, 1534 (2019).

¹⁸⁰ Obiorah, *supra* note 175, at 273.

¹⁸¹ *Id.*

the Soviet Union.¹⁸² In the 1980s, during the waning years of the Cold War, China continued to position itself as an alternative, this time to the “Washington Consensus” and the devastating structural adjustment programs sometimes foisted upon Africa. The Sino-Africa relationship entered a new phase in the 1990s with significant consequences for both sides. China saw Africa as a land of possibility for growing recognition of its status as a global power, while Africa understood China as a wellspring of economic investment.¹⁸³ In 2000, China and Africa created the Forum on China-Africa Cooperation (FOCAC) to serve as a method for promoting cooperation and shared interests.¹⁸⁴ That same year, Beijing hosted a ministerial conference, the first of its kind in the history of Sino-Africa relations.¹⁸⁵ The conference drew over five thousand attendees and approximately eighty ministers of foreign affairs, international trade, and economic cooperation from forty-four African countries.¹⁸⁶ China’s interest in Africa continued apace; 2006 was dubbed “China’s Year of Africa.”¹⁸⁷ Bucking global trends, China took a risk and did not shy away from investment in Africa during the global financial crisis of 2008.¹⁸⁸ More recently, Chinese investment in Africa has extended to mergers and acquisitions and to the expansion of Chinese-owned manufacturing operations on the continent.¹⁸⁹ Today China’s veneer in Africa wears thin; there is little doubt it is exporting cheap, low grade products to Africa, especially in certain markets like textiles and electronic goods.¹⁹⁰

¹⁸² Herbert Jauch, *Chinese Investments in Africa: Twenty-First Century Colonialism?*, 20 *NEW LABOR FORUM* 49, 49-55 (2011).

¹⁸³ Mawere & Tandi, *supra* note 174, at 400.

¹⁸⁴ Uche Ewelukwa Ofodile, *Trade, Empires, and Subjects-China-Africa Trade: A New Fair Trade Arrangement, or the Third Scramble for Africa?*, 41 *VAND. J. TRANSNAT’L. L.* 505, 508 (2008)

¹⁸⁵ *Id.*

¹⁸⁶ *Id.*

¹⁸⁷ *Id.* at 507.

¹⁸⁸ Miria Pigato & Wenxia Tang, *China and Africa: Expanding Economic Ties in an Evolving Global Context*, WORLD BANK (Mar. 2015), <https://openknowledge.worldbank.org/bitstream/handle/10986/21788/951610WP00PUBL050March01600PUBLIC0.pdf?sequence=1&isAllowed=y>.

¹⁸⁹ *Id.*

¹⁹⁰ Mawere & Tandi, *supra* note 174, at 407.

Africans continue to express a range of reactions to Chinese engagement. Generally, leaders and governments tend to portray Beijing in a positive light and point to tangible improvements in public works projects that benefit ordinary people engaged in daily life.¹⁹¹ After decades of European colonial dominance, followed by more decades of Western aid and investment provided under paternalistic guises, some African leaders have shown appreciation for China's "no strings attached" approach.¹⁹² Recently, China's socialist market economy, driven by state-owned enterprises, is more brazenly geared toward securing sufficient energy, resources, and minerals to feed its domestic and international industrialization programs.¹⁹³ In 2008-2009, the African Labor Research Network (ALRN) performed a ten-country study (Angola, Botswana, Ghana, Kenya, Malawi, Namibia, Nigeria, South Africa, Zambia, and Zimbabwe) and found evidence of a neo-colonialist system, whereby China profited to the detriment of African economic systems.¹⁹⁴ The relationship, which began more egalitarian, is now unequal. For this reason, greater numbers of African workers increasingly refer to "Chinese businesspeople ... [as] the new colonizers."¹⁹⁵ Importantly, some African leaders are taking an increasingly pessimistic tone and warn that the unfavorable economic and commercial engagement with China will end badly.¹⁹⁶ Michael Sata, the fifth President of Zambia from 2011 to his death in 2014, ran campaigns in 2006 and 2011 focused on the social and economic dangers of African weakness relative to China.¹⁹⁷ President Sata's fears were prescient: Zambia, Africa's third-largest economy, is currently reeling from extensive Chinese debt, with Beijing playing hardball and looking to restructure agreements that may involve mining assets as collateral.¹⁹⁸ One

¹⁹¹ LARRY HANUER & LYLE MORRIS, *African Reactions to Chinese Engagement*, in CHINESE ENGAGEMENT IN AFRICA: DRIVERS, REACTIONS, AND IMPLICATIONS FOR U.S. POLICY 55 (2014).

¹⁹² *Id.* at 57.

¹⁹³ Jauch, *supra* 182.

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ Hanuuer & Morris, *supra* note 191, at 55.

¹⁹⁷ *Id.*

¹⁹⁸ Elliot Smith, *Zambia's spiraling debt offers glimpse into the future of Chinese loan financing in Africa*, CNBC (Jan. 14, 2020),

South African commentator who has seen China's activities on the continent up close thinks China's primary goal with foreign investment is geopolitical, not economic. The problem is ripe for exploitation because the investments tend to bind African countries politically to China while creating debt obligations and leverage that China can manipulate to force nations to support Chinese global ambitions.¹⁹⁹

B. *China in Latin America*

Modern Latin America is a diverse region, a land of contrasts. Brazil is massive, occupying half the South American continent with a population greater than 200 million.²⁰⁰ Mexico boasts the next highest population at nearly 120 million while Colombia, Argentina, Peru, and Venezuela constitute smaller nations with populations between 30 and 50 million.²⁰¹ Trade between China and South America is growing exponentially, but this often involves exchanging short-term economic gains for long-term

<https://www.cnn.com/2020/01/14/zambias-spiraling-debt-and-the-future-of-chinese-loan-financing-in-africa.html>. It is noteworthy that in 2017, the Chinese media conglomerate StarTimes funded the creation of a migration to a new digital TV signal and now controls 60% of a joint digital venture with ZNBC. Id.

¹⁹⁹ Panos Mourdoukoutas, *What China Wants From Africa? Everything*, FORBES (May 4, 2019, 9:48 AM), (quoting Ted Bauman, Senior Research Analyst at Banyan Hill Publishing),

<https://www.forbes.com/sites/panosmourdoukoutas/2019/05/04/what-china-wants-from-africa-everything/#7bb5e070758b>.

²⁰⁰ *Population, Total - Brazil*, THE WORLD BANK, (last visited Feb. 11, 2021), <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=BR>.

²⁰¹ *Population, total - Mexico*, THE WORLD BANK, (last visited Feb. 11, 2021), <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=MX>.; *Population, Total - Colombia*, THE WORLD BANK, (last visited Feb. 11, 2021), <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=CO>.; *Population, Total - Argentina*, THE WORLD BANK, (last visited Feb. 11, 2021), <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=AR>.; *Population, Total - Peru*, THE WORLD BANK, (last visited Feb. 11, 2021), <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=PE>.; *Population, Total - Venezuela, RB*, THE WORLD BANK, (last visited Feb. 11, 2021), <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=VE>.

dependency.²⁰² Some estimates claim that China will be the dominant trading partner in Latin America by 2050.²⁰³ President Xi Jinping indicated that the next step in China's development is transforming its economy from a labor-intensive export model to one in which medium and high-skill exports are coupled with growing material imports to China's megacities.²⁰⁴ Latin America is poised to help China pivot away from its current producer-exporter status because its population of nearly 600 million can support economic industrialization and serve as a base for Chinese goods.²⁰⁵ At a meeting between China and 33 members of the Community of Latin American and Caribbean States (CELAC), Chinese Foreign Minister Wang Yi said the region was a natural fit for the BRI, as the U.S. has taken a more proactive stance in the last few years.²⁰⁶ Chile's Foreign Minister Hernando Muñoz said that China's relationship with CELAC marks the beginning of a "historic" dialogue that represents a categorical repudiation of protectionism and unilateralism.²⁰⁷ Chinese banks (China Development Bank and China Export-Import Bank) are the largest lenders in Latin America.²⁰⁸ Accumulated loans totaled \$137 billion from 2005 to

²⁰² Krishnadev Calamur, *Tillerson to Latin America: Beware of China*, THE ATLANTIC (Feb. 3, 2018), <https://www.theatlantic.com/international/archive/2018/02/rex-in-latam/552197/>.

²⁰³ R. Evan Ellis, *The Future of Latin America and the Caribbean in the Context of the Rise of China*, CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES, 3, (Nov. 2018). https://csis-website-prod.s3.amazonaws.com/s3fs-public/publication/181119_FutureofLatinAmerica.pdf?fMECdCfwt7zdU7MyR9OFme08CFXWHti.

²⁰⁴ Seth Cropsey, "China Sets Its Sights on South America," HUDSON INSTITUTE, (Apr. 9, 2018), <https://www.hudson.org/research/14249-china-sets-its-sights-on-south-america>

²⁰⁵ *Id.*

²⁰⁶ *China Invites Latin America to Take Part in One Belt, One Road*, CNBC (Jan. 22, 2018, 9:38 PM), <https://www.cnbc.com/2018/01/22/china-invites-latin-america-to-take-part-in-one-belt-one-road.html>.

²⁰⁷ *Id.*

²⁰⁸ Mark P. Sullivan & Thomas Lum, *China's Engagement with Latin America and the Caribbean*, CONGRESSIONAL RESEARCH SERVICE, 2, (last updated Nov. 12, 2020), <https://crsreports.congress.gov/product/pdf/IF/IF10982>.

2019 with Venezuela, Brazil, Ecuador, and Argentina rounding out the top recipients.²⁰⁹

Positive impacts to some Latin American economies are coming at a prohibitive cost in terms of Chinese neo-colonialist exploitation.”²¹⁰ For countries like Brazil, a former Portuguese colony, Beijing is an alternative to Washington’s benign neglect but the increase of Chinese manufactured goods in the Brazilian market is concerning to government officials because the *real* to *yuan* currency difference makes it more difficult for Brazilian national production to compete with cheaper products from China. China has spent billions of dollars in Latin America in the past fifteen years, mostly in the form of loans to regional governments for a variety of projects.²¹¹ Trade between China and Latin America surged from \$12 billion in 2000 to almost \$306 billion in 2018.²¹² The loans have transparency issues and have all the appearance of debt traps.²¹³ China’s growing imprimatur on Latin America can be seen in other chilling instances. In Quito, Ecuador, Chinese-made CCTV cameras with facial recognition technology are likely being used for surveillance and intelligence gathering purposes.²¹⁴ The Venezuelan government now relies on Chinese technology for its “fatherland card,” a type of identity document human rights activists fear will be used to infringe on privacy. Most of all, China’s exploitation of the region’s natural resources is leading to environmental concerns about pollution and harm to residents and livelihoods.²¹⁵ Chinese companies do not have high environmental standards and labor rights are not considered; “[f]or Chinese companies, the community is not a valid interlocutor, only the government is. The different is

²⁰⁹ *Id.*

²¹⁰ Angela Piedad Suárez Torres, *China and Latin America, From Neo-Colonialism to Interdependence? The Case of Brazil*, 16 DIMENSIÓN EMPRESARIAL 1, 3 (2018).

²¹¹ Matt Rivers, *Pandemic Power Play: It’s China vs. the US in Latin America*, CNN (Aug. 15 2020), <https://www.cnn.com/2020/08/15/americas/latam-china-us-covid-diplomacy-intl/index.html>

²¹² Raquel Carvalho, *China in Latin America: partner or predator*, SOUTH CHINA MORNING POST (May 25, 2019), <https://multimedia.scmp.com/week-asia/article/3011618/beijing-conquest-latin-america/index.html>.

²¹³ *Id.*

²¹⁴ *Id.*

²¹⁵ Carvalho, *supra* note 212.

that gringo imperialism deals with civil society, the Chinese don't ... They don't try to understand where they are ... And they consider that social peace is not their problem."²¹⁶ As Taish Mercedes, a sixty-five-year-old member of the Shuar minority, an indigenous group living in Ecuador and Peru, explained her feelings when a Chinese-backed mining project bulldozed her home in the Ecuadorean region of the Amazon basin: "[o]ur motherland can provide us with everything. That is our way of life. But the colonisers came and taught people how to live with money. ... Now the Chinese are the new colonisers – just like the ones before. They are ruining the harmony of our land."²¹⁷

Washington's repeated warning to Latin America to be wary of becoming too economically reliant on China is not having the desired effect of driving Beijing from the region.²¹⁸ The reasons are fairly straightforward from a Latin-centric public-relations perspective: while the U.S. government imposed a more stringent tariff regime on Latin American countries, demanded Mexico pay for a border wall, put undocumented workers at risk for deportation, and proposed cuts to U.S. aid, China exerted itself and lent many helping hands to the region. Kevin Gallagher, a China-Latin America relations professor at Boston University, summed up the dichotomy which has practical, real-world consequences: "Literally and figuratively, the [U.S.] is building walls against Latin America The Chinese are proposing to build bridges, and they're actually doing it."²¹⁹ Nonetheless, a Chinese long-term victory in Latin America is not inevitable. The U.S. has closer cultural, political, and economic ties with several major nations in the region than does China.²²⁰ U.S. companies, ranging from Chevron to

²¹⁶ *Id.*

²¹⁷ *Id.*

²¹⁸ Cassandra Garrison, *With U.S. Hit by Virus, China Courts Latin America with Medical Diplomacy*, REUTERS (Mar. 26, 2020, 1:38 PM), <https://www.reuters.com/article/us-health-coronavirus-latam-china-featur/with-u-s-hit-by-virus-china-courts-latin-america-with-medical-diplomacy-idUSKBN21D346>.

²¹⁹ Patrick Gillespie, *China Sees an Opening as Trump Loses Confidence of Latin America*, CNN (Feb. 9, 2020), <https://money.cnn.com/2018/02/09/news/economy/china-latin-america-trump/index.html>.

²²⁰ *Id.*

McDonald's, have a substantial presence and are actively collaborating with governments on myriad investment projects.²²¹ Speaking the language of post-colonial uplift, former U.S. Secretary of State Rex Tillerson said that China's presence in Latin America is alarming because the region "does not need new imperial powers that seek only to benefit their own people."²²² The U.S. needs to be far more adept at message branding and curtail divisive language: President Trump threatened to cut off aid to Latin America if they cannot prevent drugs from coming into the U.S., he added, quite unnecessarily "[t]hese countries are not our friends, you know."²²³

C. *Medical Diplomacy*

During her virtual speech at the Republican National Committee, Nikki Haley, the former U.S. ambassador to the United Nations, was characteristically blunt in her assessment of Beijing's responsibility for Covid-19: "Communist China gave us the coronavirus."²²⁴ This is not China's first time getting blamed for its poor response to infectious diseases. During the 2002 and 2003 SARs crisis, China hid cases, censored doctors and withheld information from the world for months.²²⁵ In December 2019, patients at Wuhan hospitals had pneumonia symptoms that were not responsive to treatment. Doctors quickly sent samples for genetic testing and the results revealed a coronavirus similar to SARs; these same doctors warned the virus was contagious via respiratory

²²¹ *Id.*; see also Raymond Dua Jr., *The Rise of Chinese Technology in Latin America*, GLOBAL AMERICANS (Aug. 12, 2020), <https://theglobalamericans.org/2020/08/the-rise-of-chinese-technology-in-latin-america/>.

²²² Gillespie, *supra* note 219.

²²³ *Id.*

²²⁴ Gavin Bade, *Trump's Tough Talk on China Faces Harsh Trade Realities*, POLITICO (Aug. 27, 2020, 5:24 PM), <https://www.politico.com/news/2020/08/27/trump-tough-on-china-trade-403890>.

²²⁵ Carrie Gracie, *China is Rewriting the Facts About Covid-19 to Suit its Own Narrative*, THE GUARDIAN (July 27, 2020, 4:43 PM), <https://www.theguardian.com/commentisfree/2020/jul/27/china-truth-coronavirus-panorama-xi-jinping>.

droplets and on surfaces.²²⁶ Thereafter, the Chinese government stepped in. The story about a virulent infection rate was downplayed in Wuhan and Beijing. Frontline doctors tried to speak up and warn each other on social media but were silenced.²²⁷ In late December, Dr. Li Wenliang, a courageous whistleblower, was detained by the police for warning about the virus and “spreading false rumors.”²²⁸ He was forced to sign a false official statement admitting to violating the law and seriously disrupting “social order.”²²⁹ Soon after Dr. Wenliang’s death from the virus, the news of his passing was the most read topic on Weibo, China’s microblogging site with more than 1.5 billion views.²³⁰ Predictably, the intense public interest in Dr. Wenliang’s death soon caught the attention and ire of the CCP. Soon thereafter, the National Supervisory Commission, China’s most powerful anti-corruption agency issued a chilling one-sentence on their website: investigators will be sent to Wuhan to conduct “a comprehensive investigation into the problems reported by the public concerning Dr. Wenliang.”²³¹

Despite multiple layers of culpability for COVID-19, China determined its most important fight is a public relations battle.²³² In the main, China’s strategy is to pivot away from stories about COVID-19’s genesis in Wuhan and the subsequent coverup perpetrated by CCP officials and promote headlines supporting that China is on the frontlines saving humanity.²³³ Lin Songtian, China’s ambassador to South Africa tweeted: “We are doing instead of talking. We are the friends not enemy. Could the American do the same to Chinese?”²³⁴ It is no accident that a heat map of where

²²⁶ *Id.*

²²⁷ *Id.*

²²⁸ Verna Yu, ‘Hero Who Told the Truth’: Chinese Rage Over Coronavirus Death of Whistleblower Doctor, *THE GUARDIAN* (Feb. 7, 2020), <https://www.theguardian.com/global-development/2020/feb/07/coronavirus-chinese-rage-death-whistleblower-doctor-li-wenliang>.

²²⁹ *Id.*

²³⁰ *Id.*

²³¹ *Id.*

²³² Matthew Karnitsching, *China is Winning the Coronavirus Propaganda War*, *POLITICO* (Mar. 18, 2020), <https://www.politico.eu/article/coronavirus-china-winning-propaganda-war/>.

²³³ *Id.*

²³⁴ *Id.*

Beijing is sending condolences and medical supplies aligns closely with nations with a demonstrated willingness to accommodate China.²³⁵ Fake news, misleading spin, obfuscation, concealment, and hyperbole are hallmarks of the CCP's coronavirus propaganda.²³⁶ Unlike Russia, with its acrimonious information operations and election meddling, China's global propaganda efforts are usually aimed at promoting China's virtues.²³⁷ From Beijing's perspective, the contest is not about who gets to run the U.S. but rather the world.²³⁸ Russia is a second-rate power in its own region. It is an economically sluggish, oil-dependent nation with an economy one tenth the size of the U.S. China, by contrast, possesses an economy poised to overtake that of the U.S. and has sunk billions of dollars into cultivating global dependence on Chinese investments and markets.²³⁹ As the global pandemic worsened, Beijing went into propaganda crisis mode. Chinese diplomats, state-run media, and Twitter influencers doubled-down and launched a frenzied defense, scrambling to preserve the CCP's cratering reputation both domestically and internationally.²⁴⁰ Meanwhile, during the time China ramped up its messaging, the U.S. paused funding to the United Nations' World Health Organization (WHO).²⁴¹ U.S. allies were stunned by President Trump's announcement.²⁴² President Trump shot back his rationale: the WHO willingly participated in a Chinese-directed cover-up about the virus.²⁴³ As the U.S. appeared disinterested in leading a global response, China continued its ostentatious pledges of cash to the WHO and vowed to provide any vaccine discoveries China makes

²³⁵ *Id.*

²³⁶ Kathy Gilsinan, *How China is Planning to Win Back the World*, THE ATLANTIC (May 28, 2020), <https://www.theatlantic.com/politics/archive/2020/05/china-disinformation-propaganda-united-states-xi-jinping/612085/>.

²³⁷ *Id.*

²³⁸ Gilsinan, *supra* note 236.

²³⁹ *Id.*

²⁴⁰ *Id.*

²⁴¹ Alex Brandon, *Trump's WHO Cutoff Sends Officials, allies Scrambling*, POLITICO (April 15, 2020), <https://www.politico.com/news/2020/04/15/world-health-organization-trump-funding-cuts-187615>.

²⁴² *Id.*

²⁴³ *Id.*

to the world as a public good.²⁴⁴ On July 7, 2020, President Trump started the process to withdraw the U.S. from the WHO.²⁴⁵ The Geneva-based organization, a leader in the fight against myriad diseases in the Americas, ranging from polio, measles to mental health issues and COVID-19, receives approximately \$400 million in annual U.S. contributions.²⁴⁶ As the U.S. turned inward to respond to its own coronavirus crisis, “[f]rom Santiago, Chile to Mexico City and everywhere in between, America’s leadership is being called into question and China is positioning itself to carry the mantle.”²⁴⁷ China carefully crafted its messaging to Latin America throughout its coronavirus response and is reaping strategic returns. On April 13, 2020, Argentina’s foreign minister thanked China for providing a large shipment of much-needed medical supplies. The aid boxes were emblazoned with the Chinese and Argentine flags and a quote in Spanish about brotherhood from the renown Argentine poem “El Gaucho Martín Fierro” by José Hernández.²⁴⁸

Latin America became the epicenter of the pandemic during the late summer of 2020.²⁴⁹ Multiple leaders including Brazilian President Jair Bolsonaro, Honduran President Juan Hernandez, Dominican Republic President Luis Abinader, and Bolivia’s unelected de facto leader, Jeanine Añez, alongside half of her cabinet, all contracted the virus.²⁵⁰ The difference between the U.S. and Chinese approach to the outbreak in Latin America is striking. The U.S. suspended shipments of personal protective equipment

²⁴⁴ *Id.*

²⁴⁵ Shaun Tandon, *Ignoring Outrage, Trump Officially Pulls US out of WHO during Virus Crisis*, SCIENCE ALERT (July 8, 2020), <https://www.sciencealert.com/trump-formally-starts-process-to-pull-us-out-of-who>.

²⁴⁶ *Id.*

²⁴⁷ Paul Angelo & Rebecca Chaves, ‘*Gracias China!!!*’ *While the U.S. Leadership in Latin America is Being Called Into Question, Beijing is Positioning Itself to Carry the Mantle*, NY TIMES (Apr. 21, 2020), <https://www.nytimes.com/2020/04/21/opinion/china-latin-america-covid.html>.

²⁴⁸ *Id.*

²⁴⁹ Michael Paarlberg, *China was Already Winning Over the US’s Neighbors. Trump’s COVID-19 Response Just Makes Beijing’s Job Easier*, BUSINESS INSIDER (Aug. 27, 2020, 11:19 AM), <https://www.businessinsider.com/trump-covid-19-response-increases-chinese-influence-in-latin-america-2020-8>.

²⁵⁰ *Id.*

while China announced \$1 billion in loans to nations in the region to help pay for a vaccine China says it will develop.²⁵¹ China also donated hundreds of thousands of masks, testing kits numbering in the tens of thousands, as well as ventilators and other medical equipment.²⁵² China's tactics appear to be working and Brazil is a case in point. President Bolsonaro ran on an anti-China platform and blamed China for the virus' spread. However, after Brazil faced the second worst outbreak in the world, Bolsonaro reconciled with Beijing, an about-face almost certainly spurred by Brazil's power agribusiness interests, which know China is a customer they cannot afford to alienate.²⁵³

Beijing retained the initiative and took proactive steps each time COVID-19 swept through a new nation. From Mexico to Argentina and Peru, nations accepted China's offers of support.²⁵⁴ At times, leaders even broadcasted enthusiastic and grateful messages to China. "Gracias China!!!," gushed Mexico's foreign minister Marcelo Ebrard on Twitter after a plane containing vital medical supplies arrived from China.²⁵⁵ Not one to waste a political moment, China amped up its rhetoric about brotherhood in the face of crisis. As Luo Zhaohui, a senior officer at China's foreign ministry declared, "China will ride out the storm with people from other countries, strengthen cooperation and strive to win the last victory in the fight against the virus."²⁵⁶ China's strategic moves appear to be gaining traction. While U.S. officials were criticized for the unhelpful branding of COVID-19 as the "Chinese virus," Beijing acknowledged the continued gratitude and praise coming from Latin America.²⁵⁷

VII. CONCLUSION: AMERICAN PROTEST, GLOBAL FREEDOM

²⁵¹ *Id.*

²⁵² *Id.*

²⁵³ *Id.*

²⁵⁴ Garrison, *supra* note 218.

²⁵⁵ Angelo & Chaves, *supra* note 247.

²⁵⁶ Garrison, *supra* note 218.

²⁵⁷ Garrison, *supra* note 215.

America is having a moment. The nation was founded on dissent and countless Americans have channeled anger into action, from the Colonial-era tax revolts that sparked the American Revolution, the labor, housing and busing protests that defined the 1960s civil rights movement, to the modern era and the #Me Too Movement.²⁵⁸ In the proud tradition of American dissent, the Black Lives Matter (BLM) movement began in 2013 after twenty-eight-year-old George Zimmerman was acquitted of criminal charges after fatally shooting seventeen-year old Trayvon Martin in Sanford, Florida.²⁵⁹ In protest, three Black women started the BLM movement using the hashtag #BlackLivesMatter to stop societal devaluation of the lives of peoples of color.²⁶⁰ The next year, in 2014, two additional Black men were killed by police officers – Michael Brown in Ferguson, Missouri and Eric Garner in New York City. Videos of their deaths went viral on social media and further galvanized calls for police accountability.²⁶¹

On May 25, 2020, George Floyd was asphyxiated in police custody after a Minneapolis police officer knelt on his neck for 8 minutes and 46 seconds.²⁶² His death-struggle and desperate cries to “mama” for help, caught on tape, shocked the nation.²⁶³ According to Minneapolis Police Chief Medaria Arradondo, Derek Chavin, the former officer who killed Floyd, knew what he was doing because

²⁵⁸ Elliot McLaughlin, *How George Floyd's Death Ignited a Racial Reckoning that Shows no Signs of Slowing Down*, CNN (Aug. 9, 2020, 11:31 AM), <https://www.cnn.com/2020/08/09/us/george-floyd-protests-different-why/index.html>.

²⁵⁹ Sahar F. Aziz & Khaled A. Beydoun, *Fear of A Black and Brown Internet: Policing Online Activism*, 100 B.U. L.

REV. 1151, 1162 (2020)

²⁶⁰ *Id.* at 1163.

²⁶¹ *Id.*

²⁶² Evan Hill et al., *How George Floyd was Killed in Police Custody*, N.Y.

TIMES (May 31, 2020),

<https://www.nytimes.com/2020/05/31/us/george-floyd-investigation.html>.

²⁶³ Christy Oglesby, *'I Need White Mamas to come Running'*, CNN (May 29, 2020, 3:14 PM),

<https://www.cnn.com/2020/05/28/opinions/george-floyd-cry-for-mama-hits-home-oglesby/index.html>.

he had taken specific training on preventing asphyxiation.²⁶⁴ George Floyd's name will likely go down in history besides Rosa Parks and Emmet Till. Prior to Floyd's death, the highest estimate for any American protest, the 2017 Women's March, was 4.6 million. Polls show that in the summer of 2020, as many as 21 million adults attended a BLM or police brutality protest. America is realizing that society too often has turned to law enforcement to address challenges faced by Black communities when police response is inadequate: "[y]ou don't have schools that function well; you don't have teachers that get paid; you don't have hospitals in some communities This creates the kinds of conditions that make people feel like police are necessary, but the solution is to actually reinvest in those things that give people a way to live a good life"²⁶⁵

Before America can change how Africa and Latin America perceive it vis-à-vis China, America must itself change. Historian Tyran Steward captured something of the sentiment of the age when he noted that social justice demands, such as changing the name of the Washington football team, were once nonstarters but are actually happening.²⁶⁶ Police accountability bills honoring George Floyd were introduced on the House floor,²⁶⁷ companies are now recognizing Juneteenth, the oldest known holiday honoring slavery's end in the U.S. and giving employees a paid day off from work to observe it,²⁶⁸ the state of Mississippi is coming to terms with

²⁶⁴ Brad Parks, *George Floyd's Death was 'Murder' and the Accused Officer 'Knew what he was doing' Minneapolis Police Chief Says*, CNN (June 24, 2020, 10:08 AM), <https://www.cnn.com/2020/06/24/us/minneapolis-police-chief-comment-george-floyd-trnd/index.html>.

²⁶⁵ Adam Serwer, *The New Reconstruction: The United States Has its Best Opportunity in 150 Years to Belatedly Fulfill its Promise as a Multiracial Democracy*, THE ATLANTIC (Oct. 2020), <https://www.theatlantic.com/magazine/archive/2020/10/the-next-reconstruction/615475/>.

²⁶⁶ McLaughlin, *supra* note 258.

²⁶⁷ Clare Foran et al., *House Approves Police Reform Bill Named in Honor of George Floyd*, CNN (June 25, 2020, 8:57 PM), <https://www.cnn.com/2020/06/25/politics/house-police-reform-legislation-vote/index.html>.

²⁶⁸ Clare Duffy, *A Growing Number of Companies are Giving Employees the Day Off to Celebrate Juneteenth*, CNN

its racist history and changing its flag,²⁶⁹ monuments to Confederate Generals are toppling,²⁷⁰ and the National Football League is supporting the right of its players to kneel during the National Anthem.²⁷¹ Covid-19 has played a dual role in the protests' momentum: the pandemic kept people home, with more time on their hands to consume news of Floyd's death at the hands of police.²⁷² The coronavirus "exposed the interconnectedness of human vulnerability, which provides a new lens through which ... [to view] Floyd's killing ... [and] unveiled the way in which we are all interrelated and haptic."²⁷³

The U.S. must act *now* to emerge victorious in the coming global showdown with China. Woe to the world if America does not seize this moment. The U.S. must embrace competition with China. Beijing is brutalizing the Uyghurs and extinguished freedom in Hong Kong. Its "wolf-warrior diplomacy" is remarkable, not for its success, but rather for how it showcases China's contempt for much of the world. Its surveillance state is frightening. It is true China's story is remarkable. It emerged from the rubble of the mid-twentieth century to become a great power. But China needs Africa and Latin America to sustain its growth. Most importantly, Beijing, merely by not being the West, inherits post-colonial goodwill even as it creates neo-colonial effects in those same regions. BRI is no mere building program; it is the very vision of a Chinese global tomorrow. At first it may appear China has the upper hand; 2020 was a year of infamy

(June 18, 2020, 3:43 PM),

<https://www.cnn.com/2020/06/18/business/companies-observing-juneteenth/index.html>.

²⁶⁹ Mark Berman & Ben Guarino, *Mississippi Governor Signs Bill Changing State's Flag, Abandoning Confederate Symbol*, THE WASHINGTON POST (June 30, 2020, 6:12 PM),

https://www.washingtonpost.com/national/mississippi-flag-confederacy-removed/2020/06/30/f47df152-baed-11ea-8cf5-9c1b8d7f84c6_story.html.

²⁷⁰ McLaughlin, *supra* note 258.

²⁷¹ Vanessa Romo, *NFL on Kneeling Players' Protests: 'We Were Wrong,' Commissioner Says*, NPR (June 5, 2020,

7:53 PM), <https://www.npr.org/sections/live-updates-protests-for-racial-justice/2020/06/05/871290906/nfl-on-kneeling-players-protests-we-were-wrong-commissioner-says>.

²⁷² McLaughlin, *supra* note 258.

²⁷³ *Id.*

in America: the pandemic, an overdue reckoning with America's original sin of racism, and extreme partisan politics have left many scars. Yet the factors that divide may also unite. If the U.S., together, can meet this moment, the world may have a new rebirth of freedom.